

Tab 1	SB 92 by Bean ; (Identical to H 01417) Department of Children and Families					
646020	A	S		AHS, Bean	Delete L.358 - 957:	03/02 02:50 PM
Tab 2	CS/SB 272 by HP, Baxley ; (Identical to H 01373) Rare Disease Advisory Council					
932648	A	S	RCS	AHS, Baxley	Delete L.47:	03/04 08:51 AM
Tab 3	SJR 340 by Diaz ; (Similar to H 00547) Supermajority Vote Required to Enact a Single-payor Healthcare System					
Tab 4	CS/SB 348 by HP, Rodriguez ; (Similar to H 00461) Medicaid					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES
Senator Bean, Chair
Senator Rodriguez, Vice Chair

MEETING DATE: Wednesday, March 3, 2021
TIME: 2:30—4:00 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Bean, Chair; Senator Rodriguez, Vice Chair; Senators Book, Brodeur, Burgess, Diaz, Farmer, Harrell, Jones, Rodrigues, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	SB 92 Bean (Identical H 1417)	Department of Children and Families; Requiring the department to establish community alliances in each community-based care lead agency service area; requiring the department to treat caregivers in a specified manner; requiring, rather than authorizing, each community-based care lead agency to establish a kinship navigator program; requiring a board member or an officer of a managing entity to disclose specified activity that may reasonably be construed as a conflict of interest; revising a limitation on salaries of community-based care lead agency employees, etc. CF 02/16/2021 Favorable AHS 03/03/2021 Temporarily Postponed AP	Temporarily Postponed
2	CS/SB 272 Health Policy / Baxley (Identical H 1373)	Rare Disease Advisory Council; Creating the advisory council adjunct to the Department of Health; specifying the purpose of the advisory council; defining the term "rare disease"; prescribing duties and responsibilities of the advisory council, etc. HP 02/04/2021 Fav/CS AHS 03/03/2021 Fav/CS AP	Fav/CS Yeas 10 Nays 0
3	SJR 340 Diaz (Similar HJR 547)	Supermajority Vote Required to Enact a Single-payor Healthcare System; Proposing the creation of Section 22 of Article III of the State Constitution to provide that a single-payor health care system may not be enacted by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval, etc. HP 02/04/2021 Favorable AHS 03/03/2021 Favorable AP RC	Favorable Yeas 6 Nays 4

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Health and Human Services
Wednesday, March 3, 2021, 2:30—4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 348 Health Policy / Rodriguez (Similar H 461)	Medicaid; Revising the types of emergency transportation vehicle services provided to Medicare-eligible persons for which Medicaid shall pay deductibles and coinsurance; specifying that such payments must be made according to certain procedure codes, etc. HP 02/04/2021 Fav/CS AHS 03/03/2021 Favorable AP	Favorable Yeas 10 Nays 0

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 Appropriations Subcommittee on Health and Human Services

BILL: SB 92

INTRODUCER: Senator Bean

SUBJECT: Department of Children and Families

DATE: March 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 92 makes a number of changes to various provisions related the Department of Children and Families (DCF) and entities under contract with the DCF, including community-based care lead agencies and managing entities, who operate and provide services in the child welfare and behavioral health systems in accordance with chs. 394 and 409, F.S., respectively.

The bill amends several statutes within ch. 39, F.S., relating to programs and best practices of the child welfare system, to make such programs and practices mandatory, rather than permissive. Section 39.4015, F.S., is amended to require, rather than authorize, the DCF, contracted sheriffs' offices, and community-based lead agencies to develop a formal family-finding program which must begin as soon as the child is taken into custody. Section 39.5086(2)(b), F.S., is also amended to require, rather than authorize, each community-based care lead agency to establish a kinship navigator program. Further, the bill removes the limitation for these two programs that tie the development of such programs to available resources. The bill also amends s. 39.4087, F.S., requiring the DCF to treat foster parents and other caregivers with dignity, respect, and trust while ensuring delivery of services is focused on the best interest of the child. The DCF is also required, rather than encouraged, to provide information, training, and support to foster parents and other designated caregivers except as otherwise provided by state or federal law.

The bill amends the DCF's duties to collect and post information regarding the managing entities and lead agencies' compensation, program, administrative, and fundraising expenses. The bill also provides that the DCF's contracts with managing entities and lead agencies must limit employees' salary from state-appropriated funds so that salaries do not exceed 100 percent of the annual salary paid to the Secretary of the DCF.

The bill amends s. 409.988, F.S., removing a requirement that lead agencies post their current budgets on their websites and relocating it to the above-mentioned provision. Section 409.988, F.S., is also amended to require, through contract execution, that the lead agencies demonstrate

the ability to adhere to best child welfare practices enumerated in specified sections of chs. 39 and 409, F.S. Further, the contracts with the DCF must require the lead agencies to provide information which specifies how they will adhere to such best practices.

Further, the bill creates provisions that the boards for the managing entities and lead agencies must comply with related to disclosure of activity that may be reasonably construed to be considered a conflict of interest. Section 394.90825, F.S., is created, and s. 409.987, F.S., is amended, to require a board member or officer of a managing entity or lead agency to disclose specified activity that may reasonably be construed as a conflict of interest. The bill also provides procedures that must be followed to address the potential conflict of interest.

The bill amends s. 20.19, F.S., in part, requiring the DCF to create a community alliance in each service area of the lead agency, rather than county, which will align these bodies with the current service model in Florida. The bill also modifies the representative members of the community alliance and allows for the number of representatives to be increased from 20 to 30 members as necessary to adequately represent the diverse population within the community alliance service area. The bill also amends s. 409.987, F.S., providing for an alternative plan that establishes an innovative consortia of partners in communities where conditions make it infeasible to competitively contract with a lead agency and requirements that the plan must meet. This provision directs the DCF to work in collaboration with the local community alliance to achieve community-focused delivery of child welfare services.

Lastly, the bill creates a program that allows Florida to partner with national experts to establish a program that will implement a new child and family well-being system. The bill also provides for the program scope and requirements and requires the Florida Institute of Child Welfare to submit an annual report by a specified date to specified parties which evaluates the program and the outcomes of the children served by the program.

The DCF estimates there will be a potential fiscal impact to local government of \$513,189, state government of \$4,713,147, and private sector of \$11,088,360 resulting from the implementation of the family-finding and kinship navigator programs required under the bill. See Section V. Fiscal Impact Statement.

This bill is effective July 1, 2021.

II. Present Situation:

The DCF was created to support and promote stable and safe families.¹ The DCF is required to work with local partners to provide services by contract through private providers to the extent allowed by law and within specified appropriations.² The DCF is responsible for providing services relating, amongst other services, to:

- Child care regulation;
- Child welfare;
- Domestic violence;

¹ See s. 20.19, F.S.

² Section 20.19(1)(c), F.S.

- Economic self-sufficiency;
- Homelessness;
- Mental health and substance abuse;
- Refugee services; and
- Human trafficking.³

Some of these services, which are affected by the bill, are explained in more detail below.

Community-based Care Lead Agency

The DCF operates a community-based care child welfare system that outsources foster care and related services to agencies with an increased local community ownership to enhance accountability, resource development, and system performance.⁴ The DCF contracts with community-based care lead agencies (lead agency) to provide direct or indirect child welfare services.⁵

The DCF Duties

Notwithstanding that services are contracted with local lead agencies, the DCF remains responsible for providing child welfare and support services in accordance with federal and state law.⁶ The Legislature has articulated several duties with which DCF must comply, including, in part, all of the following:

- Ensuring the DCF's contracts with the lead agencies contain specified terms, including to:
 - Provide for the services which must be provided as required under s. 409.988, F.S., and provide relevant information to the DCF related to the quality assurance program and the child welfare results-oriented accountability system;
 - Provide for tiered interventions and graduated penalties for failure to comply with the contract or performance deficiencies;
 - Require the lead agencies to provide current and accurate information of its activities related to case records in the statewide automated child welfare information system; and
 - Specify the procedures to resolve differences in interpreting the contract or to resolve a disagreement amongst the parties regarding compliance with the contract.
- Developing and maintaining written policies and procedures for monitoring compliance with the services that must be provided by lead agencies under their contracts and posted on the DCF website.
- Developing and implementing statewide and local interagency agreements to coordinate services that need to be provided to children and parents.
- Establishing a quality assurance program for contracted services to dependent children; and
- Evaluating lead agencies under contract at least once annually.⁷

³ Section 20.19(4), F.S.

⁴ The DCF, *Community-Based Care*, available at <https://www.myflfamilies.com/service-programs/community-based-care/overview.shtml> (last visited Feb. 16, 2021).

⁵ *Id.*

⁶ Section 409.996, F.S.

⁷ *Id.*

Contracted Lead Agencies

A lead agency is a single entity with which the DCF has a contract for the provision of care in the child protection and welfare system.⁸ The DCF enters into 5-year contracts with lead agencies for the procurement of services.⁹ There are minimum requirements with which lead agencies must comply to be eligible to contract with the DCF, including, but not limited to:

- The lead agency must be organized as a Florida corporation or a governmental entity;¹⁰
- The board of directors or board committee must have the authority to approve the lead agency’s budget and to hire the lead agency’s executive director;¹¹ and
- The lead agency must also demonstrate financial responsibility by having a plan for regular fiscal audits and securing a performance bond.¹²

The lead agencies are obligated to perform several duties including, in part, to:

- Serve the children who are referred as a result of abuse, abandonment, or neglect reports;
- Provide accurate and timely information to the DCF, as specified in s. 409.997, F.S.;
- Follow financial guidelines developed by the DCF and provide for a regular independent audits;
- Post its current budget, including the salaries, bonuses and other compensation paid to the agency’s chief executive officer, chief financial officer, and chief operating officer, or their equivalents, on the lead agency’s website;
- Prepare and file all necessary court documents, and attend dependency court proceedings to give evidence;
- Ensure all individuals providing care to dependent children receive training and specified information and meet employment requirements;
- Maintain eligibility to receive all available federal child welfare funds;
- Maintain written agreements with Health Families Florida lead entities;
- Comply with federal and state statutory requirements and agency rules in the provision of contractual rules;
- Use authority to subcontract for the provision of services provided the lead agency contribute to services and meet specified criteria; and
- Post information regarding case management services on its website by a specified date.¹³

The DCF contracts with the following lead agencies as illustrated in the table and map below:¹⁴

<u>Lead Agency</u>	<u>Circuit(s)</u>
Lakeview Center, Families First Network	1

⁸ Section 409.986(3)(d), F.S.

⁹ Section 409.987(3), F.S.

¹⁰ Section 409.987(4)(a), F.S.

¹¹ Section 409.987(4)(b), F.S.

¹² Section 409.987(4)(c), F.S.

¹³ Section 409.988(1), F.S. Further, s. 409.988(1)(k), F.S., provides that lead agencies and subcontracted case management providers must disclose the average caseload of case managers for filled positions, the turnover rate for case managers and their supervisors for the previous 12 months, the percentage of required home visits completed, and performance on outcome measures required under s. 409.997, F.S., for the previous 12 months.

¹⁴ The DCF, *Lead Agency Map, Community-Based Care*, available at: <https://www.myflfamilies.com/service-programs/community-based-care/lead-agency-map.shtml> (last visited February. 16, 2021).

Funding

Section 409.990, F.S., requires that a contract between the DCF and a lead agency be funded through General Revenue, or other applicable state or federal funding sources.¹⁵ Lead agencies must allocate their funding as provided under Florida law based on a proportion of child population, child abuse hotline workload, and children in care.¹⁶

Compensation

Lead agency expenditures must comply with financial guidelines developed by the DCF, comply with federal and state law, and follow good business practices.¹⁷ The Internal Revenue Code sets the rules governing compensation at public nonprofits, including those known as 501(c)(3) organizations, and specifies that no part of the net earnings of a section 501(c)(3) organization may inure to the benefit of any private shareholder or individual.¹⁸ However, the Internal Revenue Service (IRS) gives each nonprofit's board of directors latitude in determining how much to pay top employees. The IRS requires a nonprofit board to have an objective process for setting executives' salaries, including use of comparisons with salaries paid by similar organizations for similar service. However, a nonprofit that normally pays no taxes may be taxed for paying excess benefits to an insider.¹⁹

In 2015, during an operational audit of the lead agencies, the Florida Auditor General found instances where salary payments, including bonuses, and leave balances did not appear to be properly supported or calculated in accordance with established community-based care policy or state law.²⁰ During the 2017 Legislative Session, CS/CS/HB 1121 passed and was signed into law, which, in part, limited the lead agencies' administrative employees' salaries to 150 percent of the annual salary paid to the Secretary of the DCF from state-appropriated funds.²¹ Administrative employees is not defined in s. 409.992(3), F.S.

In a January 2019 operational audit, the Florida Auditor General conducted a new independent audit and also followed up on the findings noted in the 2015 report related to lead agencies mentioned above. The 2019 report stated that as of March 31, 2017, which is prior to the implementation of CS/CS/HB 1121 (2017), the lead agencies' chief executive officer annual

¹⁵ Section 409.990, F.S.

¹⁶ Section 409.991(2), F.S., provides that core services funds are calculated based on the proportion of the (a) child population weighted as 5 percent of the total; (b) child abuse hotline workload weighted as 35 percent of the total; and (c) children in care weighted as 60 percent of the total. Section 409.991(3), F.S., provides that beginning in the 2015-2016 FY, 100 percent of the recurring core services funding must be based on the prior year recurring base core services funds, and any new funding be allocated as: (a) seventy percent of new funding amongst all lead agencies and (b) thirty percent of new funding to lead agencies that are funded below their equitable share.

¹⁷ Section 409.992(1), F.S.

¹⁸ 26 U.S.C. §501. Exemption from tax on corporations, certain trusts, etc. Subject to some exemptions, corporations and other eligible entities that are organized and operate exclusively for religious, charitable, scientific and other specified purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise conducting exempted activities, are exempt from taxation.

¹⁹ *Id.*

²⁰ The Office of the Auditor General, *Department of Children and Families and Selected Community-Based Care Lead Agencies Oversight of Foster Care and Related Service*, Report No. 2015-156, p. 1 (March 2015) available at https://flauditor.gov/pages/pdf_files/2015-156.pdf (last visited Feb. 16, 2021).

²¹ Chapter 2017-151, s. 31, Law Of Fla. (amending s. 409.992, F.S., effective July 1, 2017).

salaries, before bonuses, averaged \$210,863, and the average allocated to the DCF contracts with the lead agencies was \$160,000.²² The only finding related to the lead agencies on compensation benefits stated that two of the DCF's subcontracted entities did not require salaried employees to record annual leave used in increments of less than 8 hours.²³ The Florida Auditor General recommended the DCF amend the managing entity (ME) contracts to require compliance with statutory provisions restricting the use of state-funded bonus payments under the contract.²⁴

Quality Assurance

The DCF shares responsibility with lead agencies and subcontractors to maintain a results-oriented accountability program that monitors and measures the use of resources, services provided, and outcomes achieved.²⁵ Reports must be produced quarterly, at a minimum, and published on the DCF's website.²⁶ The DCF reports the results in a quarterly scorecard which summarizes key issues, namely safety, permanency, and well-being metrics.²⁷

Community Alliances

The DCF is required to establish community alliances²⁸ which shall be made up of local stakeholders and representatives in each county to encourage and maintain community participation, and governance of community based services.²⁹ Each community alliance may encompass more than one county when such arrangement is determined to provide for more effective representation.³⁰ Community alliances have a duty, amongst other obligations, to serve as a catalyst for community resource development and promote prevention and early intervention.³¹

Community alliances are composed of a representative from the DCF, the county government, the school district, the county United Way, the county sheriff's office, the circuit court corresponding to the county, the county children's board, if one exists, and a faith-based organization involved in efforts to prevent child maltreatment, strengthen families, and promote adoptions.³² The community alliances must adopt bylaws and may increase the membership of the alliance if such increase is necessary to adequately represent the diversity of the population.³³ The additional members may include states attorneys, public defenders, their designees, or

²² The Office of the Auditor General, *Department of Children and Families Oversight and Administration of Community-Based Care Lead Agencies and Behavioral Health Managing Entities and Selected Department Administrative Activities*, Report No. 2019-111, p. 6 and 54-55 (January 2019) available at https://flauditor.gov/pages/pdf_files/2019-111.pdf (last visited Feb. 16, 2021) (hereinafter cited as "2019 Audit Report").

²³ *Id.* at p. 3.

²⁴ *Id.* at p. 28.

²⁵ Section 409.997(2), F.S.

²⁶ Section 409.997(2)(g), F.S.

²⁷ The DCF, *CBC Scorecard*, available at <https://www.myflfamilies.com/programs/childwelfare/dashboard/cbc-scorecard.shtml> (last visited Feb. 16, 2021).

²⁸ Section 409.986(2)(c), F.S., defines "community alliance" to mean the group of stakeholders, community leaders, client representatives, and funders of human services established pursuant to s. 20.19(5), F.S., to provide a focal point for community participation and oversight of community-based services.

²⁹ Section 20.19(5)(a), F.S.

³⁰ *Id.*

³¹ Section 20.19(5)(b), F.S.

³² Section 20.19(5)(d), F.S.

³³ Section 20.19 (5)(e), F.S.

individuals from funding organizations, community leaders or individuals who have knowledge of community-based service issues.³⁴

Prior to 2014, s. 409.1671(1)(d), F.S., in part, provided that the DCF could develop an alternative plan to outsource services in an area if it was impossible or not feasible to competitively contract with a lead agency.³⁵ The DCF was required to develop a plan in collaboration with the local community alliance.³⁶ It was required to detail how the community would implement community-based care through local providers, and to ensure control over management and administration of services.³⁷ A plan developed under this former provision had to include best business practices, including some form of public and private partnerships.³⁸

Managing Entities (MEs)

The DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally-established priority populations.³⁹

In 2001, the Legislature authorized the DCF to implement behavioral health managing entities (ME) as the management structure for the delivery of local mental health and substance abuse services.⁴⁰ The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized DCF to implement MEs statewide.⁴¹ Full implementation of the statewide ME system occurred in 2013 and all geographic regions are now served by a managing entity.⁴²

The DCF Duties

The DCF must also comply with duties with respect to the MEs, including, in part, to:

- Contract and conduct readiness reviews;
- Specify data reporting requirements and use of shared data systems;
- Define the priority populations that will receive care coordination;
- Support the development and implementation of a coordinated system of care;
- Contract to support efficient and effective administration and ensure accountability for performance; and⁴³

³⁴ *Id.*

³⁵ Chapter 2014-224, s. 46, Laws of Fla.

³⁶ *Id.*

³⁷ *Id.*

³⁸ Chapter 2014-224, s. 46 Laws of Fla.

³⁹ *See* chs. 394 and 397, F.S.

⁴⁰ Chapter 2001-191, Laws of Fla.

⁴¹ Chapter 2008-243, Laws of Fla.

⁴² Florida Tax Watch, *Analysis of Florida's Behavioral Health Managing Entity Models*, p. 4 (March 2015) available at <https://floridatxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/15758/Analysis-of-Floridas-Behavioral-Health-Managing-Entities-Model> (last visited Feb. 16, 2021).

⁴³ Section 394.9082(7), F.S., details the performance measurements and accountability requirements of MEs.

- Periodically review contract and reporting requirements and reduce costly, duplicative, and unnecessary administrative requirements.⁴⁴

Contracted MEs

The MEs are required to comply with various statutory duties, including, in part, to:

- Maintain a governing board;
- Promote and support care coordination;⁴⁵
- Develop a comprehensive list of qualified providers;
- Monitor network providers' performances;
- Manage and allocate funds for services in accordance with federal and state laws, rules, regulations and grant requirements; and
- Operate in a transparent manner, providing access to information, notice of meetings, and opportunities for public participation in ME decision making.⁴⁶

The DCF contracts with seven MEs as shown in the map below and summarized as follows:

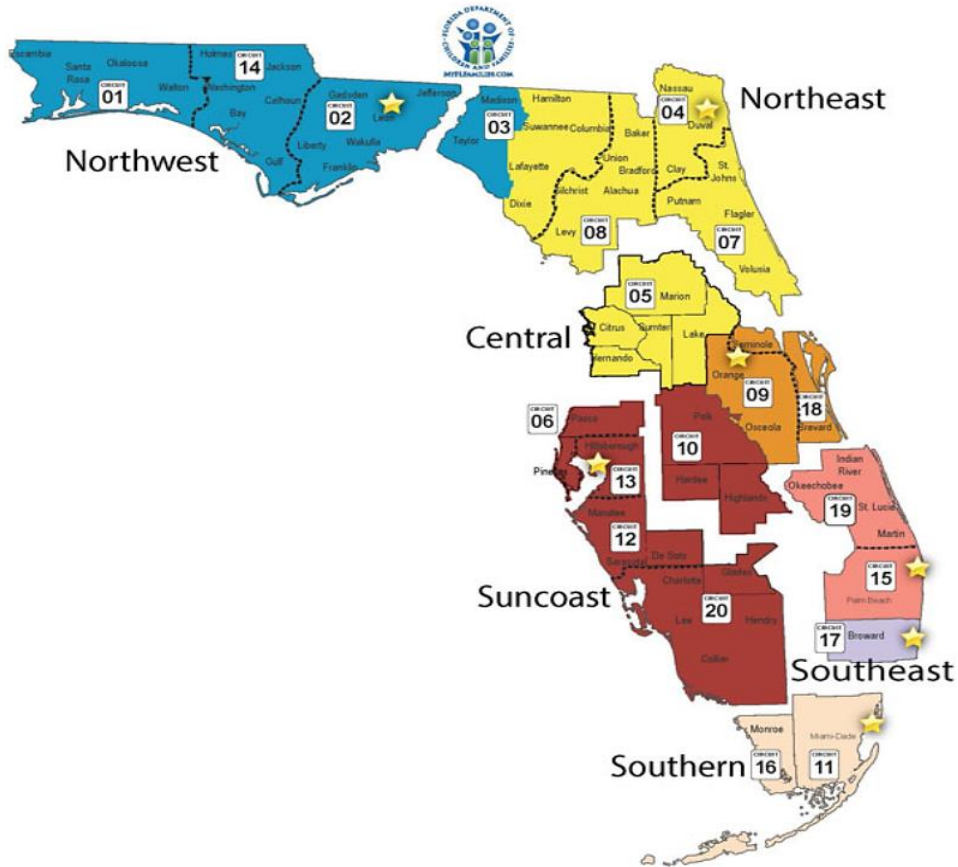
- Big Bend Community Based Care (blue).
- Lutheran Services Florida (yellow).
- Central Florida Cares Health System (orange).
- Central Florida Behavioral Health Network, Inc. (red).
- Southeast Florida Behavioral Health (pink).
- Broward Behavioral Health Network, Inc. (purple).
- South Florida Behavioral Health Network, Inc. (beige).⁴⁷

⁴⁴ Section 394.9082(3), F.S.

⁴⁵ Section 394.9082(6), F.S., sets out the network accreditation and systems coordination agreement requirements.

⁴⁶ Section 394.9082(5), F.S.

⁴⁷ The DCF, *Managing Entities*, <https://www.myflfamilies.com/service-programs/samh/managing-entities/> (last visited Feb. 16, 2021).



The MEs in turn contract with local service providers for the delivery of mental health and substance abuse services.⁴⁸ In FY 2018-2019, the network service providers under contract with the MEs served 339,093 individuals.⁴⁹

Coordinated System of Care

MEs are required to promote the development and implementation of a coordinated system of care.⁵⁰ A coordinated system of care means a full array of behavioral and related services in a region or community offered by all service providers, participating either under contract with a ME or by another method of community partnership or mutual agreement.⁵¹ A community or region provides a coordinated system of care for those suffering from mental illness or substance abuse disorder through a no-wrong-door model, to the extent allowed by available resources. If funding is provided by the Legislature, DCF may award system improvement grants to MEs.⁵² MEs must submit detailed plans to enhance crisis services based on the no-wrong-door model or

⁴⁸ Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.

⁴⁹ The DCF, *Substance Abuse and Mental Health Triennial Plan Update for Fiscal Year*, (Dec. 6, 2019) available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/SAMH%20Services%20Plan%202018%20Update.pdf> (last visited Feb. 16, 2021).

⁵⁰ Section 394.9082(5)(d), F.S.

⁵¹ Section 394.4573(1)(c), F.S.

⁵² Section 394.4573(3), F.S. The Legislature has not funded system improvement grants.

to meet specific needs identified in DCF's assessment of behavioral health services in this state.⁵³ The DCF must use performance-based contracts to award grants.⁵⁴ There are several essential elements that make up a coordinated system of care, including all of the following:

- Community interventions.
- Case management.
- Care coordination.
- Outpatient services.
- Residential services.
- Hospital inpatient care.
- Aftercare and post-discharge services.
- Medication assisted treatment and medication management.
- Recovery support.⁵⁵

A coordinated system of care must include, but is not limited to, the following array of services:

- Prevention services.
- Home-based services.
- School-based services.
- Family therapy.
- Family support.
- Respite services.
- Outpatient treatment.
- Crisis stabilization.
- Therapeutic foster care.
- Residential treatment.
- Inpatient hospitalization.
- Case management.
- Services for victims of sex offenses.
- Transitional services.
- Trauma-informed services for children who have suffered sexual exploitation.⁵⁶

Current law requires the DCF to define the priority populations which would benefit from receiving care coordination, including considerations when defining such population.⁵⁷

Considerations include the number and duration of involuntary admissions, the degree of involvement with the criminal justice system, the risk to public safety posed by the individual, the utilization of a treatment facility by the individual, the degree of utilization of behavioral health services, and whether the individual is a parent or caregiver who is involved with the child welfare system.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Section 394.4573(2), F.S.

⁵⁶ Section 394.495(4), F.S.

⁵⁷ Section 394.9082(3)(c), F.S.

Funding and Expenses

Contracts with MEs are funded with General Revenue, other qualifying state funds, or applicable federal funding.⁵⁸ The MEs are required to develop and implement standards for collecting and reporting data related to crisis stabilization and detoxification and addictions receiving services.⁵⁹ The data is collected from entities who have received funds and operate under s. 394.875, F.S.⁶⁰ MEs are required to reconcile the data on a monthly basis, and submit the data to the DCF on a monthly and annual basis. The DCF is required to post data on its website regarding each ME's utilization of funds.⁶¹

In 2015, during an operational audit of the MEs, the Florida Auditor General found instances where salary payments for leave used and ME employee leave balances did not appear to be supported or calculated accurately.⁶²

In the January 2019 operational audit by the Florida Auditor General described above, as of March 31, 2017, the MEs' chief executive officer annual salaries, before bonuses, averaged \$226,216, and the average allocated to the DCF contracts with the MEs was \$170,905.⁶³ The 2019 report also found that bonus payments of one ME did not appear reasonable and necessary to the performance of the ME's duties.⁶⁴ The Florida Auditor General recommended the DCF amend the ME contracts to require compliance with statutory provisions restricting state-funded bonus payments under the contract.⁶⁵

Florida law is currently silent regarding a salary cap for administrative employees of MEs.

Kinship Navigator Programs

Section 39.5086(2)(b), F.S., permits each lead agency to establish a kinship navigator program subject to available resources. A kinship navigator program is defined as a program designed to ensure that kinship caregivers are provided with the necessary resources for the preservation of the family.⁶⁶ The purpose of such program is to provide support and services to kinship caregivers, specifically to:

- Coordinate with other state and local agencies that promote service coordination or provide information and referral services;
- Plan and operate in consultation with kinship caregivers and organizations representing them, youth raised by kinship caregivers, relevant governmental agencies, and relevant community-based or faith-based organizations;

⁵⁸ Section 394.9082(9), F.S.

⁵⁹ Section 394.9082(10), F.S.

⁶⁰ *Id.*

⁶¹ Section 394.9082(10)(e) and (f), F.S.

⁶² The Office of the Auditor General, *Department of Children and Families and Selected Behavioral Health Managing Entities*, Report No. 2015-155, p. 1-2 (March 2015) available at https://flauditor.gov/pages/pdf_files/2015-155.pdf (last visited Feb. 16, 2021).

⁶³ 2019 Audit Report, at p. 6 and 57.

⁶⁴ *Id.* at p. 3.

⁶⁵ *Id.* at p. 28.

⁶⁶ Section 39.5086(1)(c), F.S.

- Provide toll-free telephone hotline services with information to link kinship caregivers, kinship support facilitators, and kinship service providers;
- Provide outreach to kinship care families, including by establishing, distributing, and updating a kinship care website, or other relevant guides or outreach materials; and
- Promote partnerships between public and private agencies, including schools, community-based or faith-based organizations, and relevant governmental agencies, to increase their knowledge of the needs of kinship care families to promote better services for those families.⁶⁷

Several provisions of law provide for financial support to relative and non-relative caregivers of children who are in out-of-home care who meet specified criteria, including the:

- Guardianship Assistance Program;⁶⁸
- Level I family foster care homes licensure if qualifications are met;⁶⁹
- Relative Caregiver Program (RCP);⁷⁰ and
- Temporary Cash Assistance (TCA) Program.⁷¹

The DCF operating procedures require case workers to provide information to relative caregivers about the kinship navigation program, including referrals, and guidelines about the program.⁷² All lead agencies except for one offer kinship services,⁷³ but the services provided do not meet the current statutory requirements for such a program.⁷⁴ The DCF reports that approximately 39 percent of lead agencies offer more than 31 of 41 best practice services. Fifty percent of lead agencies offer more than 65 percent of services for kinship caregivers and offer 85 percent of services for programmatic support.⁷⁵

The Family First Prevention Act allows Title IV-E agencies to claim 50 percent of kinship navigator program costs if specified criteria are met.⁷⁶ The DCF has been working with the

⁶⁷ Section 39.5086(2)(b), F.S.

⁶⁸ Section 39.6225, F.S.

⁶⁹ Section 409.175, F.S.

⁷⁰ Section 39.5085, F.S.

⁷¹ RCP and TCA are funded by Temporary Assistance for Needy Families. State funds are also available for children who were placed in foster care and change placement to a nonrelative in a permanent guardianship. *See* The DCF, *Temporary Cash Assistance (TCA)*, available at <https://www.myflfamilies.com/service-programs/access/temporary-cash-assistance.shtml> (last visited Feb. 16, 2021).

⁷² The DCF, *CFOP 170-10*, Chapter 8, p. 2, available at <https://www.myflfamilies.com/admin/publications/policies.asp?path=CFOP%20170-xx%20Child%20Welfare/CFOP%20170-10%20%20Providing%20Services%20and%20Support%20for%20Children%20in%20Care%20and%20for%20Caregivers> (last visited Feb. 16, 2021) (hereinafter referred to as “CFOP 170-10”)

⁷³ The DCF, *Senate Bill 92 Fiscal Analysis*, p. 5 (Feb. 10, 2021) (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as “The DCF Analysis”).

⁷⁴ *Id.*

⁷⁵ The DCF Analysis, p. 12.

⁷⁶ *Id.* The DCF Analysis explains that lead agencies must use evidenced-based kinship navigation program to be eligible for funds. Also, under Title IV-E of the Social Security Act, states, territories, and tribes are entitled to claim partial federal reimbursement for the cost of providing foster care, adoption assistance, and kinship guardianship assistance to children who meet federal eligibility criteria. The Title IV-E program is administered by the Children’s Bureau, an agency within the U.S. Department of Health and Human Services. The DCF is Florida’s Title IV-E agency. *See* Congressional Research Service, *Child Welfare: A Detailed Overview of Program Eligibility and Funding for Foster Care, Adoption Assistance and Kinship*

Children’s Home Network to contribute to the evidence of their program.⁷⁷ The DCF received a one year grant and has been given the opportunity to continue receiving the Kinship grant to begin working with a second provider.⁷⁸ One of the DCF’s objectives is to implement a plan with Kid’s, Inc. to have one or more of its own models meet the eligibility requirements for federal reimbursement.⁷⁹

Family-Finding Program

The DCF may establish a formal family-finding program, subject to available resources.⁸⁰ The family-finding program may begin as soon as the child is taken into custody and throughout the duration of the case, as necessary, locating and engaging as many family members as possible who may be candidates to assist with support and care of the child.⁸¹ Florida law defines diligent search efforts to locate a parent or prospective parent,⁸² but requires the DCF to make efforts beyond basic search tools by exploring alternative tools and methodology.⁸³

The DCF has rule making authority to implement a family-finding program,⁸⁴ and must coordinate with the lead agencies to document strategies used to locate and engage the family to, in part:

- Attend visitation with the child;
- Assist with transportation of the child;
- Provide respite or child care services; or
- Provide actual kinship care.⁸⁵

Between Fiscal Years 2001-02 and 2008-09, the DCF implemented or expanded family finding tools in all 67 counties to test the flexibility to use Title IV-E funding for expanded child welfare services and supports and to increase family connections in an effort to reduce the number of children in out-of-home care.⁸⁶ The six-step approach includes discovery, engagement, planning,

Guardianship Assistance under Title IV-E of the Social Security Act, available at <https://www.everysreport.com/reports/R42792.html>; the DCF, CFOP 170-15, available at <https://www.myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170-15%20%20Federal%20and%20State%20Funding%20Eligibility/CFOP%20170-15.%20%20Chapter%2004.%20Title%20IV-E%20Foster%20Care.pdf> (all sites last visited Feb. 16, 2021).

⁷⁷ *Id.*

⁷⁸ The DCF Analysis, p. 12.

⁷⁹ *Id.*

⁸⁰ Section 39.4015(3), F.S.

⁸¹ Section 39.4015(3)(a), F.S.

⁸² Section 39.01(23), F.S., defines “diligent efforts of social service agency” to mean reasonable efforts were taken to provide social services or reunification services made by any social service agency that is a party to a case plan. Section 39.01(24), F.S., defines “diligent search” to mean the efforts of a social service agency to locate a parent, or prospective parent whose identity or location is unknown, is initiated as soon as the social service agency is made aware of the existence of such parent. When a parent’s identity or location are unknown, s. 39.503, F.S., sets out efforts that must be made by the DCF to identify and locate him or her.

⁸³ Section 39.4015(3)(b), F.S.

⁸⁴ Section 39.4015(4), F.S.

⁸⁵ *Id.*

⁸⁶ Louis de la Parte, Florida Mental Health Institute, *Evaluation Brief 2, Florida’s IV-E Waiver Demonstration Project*, pp. 1-2, 4 (Jan. 2010) available at https://www.myflfamilies.com/general-information/publications-forms/docs/APSR/S10-008463_Title%20IV-E%20Brief%202%20January2010.pdf (last visited Feb. 16, 2021).

decision making, evaluation, and follow-up support.⁸⁷ The overall conclusion was that the flexible use of Title IV-E funds for expanded services reduces the number of children in out-of-home care through reunification of the child and the caregiver.⁸⁸

Child and Family Well-being Programs

Florida law does not presently provide for a child and family well-being system. There are, however, goals that the DCF in conjunction with lead agencies, community-based subcontractors, and the community alliance must aspire to achieve are to protect the best interest of the children including, in part, to:

- Protect children from abuse and neglect;
- Ensure that children remain safely in their home, if possible and appropriate;
- Preserve family relationships; and
- Provide services to families⁸⁹ and children to meet the children’s needs, including their educational and mental health needs, and skills for independent living.⁹⁰

There are innovative programs being developed throughout the United States which focus on family well-being and implementing creative preventative measures to keep families intact.⁹¹ The U.S. Department of Health & Human Services Children’s Bureau (Children’s Bureau) provides information, training assistance, and grants focused on strengthening families, protecting children, and ensuring children have permanent families with a goal of improving safety, permanency, and well-being.⁹²

Casey Family Programs (CFP) is an organization that focuses on these key objectives of child-well-being. CFP was founded in 1966 and operates in all 50 states.⁹³ The program provides consulting, research and analysis, and services free of charge to advance the goal of child well-being.⁹⁴

Alia is another program that is transforming child welfare systems by conducting research, providing strategy sessions, leadership coaching, and other workshops and events.⁹⁵ Alia promotes building an “unsystem” with five phases for implementing change to shift the primary focus of child welfare systems to “prevention”. The five stages consist of:

- Preparing to Lead Change: Co-creating your Vision.
- Building the Foundation: Workforce Resilience.
- Shifting Agency Mindset: *Why* Change is Needed.

⁸⁷ *Id.* at p. 4.

⁸⁸ *Id.* at p. 4-5.

⁸⁹ Section 39.001(47), F.S., defines “family support services” to mean services provided to children (and their families) who have been found to be safe and at high or very high risk of future maltreatment.

⁹⁰ Section 409.986, F.S.

⁹¹ Casey Family Programs, *Who We Are*, available at <https://www.casey.org/who-we-are/>; Children’s Bureau Express, *Transforming South Carolina’s Approach to Child Welfare*, available at <https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=219§ionid=2&articleid=5652>; Alia, *Get to Know Us*, available at <https://www.aliainnovations.org/who-we-are> (all sites last visited February 16, 2021).

⁹² Children’s Bureau, *What We Do*, available at <https://www.acf.hhs.gov/cb/about/what-we-do> (last visited Feb. 16, 2021).

⁹³ Casey Family Programs, *Who We Are*, available at <https://www.casey.org/who-we-are/> (last visited Feb. 16, 2021).

⁹⁴ *Id.*

⁹⁵ Alia, *Project Work*, available at <https://www.aliainnovations.org/project-work> (last visited Feb. 16, 2021).

- Aligning Practice with your *Why*.
- Reaching a Tipping Point Toward Primary Prevention.⁹⁶

South Carolina adopted a child welfare system with similar goals and objectives as these programs and allocates resources with a primary focus on a preventative system.⁹⁷ Key elements of the system include, in part, all of the following:

- Partnering with nonprofit and community-based organizations.
- Removing the stigma parents receive when receiving assistance.
- Engaging parents.
- Establishing family resource centers in local communities.
- Providing more services to meet families in locations convenient to them.
- Fostering a greater understanding of trauma.⁹⁸

Out-of-Home Placement

Section 39.4087, F.S., establishes goals for the DCF to achieve and requirements to meet with respect to caregivers. Specifically, one goal of the DCF is to treat caregivers, including foster parents, with dignity, respect, and trust while ensuring services are aimed at achieving what is in the child's best interest.⁹⁹ Subject to available resources and any state or federal law to the contrary, the DCF is required to provide to caregivers an open exchange of information and supportive services.¹⁰⁰ For example, the DCF should:

- Provide training and support to the caregiver to help meet necessary requirements for the daily care and any special needs of the child; and
- Fully disclose all relevant information regarding the child and the background of his or her biological family, including, but not limited to:
 - Any delinquency or criminal record of the child; and
 - With parental consent to the extent required by law, any known health history and medical, psychological, or behavioral health issues or needs of the child.¹⁰¹

A caregiver must maintain the confidentiality of any information as required by law.¹⁰²

Community-based care lead agencies are required to provide support for all licensed out-of-home caregivers,¹⁰³ including:

- Access to foster parent support groups;
- Service resources for children placed in the home;
- Foster parent mentors; and

⁹⁶ *Id.*

⁹⁷ Children's Bureau Express, *Transforming South Carolina's Approach to Child Welfare*, available at <https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=219§ionid=2&articleid=5652> (last visited Feb. 16, 2021).

⁹⁸ *Id.*

⁹⁹ Section 39.4087(1), F.S.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Section 39.4087(1)(c), F.S.

¹⁰³ Fla. Admin. Code R. 65C-45.011.

- Service resources for caregivers.¹⁰⁴

The community-based care lead agencies must also make contact with the licensed caregiver at least quarterly.¹⁰⁵ Several other rules address efforts required by the child protective investigator or case manager to assist or provide information to caregivers.¹⁰⁶ Licensure rules address a caregiver's obligation to maintain confidentiality.¹⁰⁷

The DCF has also established operating procedures for providing services and support for children in care and for caregivers,¹⁰⁸ including supporting relatives who are caring for children placed in out-of-home care,¹⁰⁹ and nonrelative caregiver financial assistance.¹¹⁰ Additional subsidies are available depending on the permanency status of the child.¹¹¹ The DCF procedures also list information with which the child welfare professional must provide to the relative caregiver for completing the home study.¹¹²

Conflicts of Interest

There are several Florida statutes which address transactions or other situations in which a conflict of interest exists or may exist,¹¹³ and define the term "conflict of interest" in context of the statute with which it relates.¹¹⁴

Corporations

Florida laws on corporations define "director's conflict of interest transaction" as a transaction between a corporation and one or more of its directors, or another entity in which one or more of the corporation's directors is directly or indirectly a party to the transaction, other than being an indirect party as a result of being a shareholder of the corporation, and has a direct or indirect material financial interest or other material interest.¹¹⁵ If a director's conflict of interest transaction is fair to the corporation at the time it is authorized, approved, effectuated, or ratified:

¹⁰⁴ Fla. Admin. Code R. 65C-45.011(1).

¹⁰⁵ Fla. Admin. Code R. 65C-45.011(2).

¹⁰⁶ See Fla. Admin. Code R. 65C-35.004 (assisting the caregiver with attending appointments with a child if the caregiver is unavailable); Fla. Admin. Code R. 65C-35.011(10) (informing the caregiver about the importance of communicating regarding a child's psychotropic medication and recommending they exchange contact details); and Fla. Admin. Code R. 65C-28.005(4) (regarding services and information relating to the child upon a change of placement).

¹⁰⁷ See Fla. Admin. Code R. 65C-45.003 (requiring an assessment of how, amongst other things, the caregiver will maintain confidentiality as required by law).

¹⁰⁸ Chapter 8, CFOP 170-10.

¹⁰⁹ Chapter 8, CFOP 170-10, p. 2-5. Several programs exist to provide relative caregiver support, including, but not limited to, the kinship navigator program, medical insurance, "at-risk child care subsidy, local flexible funds, "child-only" temporary cash assistance, and relative caregiver program.

¹¹⁰ Chapter 9, CFOP 170-10.

¹¹¹ *Id.*

¹¹² *Id.* at pp. 5-7.

¹¹³ See ss. 112.312, 605.04092, 607.0832, and 617.0832, F.S.

¹¹⁴ See ss. 112.312, and 605.0492, F.S.

¹¹⁵ Section 607.0832, F.S.; see also s. 605.0492(1)(g), F.S., with respect to limited liability companies which defines "member's conflict of interest" as a transaction between a limited liability company and one or more of its members, or another entity in which one or more of the limited liability company's members is directly or indirectly a party to the transaction, other than being an indirect party as a result of being a member of the limited liability company, and has a direct or indirect material financial interest or other material interest.

- Such transaction is not void or voidable; and
- The fact that the transaction is a director's conflict of interest transaction is not grounds for any equitable relief, an award, or other sanctions.¹¹⁶

If proceedings challenging the validity of a director's conflict of interest transaction or proceedings seeking equitable relief, damages, or other sanction are brought, the person challenging the director's conflict of interest transaction has the burden to prove the lack of fairness of the transaction in specified situations.¹¹⁷

Nonprofit Organizations

Chapter 617, F.S., governs corporations not for profit and does not define conflict of interest. It provides, however, that no contract or other transaction between a corporation and one of its directors or other corporation in which one or more directors have an interest shall be void or voidable because of the relationship or interest, or because the interested director is present at the meeting which authorizes or ratifies such contract if:

- The relationship is disclosed or known to the other directors which authorizes or ratifies the transaction by a vote which is sufficient to approve the transaction without the interested director's vote;¹¹⁸
- The relationship is known or disclosed and the members entitled to vote authorize or ratify it by vote or written consent;¹¹⁹ or
- The contract or transaction is fair and reasonable to the operation at the time it is authorized by the board, a committee, or the members.¹²⁰

The transactions are required to be approved by a majority vote of the members.¹²¹

Public Officer and Employee

Public officers and employees must comply with standards of conduct provided for in s. 112.313, F.S. Chapter 112, F.S., restricts the type of business transactions that public officers and employees of an agency may have with a business entity in which the officer, employee, or the officer's or employee's specified family has a material interest.¹²² Public officers and employees of agencies are also prohibited from having conflicting employment or contractual relationships with any business entity or regulation.¹²³ Section 112.312(8), F.S., defines "conflict" or "conflict of interest" as a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

¹¹⁶ Section 607.0832(2), F.S. This is the case when because of the relationship or interest, because such director is present at the meeting in which the transaction was authorized, or because his or her votes are counted for such purpose.

¹¹⁷ Section 607.0832(3), F.S. The presence of or a vote cast by a director with an interest does not affect the validity of an action if specified conditions are met.

¹¹⁸ Section 617.0832(1)(a), F.S. The presence of a vote cast by a director having a relationship or interest does not affect the validity of any action taken under paragraph (1)(a) if the transaction is otherwise authorized or ratified in this paragraph.

¹¹⁹ Section 617.0832(1)(b), F.S.

¹²⁰ Section 617.0832(1)(c), F.S.

¹²¹ Section 617.0832(2) and (3), F.S.

¹²² Section 112.313(3), F.S.

¹²³ Section 112.313(7), F.S.

III. Effect of Proposed Changes:

Lead agencies and Managing Entities (MEs)

Duties

The bill amends s. 409.988, F.S., requiring the lead agencies to demonstrate the ability to adhere to all best child welfare practices under ss. 39.4087, 39.523, 409.1415, and 409.145, F.S. Further, the bill amends s. 409.996, F.S., to require the DCF to include a provision in its contracts with the lead agencies which requires them to provide information specifying how the lead agency will adhere to this requirement.

Salary Provisions

The bill amends s. 409.988, F.S., removing the requirement for the individual lead agency to post specified budget information on its website. Sections 394.9082 and 409.996, F.S., are amended to add a similar provision; however, the bill requires the DCF, rather than each entity, to collect and post on its website compensation benefits for employees, annual expenses, administrative expenses, and fundraising expenses of MEs and lead agencies. The term “employee” is defined as their Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, or any other executive staff of the managing entity. The requirement to post this information in one centralized location will provide more consistency with the information posted for lead agencies statewide.

The bill amends s. 394.9082, F.S., requiring any new or amended contracts the DCF executes with lead agencies and MEs to limit employees’ salaries¹²⁴ from state appropriated funds to no more than 100 percent of the annual salary paid to the secretary of the DCF. This provision is new in application to the MEs. Additionally, s. 409.992, F.S., is amended to reduce the limit on lead agencies salaries from 150 percent of state-appropriated funds to no more than 100 percent of the annual salary of the Secretary of the DCF. These provisions explicitly state that this does not prevent the entity from paying more for salary, bonuses, etc. from other sources.

The DCF will need to develop new reporting templates, modify current year-end fiscal analysis tools, and modify ME contracts to implement these amendments.¹²⁵ MEs will have to assess employee compensation and determine whether any compensation requires an adjustment to comply with the new requirement, and the DCF is unable to estimate the number of employees which may be affected by this bill.¹²⁶

Conflicts of Interest

The bill creates ss. 394.90825 and 409.987(7), F.S., establishing a process for disclosing and eliminating any transaction or activity that could reasonably be construed to be a conflict of

¹²⁴ “Salary” means base pay or base pay combined with any bonus or incentive payments, including the base pay or the base pay combined with any bonus or incentive payments received as a result of employment with one or more than one community-based care lead agency or managing entity. If the bill is passed, the terms employee and salary would apply to the contracts on July 1, 2021, even if not amended by that date.

¹²⁵ The DCF Analysis at p. 5.

¹²⁶ *Id.* at p. 6.

interest for a member, officer, or relative of a lead agency or ME. The bill defines the following terms:

- “Activity” includes, but is not limited to, a contract for goods and services, a contract for the purchase of any real or tangible property, or an agreement to engage with the managing entity for the benefit of a third party in exchange for an interest in real or tangible property, a monetary benefit, or an in-kind contribution.¹²⁷
- “Conflict of interest” means when a board member or an officer, or a relative of a board member or an officer, of the managing entity/lead agency does any of the following:
 - Enters into a contract or other transaction for goods or services with the managing entity/lead agency;
 - Holds a direct or indirect interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the managing entity/lead agency or proposes to enter into a contract or other transaction with the managing entity/lead agency; or¹²⁸
 - Knowingly obtains a direct or indirect personal, financial, professional, or other benefit as a result of the relationship of such member or officer, or relative of the member or officer, with the managing entity/lead agency.¹²⁹
- “Managing entity” has the same meaning as in s. 394.9082, F.S.¹³⁰
- “Relative” means a relative within the third degree of consanguinity by blood or marriage.¹³¹

For any activity that is presented to the board of these entities for initial consideration and approval after July 1, 2021, or any contract which is being considered for renewal between July 1, 2021 and December 31, 2021, a board member or officer must make a disclosure of such potential conflict of interest. A rebuttable presumption of a conflict of interest exists if the activity was acted upon by the board without prior notice.

If a contract is not subject to renewal before January 1, 2022, the board member or officer must disclose any information that could reasonably be construed to be a conflict of interest by December 31, 2021.

Any proposed activity or existing contract which does give rise to a disclosure obligation must be listed on the meeting agenda for the next general or special meeting of the members, and copies of all contracts and relevant documents related to the transaction must be included. The meeting agenda must clearly state the potential conflict of interest. The board must be given an opportunity to approve or disapprove the conflict of interest by a vote of two-thirds of all other members present.

If the board votes against the proposed activity, the board member or officer must notify the board in writing of his or her intention, or his or her relative’s intention, not to pursue the proposed activity or the board member or officer must resign. If the board finds that an officer or

¹²⁷ Sections 394.90825(1)(a) and 409.987(7)(a)1., F.S.

¹²⁸ Sections 349.90825(1)(b) and 409.987(7)(b)2., F.S. For purposes of this provision, the bill provides that the term “indirect interest” has the same meaning as provided in s. 112.312, F.S.

¹²⁹ For purposes of this provision, the bill provides that the term ‘benefit’ does not include per diem and travel expenses paid or reimbursed to board members in connection with their service on the board.

¹³⁰ Section 394.90825(1)(c), F.S.

¹³¹ Sections 394.90825(1)(d) and 409.987(7)3., F.S.

member has violated this provision, he or she will be deemed removed from office before the next scheduled board meeting. If the board votes against the renewal of an existing contract which gives rise to a conflict of interest, the parties to the activity may opt to cancel the activity, or in the alternative, the member or officer must resign from the board before the next scheduled meeting. The bill provides for limitations on damages under any existing contracts.

A board member, officer, or relative who has an interest in an activity that is a possible conflict of interest may attend the meeting at which the activity is considered by the board, make a presentation, and then leave the meeting during any relevant discussion by the other board members. A member or officer who is a party to, or has an interest in, the activity shall recuse himself or herself from the vote.

A contract entered into between a board member, officer, or relative of a member or an officer in which there is a conflict of interest or potential conflict of interest, is void or voidable and terminates upon the filing of a written notice to the board which contains at least 20 percent of the voting interests of the managing entity.

MEs will need to amend their by-laws or articles of incorporation to ensure that the new requirements for potential conflict of interest transactions are incorporated.¹³² The DCF would need to amend existing contracts with lead agencies and may need addendums to active Invitations to Negotiate in relation to several amendments proposed by the bill.¹³³ The DCF also would need to edit the Supplemental Contract related to future Invitations to Negotiate.¹³⁴

Community Alliances

The bill amends s. 20.19, F.S., modifying the requirement for the DCF to form a community alliance to cover a county or counties, to cover a “community-based care lead agency service area” instead.

It also requires each community alliance to adopt bylaws to determine the specific membership composition that best represents the local area being serviced by the alliance, and redefines the membership to a minimum of 20 members from a specified list of representatives, including all of the following:

- A representative from the DCF.
- Representatives from local government.
- Representatives from the school district.
- A representative from the United Way.
- Representatives from county sheriffs’ offices.
- A representative from each circuit court in the lead agency service area.
- A representative from the children’s services council, if one exists.
- A representative of a faith-based organization involved in efforts to prevent child maltreatment, strengthen families, or promote adoption.

¹³² The DCF Analysis at p. 7.

¹³³ *Id.*

¹³⁴ *Id.*

This section also requires community alliances to adopt bylaws that allow for increased membership to no more than 30 members if the change is necessary to adequately represent the diversity in population within the community alliance service area.

The bill amends s. 409.997, F.S., requiring the DCF to develop, in collaboration with the local community alliance, an alternative plan with specified details to use local community entities to implement community-based care services if conditions make it impossible or not feasible to competitively contract with a lead agency. This provision allows for the DCF and community alliance to work with partners that may include, but not be limited to, private entities, local and county governmental entities. The plan created must detail how the community will continue to implement community-based care through competitively procuring either the specific components of foster care and related services or comprehensive services for defined eligible populations of children and families. The bill requires the plan to ensure local control over the management and administration of the service provision and to adhere to recognized best business practices, including, but not limited to, the use of public or private partnerships. The bill is substantially similar to former s. 409.1671(1)(d), F.S. (2013), before that section was repealed by ch. 2014-224, s. 46, Laws of Florida.

Family-Finding and Kinship Navigator Programs

Sections 39.4015 and 39.5086, F.S., are amended to require, rather than permit if resources are available, the establishment of a formal family-finding program and kinship navigator program. The amendments clarify that family-finding efforts must go beyond basic search tools to comply with each of efforts required by the DCF and lead agencies' to search for children's families. The DCF may adopt rules to implement these programs.

Lead agencies would be encouraged to meet federal standards for the kinship program to claim 50 percent of the applicable costs.¹³⁵

The Children's Home Network has an existing kinship navigator program that is recognized by the Children's Bureau and is collaborating with the DCF to become rated in the clearinghouse for future utilization in all lead agencies.¹³⁶

Child and Family Well-Being

The bill requires the DCF to establish a program that consists of a child and family well-being, system¹³⁷ to provide services through contracts with lead agencies in accordance with s. 409.987, F.S. The bill provides program requirements, including:

- Creating a system that requires fundamental change;
- Designating lead agency leadership that will identify a core group of agency individuals to develop a plan for creating the change;

¹³⁵ The DCF Analysis at p. 5.

¹³⁶ The DCF Analysis at p. 10.

¹³⁷ Section 409.998(2), F.S., defines "child and family well-being system" as a system that recognizes the difference between poverty and neglect and that provides mentoring and supports to biological parents as they develop the skills and resources necessary to adequately care for their children.

- Recognizing that change of this magnitude is difficult and time-consuming, and determine steps to determine the well-being of individuals involved at an early stage of the process;
- Developing a plan for creating a change in the way partners view the process;
- Building relationships throughout the process of change;
- Providing regular interaction amongst the workforce to discuss changes that are needed; and
- Redirecting resources toward primary prevention and away from removing children from their homes.

The DCF must implement the program in collaboration with the designated lead agency, community alliance, and Florida Institute for Child Welfare. By October 1, 2021, and annually thereafter, the Florida Institute for Child Welfare must report to the Governor, President of the Senate, and the Speaker of the House of Representatives regarding program compliance and outcomes of the program.

The DCF has begun transitioning to a prevention focused child and family well-being system in accordance with the Family First Prevention Services Act (FFPSA) which authorizes new Title IV-E funding for a limited time period and in limited circumstances.¹³⁸

Caregivers

The bill provides that the DCF is required to treat caregivers in a certain manner and provide specified support and information that was formerly considered to be discretionary, depending on resources and subject to any laws to the contrary. Specifically, the DCF must treat caregivers with dignity, respect and trust while providing services that are in the best interest of the child. Also, the DCF now must provide specified support and information set out in s. 39.4087(1), F.S., including:

- Providing an explanation to the caregiver regarding the roles of the persons involved;
- Providing training and support to the caregiver;
- Disclosing all relevant information regarding the child and the background of his or her biological family;
- Allowing caregivers to communicate with professionals who work with the child;
- Providing a means by which a caregiver may contact the lead agency 24 hours a day, 7 days a week;
- Soliciting and considering caregiver input on a child's case plan;
- Providing a clear, written explanation to a caregiver of any plan concerning the placement of a child;
- Providing information on any emergency situation which arises;
- Allowing a caregiver to request removal of the child without retaliation;
- Informing the caregiver as soon as possible of any decision made by the court or child-caring agency relating to a child who is placed with the caregiver;
- Giving at least 7 days' notice to a caregiver of any meeting or court hearing;
- Considering the caregiver as placement for the child if the child reenters out-of-home care;
- Allowing a caregiver a period of respite upon reasonable notice; and

¹³⁸ The DCF Analysis at p. 8.

- Providing the caregiver, upon request, with copies of all information in the department's records regarding the caregiver.

The amendments to this subsection clarify that a caregiver must maintain confidentiality of any information as required by law, rather than this requirement being stated in relation only to the information the caregiver receives related to the child and the background of his or her biological family.

The bill is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

It is anticipated that a staff person will be needed by each CBC lead agency to sufficiently implement a family-finder program. Currently, five of the CBC lead agencies have an active family-finder program. For the 14 lead agencies that do not currently implement a family-finder program, adding one staff position each will cost \$964,106 annually, plus one-time costs of \$62,272.

The CBC lead agencies do not currently operate kinship navigator programs. It is projected that the lead agencies will need one position each to implement a kinship navigator program. In addition to the 19 additional CBC staff positions, it is projected

that each CBC will need to contract with a kinship navigator program provider. It should be noted that Children's Home Network is an agency under contract with a CBC lead agency to provide a kinship navigator pilot program. The pilot program is the process of becoming an approved evidence-based program. Once it has received federal approval as an evidence-based program, it can be replicated in other CBC lead agencies. The cost to contract for similar kinship navigator services and hire one additional staff position will cost each CBC an average cost of \$529,578 annually. The recurring cost for all 19 lead agencies is expected to be \$10,061,982. The lead agencies will likely use current resources to support the technology requirements of the kinship navigator program.

The total costs for CBC lead agencies to implement statewide the family-finder and kinship navigator programs is \$11,088,360, which includes one-time costs of \$62,272.

C. Government Sector Impact:

It is anticipated that the seven sheriffs' offices that conduct their own child protective investigations will need to hire an additional staff position to implement the family-finding program. The cost for the additional staffing is projected to total \$513,189, which includes one-time costs of \$31,136.¹³⁹

The DCF projects the need for 64 additional Child Protective Investigator FTE positions to implement the family-finding program.¹⁴⁰ Estimated expenditures, including Salaries and Benefits and associated expenses, total \$4,713,147, including one-time costs of \$284,672.¹⁴¹ The DCF will likely require minimal use of existing technology resources to adapt any websites and contracts, as necessary.¹⁴²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 20.19, 30.4015, 39.4087, 39.5086, 394.9082, 409.987, 409.988, 409.992, and 409.996 of the Florida Statutes.

This bill creates sections 394.90825 and 409.998 of the Florida Statutes.

¹³⁹ The DCF Analysis at p. 9.

¹⁴⁰ The DCF Analysis at p. 9.

¹⁴¹ *Id.*

¹⁴² *Id.*

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Bean

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1 A bill to be entitled
 2 An act relating to the Department of Children and
 3 Families; amending s. 20.19, F.S.; requiring the
 4 department to establish community alliances in each
 5 community-based care lead agency service area;
 6 requiring community alliances to adopt certain bylaws;
 7 revising the membership of community alliances;
 8 amending s. 39.4015, F.S.; requiring, rather than
 9 authorizing, the department to develop a family-
 10 finding program; removing the limitation that the
 11 development of family-finding programs is subject to
 12 available resources; requiring that family finding
 13 begin as soon as a child is taken into custody of the
 14 department; making technical changes; amending s.
 15 39.4087, F.S.; requiring the department to treat
 16 caregivers in a specified manner; requiring the
 17 department to provide certain information to and
 18 training for caregivers of children in foster care;
 19 removing the requirement that such information be
 20 provided subject to available resources; expanding
 21 certain information that is required to be fully
 22 disclosed to the caregivers to include the child's
 23 issues related to behavioral health; making technical
 24 changes; amending s. 39.5086, F.S.; removing the
 25 limitation that the development of kinship navigator
 26 programs is subject to available resources; requiring,
 27 rather than authorizing, each community-based care
 28 lead agency to establish a kinship navigator program;
 29 amending s. 394.9082, F.S.; requiring the department

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30 to collect and post specified information on its
 31 website for each managing entity under contract with
 32 the department; defining the term "employee";
 33 providing a limitation on the managing entity
 34 employees' salaries; requiring that contracts and
 35 amendments to existing contracts between the
 36 department and managing entities include a specified
 37 provision; creating s. 394.90825, F.S.; defining
 38 terms; requiring a board member or an officer of a
 39 managing entity to disclose specified activity that
 40 may reasonably be construed as a conflict of interest;
 41 creating a rebuttable presumption of a conflict of
 42 interest if the activity was acted upon by the board
 43 without prior notice; establishing a process for the
 44 managing entity's board of directors to address the
 45 activity under certain timelines; providing for
 46 certain consequences for failure to obtain a board's
 47 approval or failure to properly disclose a contract as
 48 a conflict of interest; amending s. 409.987, F.S.;
 49 requiring the department to develop an alternative
 50 plan to contracting with a lead agency in a community
 51 under certain circumstances; providing requirements
 52 for the alternative plan; defining terms; requiring a
 53 board member or an officer of a lead agency to
 54 disclose activity that may reasonably be construed as
 55 a conflict of interest; creating a rebuttable
 56 presumption of a conflict of interest if the activity
 57 was acted upon by the board without prior notice;
 58 establishing a process for the lead agency's board of

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59 directors to address the activity under certain
 60 timelines; providing for certain consequences for
 61 failure to obtain a board's approval or failure to
 62 properly disclose a contract as a conflict of
 63 interest; amending s. 409.988, F.S.; deleting a
 64 requirement that lead agencies post their current
 65 budgets on their websites; requiring a lead agency to
 66 demonstrate the ability to adhere to all best child
 67 welfare practices; amending s. 409.992, F.S.; defining
 68 the term "employee"; revising a limitation on salaries
 69 of community-based care lead agency employees;
 70 requiring that contracts and amendments to existing
 71 contracts between the department and lead agencies
 72 include a specified provision; amending s. 409.996,
 73 F.S.; requiring that contracts between the department
 74 and lead agencies provide information to the
 75 department which specifies how the lead agency will
 76 adhere to all best child welfare practices; requiring
 77 the department to collect and post on its website
 78 specified information relating to contracts between
 79 lead agencies and the department; creating s. 409.998,
 80 F.S.; providing legislative findings and intent;
 81 requiring the department to establish a program that
 82 consists of a child and family well-being system;
 83 requiring the designated lead agency to carry out
 84 programmatic functions; defining the term "child and
 85 family well-being system"; specifying program
 86 requirements; requiring the department, in
 87 collaboration with specified entities, to design,

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88 implement, and evaluate the program requirements;
 89 requiring the Florida Institute for Child Welfare, by
 90 a specified date, to annually submit a report to the
 91 Governor and the Legislature; providing an effective
 92 date.
 93
 94 Be It Enacted by the Legislature of the State of Florida:
 95
 96 Section 1. Paragraphs (a), (d), and (e) of subsection (5)
 97 of section 20.19, Florida Statutes, are amended to read:
 98 20.19 Department of Children and Families.—There is created
 99 a Department of Children and Families.
 100 (5) COMMUNITY ALLIANCES.—
 101 (a) The department shall, in consultation with local
 102 communities, establish a community alliance ~~or similar group~~ of
 103 the stakeholders, community leaders, client representatives, and
 104 funders of human services in each community-based care lead
 105 agency service area county to provide a focal point for
 106 community participation and governance of community-based
 107 services. ~~An alliance may cover more than one county when such~~
 108 ~~arrangement is determined to provide for more effective~~
 109 ~~representation.~~ The community alliance shall represent the
 110 diversity of the community.
 111 (d) Each community alliance shall adopt bylaws to determine
 112 the specific membership composition that best represents the
 113 local community served by that community alliance. The
 114 membership of ~~a~~ the community alliance must in a county shall at
 115 a minimum be composed of no more than 20 members selected from
 116 the following:

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117 1. A representative from the department.

118 2. Representatives A representative from local county

119 government.

120 3. Representatives A representative from the school

121 district.

122 4. A representative from the county United Way.

123 5. Representatives A representative from the county

124 sheriffs' offices ~~sheriff's office~~.

125 6. A representative from each the circuit court in the lead

126 agency service area ~~corresponding to the county~~.

127 7. A representative from the county children's services

128 council board, if one exists.

129 8. A representative of a faith-based organization involved

130 in efforts to prevent child maltreatment, strengthen families,

131 or promote adoption.

132 (e) The community alliance shall adopt bylaws that allow

133 for the and may increase the membership of the alliance to be

134 increased to no more than 30 members if, in the judgment of the

135 alliance, such change is necessary to adequately represent the

136 diversity of the population within the community alliance

137 service circuits. The additional membership may ~~to~~ include the

138 state attorney for the judicial circuit in which the community

139 alliance is located, or his or her designee; the public

140 defender for the judicial circuit in which the community

141 alliance is located, or his or her designee; or, and other

142 individuals and organizations who otherwise represent

143 perspectives that will enable the community alliance to

144 accomplish the duties specified in paragraph (b). Such

145 individuals and organizations may include, but need not be

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146 limited to, represent funding organizations, are community

147 leaders, and individuals who have knowledge of community-based

148 service issues, ~~or otherwise represent perspectives that will~~

149 ~~enable them to accomplish the duties listed in paragraph (b),~~

150 ~~if, in the judgment of the alliance, such change is necessary to~~

151 ~~adequately represent the diversity of the population within the~~

152 ~~community alliance service circuits.~~

153 Section 2. Subsection (3) of section 39.4015, Florida

154 Statutes, is amended to read:

155 39.4015 Family finding.—

156 (3) FAMILY-FINDING PROGRAM.—~~Subject to available resources,~~

157 The department, in collaboration with sheriffs' offices that

158 conduct child protective investigations and community-based care

159 lead agencies, shall may develop a formal family-finding program

160 to be implemented by child protective investigators and

161 community-based care lead agencies ~~as resources permit~~.

162 (a) Family finding shall may begin as soon as a child is

163 taken into custody of the department, pursuant to s. 39.401, and

164 throughout the duration of the case as necessary, finding and

165 engaging with as many family members and fictive kin as possible

166 for each child who may help with care or support for the child.

167 The department or community-based care lead agency must

168 specifically document strategies taken to locate and engage

169 relatives and fictive kin. Strategies of engagement may include,

170 but are not limited to, asking the relatives and fictive kin to:

171 1. Participate in a family group decision-making

172 ~~decisionmaking~~ conference, family team conferencing, or other

173 family meetings aimed at developing or supporting the family

174 service plan;

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- 175 2. Attend visitations with the child;
 176 3. Assist in transportation of the child;
 177 4. Provide respite or child care services; or
 178 5. Provide actual kinship care.

179 (b) The ~~family-finding~~ family finding program shall provide
 180 the department and the community-based care lead agencies with
 181 best practices for identifying family and fictive kin. The
 182 ~~family-finding~~ family finding program must use diligent efforts
 183 in family finding ~~and,~~ must continue those efforts until
 184 multiple relatives and fictive kin are identified, ~~and must go~~
 185 ~~beyond basic searching tools by exploring alternative tools and~~
 186 ~~methodologies.~~ Family-finding Family finding efforts by the
 187 department and the community-based care lead agency may include,
 188 but are not limited to:

- 189 1. Searching for and locating adult relatives and fictive
 190 kin.
 191 2. Identifying and building positive connections between
 192 the child and the child's relatives and fictive kin.
 193 3. Supporting the engagement of relatives and fictive kin
 194 in social service planning and delivery of services and creating
 195 a network of extended family support to assist in remedying the
 196 concerns that led to the child becoming involved with the child
 197 welfare system, when appropriate.
 198 4. Maintaining family connections, when possible.
 199 5. Keeping siblings together in care, when in the best
 200 interest of each child and when possible.

201 (c) To be compliant with this section, family-finding
 202 efforts must go beyond basic searching tools by exploring
 203 alternative tools and methodologies. A basic computer search

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204 using the Internet or attempts to contact known relatives at a
 205 last known address or telephone number do not constitute
 206 effective family finding.

207 Section 3. Section 39.4087, Florida Statutes, is amended to
 208 read:

209 39.4087 Department ~~goals and~~ requirements relating to
 210 caregivers; dispute resolution.—

211 (1) To provide the best care to children, the Legislature
 212 requires ~~establishes as goals for~~ the department to treat foster
 213 parents, kinship caregivers, and nonrelative caregivers with
 214 dignity, respect, and trust while ensuring delivery of child
 215 welfare services is focused on the best interest of the child.
 216 To that end, regarding foster parents, kinship caregivers, and
 217 nonrelative caregivers caring for dependent children in their
 218 home, to the extent not otherwise prohibited by state or federal
 219 law ~~and to the extent of current resources,~~ the department is
 220 required to do all of the following will strive to:

221 (a) Provide a clear explanation to a caregiver on the role
 222 of the department, the role of the child's biological family as
 223 it relates to the delivery of child welfare services, and the
 224 rights and responsibilities of the caregiver.

225 (b) Provide training and support to the caregiver to help
 226 meet the necessary requirements for the daily care of the child
 227 and any special needs the child may have.

228 (c) 1. Fully disclose all relevant information regarding the
 229 child and the background of his or her biological family. ~~A~~
 230 ~~caregiver must maintain the confidentiality of any information~~
 231 ~~as required by law.~~ Such disclosure includes, but is not limited
 232 to:

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233 ~~a.1-~~ Any issues relative to the child that may jeopardize
 234 the health and safety of the caregiver or other individuals
 235 residing in the household or alter the manner in which the
 236 caregiver would normally provide care.

237 ~~b.2-~~ Any delinquency or criminal record of the child,
 238 including, but not limited to, any pending petitions or
 239 adjudications of delinquency when the conduct constituting the
 240 delinquent act, if committed by an adult, would constitute
 241 murder in the first degree, murder in the second degree, rape,
 242 robbery, or kidnapping.

243 ~~c.3-~~ Information about any physical or sexual abuse the
 244 child has experienced.

245 ~~d.4-~~ Any behavioral issues that may affect the care and
 246 supervision of the child.

247 ~~e.5-~~ With parental consent to the extent required by law,
 248 any known health history and medical, psychological, or
 249 behavioral ~~mental~~ health issues or needs of the child,
 250 including, but not limited to, current infectious diseases the
 251 child has or any episodes of hospitalization due to mental or
 252 physical illness.

253 2. A caregiver must maintain the confidentiality of any
 254 information as required by law.

255 (d) Allow caregivers to communicate with professionals who
 256 work with the child, including, but not limited to, therapists
 257 and other behavioral health professionals, physicians and other
 258 health care professionals, and teachers.

259 (e) Provide a means by which a caregiver may contact the
 260 community-based care lead agency 24 hours a day, 7 days a week,
 261 for the purpose of receiving assistance from the lead agency.

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262 (f) Solicit and consider caregiver input on a child's case
 263 plan.

264 (g) Provide a clear, written explanation to a caregiver of
 265 any plan concerning the placement of a child in the caregiver's
 266 home. If a plan was not developed before the placement, the
 267 department must provide a clear, written explanation to the
 268 caregiver once the plan is developed.

269 (h) Provide information, when it becomes available, on any
 270 emergency situation that requires a child to be placed in the
 271 caregiver's home.

272 (i) Allow a caregiver to request the removal of a child
 273 from the home without retaliation. However, the caregiver must
 274 be open to receiving training or other support services that may
 275 mitigate the need for the child's removal. If removal occurs,
 276 the caregiver shall cooperate with any transition that is in the
 277 best interest of the child to the extent that doing so is safe
 278 for the caregiver and other individuals in the caregiver's home.

279 (j) Inform the caregiver as soon as possible of any
 280 decision made by a court or child-caring agency relating to a
 281 child who is placed with the caregiver.

282 (k) Give at least 7 days' notice to a caregiver, to the
 283 extent possible, of any meeting or court hearing related to a
 284 child in his or her care. The notice must ~~shall~~ include, at
 285 minimum, ~~but is not limited to~~, the name of the judge or hearing
 286 officer, the docket number, and the purpose and location of the
 287 hearing or meeting. If the department is providing such
 288 information to a child's biological parent, the department shall
 289 provide notice to the caregiver at the same time as the
 290 biological parent.

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291 (1) ~~If the caregiver agrees,~~ Consider the caregiver as a
 292 placement option for a child if such child, who was formerly
 293 placed with the caregiver, reenters out-of-home care and the
 294 caregiver agrees to the child being placed with the caregiver
 295 upon reentry and reenters out of home care.

296 (m) Upon reasonable notice from a caregiver, allow him or
 297 her a period of respite.

298 (n) Upon request, provide a caregiver with copies of all
 299 information in the department's records relating to the
 300 caregiver.

301 (2) (a) If a caregiver believes that the department, an
 302 employee of the department, an agency under contract with the
 303 department, or an employee of such agency has violated this
 304 section, and that the violation has harmed or could harm a child
 305 who is or was in the custody of the department, or that the
 306 violation inhibited the caregiver's ability to meet the child's
 307 needs as set forth in the case plan, the caregiver may notify
 308 the liaison assigned to the caregiver or the child's case
 309 manager. The liaison or case manager must make every attempt to
 310 resolve the dispute.

311 (b) If a caregiver believes the dispute is not adequately
 312 resolved by the case manager, the caregiver or the liaison for
 313 the caregiver may contact the supervisor of the liaison or the
 314 supervisor of the case manager. If the caregiver or the liaison
 315 for the caregiver contacts a supervisor in writing, he or she
 316 may copy the department on the communication, and the department
 317 shall maintain a record of any such communication received.

318 (c) If a caregiver believes that the supervisor of the
 319 liaison or the supervisor of the case manager did not adequately

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320 resolve the dispute, the caregiver may contact the department,
 321 and the department must conduct a review and respond to the
 322 caregiver in writing within 30 days after being contacted.

323 Section 4. Paragraph (b) of subsection (2) of section
 324 39.5086, Florida Statutes, is amended to read:

325 39.5086 Kinship navigator programs.—

326 (2) PURPOSE AND SERVICES.—

327 (b) ~~Subject to available resources,~~ Each community-based
 328 care lead agency shall ~~may~~ establish a kinship navigator program
 329 that:

330 1. Coordinates with other state or local agencies that
 331 promote service coordination or provide information and referral
 332 services, including any entities that participate in the Florida
 333 211 Network, to avoid duplication or fragmentation of services
 334 to kinship care families;

335 2. Is planned and operated in consultation with kinship
 336 caregivers and organizations representing them, youth raised by
 337 kinship caregivers, relevant governmental agencies, and relevant
 338 community-based or faith-based organizations;

339 3. Has a toll-free telephone hotline to provide information
 340 to link kinship caregivers, kinship support group facilitators,
 341 and kinship service providers to:

342 a. One another;

343 b. Eligibility and enrollment information for federal,
 344 state, and local benefits;

345 c. Relevant training to assist kinship caregivers in
 346 caregiving and in obtaining benefits and services; and

347 d. Relevant knowledge related to legal options available
 348 for child custody, other legal assistance, and help in obtaining

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349 legal services.

350 4. Provides outreach to kinship care families, including by
351 establishing, distributing, and updating a kinship care website,
352 or other relevant guides or outreach materials; and

353 5. Promotes partnerships between public and private
354 agencies, including schools, community-based or faith-based
355 organizations, and relevant governmental agencies, to increase
356 their knowledge of the needs of kinship care families to promote
357 better services for those families.

358 Section 5. Present paragraphs (f) through (j) of subsection
359 (4) of section 394.9082, Florida Statutes, are redesignated as
360 paragraphs (h) through (l), respectively, paragraph (m) is added
361 to subsection (3) and new paragraphs (f) and (g) are added to
362 subsection (4) of that section, and paragraph (a) of subsection
363 (6) of that section is amended, to read:

364 394.9082 Behavioral health managing entities.—

365 (3) DEPARTMENT DUTIES.—The department shall:

366 (m) Collect and post all of the following information on
367 its website, updated annually, for each managing entity under
368 contract with the department:

369 1. Current salaries, bonuses, and other compensation paid,
370 by position, for any employee who receives a salary from state-
371 appropriated funds, including state-appropriated federal funds,
372 whether base pay or base pay combined with any bonus or
373 incentive payments, in excess of 100 percent of the annual
374 salary paid to the secretary of the Department of Children and
375 Families. For purposes of this subparagraph, the term "employee"
376 includes, but is not limited to, the chief executive officer,
377 chief financial officer, and chief operating officer, or any

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378 other executive staff of the managing entity.

379 2. Annual expenses, reported as both a percentage of total
380 managing entity funds and as a total dollar amount, as follows:

381 a. Program expenses, including, but not limited to, costs
382 directly related to carrying out the managing entity's mission,
383 which result in services being provided;

384 b. Administrative expenses, including, but not limited to,
385 costs of board of director meetings, general legal services,
386 accounting, insurance, office management, auditing, human
387 resources, and other centralized services; and

388 c. Fundraising expenses, including, but not limited to,
389 costs for publicizing and conducting fundraising campaigns,
390 maintaining donor mailing lists, conducting special fundraising
391 events, and any other activities that involve soliciting
392 contributions.

393 (4) CONTRACT WITH MANAGING ENTITIES.—

394 (f)1. For purposes of this paragraph, the term "employee"
395 includes, but is not limited to, the chief executive officer,
396 chief financial officer, and chief operating officer, or any
397 other executive staff of the managing entity.

398 2. Notwithstanding any other law, a managing entity
399 employee may not receive a salary from state-appropriated funds,
400 including state-appropriated federal funds, whether base pay or
401 base pay combined with any bonus or incentive payments,
402 including the base pay or base pay combined with any bonus or
403 incentive payments received as a result of employment with more
404 than one community-based care lead agency or managing entity, in
405 excess of 100 percent of the annual salary paid to the secretary
406 of the Department of Children and Families.

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407 3. This paragraph does not prohibit any party from
 408 providing cash that is not from appropriated state funds to a
 409 managing entity employee.

410 (g) Upon the execution of a new contract or in any
 411 amendment to an existing contract, the department shall include
 412 a provision that includes the limitation on compensation
 413 specified in paragraph (f).

414 (6) NETWORK ACCREDITATION AND SYSTEMS COORDINATION
 415 AGREEMENTS.—

416 (a)1. The department shall identify acceptable
 417 accreditations which address coordination within a network and,
 418 if possible, between the network and major systems and programs
 419 with which the network interacts, such as the child welfare
 420 system, the courts system, and the Medicaid program. In
 421 identifying acceptable accreditations, the department shall
 422 consider whether the accreditation facilitates integrated
 423 strategic planning, resource coordination, technology
 424 integration, performance measurement, and increased value to
 425 consumers through choice of and access to services, improved
 426 coordination of services, and effectiveness and efficiency of
 427 service delivery.

428 2. All managing entities under contract with the state by
 429 July 1, 2016, shall earn accreditation deemed acceptable by the
 430 department pursuant to subparagraph 1. by June 30, 2019.
 431 Managing entities whose initial contract with the state is
 432 executed after July 1, 2016, shall earn network accreditation
 433 within 3 years after the contract execution date. Pursuant to
 434 paragraph (4)(l) ~~(4)(j)~~, the department may continue the
 435 contract of a managing entity under contract as of July 1, 2016,

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436 that earns the network accreditation within the required
 437 timeframe and maintains it throughout the contract term.

438 Section 6. Section 394.90825, Florida Statutes, is created
 439 to read:

440 394.90825 Boards of managing entities; conflicts of
 441 interest.—

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

443 (a) "Activity" includes, but is not limited to, a contract
 444 for goods and services, a contract for the purchase of any real
 445 or tangible property, or an agreement to engage with the
 446 managing entity for the benefit of a third party in exchange for
 447 an interest in real or tangible property, a monetary benefit, or
 448 an in-kind contribution.

449 (b) "Conflict of interest" means when a board member or an
 450 officer, or a relative of a board member or an officer, of the
 451 managing entity does any of the following:

452 1. Enters into a contract or other transaction for goods or
 453 services with the managing entity.

454 2. Holds a direct or indirect interest in a corporation,
 455 limited liability corporation, partnership, limited liability
 456 partnership, or other business entity that conducts business
 457 with the managing entity or proposes to enter into a contract or
 458 other transaction with the managing entity. For purposes of this
 459 paragraph, "indirect interest" has the same meaning as provided
 460 in s. 112.312.

461 3. Knowingly obtains a direct or indirect personal,
 462 financial, professional, or other benefit as a result of the
 463 relationship of such member or officer, or relative of the
 464 member or officer, with the managing entity. For purposes of

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 465 this paragraph, the term "benefit" does not include per diem and
 466 travel expenses paid or reimbursed to board members in
 467 connection with their service on the board.

468 (c) "Managing entity" has the same meaning as in s.
 469 394.9082.

470 (d) "Relative" means a relative within the third degree of
 471 consanguinity by blood or marriage.

472 (2) (a) For any activity that is presented to the board of a
 473 managing entity for its initial consideration and approval after
 474 July 1, 2021, or any activity that involves a contract that is
 475 being considered for renewal on or after July 1, 2021, and
 476 before January 1, 2022, a board member or an officer of a
 477 managing entity shall disclose to the board any activity that
 478 may reasonably be construed to be a conflict of interest before
 479 such activity is initially considered and approved or renewed by
 480 the board. A rebuttable presumption of a conflict of interest
 481 exists if the activity was acted upon by the board without prior
 482 notice as required under subsection (3).

483 (b) For contracts with a managing entity which are in
 484 existence on July 1, 2021, and are not subject to renewal before
 485 January 1, 2022, a board member or an officer shall disclose to
 486 the board any activity that may reasonably be construed to be a
 487 conflict of interest under this section by December 31, 2021.

488 (3) (a) If a board member or an officer, or a relative of a
 489 member or an officer, proposes to engage in an activity as
 490 described in (2) (a), the proposed activity must be listed on the
 491 meeting agenda for the next general or special meeting of the
 492 members, and copies of all contracts and transactional documents
 493 related to the proposed activity must be included in the agenda.

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 494 The meeting agenda must clearly identify the existence of a
 495 potential conflict of interest for the proposed activity. Before
 496 a member or an officer, or a relative of a member or an officer,
 497 engages in the proposed activity, the activity and contract or
 498 other transaction documents must be approved by an affirmative
 499 vote of two-thirds of all other members present.

500 (b) If a member or an officer notifies the board of a
 501 potential conflict of interest with the member or officer, or a
 502 relative of the member or officer, under an existing contract as
 503 described in paragraph (2) (b), the board must notice the
 504 activity on a meeting agenda for the next general or special
 505 meeting of the members, and copies of all contracts and
 506 transactional documents related to the activity must be
 507 attached. The meeting agenda must clearly identify the existence
 508 of a potential conflict of interest. The board must be given the
 509 opportunity to approve or disapprove the conflict of interest by
 510 a vote of two-thirds of all other members present.

511 (4) (a) If the board votes against the proposed activity
 512 pursuant to paragraph (3) (a), the board member or officer, or
 513 the relative of the member or officer, must notify the board in
 514 writing of his or her intention, or his or her relative's
 515 intention, not to pursue the proposed activity, or the member or
 516 officer shall withdraw from office before the next scheduled
 517 board meeting. If the board finds that an officer or a member
 518 has violated this paragraph, the officer or member shall be
 519 deemed removed from office before the next scheduled board
 520 meeting.

521 (b) In the event that the board does not approve of a
 522 conflict of interest as required in paragraph (3) (b), the

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523 parties to the activity may opt to cancel the activity or, in
 524 the alternative, the member or officer must resign from the
 525 board before the next scheduled board meeting. If the activity
 526 cancelled is a contract, the managing entity is only liable for
 527 the reasonable value of the goods and services provided up to
 528 the time of cancellation and is not liable for any termination
 529 fee, liquidated damages, or other form of penalty for such
 530 cancellation.

531 (5) A board member or an officer, or a relative of a member
 532 or an officer, who is a party to, or has an interest in, an
 533 activity that is a possible conflict of interest may attend the
 534 meeting at which the activity is considered by the board and is
 535 authorized to make a presentation to the board regarding the
 536 activity. After the presentation, the member or officer, or the
 537 relative of the member or officer, shall leave the meeting
 538 during the discussion of, and the vote on, the activity. A
 539 member or an officer who is a party to, or has an interest in,
 540 the activity shall recuse himself or herself from the vote.

541 (6) A contract entered into between a board member or an
 542 officer, or a relative of a member or an officer, and the
 543 managing entity which has not been properly disclosed as a
 544 conflict of interest or potential conflict of interest under
 545 this section is voidable and terminates upon the filing of a
 546 written notice terminating the contract with the board of
 547 directors which contains the consent of at least 20 percent of
 548 the voting interests of the managing entity.

549 Section 7. Section 409.987, Florida Statutes, is amended to
 550 read:

551 409.987 Lead agency procurement; boards; conflicts of

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552 interest.-

553 (1) Community-based care lead agencies shall be procured by
 554 the department through a competitive process as required under
 555 chapter 287.

556 (2) The department shall produce a schedule for the
 557 procurement of community-based care lead agencies and provide
 558 the schedule to the community alliances established pursuant to
 559 s. 20.19(5) and post the schedule on the department's website.

560 (3) Notwithstanding s. 287.057, the department shall use 5-
 561 year contracts with lead agencies.

562 (4) In order to serve as a lead agency, an entity must:

563 (a) Be organized as a Florida corporation or a governmental
 564 entity.

565 (b) Be governed by a board of directors or a board
 566 committee composed of board members. The membership of the board
 567 of directors or board committee must be described in the bylaws
 568 or articles of incorporation of each lead agency, which must
 569 provide that at least 75 percent of the membership of the board
 570 of directors or board committee must consist of persons residing
 571 in this state, and at least 51 percent of the state residents on
 572 the board of directors must reside within the service area of
 573 the lead agency. However, for procurements of lead agency
 574 contracts initiated on or after July 1, 2014:

575 1. At least 75 percent of the membership of the board of
 576 directors must consist of persons residing in this state, and at
 577 least 51 percent of the membership of the board of directors
 578 must consist of persons residing within the service area of the
 579 lead agency. If a board committee governs the lead agency, 100
 580 percent of its membership must consist of persons residing

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581 within the service area of the lead agency.

582 2. The powers of the board of directors or board committee
583 include, but are not limited to, approving the lead agency's
584 budget and setting the lead agency's operational policy and
585 procedures. A board of directors must additionally have the
586 power to hire the lead agency's executive director, unless a
587 board committee governs the lead agency, in which case the board
588 committee must have the power to confirm the selection of the
589 lead agency's executive director.

590 (c) Demonstrate financial responsibility through an
591 organized plan for regular fiscal audits and the posting of a
592 performance bond.

593 (5) The department's procurement team procuring any lead
594 agencies' contracts must include individuals from the community
595 alliance in the area to be served under the contract. All
596 meetings at which vendors make presentations to or negotiate
597 with the procurement team shall be held in the area to be served
598 by the contract.

599 (6) In communities where conditions make it impossible or
600 not feasible to competitively contract with a lead agency, the
601 department shall develop an alternative plan, in collaboration
602 with the local community alliance, that may include establishing
603 an innovative consortia of partners which may include, but is
604 not limited to, private entities, local and county governmental
605 entities, and the department. The plan must detail how the
606 community will continue to implement community-based care
607 through competitively procuring either the specific components
608 of foster care and related services or comprehensive services
609 for defined eligible populations of children and families from

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610 qualified licensed agencies as part of the community's efforts
611 to develop the local capacity for a community-based system of
612 coordinated care. The plan must ensure local control over the
613 management and administration of the service provision in
614 accordance with the intent of this section and may adhere to
615 recognized best business practices, including, but not limited
616 to, the use of public or private partnerships.

617 (7) (a) As used in this subsection, the term:

618 1. "Activity" includes, but is not limited to, a contract
619 for goods and services, a contract for the purchase of any real
620 or tangible property, or an agreement to engage with the lead
621 agency for the benefit of a third party in exchange for an
622 interest in real or tangible property, a monetary benefit, or an
623 in-kind contribution.

624 2. "Conflict of interest" means when a board member or an
625 officer, or a relative of a member or an officer, of the lead
626 agency does any of the following:

627 a. Enters into a contract or other transaction for goods or
628 services with the lead agency.

629 b. Holds a direct or indirect interest in a corporation,
630 limited liability corporation, partnership, limited liability
631 partnership, or other business entity that conducts business
632 with the lead agency or proposes to enter into a contract or
633 other transaction with the lead agency. For purposes of this
634 subparagraph, "indirect interest" has the same meaning as
635 provided in s. 112.312.

636 c. Knowingly obtains a direct or indirect personal,
637 financial, professional, or other benefit as a result of the
638 relationship of such member or officer, or relative of the

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639 member or officer, with the lead agency. For purposes of this
 640 subparagraph, the term "benefits" does not include per diem and
 641 travel expenses paid or reimbursed to board members in
 642 connection with their service on the board.

643 3. "Relative" means a relative within the third degree of
 644 consanguinity by blood or marriage.

645 (b)1. For any activity that is presented to the board for
 646 its initial consideration and approval on or after July 1, 2021,
 647 or any activity that involves a contract which is being
 648 considered for renewal on or after July 1, 2021, and before
 649 January 1, 2022, a board member or an officer of a lead agency
 650 must disclose to the board any activity that may reasonably be
 651 construed to be a conflict of interest before such activity is
 652 initially considered and approved or renewed by the board. A
 653 rebuttable presumption of a conflict of interest exists if the
 654 activity was acted upon by the board without prior notice, as
 655 required in paragraph (c).

656 2. For contracts with a lead agency which are in existence
 657 on July 1, 2021, and are not subject to renewal before January
 658 1, 2022, a board member or officer shall disclose to the board
 659 any activity that may reasonably be construed to be a conflict
 660 of interest under this section by December 31, 2021.

661 (c)1. If a member or an officer, or a relative of a member
 662 or an officer, proposes to engage in an activity that is covered
 663 by subparagraph (b)1., the proposed activity must be listed on
 664 the meeting agenda for the next general or special meeting of
 665 the members, and copies of all contracts and transactional
 666 documents related to the proposed activity must be included in
 667 the agenda. The meeting agenda must clearly identify the

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668 existence of a potential conflict of interest for the proposed
 669 activity. Before a member or an officer, or a relative of a
 670 member or an officer, engages in the proposed activity, the
 671 activity and contract or other transaction documents must be
 672 approved by an affirmative vote of two-thirds of all other
 673 members present.

674 2. If a member or an officer notifies the board of a
 675 potential conflict of interest with the member or officer, or a
 676 relative of the member or officer, under an existing contract as
 677 described in subparagraph (b)2., the board must notice the
 678 activity on a meeting agenda for the next general or special
 679 meeting of the members, and copies of all contracts and
 680 transactional documents related to the activity must be
 681 attached. The meeting agenda must clearly identify the existence
 682 of a potential conflict of interest. The board must be given the
 683 opportunity to approve or disapprove of the conflict of interest
 684 by a vote of two-thirds of all other members present.

685 (d)1. If the board votes against the proposed activity
 686 pursuant to subparagraph (c)1., the member or officer, or the
 687 relative of the member or officer, must notify the board in
 688 writing of his or her intention, or his or her relative's
 689 intention, not to pursue the proposed activity, or the member or
 690 officer shall withdraw from office before the next scheduled
 691 board meeting. If the board finds that an officer or a member
 692 has violated this subparagraph, the officer or member shall be
 693 deemed removed from office before the next scheduled board
 694 meeting.

695 2. In the event that the board does not approve of a
 696 conflict as required in subparagraph (c)2., the parties to the

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 697 activity may opt to cancel the activity or, in the alternative,
 698 the member or officer must resign from the board before the next
 699 scheduled board meeting. If the activity canceled is a contract,
 700 the lead agency is only liable for the reasonable value of the
 701 goods and services provided up to the time of cancellation and
 702 is not liable for any termination fee, liquidated damages, or
 703 other form of penalty for such cancellation.

(e) A member or an officer, or a relative of a member or an
 704 officer, who is a party to, or has an interest in, an activity
 705 that is a possible conflict of interest may attend the meeting
 706 at which the activity is considered by the board and is
 707 authorized to make a presentation to the board regarding the
 708 activity. After the presentation, the member or officer, or the
 709 relative of the member or officer, must leave the meeting during
 710 the discussion of, and the vote on, the activity. A member or an
 711 officer who is a party to, or has an interest in, the activity
 712 must recuse himself or herself from the vote.

(f) A contract entered into between a member or an officer,
 714 or a relative of a member or an officer, and the lead agency
 715 which has not been properly disclosed as a conflict of interest
 716 or potential conflict of interest under this subsection is
 717 voidable and terminates upon the filing of a written notice
 718 terminating the contract with the board of directors which
 719 contains the consent of at least 20 percent of the voting
 720 interests of the lead agency.

Section 8. Subsection (1) of section 409.988, Florida
 722 Statutes, is amended to read:

409.988 Lead agency duties; general provisions.-

(1) DUTIES.—A lead agency:

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 726 (a) Shall serve all children referred as a result of a
 727 report of abuse, neglect, or abandonment to the department's
 728 central abuse hotline, including, but not limited to, children
 729 who are the subject of verified reports and children who are not
 730 the subject of verified reports but who are at moderate to
 731 extremely high risk of abuse, neglect, or abandonment, as
 732 determined using the department's risk assessment instrument,
 733 regardless of the level of funding allocated to the lead agency
 734 by the state if all related funding is transferred. The lead
 735 agency may also serve children who have not been the subject of
 736 reports of abuse, neglect, or abandonment, but who are at risk
 737 of abuse, neglect, or abandonment, to prevent their entry into
 738 the child protection and child welfare system.

(b) Shall provide accurate and timely information necessary
 740 for oversight by the department pursuant to the child welfare
 741 results-oriented accountability system required by s. 409.997.

(c) Shall follow the financial guidelines developed by the
 743 department and provide for a regular independent auditing of its
 744 financial activities. Such financial information shall be
 745 provided to the community alliance established under s.
 746 20.19(5).

~~(d) Shall post on its website the current budget for the~~
 748 ~~lead agency, including the salaries, bonuses, and other~~
 749 ~~compensation paid, by position, for the agency's chief executive~~
 750 ~~officer, chief financial officer, and chief operating officer,~~
 751 ~~or their equivalents.~~

~~(e)~~ Shall prepare all judicial reviews, case plans, and
 753 other reports necessary for court hearings for dependent
 754 children, except those related to the investigation of a

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755 referral from the department's child abuse hotline, and shall
 756 submit these documents timely to the department's attorneys for
 757 review, any necessary revision, and filing with the court. The
 758 lead agency shall make the necessary staff available to
 759 department attorneys for preparation for dependency proceedings,
 760 and shall provide testimony and other evidence required for
 761 dependency court proceedings in coordination with the
 762 department's attorneys. This duty does not include the
 763 preparation of legal pleadings or other legal documents, which
 764 remain the responsibility of the department.

765 ~~(e)~~ Shall ensure that all individuals providing care for
 766 dependent children receive:

767 1. Appropriate training and meet the minimum employment
 768 standards established by the department. Appropriate training
 769 shall include, but is not limited to, training on the
 770 recognition of and responses to head trauma and brain injury in
 771 a child under 6 years of age developed by the Child Protection
 772 Team Program within the Department of Health.

773 2. Contact information for the local mobile response team
 774 established under s. 394.495.

775 ~~(f)~~ Shall maintain eligibility to receive all available
 776 federal child welfare funds.

777 (g) Shall demonstrate the ability to adhere to all best
 778 child welfare practices pursuant to ss. 39.4087, 39.523,
 779 409.1415, and 409.145.

780 (h) Shall maintain written agreements with Healthy Families
 781 Florida lead entities in its service area pursuant to s. 409.153
 782 to promote cooperative planning for the provision of prevention
 783 and intervention services.

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784 (i) Shall comply with federal and state statutory
 785 requirements and agency rules in the provision of contractual
 786 services.

787 (j) May subcontract for the provision of services required
 788 by the contract with the lead agency and the department;
 789 however, the subcontracts must specify how the provider will
 790 contribute to the lead agency meeting the performance standards
 791 established pursuant to the child welfare results-oriented
 792 accountability system required by s. 409.997. The lead agency
 793 shall directly provide no more than 35 percent of all child
 794 welfare services provided unless it can demonstrate a need,
 795 within the lead agency's geographic service area, to exceed this
 796 threshold. The local community alliance in the geographic
 797 service area in which the lead agency is seeking to exceed the
 798 threshold shall review the lead agency's justification for need
 799 and recommend to the department whether the department should
 800 approve or deny the lead agency's request for an exemption from
 801 the services threshold. If there is not a community alliance
 802 operating in the geographic service area in which the lead
 803 agency is seeking to exceed the threshold, such review and
 804 recommendation shall be made by representatives of local
 805 stakeholders, including at least one representative from each of
 806 the following:

- 807 1. The department.
- 808 2. The county government.
- 809 3. The school district.
- 810 4. The county United Way.
- 811 5. The county sheriff's office.
- 812 6. The circuit court corresponding to the county.

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813 7. The county children's board, if one exists.
 814 (k) Shall post on its website by the 15th day of each month
 815 at a minimum the information contained in subparagraphs 1.-4.
 816 for the preceding calendar month regarding its case management
 817 services. The following information shall be reported by each
 818 individual subcontracted case management provider, by the lead
 819 agency, if the lead agency provides case management services,
 820 and in total for all case management services subcontracted or
 821 directly provided by the lead agency:

822 1. The average caseload of case managers, including only
 823 filled positions;

824 2. The turnover rate for case managers and case management
 825 supervisors for the previous 12 months;

826 3. The percentage of required home visits completed; and
 827 4. Performance on outcome measures required pursuant to s.
 828 409.997 for the previous 12 months.

829 (l) Shall identify an employee to serve as a liaison with
 830 the community alliance and community-based and faith-based
 831 organizations interested in collaborating with the lead agency
 832 or offering services or other assistance on a volunteer basis to
 833 the children and families served by the lead agency. The lead
 834 agency shall ensure that appropriate lead agency staff and
 835 subcontractors, including, but not limited to, case managers,
 836 are informed of the specific services or assistance available
 837 from community-based and faith-based organizations.

838 Section 9. Subsection (3) of section 409.992, Florida
 839 Statutes, is amended, and subsection (5) is added to that
 840 section, to read:
 841 409.992 Lead agency expenditures.-

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

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842 (3) (a) For purposes of this subsection, the term "employee"
 843 includes, but is not limited to, the chief executive officer,
 844 chief financial officer, and chief operating officer, or any
 845 other executive staff of the community-based care lead agency.

846 (b) ~~Notwithstanding any other provision of law, a~~
 847 ~~community-based care lead agency administrative employee may not~~
 848 ~~receive a salary from state-appropriated funds, including state-~~
 849 ~~appropriated federal funds, whether base pay or base pay~~
 850 ~~combined with any bonus or incentive payments, including the~~
 851 ~~base pay or base pay combined with any bonus or incentive~~
 852 ~~payments received as a result of employment with more than one~~
 853 ~~community-based care lead agency or managing entity, in excess~~
 854 ~~of 100 150 percent of the annual salary paid to the secretary of~~
 855 ~~the Department of Children and Families from state-appropriated~~
 856 ~~funds, including state-appropriated federal funds.~~

857 (c) This subsection does not prohibit any party from
 858 providing cash that is not from appropriated state funds to a
 859 community-based care lead agency administrative employee.

860 (5) Upon the execution of a new contract or in any
 861 amendment to an existing contract with a lead agency, the
 862 department shall include a provision that includes the
 863 limitation on compensation specified in subsection (3).

864 Section 10. Present subsections (3) through (25) of section
 865 409.996, Florida Statutes, are redesignated as subsections (4)
 866 through (26), respectively, a new subsection (3) is added to
 867 that section, and subsections (1) and (2) and paragraph (d) of
 868 present subsection (25) are amended, to read:
 869 409.996 Duties of the Department of Children and Families.-
 870 The department shall contract for the delivery, administration,

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871 or management of care for children in the child protection and
 872 child welfare system. In doing so, the department retains
 873 responsibility for the quality of contracted services and
 874 programs and shall ensure that, at a minimum, services are
 875 delivered in accordance with applicable federal and state
 876 statutes and regulations and the performance standards and
 877 metrics specified in the strategic plan created under s.
 878 20.19(1).

879 (1) The department shall enter into contracts with lead
 880 agencies for the performance of the duties by the lead agencies
 881 established in s. 409.988. At a minimum, the contracts must do
 882 all of the following:

883 (a) Provide for the services needed to accomplish the
 884 duties established in s. 409.988. ~~and~~

885 (b) Provide information to the department which specifies
 886 how the lead agency will adhere to all best child welfare
 887 practices pursuant to ss. 39.4087, 39.523, 409.1415, and
 888 409.145.

889 (c) Provide information to the department which is
 890 necessary to meet the requirements for a quality assurance
 891 program under subsection (20) ~~(19)~~ and the child welfare
 892 results-oriented accountability system under s. 409.997.

893 ~~(d)~~ (b) Provide for tiered interventions and graduated
 894 penalties for failure to comply with contract terms or in the
 895 event of performance deficiencies. Such interventions and
 896 penalties shall include, but are not limited to:

- 897 1. Enhanced monitoring and reporting.
- 898 2. Corrective action plans.
- 899 3. Requirements to accept technical assistance and

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900 consultation from the department under subsection (5) ~~(4)~~.

901 4. Financial penalties, which shall require a lead agency
 902 to reallocate funds from administrative costs to direct care for
 903 children.

904 5. Early termination of contracts, as provided in s.
 905 402.1705(3)(f).

906 ~~(e)~~ ~~(e)~~ Ensure that the lead agency shall furnish current
 907 and accurate information on its activities in all cases in
 908 client case records in the state's statewide automated child
 909 welfare information system.

910 ~~(f)~~ ~~(d)~~ Specify the procedures to be used by the parties to
 911 resolve differences in interpreting the contract or to resolve
 912 disputes as to the adequacy of the parties' compliance with
 913 their respective obligations under the contract.

914 (2) The department must adopt written policies and
 915 procedures for monitoring the contract for delivery of services
 916 by lead agencies which must be posted on the department's
 917 website. These policies and procedures must, at a minimum,
 918 address the evaluation of fiscal accountability and program
 919 operations, including provider achievement of performance
 920 standards, provider monitoring of subcontractors, and timely
 921 follow-up ~~followup~~ of corrective actions for significant
 922 monitoring findings related to providers and subcontractors.
 923 These policies and procedures must also include provisions for
 924 reducing the duplication of the department's program monitoring
 925 activities both internally and with other agencies, to the
 926 extent possible. The department's written procedures must ensure
 927 that the written findings, conclusions, and recommendations from
 928 monitoring the contract for services of lead agencies are

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929 communicated to the director of the provider agency and the
 930 community alliance as expeditiously as possible.

931 (3) The department shall collect and post on its website,
 932 and annually update, all of the following information for each
 933 lead agency under contract with the department:

934 (a) Current salaries, bonuses, and other compensation paid,
 935 by position, for any employee who receives a salary from state-
 936 appropriated funds, including state-appropriated federal funds,
 937 whether base pay or base pay combined with any bonus or
 938 incentive payments, in excess of 100 percent of the annual
 939 salary paid to the secretary of the Department of Children and
 940 Families. For purposes of this paragraph, the term "employee"
 941 includes, but is not limited to, the chief executive officer,
 942 chief financial officer, and chief operating officer, or any
 943 other executive staff of the community-based care lead agency.

944 (b) Annual expenses, reported as both a percentage of total
 945 lead agency funds and as a total dollar amount, as follows:

946 1. Program expenses, including, but not limited to, costs
 947 directly related to carrying out the lead agency's mission and
 948 which result in services being provided;

949 2. Administrative expenses, including, but not limited to,
 950 costs of board of directors' meetings, general legal services,
 951 accounting, insurance, office management, auditing, human
 952 resources, and other centralized services; and

953 3. Fundraising expenses, including, but not limited to,
 954 costs for publicizing and conducting fundraising campaigns,
 955 maintaining donor mailing lists, conducting special fundraising
 956 events, and any other activities that involve soliciting
 957 contributions.

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958 ~~(26)~~~~(25)~~ Subject to an appropriation, for the 2020-2021 and
 959 2021-2022 fiscal years, the department shall implement a pilot
 960 project in the Sixth and Thirteenth Judicial Circuits,
 961 respectively, aimed at improving child welfare outcomes.

962 (d) The department shall include the results of the pilot
 963 projects in the report required in subsection ~~(25)~~ ~~(24)~~ of this
 964 section. The report must include the department's findings and
 965 recommendations relating to the pilot projects.

966 Section 11. Section 409.998, Florida Statutes, is created
 967 to read:

968 409.998 Child and family well-being.-

969 (1) LEGISLATIVE FINDINGS AND INTENT.-

970 (a) The Legislature finds that every child deserves a safe,
 971 stable, and permanent family and that all families deserve the
 972 opportunities and supports to raise their children safely and
 973 successfully in their own homes and communities.

974 (b) The Legislature also finds that families are our
 975 greatest asset in ensuring that all children are safe and have
 976 what they need to thrive and succeed, and there is evidence
 977 that, with appropriate support, many families can remain safely
 978 together without court involvement or traumatic separations.

979 (c) The Legislature further finds that the state's current
 980 child welfare system and practices do not always align with
 981 current research related to the needs of children and families.

982 (d) It is the intent of the Legislature that the state
 983 establish a child and family well-being system that shifts the
 984 focus from child welfare to child well-being by allowing all
 985 sectors of a community and the state to work together to
 986 reallocate resources into services and supports that reduce the

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987 need for out-of-home care and that improve the well-being of
 988 children and families.

989 (2) ESTABLISHMENT OF PROGRAM.—The department shall
 990 establish a program that consists of a child and family well-
 991 being system to serve children and their families through a
 992 contract with a designated lead agency operating in accordance
 993 with s. 409.987. The lead agency shall carry out all
 994 programmatic functions necessary to fulfill the intent of this
 995 section. As used in this section, the term “child and family
 996 well-being system” means a system that recognizes the difference
 997 between poverty and neglect and that provides mentoring and
 998 supports to biological parents as they develop the skills and
 999 resources necessary to adequately care for their children.

1000 (3) PROGRAM REQUIREMENTS.—The creation of a child and
 1001 family well-being system requires a fundamental change that
 1002 refocuses all aspects of child welfare on supporting the
 1003 family’s role in caring for children. Successful implementation
 1004 will result in a community-based network of support where the
 1005 trauma of child removal is prevented and children are thriving
 1006 in their own safe, permanent, and nurturing families. The
 1007 designated lead agency shall collaborate with national experts
 1008 that specialize in child welfare systems change to create a
 1009 program that is required to do all of the following:

1010 (a) Designate lead agency leadership that will identify a
 1011 core group of agency individuals to develop a plan for creating
 1012 necessary change in the way the agency works.

1013 (b) Recognize that change of this magnitude is difficult
 1014 and time-consuming and determine steps necessary to attend to
 1015 the well-being of individuals involved early on in the process

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1016 to reduce undesired staff turnover and burnout and increase
 1017 staff satisfaction and well-being.

1018 (c) Develop a plan for creating a change in the way all
 1019 partners in the process think about how to best keep families
 1020 and children safe and together.

1021 (d) Build working relationships throughout the process of
 1022 change, including some unexpected or unconventional partners,
 1023 allies, and mentors in the community.

1024 (e) Provide regular and ongoing opportunities for the
 1025 workforce to interact to discuss new ideas and principles that
 1026 are needed for change to become permanent.

1027 (f) Redirect resources toward primary prevention and away
 1028 from removing children from their families.

1029 (4) IMPLEMENTATION.—The department shall, in collaboration
 1030 with the designated lead agency, the community alliance, and the
 1031 Florida Institute for Child Welfare, design, implement, and
 1032 evaluate the program requirements specified in subsection (3).

1033 (5) REPORTING REQUIREMENTS.—By October 1, 2021, and
 1034 annually thereafter, the Florida Institute for Child Welfare
 1035 shall submit a report to the Governor, the President of the
 1036 Senate, and the Speaker of the House of Representatives which
 1037 evaluates the child and family well-being program, including,
 1038 but not limited to, whether the program is in compliance with
 1039 this section and the outcomes of the children served by the
 1040 child and family well-being program.

1041 Section 12. This act shall take effect July 1, 2021.



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LEGISLATIVE ACTION

Senate

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House

Appropriations Subcommittee on Health and Human Services (Bean)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 358 - 957

and insert:

Section 5. Paragraph (m) is added to subsection (3) of
section 394.9082, Florida Statutes, to read:

394.9082 Behavioral health managing entities.—

(3) DEPARTMENT DUTIES.—The department shall:

(m) Collect and post all of the following information on
its website, updated annually, for each managing entity under



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11 contract with the department:

12 1. Current salaries, bonuses, and other compensation paid,
13 by position, for any employee who receives a salary from state-
14 appropriated funds, including state-appropriated federal funds,
15 whether base pay or base pay combined with any bonus or
16 incentive payments, in excess of 150 percent of the annual
17 salary paid to the secretary of the Department of Children and
18 Families. For purposes of this subparagraph, the term "employee"
19 includes, but is not limited to, the chief executive officer,
20 chief financial officer, and chief operating officer, or any
21 other executive staff of the managing entity.

22 2. All findings of the comprehensive, multi-year review of
23 the revenues, expenditures, and financial position of all
24 managing entities, which shall cover the most recent two
25 consecutive fiscal years. The review must include a
26 comprehensive system-of-care analysis and provide expenditure
27 information related to direct care, administration, and indirect
28 costs. All contracted entities must develop and maintain a plan
29 to achieve financial viability which shall accompany the
30 department's submission. The findings from this review shall be
31 submitted to the Governor, the President of the Senate, and the
32 Speaker of the House of Representatives by November 1, of each
33 year in addition to being posted on the department's internet
34 website.

35 Section 6. Section 394.90825, Florida Statutes, is created
36 to read:

37 394.90825 Boards of managing entities; conflicts of
38 interest.—

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



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40 (a) "Activity" includes, but is not limited to, a contract
41 for goods and services, a contract for the purchase of any real
42 or tangible property, or an agreement to engage with the
43 managing entity for the benefit of a third party in exchange for
44 an interest in real or tangible property, a monetary benefit, or
45 an in-kind contribution.

46 (b) "Conflict of interest" means when a board member or an
47 officer, or a relative of a board member or an officer, of the
48 managing entity does any of the following:

49 1. Enters into a contract or other transaction for goods or
50 services with the managing entity.

51 2. Holds a direct or indirect interest in a corporation,
52 limited liability corporation, partnership, limited liability
53 partnership, or other business entity that conducts business
54 with the managing entity or proposes to enter into a contract or
55 other transaction with the managing entity. For purposes of this
56 paragraph, "indirect interest" has the same meaning as provided
57 in s. 112.312.

58 3. Knowingly obtains a direct or indirect personal,
59 financial, professional, or other benefit as a result of the
60 relationship of such member or officer, or relative of the
61 member or officer, with the managing entity. For purposes of
62 this paragraph, the term "benefit" does not include per diem and
63 travel expenses paid or reimbursed to board members in
64 connection with their service on the board.

65 (c) "Managing entity" has the same meaning as in s.
66 394.9082.

67 (d) "Relative" means a relative within the third degree of
68 consanguinity by blood or marriage.



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69 (2) (a) For any activity that is presented to the board of a
70 managing entity for its initial consideration and approval after
71 July 1, 2021, or any activity that involves a contract that is
72 being considered for renewal on or after July 1, 2021, and
73 before January 1, 2022, a board member or an officer of a
74 managing entity shall disclose to the board any activity that
75 may reasonably be construed to be a conflict of interest before
76 such activity is initially considered and approved or renewed by
77 the board. A rebuttable presumption of a conflict of interest
78 exists if the activity was acted upon by the board without prior
79 notice as required under subsection (3).

80 (b) For contracts with a managing entity which are in
81 existence on July 1, 2021, and are not subject to renewal before
82 January 1, 2022, a board member or an officer shall disclose to
83 the board any activity that may reasonably be construed to be a
84 conflict of interest under this section by December 31, 2021.

85 (3) (a) If a board member or an officer, or a relative of a
86 member or an officer, proposes to engage in an activity as
87 described in (2) (a), the proposed activity must be listed on the
88 meeting agenda for the next general or special meeting of the
89 members, and copies of all contracts and transactional documents
90 related to the proposed activity must be included in the agenda.
91 The meeting agenda must clearly identify the existence of a
92 potential conflict of interest for the proposed activity. Before
93 a member or an officer, or a relative of a member or an officer,
94 engages in the proposed activity, the activity and contract or
95 other transaction documents must be approved by an affirmative
96 vote of two-thirds of all other members present.

97 (b) If a member or an officer notifies the board of a



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98 potential conflict of interest with the member or officer, or a
99 relative of the member or officer, under an existing contract as
100 described in paragraph (2) (b), the board must notice the
101 activity on a meeting agenda for the next general or special
102 meeting of the members, and copies of all contracts and
103 transactional documents related to the activity must be
104 attached. The meeting agenda must clearly identify the existence
105 of a potential conflict of interest. The board must be given the
106 opportunity to approve or disapprove the conflict of interest by
107 a vote of two-thirds of all other members present.

108 (4) (a) If the board votes against the proposed activity
109 pursuant to paragraph (3) (a), the board member or officer, or
110 the relative of the member or officer, must notify the board in
111 writing of his or her intention, or his or her relative's
112 intention, not to pursue the proposed activity, or the member or
113 officer shall withdraw from office before the next scheduled
114 board meeting. If the board finds that an officer or a member
115 has violated this paragraph, the officer or member shall be
116 deemed removed from office before the next scheduled board
117 meeting.

118 (b) In the event that the board does not approve of a
119 conflict of interest as required in paragraph (3) (b), the
120 parties to the activity may opt to cancel the activity or, in
121 the alternative, the member or officer must resign from the
122 board before the next scheduled board meeting. If the activity
123 canceled is a contract, the managing entity is only liable for
124 the reasonable value of the goods and services provided up to
125 the time of cancellation and is not liable for any termination
126 fee, liquidated damages, or other form of penalty for such



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127 cancellation.

128 (5) A board member or an officer, or a relative of a member
129 or an officer, who is a party to, or has an interest in, an
130 activity that is a possible conflict of interest may attend the
131 meeting at which the activity is considered by the board and is
132 authorized to make a presentation to the board regarding the
133 activity. After the presentation, the member or officer, or the
134 relative of the member or officer, shall leave the meeting
135 during the discussion of, and the vote on, the activity. A
136 member or an officer who is a party to, or has an interest in,
137 the activity shall recuse himself or herself from the vote.

138 (6) A contract entered into between a board member or an
139 officer, or a relative of a member or an officer, and the
140 managing entity which has not been properly disclosed as a
141 conflict of interest or potential conflict of interest under
142 this section is voidable and terminates upon the filing of a
143 written notice terminating the contract with the board of
144 directors which contains the consent of at least 20 percent of
145 the voting interests of the managing entity.

146 Section 7. Section 409.987, Florida Statutes, is amended to
147 read:

148 409.987 Lead agency procurement; boards; conflicts of
149 interest.—

150 (1) Community-based care lead agencies shall be procured by
151 the department through a competitive process as required under
152 chapter 287.

153 (2) The department shall produce a schedule for the
154 procurement of community-based care lead agencies and provide
155 the schedule to the community alliances established pursuant to



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156 s. 20.19(5) and post the schedule on the department's website.

157 (3) Notwithstanding s. 287.057, the department shall use 5-
158 year contracts with lead agencies.

159 (4) In order to serve as a lead agency, an entity must:

160 (a) Be organized as a Florida corporation or a governmental
161 entity.

162 (b) Be governed by a board of directors or a board
163 committee composed of board members. The membership of the board
164 of directors or board committee must be described in the bylaws
165 or articles of incorporation of each lead agency, which must
166 provide that at least 75 percent of the membership of the board
167 of directors or board committee must consist of persons residing
168 in this state, and at least 51 percent of the state residents on
169 the board of directors must reside within the service area of
170 the lead agency. However, for procurements of lead agency
171 contracts initiated on or after July 1, 2014:

172 1. At least 75 percent of the membership of the board of
173 directors must consist of persons residing in this state, and at
174 least 51 percent of the membership of the board of directors
175 must consist of persons residing within the service area of the
176 lead agency. If a board committee governs the lead agency, 100
177 percent of its membership must consist of persons residing
178 within the service area of the lead agency.

179 2. The powers of the board of directors or board committee
180 include, but are not limited to, approving the lead agency's
181 budget and setting the lead agency's operational policy and
182 procedures. A board of directors must additionally have the
183 power to hire the lead agency's executive director, unless a
184 board committee governs the lead agency, in which case the board



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185 committee must have the power to confirm the selection of the
186 lead agency's executive director.

187 (c) Demonstrate financial responsibility through an
188 organized plan for regular fiscal audits and the posting of a
189 performance bond.

190 (5) The department's procurement team procuring any lead
191 agencies' contracts must include individuals from the community
192 alliance in the area to be served under the contract. All
193 meetings at which vendors make presentations to or negotiate
194 with the procurement team shall be held in the area to be served
195 by the contract.

196 (6) In communities where conditions make it impossible or
197 not feasible to competitively contract with a lead agency, the
198 department shall develop an alternative plan, in collaboration
199 with the local community alliance, that may include establishing
200 an innovative consortia of partners which may include, but is
201 not limited to, private entities, local and county governmental
202 entities, and the department. The plan must detail how the
203 community will continue to implement community-based care
204 through competitively procuring either the specific components
205 of foster care and related services or comprehensive services
206 for defined eligible populations of children and families from
207 qualified licensed agencies as part of the community's efforts
208 to develop the local capacity for a community-based system of
209 coordinated care. The plan must ensure local control over the
210 management and administration of the service provision in
211 accordance with the intent of this section and may adhere to
212 recognized best business practices, including, but not limited
213 to, the use of public or private partnerships.



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214 (7) (a) As used in this subsection, the term:
215 1. "Activity" includes, but is not limited to, a contract
216 for goods and services, a contract for the purchase of any real
217 or tangible property, or an agreement to engage with the lead
218 agency for the benefit of a third party in exchange for an
219 interest in real or tangible property, a monetary benefit, or an
220 in-kind contribution.
221 2. "Conflict of interest" means when a board member or an
222 officer, or a relative of a member or an officer, of the lead
223 agency does any of the following:
224 a. Enters into a contract or other transaction for goods or
225 services with the lead agency.
226 b. Holds a direct or indirect interest in a corporation,
227 limited liability corporation, partnership, limited liability
228 partnership, or other business entity that conducts business
229 with the lead agency or proposes to enter into a contract or
230 other transaction with the lead agency. For purposes of this
231 subparagraph, "indirect interest" has the same meaning as
232 provided in s. 112.312.
233 c. Knowingly obtains a direct or indirect personal,
234 financial, professional, or other benefit as a result of the
235 relationship of such member or officer, or relative of the
236 member or officer, with the lead agency. For purposes of this
237 subparagraph, the term "benefits" does not include per diem and
238 travel expenses paid or reimbursed to board members in
239 connection with their service on the board.
240 3. "Relative" means a relative within the third degree of
241 consanguinity by blood or marriage.
242 (b)1. For any activity that is presented to the board for



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243 its initial consideration and approval on or after July 1, 2021,
244 or any activity that involves a contract which is being
245 considered for renewal on or after July 1, 2021, and before
246 January 1, 2022, a board member or an officer of a lead agency
247 must disclose to the board any activity that may reasonably be
248 construed to be a conflict of interest before such activity is
249 initially considered and approved or renewed by the board. A
250 rebuttable presumption of a conflict of interest exists if the
251 activity was acted upon by the board without prior notice, as
252 required in paragraph (c).

253 2. For contracts with a lead agency which are in existence
254 on July 1, 2021, and are not subject to renewal before January
255 1, 2022, a board member or officer shall disclose to the board
256 any activity that may reasonably be construed to be a conflict
257 of interest under this section by December 31, 2021.

258 (c)1. If a member or an officer, or a relative of a member
259 or an officer, proposes to engage in an activity that is covered
260 by subparagraph (b)1., the proposed activity must be listed on
261 the meeting agenda for the next general or special meeting of
262 the members, and copies of all contracts and transactional
263 documents related to the proposed activity must be included in
264 the agenda. The meeting agenda must clearly identify the
265 existence of a potential conflict of interest for the proposed
266 activity. Before a member or an officer, or a relative of a
267 member or an officer, engages in the proposed activity, the
268 activity and contract or other transaction documents must be
269 approved by an affirmative vote of two-thirds of all other
270 members present.

271 2. If a member or an officer notifies the board of a



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272 potential conflict of interest with the member or officer, or a
273 relative of the member or officer, under an existing contract as
274 described in subparagraph (b)2., the board must notice the
275 activity on a meeting agenda for the next general or special
276 meeting of the members, and copies of all contracts and
277 transactional documents related to the activity must be
278 attached. The meeting agenda must clearly identify the existence
279 of a potential conflict of interest. The board must be given the
280 opportunity to approve or disapprove of the conflict of interest
281 by a vote of two-thirds of all other members present.

282 (d)1. If the board votes against the proposed activity
283 pursuant to subparagraph (c)1., the member or officer, or the
284 relative of the member or officer, must notify the board in
285 writing of his or her intention, or his or her relative's
286 intention, not to pursue the proposed activity, or the member or
287 officer shall withdraw from office before the next scheduled
288 board meeting. If the board finds that an officer or a member
289 has violated this subparagraph, the officer or member shall be
290 deemed removed from office before the next scheduled board
291 meeting.

292 2. In the event that the board does not approve of a
293 conflict as required in subparagraph (c)2., the parties to the
294 activity may opt to cancel the activity or, in the alternative,
295 the member or officer must resign from the board before the next
296 scheduled board meeting. If the activity canceled is a contract,
297 the lead agency is only liable for the reasonable value of the
298 goods and services provided up to the time of cancellation and
299 is not liable for any termination fee, liquidated damages, or
300 other form of penalty for such cancellation.



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301 (e) A member or an officer, or a relative of a member or an
302 officer, who is a party to, or has an interest in, an activity
303 that is a possible conflict of interest may attend the meeting
304 at which the activity is considered by the board and is
305 authorized to make a presentation to the board regarding the
306 activity. After the presentation, the member or officer, or the
307 relative of the member or officer, must leave the meeting during
308 the discussion of, and the vote on, the activity. A member or an
309 officer who is a party to, or has an interest in, the activity
310 must recuse himself or herself from the vote.

311 (f) A contract entered into between a member or an officer,
312 or a relative of a member or an officer, and the lead agency
313 which has not been properly disclosed as a conflict of interest
314 or potential conflict of interest under this subsection is
315 voidable and terminates upon the filing of a written notice
316 terminating the contract with the board of directors which
317 contains the consent of at least 20 percent of the voting
318 interests of the lead agency.

319 Section 8. Subsection (1) of section 409.988, Florida
320 Statutes, is amended to read:

321 409.988 Lead agency duties; general provisions.—

322 (1) DUTIES.—A lead agency:

323 (a) Shall serve all children referred as a result of a
324 report of abuse, neglect, or abandonment to the department's
325 central abuse hotline, including, but not limited to, children
326 who are the subject of verified reports and children who are not
327 the subject of verified reports but who are at moderate to
328 extremely high risk of abuse, neglect, or abandonment, as
329 determined using the department's risk assessment instrument,



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330 regardless of the level of funding allocated to the lead agency
331 by the state if all related funding is transferred. The lead
332 agency may also serve children who have not been the subject of
333 reports of abuse, neglect, or abandonment, but who are at risk
334 of abuse, neglect, or abandonment, to prevent their entry into
335 the child protection and child welfare system.

336 (b) Shall provide accurate and timely information necessary
337 for oversight by the department pursuant to the child welfare
338 results-oriented accountability system required by s. 409.997.

339 (c) Shall follow the financial guidelines developed by the
340 department and provide for a regular independent auditing of its
341 financial activities. Such financial information shall be
342 provided to the community alliance established under s.
343 20.19(5).

344 ~~(d) Shall post on its website the current budget for the~~
345 ~~lead agency, including the salaries, bonuses, and other~~
346 ~~compensation paid, by position, for the agency's chief executive~~
347 ~~officer, chief financial officer, and chief operating officer,~~
348 ~~or their equivalents.~~

349 ~~(e)~~ Shall prepare all judicial reviews, case plans, and
350 other reports necessary for court hearings for dependent
351 children, except those related to the investigation of a
352 referral from the department's child abuse hotline, and shall
353 submit these documents timely to the department's attorneys for
354 review, any necessary revision, and filing with the court. The
355 lead agency shall make the necessary staff available to
356 department attorneys for preparation for dependency proceedings,
357 and shall provide testimony and other evidence required for
358 dependency court proceedings in coordination with the



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359 department's attorneys. This duty does not include the
360 preparation of legal pleadings or other legal documents, which
361 remain the responsibility of the department.

362 (e)~~(f)~~ Shall ensure that all individuals providing care for
363 dependent children receive:

364 1. Appropriate training and meet the minimum employment
365 standards established by the department. Appropriate training
366 shall include, but is not limited to, training on the
367 recognition of and responses to head trauma and brain injury in
368 a child under 6 years of age developed by the Child Protection
369 Team Program within the Department of Health.

370 2. Contact information for the local mobile response team
371 established under s. 394.495.

372 (f)~~(g)~~ Shall maintain eligibility to receive all available
373 federal child welfare funds.

374 (g) Shall demonstrate the ability to adhere to all best
375 child welfare practices pursuant to ss. 39.4087, 39.523,
376 409.1415, and 409.145.

377 (h) Shall maintain written agreements with Healthy Families
378 Florida lead entities in its service area pursuant to s. 409.153
379 to promote cooperative planning for the provision of prevention
380 and intervention services.

381 (i) Shall comply with federal and state statutory
382 requirements and agency rules in the provision of contractual
383 services.

384 (j) May subcontract for the provision of services required
385 by the contract with the lead agency and the department;
386 however, the subcontracts must specify how the provider will
387 contribute to the lead agency meeting the performance standards



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388 established pursuant to the child welfare results-oriented
389 accountability system required by s. 409.997. The lead agency
390 shall directly provide no more than 35 percent of all child
391 welfare services provided unless it can demonstrate a need,
392 within the lead agency's geographic service area, to exceed this
393 threshold. The local community alliance in the geographic
394 service area in which the lead agency is seeking to exceed the
395 threshold shall review the lead agency's justification for need
396 and recommend to the department whether the department should
397 approve or deny the lead agency's request for an exemption from
398 the services threshold. If there is not a community alliance
399 operating in the geographic service area in which the lead
400 agency is seeking to exceed the threshold, such review and
401 recommendation shall be made by representatives of local
402 stakeholders, including at least one representative from each of
403 the following:

- 404 1. The department.
- 405 2. The county government.
- 406 3. The school district.
- 407 4. The county United Way.
- 408 5. The county sheriff's office.
- 409 6. The circuit court corresponding to the county.
- 410 7. The county children's board, if one exists.

411 (k) Shall post on its website by the 15th day of each month
412 at a minimum the information contained in subparagraphs 1.-4.
413 for the preceding calendar month regarding its case management
414 services. The following information shall be reported by each
415 individual subcontracted case management provider, by the lead
416 agency, if the lead agency provides case management services,



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417 and in total for all case management services subcontracted or
418 directly provided by the lead agency:

419 1. The average caseload of case managers, including only
420 filled positions;

421 2. The turnover rate for case managers and case management
422 supervisors for the previous 12 months;

423 3. The percentage of required home visits completed; and

424 4. Performance on outcome measures required pursuant to s.
425 409.997 for the previous 12 months.

426 (1) Shall identify an employee to serve as a liaison with
427 the community alliance and community-based and faith-based
428 organizations interested in collaborating with the lead agency
429 or offering services or other assistance on a volunteer basis to
430 the children and families served by the lead agency. The lead
431 agency shall ensure that appropriate lead agency staff and
432 subcontractors, including, but not limited to, case managers,
433 are informed of the specific services or assistance available
434 from community-based and faith-based organizations.

435 Section 9. Present subsections (3) through (25) of section
436 409.996, Florida Statutes, are redesignated as subsections (4)
437 through (26), respectively, a new subsection (3) is added to
438 that section, and subsections (1) and (2) and paragraph (d) of
439 present subsection (25) are amended, to read:

440 409.996 Duties of the Department of Children and Families.—
441 The department shall contract for the delivery, administration,
442 or management of care for children in the child protection and
443 child welfare system. In doing so, the department retains
444 responsibility for the quality of contracted services and
445 programs and shall ensure that, at a minimum, services are



446 delivered in accordance with applicable federal and state
447 statutes and regulations and the performance standards and
448 metrics specified in the strategic plan created under s.
449 20.19(1).

450 (1) The department shall enter into contracts with lead
451 agencies for the performance of the duties by the lead agencies
452 established in s. 409.988. At a minimum, the contracts must do
453 all of the following:

454 (a) Provide for the services needed to accomplish the
455 duties established in s. 409.988. and

456 (b) Provide information to the department which specifies
457 how the lead agency will adhere to all best child welfare
458 practices pursuant to ss. 39.4087, 39.523, 409.1415, and
459 409.145.

460 (c) Provide information to the department which is
461 necessary to meet the requirements for a quality assurance
462 program under subsection (20) ~~(19)~~ and the child welfare
463 results-oriented accountability system under s. 409.997.

464 (d) ~~(b)~~ Provide for tiered interventions and graduated
465 penalties for failure to comply with contract terms or in the
466 event of performance deficiencies. Such interventions and
467 penalties shall include, but are not limited to:

468 1. Enhanced monitoring and reporting.

469 2. Corrective action plans.

470 3. Requirements to accept technical assistance and
471 consultation from the department under subsection (5) ~~(4)~~.

472 4. Financial penalties, which shall require a lead agency
473 to reallocate funds from administrative costs to direct care for
474 children.



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475 5. Early termination of contracts, as provided in s.
476 402.1705(3) (f).

477 (e)~~(e)~~ Ensure that the lead agency shall furnish current
478 and accurate information on its activities in all cases in
479 client case records in the state's statewide automated child
480 welfare information system.

481 (f)~~(d)~~ Specify the procedures to be used by the parties to
482 resolve differences in interpreting the contract or to resolve
483 disputes as to the adequacy of the parties' compliance with
484 their respective obligations under the contract.

485 (2) The department must adopt written policies and
486 procedures for monitoring the contract for delivery of services
487 by lead agencies which must be posted on the department's
488 website. These policies and procedures must, at a minimum,
489 address the evaluation of fiscal accountability and program
490 operations, including provider achievement of performance
491 standards, provider monitoring of subcontractors, and timely
492 follow-up ~~followup~~ of corrective actions for significant
493 monitoring findings related to providers and subcontractors.
494 These policies and procedures must also include provisions for
495 reducing the duplication of the department's program monitoring
496 activities both internally and with other agencies, to the
497 extent possible. The department's written procedures must ensure
498 that the written findings, conclusions, and recommendations from
499 monitoring the contract for services of lead agencies are
500 communicated to the director of the provider agency and the
501 community alliance as expeditiously as possible.

502 (3) The department shall collect and post on its website,
503 and annually update, all of the following information for each



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504 lead agency under contract with the department:

505 (a) Current salaries, bonuses, and other compensation paid,
506 by position, for any employee who receives a salary from state-
507 appropriated funds, including state-appropriated federal funds,
508 whether base pay or base pay combined with any bonus or
509 incentive payments, in excess of 150 percent of the annual
510 salary paid to the secretary of the Department of Children and
511 Families. For purposes of this paragraph, the term "employee"
512 includes, but is not limited to, the chief executive officer,
513 chief financial officer, and chief operating officer, or any
514 other executive staff of the community-based care lead agency.

515 (b) All findings of the comprehensive, multi-year review of
516 the revenues, expenditures, and financial position of all lead
517 agencies, which shall cover the most recent two consecutive
518 fiscal years. The review must include a comprehensive system-of-
519 care analysis and provide expenditure information related to
520 direct care, administration, and indirect costs. All contracted
521 agencies must develop and maintain a plan to achieve financial
522 viability which shall accompany the department's submission. The
523 findings from this review shall be submitted to the Governor,
524 the President of the Senate, and the Speaker of the House of
525 Representatives by November 1, of each year in addition to being
526 posted on the department's internet website.

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

528 And the title is amended as follows:

529 Delete lines 32 - 72

530 and insert:

531 the department; creating s. 394.90825, F.S.; defining
532 terms; requiring a board member or an officer of a



533 managing entity to disclose specified activity that
534 may reasonably be construed as a conflict of interest;
535 creating a rebuttable presumption of a conflict of
536 interest if the activity was acted upon by the board
537 without prior notice; establishing a process for the
538 managing entity's board of directors to address the
539 activity under certain timelines; providing for
540 certain consequences for failure to obtain a board's
541 approval or failure to properly disclose a contract as
542 a conflict of interest; amending s. 409.987, F.S.;
543 requiring the department to develop an alternative
544 plan to contracting with a lead agency in a community
545 under certain circumstances; providing requirements
546 for the alternative plan; defining terms; requiring a
547 board member or an officer of a lead agency to
548 disclose activity that may reasonably be construed as
549 a conflict of interest; creating a rebuttable
550 presumption of a conflict of interest if the activity
551 was acted upon by the board without prior notice;
552 establishing a process for the lead agency's board of
553 directors to address the activity under certain
554 timelines; providing for certain consequences for
555 failure to obtain a board's approval or failure to
556 properly disclose a contract as a conflict of
557 interest; amending s. 409.988, F.S.; deleting a
558 requirement that lead agencies post their current
559 budgets on their websites; requiring a lead agency to
560 demonstrate the ability to adhere to all best child
561 welfare practices; amending s. 409.996,

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 Appropriations Subcommittee on Health and Human Services

BILL: PCS/CS/SB 272 (211898)

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Health Policy Committee; and Senator Baxley

SUBJECT: Rare Disease Advisory Council

DATE: March 4, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Gerbrandt</u>	<u>Kidd</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 272 creates section 381.99, Florida Statutes, to establish the Rare Disease Advisory Council (Council) adjunct to the Department of Health (DOH). The Council is tasked with providing recommendations to improve the health outcomes of Floridians who have a rare disease, defined as a disease that affects fewer than 200,000 people in the United States. The bill establishes the membership of the Council, as well as the length of the members' terms, and requires that the Council first meet by October 1, 2021, and provide its recommendations to the Governor and the State Surgeon General by July 1 of each year beginning in 2022.

The bill takes effect on July 1, 2021.

II. Present Situation:

Advisory Councils

Section 20.03, F.S., defines an advisory council as an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives. Section 20.052, F.S., requires that each advisory council established may be created only when it is found to be necessary and beneficial to the furtherance of a public

purpose, and such a council must be terminated by the Legislature when it is no longer necessary.¹ An advisory body may not be created unless:

- It meets a statutorily defined purpose;
- Its powers and responsibilities conform with the definitions for governmental units in s. 20.03, F.S.;
- Its members, unless expressly provided otherwise in the State Constitution, are appointed for four-year staggered terms; and
- Its members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation or honorarium, and are authorized to receive only per diem and reimbursement for travel expenses as provided in s. 112.061, F.S.

The section also requires that:

- The private citizen members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer.
- Unless an exemption is otherwise specifically provided by law, all meetings of an advisory body, commission, board of trustees, or other collegial body adjunct to an executive agency are public meetings under s. 286.011, F.S. Minutes, including a record of all votes cast, must be maintained for all meetings.
- If an advisory body, commission, board of trustees, or other collegial body that is adjunct to an executive agency is abolished, its records must be appropriately stored, within 30 days after the effective date of its abolition, by the executive agency to which it was adjunct, and any property assigned to it must be reclaimed by the executive agency. The advisory body, commission, board of trustees, or other collegial body may not perform any activities after the effective date of its abolition.

Rare Disease Research

In the United States, a rare disease is defined as a condition that affects fewer than 200,000 people nationally. This definition was created by Congress in the Orphan Drug Act of 1983. Rare diseases became known as “orphan diseases” because drug companies were not interested in adopting them to develop treatments. The Orphan Drug Act created financial incentives to encourage companies to develop new drugs for rare diseases. The rare disease definition was needed to establish which conditions would qualify for the new incentive programs.²

There may be as many as 7,000 rare diseases. The total number of Americans living with a rare disease is estimated between 25-30 million. This estimate has been used by the rare disease community for several decades to highlight that while individual diseases may be rare, the total number of people with a rare disease is large.³

¹ The agency to which an advisory body is adjunct must advise the Legislature at the time the advisory body ceases to be essential to the furtherance of a public purpose.

² U.S. Department of Health and Human Services, National Institutes of Health, *FAQs About Rare Diseases*, available at <https://rarediseases.info.nih.gov/diseases/pages/31/faqs-about-rare-diseases>. (last visited Jan. 27, 2021).

³ *Id.*

In the United States, only a few types of rare diseases are tracked when a person is diagnosed. These include certain infectious diseases, birth defects, and cancers. It also includes the diseases on state newborn screening tests. Because most rare diseases are not tracked, it is difficult to determine the exact number of rare diseases or how many people are affected.⁴

Researchers have made progress in learning how to diagnose, treat, and even prevent a variety of rare diseases. However, most rare diseases have no treatments. The National Institutes of Health (NIH) supports research to improve the health of people with rare diseases. Many of the 27 Institutes and Centers at the NIH fund medical research for rare diseases. One of these Centers, the National Center for Advancing Translational Sciences (NCATS), focuses on getting new cures and treatments to all patients more quickly. NCATS supports research through collaborative projects to study common themes and causes of related diseases. This approach aims to speed the development of treatments that will eventually serve both rare and common diseases.⁵

The NCATS Office of Rare Diseases Research guides and coordinates NIH-wide activities involving research for rare diseases. Some of the NCATS programs for rare diseases include:⁶

- Rare Diseases Clinical Research Network.
- Therapeutics for Rare and Neglected Diseases.
- Rare Diseases Registry Program.
- Genetic and Rare Diseases Information Center.

Efforts to improve and bring to market treatments for rare diseases are coordinated by the Food and Drug Administration. The Office of Orphan Products Development (OOPD) provides incentives for drug companies to develop treatments for rare diseases. Between 1973 and 1983, fewer than 10 treatments for rare diseases were approved. Since 1983, the OOPD has helped develop and bring to market more than 400 drugs and biologic products for rare diseases.⁷

III. Effect of Proposed Changes:

This bill creates s. 381.99, F.S., to establish the Rare Disease Advisory Council. The Council is created adjunct to the DOH for the purpose of providing recommendations on ways to improve health outcomes for individuals with rare diseases. The bill defines a rare disease as a disease that affects fewer than 200,000 people in the United States.

The bill requires the Governor to appoint members to the Council as follows:

- A representative of the Department of Health.
- A representative of the Agency for Health Care Administration.
- A representative of the Office of Insurance Regulation.
- A representative of the Department of Education.
- Two representatives from academic research institutions in this state which receive any grant funding for research regarding rare diseases.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

- One geneticist practicing in this state.
- One registered nurse or advanced practice registered nurse who is licensed and practicing in this state with experience treating rare diseases.
- Two physicians who are licensed under chapter 458 (the Florida Medical Practice Act) or chapter 459 (the Florida Osteopathic Practice Act) and practicing in this state with experience treating rare diseases.
- One hospital administrator from a hospital in this state which provides care to individuals diagnosed with rare diseases.
- Two individuals who are 18 years of age or older who have a rare disease.
- Two individuals who are caregivers of an individual with a rare disease.
- Two representatives of organizations operating in this state which provide care or other support for individuals with rare diseases.
- A pharmacist who is licensed and practicing in this state who has experience with drugs that are used to treat rare diseases.
- A representative of the biotechnology industry.
- A representative of health insurance companies.

Members of the Council must be appointed by September 1, 2021, and are appointed for four-year terms except that half the Council is initially appointed to a two-year term to stagger the appointments. The Council is required to hold its initial meeting by October 1, 2021, and may meet upon the call of the chair or upon the request of the majority of its members thereafter. The Council is authorized to meet electronically.

The bill requires the Council to:

- Consult with experts on rare diseases and solicit public comment to assist in developing recommendations on improving the treatment of rare diseases in this state;
- Develop recommended strategies for academic research institutions in this state to facilitate continued research on rare diseases;
- Develop recommended strategies for health care providers to be informed on how to more efficiently recognize and diagnose rare diseases in order to effectively treat patients. The advisory council shall provide such strategies to the DOH for publication on the department's website; and
- Provide input and feedback in writing to the DOH, the Medicaid program, and other state agencies on matters that affect people who have been diagnosed with rare diseases, including, but not limited to, pandemic or natural disaster preparedness and response.

The DOH must provide staff and administrative support to the Council. The Council is required to submit a report to the DOH and the State Surgeon General, by July 1 of each year beginning in 2022, which describes the activities of the Council in the most recent year and its findings and recommendations regarding rare disease research and care.

The bill takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOH may experience an indeterminate negative fiscal impact from PCS/CS/SB 272 due to the requirement that the DOH provide staff and administrative support to the Council.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 381.99 of the Florida Statutes.

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

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on March 3, 2021:

The committee substitute clarifies that the advisory council must be composed of two physicians who are licensed under chapter 458 (the Florida Medical Practice Act) or chapter 459 (the Florida Osteopathic Practice Act) and practicing in Florida with experience treating rare diseases.

CS by Health Policy on February 4, 2021:

The CS replaces the underlying bill's requirement that the Rare Disease Advisory Council establish a method to securely hold and distribute funds for certain uses with the requirement that the Council provide written input and feedback to state agencies on matters that affect people who have been diagnosed with a rare disease, including, but not limited to, pandemic or natural disaster preparedness and response.

B. Amendments:

None.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Community Affairs
Criminal Justice
Health Policy
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Alternating Chair*

SENATOR DENNIS BAXLEY
12th District

February 4, 2021

The Honorable Chair Aaron Bean
404 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Bean,

I would like to request that CS/SB 272 Rare Disease Advisory Council be heard in the next Health Appropriations Sub-Committee meeting.

This bill creates the Rare Disease Advisory Council adjunct to the Florida Department of Health for the purpose of providing recommendations on ways to improve health outcomes for individuals residing in this state who have a rare disease.

The Council will be made up of 20 members from various state agencies, subject matter experts and other stakeholders as recommended by the National Organization for Rare Disorders (NORD). Members are appointed by the Governor to a four year term and the Governor will designate the Chair and Vice Chair.

The Council shall consult with experts on rare diseases and solicit public comment to develop recommendations and strategies to improve the treatment, facilitate continued research at our academic institutions and help healthcare providers be more informed on how to effectively recognize, diagnose and provide treatment for the patients.

Thank you for your favorable consideration.

Onward & Upward,


Senator Dennis K. Baxley
Senate District 12

DKB/dd

REPLY TO:

- 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
- 315 SE 25th Avenue, Ocala, Florida 34471 (352) 789-6720
- 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

Ryan Kimmey, Governmental Consultant (spoke on behalf) Wed. 2:30pm

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

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

272

Bill Number (if applicable)

Topic Rare Disease Advisory Council

Amendment Barcode (if applicable)

Name Steve Winn

Job Title Exec. Director

Address 2544 Blairstone Pines Dr. Street

Phone 878-7364

Tallahassee FL 32301 City State Zip

Email winnsr@earthlink.net

Speaking: For Against Information

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

Representing FL Osteopathic Medical Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

APPEARANCE RECORD

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

3/3/21

Meeting Date

272

Bill Number (if applicable)

932648

Amendment Barcode (if applicable)

Topic Rare Disease Advisory Council

Name Steve Winn

Job Title Exec. Director

Address 2544 Blairstone Pines Dr

Phone 878-7364

Street

Tallahassee

City

FL

State

32361

Zip

Email winnsr2earthlink.net

Speaking: For Against Information

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

Representing FL Osteopathic Medical Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

By the Committee on Health Policy; and Senator Baxley

588-01988-21

2021272c1

1 A bill to be entitled
 2 An act relating to the Rare Disease Advisory Council;
 3 creating s. 381.99, F.S.; creating the advisory
 4 council adjunct to the Department of Health;
 5 specifying the purpose of the advisory council;
 6 providing for staff and administrative support;
 7 defining the term "rare disease"; specifying
 8 application of state law governing the establishment
 9 of advisory councils; prescribing the composition of
 10 the advisory council; providing for initial
 11 appointments to the advisory council by a specified
 12 date; providing organizational and other meeting
 13 requirements for the advisory council; prescribing
 14 duties and responsibilities of the advisory council;
 15 providing an effective date.
 16
 17 Be It Enacted by the Legislature of the State of Florida:
 18
 19 Section 1. Section 381.99, Florida Statutes, is created to
 20 read:
 21 381.99 Rare Disease Advisory Council.—
 22 (1) The Rare Disease Advisory Council, an advisory council
 23 as defined in s. 20.03(7), is created adjunct to the Department
 24 of Health for the purpose of providing recommendations on ways
 25 to improve health outcomes for individuals residing in this
 26 state who have a rare disease. The department shall provide
 27 staff and administrative support for the advisory council in the
 28 carrying out of its duties and responsibilities. For purposes of
 29 this section, the term "rare disease" means a condition that

Page 1 of 4

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

588-01988-21

2021272c1

30 affects fewer than 200,000 people in the United States. Except
 31 as otherwise provided in this section, the advisory council
 32 shall operate in a manner consistent with s. 20.052.
 33 (2) The advisory council is composed of the following
 34 members appointed by the Governor:
 35 (a) A representative of the Department of Health.
 36 (b) A representative of the Agency for Health Care
 37 Administration.
 38 (c) A representative of the Office of Insurance Regulation.
 39 (d) A representative of the Department of Education.
 40 (e) Two representatives from academic research institutions
 41 in this state which receive any grant funding for research
 42 regarding rare diseases.
 43 (f) One geneticist practicing in this state.
 44 (g) One registered nurse or advanced practice registered
 45 nurse who is licensed and practicing in this state with
 46 experience treating rare diseases.
 47 (h) Two physicians who are licensed and practicing in this
 48 state with experience treating rare diseases.
 49 (i) One hospital administrator from a hospital in this
 50 state which provides care to individuals diagnosed with rare
 51 diseases.
 52 (j) Two individuals who are 18 years of age or older who
 53 have a rare disease.
 54 (k) Two individuals who are caregivers of an individual
 55 with a rare disease.
 56 (l) Two representatives of organizations operating in this
 57 state which provide care or other support for individuals with
 58 rare diseases.

Page 2 of 4

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

588-01988-21

2021272c1

59 (m) A pharmacist who is licensed and practicing in this
 60 state who has experience with drugs that are used to treat rare
 61 diseases.

62 (n) A representative of the biotechnology industry.

63 (o) A representative of health insurance companies.

64
 65 Any vacancy on the advisory council shall be filled in the same
 66 manner as the original appointment.

67 (3) The initial members of the advisory council shall be
 68 appointed by September 1, 2021. Each member shall be appointed
 69 to a 4-year term of office. However, in order to achieve
 70 staggered terms, the initial members appointed pursuant to
 71 paragraphs (2)(a)-(i) shall be appointed to a 2-year term. The
 72 Governor shall designate a chair and vice chair of the advisory
 73 council from among its membership. The advisory council shall
 74 meet for its initial meeting by October 1, 2021. Thereafter, the
 75 advisory council may meet upon the call of the chair or upon the
 76 request of a majority of its members. The advisory council may
 77 meet via teleconferencing or other electronic means. Notices for
 78 any scheduled meetings of the advisory council must be published
 79 in advance on the department's website.

80 (4) The advisory council shall:

81 (a) Consult with experts on rare diseases and solicit
 82 public comment to assist in developing recommendations on
 83 improving the treatment of rare diseases in this state.

84 (b) Develop recommended strategies for academic research
 85 institutions in this state to facilitate continued research on
 86 rare diseases.

87 (c) Develop recommended strategies for health care

588-01988-21

2021272c1

88 providers to be informed on how to more efficiently recognize
 89 and diagnose rare diseases in order to effectively treat
 90 patients. The advisory council shall provide such strategies to
 91 the Department of Health for publication on the department's
 92 website.

93 (d) Provide input and feedback in writing to the
 94 department, the Medicaid program, and other state agencies on
 95 matters that affect people who have been diagnosed with rare
 96 diseases, including, but not limited to, pandemic or natural
 97 disaster preparedness and response.

98 (e) By July 1 of each year, beginning in 2022, submit a
 99 report to the Governor and the State Surgeon General which
 100 describes the activities of the advisory council in the past
 101 year and its findings and recommendations regarding rare disease
 102 research and care. Additionally, the report must be made
 103 available on the department's website.

104 Section 2. This act shall take effect July 1, 2021.



932648

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services
(Baxley) recommended the following:

Senate Amendment

Delete line 47

and insert:

(h) Two physicians who are licensed under chapter 458 or
chapter 459 and practicing in this

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 Appropriations Subcommittee on Health and Human Services

BILL: SJR 340

INTRODUCER: Senator Diaz

SUBJECT: Supermajority Vote Required to Enact a Single-payor Healthcare System

DATE: March 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	Favorable
2.	<u>McKnight</u>	<u>Kidd</u>	<u>AHS</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	<u>RC</u>	_____

I. Summary:

SJR 340 proposes an amendment to the Florida Constitution to prohibit the Legislature from enacting a single-payor health care system for providing comprehensive health care services, except through legislation approved by two-thirds of the membership of each house of the Legislature and presented to the Governor for approval.

The amendment proposed in the joint resolution will take effect on January 3, 2023, if approved by sixty percent of voters during the 2022 general election or an earlier special election specifically authorized by law for that purpose.

The Revenue Estimating Conference has not reviewed this proposed amendment. No impact on state revenues is anticipated if the amendment is enacted. There are indeterminate general publication costs associated with amendments appearing on the ballot.

II. Present Situation:

The Florida Constitution grants the Legislature authority (with some specific exceptions) to enact legislation by a majority vote in each house.¹ A bill to enact general law passed by the Legislature must be presented to the Governor for approval, and the bill becomes law if the Governor signs it or fails to veto it.² Vetoes can be overcome by a two-thirds vote of each house of the Legislature.³

¹ FLA. CONST. art. III, s. 7.

² FLA. CONST. art. III, s. 8(a).

³ FLA. CONST. art. III, s. 8(c).

Similar Initiatives in Other States

In a single-payor health care system, only one entity bears the financial responsibility of health care – the government. Since the Affordable Care Act was passed in 2010 through 2019, sixty-six different single-payor bills have been proposed by legislators in twenty-one states.⁴ Vermont is the first and only U.S. state that has passed such legislation.⁵

The Demise of Vermont’s Green Mountain Care

On December 17, 2014, Vermont Governor Peter Shumlin publicly ended his administration’s four-year initiative to develop, enact, and implement a single-payor health care system in Vermont.⁶ Shumlin was first elected in 2010, promising a government-financed system, called Green Mountain Care, to provide universal coverage, replacing most private health insurance in Vermont. In 2011, a law was enacted to establish Green Mountain Care by 2017.⁷

Vermont’s per capita income was rising and was projected to continue to rise,⁸ meaning the federal matching rate for state dollars spent on Medicaid was decreasing.⁹ Projected federal revenues from an anticipated State Innovation Waiver (under Section 1332 of the Affordable Care Act) dropped from \$420 million in 2011 to \$106 million in 2014.¹⁰ To bankroll the \$4.3 billion dollar cost of Green Mountain Care and substitute for the loss of private health insurance premiums, the Vermont Legislature would have had to approve an 11.5-percent payroll tax and an income tax on households as high as 9.5 percent.¹¹ These new taxes would have been glaringly evident on every Vermonter’s tax bill, unlike employer-based health insurance premiums, which sometimes go unnoticed.¹² The funding challenges were met with a decline in public support for the program¹³ and the Governor ended his attempt to enact Green Mountain Care.

⁴ Erin C. Fuse Brown and Elizabeth Y. McCuskey, *Federalism, ERISA, and State Single-Payer Health Care*, University of Pennsylvania Law Review, Vol. 168 (Mar. 31, 2020) available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3395462 (last visited Jan. 29, 2021).

⁵ *Id.*

⁶ Sarah Wheaton, *Vermont Bails on single-payer health care*, Politico (Dec. 17, 2014) available at <https://www.politico.com/story/2014/12/vermont-peter-shumlin-single-payer-health-care-113653> (last visited Jan. 29, 2021).

⁷ *Id.*

⁸ Audio Interview with John E. McDonough, Dr.P.H., M.P.A., on Vermont’s attempt to implement a single-payer health system – and why it failed, *Supplement to the N Engl J Med* 2015; 372:1584-1585 available at <https://www.nejm.org/doi/full/10.1056/NEJMp1501050> (last visited Jan. 29, 2021).

⁹ For every dollar a state spends on Medicaid, the federal government matches a rate that varies year to year. The Federal Medical Assistance Percentage (FMAP) is the percentage at which the federal government matches each state dollar spent on Medicaid. When a state’s per capita income increases, it causes the FMAP to decrease.

¹⁰ John E. McDonough, Dr.P.H., M.P.A., *The Demise of Vermont’s Single-Payer Plan*, *N Engl J Med* 2015; 372:1584-1585 available at <https://www.nejm.org/doi/full/10.1056/NEJMp1501050> (last visited Jan. 29, 2021).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* See also Morgan True, *Special Report: What went wrong with the state’s health care exchange (website), and why*, VTDigger (Mar. 16, 2014) available at <https://vtdigger.org/2014/03/16/special-report-went-wrong-states-health-care-exchange/> (last visited Jan. 29, 2021).

III. Effect of Proposed Changes:

SJR 340 prohibits the Legislature from enacting a single-payor health care system for providing comprehensive health care services, except through legislation approved by two-thirds of the membership of each house of the Legislature and presented to the Governor for approval pursuant to Article III, Section 8 of the Florida Constitution.

It defines the term “comprehensive health care services” to mean the full range of personal health services for diagnosis, treatment, follow-up, and rehabilitation of patients.

It defines the term “single-payor” to mean an entity that has been designated by the Legislature as the sole administrator, collector, and payor of funds for comprehensive health care services.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Revenue Estimating Conference has not reviewed this proposed amendment. No impact on state revenues is anticipated if the amendment is enacted because the

amendment does not impact baseline revenue forecasts, which are based on current law and do not contain assumptions regarding future legislative changes.

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published in the 10th week and again in the sixth week immediately preceding the week the election is held.

The Division of Elections (division) within the Department of State paid approximately \$351,834.45 to advertise six constitutional amendments in 2020.¹⁴ Full publication costs for advertising a single constitutional amendment, on average, was approximately \$58,639.08. This cost was paid from non-recurring General Revenue funds.¹⁵ Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from newspapers.¹⁶ The statewide average cost to the division to advertise constitutional amendments, in English and Spanish,¹⁷ in newspapers for the 2020 election cycle was \$86.85 per English word of the originating document.¹⁸

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement. Beginning in 2020, the summary of such financial information statements was also included as part of the booklets.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This resolution creates section 22, Article III of the Florida Constitution.

¹⁴ E-mail from Legislative Affairs Director, Department of State, to staff of Senate Committee on Health Policy (Feb. 1, 2021) (on file with Senate Committee on Health Policy).

¹⁵ See Ch. 2020-111, Specific Appropriation 3132, Laws of Fla.

¹⁶ *Id.*

¹⁷ Pursuant to *Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503)*.

¹⁸ *Supra*, note 14.

¹⁹ Section 100.371(13)(e)4., F.S. See also Chapter 2019-64, s. 3, Laws of Fla.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

Approved Sub
on HHS

THE FLORIDA SENATE APPEARANCE RECORD

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

3-3-21

Meeting Date

340

Bill Number (if applicable)

Topic Supermajority Vote for Singlepayer Healthcare
Name Barbara Derrone

Amendment Barcode (if applicable)

Job Title _____

Address 625 E. Brevard St

Phone 251-4280

Tallahassee FL 32308
City State Zip

Email barbaraderrone I @ Yahoo.com

Speaking: For Against Information

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

Representing FL NOW & FL Alliance for Retired Americans

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/21
Meeting Date

340
Bill Number (if applicable)

Topic Supermajority Vote Required to Enact a Single-Payer Healthcare System Amendment Barcode (if applicable)

Name Phillip Suderman

Job Title Policy Director

Address _____ Phone _____
Street

_____ Email _____
City State Zip

Speaking: For Against Information

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

Representing Americans for Prosperity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

2/3/2021

Meeting Date

SJR 340

Bill Number (if applicable)

Topic Supermajority vote

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Executive Director

Address 579 E. Call St.

Phone 850-321-9386

Street

Tallahassee

FL

32301

Email fcfep@yahoo.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Center for Fiscal & Economic Policy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

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Reset Form

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

SJR 340

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 110 East Jefferson Street

Phone 850-445-5367

Street

Tallahassee

FL

32301

City

State

Zip

Email Tim.nungesser@nfib.org

Speaking: For Against Information

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

Representing NFIB

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

By Senator Diaz

36-00558-21

2021340__

Senate Joint Resolution

A joint resolution proposing the creation of Section 22 of Article III of the State Constitution to provide that a single-payor health care system may not be enacted by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval; providing definitions.

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

That the following creation of Section 22 of Article III of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE III

LEGISLATURE

SECTION 22. Supermajority vote required to enact a single-payor health care system.-

(a) SUPERMAJORITY VOTE REQUIRED TO ENACT SINGLE-PAYOR HEALTH CARE SYSTEM. The legislature may not enact a single-payor health care system for providing comprehensive health care services except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval pursuant to Article III, Section 8.

(b) DEFINITIONS. As used in this section, the following terms shall have the following meanings:

(1) "Comprehensive health care services" means the full

Page 1 of 2

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

36-00558-21

2021340__

range of personal health services for diagnosis, treatment, followup, and rehabilitation of patients.

(2) "Single-payor" means an entity that has been designated by the Legislature as the sole administrator, collector, and payor of funds for comprehensive health care services.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE III, SECTION 22

SUPERMAJORITY VOTE REQUIRED TO ENACT A SINGLE-PAYOR HEALTH CARE SYSTEM.-Proposing an amendment to the State Constitution to prohibit the legislature from enacting a single-payor health care system for providing comprehensive health care services except through legislation approved by two-thirds of the membership of each house of the legislature.

Page 2 of 2

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

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 Appropriations Subcommittee on Health and Human Services

BILL: CS/SB 348

INTRODUCER: Health Policy Committee and Senator Rodriguez

SUBJECT: Medicaid

DATE: March 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	Fav/CS
2.	<u>McKnight</u>	<u>Kidd</u>	<u>AHS</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 348 requires Florida Medicaid to reimburse for Medicare crossover claims for non-emergency ambulance services. Currently, Medicaid pays for emergency transportation crossover claims but not for non-emergency transportation crossover claims.

The bill requires Florida Medicaid to pay all deductibles and coinsurance for Medicare-covered services provided to Medicare-eligible recipients by ambulances licensed pursuant to ch. 401, F.S., according to the corresponding procedure codes for such services. Currently, Medicaid must pay all deductibles and coinsurance for Medicare emergency transportation services provided by ambulances licensed pursuant to ch. 401, F.S.

The bill is estimated to have a negative fiscal impact on the Florida Medicaid program which, at this time, is indeterminate. *See* Section V of this analysis.

The bill takes effect on July 1, 2021.

II. Present Situation:

Florida Medicaid Program

The Medicaid program is a joint federal-state program that finances health coverage for individuals, including eligible low-income adults, children, pregnant women, elderly adults and

persons with disabilities.¹ The Centers for Medicare and Medicaid Services (CMS) within the U.S. Department of Health and Human Services (HHS) is responsible for administering the federal Medicaid program. Florida Medicaid is the health care safety net for low-income Floridians. Florida's program is administered by the Agency for Health Care Administration (AHCA) and financed through state and federal funds.²

A Medicaid state plan is an agreement between a state and the federal government describing how the state administers its Medicaid programs. The state plan establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements.

In order to participate in Medicaid, federal law requires states to cover certain population groups (mandatory eligibility groups) and gives states the flexibility to cover other population groups (optional eligibility groups).³ States set individual eligibility criteria within federal minimum standards. The AHCA may seek an amendment to the state plan as necessary to comply with federal or state laws or to implement program changes. States send state plan amendments to the federal CMS for review and approval.⁴

Medicaid enrollees generally receive benefits through one of two service-delivery systems: fee-for-service (FFS) or managed care. Under FFS, health care providers are paid by the state Medicaid program for each service provided to a Medicaid enrollee. Under managed care, the AHCA contracts with private managed care plans for the coordination and payment of services for Medicaid enrollees. The state pays the managed care plans a capitation payment, or fixed monthly payment, per recipient enrolled in the managed care plan.

In Florida, the majority of Medicaid recipients receive their services through a managed care plan contracted with the AHCA under the Statewide Medicaid Managed Care (SMMC) program.⁵ The SMMC program has two components, the Managed Medical Assistance (MMA) program and the Long-term Care program. Florida's SMMC offers a health care package covering both acute and long-term care.⁶ The SMMC benefits are authorized by federal authority and are specifically required in ss. 409.973 and 409.98, F.S.

The AHCA contracts with managed care plans on a regional basis to provide services to eligible recipients. The MMA program, which covers most medical and acute care services for managed care plan enrollees, was fully implemented in August 2014, and was re-procured for a period beginning December 2018 and ending in 2023.⁷

¹ Medicaid.gov, *Medicaid*, available at <https://www.medicaid.gov/medicaid/index.html> (last visited Feb. 23, 2021).

² Section 20.42, F.S.

³ Agency for Health Care Administration (AHCA), *Senate Bill 348 Fiscal Analysis* (Feb. 1, 2021) (on file with Senate Committee on Health Policy).

⁴ Medicaid.gov, *Medicaid State Plan Amendments*, available at <https://www.medicaid.gov/medicaid/medicaid-state-plan-amendments/index.html> (last visited Feb. 23, 2021).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

Florida Medicaid Dual-Eligible Recipients

Medicare is the federally administered and federally funded health insurance program for people who are 65 or older, certain younger people with disabilities, and people with end-stage renal disease.⁸ Individuals who are enrolled in both Medicare and Medicaid are referred to as dual-eligible recipients.

For dual-eligible recipients, Medicare is the primary payer for medical services and Medicaid is the payer of last resort. Medicaid may cover medical costs that Medicare does not cover or only partially covers, such as nursing home care, personal care, and home and community-based services.

When Medicare does not pay the full amount billed for a service rendered to a dual-eligible recipient, the claim is transferred to the state Medicaid program to determine if Medicaid can pay the difference. This is often referred to as a crossover claim. This process also facilitates Medicaid programs in covering the costs of the recipient's Medicare Part A or Part B coinsurance or deductible amounts.

Various state statutes and rules govern whether or how much of a crossover Medicaid will pay. In the case of Medicare emergency ambulance services, s. 409.908(13), F.S., specifies that Medicaid must pay the entire crossover amount for dual-eligible recipients.

Regulation of Emergency Medical Transportation

Part III of ch. 401, F.S., governs the provision of medical transportation services in Florida and establishes the licensure and operational requirements for emergency medical services.⁹

Florida Medicaid currently covers emergency and non-emergency ambulance services as a mandatory state plan benefit.¹⁰ This includes both ground and air ambulances. In the fee-for-service delivery system, the Medicaid reimbursement rate for ambulance transportation varies based on the mode of transportation (air or ground) and the needs of the recipient during transport (basic life support, advanced life support, or specialty care).

Medicare Ambulance Services

Medicare covers emergency and non-emergency ambulance services under its Part B services category. Medicare enrollees who receive these services are responsible for a 20-percent coinsurance or deductible payment.¹¹

Unlike Florida Medicaid, Medicare does not reimburse flat rates for ambulance transportation. Medicare pays providers a base rate plus an additional amount based on miles traveled. These

⁸ Medicare.gov, *What's Medicare*, available at <https://www.medicare.gov/what-medicare-covers/your-medicare-coverage-choices/whats-medicare> (last visited Feb. 2, 2021).

⁹ Section 401.251, F.S.

¹⁰ AHCA, *Senate Bill 348 Fiscal Analysis* (Feb. 1, 2021) (on file with Senate Committee on Health Policy).

¹¹ Medicare.gov, *Ambulance Services*, available at <https://www.medicare.gov/coverage/ambulance-services> (last visited Feb. 2, 2021).

rates are based on multiple factors, including geography and regional costs of living, and can range from as low as \$400 to \$1,500 depending on the level of care and miles traveled.¹²

III. Effect of Proposed Changes:

Section 1 amends s. 409.908(13)(c)4., F.S., to require Medicaid to pay deductibles and coinsurance for Medicare-covered services provided to Medicare-eligible recipients by ambulances licensed pursuant to ch. 401, F.S., according to the corresponding procedure codes for such services. This authorizes the reimbursement of those costs for non-emergency transportation.

Section 401.23, F.S., defines the term “ambulance,” which is interchangeable with the term “emergency medical services vehicle,” to mean any privately or publicly owned land or water vehicle that is designed, constructed, reconstructed, maintained, equipped, or operated for, and is used for, or intended to be used for, land or water transportation of sick or injured persons requiring or likely to require medical attention during transport. An ambulance or emergency medical services vehicle can be used for both emergency and non-emergency transportation.

Section 2 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹² AHCA, *Senate Bill 348 Fiscal Analysis* (Feb. 1, 2021) (on file with Senate Committee on Health Policy).

B. Private Sector Impact:

The bill will increase reimbursements paid to ambulance providers that provide non-emergency transportation to dually-eligible individuals.

C. Government Sector Impact:

The AHCA estimates the bill will pose an immaterial fiscal impact on the Florida Medicaid program. In the fee-for-service (FFS) delivery system, the deductibles and coinsurance for non-emergency medical transportation are already covered. For state fiscal year 2019-2020, Medicaid paid \$1.1 million for coinsurance and deductibles for non-emergency transportation services provided to dually-eligible individuals through the FFS delivery system. In managed care, reasonable costs to comply with mandates must be built into the capitation rates paid to the health plans participating in the SMMC program, however, the proposed change would not have a material impact on the capitation rates. At this time, that fiscal impact is indeterminate.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 409.908 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Health Policy on February 3, 2021:**

The CS clarifies that the services required to be reimbursed must be services covered by Medicare and that they will be reimbursed according to their corresponding procedure codes. The CS reinstates the requirement in current law that such reimbursed services be provided by ambulances licensed under ch. 401, F.S.

B. Amendments:

None.

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

¹³ AHCA, *Senate Bill 348 Fiscal Analysis* (Feb. 1, 2021) (on file with Senate Committee on Health Policy).



The Florida Senate

Committee Agenda Request

To: Senator Aaron Bean, Chair
Appropriations Subcommittee on Health and Human Services

Subject: Committee Agenda Request

Date: February 11, 2021

I respectfully request that **Senate Bill #348**, relating to Medicaid, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

Senator Ana Maria Rodriguez
Florida Senate, District 39

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

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

348

Bill Number (if applicable)

Topic Medicaid

Amendment Barcode (if applicable)

Name Jennifer Ungru

Job Title _____

Address 106 E College Ave Suite 1200

Phone 8509994100

Street

TLH

City

FL

State

32301

Zip

Email jungru@deanmead.com

Speaking: For Against Information

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

Representing Florida Ambulance Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

By the Committee on Health Policy; and Senator Rodriguez

588-01989-21

2021348c1

1 A bill to be entitled
 2 An act relating to Medicaid; amending s. 409.908,
 3 F.S.; revising the types of emergency transportation
 4 vehicle services provided to Medicare-eligible persons
 5 for which Medicaid shall pay deductibles and
 6 coinsurance; specifying that such payments must be
 7 made according to certain procedure codes; providing
 8 an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Paragraph (c) of subsection (13) of section
 13 409.908, Florida Statutes, is amended to read:
 14 409.908 Reimbursement of Medicaid providers.—Subject to
 15 specific appropriations, the agency shall reimburse Medicaid
 16 providers, in accordance with state and federal law, according
 17 to methodologies set forth in the rules of the agency and in
 18 policy manuals and handbooks incorporated by reference therein.
 19 These methodologies may include fee schedules, reimbursement
 20 methods based on cost reporting, negotiated fees, competitive
 21 bidding pursuant to s. 287.057, and other mechanisms the agency
 22 considers efficient and effective for purchasing services or
 23 goods on behalf of recipients. If a provider is reimbursed based
 24 on cost reporting and submits a cost report late and that cost
 25 report would have been used to set a lower reimbursement rate
 26 for a rate semester, then the provider's rate for that semester
 27 shall be retroactively calculated using the new cost report, and
 28 full payment at the recalculated rate shall be effected
 29 retroactively. Medicare-granted extensions for filing cost

Page 1 of 3

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

588-01989-21

2021348c1

30 reports, if applicable, shall also apply to Medicaid cost
 31 reports. Payment for Medicaid compensable services made on
 32 behalf of Medicaid eligible persons is subject to the
 33 availability of moneys and any limitations or directions
 34 provided for in the General Appropriations Act or chapter 216.
 35 Further, nothing in this section shall be construed to prevent
 36 or limit the agency from adjusting fees, reimbursement rates,
 37 lengths of stay, number of visits, or number of services, or
 38 making any other adjustments necessary to comply with the
 39 availability of moneys and any limitations or directions
 40 provided for in the General Appropriations Act, provided the
 41 adjustment is consistent with legislative intent.
 42 (13) Medicare premiums for persons eligible for both
 43 Medicare and Medicaid coverage shall be paid at the rates
 44 established by Title XVIII of the Social Security Act. For
 45 Medicare services rendered to Medicaid-eligible persons,
 46 Medicaid shall pay Medicare deductibles and coinsurance as
 47 follows:
 48 (c) Notwithstanding paragraphs (a) and (b):
 49 1. Medicaid payments for Nursing Home Medicare part A
 50 coinsurance are limited to the Medicaid nursing home per diem
 51 rate less any amounts paid by Medicare, but only up to the
 52 amount of Medicare coinsurance. The Medicaid per diem rate shall
 53 be the rate in effect for the dates of service of the crossover
 54 claims and may not be subsequently adjusted due to subsequent
 55 per diem rate adjustments.
 56 2. Medicaid shall pay all deductibles and coinsurance for
 57 Medicare-eligible recipients receiving freestanding end stage
 58 renal dialysis center services.

Page 2 of 3

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588-01989-21

2021348c1

59 3. Medicaid payments for general and specialty hospital
60 inpatient services are limited to the Medicare deductible and
61 coinsurance per spell of illness. Medicaid payments for hospital
62 Medicare Part A coinsurance shall be limited to the Medicaid
63 hospital per diem rate less any amounts paid by Medicare, but
64 only up to the amount of Medicare coinsurance. Medicaid payments
65 for coinsurance shall be limited to the Medicaid per diem rate
66 in effect for the dates of service of the crossover claims and
67 may not be subsequently adjusted due to subsequent per diem
68 adjustments.

69 4. Medicaid shall pay all deductibles and coinsurance for
70 ~~Medicare-covered Medicare emergency transportation services~~
71 provided to Medicare-eligible recipients by ambulances licensed
72 pursuant to chapter 401 according to the corresponding procedure
73 codes for such services.

74 5. Medicaid shall pay all deductibles and coinsurance for
75 portable X-ray Medicare Part B services provided in a nursing
76 home, in an assisted living facility, or in the patient's home.

77 Section 2. This act shall take effect July 1, 2021.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Health and Human Services, *Chair*
Appropriations, *Vice Chair*
Environment and Natural Resources
Health Policy
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR AARON BEAN

President Pro Tempore
4th District

March 2, 2021

Senator Wilton Simpson
President | Florida Senate
409 The Capitol
404 South Monroe Street
Tallahassee, Florida 32399

Dear President Simpson:

I am writing to request approval to be excused from chairing my Subcommittee on Health and Human Services meeting scheduled for Wednesday, March 3, 2021, due to testing positive for COVID -19.

I appreciate your consideration in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Aaron Bean".

Aaron Bean
Senator | 4th District

REPLY TO:

- Duval Station, 13453 North Main Street, Suite 301, Jacksonville, Florida 32218 (904) 757-5039 FAX: (888) 263-1578
- 404 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004 FAX: (850) 410-4805

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Appropriations Subcommittee on Health and Human Services Judge:

Started: 3/3/2021 2:30:02 PM

Ends: 3/3/2021 2:49:47 PM Length: 00:19:46

2:31:12 PM Sen. Rodriguez (Chair)
2:32:30 PM S 92
2:32:41 PM S 272
2:32:51 PM Sen. Baxley
2:34:47 PM Sen. Rodriguez
2:34:53 PM Am. 932648
2:35:00 PM Sen. Baxley
2:35:11 PM Sen. Rodriguez
2:35:32 PM Sen. Baxley
2:35:48 PM Sen. Rodriguez
2:36:14 PM Ryan Kimmey, Governmental Consultant Florida Osteopathic Medical Association (spoke on behalf of Steve Winn/waives in support)
2:36:24 PM Sen. Rodriguez
2:36:40 PM Sen. Harrell
2:38:06 PM Sen. Rodriguez
2:38:09 PM Sen. Baxley
2:38:13 PM Sen. Rodriguez
2:38:48 PM S 340
2:39:04 PM Sen. Diaz
2:39:24 PM Sen. Rodriguez
2:39:31 PM Sen. Rouson
2:39:46 PM Sen. Diaz
2:40:07 PM Sen. Rouson
2:40:22 PM Sen. Diaz
2:40:53 PM Sen. Rodriguez
2:40:56 PM Sen. Farmer
2:41:18 PM Sen. Diaz
2:41:56 PM Sen. Farmer
2:42:18 PM Sen. Diaz
2:42:42 PM Sen. Rodriguez
2:42:51 PM Barbara Devane, Citizen, FL NOW & Florida Alliance for Retired Americans (waives in opposition)
2:43:28 PM Phillip Suderman, Policy Director, Americans for Prosperity
2:44:55 PM Sen. Rodriguez
2:44:58 PM Karen Woodall, Executive Director, Florida Center for Fiscal & Economic Policy (waives in opposition)
2:45:10 PM Tim Nungesser, Legislative Director, NFIB
2:45:27 PM Sen. Diaz
2:45:29 PM Sen. Rodriguez
2:46:12 PM Sen. Diaz (Chair)
2:46:15 PM S 348
2:46:21 PM Sen. Rodriguez
2:46:44 PM Sen. Diaz
2:46:50 PM Sen. Farmer
2:47:29 PM Sen. Rodriguez
2:47:36 PM Sen. Diaz
2:47:43 PM Jennifer Ungru, Citizen, Florida Ambulance Association (waives in support)
2:48:01 PM Sen. Brodeur
2:48:23 PM Sen. Diaz
2:48:29 PM Sen. Rodriguez
2:48:31 PM Sen. Diaz
2:49:10 PM Sen. Rodriguez (Chair)