

Tab 1	CS/SB 70 by IS, Book (CO-INTRODUCERS) Berman, Stewart, Torres; (Compare to CS/CS/H 00023) Panic Alarms in Public Schools					
108536	PCS	S	RCS	AP, AED		02/28 10:01 AM
Tab 2	CS/SB 78 by IS, Broxson (CO-INTRODUCERS) Wright; (Compare to CS/H 00021) Transportation Facility Designations					
945272	PCS	S	RCS	AP, ATD		02/28 09:27 AM
145822	A	S	RCS	AP, Bradley	Delete L.81:	02/28 09:27 AM
553514	A	S	RS	AP, Braynon	btw L.83 - 84:	02/28 09:27 AM
535266	SA	S	RCS	AP, Braynon	btw L.83 - 84:	02/28 09:27 AM
254798	A	S	RCS	AP, Stewart	btw L.92 - 93:	02/28 09:27 AM
Tab 3	SB 82 by Bean; Individuals With Disabilities					
796252	PCS	S	RCS	AP, AHS		02/28 09:34 AM
909432	A	S	UNFAV	AP, Rouson	Delete L.413.	02/28 09:34 AM
329026	A	S	RCS	AP, Rouson	Delete L.583:	02/28 09:34 AM
446518	A	S	RCS	AP, Gibson	Delete L.86:	02/28 09:34 AM
Tab 4	CS/SB 122 by CF, Rouson (CO-INTRODUCERS) Berman, Hooper, Book, Rader; (Compare to CS/H 00043) Child Welfare					
603180	PCS	S	RCS	AP, AHS		02/28 10:08 AM
311942	A	S	RCS	AP, Rouson	Delete L.133:	02/28 10:08 AM
839790	A	S	RCS	AP, Rouson	Delete L.413 - 449:	02/28 10:08 AM
Tab 5	CS/SB 170 by CJ, Stewart (CO-INTRODUCERS) Perry, Harrell; (Similar to CS/H 00199) Time Limitation on the Prosecution of Sexual Battery Cases					
Tab 6	CS/SB 178 by IS, Rodriguez (CO-INTRODUCERS) Berman; (Similar to CS/H 00579) Public Financing of Construction Projects					
266148	PCS	S	RCS	AP, AEG		02/28 09:18 AM
Tab 7	CS/SB 524 by FT, Gruters; (Compare to CS/H 07097) Sales Tax Holiday for Disaster Preparedness Supplies					
762896	A	S	RCS	AP, Gruters	Delete L.51:	02/28 09:21 AM
Tab 8	CS/SB 542 by CM, Perry; (Compare to CS/H 07097) Back-to-school Sales Tax Holiday					
Tab 9	CS/SB 702 by EN, Albritton; (Compare to CS/H 00609) Petroleum Cleanup					
Tab 10	CS/SB 714 by HP, Hutson; (Compare to CS/H 00389) Testing for and Treatment of Influenza					
Tab 11	SB 836 by Simmons; (Identical to H 00641) Funds for the Operation of Schools					
Tab 12	SB 884 by Hooper (CO-INTRODUCERS) Perry; (Compare to CS/H 00453) Law Enforcement and Correctional Officers					
571032	PCS	S	RCS	AP, ACJ		02/28 09:07 AM
507994	A	S	RCS	AP, Hooper	btw L.81 - 82:	02/28 09:07 AM
181080	A	S	RCS	AP, Hooper	btw L.81 - 82:	02/28 09:07 AM

Tab 13 SB 916 by Baxley; (Similar to H 00833) Program of All-Inclusive Care for the Elderly						
370180	PCS	S	RCS	AP, AHS		02/28 09:41 AM
104490	A	S	RCS	AP, Baxley	Delete L.93:	02/28 09:41 AM
506046	A	S	WD	AP, Bradley	btw L.113 - 114:	02/28 09:41 AM

Tab 14 SB 918 by Brandes; (Similar to H 00581) Civic Education						
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Tab 15 CS/SB 922 by CM, Gruters; (Compare to CS/CS/CS/H 00647) Economic Development						
230682	A	S	RCS	AP, Gruters	Delete L.121 - 154.	02/28 09:22 AM

Tab 16 CS/CS/SB 1066 by FT, CA, Gruters; (Similar to CS/CS/CS/H 00637) Impact Fees						
593778	A	S	WD	AP, Bradley	Delete L.57:	03/04 12:50 PM
277762	A	S	FAV	AP, Gruters	Delete L.57 - 247:	03/04 12:50 PM
891604	D	S	RCS	AP, Gruters	Delete everything after	03/04 12:50 PM
569730	AA	S	WD	AP, Gruters	Delete L.9:	03/04 12:50 PM
199538	A	S	WD	AP, Gruters	Delete L.60:	02/26 04:27 PM
590750	A	S	WD	AP, Gruters	Delete L.67 - 232:	02/26 10:53 AM
101774	A	S	WD	AP, Bradley	Delete L.150 - 169:	03/04 12:50 PM

Tab 17 CS/SB 1074 by MS, Wright (CO-INTRODUCERS) Albritton; (Identical to H 00879) Surviving Spouse Ad Valorem Tax Reduction						
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Tab 18 SJR 1076 by Wright (CO-INTRODUCERS) Albritton; (Identical to H 00877) Surviving Spouse Ad Valorem Tax Reduction						
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Tab 19 SB 1092 by Bean (CO-INTRODUCERS) Perry; (Similar to CS/H 00487) Fire Prevention and Control						
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Tab 20 SB 1116 by Brandes (CO-INTRODUCERS) Pizzo, Bracy, Powell; (Identical to H 00869) Trust Funds/State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections						
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Tab 21 CS/SB 1118 by CJ, Brandes (CO-INTRODUCERS) Pizzo, Bracy, Powell; (Compare to H 00869) Inmate Welfare Trust Funds						
773884	PCS	S	RCS	AP, ACJ		02/28 10:14 AM
676616	A	S	RCS	AP, Brandes	Delete L.102 - 146:	02/28 10:14 AM
162448	A	S	WD	AP, Brandes	Delete L.146:	02/28 10:14 AM

Tab 22 CS/SB 1120 by CF, Harrell; (Compare to CS/CS/CS/H 00649) Substance Abuse Services						
137486	PCS	S	RCS	AP, AHS		02/28 09:08 AM

Tab 23 CS/SB 1262 by JU, Bracy (CO-INTRODUCERS) Rodriguez; (Identical to H 01245) 1920 Ocoee Election Day Riots						
455640	PCS	S	RCS	AP, ACJ		02/28 09:50 AM

Tab 24 SB 1298 by Simmons; (Compare to CS/H 01049) Office of the Judges of Compensation Claims						
595712	PCS	S	RCS	AP, AEG		02/28 09:24 AM

Tab 25 SB 1312 by Montford (CO-INTRODUCERS) Gainer; (Similar to CS/H 01005) Voting Systems						
561048	A	S	RCS	AP, Montford	Delete L.179:	02/28 09:26 AM

Tab 26 SB 1326 by Simpson; (Compare to CS/H 07063) Department of Children and Families							
835096	D	S	RS	AP, Simpson	Delete everything after	02/28 10:04 AM	
272028	AA	S	WD	AP, Simpson	btw L.219 - 220:	02/26 10:04 PM	
756300	SD	S	RCS	AP, Simpson	Delete everything after	02/28 10:04 AM	

Tab 27 CS/SB 1370 by HP, Harrell; (Similar to CS/CS/H 00763) Patient Safety Culture Surveys							
651134	PCS	S	RCS	AP, AHS		02/28 09:10 AM	
641398	A	S	RCS	AP, Harrell	Delete L.27:	02/28 09:10 AM	
358292	A	S	RCS	AP, Harrell	Delete L.75 - 86:	02/28 09:10 AM	

Tab 28 CS/SB 1404 by BI, Perry (CO-INTRODUCERS) Brandes; (Compare to CS/CS/H 01077) Department of Financial Services							
863198	PCS	S	RCS	AP, AEG		03/04 06:28 PM	
489504	PCS:D	S	RS	AP, Perry	Delete everything after	03/04 06:28 PM	
540208	PCS:AA	S	OO	AP, Perry	btw L.20 - 21:	03/03 04:58 PM	
831450	PCS:AA	S	OO	AP, Flores	Delete L.423 - 501.	03/03 04:58 PM	
443964	PCS:AA	S	OO	AP, Book	Delete L.653 - 654:	03/03 04:58 PM	
743900	PCS:SD	S	WD	AP, Perry	Delete everything after	03/03 12:04 PM	
810530	PCS:SD	S	L RCS	AP, Perry	Delete everything after	03/04 02:51 PM	
233344	A	S	WD	AP, Perry	Delete L.429 - 1231:	02/26 04:30 PM	
483952	A	S	WD	AP, Book	Delete L.781 - 782:	02/26 06:33 PM	

Tab 29 CS/SB 1450 by EN, Gruters; (Similar to CS/CS/H 01091) Environmental Enforcement							
594336	PCS	S	RCS	AP, ACJ		02/28 09:47 AM	
333976	A	S	RCS	AP, Gruters	Delete L.564 - 725:	02/28 09:47 AM	
879998	A	S	WD	AP, Gruters	Delete L.926 - 964:	02/28 09:47 AM	

Tab 30 CS/SB 1552 by CJ, Flores; (Compare to CS/H 01055) Law Enforcement Activities							
481528	PCS	S	RCS	AP, ACJ		02/28 10:18 AM	

Tab 31 CS/SB 1556 by BI, Bean; (Similar to CS/H 01179) Nondiscrimination in Organ Transplants							
760806	A	S	RCS	AP, Bean	Delete L.141 - 173:	02/28 10:19 AM	

Tab 32 CS/SB 1628 by ED, Book (CO-INTRODUCERS) Hooper, Rader, Berman, Cruz, Stewart, Rodriguez; (Similar to CS/CS/H 01213) Holocaust Education							
231978	PCS	S	RCS	AP, AED		02/28 09:04 AM	
360128	A	S	RCS	AP, Book	Delete L.37 - 56:	02/28 09:04 AM	

Tab 33 SB 1742 by Mayfield (CO-INTRODUCERS) Bean; (Similar to H 01183) Home Medical Equipment Providers							
808052	A	S	RCS	AP, Mayfield	Delete L.21 - 22:	02/28 10:21 AM	

Tab 34 SB 1784 by Gainer; (Compare to CS/H 00901) Vocational Rehabilitation Services							
776336	PCS	S	RCS	AP, AED		02/28 10:23 AM	

Tab 35 SB 7012 by CF (CO-INTRODUCERS) Rouson; (Compare to CS/H 00577) Mental Health							
195908	PCS	S	RCS	AP, AHS		02/28 10:47 AM	
661030	A	S	RCS	AP, Book	Delete L.267 - 721:	02/28 10:47 AM	
314786	A	S	WD	AP, Book	btw L.452 - 453:	02/27 02:44 PM	
401064	A	S	RCS	AP, Book	btw L.757 - 758:	02/28 10:47 AM	

Tab 36 SB 7018 by IS; (Identical to H 01239) Electric Vehicle Charging Station Infrastructure						
857014	PCS	S	RCS	AP, AEG		02/28 10:49 AM
721886	A	S	RCS	AP, Lee	Delete L.51 - 52:	02/28 10:49 AM
932702	A	S	RCS	AP, Lee	btw L.53 - 54:	02/28 10:49 AM
219506	A	S	RCS	AP, Lee	btw L.135 - 136:	02/28 10:49 AM

Tab 37 SB 7046 by GO; State Group Insurance Program						
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Tab 38 SB 7058 by FT; (Similar to H 07095) Internal Revenue Code						
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Bradley, Chair
Senator Simpson, Vice Chair

MEETING DATE: Thursday, February 27, 2020

TIME: 9:00 a.m.—6:00 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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A proposed committee substitute for the following bill (CS/SB 70) is available:

1	CS/SB 70 Infrastructure and Security / Book (Compare CS/CS/H 23)	Panic Alarms in Public Schools; Citing this act as "Alyssa's Law"; requiring each public school to be equipped with a panic alarm system, etc. IS 01/13/2020 Fav/CS AED 02/18/2020 Temporarily Postponed AED 02/25/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
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With subcommittee recommendation - Education

A proposed committee substitute for the following bill (CS/SB 78) is available:

2	CS/SB 78 Infrastructure and Security / Broxson (Compare CS/H 21, CS/CS/CS/H 391, CS/H 433, H 815, S 174, S 342, S 382, S 612, S 1026, S 1046, S 1068)	Transportation Facility Designations; Providing honorary designations of certain transportation facilities in specified counties, etc. IS 02/10/2020 Fav/CS ATD 02/18/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
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With subcommittee recommendation – Transportation, Tourism, and Economic Development

A proposed committee substitute for the following bill (SB 82) is available:

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Appropriations

Thursday, February 27, 2020, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 82 Bean	Individuals With Disabilities; Requiring persons and entities under contract with the Agency for Persons with Disabilities to use the agency data management systems to bill for services; revising criteria used by the agency to develop a client's iBudget; requiring the Agency for Health Care Administration to seek federal approval to provide consumer-directed options; requiring the Agency for Persons with Disabilities to competitively procure qualified organizations to provide support coordination services, etc. CF 01/15/2020 Favorable AHS 01/28/2020 Fav/CS AHS 01/29/2020 AP 02/05/2020 Temporarily Postponed AP 02/06/2020 AP 02/27/2020 Fav/CS	Fav/CS Yeas 20 Nays 0
With subcommittee recommendation – Health and Human Services			
A proposed committee substitute for the following bill (CS/SB 122) is available:			
4	CS/SB 122 Children, Families, and Elder Affairs / Rouson (Compare CS/H 43, CS/H 7063)	Child Welfare; Citing this act as “Jordan’s Law”; expanding the list of entities with access to certain records that relate to child abandonment, abuse, or neglect held by the Department of Children and Families; authorizing the parent or legal guardian of a child to request a second medical evaluation of a child under certain circumstances; requiring a lead agency to ensure that certain individuals receive specified training relating to head trauma and brain injuries in children younger than a specified age, etc. CF 12/10/2019 Temporarily Postponed CF 01/21/2020 Fav/CS AHS 02/25/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation – Health and Human Services			
5	CS/SB 170 Criminal Justice / Stewart (Similar CS/H 199, Compare H 69, H 541, S 892)	Time Limitation on the Prosecution of Sexual Battery Cases; Providing that a prosecution may be commenced at any time for specified sexual battery offenses against victims who were younger than a certain age at the time the offense was committed, etc. CJ 10/22/2019 Fav/CS ACJ 02/18/2020 Favorable AP 02/27/2020 Favorable	Favorable Yeas 19 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
A proposed committee substitute for the following bill (CS/SB 178) is available:			
6	CS/SB 178 Infrastructure and Security / Rodriguez (Similar CS/H 579, Compare H 1073, Linked S 7016)	Public Financing of Construction Projects; Prohibiting state-financed constructors from commencing construction of certain structures in coastal areas after a specified date without first taking certain steps regarding a sea level impact projection study; requiring the Department of Environmental Protection to develop by rule a standard for such studies; requiring the department to enforce certain requirements and to adopt rules, etc. EN 11/04/2019 Favorable IS 12/09/2019 Fav/CS AEG 02/13/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation - Agriculture, Environment, and General Government			
7	CS/SB 524 Finance and Tax / Gruters (Compare CS/H 7097)	Sales Tax Holiday for Disaster Preparedness Supplies; Providing exemptions from the sales and use tax for specified disaster preparedness supplies during a specified timeframe; providing applicability for certain exemptions; specifying locations where the exemptions do not apply, etc. CM 11/12/2019 Favorable FT 02/13/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
8	CS/SB 542 Commerce and Tourism / Perry (Compare CS/H 7097)	Back-to-school Sales Tax Holiday; Providing exemptions from the sales and use tax on the retail sale of certain clothing, wallets, bags, school supplies, personal computers, and personal computer-related accessories during a specified timeframe; specifying locations where the exemptions do not apply; authorizing certain dealers to opt out of participating in the tax holiday, subject to certain requirements, etc. CM 11/12/2019 Fav/CS FT 02/13/2020 Favorable AP 02/27/2020 Favorable	Favorable Yeas 19 Nays 0

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Appropriations

Thursday, February 27, 2020, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	CS/SB 702 Environment and Natural Resources / Albritton (Compare CS/H 609)	Petroleum Cleanup; Revising requirements for a limited contamination assessment report required to be provided by a property owner, operator, or person otherwise responsible for site rehabilitation to the Department of Environmental Protection under the Petroleum Cleanup Participation Program; revising the contents of an advanced cleanup application to include a specified property owner or responsible party agreement, etc. EN 01/27/2020 Fav/CS AEG 02/25/2020 Favorable AP 02/27/2020 Favorable	Favorable Yeas 20 Nays 0
With subcommittee recommendation - Agriculture, Environment, and General Government			
10	CS/SB 714 Health Policy / Hutson (Compare CS/H 389)	Testing for and Treatment of Influenza; Requiring specified licensed pharmacists to report certain information to the Department of Health; authorizing pharmacists to test for and treat influenza and providing requirements relating thereto; requiring a pharmacy in which a pharmacist tests for and treats influenza to display and distribute specified information; providing limitations on the medications a pharmacist may administer to treat influenza; prohibiting a pharmacist from testing or treating patients under certain circumstances, etc. HP 02/18/2020 Fav/CS AHS 02/25/2020 Favorable AP 02/27/2020 Favorable	Favorable Yeas 15 Nays 4
With subcommittee recommendation – Health and Human Services			
11	SB 836 Simmons (Identical H 641, Compare S 62)	Funds for the Operation of Schools; Revising the annual allocation to school districts to include an additional calculation of full-time equivalent membership for students who earn a College Board Advanced Placement Capstone Diploma, etc. ED 01/13/2020 Favorable AED 01/28/2020 Not Considered AED 01/29/2020 Favorable AP 02/27/2020 Favorable	Favorable Yeas 18 Nays 0
With subcommittee recommendation - Education			

A proposed committee substitute for the following bill (SB 884) is available:

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Appropriations

Thursday, February 27, 2020, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	SB 884 Hooper (Compare CS/H 453)	Law Enforcement and Correctional Officers; Revising the definitions of "correctional officer" and "law enforcement officer" to include persons employed on a part-time basis; authorizing an agency to take disciplinary action against a correctional officer or law enforcement officer accused of misconduct within a specified timeframe, regardless of the allegation's origin; authorizing an officer to bring an action for injunctive relief if a law enforcement or correctional agency fails to comply with certain requirements of part VI of ch. 112, F.S., etc. CJ 01/14/2020 Favorable ACJ 02/18/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			
A proposed committee substitute for the following bill (SB 916) is available:			
13	SB 916 Baxley (Similar H 833)	Program of All-Inclusive Care for the Elderly; Authorizing the Agency for Health Care Administration, in consultation with the Department of Elderly Affairs, to approve certain applicants to provide benefits pursuant to the Program of All-Inclusive Care for the Elderly (PACE); specifying requirements and procedures for the submission, publication, review, and initial approval of applications; requiring prospective PACE organizations that are granted initial approval to apply within a certain timeframe for federal approval, etc. HP 01/21/2020 Not Considered HP 01/28/2020 Favorable AHS 02/18/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation – Health and Human Services			
14	SB 918 Brandes (Similar H 581)	Civic Education; Requiring the Commissioner of Education to develop minimum criteria for a nonpartisan civic literacy practicum for high school students, beginning with a specified school year; authorizing students to apply the hours they devote to practicum activities to certain community service requirements; requiring the State Board of Education to designate certain high schools as Freedom Schools, based on criteria the board establishes relating to students' civic learning and civic engagement, etc. ED 01/21/2020 Favorable AED 02/13/2020 Favorable AP 02/27/2020 Favorable	Favorable Yeas 19 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
With subcommittee recommendation - Education			
15	CS/SB 922 Commerce and Tourism / Gruters (Compare CS/CS/CS/H 647, H 779, CS/CS/S 772)	Economic Development; Authorizing a qualified target industry business located in a county affected by Hurricane Michael to submit a request to the Department of Economic Opportunity for an economic recovery extension in lieu of a tax refund claim scheduled to be submitted during a specified timeframe; authorizing the department to waive certain requirements during a specified timeframe; providing that certain businesses are eligible for a specified tax refund payment, etc. CM 01/21/2020 Fav/CS AHS 02/13/2020 Favorable AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation – Health and Human Services			
16	CS/CS/SB 1066 Finance and Tax / Community Affairs / Gruters (Similar CS/CS/CS/H 637)	Impact Fees; Revising requirements for counties and municipalities that adopt, collect, or administer an impact fee by ordinance and for special districts that adopt, collect, and administer an impact fee by resolution; prohibiting new or increased impact fees from applying to certain applications; providing that impact fee credits are assignable and transferable under certain conditions; requiring certain counties and municipalities to establish impact fee review and advisory committees, etc. CA 02/10/2020 Fav/CS FT 02/18/2020 Fav/CS AP 02/27/2020 Temporarily Postponed	Temporarily Postponed
17	CS/SB 1074 Military and Veterans Affairs and Space / Wright (Identical H 879, Compare HJR 877, Linked SJR 1076)	Surviving Spouse Ad Valorem Tax Reduction; Authorizing the surviving spouses of certain permanently disabled veterans to carry over a certain discount on ad valorem taxes on homestead property under specified conditions; authorizing the discount to be transferred to another permanent residence under specified conditions; authorizing the Department of Revenue to adopt emergency rules, etc. MS 01/22/2020 Fav/CS FT 02/13/2020 Favorable AP 02/27/2020 Favorable	Favorable Yeas 18 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 27, 2020, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	SJR 1076 Wright (Identical HJR 877, Compare H 879, H 881, Linked CS/S 1074, CS/S 1078)	Surviving Spouse Ad Valorem Tax Reduction; Proposing amendments to the State Constitution to provide for the carryover of the homestead property tax discount for certain veterans with permanent combat-related disabilities to a veteran's surviving spouse if certain criteria are met, to authorize the transfer of the discount to a surviving spouse's new homestead property if certain criteria are met, and to provide an effective date, etc. MS 01/22/2020 Favorable FT 02/13/2020 Favorable AP 02/27/2020 Favorable	Favorable Yeas 19 Nays 0
19	SB 1092 Bean (Similar CS/H 487)	Fire Prevention and Control; Creating the Firefighter Cancer Decontamination Equipment Grant Program within the Division of State Fire Marshal of the Department of Financial Services for certain purposes; requiring the division to administer the program and annually award grants, and distribute equipment and training, to qualifying fire departments in a certain manner; requiring the State Fire Marshal to adopt rules and procedures, etc. BI 01/15/2020 Favorable AEG 02/18/2020 Favorable AP 02/27/2020 Favorable	Favorable Yeas 17 Nays 0
With subcommittee recommendation - Agriculture, Environment, and General Government			
20	SB 1116 Brandes (Identical H 869, Compare CS/H 871, Linked CS/S 1118)	Trust Funds/State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections; Creating the State-Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections; providing the purpose of the trust fund; providing for future review and termination or re-creation of the trust fund, etc. CJ 01/21/2020 Favorable ACJ 02/13/2020 Favorable AP 02/27/2020 Favorable	Favorable Yeas 17 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			

A proposed committee substitute for the following bill (CS/SB 1118) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 27, 2020, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
21	CS/SB 1118 Criminal Justice / Brandes (Compare H 869, CS/H 871, Linked S 1116)	Inmate Welfare Trust Funds; Requiring that specified proceeds and funds be deposited into the State-Operated Institutions Inmate Welfare Trust Fund; providing that the trust fund is a trust held by the Department of Corrections for the benefit and welfare of certain inmates; requiring that funds of the trust fund be used exclusively for specified purposes at correctional facilities operated by the department, etc. CJ 01/21/2020 Fav/CS ACJ 02/13/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 18 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			

A proposed committee substitute for the following bill (CS/SB 1120) is available:

22	CS/SB 1120 Children, Families, and Elder Affairs / Harrell (Compare CS/CS/CS/H 649, S 704)	Substance Abuse Services; Specifying that certified recovery residence administrators and certain persons associated with certified recovery residences are subject to certain background screenings; requiring, rather than authorizing, the exemption from disqualification from employment for certain substance abuse service provider personnel; deleting a provision relating to background screenings for certain persons associated with applicant recovery residences; providing criminal penalties for violations relating to recovery residence patient referrals, etc. CF 01/28/2020 Fav/CS AHS 02/18/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 18 Nays 0
With subcommittee recommendation – Health and Human Services			

A proposed committee substitute for the following bill (CS/SB 1262) is available:

23	CS/SB 1262 Judiciary / Bracy (Identical H 1245, Compare H 1247, Linked CS/S 1264)	1920 Ocoee Election Day Riots; Establishing the Ocoee Election Day Riots Descendant Compensation Fund Program within the Department of Legal Affairs; requiring the department to accept and process applications for payment of claims for compensation; requiring the Department of Economic Opportunity to prioritize certain applications for the Black Business Loan Program; directing the Commissioner of Education's African American History Task Force to determine ways in which the 1920 Ocoee Election Day Riots may be included in required instruction on African-American history, etc. JU 01/21/2020 Fav/CS ACJ 02/18/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
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COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 27, 2020, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
With subcommittee recommendation – Criminal and Civil Justice			
A proposed committee substitute for the following bill (SB 1298) is available:			
24	SB 1298 Simmons (Compare CS/H 1049)	Office of the Judges of Compensation Claims; Providing an appropriation to the Division of Administrative Hearings for adjustments to salaries of the judges of compensation claims; requiring the Deputy Chief Judge to recommend such salary adjustments within the appropriated amount; requiring that such salary adjustments be paid out of a specified trust fund, etc. JU 01/21/2020 Favorable AEG 02/13/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation - Agriculture, Environment, and General Government			
25	SB 1312 Montford (Similar CS/H 1005)	Voting Systems; Defining the term “automatic tabulating equipment” for purposes of the Florida Election Code; revising procedures governing the canvassing of returns to specify usage of a voting system’s automatic tabulating equipment; clarifying the circumstances under which ballots must be processed through automatic tabulating equipment in a recount; specifying the manner by which a manual recount may be conducted, etc. EE 01/27/2020 Favorable GO 02/10/2020 Favorable AP 02/27/2020 Fav/CS	Fav/CS Yeas 20 Nays 0
26	SB 1326 Simpson (Compare CS/H 7063)	Department of Children and Families; Citing this act as the “DCF Accountability Act”; providing for the creation of the Office of Quality Assurance and Improvement in the Department of Children and Families; extending the timeframe within which a protective investigation is required to be commenced in certain circumstances; requiring certain sheriffs to adopt Florida’s Child Welfare Practice Model and operate under certain provisions of law; providing for the calculation of the allocation of core plus funds, etc. CF 01/21/2020 Favorable AHS 01/28/2020 Favorable AHS 01/29/2020 AP 02/20/2020 Temporarily Postponed AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation – Health and Human Services			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 27, 2020, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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A proposed committee substitute for the following bill (CS/SB 1370) is available:

27	CS/SB 1370 Health Policy / Harrell (Similar CS/CS/H 763)	Patient Safety Culture Surveys; Requiring certain licensed facilities to biennially conduct an anonymous patient safety culture survey using a specified federal publication; requiring the agency to collect, compile, and publish patient safety culture survey data submitted by facilities; revising requirements for the submission of health care data to the agency, etc.	Fav/CS Yeas 19 Nays 0
		HP 02/11/2020 Fav/CS AHS 02/18/2020 Fav/CS AP 02/27/2020 Fav/CS	

With subcommittee recommendation – Health and Human Services

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

28	CS/SB 1404 Banking and Insurance / Perry (Compare CS/CS/H 1077, H 1263, CS/S 1594)	Department of Financial Services; Specifying powers and duties of the Division of Public Assistance Fraud; prohibiting persons from acting as or advertising themselves as being funeral directors, embalmers, direct disposers, or preneed sales agents unless they are so licensed; revising the definition of the term “two-component explosives” for the purpose of regulation by the Division of State Fire Marshal; providing that certain persons serving as volunteer firefighters may serve as a regular or permanent firefighter for a limited period, subject to certain restrictions, etc.	Temporarily Postponed
		BI 01/21/2020 Fav/CS AEG 02/18/2020 Fav/CS AP 02/27/2020 Temporarily Postponed	

With subcommittee recommendation - Agriculture, Environment, and General Government

A proposed committee substitute for the following bill (CS/SB 1450) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 27, 2020, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
29	CS/SB 1450 Environment and Natural Resources / Gruters (Similar CS/H 1091, Compare CS/CS/S 712)	Environmental Enforcement; Revising administrative penalties for violations of certain provisions relating to beach and shore construction and activities; revising civil penalties for violations of certain provisions relating to the Biscayne Bay Aquatic Preserve, aquatic preserves, water resources, the Pollutant Discharge Prevention and Control Act, the Clean Ocean Act, regulation of oil and gas resources, the Phosphate Land Reclamation Act, and other provisions relating to pollution and the environment, respectively; revising criminal penalties for violations of certain provisions relating to pollution and the environment, etc. EN 01/27/2020 Fav/CS ACJ 02/18/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 17 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			

A proposed committee substitute for the following bill (CS/SB 1552) is available:

30	CS/SB 1552 Criminal Justice / Flores (Compare CS/H 1055)	Law Enforcement Activities; Authorizing a citizen support organization for Florida Missing Children's Day to provide grants to law enforcement agencies for specified purposes; authorizing sexual predators and sexual offenders to report online certain information to the Department of Law Enforcement; revising reporting requirements for sexual predators and sexual offenders, etc. CJ 02/11/2020 Fav/CS ACJ 02/25/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 17 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 27, 2020, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
31	CS/SB 1556 Banking and Insurance / Bean (Similar CS/H 1179)	Nondiscrimination in Organ Transplants; Prohibiting certain entities from making certain determinations or engaging in certain actions related to organ transplants solely on the basis of an individual's disability; specifying an instance where certain entities may consider an individual's disability, with an exception; requiring certain entities to take certain necessary steps to ensure an individual with a disability is not denied services, with exceptions; prohibiting insurers, nonprofit health care service plans, and health maintenance organizations that provide coverage for organ transplants from denying coverage solely on the basis of an individual's disability under certain circumstances, etc. HP 01/28/2020 Favorable BI 02/11/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 17 Nays 0

A proposed committee substitute for the following bill (CS/SB 1628) is available:

32	CS/SB 1628 Education / Book (Similar CS/CS/H 1213)	Holocaust Education; Including the study of a specified policy against anti-Semitism in specified instruction; providing school district, charter school, and Department of Education requirements relating to such instruction; authorizing the department to work with certain Holocaust educational organizations for specified purposes relating to the required instruction, etc. ED 02/10/2020 Fav/CS AED 02/18/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
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With subcommittee recommendation - Education

33	SB 1742 Mayfield (Similar H 1183)	Home Medical Equipment Providers; Exempting allopathic, osteopathic, and chiropractic physicians who sell or rent electrostimulation medical equipment and supplies in the course of their practice from certain licensure requirements, etc. HP 01/28/2020 Favorable AHS 02/13/2020 Favorable AP 02/27/2020 Fav/CS	Fav/CS Yeas 18 Nays 0
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With subcommittee recommendation – Health and Human Services

A proposed committee substitute for the following bill (SB 1784) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 27, 2020, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
34	SB 1784 Gainer (Compare CS/H 901)	Vocational Rehabilitation Services; Revising information that the Division of Vocational Rehabilitation must include in its annual performance report to the Governor and the Legislature; requiring the division to provide preemployment transition services to certain eligible persons with disabilities; providing eligibility requirements for the provision of preemployment transition services; revising the composition of the Florida Rehabilitation Council, etc. ED 02/03/2020 Favorable AED 02/13/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 16 Nays 0
With subcommittee recommendation - Education			

A proposed committee substitute for the following bill (SB 7012) is available:

35	SB 7012 Children, Families, and Elder Affairs (Compare CS/H 577, H 939, CS/CS/H 1081, S 704, S 706, S 920)	Mental Health; Providing additional duties for the Statewide Office for Suicide Prevention; requiring the Department of Transportation to work with the office in developing a plan relating to evidence-based suicide deterrents in certain locations; requiring that certain information be provided to the guardian or representative of a minor patient released from involuntary examination; requiring specified persons to complete certain suicide prevention education courses by a specified date; providing that persons providing certain emergency care are not liable for civil damages or penalties under certain circumstances, etc. AHS 02/13/2020 Fav/CS AP 02/20/2020 Temporarily Postponed AP 02/27/2020 Fav/CS	Fav/CS Yeas 18 Nays 0
With subcommittee recommendation – Health and Human Services			

A proposed committee substitute for the following bill (SB 7018) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 27, 2020, 9:00 a.m.—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
36	SB 7018 Infrastructure and Security (Identical H 1239, Compare H 943, H 7099, S 452)	Electric Vehicle Charging Station Infrastructure; Requiring the Public Service Commission, in consultation with the Department of Transportation and the Office of Energy within the Department of Agriculture and Consumer Services, to develop and recommend, by a specified date, to the Governor, the President of the Senate, and the Speaker of the House of Representatives a plan for the development of electric vehicle charging station infrastructure along the State Highway System; requiring the plan to include recommendations for legislation; authorizing the plan to include other recommendations as determined by the commission, etc. AEG 02/13/2020 Fav/CS AP 02/27/2020 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation - Agriculture, Environment, and General Government			
37	SB 7046 Governmental Oversight and Accountability	State Group Insurance Program; Authorizing persons eligible to participate in the program to elect membership with certain health maintenance organization plans; requiring at least one health maintenance organization plan be made available to each enrollee residing in the state; prohibiting specified fraudulent acts in connection with the program, including the submission of fraudulent insurance claims, making false statements in claims, and the acceptance of certain payments; requiring the Division of State Group Insurance to establish an anti- fraud unit for certain purposes by a specified date, etc. AP 02/27/2020 Favorable	Favorable Yeas 19 Nays 0
38	SB 7058 Finance and Tax (Similar H 7095)	Internal Revenue Code; Adopting the 2020 version of the Internal Revenue Code for purposes of the state corporate income tax code; providing for retroactive operation, etc. AP 02/27/2020 Favorable	Favorable Yeas 18 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 Committee on Appropriations

BILL: PCS/CS/SB 70 (108536)

INTRODUCER: Appropriation Committee (Recommended by Appropriations Subcommittee on Education); Infrastructure and Security Committee; and Senators Book, Berman, Stewart, and others

SUBJECT: Alert Systems in Public Schools

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Proctor	Miller	IS	Fav/CS
2. Underhill	Elwell	AED	Recommend: Fav/CS
3. Underhill	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 70 creates “Alyssa’s Law.”

The bill modifies statute to:

- Require each public school, beginning with the 2021-2022 school year, to implement an interoperable mobile panic alert system, known as “Alyssa’s Alert”, capable of connecting diverse emergency services technologies to ensure real-time coordination between multiple first responders.
- For the 2020-2021 fiscal year, subject to legislative appropriation, require the Department of Education, in consultation with the Marjory Stoneman Douglas High School Public Safety Commission and the Florida Department of Law Enforcement, to develop a competitive solicitation for a statewide mobile panic alert system.

The bill may have a significant, negative fiscal impact to school districts.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Alyssa Alhadeff

Alyssa Alhadeff, a former student at Marjory Stoneman Douglas High School in Parkland, Florida, was among the 17 killed during a school shooting in February 2018.¹

School Shootings

There have been over 234 shootings at primary and secondary schools since the shooting at Columbine High in April 1999, resulting in the loss of 144 lives.² In 2018 alone, there were 25 shootings - the highest number during any year since at least 1999, and a Washington Post database of school shootings indicates that over 236,000 students have been exposed to gun violence.³

Life-Threatening Emergencies

Florida law requires district school boards to provide for the health, safety, and welfare of students at school. School districts must establish model emergency management and preparedness procedures that include notification procedures for life-threatening emergencies. The procedures must include commonly used alarm system responses for specific emergencies. Life-threatening emergencies are defined as weapon-use; hostage and active shooter situations; hazardous materials or toxic chemical spills; severe weather (hurricanes, tornadoes, and severe storms); and exposure as a result of a manmade emergency.⁴

9-1-1 Wireless Calls

Although wireless phones can be an important public safety tool, they also create unique challenges for emergency response personnel. Because wireless phones are not associated with one fixed physical location, authorities will not know the nature of the threat or the exact location unless the 9-1-1 caller is able to stay on the call and relay that information. Due to this limitation, police and paramedics may not know how many personnel should respond, where to set up a safe location or rally point, where to relocate students (in the case of a school shooting incident), and where an active shooter may be located.

Marjory Stoneman Douglas High School Public Safety Commission

The Marjory Stoneman Douglas High School Public Safety Commission is entrusted with investigating system failures in the Marjory Stoneman Douglas High School shooting and prior

¹ Marjory Stoneman Douglas High School Public Safety Commission, *Second Report* (November 1, 2019), available at <http://www.fdle.state.fl.us/MSDHS/MSD-Report-2-Public-Version.pdf> (last visited December 27, 2019).

² Maya Rossin-Slater ET AL.(2019), Local Exposure to School Shootings and Youth Antidepressant Use (Working Paper 26563), available at <http://www.nber.org/papers/w26563> (last visited December 27, 2019).

³ John Woodrow Cox ET AL., *More than 236,000 students have experienced gun violence at school since Columbine*, available at <https://www.washingtonpost.com/graphics/2018/local/school-shootings-database/> (last visited December 27, 2019).

⁴ See ss. 1006.07(4)(a) and (b), F.S.

mass violence incidents, and developing recommendations for system improvements.⁵ The commission submitted its initial report to the Governor and the Legislature on January 2, 2019, and its second report to the Governor and Legislature on November 1, 2019.⁶ The commission is authorized to issue a report annually, by January 1, and is scheduled to sunset July 1, 2023.⁷

The commission's second report includes school safety and security recommendations, which includes language directing that, "some emergency drills should require movement and exercise all necessary aspects of the drill and emergency operations plan, including panic buttons ...", and "the timeliest way to communicate an on-campus emergency is direct reporting from a school staff member to everyone on campus and the 911 center simultaneously."⁸

Panic Buttons

The U.S. Department of Homeland Security has identified a variety of technologies school districts can use to enhance school safety, including mass notification systems such as panic alarms.⁹ Panic buttons can be set up at a school and monitored by the school administration, local law enforcement. They can be hard wired, wireless, or application-based devices that send a signal notifying first responders of a school security emergency.¹⁰

Some mobile phone applications, "act as panic buttons, which a teacher can press to send an alert to the phone of police officers within a certain radius of a school." Other mobile phone applications focus on locking down or activating other protective measures such as locking doors, deploying smoke cannons, activating strobe lights, and monitoring closed-circuit video.¹¹

III. Effect of Proposed Changes:

The bill names the act "Alyssa's Law."

The bill modifies s. 1006.07, F.S., to:

- Require each public school, beginning with the 2021-2022 school year, to implement an interoperable mobile panic alert system, known as "Alyssa's Alert", capable of connecting diverse emergency services technologies to ensure real-time coordination between multiple first responders.
- For the 2020-2021 fiscal year, subject to legislative appropriation, require the Department of Education, in consultation with the Marjory Stoneman Douglas High School Public Safety Commission and the Florida Department of Law Enforcement, to develop a competitive solicitation for a statewide mobile panic alert system.

⁵ Section 943.687(3), F.S.

⁶ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf> (last visited December 27, 2019).

⁷ Section 943.687(9), F.S.

⁸ *Supra*, note 2.

⁹ U.S. Department of Homeland Security, *K-12 School Security: A Guide for Preventing and Protecting Against Gun Violence* (2nd Edition: 2018), available at <https://www.cisa.gov/publication/k-12-school-security-guide>.

¹⁰ SECURAlert, *Security Systems for Schools*, <https://www.securalert.net/blog/duress-system/security-systems-for-schools/> (last visited January 17, 2020).

¹¹ U.S. Department of Homeland Security, *supra* note 17.

The bill has an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Panic alert systems for a public school would be sold by private sector vendors, and would therefore have a positive impact on vendors selling a panic alert system.

C. Government Sector Impact:

The bill requires each public school to implement a mobile panic alert system. The extent to which mobile panic alert systems are currently implemented in public and charter school buildings is unknown. The bill may have a significant, negative fiscal impact to school districts.

For the 2020-2021 fiscal year, the competitive solicitation conducted by the department in consultation with the Marjory Stoneman Douglas High School Public Safety Commission and the Florida Department of Law Enforcement is predicated on a legislative appropriation for the system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1006.07 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 Appropriation Subcommittee on Education on February 25, 2020:

The committee substitute makes the following changes to the bill:

- Requires each public school, beginning with the 2021-2022 school year, to implement an interoperable mobile panic alert system, known as “Alyssa’s Alert”, capable of connecting diverse emergency services technologies to ensure real-time coordination between multiple first responders.
- Requires the Department of Education, in consultation with the Marjory Stoneman Douglas High School Public Safety Commission and the Florida Department of Law Enforcement, to develop a competitive solicitation for a statewide mobile panic alert system.

CS by Infrastructure and Security on January 13, 2020:

- Modified the definition of “panic alarm system” to remove the portion stating the security system signal be silent;
- Adds the panic alarm system must be accessible to administrators, teachers, staff, and other designated personnel;
- Expands installation locations from just buildings to all locations on the school grounds;
- Provides the panic alarm system must provide permanently installed alert indicators located at indoor and outdoor locations; and
- Adds that the panic alarm system must be directly linked to the main office at the school, in addition to local law enforcement agencies that are designated as first responders to the school’s campus, and the system must immediately transmit a signal or message to those authorities upon activation.

B. Amendments:

None.



108536

576-04128-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to alert systems in public schools;
providing a short title; amending s. 1006.07, F.S.;
requiring each public school to implement an
interoperable mobile panic alert system for specified
purposes beginning in a specified school year;
providing requirements for such system; requiring the
Department of Education to issue a competitive
solicitation to contract for an interoperable mobile
panic alert system for all public schools statewide,
subject to appropriation; requiring the department to
consult with the Marjory Stoneman Douglas High School
Public Safety Commission and the Department of Law
Enforcement in the development of the competitive
solicitation; providing an effective date.

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

Section 1. This act may be cited as "Alyssa's Law."

Section 2. Present paragraph (c) of subsection (4) of
section 1006.07, Florida Statutes, is redesignated as paragraph
(f), and a new paragraph (c) and paragraphs (d) and (e) are
added to that subsection, to read:

1006.07 District school board duties relating to student
discipline and school safety.—The district school board shall
provide for the proper accounting for all students, for the
attendance and control of students at school, and for proper



108536

576-04128-20

attention to health, safety, and other matters relating to the
welfare of students, including:

(4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

(c) Beginning with the 2021-2022 school year, each public
school, including charter schools, shall implement an
interoperable mobile panic alert system capable of connecting
diverse emergency services technologies to ensure real-time
coordination between multiple first responders. Such system,
known as "Alyssa's Alert," must integrate with local public
safety answering point infrastructure to transmit 911 calls and
mobile device application activations.

(d) In addition to the requirements of paragraph (c), a
public school district may implement additional strategies or
systems to ensure real-time coordination between multiple first
responders in a school security emergency.

(e) For the 2020-2021 fiscal year, subject to the
appropriation of funds in the General Appropriations Act for
this purpose, the department shall issue a competitive
solicitation to contract for a mobile panic alert system for all
public schools statewide as provided in paragraph (c). The
department shall consult with the Marjory Stoneman Douglas High
School Public Safety Commission and the Department of Law
Enforcement in the development of the competitive solicitation
for the statewide mobile panic alert system.

Section 3. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 70

INTRODUCER: Appropriation Committee (Recommended by Appropriations Subcommittee on Education); Infrastructure and Security Committee; and Senators Book, Berman, Stewart, and others

SUBJECT: Alert Systems in Public Schools

DATE: February 28, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Proctor	Miller	IS	Fav/CS
2. Underhill	Elwell	AED	Recommend: Fav/CS
3. Underhill	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 70 creates “Alyssa’s Law.”

The bill modifies statute to:

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The bill may have a significant, negative fiscal impact to school districts.

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Alyssa Alhadeff, a former student at Marjory Stoneman Douglas High School in Parkland, Florida, was among the 17 killed during a school shooting in February 2018.¹

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² Maya Rossin-Slater ET AL.(2019), Local Exposure to School Shootings and Youth Antidepressant Use (Working Paper 26563), available at <http://www.nber.org/papers/w26563> (last visited December 27, 2019).

³ John Woodrow Cox ET AL., *More than 236,000 students have experienced gun violence at school since Columbine*, available at <https://www.washingtonpost.com/graphics/2018/local/school-shootings-database/> (last visited December 27, 2019).

⁴ See ss. 1006.07(4)(a) and (b), F.S.

mass violence incidents, and developing recommendations for system improvements.⁵ The commission submitted its initial report to the Governor and the Legislature on January 2, 2019, and its second report to the Governor and Legislature on November 1, 2019.⁶ The commission is authorized to issue a report annually, by January 1, and is scheduled to sunset July 1, 2023.⁷

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III. Effect of Proposed Changes:

The bill names the act "Alyssa's Law."

The bill modifies s. 1006.07, F.S., to:

- Require each public school, beginning with the 2021-2022 school year, to implement an interoperable mobile panic alert system, known as "Alyssa's Alert", capable of connecting diverse emergency services technologies to ensure real-time coordination between multiple first responders.
- For the 2020-2021 fiscal year, subject to legislative appropriation, require the Department of Education, in consultation with the Marjory Stoneman Douglas High School Public Safety Commission and the Florida Department of Law Enforcement, to develop a competitive solicitation for a statewide mobile panic alert system.

⁵ Section 943.687(3), F.S.

⁶ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), available at <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf> (last visited December 27, 2019).

⁷ Section 943.687(9), F.S.

⁸ *Supra*, note 2.

⁹ U.S. Department of Homeland Security, *K-12 School Security: A Guide for Preventing and Protecting Against Gun Violence* (2nd Edition: 2018), available at <https://www.cisa.gov/publication/k-12-school-security-guide>.

¹⁰ SECURAlert, *Security Systems for Schools*, <https://www.securalert.net/blog/duress-system/security-systems-for-schools/> (last visited January 17, 2020).

¹¹ U.S. Department of Homeland Security, *supra* note 17.

The bill has an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Panic alert systems for a public school would be sold by private sector vendors, and would therefore have a positive impact on vendors selling a panic alert system.

C. Government Sector Impact:

The bill requires each public school to implement a mobile panic alert system. The extent to which mobile panic alert systems are currently implemented in public and charter school buildings is unknown. The bill may have a significant, negative fiscal impact to school districts.

For the 2020-2021 fiscal year, the competitive solicitation conducted by the department in consultation with the Marjory Stoneman Douglas High School Public Safety Commission and the Florida Department of Law Enforcement is predicated on a legislative appropriation for the system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1006.07 of the Florida Statutes.

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

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute makes the following changes to the bill:

- Requires each public school, beginning with the 2021-2022 school year, to implement an interoperable mobile panic alert system, known as “Alyssa’s Alert”, capable of connecting diverse emergency services technologies to ensure real-time coordination between multiple first responders.
- Requires the Department of Education, in consultation with the Marjory Stoneman Douglas High School Public Safety Commission and the Florida Department of Law Enforcement, to develop a competitive solicitation for a statewide mobile panic alert system.

CS by Infrastructure and Security on January 13, 2020:

- Modified the definition of “panic alarm system” to remove the portion stating the security system signal be silent;
- Adds the panic alarm system must be accessible to administrators, teachers, staff, and other designated personnel;
- Expands installation locations from just buildings to all locations on the school grounds;
- Provides the panic alarm system must provide permanently installed alert indicators located at indoor and outdoor locations; and
- Adds that the panic alarm system must be directly linked to the main office at the school, in addition to local law enforcement agencies that are designated as first responders to the school’s campus, and the system must immediately transmit a signal or message to those authorities upon activation.

B. Amendments:

None.

By the Committee on Infrastructure and Security; and Senators
Book and Berman

596-02230-20

202070c1

A bill to be entitled

An act relating to panic alarms in public schools;
providing a short title; creating s. 1013.373, F.S.;
defining terms; requiring each public school to be
equipped with a panic alarm system; providing
requirements for such systems; providing an effective
date.

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

Section 1. This act may be cited as "Alyssa's Law."

Section 2. Section 1013.373, Florida Statutes, is created
to read:

1013.373 Panic alarms in public schools.—

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

(a) "Panic alarm system" means a security system signal
generated by the manual activation of a device or an alternative
mechanism intended to communicate a life-threatening or
emergency situation that requires a response from law
enforcement.

(b) "Public school building" includes all buildings on a
public elementary, middle, or high school campus where
instruction takes place or where students are present during the
school day.

(2) Each public school must be equipped with a panic alarm
system for use in a school security emergency, including, but
not limited to, a non-fire evacuation, a lockdown, or an active
shooter situation. The panic alarm system must be accessible to
administrators, teachers, staff, and other designated personnel

Page 1 of 2

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

596-02230-20

202070c1

at all locations on the school grounds. The panic alarm system
must provide permanently installed alert indicators located at
indoor and outdoor locations. The panic alarm system must be
directly linked to the main office at the school and to local
law enforcement agencies that are designated as first responders
to the school's campus, and the system must immediately transmit
a signal or message to those authorities upon activation.

Section 3. This act shall take effect July 1, 2020.

Page 2 of 2

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

70

Bill Number (if applicable)

Topic Panic Alarms in Public Schools

Amendment Barcode (if applicable)

Name Eric Stern

Job Title Leg Comm Member

Address 1747 Orlando Central Pkwy

Phone 800-373-2752

Street

Orlando

City

FL

State

32809

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-20

Meeting Date

70

Bill Number (if applicable)

Topic PANIC ALARMS FOR Public schools

Amendment Barcode (if applicable)

Name Wayne "Bernie" Bernoska

Job Title President

Address 343 W. MADISON ST
Street

Phone 321-231-9116

Tallahassee
City

FL
State

32301
Zip

Email Bernie @ FPFP.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA PROFESSIONAL FIRE FIGHTERS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

SB 70

Bill Number (if applicable)

Topic PANIC ALARM

Amendment Barcode (if applicable)

Name MICK McHALE

Job Title LOBBYIST

Address 300 E BREUARD STREET

Phone 800-733-3722

Street

Tallahassee

City

FL

State

32301

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA POLICE BENEVOLENT ASSOC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27

Meeting Date

70

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Andrew Goren

Job Title Volunteer

Address _____
Street

Phone 850-559-2403

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Make our schools safe

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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2-27-2020

Meeting Date

SB 70

Bill Number (if applicable)

Topic PANIC ALARM

Amendment Barcode (if applicable)

Name TONY HUNTER

Job Title SENIOR VICE PRESIDENT

Address 2125 BALLANT BLDG.

Phone _____

Street

KENNESAW, GA 30144

Email _____

City

State

Zip

Speaking: ☒ For ☐ Against ☒ Information

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

Representing ALERTPOINT SECURITY

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020
Meeting Date

70
Bill Number (if applicable)

Topic ALYSSA'S ALERT

Amendment Barcode (if applicable)

Name Jeffrey Kelly

Job Title SENIOR SOLUTION ARCHITECT

Address 11634 Briarwood Circle #3

Phone 401-9654832

Street

BOYNTON BEACH FL 33437

City

State

Zip

Email JKelly@mutualink.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Mutualink

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/27/20

Meeting Date

70

Bill Number (if applicable)

Topic Panic Alarms

Amendment Barcode (if applicable)

Name Scott Jenkins

Job Title Senior Go!t Consultant

Address 250 S. Monroe St. Ste. 500

Phone 850 661 0829

Street

TLH

FL

32301

City

State

Zip

Email sjenkins@carlton-fields.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing School Check IN

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/27/20
Meeting Date

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

SB70
Bill Number (if applicable)

Topic Alyssa's Alert - Panic Buttons

Amendment Barcode (if applicable)

Name Lori Alhadeff

Job Title School Board Member

Address 8675 Watercrest Circle West Phone 609-335-8226

Parkland FL 33076 Email playforalyssa@gmail.com
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: PCS/CS/SB 78 (945272)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Infrastructure and Security Committee; and Senator Broxson

SUBJECT: Transportation-related Facility Designations

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Miller	IS	Fav/CS
2. McAuliffe	Hrdlicka	ATD	Recommend: Fav/CS
3. McAuliffe	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 78 creates the following road and bridge designations:

- The Pensacola Bay Bridge between 17th Avenue in Escambia County and Baybridge Drive in Santa Rosa County as the “General Daniel ‘Chappie’ James, Jr., Bridge.”
- The portion of Bloxham Cutoff Road/S.R. 267 between U.S. 98 in Wakulla County and S.R. 20 in Leon County as the “J.D. Turner Highway.”
- Bridge Numbers 880050, 880051, 880052, and 880053 on S.R. 510 between Wabasso and Wabasso Beach in Indian River County as the “A.B. Michael Bridges.”
- The portion of W. Kennedy Boulevard between Lois Avenue and Dale Mabry Highway in Hillsborough County as the “Master Police Officer Lois Marrero Memorial Highway.”
- The portion of E. Laurel Street between N. Orange Avenue and N. Morgan Street in Hillsborough County as the “Officer James Ronco Memorial Highway.”
- Bridge number 930361 on S.R. A1A/Jack Nicklaus Driver in Palm Beach County as the “Gold Star Family Memorial Bridge, dedicated to Army Captain Joseph M. Berkson.”
- The portion of S.R. 408/Spessard L. Holland East-West Expressway between S. Crystal Lake Drive and S. Semoran Boulevard in Orange County as the “Sergeant Tracy Vickers Memorial Expressway.”
- The portion of S.R. 438 between Winters Landing Drive and Clarke Road in Orange County as the “Julius ‘July’ Perry Memorial Highway.”

- The portion of I-95 between the Florida state line in Nassau County and S.W. 32nd Road in Miami-Dade County as the “Purple Heart Memorial Highway.”
- The portion of U.S. 98 between C.R. 386 and Pine Street in Gulf County as the “Willis V. Rowan Memorial Highway.”
- The portion of U.S. 98 between Pine Street and C.R. 382/Industrial Road in Gulf County as the “John C. Gainous Memorial Highway.”
- The portion of I-10 between U.S. 29/S.R. 95 and S.R. 291 in Escambia County as the “Deputy Donald Ray Cook Memorial Highway.”
- The portion of I-95 between mile markers 105 and 110 in Martin County as the “Trooper Joseph Bullock Memorial Highway.”
- The portion of S.R. 281 between U.S. 90 and U.S. 98 in Santa Rosa County as the “Bart D. and John R. Broxson Parkway.”
- The portion of U.S. 90/Beaver Street between Chaffee Road and U.S. 301 in Duval County as the “John B. Coxwell Memorial Highway.”
- The portion of U.S. 41/S.W. 8th Street between S.W. 82nd Avenue and S.R. 973/87th Avenue in Miami-Dade County as the “Manuel H. ‘Manny’ Piedra Memorial Highway.”
- The portion of U.S. 441 between Deep Creek Bridge and C.R. 6 in Columbia County as the “Austin D. Gay Memorial Highway.”
- That portion of I-10 between the Suwannee County line and mile marker 275 in Suwannee County as the “Wesley L. Silas Memorial Highway.”
- That portion of U.S. 19 between Luther Wilson Road and the Econfinia River Bridge in Taylor County as the “Joshua S. Montaad Memorial Highway.”
- That portion of the S.R. 90/S.W. 8th Street between S.W. 12th Avenue and S.W. 14th Avenue in Miami-Dade County as the “Rosa Maria Plasencia Way.”

The bill directs the Florida Department of Transportation (FDOT) to erect suitable markers.

The bill designates the Florida Highway Patrol station located at 2929 N. 25th Street in Fort Pierce as the “Trooper Joseph Bullock Building” and directs the Department of Highway Safety and Motor Vehicles to erect suitable markers.

The estimated cost to the FDOT to install the designation markers required under this bill is \$35,000, which the FDOT is expected to absorb within existing resources. The cost to the Department of Highway Safety and Motor Vehicles to install the designation markers required under the bill is expected to be minimal and absorbed within existing resources.

The bill takes effect July 1, 2020.

II. Present Situation:

Section 334.071, F.S., provides that legislative designations of transportation facilities are for honorary or memorial purposes or to distinguish a particular facility. Such designations are not to be construed as requiring any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes.¹

¹ Section 334.071(1), F.S.

When the Legislature establishes road or bridge designations, the FDOT is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation and to erect any other markers it deems appropriate for the transportation facility.²

The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or county, each affected local government must pass resolutions supporting the designations before installation of the markers.³

General Daniel “Chappie” James, Jr.

General Daniel ‘Chappie’ James, Jr., was born in 1920 in Pensacola, Florida, near the Pensacola Naval Air Station, where he developed the desire to fly. He attended the Tuskegee Institute in Alabama in 1937, making a name for himself as an athlete and campus leader. In July of 1943, he earned his commission as a Second Lieutenant and became one of the famed Tuskegee Airmen. He received the Distinguished Flying Cross for valor in 1949 for his rescue of a fellow pilot after experiencing a flame-out 50 feet above the ground and crashing. He flew 101 combat missions during the Korean War. Rising rapidly in rank, he attained Major in 1952 and Lieutenant Colonel in 1956.

In June of 1967, Colonel James became Vice Wing Commander of the Eighth Tactical Fighter Wing in Thailand, flying 78 combat missions over North Vietnam; and in 1969, he assumed command of Wheelus Air Force Base in Libya, following Muammar Khadafy’s coup. President Nixon nominated him for Brigadier General in 1970. He then served as Deputy Assistant Secretary of Defense, Public Affairs, and later as Principal Deputy Assistant Secretary of Defense, Public Affairs, in 1973. In August of 1975, he was assigned as Commander in Chief, North American Air Defense Command, at which time he was promoted to the rank of Four-Star General. Aside from his aerial skills, General James was recognized for his ethics of achievement, hard work, and self-reliance. General James passed away on February 25th, 1978.⁴

J.D. Turner

J.D. Turner lived in Wakulla County from 1948 until his death in 1995. He served honorably in World War II, earning numerous campaign medals, and was a strong advocate of veterans, serving as Commander of the Wakulla VFW and of the local American Legion Post. Mr. Turner was involved in numerous civic and community service organizations, including as President of the Chamber of Commerce, Chairman of the Local American Red Cross Civil Defense, Member of the Wakulla Senior Citizens Council Board of Directors, and founding board member of Keep Wakulla Beautiful. Mr. Turner also served for 23 years as a Florida Highway Patrol Auxiliary Officer, for 20 years as a Wakulla County Commissioner, and strongly supported Wakulla

² Section 334.071(2), F.S.

³ Section 334.071(3), F.S.

⁴ National Aviation Hall of Fame, *James Jr., Daniel “Chappie”* available at <https://www.nationalaviation.org/our-enshrinees/james-jr-daniel/> (last visited Feb. 12, 2020).

County youth. Mr. Turner was instrumental in seeking legislative support for the construction of State Road 267 from U.S. 98 in Wakulla County to S.R. 20 in Leon County.⁵

A.B. Michael

A.B. Michael moved to the Indian River region in 1886 and was a strong proponent of Indian River Citrus, having started his own citrus grove on Orchid Isle in 1902. He later became manager and president of Deerfield Groves in 1917, helped manage American Fruit Growers from 1919 to 1946, assisted in forming the Indian River Citrus League in the 1930's, and served on the Florida Citrus Commission from 1945 to 1949. Due to his achievements and dedication to the industry, Florida Citrus Mutual refers to A.B. Michael as the "Dean of the Florida Citrus Industry."⁶

Master Police Officer Lois Marrero

A 18-year veteran of the Tampa Police Department and the first department female officer killed in the line of duty, Officer Lois Marrero was gunned down by a fleeing bank robbery suspect. On July 6, 2001, Officer Marrero was on foot checking an apartment complex for the suspect when he opened fire, mortally wounding her. The suspect fled into a nearby apartment, took hostages, and then committed suicide several hours later during a standoff. An accomplice to the robbery was sentenced to life in prison on June 23, 2003.⁷

Officer James Ronco

The son of Italian immigrants, Officer James Ronco on May 27, 1916, arrested a female prisoner after she escaped from the police station. While he was transporting her to jail, the prisoner, later determined to be under the influence of heroin and cocaine, grabbed Officer Ronco's gun and shot him once. Officer Ronco regained control of his weapon and fired three shots, killing the prisoner, before he died.⁸

Captain Joseph M. Berkson

Army Captain Joseph M. Berkson, of Chicago, Illinois, was aboard a helicopter charged with a mission near Quang Tri City in Vietnam. When the helicopter was shot down, it was in the midst of North Vietnamese Army forces and it was not possible to recover the crewmen, who were classed as Missing in Action. Seven weeks later, on July 20, 1972, friendly forces were able to

⁵ Resolution of the Wakulla County Board of County Commissioners in support of the designation, approved Aug. 19, 2019 (on file in the Senate Infrastructure and Security Committee).

⁶ Florida Citrus Hall of Fame, *A.B. Michael (1877-1964)* available at <https://floridacitrushalloffame.com/inductees/a-b-michael/> (last visited Feb. 13, 2020).

⁷ Officer Down Memorial Page, *Officer Lois Marie Marrero* available at <https://www.odmp.org/officer/15726-officer-lois-marie-marrero> (last visited Feb. 12, 2020).

⁸ City of Tampa, *Fallen Officer – James Ronco* available at <https://www.tampagov.net/police/info/honoring-our-heroes/james-ronco> and Officer Down Memorial Page, *Police Officer James Ronco* available at <https://www.odmp.org/officer/11486-police-officer-james-ronco> (both last visited Feb. 12, 2020).

reach the wreckage and recover the remains. However, it was not until May 22, 1973, that it could be confirmed that all five men aboard had died in the crash.⁹

Gold Star families are immediate relatives of U.S. Armed Forces members who died in battle or in support of certain military activities. These relatives can be parents, sons, daughters, brothers, sisters or other loved ones.^{10, 11}

Sergeant Tracy Vickers

Trooper Vickers served the citizens of Florida with the Florida Highway Patrol for more than four years. He was in the 131st recruit class in Tallahassee, from March 23, 2015, to September 30, 2015. He was also a veteran of the U.S. Navy. Trooper Vickers died in the line of duty as a result of a crash on Friday, September 27, 2019, when his patrol car struck a construction truck in Orange County. At the time of his death, he was 31.¹²

Julius “July” Perry

In 1920, Mr. Perry and another man of African-American descent, Mose Norman, attempted to vote in the November elections in Ocoee but were denied the right. A riot ensued, and lives, homes, and businesses were lost. Mr. Perry was captured and brought to Orlando by Orange County deputy sheriffs, where he was jailed. A mob later took him out of the jail and hung him. His body was buried in Greenwood Cemetery in an unmarked grave. The position of his grave was remembered through the years and, in the fall of 2002, a marker was finally placed on his grave site.¹³

Purple Heart Memorial Highway

The Purple Heart is awarded to members of the U.S. Armed Forces who are injured and killed in combat, through an act of terrorism or by friendly fire. An estimated 1.8 million Purple Hearts have been awarded to U.S. troops. It is the nation’s oldest military award.¹⁴

Willis V. Rowan

Born in Florida, Willis V. Rowan served in World War II as a 2nd Lieutenant in the Army Air Force. He was shipped out to England in 1943 as part of the Eighth Bomber Command and was killed in action during a mission over Germany. At the time of his death, on October 14, 1943,

⁹ Find a Grave, *Captain Joseph Michael ‘Joey’ Berkson*, available at <https://www.findagrave.com/memorial/92443412/joseph-michael-berkson> (last visited Feb. 12, 2020).

¹⁰ Army.mil, *Gold Star Survivors* available at <https://www.army.mil/goldstar/> (last visited Feb. 12, 2020).

¹¹ Palm Beach Daily News, *Memorial would honor families of fallen soldiers*, Aug. 16, 2019, available at <https://www.palmbeachdailynews.com/news/20190816/memorial-would-honor-families-of-fallen-soldiers> (last visited Feb. 12, 2020).

¹² Department of Highway Safety and Motor Vehicles, *FHP Memorial: Tracy Vickers* available at <https://www.flhsmv.gov/florida-highway-patrol/fhp-memorial/tracy-vickers/> (last visited Feb. 12, 2020).

¹³ Find a Grave, *July Perry* available at <https://www.findagrave.com/memorial/10917526/july-perry> (last visited on Feb. 12, 2020).

¹⁴ Military.com, *The Purple Heart* available at <https://www.military.com/history/military-heroes/purple-heart> (last visited on Feb. 12, 2020).

he was 25 years old. The American Legion Post in Port St. Joe, Florida, is named in honor of him.¹⁵

John C. Gainous

John C. Gainous grew up in Port St. Joe and Highland View. He served as a Private First Class in the U.S. Army and was killed in action in Vietnam. The Veterans of Foreign Wars Post 10069 in Highland View is named in his memory. At the time of his death, on May 18, 1967, he was 20 years old.¹⁶

Deputy Donald Ray Cook

On December 3, 1988, off-duty Escambia County Deputy Sheriff Donald Cook learned of a high-speed law enforcement pursuit of armed robbery suspects coming into Escambia County from Santa Rosa County. Deputy Cook responded and set up a road block on I-10, where he exited his vehicle. As the pursuit continued toward the road block, Deputy Cook was struck by a vehicle and killed. He was a 5-year veteran of the Sheriff's Office.¹⁷

Trooper Joseph Bullock

Trooper Bullock served the citizens of Florida with the Florida Highway Patrol nearly 19 years, assigned to Troop L, Fort Pierce, for his entire career. He was also a veteran of the U.S. Air Force, serving as a senior airman. Trooper Bullock died in the line of duty while attempting to assist an apparently disabled vehicle on February 5, 2020, in Martin County when one of the occupants of the vehicle shot and killed him.¹⁸

Bart D. Broxson

Bart D. Broxson had served as the Santa Rosa County Sheriff for three years when, on December 24, 1959, his patrol car was struck head-on by a reckless driver on State Road 87 near Holley. Sheriff Broxson was 57 at the time of his death and was survived by his wife and 11 children.¹⁹

¹⁵ Find A Grave, *Willis V Rowan* available at <https://www.findagrave.com/memorial/99877556/willis-v-rowan>; Herald and Review, *World War II pilot's possession end up with family*, Mar. 16, 2015, available at https://herald-review.com/news/local/world-war-ii-pilot-s-possession-end-up-with-family/article_81c2f8fd-f9d4-5ecb-921e-175a8c3c6744.html; and see Gulf County Chamber of Commerce, *American Legion Post 116 Willis V. Ronan* available at <http://business.gulfchamber.org/list/member/american-legion-post-116-willis-v-rowan-5> (all last visited Feb. 12, 2020).

¹⁶ Find A Grave, *John C. Gainous* available at <https://www.findagrave.com/memorial/100183488/john-c-gainous> and Vietnam Veterans Memorial Fund, *The Wall of Faces: John Charles Gainous* available at <https://www.vvmf.org/Wall-of-Faces/17598/JOHN-C-GAINOUS/> (both last visited Feb. 12, 2020).

¹⁷ See NorthEscambia.com, *Escambia Commission Votes for Renaming Part of I-10 for Deputy Killed 30 Years Ago*, Feb. 7, 2020 available at <http://www.northescambia.com/2020/02/escambia-commission-votes-for-renaming-part-of-i-10-for-deputy-killed-30-years-ago> (last visited Feb. 12, 2020).

¹⁸ Department of Highway Safety and Motor Vehicles, *FHP, FLHSMV Mourn the Loss of Trooper Joseph Bullock*, Feb. 5, 2020, available at <https://www.flhsmv.gov/2020/02/05/fhp-flhsmv-mourn-the-loss-of-trooper-joseph-bullock/> and Military Times, *State Trooper, an Air Force veteran, killed assisting motorist in Florida*, Feb. 6, 2020, available at <https://www.militarytimes.com/news/your-military/2020/02/06/state-trooper-an-air-force-veteran-killed-assisting-motorist-in-florida/> (both last visited Feb. 12, 2020).

¹⁹ Officer Down Memorial Page, *Sheriff Bart Dell Broxson* available at <https://www.odmp.org/officer/24008-sheriff-bart-dell-broxson> (last visited Feb. 12, 2020).

John R. Broxson

John R. Broxson was the fifth oldest of Bart and Annie Rachel Broxson's 11 children. He served as the Santa Rosa County Sheriff following his father's death in 1959. He also served in the Florida House of Representatives from 1962-1964, in the Florida Senate from 1966 – 1972, and was elected as a Santa Rosa County Commissioner in 2004. Mr. Broxson passed away in 2019 at the age of 87.²⁰

John B. Coxwell

John B. Coxwell was a prominent Jacksonville business and civic leader and philanthropist. He was the Chairman of the Board of J.B. Coxwell Contracting, Inc.; served as the head of the Florida Transportation Builder's Association in 2004; and was one of the founders and supporters of Seamark Ranch, a home for abused or neglected children. Mr. Coxwell passed away on November 14, 2017, at the age of 78.²¹

Manuel H. "Manny" Piedra

Manuel H. "Manny" Piedra was the founder and former owner of Manny's Formal Wear. Piedra served in the Army under the Cuban Volunteer Training Program in 1962, training in Ft. Jackson, South Carolina, and Ft. Knox, Kentucky. Piedra was an active member of the Big Five Club and a parishioner at St. Augustine Church in Coral Gables. He passed away at the age of 78.²²

Austin D. Gay

Inspector Austin Gay was shot and killed after being abducted from his inspection station on U.S. 441 south of the Florida - Georgia border April 14, 1979. Inspector Gay had served with the Florida Department of Agriculture and Consumer Services as a road guard inspector for 14 years.²³

Wesley L. Silas

Officer Wesley Silas was killed March 1, 1994, after being struck by a tractor trailer at the Florida Department of Agriculture and Consumer Services inspection station on I-10 near Live Oak, Florida.²⁴

²⁰ Pensacola News Journal, *Longtime Santa Rosa figure, former legislator John Broxson, dies at age 87*, Dec. 10, 2019, available at <https://www.pnj.com/story/news/2019/12/10/longtime-santa-rosa-county-politician-john-broxson-dies-age-87/4380817002/> (last visited Feb. 12, 2020).

²¹ Legacy.com, *John Benjamin Coxwell* available at <https://www.legacy.com/obituaries/timesunion/obituary.aspx?pid=187260817> (last visited Feb. 12, 2020).

²² Legacy.com, *Manuel H. Piedra* available at <https://www.legacy.com/obituaries/herald/obituary.aspx?n=manuel-h-piedra&pid=191302474> (Last visited Feb. 18, 2020).

²³ Officer Down Memorial Page, *Inspector Austin Dewey Gay* available at <https://www.odmp.org/officer/20615-inspector-austin-dewey-gay> (last visited Feb. 18, 2020).

²⁴ Officer Down Memorial Page, *Officer Wesley L. Silas* available <https://www.odmp.org/officer/986-officer-wesley-l-silas> (last visited Feb. 18, 2020).

Joshua S. Montaad

Officer Joshua Montaad was killed in a single vehicle crash on U.S. 19, near Burley Brannen Road, in Taylor County on June 6, 2017.²⁵ He had been an officer with the Florida Department of Agriculture and Consumer Services for two years and was 25 years old at the time of his death.

Rosa Maria Plasencia

Rosa Maria Plasencia, president and CEO of the nonprofit Amigos for Kids, died at age 59 after suffering a heart attack at Baptist Hospital, where family said she was being treated for chest pains. Though she had no children of her own, Plasencia is survived by the hundreds of children she has served through her work.²⁶

III. Effect of Proposed Changes:

The bill creates the following road and bridge designations:

- The Pensacola Bay Bridge between 17th Avenue in Escambia County and Baybridge Drive in Santa Rosa County as the “General Daniel ‘Chappie’ James, Jr., Bridge.”
- The portion of Bloxham Cutoff Road/S.R. 267 between U.S. 98 in Wakulla County and S.R. 20 in Leon County as the “J.D. Turner Highway.”
- Bridge Numbers 880050, 880051, 880052, and 880053 on S.R. 510 between Wabasso and Wabasso Beach in Indian River County as the “A.B. Michael Bridges.”
- The portion of W. Kennedy Boulevard between Lois Avenue and Dale Mabry Highway in Hillsborough County as the “Master Police Officer Lois Marrero Memorial Highway.”
- The portion of E. Laurel Street between N. Orange Avenue and N. Morgan Street in Hillsborough County as the “Officer James Ronco Memorial Highway.”
- Bridge number 930361 on S.R. A1A/Jack Nicklaus Driver in Palm Beach County as the “Gold Star Family Memorial Bridge, dedicated to Army Captain Joseph M. Berkson.”
- The portion of S.R. 408/Spessard L. Holland East-West Expressway between S. Crystal Lake Drive and S. Semoran Boulevard in Orange County as the “Sergeant Tracy Vickers Memorial Expressway.”
- The portion of S.R. 438 between Winters Landing Drive and Clarke Road in Orange County as the “Julius ‘July’ Perry Memorial Highway.”
- The portion of I-95 between the Florida state line in Nassau County and S.W. 32nd Road in Miami-Dade County as the “Purple Heart Memorial Highway.”
- The portion of U.S. 98 between C.R. 386 and Pine Street in Gulf County as the “Willis V. Rowan Memorial Highway.”
- The portion of U.S. 98 between Pine Street and C.R. 382/Industrial Road in Gulf County as the “John C. Gainous Memorial Highway.”

²⁵ Officer Down Memorial Page, *Officer Joshua Sanchez Montaad* available at <https://www.odmp.org/officer/23268-officer-joshua-sanchez-montaad> (last visited Feb. 18, 2020).

²⁶ Miami Herald, *‘Her mission must live on.’ Child advocate Rosa Maria Plasencia dies at 59*, October 10, 2018, available at <https://www.miamiherald.com/news/local/community/miami-dade/article219776885.html> (last visited Feb. 18, 2020).

- The portion of I-10 between U.S. 29/S.R. 95 and S.R. 291 in Escambia County as the “Deputy Donald Ray Cook Memorial Highway.”
- The portion of I-95 between mile markers 105 and 110 in Martin County as the “Trooper Joseph Bullock Memorial Highway.”
- The portion of S.R. 281 between U.S. 90 and U.S. 98 in Santa Rosa County as the “Bart D. and John R. Broxson Parkway.”
- The portion of U.S. 90/Beaver Street between Chaffee Road and U.S. 301 in Duval County as the “John B. Coxwell Memorial Highway.”
- The portion of U.S. 41/S.W. 8th Street between S.W. 82nd Avenue and S.R. 973/87th Avenue in Miami-Dade County as the “Manuel H. ‘Manny’ Piedra Memorial Highway.”
- The portion of U.S. 441 between Deep Creek Bridge and C.R. 6 in Columbia County as the “Austin D. Gay Memorial Highway.”
- That portion of I-10 between the Suwannee County line and mile marker 275 in Suwannee County as the “Wesley L. Silas Memorial Highway.”
- That portion of U.S. 19 between Luther Wilson Road and the Econfinia River Bridge in Taylor County as the “Joshua S. Montaad Memorial Highway.”
- That portion of the S.R. 90/S.W. 8th Street between S.W. 12th Avenue and S.W. 14th Avenue in Miami-Dade County as the “Rosa Maria Plasencia Way.”

The bill directs the FDOT to erect suitable markers for the described designation.

The bill designates the Florida Highway Patrol station located at 2929 N. 25th Street in Fort Pierce as the “Trooper Joseph Bullock Building” and directs the Department of Highway Safety and Motor Vehicles to erect suitable markers.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The estimated cost to erect the designation markers required under this bill is \$35,000, based on the assumption that a minimum of two markers are required at a cost to the FDOT of no less than \$500 each.²⁷ The estimate includes sign fabrication, installation, and maintenance over time but does not include any additional expenses related to maintenance of traffic, dedication event costs, or replacement necessitated by damage, vandalism, or storm events. The FDOT is expected to absorb the estimated cost within existing resources.

The cost to erect a designation at the Florida Highway Patrol station located at 2929 N. 25th Street in Fort Pierce is expected to be absorbed by the Department of Highway Safety and Motor Vehicles.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates undesignated sections of Florida law.

²⁷ However, given the length of the description for the “Purple Heart Memorial Highway,” the FDOT is expected to erect two signs (one in each direction) for the 12 counties traversed. *See* email to House Transportation & Infrastructure Subcommittee staff, October 29, 2019 (on file in the Senate Infrastructure and Security Committee). The 12 counties are Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Martin, Palm Beach, Broward, and Miami-Dade. Because four bridge structures are identified in the description for the “A.B. Michael Bridges,” the FDOT is expected to erect a total of eight signs, one for each bridge approach. *See* email to Senate Infrastructure and Security Committee staff, October 1, 2019 (on file in the Senate Infrastructure and Security Committee). Because a portion of State Road 438 in the “Julius ‘July’ Perry Memorial Highway” designation is co-designated with State Road 437/H.M. Bowness Road, the FDOT is expected to erect four signs. Telephone conversation with FDOT staff and Senate Infrastructure and Security Committee staff, February 10, 2020. The total number of signs for these 3 designations is 36; add to that 34 signs, two each for the remaining designations in the bill, for a grand total of 70 signs.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 18, 2020:

The committee substitute incorporates additional designations for:

- “Manuel H. ‘Manny’ Piedra Memorial Highway” in Miami-Dade County.
- “Austin D. Gay Memorial Highway” in Columbia County.
- “Wesley L. Silas Memorial Highway” in Suwannee County.
- “Joshua S. Montaad Memorial Highway” in Taylor County.
- “Rosa Maria Plasencia Way” in Miami-Dade County.
- “Trooper Josheph Bullock Building” at the Florida Highway Patrol station located at 2929 N. 25th Street in St. Lucie County.

CS by Infrastructure and Security on February 10, 2020:

The committee substitute incorporates additional designations for:

- “J.D. Turner Highway” in Leon County.
- “A.B. Michael Bridges” in Indian River County.
- “Master Police Officer Lois Marrero Memorial Highway” in Hillsborough County.
- “Officer James Ronco Memorial Highway” in Hillsborough County.
- “Gold Star Family Memorial Bridge, dedicated to Army Captain Joseph M. Berkson” in Palm Beach County.
- “Sergeant Tracy Vickers Memorial Expressway” in Orange County.
- “Julius ‘July’ Perry Memorial Highway” in Orange County.
- “Purple Heart Memorial Highway” in Miami-Dade County.
- “Willis V. Rowan Memorial Highway” in Gulf County.
- “Deputy Donald Ray Cook Memorial Highway” in Escambia County.
- “Trooper Joseph Bullock Memorial Highway” in Martin County.
- “Bart D. and John R. Broxson Parkway” in Santa Rosa County.
- “John B. Coxwell Memorial Highway” in Duval County.

- B. **Amendments:**

None.



145822

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment

Delete line 81
and insert:

(21) That portion of U.S. 129/S.R. 49 (31030000) between the Levy County line and the Suwannee County line in Gilchrist County is designated as the "Slaughter, Read, Ramirez, Lindsey Memorial Highway."

(22) That portion of the S.R. 223 (S.R. 200/U.S. 301 Truck Route) overpass bridge at S.R. 100 in Bradford County is



145822

11 designated as the "Archibald Johns Thomas Bridge."

12 (23) The Department of Transportation is directed to erect



553514

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/28/2020	.	
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	.	
	.	

The Committee on Appropriations (Braynon) recommended the following:

Senate Amendment (with title amendment)

Between lines 83 and 84
insert:

Section 2. Transportation facility designations; Department of Transportation to remove references to Dixie Highway; Harriet Tubman Highway designated.—

(1) The name "Dixie Highway" shall be removed from that portion of South Dixie Highway/U.S. 1/S.R. 5 between the Monroe County line and S.R. 9A/I-95 Northbound in Miami-Dade County,



553514

and that portion of South Dixie Highway/U.S. 1/S.R. 5 between
the Monroe County line and S.R. 9A/I-95 Northbound in Miami-Dade
County is renamed and codesignated as "Harriet Tubman
Highway/U.S. 1/S.R. 5."

(2) The name "Dixie Highway" shall be removed from that
portion of W. Dixie Highway/S.R. 909 between N.E. 119th Street
and N.E. 163rd Street in Miami-Dade County, and that portion of
W. Dixie Highway/S.R. 909 between N.E. 119th Street and N.E.
163rd Street in Miami-Dade County is renamed and codesignated as
"Harriet Tubman Highway/State Road 909."

(3) The Department of Transportation is directed to remove
all references to Dixie Highway from the roads as described in
subsections (1) and (2) and erect suitable markers codesignating
such roads as "Harriet Tubman Highway."

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

And the title is amended as follows:

Delete line 6

and insert:

to remove references, as necessary, and to erect
suitable markers; providing an honorary



535266

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
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The Committee on Appropriations (Braynon) recommended the following:

1 **Senate Substitute for Amendment (553514) (with title**
2 **amendment)**

3
4 Between lines 83 and 84
5 insert:

6 Section 2. Transportation facility designations; Harriet
7 Tubman Highway designated; Department of Transportation to
8 request conduct feasibility and impact study.—

9 (1) That portion of South Dixie Highway/U.S. 1/S.R. 5



535266

between the Monroe County line and S.R. 9A/I-95 Northbound in
Miami-Dade County is renamed as "Harriet Tubman Highway/U.S.
1/S.R. 5."

(2) That portion of W. Dixie Highway/S.R. 909 between N.E.
119th Street and N.E. 163rd Street in Miami-Dade County is
renamed and codesignated as "Harriet Tubman Highway/State Road
909."

(3) The Department of Transportation is directed to erect
suitable markers designating such roads as "Harriet Tubman
Highway."

(4) The Department of Transportation is directed to examine
the feasibility and impact to rename such roads as "Harriet
Tubman Highway," including the impact and method to change and
update the E911 system, meet any United States Postal Service
requirements, and the financial impact to businesses and
residents. The department must provide a report of its findings
to the President of the Senate and the Speaker of the House of
Representatives by October 1, 2020.

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

And the title is amended as follows:

Delete line 6

and insert:

to erect suitable markers; providing an honorary
designation of certain transportation facilities
specified; directing the Department of Transportation
to erect suitable markers and to examine the
feasibility to rename the facilities specified;
requiring a report by a date certain; providing an



535266

39

honorary



254798

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
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	.	

The Committee on Appropriations (Stewart) recommended the following:

Senate Amendment (with title amendment)

Between lines 92 and 93
insert:

Subsection 3. Subsection (40) of section 21 of chapter
2019-169, Laws of Florida, is amended to read:

Section 21. Transportation facility designations;
Department of Transportation to erect suitable markers.—

(40) That portion of C.R. 435/Apopka Vineland Road between



254798

S.R. 91/Florida's Turnpike and S.R. 535 ~~between S.R. 526~~ in
Orange County, and that portion of S.R. 535 between Apopka
Vineland Road and the Orange ~~Osceola~~ County line, are is
designated as "Robert L. 'Bob' Billingslea Highway."

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

And the title is amended as follows:

Delete line 9

and insert:

Vehicles to erect suitable markers; amending chapter
2019-169, Laws of Florida,; correcting the location of
an honorary designation; providing an



945272

576-03898-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

A bill to be entitled

An act relating to transportation-related facility
designations; providing honorary designations of
certain transportation facilities in specified
counties; directing the Department of Transportation
to erect suitable markers; providing an honorary
designation of a facility in a specified county;
directing the Department of Highway Safety and Motor
Vehicles to erect suitable markers; providing an
effective date.

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

Section 1. Transportation facility designations; Department
of Transportation to erect suitable markers.-

(1) The Pensacola Bay Bridge (bridge numbers 480-289 and
480-290) on U.S. 98/S.R. 30 over the Pensacola Bay between 17th
Avenue in Escambia County and Baybridge Drive in Santa Rosa
County is designated as the "General Daniel 'Chappie' James,
Jr., Bridge."

(2) Bloxham Cutoff Road/S.R. 267 between U.S. 98 in Wakulla
County and S.R. 20 in Leon County is designated as "J.D. Turner
Highway."

(3) Notwithstanding any law to the contrary, bridge numbers
880050, 880051, 880052, and 880053 on S.R. 510 between Wabasso
and Wabasso Beach in Indian River County are designated as the



945272

576-03898-20

"A.B. Michael Bridges."

(4) That portion of W. Kennedy Boulevard between Lois
Avenue and Dale Mabry Highway in Hillsborough County is
designated as "Master Police Officer Lois Marrero Memorial
Highway."

(5) That portion of E. Laurel Street between N. Orange
Avenue and N. Morgan Street in Hillsborough County is designated
as "Officer James Ronco Memorial Highway."

(6) Bridge number 930361 on S.R. 1A/Jack Nicklaus Drive in
Palm Beach County is designated as "Gold Star Family Memorial
Bridge, dedicated to Army Captain Joseph M. Berkson."

(7) That portion of S.R. 408/Spessard L. Holland East-West
Expressway between S. Crystal Lake Drive and S. Semoran
Boulevard in Orange County is designated as the "Sergeant Tracy
Vickers Memorial Expressway."

(8) That portion of S.R. 438 between Winters Landing Drive
and Clarke Road in Orange County is designated as "Julius 'July'
Perry Memorial Highway."

(9) That portion of I-95 between the Florida state line in
Nassau County and S.W. 32nd Road in Miami-Dade County is
designated as "Purple Heart Memorial Highway."

(10) That portion of U.S. 98 between C.R. 386 and Pine
Street in Gulf County is designated as "Willis V. Rowan Memorial
Highway."

(11) That portion of U.S. 98 between Pine Street and C.R.
382/Industrial Road in Gulf County is designated as the "John C.
Gainous Memorial Highway."

(12) That portion of I-10 between U.S. 29/S.R. 95 and S.R.
291 in Escambia County is designated as the "Deputy Donald Ray



945272

576-03898-20

Cook Memorial Highway."

(13) That portion of I-95 between mile markers 105 and 110 in Martin County is designated as the "Trooper Joseph Bullock Memorial Highway."

(14) That portion of S.R. 281 between U.S. 90 and U.S. 98 in Santa Rosa County is designated as the "Bart D. and John R. Broxson Parkway."

(15) That portion of U.S. 90/Beaver Street between Chaffee Road and U.S. 301 in Duval County is designated as the "John B. Coxwell Memorial Highway."

(16) That portion of U.S. 41/S.W. 8th Street between S.W. 82nd Avenue and S.R. 973/87th Avenue in Miami-Dade County is designated as the "Manuel H. 'Manny' Piedra Memorial Highway."

(17) That portion of U.S. 441 between Deep Creek Bridge and C.R. 6 in Columbia County is designated as "Austin D. Gay Memorial Highway."

(18) That portion of I-10 between the Suwannee County line and mile marker 275 in Suwannee County is designated as "Wesley L. Silas Memorial Highway."

(19) That portion of U.S. 19 between Luther Wilson Road and the Econfina River Bridge in Taylor County is designated as "Joshua S. Montaad Memorial Highway."

(20) That portion of the S.R. 90/S.W. 8th Street between S.W. 12th Avenue and S.W. 14th Avenue in Miami-Dade County is designated as "Rosa Maria Plasencia Way."

(21) The Department of Transportation is directed to erect suitable markers designating the transportation facilities as described in this section.

Section 2. Trooper Joseph Bullock Building designated;



945272

576-03898-20

Department of Highway Safety and Motor Vehicles to erect suitable markers.-

(1) The Florida Highway Patrol station located at 2929 N. 25th Street in the City of Fort Pierce in St. Lucie County is designated as the "Trooper Joseph Bullock Building."

(2) The Department of Highway Safety and Motor Vehicles is directed to erect suitable markers designating the Trooper Joseph Bullock Building as described in subsection (1).

Section 3. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: CS/CS/SB 78

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Infrastructure and Security Committee; and Senators Broxson and Wright

SUBJECT: Transportation-related Facility Designations

DATE: March 2, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Miller	IS	Fav/CS
2. McAuliffe	Hrdlicka	ATD	Recommend: Fav/CS
3. McAuliffe	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 78 creates the following road and bridge designations:

- The Pensacola Bay Bridge between 17th Avenue in Escambia County and Baybridge Drive in Santa Rosa County as the “General Daniel ‘Chappie’ James, Jr., Bridge.”
- The portion of Bloxham Cutoff Road/S.R. 267 between U.S. 98 in Wakulla County and S.R. 20 in Leon County as the “J.D. Turner Highway.”
- Bridge Numbers 880050, 880051, 880052, and 880053 on S.R. 510 between Wabasso and Wabasso Beach in Indian River County as the “A.B. Michael Bridges.”
- The portion of W. Kennedy Boulevard between Lois Avenue and Dale Mabry Highway in Hillsborough County as the “Master Police Officer Lois Marrero Memorial Highway.”
- The portion of E. Laurel Street between N. Orange Avenue and N. Morgan Street in Hillsborough County as the “Officer James Ronco Memorial Highway.”
- Bridge number 930361 on S.R. A1A/Jack Nicklaus Driver in Palm Beach County as the “Gold Star Family Memorial Bridge, dedicated to Army Captain Joseph M. Berkson.”
- The portion of S.R. 408/Spessard L. Holland East-West Expressway between S. Crystal Lake Drive and S. Semoran Boulevard in Orange County as the “Sergeant Tracy Vickers Memorial Expressway.”
- The portion of S.R. 438 between Winters Landing Drive and Clarke Road in Orange County as the “Julius ‘July’ Perry Memorial Highway.”

- The portion of I-95 between the Florida state line in Nassau County and S.W. 32nd Road in Miami-Dade County as the “Purple Heart Memorial Highway.”
- The portion of U.S. 98 between C.R. 386 and Pine Street in Gulf County as the “Willis V. Rowan Memorial Highway.”
- The portion of U.S. 98 between Pine Street and C.R. 382/Industrial Road in Gulf County as the “John C. Gainous Memorial Highway.”
- The portion of I-10 between U.S. 29/S.R. 95 and S.R. 291 in Escambia County as the “Deputy Donald Ray Cook Memorial Highway.”
- The portion of I-95 between mile markers 105 and 110 in Martin County as the “Trooper Joseph Bullock Memorial Highway.”
- The portion of S.R. 281 between U.S. 90 and U.S. 98 in Santa Rosa County as the “Bart D. and John R. Broxson Parkway.”
- The portion of U.S. 90/Beaver Street between Chaffee Road and U.S. 301 in Duval County as the “John B. Coxwell Memorial Highway.”
- The portion of U.S. 41/S.W. 8th Street between S.W. 82nd Avenue and S.R. 973/87th Avenue in Miami-Dade County as the “Manuel H. ‘Manny’ Piedra Memorial Highway.”
- The portion of U.S. 441 between Deep Creek Bridge and C.R. 6 in Columbia County as the “Austin D. Gay Memorial Highway.”
- That portion of I-10 between the Suwannee County line and mile marker 275 in Suwannee County as the “Wesley L. Silas Memorial Highway.”
- That portion of U.S. 19 between Luther Wilson Road and the Econfina River Bridge in Taylor County as the “Joshua S. Montaad Memorial Highway.”
- That portion of the S.R. 90/S.W. 8th Street between S.W. 12th Avenue and S.W. 14th Avenue in Miami-Dade County as the “Rosa Maria Plasencia Way.”
- That portion of U.S. 129/S.R. 49 (31030000) between the Levy County line and the Suwannee County line in Gilchrist County is designated as the “Slaughter, Read, Ramirez, Lindsey Memorial Highway.”
- That portion of the S.R. 223 (S.R. 200/U.S. 301 Truck Route) overpass bridge at S.R. 100 in Bradford County is designated as the “Archibald Johns Thomas Bridge.”
- That portion of South Dixie Highway/U.S. 1/S.R. 5 between the Monroe County line and S.R. 9A/I-95 Northbound in Miami-Dade County is designated as the “Harriet Tubman Highway/U.S. 1/S.R. 5.”
- That portion of W. Dixie Highway/S.R. 909 between N.E. 163rd Street in Miami-Dade County is designated as the “Harriet Tubman Highway/State Road 909.”

The bill directs the Florida Department of Transportation (FDOT) to erect suitable markers.

For the Harriet Tubman designations, the bill requires the FDOT to examine the feasibility and impact to rename the roads and report its findings to Legislature by October 1, 2020.

The bill designates the Florida Highway Patrol station located at 2929 N. 25th Street in Fort Pierce as the “Trooper Joseph Bullock Building” and directs the Department of Highway Safety and Motor Vehicles to erect suitable markers.

The bill amends the designation made in 2019 for the “Robert L. ‘Bob’ Billingslea Highway” to correct the location of the designation.

The estimated cost to the FDOT to install the designation markers required under this bill is \$41,000, which the FDOT is expected to absorb within existing resources. The cost to the Department of Highway Safety and Motor Vehicles to install the designation markers required under the bill is expected to be minimal and absorbed within existing resources.

The bill takes effect July 1, 2020.

II. Present Situation:

Section 334.071, F.S., provides that legislative designations of transportation facilities are for honorary or memorial purposes or to distinguish a particular facility. Such designations are not to be construed as requiring any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes.¹

When the Legislature establishes road or bridge designations, the FDOT is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation and to erect any other markers it deems appropriate for the transportation facility.²

The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or county, each affected local government must pass resolutions supporting the designations before installation of the markers.³

General Daniel “Chappie” James, Jr.

General Daniel ‘Chappie’ James, Jr., was born in 1920 in Pensacola, Florida, near the Pensacola Naval Air Station, where he developed the desire to fly. He attended the Tuskegee Institute in Alabama in 1937, making a name for himself as an athlete and campus leader. In July of 1943, he earned his commission as a Second Lieutenant and became one of the famed Tuskegee Airmen. He received the Distinguished Flying Cross for valor in 1949 for his rescue of a fellow pilot after experiencing a flame-out 50 feet above the ground and crashing. He flew 101 combat missions during the Korean War. Rising rapidly in rank, he attained Major in 1952 and Lieutenant Colonel in 1956.

In June of 1967, Colonel James became Vice Wing Commander of the Eighth Tactical Fighter Wing in Thailand, flying 78 combat missions over North Vietnam; and in 1969, he assumed command of Wheelus Air Force Base in Libya, following Muammar Khadafy’s coup. President Nixon nominated him for Brigadier General in 1970. He then served as Deputy Assistant Secretary of Defense, Public Affairs, and later as Principal Deputy Assistant Secretary of Defense, Public Affairs, in 1973. In August of 1975, he was assigned as Commander in Chief, North American Air Defense Command, at which time he was promoted to the rank of Four-Star

¹ Section 334.071(1), F.S.

² Section 334.071(2), F.S.

³ Section 334.071(3), F.S.

General. Aside from his aerial skills, General James was recognized for his ethics of achievement, hard work, and self-reliance. General James passed away on February 25th, 1978.⁴

J.D. Turner

J.D. Turner lived in Wakulla County from 1948 until his death in 1995. He served honorably in World War II, earning numerous campaign medals, and was a strong advocate of veterans, serving as Commander of the Wakulla VFW and of the local American Legion Post. Mr. Turner was involved in numerous civic and community service organizations, including as President of the Chamber of Commerce, Chairman of the Local American Red Cross Civil Defense, Member of the Wakulla Senior Citizens Council Board of Directors, and founding board member of Keep Wakulla Beautiful. Mr. Turner also served for 23 years as a Florida Highway Patrol Auxiliary Officer, for 20 years as a Wakulla County Commissioner, and strongly supported Wakulla County youth. Mr. Turner was instrumental in seeking legislative support for the construction of State Road 267 from U.S. 98 in Wakulla County to S.R. 20 in Leon County.⁵

A.B. Michael

A.B. Michael moved to the Indian River region in 1886 and was a strong proponent of Indian River Citrus, having started his own citrus grove on Orchid Isle in 1902. He later became manager and president of Deerfield Groves in 1917, helped manage American Fruit Growers from 1919 to 1946, assisted in forming the Indian River Citrus League in the 1930's, and served on the Florida Citrus Commission from 1945 to 1949. Due to his achievements and dedication to the industry, Florida Citrus Mutual refers to A.B. Michael as the "Dean of the Florida Citrus Industry."⁶

Master Police Officer Lois Marrero

A 18-year veteran of the Tampa Police Department and the first department female officer killed in the line of duty, Officer Lois Marrero was gunned down by a fleeing bank robbery suspect. On July 6, 2001, Officer Marrero was on foot checking an apartment complex for the suspect when he opened fire, mortally wounding her. The suspect fled into a nearby apartment, took hostages, and then committed suicide several hours later during a standoff. An accomplice to the robbery was sentenced to life in prison on June 23, 2003.⁷

Officer James Ronco

The son of Italian immigrants, Officer James Ronco on May 27, 1916, arrested a female prisoner after she escaped from the police station. While he was transporting her to jail, the prisoner, later determined to be under the influence of heroin and cocaine, grabbed Officer Ronco's gun and

⁴ National Aviation Hall of Fame, *James Jr., Daniel "Chappie"* available at <https://www.nationalaviation.org/our-enshrinees/james-jr-daniel/> (last visited Feb. 12, 2020).

⁵ Resolution of the Wakulla County Board of County Commissioners in support of the designation, approved Aug. 19, 2019 (on file in the Senate Infrastructure and Security Committee).

⁶ Florida Citrus Hall of Fame, *A.B. Michael (1877-1964)* available at <https://floridacitrushalloffame.com/inductees/a-b-michael/> (last visited Feb. 13, 2020).

⁷ Officer Down Memorial Page, *Officer Lois Marie Marrero* available at <https://www.odmp.org/officer/15726-officer-lois-marie-marrero> (last visited Feb. 12, 2020).

shot him once. Officer Ronco regained control of his weapon and fired three shots, killing the prisoner, before he died.⁸

Captain Joseph M. Berkson

Army Captain Joseph M. Berkson, of Chicago, Illinois, was aboard a helicopter charged with a mission near Quang Tri City in Vietnam. When the helicopter was shot down, it was in the midst of North Vietnamese Army forces and it was not possible to recover the crewmen, who were classed as Missing in Action. Seven weeks later, on July 20, 1972, friendly forces were able to reach the wreckage and recover the remains. However, it was not until May 22, 1973, that it could be confirmed that all five men aboard had died in the crash.⁹

Gold Star families are immediate relatives of U.S. Armed Forces members who died in battle or in support of certain military activities. These relatives can be parents, sons, daughters, brothers, sisters or other loved ones.^{10, 11}

Sergeant Tracy Vickers

Trooper Vickers served the citizens of Florida with the Florida Highway Patrol for more than four years. He was in the 131st recruit class in Tallahassee, from March 23, 2015, to September 30, 2015. He was also a veteran of the U.S. Navy. Trooper Vickers died in the line of duty as a result of a crash on Friday, September 27, 2019, when his patrol car struck a construction truck in Orange County. At the time of his death, he was 31.¹²

Julius “July” Perry

In 1920, Mr. Perry and another man of African-American descent, Mose Norman, attempted to vote in the November elections in Ocoee but were denied the right. A riot ensued, and lives, homes, and businesses were lost. Mr. Perry was captured and brought to Orlando by Orange County deputy sheriffs, where he was jailed. A mob later took him out of the jail and hung him. His body was buried in Greenwood Cemetery in an unmarked grave. The position of his grave was remembered through the years and, in the fall of 2002, a marker was finally placed on his grave site.¹³

⁸ City of Tampa, *Fallen Officer – James Ronco* available at <https://www.tampagov.net/police/info/honoring-our-heroes/james-ronco> and Officer Down Memorial Page, *Police Officer James Ronco* available at <https://www.odmp.org/officer/11486-police-officer-james-ronco> (both last visited Feb. 12, 2020).

⁹ Find a Grave, *Captain Joseph Michael ‘Joey’ Berkson*, available at <https://www.findagrave.com/memorial/92443412/joseph-michael-berkson> (last visited Feb. 12, 2020).

¹⁰ Army.mil, *Gold Star Survivors* available at <https://www.army.mil/goldstar/> (last visited Feb. 12, 2020).

¹¹ Palm Beach Daily News, *Memorial would honor families of fallen soldiers*, Aug. 16, 2019, available at <https://www.palmbeachdailynews.com/news/20190816/memorial-would-honor-families-of-fallen-soldiers> (last visited Feb. 12, 2020).

¹² Department of Highway Safety and Motor Vehicles, *FHP Memorial: Tracy Vickers* available at <https://www.flhsmv.gov/florida-highway-patrol/fhp-memorial/tracy-vickers/> (last visited Feb. 12, 2020).

¹³ Find a Grave, *July Perry* available at <https://www.findagrave.com/memorial/10917526/july-perry> (last visited on Feb. 12, 2020).

Purple Heart Memorial Highway

The Purple Heart is awarded to members of the U.S. Armed Forces who are injured and killed in combat, through an act of terrorism or by friendly fire. An estimated 1.8 million Purple Hearts have been awarded to U.S. troops. It is the nation's oldest military award.¹⁴

Willis V. Rowan

Born in Florida, Willis V. Rowan served in World War II as a 2nd Lieutenant in the Army Air Force. He was shipped out to England in 1943 as part of the Eighth Bomber Command and was killed in action during a mission over Germany. At the time of his death, on October 14, 1943, he was 25 years old. The American Legion Post in Port St. Joe, Florida, is named in honor of him.¹⁵

John C. Gainous

John C. Gainous grew up in Port St. Joe and Highland View. He served as a Private First Class in the U.S. Army and was killed in action in Vietnam. The Veterans of Foreign Wars Post 10069 in Highland View is named in his memory. At the time of his death, on May 18, 1967, he was 20 years old.¹⁶

Deputy Donald Ray Cook

On December 3, 1988, off-duty Escambia County Deputy Sheriff Donald Cook learned of a high-speed law enforcement pursuit of armed robbery suspects coming into Escambia County from Santa Rosa County. Deputy Cook responded and set up a road block on I-10, where he exited his vehicle. As the pursuit continued toward the road block, Deputy Cook was struck by a vehicle and killed. He was a 5-year veteran of the Sheriff's Office.¹⁷

Trooper Joseph Bullock

Trooper Bullock served the citizens of Florida with the Florida Highway Patrol nearly 19 years, assigned to Troop L, Fort Pierce, for his entire career. He was also a veteran of the U.S. Air Force, serving as a senior airman. Trooper Bullock died in the line of duty while attempting to

¹⁴ Military.com, *The Purple Heart* available at <https://www.military.com/history/military-heroes/purple-heart> (last visited on Feb. 12, 2020).

¹⁵ Find A Grave, *Willis V Rowan* available at <https://www.findagrave.com/memorial/99877556/willis-v-rowan>; Herald and Review, *World War II pilot's possession end up with family*, Mar. 16, 2015, available at https://herald-review.com/news/local/world-war-ii-pilot-s-possession-end-up-with-family/article_81c2f8fd-f9d4-5ecb-921e-175a8c3c6744.html; and see Gulf County Chamber of Commerce, *American Legion Post 116 Willis V. Ronan* available at <http://business.gulfchamber.org/list/member/american-legion-post-116-willis-v-rowan-5> (all last visited Feb. 12, 2020).

¹⁶ Find A Grave, *John C. Gainous* available at <https://www.findagrave.com/memorial/100183488/john-c-gainous> and Vietnam Veterans Memorial Fund, *The Wall of Faces: John Charles Gainous* available at <https://www.vvmf.org/Wall-of-Faces/17598/JOHN-C-GAINOUS/> (both last visited Feb. 12, 2020).

¹⁷ See NorthEscambia.com, *Escambia Commission Votes for Renaming Part of I-10 for Deputy Killed 30 Years Ago*, Feb. 7, 2020 available at <http://www.northescambia.com/2020/02/escambia-commission-votes-for-renaming-part-of-i-10-for-deputy-killed-30-years-ago> (last visited Feb. 12, 2020).

assist an apparently disabled vehicle on February 5, 2020, in Martin County when one of the occupants of the vehicle shot and killed him.¹⁸

Bart D. Broxson

Bart D. Broxson had served as the Santa Rosa County Sheriff for three years when, on December 24, 1959, his patrol car was struck head-on by a reckless driver on State Road 87 near Holley. Sheriff Broxson was 57 at the time of his death and was survived by his wife and 11 children.¹⁹

John R. Broxson

John R. Broxson was the fifth oldest of Bart and Annie Rachel Broxson's 11 children. He served as the Santa Rosa County Sheriff following his father's death in 1959. He also served in the Florida House of Representatives from 1962-1964, in the Florida Senate from 1966 – 1972, and was elected as a Santa Rosa County Commissioner in 2004. Mr. Broxson passed away in 2019 at the age of 87.²⁰

John B. Coxwell

John B. Coxwell was a prominent Jacksonville business and civic leader and philanthropist. He was the Chairman of the Board of J.B. Coxwell Contracting, Inc.; served as the head of the Florida Transportation Builder's Association in 2004; and was one of the founders and supporters of Seamark Ranch, a home for abused or neglected children. Mr. Coxwell passed away on November 14, 2017, at the age of 78.²¹

Manuel H. "Manny" Piedra

Manuel H. "Manny" Piedra was the founder and former owner of Manny's Formal Wear. Piedra served in the Army under the Cuban Volunteer Training Program in 1962, training in Ft. Jackson, South Carolina, and Ft. Knox, Kentucky. Piedra was an active member of the Big Five Club and a parishioner at St. Augustine Church in Coral Gables. He passed away at the age of 78.²²

¹⁸ Department of Highway Safety and Motor Vehicles, *FHP, FLHSMV Mourn the Loss of Trooper Joseph Bullock*, Feb. 5, 2020, available at <https://www.flhsmv.gov/2020/02/05/fhp-flhsmv-mourn-the-loss-of-trooper-joseph-bullock/> and Military Times, *State Trooper, an Air Force veteran, killed assisting motorist in Florida*, Feb. 6, 2020, available at <https://www.militarytimes.com/news/your-military/2020/02/06/state-trooper-an-air-force-veteran-killed-assisting-motorist-in-florida/> (both last visited Feb. 12, 2020).

¹⁹ Officer Down Memorial Page, *Sheriff Bart Dell Broxson* available at <https://www.odmp.org/officer/24008-sheriff-bart-dell-broxson> (last visited Feb. 12, 2020).

²⁰ Pensacola News Journal, *Longtime Santa Rosa figure, former legislator John Broxson, dies at age 87*, Dec. 10, 2019, available at <https://www.pnj.com/story/news/2019/12/10/longtime-santa-rosa-county-politician-john-broxson-dies-age-87/4380817002/> (last visited Feb. 12, 2020).

²¹ Legacy.com, *John Benjamin Coxwell* available at <https://www.legacy.com/obituaries/timesunion/obituary.aspx?pid=187260817> (last visited Feb. 12, 2020).

²² Legacy.com, *Manuel H. Piedra* available at <https://www.legacy.com/obituaries/herald/obituary.aspx?n=manuel-h-piedra&pid=191302474> (Last visited Feb. 18, 2020).

Austin D. Gay

Inspector Austin Gay was shot and killed after being abducted from his inspection station on U.S. 441 south of the Florida - Georgia border April 14, 1979. Inspector Gay had served with the Florida Department of Agriculture and Consumer Services as a road guard inspector for 14 years.²³

Wesley L. Silas

Officer Wesley Silas was killed March 1, 1994, after being struck by a tractor trailer at the Florida Department of Agriculture and Consumer Services inspection station on I-10 near Live Oak, Florida.²⁴

Joshua S. Montaad

Officer Joshua Montaad was killed in a single vehicle crash on U.S. 19, near Burley Brannen Road, in Taylor County on June 6, 2017.²⁵ He had been an officer with the Florida Department of Agriculture and Consumer Services for two years and was 25 years old at the time of his death.

Rosa Maria Plasencia

Rosa Maria Plasencia, president and CEO of the nonprofit Amigos for Kids, died at age 59 after suffering a heart attack at Baptist Hospital, where family said she was being treated for chest pains. Though she had no children of her own, Plasencia is survived by the hundreds of children she has served through her work.²⁶

Sidney Slaughter, Mark Read, Noel Ramirez-Beltran, Jr., and Taylor Lindsey

Sidney Slaughter, Mark Read, Noel Ramirez-Beltran, Jr., and Taylor Lindsey were all deputies with the Gilchrist County Sheriff's Office killed in the line of duty.

Deputy Sidney Slaughter was shot and killed when he interrupted a burglary in progress at a local grocery store on January 22, 1934.²⁷ He was 33 years old.

Sheriff Mark Read was killed on December 9, 1956.²⁸ Requested to go out to a rural residence by the homeowner's neighboring family members to take a shotgun from the homeowner, Sheriff

²³ Officer Down Memorial Page, *Inspector Austin Dewey Gay* available at <https://www.odmp.org/officer/20615-inspector-austin-dewey-gay> (last visited Feb. 18, 2020).

²⁴ Officer Down Memorial Page, *Officer Wesley L. Silas* available <https://www.odmp.org/officer/986-officer-wesley-l-silas> (last visited Feb. 18, 2020).

²⁵ Officer Down Memorial Page, *Officer Joshua Sanchez Montaad* available at <https://www.odmp.org/officer/23268-officer-joshua-sanchez-montaad> (last visited Feb. 18, 2020).

²⁶ Miami Herald, 'Her mission must live on.' Child advocate Rosa Maria Plasencia dies at 59, October 10, 2018, available at <https://www.miamiherald.com/news/local/community/miami-dade/article219776885.html> (last visited Feb. 18, 2020).

²⁷ Officer Down Memorial Page, *Deputy Sidney Slaughter* available at <https://www.odmp.org/officer/18214-deputy-sheriff-sidney-slaughter> (last visited Feb. 26, 2020).

²⁸ Officer Down Memorial Page, *Sheriff Mark Read* available at <https://www.odmp.org/officer/11055-sheriff-mark-read> (last visited Feb. 26, 2020).

Read was shot as soon as he stepped out of his car. He was able to call for help and drive away, but died later at the hospital after his car was found a short distance from the home in a ditch.²⁹

Sergeant Noel Ramirez-Beltran, Jr., and Deputy Sheriff Taylor Lindsey were shot and killed in an ambush as they took their lunch break on April 19, 2018.³⁰ Sergeant Ramirez-Beltran was 29 years old and had served in law enforcement for 7 years; and Deputy Lindsey was 25 years old and had served with the office for three years.³¹

Archibald Johns Thomas

Archibald Johns Thomas was a longtime resident of Bradford County and the City of Starke. He served honorably in combat as a Second Lieutenant with the 30th Infantry Division of the United States Armed Services during World War I, and served as State Representative, representing Bradford County in the Florida House of Representatives.³²

Harriet Tubman

“Known as the ‘Moses of her people,’ Harriet Tubman was enslaved, escaped, and helped others gain their freedom as a ‘conductor’ of the Underground Railroad.”³³ Her work learning the towns and transportation routes while leading others to safety gave her a knowledge base important to the Union Army during the Civil War. She served as a scout, spy, guerrilla soldier, and nurse for the Union Army during the war. She is considered the first African American woman to serve in the military. After the war, she worked to raise funds to aid freed people and for the women’s suffrage movement. She died in 1913 and was buried with military honors in Auburn, New York.³⁴

Robert L. ‘Bob’ Billingslea

Robert Lee Billingslea was born on December 20, 1937, in Youngstown, Ohio. He eventually made his home in central Florida, eventually working for Disney and playing a role in the establishment of Walt Disney World. “In addition to his work at Disney, Billingslea became chair of the Orlando Human Relations Board and went on to serve through four gubernatorial appointments on the Florida State Commission on Human Relations.”³⁵ He passed away on September 6, 2017, at the age of 79. In 2019, the Legislature designated that portion of S.R. 535

²⁹ *Id. Conner v. State*, 106 So.2d 416 (1958).

³⁰ Officer Down Memorial Page, *Sergeant Noel Ramirez-Beltran, Jr.* available at <https://www.odmp.org/officer/23657-sergeant-noel-ramirez-beltran-jr> (last visited Feb. 26, 2020)

³¹ Law Enforcement Today, *In Memoriam Sergeant Noel Ramirez and Deputy Taylor Lindsey*, April 20, 2018, available at <https://www.lawenforcementtoday.com/memoriam-sergeant-noel-ramirez-deputy-taylor-lindsey/> (last visited Feb. 27, 2020).

³² Board of County Commissioners of Bradford County, *Expressing Support For the Naming of the State Road 223 (SR 200/US 301 Truck Route) Overpass Bridge at State Road 100 in Bradford County, Florida in Honor of Archibald Johns Thomas*, Resolution 2019-10.

³³ National Women’s History Museum, *Harriet Tubman* available at <https://www.womenshistory.org/education-resources/biographies/harriet-tubman> (last visited Feb. 26, 2020).

³⁴ *Id.*

³⁵ The History Makers, *Robert Billingslea* available at <https://www.thehistorymakers.org/biography/robert-billingslea-41> (last visited Feb. 26, 2020).

between S.R. 526 in Orange County and the Osceola County line as “Robert L. ‘Bob’ Billingslea Highway.”³⁶

III. Effect of Proposed Changes:

The bill creates the following road and bridge designations:

- The Pensacola Bay Bridge between 17th Avenue in Escambia County and Baybridge Drive in Santa Rosa County as the “General Daniel ‘Chappie’ James, Jr., Bridge.”
- The portion of Bloxham Cutoff Road/S.R. 267 between U.S. 98 in Wakulla County and S.R. 20 in Leon County as the “J.D. Turner Highway.”
- Bridge Numbers 880050, 880051, 880052, and 880053 on S.R. 510 between Wabasso and Wabasso Beach in Indian River County as the “A.B. Michael Bridges.”
- The portion of W. Kennedy Boulevard between Lois Avenue and Dale Mabry Highway in Hillsborough County as the “Master Police Officer Lois Marrero Memorial Highway.”
- The portion of E. Laurel Street between N. Orange Avenue and N. Morgan Street in Hillsborough County as the “Officer James Ronco Memorial Highway.”
- Bridge number 930361 on S.R. A1A/Jack Nicklaus Driver in Palm Beach County as the “Gold Star Family Memorial Bridge, dedicated to Army Captain Joseph M. Berkson.”
- The portion of S.R. 408/Spessard L. Holland East-West Expressway between S. Crystal Lake Drive and S. Semoran Boulevard in Orange County as the “Sergeant Tracy Vickers Memorial Expressway.”
- The portion of S.R. 438 between Winters Landing Drive and Clarke Road in Orange County as the “Julius ‘July’ Perry Memorial Highway.”
- The portion of I-95 between the Florida state line in Nassau County and S.W. 32nd Road in Miami-Dade County as the “Purple Heart Memorial Highway.”
- The portion of U.S. 98 between C.R. 386 and Pine Street in Gulf County as the “Willis V. Rowan Memorial Highway.”
- The portion of U.S. 98 between Pine Street and C.R. 382/Industrial Road in Gulf County as the “John C. Gainous Memorial Highway.”
- The portion of I-10 between U.S. 29/S.R. 95 and S.R. 291 in Escambia County as the “Deputy Donald Ray Cook Memorial Highway.”
- The portion of I-95 between mile markers 105 and 110 in Martin County as the “Trooper Joseph Bullock Memorial Highway.”
- The portion of S.R. 281 between U.S. 90 and U.S. 98 in Santa Rosa County as the “Bart D. and John R. Broxson Parkway.”
- The portion of U.S. 90/Beaver Street between Chaffee Road and U.S. 301 in Duval County as the “John B. Coxwell Memorial Highway.”
- The portion of U.S. 41/S.W. 8th Street between S.W. 82nd Avenue and S.R. 973/87th Avenue in Miami-Dade County as the “Manuel H. ‘Manny’ Piedra Memorial Highway.”
- The portion of U.S. 441 between Deep Creek Bridge and C.R. 6 in Columbia County as the “Austin D. Gay Memorial Highway.”
- That portion of I-10 between the Suwannee County line and mile marker 275 in Suwannee County as the “Wesley L. Silas Memorial Highway.”

³⁶ Section 21, ch. 2019-169, L.O.F.

- That portion of U.S. 19 between Luther Wilson Road and the Econfina River Bridge in Taylor County as the “Joshua S. Montaad Memorial Highway.”
- That portion of the S.R. 90/S.W. 8th Street between S.W. 12th Avenue and S.W. 14th Avenue in Miami-Dade County as the “Rosa Maria Plasencia Way.”
- That portion of U.S. 129/S.R. 49 (31030000) between the Levy County line and the Suwannee County line in Gilchrist County is designated as the “Slaughter, Read, Ramirez, Lindsey Memorial Highway.”
- That portion of the S.R. 223 (S.R. 200/U.S. 301 Truck Route) overpass bridge at S.R. 100 in Bradford County is designated as the “Archibald Johns Thomas Bridge.”
- That portion of South Dixie Highway/U.S. 1/S.R. 5 between the Monroe County line and S.R. 9A/I-95 Northbound in Miami-Dade County is designated as the “Harriet Tubman Highway/U.S. 1/S.R. 5.”
- That portion of W. Dixie Highway/S.R. 909 between N.E. 163rd Street in Miami-Dade County is designated as the “Harriet Tubman Highway/State Road 909.”

The bill directs the FDOT to erect suitable markers for the described designations.

For the Harriet Tubman designations, the bill requires the FDOT to examine the feasibility and impact to rename the roads including the impact and method to change and update the E911 system, meet any United States Postal Service requirements, and the financial impact to businesses and residents. The FDOT must report its findings to Legislature by October 1, 2020.

The bill designates the Florida Highway Patrol station located at 2929 N. 25th Street in Fort Pierce as the “Trooper Joseph Bullock Building” and directs the Department of Highway Safety and Motor Vehicles to erect suitable markers.

The bill amends the designation made in ch. 2019-169, L.O.F., for the “Robert L. ‘Bob’ Billingslea Highway” to correct the location of the designation to that portion of C.R. 435/Apopka Vineland Road between S.R. 91/Florida’s Turnpike and S.R. 535 between S.R. 526 in Orange County, and that portion of S.R. 535 between Apopka Vineland Road and the Orange Osceola County line.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The estimated cost to erect the designation markers required under this bill is \$41,000, based on the assumption that a minimum of two markers are required at a cost to the FDOT of no less than \$500 each.³⁷ The estimate includes sign fabrication, installation, and maintenance over time but does not include any additional expenses related to maintenance of traffic, dedication event costs, or replacement necessitated by damage, vandalism, or storm events. The FDOT is expected to absorb the estimated cost within existing resources.

The cost to the FDOT to conduct the study and issue the report on the feasibility and method to rename Dixie Highway is unknown, but expected to be absorbed within existing resources.

The cost to erect a designation at the Florida Highway Patrol station located at 2929 N. 25th Street in Fort Pierce is expected to be absorbed by the Department of Highway Safety and Motor Vehicles.

³⁷ However, given the length of the description for the “Purple Heart Memorial Highway,” the FDOT is expected to erect two signs (one in each direction) for the 12 counties traversed. *See* email to House Transportation & Infrastructure Subcommittee staff, October 29, 2019 (on file in the Senate Infrastructure and Security Committee). The 12 counties are Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Martin, Palm Beach, Broward, and Miami-Dade. Because four bridge structures are identified in the description for the “A.B. Michael Bridges,” the FDOT is expected to erect a total of eight signs, one for each bridge approach. *See* email to Senate Infrastructure and Security Committee staff, October 1, 2019 (on file in the Senate Infrastructure and Security Committee). Because a portion of State Road 438 in the “Julius ‘July’ Perry Memorial Highway” designation is co-designated with State Road 437/H.M. Bowness Road, the FDOT is expected to erect four signs. Telephone conversation with FDOT staff and Senate Infrastructure and Security Committee staff, February 10, 2020. The total number of signs for these 3 designations is 36; add to that 44 signs, two each for the remaining designations in the bill (including four new signs for the corrected designation, which encompasses two roads), for a grand total of 82 signs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates undesignated sections of Florida law.

IX. Additional Information:

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute incorporates additional designations for:

- “Manuel H. ‘Manny’ Piedra Memorial Highway” in Miami-Dade County.
- “Austin D. Gay Memorial Highway” in Columbia County.
- “Wesley L. Silas Memorial Highway” in Suwannee County.
- “Joshua S. Montaad Memorial Highway” in Taylor County.
- “Rosa Maria Plasencia Way” in Miami-Dade County.
- “Slaughter, Read, Ramirez, Lindsey Memorial Highway” in Gilchrist County.
- “Archibald Johns Thomas Bridge” in Bradford County.
- “Harriet Tubman Highway/U.S. 1/S.R. 5” in Miami-Dade County.
- “Harriet Tubman Highway/State Road 909” in Miami-Dade County.
- “Trooper Josheph Bullock Building” at the Florida Highway Patrol station located at 2929 N. 25th Street in St. Lucie County.

For the Harriet Tubman designations, the bill requires FDOT to examine the feasibility and impact to rename the roads and report its findings to Legislature by October 1, 2020.

The bill corrects the designation for the “Robert L. ‘Bob’ Billingslea Highway” in Orange and Osceola County made in 2019.

CS by Infrastructure and Security on February 10, 2020:

The committee substitute incorporates additional designations for:

- “J.D. Turner Highway” in Leon County.
- “A.B. Michael Bridges” in Indian River County.
- “Master Police Officer Lois Marrero Memorial Highway” in Hillsborough County.
- “Officer James Ronco Memorial Highway” in Hillsborough County.
- “Gold Star Family Memorial Bridge, dedicated to Army Captain Joseph M. Berkson” in Palm Beach County.
- “Sergeant Tracy Vickers Memorial Expressway” in Orange County.
- “Julius ‘July’ Perry Memorial Highway” in Orange County.

- “Purple Heart Memorial Highway” in Miami-Dade County.
- “Willis V. Rowan Memorial Highway” in Gulf County.
- “Deputy Donald Ray Cook Memorial Highway” in Escambia County.
- “Trooper Joseph Bullock Memorial Highway” in Martin County.
- “Bart D. and John R. Broxson Parkway” in Santa Rosa County.
- “John B. Coxwell Memorial Highway” in Duval County.

B. Amendments:

None.

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

By the Committee on Infrastructure and Security; and Senator Broxson

596-03405-20

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A bill to be entitled

An act relating to transportation facility designations; providing honorary designations of certain transportation facilities in specified counties; directing the Department of Transportation to erect suitable markers; providing an effective date.

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

Section 1. Transportation facility designations; Department of Transportation to erect suitable markers.-

(1) The Pensacola Bay Bridge (bridge numbers 480-289 and 480-290) on U.S. 98/S.R. 30 over the Pensacola Bay between 17th Avenue in Escambia County and Baybridge Drive in Santa Rosa County is designated as the "General Daniel 'Chappie' James, Jr., Bridge."

(2) Bloxham Cutoff Road/S.R. 267 between U.S. 98 in Wakulla County and S.R. 20 in Leon County is designated as "J.D. Turner Highway."

(3) Notwithstanding any law to the contrary, bridge numbers 880050, 880051, 880052, and 880053 between Wabasso and Wabasso Beach in Indian River County are designated as the "A.B. Michael Bridges."

(4) That portion of W. Kennedy Boulevard between Lois Avenue and Dale Mabry Highway in Hillsborough County is designated as "Master Police Officer Lois Marrero Memorial Highway."

(5) That portion of E. Laurel Street between N. Orange

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Avenue and N. Morgan Street in Hillsborough County is designated as "Officer James Ronco Memorial Highway."

(6) Bridge number 930361 on S.R. 1A/Jack Nicklaus Drive in Palm Beach County is designated as "Gold Star Family Memorial Bridge, dedicated to Army Captain Joseph M. Berkson."

(7) That portion of S.R. 408/Spessard L. Holland East-West Expressway between S. Crystal Lake Drive and S. Semoran Boulevard in Orange County is designated as the "Sergeant Tracy Vickers Memorial Expressway."

(8) That portion of S.R. 438 between Winters Landing Drive and Clarke Road in Orange County is designated as "Julius 'July' Perry Memorial Highway."

(9) That portion of I-95 between the Florida state line in Nassau County and S.W. 32nd Road in Miami-Dade County is designated as "Purple Heart Memorial Highway."

(10) That portion of U.S. 98 between C.R. 386 and Pine Street in Gulf County is designated as "Willis V. Rowan Memorial Highway."

(11) That portion of U.S. 98 between Pine Street and C.R. 382/Industrial Road in Gulf County is designated as the "John C. Gainous Memorial Highway."

(12) That portion of I-10 between U.S. 29/S.R. 95 and S.R. 291 in Escambia County is designated as the "Deputy Donald Ray Cook Memorial Highway."

(13) That portion of I-95 between mile markers 105 and 110 in Martin County is designated as the "Trooper Joseph Bullock Memorial Highway."

(14) That portion of S.R. 281 between U.S. 90 and U.S. 98 in Santa Rosa County is designated as the "Bart D. and John R.

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59 Broxson Parkway."

60 (15) That portion of U.S. 90/Beaver Street between Chaffee
61 Road and U.S. 301 in Duval County is designated as the "John B.
62 Coxwell Memorial Highway."

63 (16) The Department of Transportation is directed to erect
64 suitable markers designating the transportation facilities as
65 described in this section.

66 Section 2. This act shall take effect July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

2-27-20

Meeting Date

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

78

Bill Number (if applicable)

535 266

Amendment Barcode (if applicable)

Topic _____

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST STREET, SUITE 2810

Phone 305-979-7110

Street

MIAMI

FL

33128

Email JMM2@MIAMIDADE.GOV

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 82 (796252)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Bean

SUBJECT: Individuals With Disabilities

DATE: February 4, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Gerbrandt</u>	<u>Kidd</u>	<u>AHS</u>	Recommend: Fav/CS
3.	<u>Gerbrandt</u>	<u>Kynoch</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 82 makes operational changes to the Medicaid Home and Community-Based Services (HCBS) Waiver to improve the quality of services provided and to standardize agency processes by:

- Requiring waiver support coordinators to be employees of qualified waiver support coordination organizations; and
- Centralizing medical necessity determinations related to significant additional needs requests at the Agency for Persons with Disabilities (APD) headquarters.

The bill eliminates the criteria that APD must consider when authorizing supplemental funding for a significant additional needs request, and instead creates a standard definition of a ‘significant additional need.’ The bill requires qualified waiver support organizations to document that a HCBS Waiver client (client) has utilized all available resources prior to the submission of a significant additional needs request.

The bill requires all service providers to bill for services and submit all required documentation through the agency’s electronic client data management system.

The bill eliminates obsolete language from chapter 393 of the Florida Statutes. The bill also allows the Agency for Health Care Administration to seek federal approval to implement an increased rate for Medicaid intermediate care facilities that serve individuals with developmental

disabilities (ICF/DD) who have severe behavioral or mental health needs and establishes a certificate of need (CON) exemption for such ICF/DDs. The bill specifies requirements that an ICF/DD must meet in order to obtain the CON exemption and establishes additional licensure criteria for an ICF/DD that has been granted the CON exemption.

The bill will have a negative yet indeterminate fiscal impact on the Florida Medicaid program and the Agency for Health Care Administration. If the bill results in any HCBS Waiver cost savings, the savings would allow the agency to address the HCBS Waiver waitlist.

The bill takes effect on January 1, 2020.

II. Present Situation:

Agency for Persons with Disabilities

Florida obtained waivers of federal Medicaid requirements to enable the provision of home and community-based services to persons at risk of institutionalization.¹ The Agency for Persons with Disabilities (APD) is responsible the provision of services to individuals with developmental disabilities² and for administering the Home and Community-Based Services (HCBS) Waiver.³ The HCBS Waiver provides services to individuals with developmental disabilities that allow them to continue to live in their home or home-like setting and avoid institutionalization.⁴ Eligible individuals must meet institutional level of care requirements.⁵

Individuals who have a developmental disability and who meet Medicaid eligibility requirements, may receive services in the community through the state's HCBS Waiver or in an institution, such as an intermediate care facility for the developmentally disabled (ICF/DD) through the state's Medicaid program.

Home and Community-Based Services Waiver (iBudget Florida)

The HCBS Waiver for individuals with developmental disabilities, known as the iBudget, provides 26 supports and services including, but not limited to, residential habilitation, behavioral services, companion services, adult day training, employment services, and physical therapy.⁶ Services provided through the HCBS Waiver enable individuals to live in the community in their own home, a family home, or in a licensed residential setting, thereby avoiding institutionalization.

¹ Rule 59G-13.080(1), F.A.C.

² A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely. *See* s. 393.0612(12), F.S.

³ Section 20.197(3), F.S.

⁴ The Centers for Medicare and Medicaid Services, Home and Community-Based Services 1915(c), available at: <https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-authorities/home-community-based-services-1915c/index.html> (last visited January 21, 2020).

⁵ *Supra* note 1.

⁶ A full list of covered services offered under Florida's HCBS Waiver can be found at: https://ahca.myflorida.com/Medicaid/hcbs_waivers/ibudget.shtml (last visited January 17, 2020).

The iBudget Florida program was developed in response to legislative direction requiring a plan for an individual budgeting approach for improving the management of the HCBS waiver program.⁷ The iBudget involves the use of an algorithm⁸ to set individual allocation amounts⁹ for each client by allocating available funding based on an assessment of the needs of each client.

The APD uses an assessment tool known as the Questionnaire for Situational Information (QSI) to determine a client's needs in the areas of functional, behavioral, and physical status.¹⁰ All clients must have a QSI assessment completed prior to calculating the allocation amount. Clients can be reassessed any time there has been a significant change in the circumstance or condition that would impact any of the questions that are used as variables in the algorithm.¹¹

After a client's initial allocation amount is determined, the client and their family meet with a Waiver Support Coordinator (WSC)¹² to discuss their allocation and develop a cost plan. The cost plan is an annual document that lists all authorized services, the anticipated costs of each service and the approved provider of each service.¹³ The cost of all services within a client's cost plan must be lower than the client's allocation amount unless there is a significant additional need demonstrated.¹⁴ Every proposed cost plan is reviewed and approved by the APD.¹⁵

If the client or the client's representative feels that the needs of the client cannot be met within the allocation amount, the WSC must identify and document the additional service request and submit it to the APD. The APD is required to approve requests for increases to the allocation amount if the request meets the Significant Additional Needs criteria (see subsection below titled Significant Additional Needs Criteria).¹⁶ The APD is required to ensure that the sum of all clients' proposed expenditures do not exceed the agency's annual appropriation.¹⁷

⁷ Agency for Persons with Disabilities, Report to the Legislature on the Agency's Plan for Implementing Individual Budgeting "iBudget Florida" (February 1, 2010), available at: <http://apd.myflorida.com/ibudget/rules-regs.htm> (last visited January 13, 2020).

⁸ The allocation algorithm is a mathematical formula based upon statistically validated relationships between individual characteristics (variables) and the individual's level of need for services provided through the Waiver. *See* Rule 65G-4.0213(1), F.A.C.

⁹ The allocation algorithm amount is the result of the allocation algorithm apportioned according to available funding. *See* Rule 65G-4.0213(2), F.A.C.

¹⁰ Rule 65G-4.0213(18), F.A.C.

¹¹ Rule 65G-4.0214(1)(d), F.A.C.

¹² Waiver support coordinators assist Waiver clients and their families in identifying, developing, coordinating and accessing supports and services in their communities. Supports and services can be provided through a variety of funding sources such as the iBudget, third-party payers and natural supports. *See* Rule 65G-4.0213(27), F.A.C.

¹³ Rule 65G-4.0213(4), F.A.C.

¹⁴ Rule 65G-4.0215(1)(c), F.A.C. A significant additional need represents a need for additional funding that if not provided would place the health and safety of the client, their caregiver, or public in serious jeopardy. *See* s. 393.0662(1)(b), F.S.

¹⁵ The APD conducts an individual review of information submitted by a WSC, to determine if the request meets significant additional needs criteria. *See* Rule 65G-4.0213(14), F.A.C.

¹⁶ Rule 65G-4.0216(3), F.A.C. Significant additional needs criteria can be found at Section 393.0662(1)(b), F.S. and Rule 65G-4.0218, F.A.C.

¹⁷ *See* s. 393.0662(1)(c), F.S., and Rules 65G-4.0216(5), and 65G-4.0218(2), F.A.C.

As of October 2019, 34,919 individuals were enrolled in the iBudget program.¹⁸ In Fiscal Year 2019-2020 the Legislature appropriated \$1.2 billion for the iBudget program, including \$462.8 million in general revenue funds and \$733.6 million in federal trust funds.¹⁹

Waiver Waitlist

The APD maintains a prioritized wait list for HCBS Waiver services.²⁰ Currently, there are 21,433 people on the HCBS Waiver waitlist.²¹ Medicaid-eligible persons on the wait list can continue to receive Medicaid services offered through the Agency for Health Care Administration (AHCA).

Significant Additional Needs Criteria

A client can request supplemental funding, in addition to that allocated through the algorithm, that if not provided would place the health and safety of the client, the client's caregiver, or public in serious jeopardy.²² This supplemental funding, known as a 'Significant Additional Need,' is categorized as an extraordinary need, a significant need for one time or temporary support or services, or a significant increase in the need for services after the beginning of the service plan year, and a significant need for transportation services.²³

An extraordinary need may include, but is not limited to:²⁴

- A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;
- A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;
- A chronic comorbid condition; or
- A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene.

A significant need for one-time or temporary support or services may include, but is not limited to the need for:²⁵

- Environmental modifications;
- Durable medical equipment;
- Services to address the temporary loss of support from a caregiver; or
- Special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition.

¹⁸ Attachment to e-mail from Jeff Ivey, Legislative Affairs Director, Agency for Persons with Disabilities. (Oct. 17, 2019) (on file with the Senate Committee on Children, Families and Elder Affairs).

¹⁹ See Specific Appropriation 245, section 3, Ch. 2019-115, Laws of Florida.

²⁰ Section 393.065(5), F.S.

²¹ Email from Jeff Ivey, Legislative Affairs Director, Agency for Persons with Disabilities, to Peter Delia, Senior Attorney, Senate Committee on Children, Families, and Elder Affairs (on file with the Appropriations Subcommittee on Health and Human Services).

²² Section 393.0662(1)(b), F.S.

²³ Rule 65G-4.0213(23), F.A.C.

²⁴ Section 393.0662(1)(b)1., F.S.

²⁵ Section 393.0662(1)(b)2., F.S.

A significant increase in the need for services after the beginning of the service plan year may include, but is not limited to:²⁶

- Permanent or long-term loss or incapacity of a caregiver;
- Loss of services authorized under the state Medicaid plan due to a change in age; or
- A significant change in medical or functional status that requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget.

If public transportation is not an option due to the unique needs of the client or other transportation resources are not reasonably available, supplemental funding may be approved for transportation services to a waiver-funded adult day training program or employment services.²⁷

The APD is required to approve requests for increases to the allocation amount if the request meets the Significant Additional Needs criteria.²⁸ If a client's allocation amount includes significant additional needs beyond what is determined by the algorithm and the APD determines that the service intensity, frequency or duration is no longer necessary, the APD is required to adjust the services to match the current need.²⁹

Currently, the APD is required to document the information necessary to evaluate significant additional needs requests. The documentation may include the following:³⁰

- Support plans;
- QSI results;
- Cost plans;
- Expenditure history;
- Current living situation;
- Interviews with the client or the client's caregiver;
- Prescriptions;
- Data regarding the results of previous therapies and interventions;
- Assessments; and
- Provider documentation.

Currently, no additional funding for significant additional needs can be provided if the need for additional funding is not premised upon a need that arises after the implementation of the initial iBudget amount,³¹ or is created by a client's failure to ensure that funding remained sufficient to cover previously authorized services.³²

²⁶ Section 393.0662(1)(b)3., F.S.

²⁷ Section 393.0662(1)(b)4., F.S.

²⁸ Rule 65G-4.0216(3), F.A.C. Significant additional needs criteria can be found at Section 393.0662(1)(b), F.S. and Rule 65G-4.0218, F.A.C.

²⁹ Rule 65G-4.0218(4), F.A.C.

³⁰ Rule 65G-4.0218(5), F.A.C.

³¹ The iBudget amount is the total amount of funds approved by the APD. See Rules 65G-4.0213, F.A.C., and 65G-4.0216, F.A.C.

³² Rule 65G-4.0218(7), F.A.C.

Medical Necessity

There is no federal definition of medical necessity. Instead, the federal government has left it up to each state to create its own definition of medical necessity and limit Medicaid services based on that definition.³³ Any optional service provided under Medicaid, such as home and community-based services, must be provided only when medically necessary.³⁴

Medically necessary or medical necessity is defined in Florida as medical or allied care, goods, or services furnished or ordered that meet the following conditions:³⁵

- Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain,
- Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient's needs,
- Be consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational,
- Be reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide, and
- Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider.

The fact that a provider has prescribed, recommended, or approved medical or allied care, goods, or services does not, in itself, make such care, goods or services medically necessary, or a medical necessity or a covered service.

The APD, with concurrence of the AHCA, may contract for the determination of medical necessity and establishment of individual budgets.³⁶ Additionally, the AHCA may implement a utilization management program designed to prior authorize home and community-based services, preauthorize high-cost or highly utilized services, or make any other adjustments necessary to comply with the limitations or directions provided for in the General Appropriations Act.³⁷

iBudget Program Deficits

In Fiscal Year 2017-2018, the APD exceeded its legislative appropriation for the iBudget by \$56.9 million. In Fiscal Year 2018-2019, the APD exceeded its legislative appropriation for the iBudget by \$107.9 million, and the APD is projected to exceed its appropriation in Fiscal Year 2019-2020 by \$134.3 million.

In 2019, the Florida Auditor General evaluated the APD's administration of the iBudget, including the effectiveness of the allocation methodology and algorithm in achieving the

³³ Memorandum to Stuart Williams, General Counsel, Agency for Health Care Administration from Tracy George, Chief Appellate Counsel, Agency for Health Care Administration (January 8, 2013) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

³⁴ Section 409.906, F.S.

³⁵ Rule 59G-1.1010, F.A.C.

³⁶ Section 393.0661(1)(b), F.S.

³⁷ Section 409.906(13), F.S.

legislative intent of the iBudget.^{38,39} The evaluation concluded that despite statistical validity underlying the algorithm, statutory allowances for significant additional needs have prevented APD from achieving the financial management goals of the iBudget and reducing the number of individuals on the waiting list.⁴⁰

As a result of continued deficits, the 2019 Legislature directed APD, in conjunction with AHCA, to develop a plan to redesign the iBudget program and submit the plan to the Legislature.⁴¹ The plan was required to address the following areas:⁴²

- Specific steps to restrict spending to budgeted amounts based on alternatives to the iBudget and four-tiered Medicaid waiver models;
- Identification of core services that are essential to provide for client health and safety and recommend elimination of coverage for other services that are not affordable based on available resources;
- The redesign shall be responsive to individual needs and to the extent possible encourage client control over allocated resources for their needs; and
- The plan shall modify the manner of providing support coordination services to improve management of service utilization and increase accountability and responsiveness to agency priorities.

In response, the APD submitted a proposed redesign of the iBudget consisting of the following elements:⁴³

- Inclusion of the iBudget waiver program in the Social Services Estimating Conference;
- Implementation of a behavioral health intermediate care facility service rate;
- Individual caps on the dollar amount of services for waiver clients;
- Budget transfers from the Medicaid State Plan to the iBudget waiver program for waiver clients turning 21;
- Expansion of the Medicaid Assistive Care Services program to include waiver group homes;
- Service limitations on Life Skills Development services;
- Centralization of the Significant Additional Needs approval process;
- Restructuring of support coordination services; and
- Implementation of a new client needs assessment tool, specifically the Next Generation Questionnaire for Situational Information.

Waiver Support Coordination

Waiver support coordination services are provided by waiver support coordinators (WSCs), who assist clients in gaining access to needed medical, social, educational and other services,

³⁸ State of Florida Auditor General Report No. 2020-012, August 2019, *available at* https://flauditor.gov/pages/pdf_files/2020-012.pdf (last visited January 13, 2020).

³⁹ The Legislature intended that the iBudget improve the financial management of the existing HCBS Waiver to avoid deficits that impeded the provision of services to individuals who are on the waiting list for enrollment in the program. *See s. 393.0662, F.S.*

⁴⁰ *Supra* note 44.

⁴¹ Ch. 2019-116, Laws of Florida.

⁴² *Id.*

⁴³ Agency for Persons with Disabilities; Agency for Health Care Administration: 2019 iBudget Waiver Redesign (on file with the Senate Children, Families, and Elder Affairs Committee).

regardless of funding source.⁴⁴ All iBudget clients are required to receive a certain level of waiver support coordination services.⁴⁵ WSCs are responsible for the ongoing monitoring of supports and services provided to clients and are tasked with ensuring that clients receive the level of services they are entitled to and need under the iBudget including:⁴⁶

- Locating, selecting and coordinating services and supports, whether paid with waiver funds or other resources;
- Documenting monthly progress of services rendered;
- A minimum of two monthly contacts with or on behalf of the Waiver client, or contact with another provider to discuss progress toward achieving goals identified in the client's support plan (WSCs are expected to meet the needs of the individuals they serve regardless of the number of contacts it takes to meet those needs);
- Monitoring client's health and safety and well-being and assist them in reaching desired outcomes; and
- Maintaining client's current annual support plan, cost plan and supporting documents.

WSCs must pass a level-two background screen, meet provider qualifications⁴⁷ and requirements,⁴⁸ complete a Medicaid Provider Enrollment application, complete an APD provider application, and be assigned a Medicaid provider number.⁴⁹

WSCs enroll as either a solo⁵⁰ or an agency⁵¹ Medicaid provider.⁵² For most services under the waiver, other than support coordination, agency providers can bill at an agency rate. Waiver support coordination services, however, are billed at one rate.⁵³

⁴⁴ Rule 59G-13.080(3)(e), F.A.C.

⁴⁵ There are 3-levels of waiver support coordination services: full, enhanced and limited. The level of service requirements are described in the Agency for Health Care Administration, *Florida Medicaid Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook* (2015), available at: <http://apd.myflorida.com/ibudget/rules-reg.html> (last visited January 19, 2020).

⁴⁶ Agency for Health Care Administration, *Florida Medicaid Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook* (2015), available at: <http://apd.myflorida.com/ibudget/rules-reg.html> (last visited January 19, 2020).

⁴⁷ Qualifications include, but are not limited to, a bachelor's degree, and, at a minimum, 2-years of paid, supervised experience in developmental disabilities, special education, mental health, counseling, guidance, social work or health and rehabilitative services.

⁴⁸ Requirements include, but are not limited to, a minimum of 60 hours of pre-service training, including 34 hours of statewide pre-service training, and 26 hours of district-specific training, which includes orientation to the district, local resources and local operational procedures.

⁴⁹ *Supra* note 46.

⁵⁰ A solo or independent provider is a person who personally renders waiver services directly to recipients and does not employ others to render waiver services for which the rate is being paid. *See Supra* note 46 at pg. 1-10.

⁵¹ An agency provider is a business or organization enrolled to provider waiver services that has two or more employees to carry out the enrolled service, including the agency owner. An agency or group provider for rate purposes is a provider that employees staff to perform waiver services. A provider that hires only subcontractors to perform waiver services is not considered an agency provider for rate purposes. *See Supra* note 46 at pg. 1-2.

⁵² *Id.*

⁵³ Rule 59G-13.081, F.A.C.

Support coordination agencies have additional responsibilities to:⁵⁴

- Have a comprehensive internal quality assurance management plan (which should include a systematic method of inspecting and reviewing all required documentation and activities) to actively monitor and supervise WSCs employed by their agency;
- Provide ongoing technical assistance and training to their employees in order to ensure that they are adequately fulfilling their job requirements as a WSC and Medicaid provider; and
- Maintain personnel files documenting the qualifications of all employees, completion of all required training, and background screening results.

The APD, the AHCA, or an authorized representative of the state monitor support coordinators on an annual basis.⁵⁵ The quality assurance process includes both a provider performance review, which is a review of regulatory compliance, and a person-centered review that focuses on an interview with the client receiving services to assure outcomes are being met, adequate follow through is being done and services are satisfactory to the client.⁵⁶

HCBS Waiver services should be one element of the supports available to clients. Clients, families, legal representatives, WSCs, and providers are responsible for seeking non-waiver supports to augment and replace HCBS Waiver services. The HCBS Waiver should be the payer of last resort.⁵⁷

Client Data Management System (iConnect)

The federal Centers for Medicare and Medicaid Services requires that all states that offer personal care and/or home health services through a waiver must utilize an electronic visit verification (EVV) system to verify when and where a service is being provided and the actual amount of time the provider spends with the customer.⁵⁸ APD has contracted with a vendor to create a central client data management system, known as iConnect. The iConnect system will provide EVV functionality, as well as electronic billing and centralization of client records.

Currently, providers bill for services through the AHCA Florida Medicaid Management Information System (FMMIS).⁵⁹

Intermediate Care Facilities for the Developmentally Disabled

Individuals who have a developmental disability and who meet Medicaid eligibility requirements may receive services in an institution, such as an intermediate care facility for the developmentally disabled (ICF/DD) through the state's Medicaid program. The AHCA is

⁵⁴ *Supra* note 46 at pg. 2-84.

⁵⁵ *Supra* note 46 at pg. A-9.

⁵⁶ *Supra* note 46.

⁵⁷ *Supra* note 46 at pg. 2-75.

⁵⁸ Department of Health and Human Services, Centers for Medicare and Medicaid Services, *Frequently Asked Questions: Section 12006 of the 21st Century Cures Act, Electronic Visit Verification (EVV) Systems for Personal Care Services (PCS) and Home Health Care Services (HHCS)*, available at: <https://www.medicaid.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evv/index.html> (last visited January 21, 2020).

⁵⁹ Agency for Persons with Disabilities iConnect Proposed Redraft Analysis. On file with the Senate Children, Families, and Elder Affairs Committee.

responsible for licensing and oversight of ICF/DDs in Florida.⁶⁰ ICF/DDs provide the following services: nursing services, activity services, dental services, dietary services, pharmacy services, physician services, rehabilitative care services, room/bed and maintenance services and social services.⁶¹

While the majority of individuals who have a developmental disability live in the community, a small number live in ICF/DDs. Currently, there are 88 privately owned ICF/DD facilities in Florida. As of April 2018, the ICF/DDs are 94.6 percent occupied, with 1,948 individuals in 2,060 possible slots.⁶²

Certificate of Need

The licensure of ICF/DDs is controlled by Part VIII of ch. 400, F.S., and Chapter 59A-26, F.A.C. Prior to obtaining a license, an ICF/DD must obtain a certificate of need (CON) from the AHCA.⁶³ A CON is a written statement issued by the AHCA evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility or health service, including hospices.⁶⁴

Florida's CON program has existed since July 1973. From 1974 through 1986, the specifics of the program were largely dictated by the federal National Health Planning and Resources Development Act of 1974 (Act), which established minimum requirements regarding the type of services subject to CON review, review procedures, and review criteria.⁶⁵ Each state was required to have a CON program in compliance with the Act as a condition for obtaining federal funds for health programs. The Act was repealed in 1986.⁶⁶

Determination of Need, Application, and Review Processes

A CON is predicated on a determination of need. The future need for services and projects is known as the "fixed need pool,"⁶⁷ which the AHCA publishes periodically.⁶⁸ The Florida CON program has three levels of review: comparative, expedited, and exempt.⁶⁹ Currently, all

⁶⁰ See ss. 400.962 and 400.967, F.S.

⁶¹ Agency for Health Care Administration, *Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/DD) Services*, available at:

https://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/behavioral_health_coverage/bhfu/Intermediate_Care.shtml (last visited January 21, 2020).

⁶² Florida Medicaid ICF/IID Rate Study Report, prepared by Navigant for the Florida Agency for Health Care Administration, 2019 (on file with the Senate Children and Families and Elder Affairs Committee).

⁶³ Section 408.036

⁶⁴ Section 408.032(3), F.S.

⁶⁵ Pub. Law No. 93-641, 42 U.S.C. s. 300k et seq.

⁶⁶ Mitchell, Matthew D., *Certificate of Need Laws: Are They Achieving Their Goals?* Mercatus Center, George Mason University, available at: [www.mercatus.org › system › files › mitchell-con-qa-mop-mercatus-v2](http://www.mercatus.org/system/files/mitchell-con-qa-mop-mercatus-v2) (last visited January 30, 2020).

⁶⁷ Rule 59C-1.002(19), F.A.C., defines "fixed need pool" as the identified numerical need, as published in the Florida Administrative Register, for new beds or services for the applicable planning horizon established by the AHCA in accordance with need methodologies which are in effect by rule at the time of publication of the fixed need pools for the applicable batching cycle.

⁶⁸ Agency for Health Care Administration, *Certificate of Need Publications*, available at: https://ahca.myflorida.com/MCHQ/CON_FA/Publications/index.shtml (last visited January 28, 2020).

⁶⁹ *Supra* note 63.

ICF/DDs are subject to a full comparative review.⁷⁰ Upon determining that a need exists, the AHCA accepts applications for a CON based on batching cycles. A batching cycle is the grouping, for comparative review, of CON applications submitted for beds, services, or programs having a like-CON need methodology or licensing category in the same planning horizon and the same applicable district or subdistrict.⁷¹ CON application fees are a base fee of \$10,000 and an additional fee of 1.5 cents for each dollar of the proposed project expenditures up to a maximum combined total of \$50,000.⁷²

Reimbursement Methodology

ICF/DDs are considered institutional placements and are reimbursed for care through the AHCA Medicaid program. ICF/DDs are reimbursed based on two levels of care, which are based on the client's mobility:⁷³

- ICF Level of Reimbursement One- A reimbursement level for recipients who are ambulatory or self-mobile using mechanical devices and are able to transfer themselves without human assistance, but may require assistance and oversight to ensure safe evacuation; and
- ICF Level of Reimbursement Two- A reimbursement level for recipients who are capable of mobility only with human assistance or require human assistance to transfer to or from a mobility device or require continuous medical and nursing supervision.

Maladaptive Behaviors

ICF/DD providers in Florida have reported an increase in the number of recipients with severe maladaptive behaviors that require significant resources to provide appropriate care beyond what is currently provided through the level one and level two-reimbursement methodology.⁷⁴ Maladaptive behaviors are those behaviors that are disruptive, destructive, aggressive, or significantly repetitive.⁷⁵ The APD has developed a Global Behavioral Service Need Matrix (Matrix) in order to classify the severity of a person's maladaptive behavior.⁷⁶ The Matrix categorizes symptoms of maladaptive behaviors such as behavior frequency, behavioral impact, physical aggression to others, police involvement, property destruction, and elopement/wandering, among others. Each symptom is ranked on a scale of one to six, with one being the least severe and six being the most severe. If a symptom is not present, it is ranked as a zero. Based on a person's behavior score, the person will be evaluated for services. The initial evaluation period is 12 months and then the frequency of evaluations afterwards depends on the severity of the person's score, with a need level of six being evaluated more frequently than a need level of one.⁷⁷

⁷⁰ Rule 59C-1.004(1), F.A.C.

⁷¹ Rule 59C-1.002(5), F.A.C. Note: s. 408.032(5), F.S., establishes the 11 district service areas in Florida.

⁷² Section 408.038, F.S.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Fulton, Elizabeth et al. "Reducing maladaptive behaviors in preschool-aged children with autism spectrum disorder using the early start denver model." *Frontiers in pediatrics* vol. 2 40. available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4023017/> (last visited on Jan. 24, 2020).

⁷⁶ Available at <http://apdcares.org/news/news/2011/ib-matrix-instructions.pdf> (last visited on Jan. 24, 2020).

⁷⁷ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 393.063, F.S., to define ‘significant additional needs’ as an additional need for medically necessary services, which would place the health and safety of the client, their caregiver, or the public in serious jeopardy if not met. The bill requires the APD to only provide additional funding after the determination of a client’s initial allocation amount and after the qualified organization has documented the lack of availability of nonwaiver resources. The bill also redefines support coordinators as employees of a qualified organization.

Section 2 amends s. 393.066, F.S., to require all HCBS Waiver service providers to bill for services through the APD’s iConnect system and submit documentation that verifies services were rendered prior to receiving payment.

Section 3 repeals section 393.0661, F.S. This section contains outdated provisions relating to the waiver program design prior to the implementation of the iBudget. The bill also eliminates the existing review criteria for significant additional needs requests. Such criteria has not been effective in limiting the iBudget supplemental funding increases approved by APD. Other provisions are moved to s. 393.0662, F.S.

Section 4 amends s. 393.0662, F.S., to require that funding for significant additional needs, as defined in the bill, may be provided only after the determination of a client’s initial iBudget allocation amount and after the agency has certified and documented, in the client’s cost plan, the use of all available nonwaiver resources.

To ensure consistent application of medical necessity the bill requires the APD to centralize, in its headquarters location, medical necessity determinations relating to significant additional needs requests.

The bill preserves language from current law in s. 393.0661, F.S., relating to premiums and cost sharing, rate adjustments, the ability of AHCA to seek federal approval to amend waivers as needed, and the responsibility of APD to submit certain reports to the Governor and the Legislature. The bill also provides rulemaking authority for both APD and AHCA regarding criteria and processes for clients to access funds for significant additional needs.

Section 5 creates s. 393.0663, F.S., to require all waiver support coordinators to be employees of qualified organizations that provide all support coordination services to HCBS Waiver clients. A qualified organization must:

- Employ four more support coordinators;
- Maintain a professional code of ethics and a disciplinary process that applies to all support coordinators within the organization;
- Report violations of ethical and professional conduct to APD;
- Comply with APD cost containment initiatives;
- Ensure client budgets are linked to levels of need;
- Prohibit dual employment of a support coordinator that adversely impacts the support coordinators availability to clients;
- Educate clients and families regarding identification and prevention of abuse, neglect, and exploitation;

- Instruct clients and families on mandatory reporting requirements for abuse, neglect, and exploitation;
- Timely submit documentation for significant additional needs requests;
- Require support coordinators to successfully complete training and professional development approved by the APD;
- Require support coordinators to pass a competency-based assessment;
- Implement a mentoring program for support coordinators who have worked as support coordinators for less than 12 months;

The bill requires the APD to maintain a publicly accessible registry of all WSCs that includes any history of ethical or disciplinary actions taken against a WSC. The bill also authorizes the APD to impose an immediate moratorium on new client assignments, impose administrative fines, require plans of remediation, and terminate the Medicaid Waiver Services Agreement of any qualified organization that is noncompliant with applicable laws or rules. A qualified organization that receives a disciplinary action from the APD can appeal through an internal agency review process, and upon receiving an adverse determination can request an administrative hearing pursuant to ss. 120.569 and 120.57(1), F.S.

The bill authorizes agency rulemaking to implement the provisions of Section 5.

Section 6 amends s. 400.962, F.S., to establish additional licensure and application requirements for an ICF/DD that has been granted the CON exemption, including:

- The total number of beds per home within the facility may not exceed eight, with each resident having his or her own bedroom and bathroom. Each eight-bed home must be co-located on the same property with two other eight-bed homes and must serve individuals with severe maladaptive behaviors and co-occurring psychiatric diagnoses.
- A minimum of 16 beds within the facility must be designated for individuals with severe maladaptive behaviors who have been assessed using the Matrix with a score of at least Level 3 and up to Level 6, or assessed using criteria deemed appropriate by the AHCA regarding the need for a specialized placement in an ICF/DD.
- The applicant has not had a facility license denied, revoked, or suspended within the 36 months preceding the request for exemption.
- The applicant must have at least 10 years of experience serving individuals with severe maladaptive behaviors in the state.
- The applicant must implement a state-approved staff training curriculum and monitoring requirements specific to the individuals whose behaviors require higher intensity, frequency, and duration of services.
- The applicant must make available medical and nursing services 24 hours per day, 7 days per week.
- The applicant must demonstrate a history of using interventions that are least restrictive and that follow a behavioral hierarchy.
- The applicant must maintain a policy prohibiting the use of mechanical restraints.

Section 7 amends s. 408.036, F.S., to create a CON exemption for a new ICF/DD which has a total of 24 beds, comprising three eight-bed homes, for use by individuals exhibiting severe maladaptive behaviors and co-occurring psychiatric diagnoses requiring increased levels of

behavioral, medical, and therapeutic oversight. In order to obtain the exemption, The ICF/DD must not have had a license denied, revoked, or suspended within the 36 months preceding the request for exemption and must have at least 10 years of experience serving individuals with severe maladaptive behaviors in Florida.

The bill prohibits the AHCA from granting an additional exemption to an ICF/DD that has been granted an exemption under these provisions unless the facility has been licensed and operational for a period of at least two years. Additionally, the bill specifies that the exemption does not require a specific appropriation.

Section 8 amends s. 409.906, F.S., to direct AHCA to seek federal approval to implement an increased rate for ICF/DDs that serve individuals with developmental disabilities who have severe maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of developmental disability and mental illness.

Section 9 amends s. 1002.385, F.S., to conform a cross-reference.

Section 10 provides an effective date of January 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

PCS/SB 82 will have a negative but indeterminate fiscal impact on current waiver support coordinators who do not become employees of a qualified organization.

Service providers who do not have hardware/software that can potentially interface with the Agency for Persons with Disabilities (APD) iConnect billing system may be required to purchase new hardware/software that can interface with iConnect, and to train staff on the use of iConnect. Service providers may also incur costs associated with dual data entry if the provider utilizes a different IT system and must manually input data into iConnect. The fiscal impact of the iConnect billing requirements on private service providers is negative but indeterminate.

The bill's exemption from the CON review process and application fee will have a positive but indeterminate fiscal impact on ICF/DDs eligible for the CON exemption.

C. Government Sector Impact:

The bill will have a negative yet indeterminate fiscal impact on the Florida Medicaid program by incentivizing the creation of ICF/DDs that accept individuals with developmental disabilities who have severe maladaptive behaviors or mental health issues. The negative fiscal impact to the Medicaid program is offset by the positive fiscal impact to the HCBS Waiver as a result of transferring individuals from the HCBS Waiver to Medicaid.

The AHCA may incur costs related to the licensing and surveying of additional ICF/DDs.⁷⁸

The bill's requirement to centralize medical necessity determinations at the APD headquarters may have a positive yet indeterminate fiscal impact on state expenditures by standardizing the interpretation and implementation of medical necessity determinations. Any cost savings realized as a function of centralizing medical necessity determinations would allow the agency to address the Home and Community-based Waiver waitlist.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁷⁸ Agency for Health Care Administration, *Senate Bill 1344 Fiscal Analysis* (January 26, 2020) (on file with the Senate Subcommittee on Health and Human Services).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 393.063, 393.066, 393.0662, 400.962, 408.036, 409.906, and 1002.385.

This bill creates section 393.0663 of the Florida Statutes.

This bill repeals section 393.0661 of the Florida Statutes.

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

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on January 28, 2020:

The committee substitute:

- Removes the requirement for AHCA to contract out for medical necessity determinations and instead directs APD to centralize medical necessity determinations for significant additional needs requests within its headquarters;
- Removes the requirement that APD competitively procure support coordination organizations to provide support coordination services and instead requires support coordination services to be provided by waiver support coordinators who are employees of a qualified organization;
- Requires qualified organizations to:
 - Employee 4 or more support coordinators;
 - Meet certain quality assurance criteria;
 - Ensure that client budgets are linked to levels of need;
 - Document nonwaiver resources; and
 - Prohibit dual employment of support coordinators if such employment interferes with their availability to clients.
- Requires the APD to maintain a public registry of waiver support coordinators and any disciplinary action taken against them;
- Authorizes the APD to take disciplinary action against qualified organizations who violate statutory requirements;
- Provides due process to any qualified organization that receives an adverse decision from the APD;
- Provides an exemption to the CON review and fee for certain ICF/DDs; and
- Revises the effective date to January 1, 2020.

B. Amendments:

None.



446518

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Gibson) recommended the following:

Senate Amendment

Delete line 86
and insert:
in serious jeopardy if it is not met. The term does not exclude
an additional need that the client requires in order to remain
in the least restrictive setting, including, but not limited to,
employment services or transportation services. The agency may
only



909432

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Rouson) recommended the following:

Senate Amendment

Delete line 413.



329026

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Rouson) recommended the following:

Senate Amendment

Delete line 583
and insert:
Section 10. This act shall take effect July 1, 2021.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to individuals with disabilities;
amending s. 393.063, F.S.; defining the term
"significant additional need"; revising the definition
of the term "support coordinator"; amending s.
393.066, F.S.; requiring persons and entities under
contract with the Agency for Persons with Disabilities
to use the agency data management systems to bill for
services; repealing s. 393.0661, F.S., relating to the
home and community-based services delivery system;
amending s. 393.0662, F.S.; revising criteria used by
the agency to develop a client's iBudget; revising
criteria used by the agency to authorize additional
funding for certain clients; requiring the agency to
centralize medical necessity determinations of certain
services; requiring the agency to certify and document
the use of certain services before approving the
expenditure of certain funds; requiring the Agency for
Health Care Administration to seek federal approval to
provide consumer-directed options; authorizing the
Agency for Persons with Disabilities and the Agency
for Health Care Administration to adopt rules;
requiring the Agency for Health Care Administration to
seek federal waivers and amend contracts under certain
conditions; requiring the Agency for Persons with
Disabilities to collect premiums or cost sharing;
providing construction; providing for the



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reimbursement of certain providers of services;
requiring the Agency for Persons with Disabilities to
submit quarterly status reports to the Executive
Office of the Governor, the chair of the Senate
Appropriations Committee, and the chair of the House
Appropriations Committee or their successors;
providing requirements for such reports; requiring the
Agency for Persons with Disabilities, in consultation
with the Agency for Health Care Administration, to
submit a certain plan to the Executive Office of the
Governor, the chair of the Senate Appropriations
Committee, and the chair of the House Appropriations
Committee under certain conditions; requiring the
agency to work with the Agency for Health Care
Administration to implement such plan; requiring the
Agency for Persons with Disabilities, in consultation
with the Agency for Health Care Administration, to
provide quarterly reconciliation reports to the
Governor and the Legislature within a specified
timeframe; revising rulemaking authority of the Agency
for Persons with Disabilities and the Agency for
Health Care Administration; creating s. 393.0663,
F.S.; providing legislative intent; defining the term
"qualified organization"; requiring the Agency for
Persons with Disabilities to use qualified
organizations to provide support coordination services
for certain clients; providing requirements for
qualified organizations; providing agency duties;
providing for the review and appeal of certain



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57 decisions made by the agency; authorizing the agency
58 to adopt rules; amending s. 400.962, F.S.; requiring
59 certain facilities that have been granted a
60 certificate-of-need exemption to demonstrate and
61 maintain compliance with specified criteria; amending
62 s. 408.036, F.S.; providing an exemption from a
63 certificate-of-need requirement for certain
64 intermediate care facilities; prohibiting the Agency
65 for Health Care Administration from granting an
66 additional exemption to a facility unless a certain
67 condition is met; providing that a specific
68 legislative appropriation is not required for such
69 exemption; amending s. 409.906, F.S.; requiring the
70 agency to seek federal approval to implement certain
71 payment rates; amending s. 1002.385, F.S.; conforming
72 a cross-reference; providing an effective date.

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

76 Section 1. Present subsections (39) through (45) of section
77 393.063, Florida Statutes, are redesignated as subsections (40)
78 through (46), respectively, a new subsection (39) is added to
79 that section, and present subsection (41) of that section is
80 amended, to read:

81 393.063 Definitions.—For the purposes of this chapter, the
82 term:

83 (39) "Significant additional need" means an additional need
84 for medically necessary services which would place the health
85 and safety of the client, the client's caregiver, or the public



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86 in serious jeopardy if it is not met. The agency may only
87 provide additional funding after the determination of a client's
88 initial allocation amount and after the qualified organization
89 has documented the availability of nonwaiver resources.

90 (42)(41) "Support coordinator" means an employee of a
91 qualified organization pursuant to s. 393.0663 a person who is
92 designated by the agency to assist individuals and families in
93 identifying their capacities, needs, and resources, as well as
94 finding and gaining access to necessary supports and services;
95 coordinating the delivery of supports and services; advocating
96 on behalf of the individual and family; maintaining relevant
97 records; and monitoring and evaluating the delivery of supports
98 and services to determine the extent to which they meet the
99 needs and expectations identified by the individual, family, and
100 others who participated in the development of the support plan.

101 Section 2. Subsection (2) of section 393.066, Florida
102 Statutes, is amended to read:

103 393.066 Community services and treatment.—

104 (2) Necessary services shall be purchased, rather than
105 provided directly by the agency, when the purchase of services
106 is more cost-efficient than providing them directly. All
107 purchased services must be approved by the agency. As a
108 condition of payment, persons or entities under contract with
109 the agency to provide services shall use agency data management
110 systems to document service provision to clients before billing
111 and must use the agency data management systems to bill for
112 services. Contracted persons and entities shall meet the minimum
113 hardware and software technical requirements established by the
114 agency for the use of such systems. Such persons or entities



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shall also meet any requirements established by the agency for training and professional development of staff providing direct services to clients.

Section 3. Section 393.0661, Florida Statutes, is repealed.

Section 4. Section 393.0662, Florida Statutes, is amended to read:

393.0662 Individual budgets for delivery of home and community-based services; iBudget system established.—The Legislature finds that improved financial management of the existing home and community-based Medicaid waiver program is necessary to avoid deficits that impede the provision of services to individuals who are on the waiting list for enrollment in the program. The Legislature further finds that clients and their families should have greater flexibility to choose the services that best allow them to live in their community within the limits of an established budget. Therefore, the Legislature intends that the agency, in consultation with the Agency for Health Care Administration, shall manage the service delivery system using individual budgets as the basis for allocating the funds appropriated for the home and community-based services Medicaid waiver program among eligible enrolled clients. The service delivery system that uses individual budgets shall be called the iBudget system.

(1) The agency shall administer an individual budget, referred to as an iBudget, for each individual served by the home and community-based services Medicaid waiver program. The funds appropriated to the agency shall be allocated through the iBudget system to eligible, Medicaid-enrolled clients. For the iBudget system, eligible clients shall include individuals with



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a developmental disability as defined in s. 393.063. The iBudget system shall provide for: enhanced client choice within a specified service package; appropriate assessment strategies; an efficient consumer budgeting and billing process that includes reconciliation and monitoring components; a role for support coordinators that avoids potential conflicts of interest; a flexible and streamlined service review process; and the equitable allocation of available funds based on the client's level of need, as determined by the allocation methodology.

(a) In developing each client's iBudget, the agency shall use the allocation methodology as defined in s. 393.063(4), in conjunction with an assessment instrument that the agency deems to be reliable and valid, including, but not limited to, the agency's Questionnaire for Situational Information. The allocation methodology shall determine the amount of funds allocated to a client's iBudget.

(b) The agency may authorize additional funding based on a client having one or more significant additional needs ~~of the following needs~~ that cannot be accommodated within the funding determined by the algorithm and having no other resources, supports, or services available to meet the needs. Such additional funding may be provided only after the determination of a client's initial allocation amount and after the qualified organization has documented the availability of all nonwaiver resources. Upon receipt of an incomplete request for significant additional needs, the agency shall close the request.

(c) The agency shall centralize, within its headquarters office, medical necessity determinations of requested services made through the significant additional needs process. The



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process must ensure consistent application of medical necessity criteria. This process must provide opportunities for targeted training, quality assurance, and inter-rater reliability. need:

1. An extraordinary need that would place the health and safety of the client, the client's caregiver, or the public in immediate, serious jeopardy unless the increase is approved. However, the presence of an extraordinary need in and of itself does not warrant authorized funding by the agency. An extraordinary need may include, but is not limited to:

a. A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;

b. A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;

c. A chronic comorbid condition. As used in this subparagraph, the term "comorbid condition" means a medical condition existing simultaneously but independently with another medical condition in a patient; or

d. A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene.

2. A significant need for one-time or temporary support or services that, if not provided, would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy. A significant need may include, but is not limited to, the provision of environmental modifications, durable medical equipment, services to address the temporary



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~~loss of support from a caregiver, or special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition. As used in this subparagraph, the term "temporary" means a period of fewer than 12 continuous months. However, the presence of such significant need for one-time or temporary supports or services in and of itself does not warrant authorized funding by the agency.~~

3. A significant increase in the need for services after the beginning of the service plan year that would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy because of substantial changes in the client's circumstances, including, but not limited to, permanent or long-term loss or incapacity of a caregiver, loss of services authorized under the state Medicaid plan due to a change in age, or a significant change in medical or functional status which requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget. As used in this subparagraph, the term "long-term" means a period of 12 or more continuous months. However, such significant increase in need for services of a permanent or long-term nature in and of itself does not warrant authorized funding by the agency.

4. A significant need for transportation services to a waiver-funded adult day training program or to waiver-funded employment services when such need cannot be accommodated within a client's iBudget as determined by the algorithm without affecting the health and safety of the client, if public transportation is not an option due to the unique needs of the



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~~client or other transportation resources are not reasonably available.~~

~~The agency shall reserve portions of the appropriation for the home and community-based services Medicaid waiver program for adjustments required pursuant to this paragraph and may use the services of an independent actuary in determining the amount to be reserved.~~

~~(d)(e)~~ A client's annual expenditures for home and community-based Medicaid waiver services may not exceed the limits of his or her iBudget. The total of all clients' projected annual iBudget expenditures may not exceed the agency's appropriation for waiver services.

(2) The Agency for Health Care Administration, in consultation with the agency, shall seek federal approval to amend current waivers, request a new waiver, and amend contracts as necessary to manage the iBudget system, improve services for eligible and enrolled clients, and improve the delivery of services through the home and community-based services Medicaid waiver program and the Consumer-Directed Care Plus Program, including, but not limited to, enrollees with a dual diagnosis of a developmental disability and a mental health disorder.

(3) The agency must certify and document within each client's cost plan that the a client has used ~~must use~~ all available services authorized under the state Medicaid plan, school-based services, private insurance and other benefits, and any other resources that may be available to the client before using funds from his or her iBudget to pay for support and services.



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(4) Rates for any or all services established under rules of the Agency for Health Care Administration must be designated as the maximum rather than a fixed amount for individuals who receive an iBudget, except for services specifically identified in those rules that the agency determines are not appropriate for negotiation, which may include, but are not limited to, residential habilitation services.

(5) The agency shall ensure that clients and caregivers have access to training and education that inform them about the iBudget system and enhance their ability for self-direction. Such training and education must be offered in a variety of formats and, at a minimum, must address the policies and processes of the iBudget system and the roles and responsibilities of consumers, caregivers, waiver support coordinators, providers, and the agency, and must provide information to help the client make decisions regarding the iBudget system and examples of support and resources available in the community.

(6) The agency shall collect data to evaluate the implementation and outcomes of the iBudget system.

(7) The Agency for Health Care Administration shall seek federal approval to provide a consumer-directed option for persons with developmental disabilities. The agency and the Agency for Health Care Administration may adopt rules necessary to administer this subsection.

(8) The Agency for Health Care Administration shall seek federal waivers and amend contracts as necessary to make changes to services defined in federal waiver programs as follows:

(a) Supported living coaching services may not exceed 20



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289 hours per month for persons who also receive in-home support
290 services.

291 (b) Limited support coordination services are the only
292 support coordination services that may be provided to persons
293 under the age of 18 who live in the family home.

294 (c) Personal care assistance services are limited to 180
295 hours per calendar month and may not include rate modifiers.
296 Additional hours may be authorized for persons who have
297 intensive physical, medical, or adaptive needs if such hours
298 will prevent institutionalization.

299 (d) Residential habilitation services are limited to 8
300 hours per day. Additional hours may be authorized for persons
301 who have intensive medical or adaptive needs and if such hours
302 will prevent institutionalization, or for persons who possess
303 behavioral problems that are exceptional in intensity, duration,
304 or frequency and present a substantial risk of harm to
305 themselves or others.

306 (e) The agency shall conduct supplemental cost plan reviews
307 to verify the medical necessity of authorized services for plans
308 that have increased by more than 8 percent during either of the
309 2 preceding fiscal years.

310 (f) The agency shall implement a consolidated residential
311 habilitation rate structure to increase savings to the state
312 through a more cost-effective payment method and establish
313 uniform rates for intensive behavioral residential habilitation
314 services.

315 (g) The geographic differential for Miami-Dade, Broward,
316 and Palm Beach Counties for residential habilitation services
317 must be 7.5 percent.



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318 (h) The geographic differential for Monroe County for
319 residential habilitation services must be 20 percent.

320 (9) The agency shall collect premiums or cost sharing
321 pursuant to s. 409.906(13)(c).

322 (10) This section or any related rule does not prevent or
323 limit the Agency for Health Care Administration, in consultation
324 with the agency, from adjusting fees, reimbursement rates,
325 lengths of stay, number of visits, or number of services, or
326 from limiting enrollment or making any other adjustment
327 necessary to comply with the availability of moneys and any
328 limitations or directions provided in the General Appropriations
329 Act.

330 (11) A provider of services rendered to persons with
331 developmental disabilities pursuant to a federally approved
332 waiver shall be reimbursed according to a rate methodology based
333 upon an analysis of the expenditure history and prospective
334 costs of providers participating in the waiver program, or under
335 any other methodology developed by the Agency for Health Care
336 Administration in consultation with the agency and approved by
337 the Federal Government in accordance with the waiver.

338 (12) The agency shall submit quarterly status reports to
339 the Executive Office of the Governor, the chair of the Senate
340 Appropriations Committee or its successor, and the chair of the
341 House Appropriations Committee or its successor containing all
342 of the following information:

343 (a) The financial status of home and community-based
344 services, including the number of enrolled individuals receiving
345 services through one or more programs.

346 (b) The number of individuals who have requested services



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347 and who are not enrolled but who are receiving services through
348 one or more programs, with a description indicating the programs
349 from which the individual is receiving services.

350 (c) The number of individuals who have refused an offer of
351 services but who choose to remain on the list of individuals
352 waiting for services.

353 (d) The number of individuals who have requested services
354 but who are receiving no services.

355 (e) A frequency distribution indicating the length of time
356 individuals have been waiting for services.

357 (f) Information concerning the actual and projected costs
358 compared to the amount of the appropriation available to the
359 program and any projected surpluses or deficits.

360 (13) If at any time an analysis by the agency, in
361 consultation with the Agency for Health Care Administration,
362 indicates that the cost of services is expected to exceed the
363 amount appropriated, the agency shall submit a plan in
364 accordance with subsection (10) to the Executive Office of the
365 Governor, the chair of the Senate Appropriations Committee or
366 its successor, and the chair of the House Appropriations
367 Committee or its successor to remain within the amount
368 appropriated. The agency shall work with the Agency for Health
369 Care Administration to implement the plan so as to remain within
370 the appropriation.

371 (14) The agency, in consultation with the Agency for Health
372 Care Administration, shall provide a quarterly reconciliation
373 report of all home and community-based services waiver
374 expenditures from the Agency for Health Care Administration's
375 claims management system with service utilization from the



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376 Agency for Persons with Disabilities Allocation, Budget, and
377 Contract Control system. The reconciliation report shall be
378 submitted to the Governor, the President of the Senate, and the
379 Speaker of the House of Representatives no later than 30 days
380 after the close of each quarter.

381 (15)(7) The agency and the Agency for Health Care
382 Administration may adopt rules specifying the allocation
383 algorithm and methodology; criteria and processes for clients to
384 access reserved funds for significant additional needs
385 extraordinary needs, temporarily or permanently changed needs,
386 and one-time needs; and processes and requirements for selection
387 and review of services, development of support and cost plans,
388 and management of the iBudget system as needed to administer
389 this section.

390 Section 5. Section 393.0663, Florida Statutes, is created
391 to read:

392 393.0663 Support coordination; legislative intent;
393 qualified organizations; agency duties; due process;
394 rulemaking.-

395 (1) LEGISLATIVE INTENT.-To enable the state to provide a
396 systematic approach to service oversight for persons providing
397 care to individuals with developmental disabilities, it is the
398 intent of the Legislature that the agency work in collaboration
399 with relevant stakeholders to ensure that waiver support
400 coordinators have the knowledge, skills, and abilities necessary
401 to competently provide services to individuals with
402 developmental disabilities by requiring all support coordinators
403 to be employees of a qualified organization.

404 (2) QUALIFIED ORGANIZATIONS.-



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405 (a) As used in this section, the term "qualified
406 organization" means an organization determined by the agency to
407 meet the requirements of this section and of the Developmental
408 Disabilities Individual Budgeting Waiver Services Coverage and
409 Limitations Handbook.
410 (b) The agency shall use qualified organizations for the
411 purpose of providing all support coordination services to
412 iBudget clients in this state. A qualified organization must:
413 1. Employ four or more support coordinators;
414 2. Maintain a professional code of ethics and a
415 disciplinary process that apply to all support coordinators
416 within the organization;
417 3. Comply with the agency's cost containment initiatives;
418 4. Require support coordinators to ensure client budgets
419 are linked to levels of need;
420 5. Require support coordinators to perform all duties and
421 meet all standards related to support coordination as provided
422 in the Developmental Disabilities Individual Budgeting Waiver
423 Services Coverage and Limitations Handbook;
424 6. Prohibit dual employment of a support coordinator if the
425 dual employment adversely impacts the support coordinator's
426 availability to clients;
427 7. Educate clients and families regarding identifying and
428 preventing abuse, neglect, and exploitation;
429 8. Instruct clients and families on mandatory reporting
430 requirements for abuse, neglect, and exploitation;
431 9. Submit within established timeframes all required
432 documentation for requests for significant additional needs;
433 10. Require support coordinators to successfully complete



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434 training and professional development approved by the agency;
435 11. Require support coordinators to pass a competency-based
436 assessment established by the agency; and
437 12. Implement a mentoring program approved by the agency
438 for support coordinators who have worked as a support
439 coordinator for less than 12 months.
440 (3) DUTIES OF THE AGENCY.—The agency shall:
441 (a) Require all qualified organizations to report to the
442 agency any violation of ethical or professional conduct by
443 support coordinators employed by the organization;
444 (b) Maintain a publicly accessible registry of all support
445 coordinators, including any history of ethical or disciplinary
446 violations; and
447 (c) Impose an immediate moratorium on new client
448 assignments, impose an administrative fine, require plans of
449 remediation, and terminate the Medicaid Waiver Services
450 Agreement of any qualified organization that is noncompliant
451 with applicable laws or rules.
452 (4) DUE PROCESS.—Any decision by the agency to take action
453 against a qualified organization as described in paragraph
454 (3)(c) is reviewable by the agency. Upon receiving an adverse
455 determination, the qualified organization may request an
456 administrative hearing pursuant to ss. 120.569 and 120.57(1)
457 within 30 days after completing any appeals process established
458 by the agency.
459 (5) RULEMAKING.—The agency may adopt rules to implement
460 this section.
461 Section 6. Subsection (6) is added to section 400.962,
462 Florida Statutes, to read:



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463 400.962 License required; license application.-
464 (6) An applicant that has been granted a certificate-of-
465 need exemption under s. 408.036(3)(o) must also demonstrate and
466 maintain compliance with the following criteria:
467 (a) The total number of beds per home within the facility
468 may not exceed eight, with each resident having his or her own
469 bedroom and bathroom. Each eight-bed home must be colocated on
470 the same property with two other eight-bed homes and must serve
471 individuals with severe maladaptive behaviors and co-occurring
472 psychiatric diagnoses.
473 (b) A minimum of 16 beds within the facility must be
474 designated for individuals with severe maladaptive behaviors who
475 have been assessed using the Agency for Persons with
476 Disabilities' Global Behavioral Service Need Matrix with a score
477 of at least Level 3 and up to Level 6, or assessed using the
478 criteria deemed appropriate by the Agency for Health Care
479 Administration regarding the need for a specialized placement in
480 an intermediate care facility for the developmentally disabled.
481 (c) The applicant has not had a facility license denied,
482 revoked, or suspended within the 36 months preceding the request
483 for exemption.
484 (d) The applicant must have at least 10 years of experience
485 serving individuals with severe maladaptive behaviors in this
486 state.
487 (e) The applicant must implement a state-approved staff
488 training curriculum and monitoring requirements specific to the
489 individuals whose behaviors require higher intensity, frequency,
490 and duration of services.
491 (f) The applicant must make available medical and nursing



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492 services 24 hours per day, 7 days per week.
493 (g) The applicant must demonstrate a history of using
494 interventions that are least restrictive and that follow a
495 behavioral hierarchy.
496 (h) The applicant must maintain a policy prohibiting the
497 use of mechanical restraints.
498 Section 7. Paragraph (o) is added to subsection (3) of
499 section 408.036, Florida Statutes, to read:
500 408.036 Projects subject to review; exemptions.-
501 (3) EXEMPTIONS.-Upon request, the following projects are
502 subject to exemption from subsection (1):
503 (o) For a new intermediate care facility for the
504 developmentally disabled as defined in s. 408.032 which has a
505 total of 24 beds, comprising three eight-bed homes, for use by
506 individuals exhibiting severe maladaptive behaviors and co-
507 occurring psychiatric diagnoses requiring increased levels of
508 behavioral, medical, and therapeutic oversight. The facility
509 must not have had a license denied, revoked, or suspended within
510 the 36 months preceding the request for exemption and must have
511 at least 10 years of experience serving individuals with severe
512 maladaptive behaviors in this state. The agency may not grant an
513 additional exemption to a facility that has been granted an
514 exemption under this paragraph unless the facility has been
515 licensed and operational for a period of at least 2 years. The
516 exemption under this paragraph does not require a specific
517 legislative appropriation.
518 Section 8. Subsection (15) of section 409.906, Florida
519 Statutes, is amended to read:
520 409.906 Optional Medicaid services.-Subject to specific



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521 appropriations, the agency may make payments for services which
522 are optional to the state under Title XIX of the Social Security
523 Act and are furnished by Medicaid providers to recipients who
524 are determined to be eligible on the dates on which the services
525 were provided. Any optional service that is provided shall be
526 provided only when medically necessary and in accordance with
527 state and federal law. Optional services rendered by providers
528 in mobile units to Medicaid recipients may be restricted or
529 prohibited by the agency. Nothing in this section shall be
530 construed to prevent or limit the agency from adjusting fees,
531 reimbursement rates, lengths of stay, number of visits, or
532 number of services, or making any other adjustments necessary to
533 comply with the availability of moneys and any limitations or
534 directions provided for in the General Appropriations Act or
535 chapter 216. If necessary to safeguard the state's systems of
536 providing services to elderly and disabled persons and subject
537 to the notice and review provisions of s. 216.177, the Governor
538 may direct the Agency for Health Care Administration to amend
539 the Medicaid state plan to delete the optional Medicaid service
540 known as "Intermediate Care Facilities for the Developmentally
541 Disabled." Optional services may include:

542 (15) INTERMEDIATE CARE FACILITY FOR THE DEVELOPMENTALLY
543 DISABLED SERVICES.—The agency may pay for health-related care
544 and services provided on a 24-hour-a-day basis by a facility
545 licensed and certified as a Medicaid Intermediate Care Facility
546 for the Developmentally Disabled, for a recipient who needs such
547 care because of a developmental disability. Payment shall not
548 include bed-hold days except in facilities with occupancy rates
549 of 95 percent or greater. The agency is authorized to seek any



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550 federal waiver approvals to implement this policy. The agency
551 shall seek federal approval to implement a payment rate for
552 Medicaid intermediate care facilities serving individuals with
553 developmental disabilities, severe maladaptive behaviors, severe
554 maladaptive behaviors and co-occurring complex medical
555 conditions, or a dual diagnosis of developmental disability and
556 mental illness.

557 Section 9. Paragraph (d) of subsection (2) of section
558 1002.385, Florida Statutes, is amended to read:

559 1002.385 The Gardiner Scholarship.—

560 (2) DEFINITIONS.—As used in this section, the term:

561 (d) "Disability" means, for a 3- or 4-year-old child or for
562 a student in kindergarten to grade 12, autism spectrum disorder,
563 as defined in the Diagnostic and Statistical Manual of Mental
564 Disorders, Fifth Edition, published by the American Psychiatric
565 Association; cerebral palsy, as defined in s. 393.063(6); Down
566 syndrome, as defined in s. 393.063(15); an intellectual
567 disability, as defined in s. 393.063(24); Phelan-McDermid
568 syndrome, as defined in s. 393.063(28); Prader-Willi syndrome,
569 as defined in s. 393.063(29); spina bifida, as defined in s.
570 393.063(41) ~~s. 393.063(40)~~; being a high-risk child, as defined
571 in s. 393.063(23)(a); muscular dystrophy; Williams syndrome;
572 rare diseases which affect patient populations of fewer than
573 200,000 individuals in the United States, as defined by the
574 National Organization for Rare Disorders; anaphylaxis; deaf;
575 visually impaired; traumatic brain injured; hospital or
576 homebound; or identification as dual sensory impaired, as
577 defined by rules of the State Board of Education and evidenced
578 by reports from local school districts. The term "hospital or



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579 homebound" includes a student who has a medically diagnosed
580 physical or psychiatric condition or illness, as defined by the
581 state board in rule, and who is confined to the home or hospital
582 for more than 6 months.

583 Section 10. This act shall take effect January 1, 2021.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 82

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Bean

SUBJECT: Individuals With Disabilities

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Gerbrandt</u>	<u>Kidd</u>	<u>AHS</u>	Recommend: Fav/CS
3.	<u>Gerbrandt</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 82 makes operational changes to the Medicaid Home and Community-Based Services (HCBS) Waiver to improve the quality of services provided and to standardize agency processes by:

- Requiring waiver support coordinators to be employees of qualified waiver support coordination organizations; and
- Centralizing medical necessity determinations related to significant additional needs requests at the Agency for Persons with Disabilities (APD) headquarters.

The bill eliminates the criteria that APD must consider when authorizing supplemental funding for a significant additional needs request, and instead creates a standard definition of a ‘significant additional need.’ The bill requires qualified waiver support organizations to document that a HCBS Waiver client (client) has utilized all available resources prior to the submission of a significant additional needs request.

The bill requires all service providers to bill for services and submit all required documentation through the agency’s electronic client data management system.

The bill eliminates obsolete language from chapter 393, Florida Statutes. The bill also allows the Agency for Health Care Administration to seek federal approval to implement an increased rate for Medicaid intermediate care facilities that serve individuals with developmental disabilities

(ICF/DD) who have severe behavioral or mental health needs and establishes a certificate of need (CON) exemption for such ICF/DDs. The bill specifies requirements that an ICF/DD must meet in order to obtain the CON exemption and establishes additional licensure criteria for an ICF/DD that has been granted the CON exemption.

The bill will have a negative yet indeterminate fiscal impact on the Florida Medicaid program and the Agency for Health Care Administration. If the bill results in any HCBS Waiver cost savings, the savings would allow the agency to address the HCBS Waiver waitlist.

The bill takes effect on July 1, 2021.

II. Present Situation:

Agency for Persons with Disabilities

Florida obtained waivers of federal Medicaid requirements to enable the provision of home and community-based services to persons at risk of institutionalization.¹ The Agency for Persons with Disabilities (APD) is responsible the provision of services to individuals with developmental disabilities² and for administering the Home and Community-Based Services (HCBS) Waiver.³ The HCBS Waiver provides services to individuals with developmental disabilities that allow them to continue to live in their home or home-like setting and avoid institutionalization.⁴ Eligible individuals must meet institutional level of care requirements.⁵

Individuals who have a developmental disability and who meet Medicaid eligibility requirements, may receive services in the community through the state's HCBS Waiver or in an institution, such as an intermediate care facility for the developmentally disabled (ICF/DD) through the state's Medicaid program.

Home and Community-Based Services Waiver (iBudget Florida)

The HCBS Waiver for individuals with developmental disabilities, known as the iBudget, provides 26 supports and services including, but not limited to, residential habilitation, behavioral services, companion services, adult day training, employment services, and physical therapy.⁶ Services provided through the HCBS Waiver enable individuals to live in the community in their own home, a family home, or in a licensed residential setting, thereby avoiding institutionalization.

¹ Rule 59G-13.080(1), F.A.C.

² A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely. *See* s. 393.0612(12), F.S.

³ Section 20.197(3), F.S.

⁴ The Centers for Medicare and Medicaid Services, Home and Community-Based Services 1915(c), available at: <https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-authorities/home-community-based-services-1915c/index.html> (last visited January 21, 2020).

⁵ *Supra* note 1.

⁶ A full list of covered services offered under Florida's HCBS Waiver can be found at: https://ahca.myflorida.com/Medicaid/hcbs_waivers/ibudget.shtml (last visited January 17, 2020).

The iBudget Florida program was developed in response to legislative direction requiring a plan for an individual budgeting approach for improving the management of the HCBS waiver program.⁷ The iBudget involves the use of an algorithm⁸ to set individual allocation amounts⁹ for each client by allocating available funding based on an assessment of the needs of each client.

The APD uses an assessment tool known as the Questionnaire for Situational Information (QSI) to determine a client's needs in the areas of functional, behavioral, and physical status.¹⁰ All clients must have a QSI assessment completed prior to calculating the allocation amount. Clients can be reassessed any time there has been a significant change in the circumstance or condition that would impact any of the questions that are used as variables in the algorithm.¹¹

After a client's initial allocation amount is determined, the client and their family meet with a Waiver Support Coordinator (WSC)¹² to discuss their allocation and develop a cost plan. The cost plan is an annual document that lists all authorized services, the anticipated costs of each service and the approved provider of each service.¹³ The cost of all services within a client's cost plan must be lower than the client's allocation amount unless there is a significant additional need demonstrated.¹⁴ Every proposed cost plan is reviewed and approved by the APD.¹⁵

If the client or the client's representative feels that the needs of the client cannot be met within the allocation amount, the WSC must identify and document the additional service request and submit it to the APD. The APD is required to approve requests for increases to the allocation amount if the request meets the Significant Additional Needs criteria (see subsection below titled Significant Additional Needs Criteria).¹⁶ The APD is required to ensure that the sum of all clients' proposed expenditures do not exceed the agency's annual appropriation.¹⁷

⁷ Agency for Persons with Disabilities, Report to the Legislature on the Agency's Plan for Implementing Individual Budgeting "iBudget Florida" (February 1, 2010), available at: <http://apd.myflorida.com/ibudget/rules-regs.htm> (last visited January 13, 2020).

⁸ The allocation algorithm is a mathematical formula based upon statistically validated relationships between individual characteristics (variables) and the individual's level of need for services provided through the Waiver. *See* Rule 65G-4.0213(1), F.A.C.

⁹ The allocation algorithm amount is the result of the allocation algorithm apportioned according to available funding. *See* Rule 65G-4.0213(2), F.A.C.

¹⁰ Rule 65G-4.0213(18), F.A.C.

¹¹ Rule 65G-4.0214(1)(d), F.A.C.

¹² Waiver support coordinators assist Waiver clients and their families in identifying, developing, coordinating and accessing supports and services in their communities. Supports and services can be provided through a variety of funding sources such as the iBudget, third-party payers and natural supports. *See* Rule 65G-4.0213(27), F.A.C.

¹³ Rule 65G-4.0213(4), F.A.C.

¹⁴ Rule 65G-4.0215(1)(c), F.A.C. A significant additional need represents a need for additional funding that if not provided would place the health and safety of the client, their caregiver, or public in serious jeopardy. *See* s. 393.0662(1)(b), F.S.

¹⁵ The APD conducts an individual review of information submitted by a WSC, to determine if the request meets significant additional needs criteria. *See* Rule 65G-4.0213(14), F.A.C.

¹⁶ Rule 65G-4.0216(3), F.A.C. Significant additional needs criteria can be found at Section 393.0662(1)(b), F.S. and Rule 65G-4.0218, F.A.C.

¹⁷ *See* s. 393.0662(1)(c), F.S., and Rules 65G-4.0216(5), and 65G-4.0218(2), F.A.C.

As of October 2019, 34,919 individuals were enrolled in the iBudget program.¹⁸ In Fiscal Year 2019-2020 the Legislature appropriated \$1.2 billion for the iBudget program, including \$462.8 million in general revenue funds and \$733.6 million in federal trust funds.¹⁹

Waiver Waitlist

The APD maintains a prioritized wait list for HCBS Waiver services.²⁰ Currently, there are 21,433 people on the HCBS Waiver waitlist.²¹ Medicaid-eligible persons on the wait list can continue to receive Medicaid services offered through the Agency for Health Care Administration (AHCA).

Significant Additional Needs Criteria

A client can request supplemental funding, in addition to that allocated through the algorithm, that if not provided would place the health and safety of the client, the client's caregiver, or public in serious jeopardy.²² This supplemental funding, known as a 'Significant Additional Need,' is categorized as an extraordinary need, a significant need for one time or temporary support or services, or a significant increase in the need for services after the beginning of the service plan year, and a significant need for transportation services.²³

An extraordinary need may include, but is not limited to:²⁴

- A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;
- A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;
- A chronic comorbid condition; or
- A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene.

A significant need for one-time or temporary support or services may include, but is not limited to the need for:²⁵

- Environmental modifications;
- Durable medical equipment;
- Services to address the temporary loss of support from a caregiver; or
- Special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition.

¹⁸ Attachment to e-mail from Jeff Ivey, Legislative Affairs Director, Agency for Persons with Disabilities. (Oct. 17, 2019) (on file with the Senate Committee on Children, Families and Elder Affairs).

¹⁹ See Specific Appropriation 245, section 3, Ch. 2019-115, Laws of Florida.

²⁰ Section 393.065(5), F.S.

²¹ Email from Jeff Ivey, Legislative Affairs Director, Agency for Persons with Disabilities, to Peter Delia, Senior Attorney, Senate Committee on Children, Families, and Elder Affairs (on file with the Appropriations Subcommittee on Health and Human Services).

²² Section 393.0662(1)(b), F.S.

²³ Rule 65G-4.0213(23), F.A.C.

²⁴ Section 393.0662(1)(b)1., F.S.

²⁵ Section 393.0662(1)(b)2., F.S.

A significant increase in the need for services after the beginning of the service plan year may include, but is not limited to:²⁶

- Permanent or long-term loss or incapacity of a caregiver;
- Loss of services authorized under the state Medicaid plan due to a change in age; or
- A significant change in medical or functional status that requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget.

If public transportation is not an option due to the unique needs of the client or other transportation resources are not reasonably available, supplemental funding may be approved for transportation services to a waiver-funded adult day training program or employment services.²⁷

The APD is required to approve requests for increases to the allocation amount if the request meets the Significant Additional Needs criteria.²⁸ If a client's allocation amount includes significant additional needs beyond what is determined by the algorithm and the APD determines that the service intensity, frequency or duration is no longer necessary, the APD is required to adjust the services to match the current need.²⁹

Currently, the APD is required to document the information necessary to evaluate significant additional needs requests. The documentation may include the following:³⁰

- Support plans;
- QSI results;
- Cost plans;
- Expenditure history;
- Current living situation;
- Interviews with the client or the client's caregiver;
- Prescriptions;
- Data regarding the results of previous therapies and interventions;
- Assessments; and
- Provider documentation.

Currently, no additional funding for significant additional needs can be provided if the need for additional funding is not premised upon a need that arises after the implementation of the initial iBudget amount,³¹ or is created by a client's failure to ensure that funding remained sufficient to cover previously authorized services.³²

²⁶ Section 393.0662(1)(b)3., F.S.

²⁷ Section 393.0662(1)(b)4., F.S.

²⁸ Rule 65G-4.0216(3), F.A.C. Significant additional needs criteria can be found at Section 393.0662(1)(b), F.S. and Rule 65G-4.0218, F.A.C.

²⁹ Rule 65G-4.0218(4), F.A.C.

³⁰ Rule 65G-4.0218(5), F.A.C.

³¹ The iBudget amount is the total amount of funds approved by the APD. See Rules 65G-4.0213, F.A.C., and 65G-4.0216, F.A.C.

³² Rule 65G-4.0218(7), F.A.C.

Medical Necessity

There is no federal definition of medical necessity. Instead, the federal government has left it up to each state to create its own definition of medical necessity and limit Medicaid services based on that definition.³³ Any optional service provided under Medicaid, such as home and community-based services, must be provided only when medically necessary.³⁴

Medically necessary or medical necessity is defined in Florida as medical or allied care, goods, or services furnished or ordered that meet the following conditions:³⁵

- Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain,
- Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient's needs,
- Be consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational,
- Be reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide, and
- Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider.

The fact that a provider has prescribed, recommended, or approved medical or allied care, goods, or services does not, in itself, make such care, goods or services medically necessary, or a medical necessity or a covered service.

The APD, with concurrence of the AHCA, may contract for the determination of medical necessity and establishment of individual budgets.³⁶ Additionally, the AHCA may implement a utilization management program designed to prior authorize home and community-based services, preauthorize high-cost or highly utilized services, or make any other adjustments necessary to comply with the limitations or directions provided for in the General Appropriations Act.³⁷

iBudget Program Deficits

In Fiscal Year 2017-2018, the APD exceeded its legislative appropriation for the iBudget by \$56.9 million. In Fiscal Year 2018-2019, the APD exceeded its legislative appropriation for the iBudget by \$107.9 million, and the APD is projected to exceed its appropriation in Fiscal Year 2019-2020 by \$134.3 million.

In 2019, the Florida Auditor General evaluated the APD's administration of the iBudget, including the effectiveness of the allocation methodology and algorithm in achieving the

³³ Memorandum to Stuart Williams, General Counsel, Agency for Health Care Administration from Tracy George, Chief Appellate Counsel, Agency for Health Care Administration (January 8, 2013) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

³⁴ Section 409.906, F.S.

³⁵ Rule 59G-1.1010, F.A.C.

³⁶ Section 393.0661(1)(b), F.S.

³⁷ Section 409.906(13), F.S.

legislative intent of the iBudget.^{38,39} The evaluation concluded that despite statistical validity underlying the algorithm, statutory allowances for significant additional needs have prevented APD from achieving the financial management goals of the iBudget and reducing the number of individuals on the waiting list.⁴⁰

As a result of continued deficits, the 2019 Legislature directed APD, in conjunction with AHCA, to develop a plan to redesign the iBudget program and submit the plan to the Legislature.⁴¹ The plan was required to address the following areas:⁴²

- Specific steps to restrict spending to budgeted amounts based on alternatives to the iBudget and four-tiered Medicaid waiver models;
- Identification of core services that are essential to provide for client health and safety and recommend elimination of coverage for other services that are not affordable based on available resources;
- The redesign shall be responsive to individual needs and to the extent possible encourage client control over allocated resources for their needs; and
- The plan shall modify the manner of providing support coordination services to improve management of service utilization and increase accountability and responsiveness to agency priorities.

In response, the APD submitted a proposed redesign of the iBudget consisting of the following elements:⁴³

- Inclusion of the iBudget waiver program in the Social Services Estimating Conference;
- Implementation of a behavioral health intermediate care facility service rate;
- Individual caps on the dollar amount of services for waiver clients;
- Budget transfers from the Medicaid State Plan to the iBudget waiver program for waiver clients turning 21;
- Expansion of the Medicaid Assistive Care Services program to include waiver group homes;
- Service limitations on Life Skills Development services;
- Centralization of the Significant Additional Needs approval process;
- Restructuring of support coordination services; and
- Implementation of a new client needs assessment tool, specifically the Next Generation Questionnaire for Situational Information.

Waiver Support Coordination

Waiver support coordination services are provided by waiver support coordinators (WSCs), who assist clients in gaining access to needed medical, social, educational and other services,

³⁸ State of Florida Auditor General Report No. 2020-012, August 2019, *available at* https://flauditor.gov/pages/pdf_files/2020-012.pdf (last visited January 13, 2020).

³⁹ The Legislature intended that the iBudget improve the financial management of the existing HCBS Waiver to avoid deficits that impeded the provision of services to individuals who are on the waiting list for enrollment in the program. *See* s. 393.0662, F.S.

⁴⁰ *Supra* note 44.

⁴¹ Ch. 2019-116, Laws of Florida.

⁴² *Id.*

⁴³ Agency for Persons with Disabilities; Agency for Health Care Administration: 2019 iBudget Waiver Redesign (on file with the Senate Children, Families, and Elder Affairs Committee).

regardless of funding source.⁴⁴ All iBudget clients are required to receive a certain level of waiver support coordination services.⁴⁵ WSCs are responsible for the ongoing monitoring of supports and services provided to clients and are tasked with ensuring that clients receive the level of services they are entitled to and need under the iBudget including:⁴⁶

- Locating, selecting and coordinating services and supports, whether paid with waiver funds or other resources;
- Documenting monthly progress of services rendered;
- A minimum of two monthly contacts with or on behalf of the Waiver client, or contact with another provider to discuss progress toward achieving goals identified in the client's support plan (WSCs are expected to meet the needs of the individuals they serve regardless of the number of contacts it takes to meet those needs);
- Monitoring client's health and safety and well-being and assist them in reaching desired outcomes; and
- Maintaining client's current annual support plan, cost plan and supporting documents.

WSCs must pass a level-two background screen, meet provider qualifications⁴⁷ and requirements,⁴⁸ complete a Medicaid Provider Enrollment application, complete an APD provider application, and be assigned a Medicaid provider number.⁴⁹

WSCs enroll as either a solo⁵⁰ or an agency⁵¹ Medicaid provider.⁵² For most services under the waiver, other than support coordination, agency providers can bill at an agency rate. Waiver support coordination services, however, are billed at one rate.⁵³

⁴⁴ Rule 59G-13.080(3)(e), F.A.C.

⁴⁵ There are 3-levels of waiver support coordination services: full, enhanced and limited. The level of service requirements are described in the Agency for Health Care Administration, *Florida Medicaid Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook* (2015), available at: <http://apd.myflorida.com/ibudget/rules-regs.htm> (last visited January 19, 2020).

⁴⁶ Agency for Health Care Administration, *Florida Medicaid Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook* (2015), available at: <http://apd.myflorida.com/ibudget/rules-regs.htm> (last visited January 19, 2020).

⁴⁷ Qualifications include, but are not limited to, a bachelor's degree, and, at a minimum, 2-years of paid, supervised experience in developmental disabilities, special education, mental health, counseling, guidance, social work or health and rehabilitative services.

⁴⁸ Requirements include, but are not limited to, a minimum of 60 hours of pre-service training, including 34 hours of statewide pre-service training, and 26 hours of district-specific training, which includes orientation to the district, local resources and local operational procedures.

⁴⁹ *Supra* note 46.

⁵⁰ A solo or independent provider is a person who personally renders waiver services directly to recipients and does not employ others to render waiver services for which the rate is being paid. *See Supra* note 46 at pg. 1-10.

⁵¹ An agency provider is a business or organization enrolled to provider waiver services that has two or more employees to carry out the enrolled service, including the agency owner. An agency or group provider for rate purposes is a provider that employees staff to perform waiver services. A provider that hires only subcontractors to perform waiver services is not considered an agency provider for rate purposes. *See Supra* note 46 at pg. 1-2.

⁵² *Id.*

⁵³ Rule 59G-13.081, F.A.C.

Support coordination agencies have additional responsibilities to:⁵⁴

- Have a comprehensive internal quality assurance management plan (which should include a systematic method of inspecting and reviewing all required documentation and activities) to actively monitor and supervise WSCs employed by their agency;
- Provide ongoing technical assistance and training to their employees in order to ensure that they are adequately fulfilling their job requirements as a WSC and Medicaid provider; and
- Maintain personnel files documenting the qualifications of all employees, completion of all required training, and background screening results.

The APD, the AHCA, or an authorized representative of the state monitor support coordinators on an annual basis.⁵⁵ The quality assurance process includes both a provider performance review, which is a review of regulatory compliance, and a person-centered review that focuses on an interview with the client receiving services to assure outcomes are being met, adequate follow through is being done and services are satisfactory to the client.⁵⁶

HCBS Waiver services should be one element of the supports available to clients. Clients, families, legal representatives, WSCs, and providers are responsible for seeking non-waiver supports to augment and replace HCBS Waiver services. The HCBS Waiver should be the payer of last resort.⁵⁷

Client Data Management System (iConnect)

The federal Centers for Medicare and Medicaid Services requires that all states that offer personal care and/or home health services through a waiver must utilize an electronic visit verification (EVV) system to verify when and where a service is being provided and the actual amount of time the provider spends with the customer.⁵⁸ APD has contracted with a vendor to create a central client data management system, known as iConnect. The iConnect system will provide EVV functionality, as well as electronic billing and centralization of client records.

Currently, providers bill for services through the AHCA Florida Medicaid Management Information System (FMMIS).⁵⁹

Intermediate Care Facilities for the Developmentally Disabled

Individuals who have a developmental disability and who meet Medicaid eligibility requirements may receive services in an institution, such as an intermediate care facility for the developmentally disabled (ICF/DD) through the state's Medicaid program. The AHCA is

⁵⁴ *Supra* note 46 at pg. 2-84.

⁵⁵ *Supra* note 46 at pg. A-9.

⁵⁶ *Supra* note 46.

⁵⁷ *Supra* note 46 at pg. 2-75.

⁵⁸ Department of Health and Human Services, Centers for Medicare and Medicaid Services, *Frequently Asked Questions: Section 12006 of the 21st Century Cures Act, Electronic Visit Verification (EVV) Systems for Personal Care Services (PCS) and Home Health Care Services (HHCS)*, available at: <https://www.medicaid.gov/medicaid/home-community-based-services/guidance/electronic-visit-verification-evv/index.html> (last visited January 21, 2020).

⁵⁹ Agency for Persons with Disabilities iConnect Proposed Redraft Analysis. On file with the Senate Children, Families, and Elder Affairs Committee.

responsible for licensing and oversight of ICF/DDs in Florida.⁶⁰ ICF/DDs provide the following services: nursing services, activity services, dental services, dietary services, pharmacy services, physician services, rehabilitative care services, room/bed and maintenance services and social services.⁶¹

While the majority of individuals who have a developmental disability live in the community, a small number live in ICF/DDs. Currently, there are 88 privately owned ICF/DD facilities in Florida. As of April 2018, the ICF/DDs are 94.6 percent occupied, with 1,948 individuals in 2,060 possible slots.⁶²

Certificate of Need

The licensure of ICF/DDs is controlled by Part VIII of ch. 400, F.S., and Chapter 59A-26, F.A.C. Prior to obtaining a license, an ICF/DD must obtain a certificate of need (CON) from the AHCA.⁶³ A CON is a written statement issued by the AHCA evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility or health service, including hospices.⁶⁴

Florida's CON program has existed since July 1973. From 1974 through 1986, the specifics of the program were largely dictated by the federal National Health Planning and Resources Development Act of 1974 (Act), which established minimum requirements regarding the type of services subject to CON review, review procedures, and review criteria.⁶⁵ Each state was required to have a CON program in compliance with the Act as a condition for obtaining federal funds for health programs. The Act was repealed in 1986.⁶⁶

Determination of Need, Application, and Review Processes

A CON is predicated on a determination of need. The future need for services and projects is known as the "fixed need pool,"⁶⁷ which the AHCA publishes periodically.⁶⁸ The Florida CON program has three levels of review: comparative, expedited, and exempt.⁶⁹ Currently, all

⁶⁰ See ss. 400.962 and 400.967, F.S.

⁶¹ Agency for Health Care Administration, *Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/DD) Services*, available at:

https://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/behavioral_health_coverage/bhfu/Intermediate_Care.shtml (last visited January 21, 2020).

⁶² Florida Medicaid ICF/IID Rate Study Report, prepared by Navigant for the Florida Agency for Health Care Administration, 2019 (on file with the Senate Children and Families and Elder Affairs Committee).

⁶³ Section 408.036

⁶⁴ Section 408.032(3), F.S.

⁶⁵ Pub. Law No. 93-641, 42 U.S.C. s. 300k et seq.

⁶⁶ Mitchell, Matthew D., *Certificate of Need Laws: Are They Achieving Their Goals?* Mercatus Center, George Mason University, available at: [www.mercatus.org › system › files › mitchell-con-qa-mop-mercatus-v2](http://www.mercatus.org/system/files/mitchell-con-qa-mop-mercatus-v2) (last visited January 30, 2020).

⁶⁷ Rule 59C-1.002(19), F.A.C., defines "fixed need pool" as the identified numerical need, as published in the Florida Administrative Register, for new beds or services for the applicable planning horizon established by the AHCA in accordance with need methodologies which are in effect by rule at the time of publication of the fixed need pools for the applicable batching cycle.

⁶⁸ Agency for Health Care Administration, *Certificate of Need Publications*, available at: https://ahca.myflorida.com/MCHQ/CON_FA/Publications/index.shtml (last visited January 28, 2020).

⁶⁹ *Supra* note 63.

ICF/DDs are subject to a full comparative review.⁷⁰ Upon determining that a need exists, the AHCA accepts applications for a CON based on batching cycles. A batching cycle is the grouping, for comparative review, of CON applications submitted for beds, services, or programs having a like-CON need methodology or licensing category in the same planning horizon and the same applicable district or subdistrict.⁷¹ CON application fees are a base fee of \$10,000 and an additional fee of 1.5 cents for each dollar of the proposed project expenditures up to a maximum combined total of \$50,000.⁷²

Reimbursement Methodology

ICF/DDs are considered institutional placements and are reimbursed for care through the AHCA Medicaid program. ICF/DDs are reimbursed based on two levels of care, which are based on the client's mobility:⁷³

- ICF Level of Reimbursement One- A reimbursement level for recipients who are ambulatory or self-mobile using mechanical devices and are able to transfer themselves without human assistance, but may require assistance and oversight to ensure safe evacuation; and
- ICF Level of Reimbursement Two- A reimbursement level for recipients who are capable of mobility only with human assistance or require human assistance to transfer to or from a mobility device or require continuous medical and nursing supervision.

Maladaptive Behaviors

ICF/DD providers in Florida have reported an increase in the number of recipients with severe maladaptive behaviors that require significant resources to provide appropriate care beyond what is currently provided through the level one and level two-reimbursement methodology.⁷⁴ Maladaptive behaviors are those behaviors that are disruptive, destructive, aggressive, or significantly repetitive.⁷⁵ The APD has developed a Global Behavioral Service Need Matrix (Matrix) in order to classify the severity of a person's maladaptive behavior.⁷⁶ The Matrix categorizes symptoms of maladaptive behaviors such as behavior frequency, behavioral impact, physical aggression to others, police involvement, property destruction, and elopement/wandering, among others. Each symptom is ranked on a scale of one to six, with one being the least severe and six being the most severe. If a symptom is not present, it is ranked as a zero. Based on a person's behavior score, the person will be evaluated for services. The initial evaluation period is 12 months and then the frequency of evaluations afterwards depends on the severity of the person's score, with a need level of six being evaluated more frequently than a need level of one.⁷⁷

⁷⁰ Rule 59C-1.004(1), F.A.C.

⁷¹ Rule 59C-1.002(5), F.A.C. Note: s. 408.032(5), F.S., establishes the 11 district service areas in Florida.

⁷² Section 408.038, F.S.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Fulton, Elizabeth et al. "Reducing maladaptive behaviors in preschool-aged children with autism spectrum disorder using the early start denver model." *Frontiers in pediatrics* vol. 2 40. available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4023017/> (last visited on Jan. 24, 2020).

⁷⁶ Available at <http://apdcares.org/news/news/2011/ib-matrix-instructions.pdf> (last visited on Jan. 24, 2020).

⁷⁷ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 393.063, F.S., to define ‘significant additional needs’ as an additional need for medically necessary services, which would place the health and safety of the client, their caregiver, or the public in serious jeopardy if not met. The term does not exclude an additional need that a client requires in order to remain in the least restrictive setting, including but limited to, employment services or transportation services. The bill requires the APD to only provide additional funding after the determination of a client’s initial allocation amount and after the qualified organization has documented the lack of availability of nonwaiver resources. The bill also redefines support coordinators as employees of a qualified organization.

Section 2 amends s. 393.066, F.S., to require all HCBS Waiver service providers to bill for services through the APD’s iConnect system and submit documentation that verifies services were rendered prior to receiving payment.

Section 3 repeals section 393.0661, F.S. This section contains outdated provisions relating to the waiver program design prior to the implementation of the iBudget. The bill also eliminates the existing review criteria for significant additional needs requests. Such criteria has not been effective in limiting the iBudget supplemental funding increases approved by APD. Other provisions are moved to s. 393.0662, F.S.

Section 4 amends s. 393.0662, F.S., to require that funding for significant additional needs, as defined in the bill, may be provided only after the determination of a client’s initial iBudget allocation amount and after the agency has certified and documented, in the client’s cost plan, the use of all available nonwaiver resources.

To ensure consistent application of medical necessity the bill requires the APD to centralize, in its headquarters location, medical necessity determinations relating to significant additional needs requests.

The bill preserves language from current law in s. 393.0661, F.S., relating to premiums and cost sharing, rate adjustments, the ability of AHCA to seek federal approval to amend waivers as needed, and the responsibility of APD to submit certain reports to the Governor and the Legislature. The bill also provides rulemaking authority for both APD and AHCA regarding criteria and processes for clients to access funds for significant additional needs.

Section 5 creates s. 393.0663, F.S., to require all waiver support coordinators to be employees of qualified organizations that provide all support coordination services to HCBS Waiver clients. A qualified organization must:

- Employ four more support coordinators;
- Maintain a professional code of ethics and a disciplinary process that applies to all support coordinators within the organization;
- Report violations of ethical and professional conduct to APD;
- Comply with APD cost containment initiatives;
- Ensure client budgets are linked to levels of need;
- Prohibit dual employment of a support coordinator that adversely impacts the support coordinators availability to clients;

- Educate clients and families regarding identification and prevention of abuse, neglect, and exploitation;
- Instruct clients and families on mandatory reporting requirements for abuse, neglect, and exploitation;
- Timely submit documentation for significant additional needs requests;
- Require support coordinators to successfully complete training and professional development approved by the APD;
- Require support coordinators to pass a competency-based assessment;
- Implement a mentoring program for support coordinators who have worked as support coordinators for less than 12 months;

The bill requires the APD to maintain a publicly accessible registry of all WSCs that includes any history of ethical or disciplinary actions taken against a WSC. The bill also authorizes the APD to impose an immediate moratorium on new client assignments, impose administrative fines, require plans of remediation, and terminate the Medicaid Waiver Services Agreement of any qualified organization that is noncompliant with applicable laws or rules. A qualified organization that receives a disciplinary action from the APD can appeal through an internal agency review process, and upon receiving an adverse determination can request an administrative hearing pursuant to ss. 120.569 and 120.57(1), F.S.

The bill authorizes agency rulemaking to implement the provisions of Section 5.

Section 6 amends s. 400.962, F.S., to establish additional licensure and application requirements for an ICF/DD that has been granted the CON exemption, including:

- The total number of beds per home within the facility may not exceed eight, with each resident having his or her own bedroom and bathroom. Each eight-bed home must be co-located on the same property with two other eight-bed homes and must serve individuals with severe maladaptive behaviors and co-occurring psychiatric diagnoses.
- A minimum of 16 beds within the facility must be designated for individuals with severe maladaptive behaviors who have been assessed using the Matrix with a score of at least Level 3 and up to Level 6, or assessed using criteria deemed appropriate by the AHCA regarding the need for a specialized placement in an ICF/DD.
- The applicant has not had a facility license denied, revoked, or suspended within the 36 months preceding the request for exemption.
- The applicant must have at least 10 years of experience serving individuals with severe maladaptive behaviors in the state.
- The applicant must implement a state-approved staff training curriculum and monitoring requirements specific to the individuals whose behaviors require higher intensity, frequency, and duration of services.
- The applicant must make available medical and nursing services 24 hours per day, 7 days per week.
- The applicant must demonstrate a history of using interventions that are least restrictive and that follow a behavioral hierarchy.
- The applicant must maintain a policy prohibiting the use of mechanical restraints.

Section 7 amends s. 408.036, F.S., to create a CON exemption for a new ICF/DD which has a total of 24 beds, comprising three eight-bed homes, for use by individuals exhibiting severe maladaptive behaviors and co-occurring psychiatric diagnoses requiring increased levels of behavioral, medical, and therapeutic oversight. In order to obtain the exemption, The ICF/DD must not have had a license denied, revoked, or suspended within the 36 months preceding the request for exemption and must have at least 10 years of experience serving individuals with severe maladaptive behaviors in Florida.

The bill prohibits the AHCA from granting an additional exemption to an ICF/DD that has been granted an exemption under these provisions unless the facility has been licensed and operational for a period of at least two years. Additionally, the bill specifies that the exemption does not require a specific appropriation.

Section 8 amends s. 409.906, F.S., to direct AHCA to seek federal approval to implement an increased rate for ICF/DDs that serve individuals with developmental disabilities who have severe maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of developmental disability and mental illness.

Section 9 amends s. 1002.385, F.S., to conform a cross-reference.

Section 10 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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 82 will have a negative but indeterminate fiscal impact on current waiver support coordinators who do not become employees of a qualified organization.

Service providers who do not have hardware/software that can potentially interface with the Agency for Persons with Disabilities (APD) iConnect billing system may be required to purchase new hardware/software that can interface with iConnect, and to train staff on the use of iConnect. Service providers may also incur costs associated with dual data entry if the provider utilizes a different IT system and must manually input data into iConnect. The fiscal impact of the iConnect billing requirements on private service providers is negative but indeterminate.

The bill's exemption from the CON review process and application fee will have a positive but indeterminate fiscal impact on ICF/DDs eligible for the CON exemption.

C. Government Sector Impact:

The bill will have a negative yet indeterminate fiscal impact on the Florida Medicaid program by incentivizing the creation of ICF/DDs that accept individuals with developmental disabilities who have severe maladaptive behaviors or mental health issues. The negative fiscal impact to the Medicaid program is offset by the positive fiscal impact to the HCBS Waiver as a result of transferring individuals from the HCBS Waiver to Medicaid.

The AHCA may incur costs related to the licensing and surveying of additional ICF/DDs.⁷⁸

The bill's requirement to centralize medical necessity determinations at the APD headquarters may have a positive yet indeterminate fiscal impact on state expenditures by standardizing the interpretation and implementation of medical necessity determinations. Any cost savings realized as a function of centralizing medical necessity determinations would allow the agency to address the Home and Community-based Waiver waitlist.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁷⁸ Agency for Health Care Administration, *Senate Bill 1344 Fiscal Analysis* (January 26, 2020) (on file with the Senate Subcommittee on Health and Human Services).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 393.063, 393.066, 393.0662, 400.962, 408.036, 409.906, and 1002.385.

This bill creates section 393.0663 of the Florida Statutes.

This bill repeals section 393.0661 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 Appropriations on February 27, 2020:

The committee substitute:

- Clarifies that the definition of a significant additional need does not exclude an additional need that a client requires in order to remain in the least restrictive setting, including but limited to, employment services or transportation services.
- Removes the requirement for AHCA to contract out for medical necessity determinations and instead directs APD to centralize medical necessity determinations for significant additional needs requests within its headquarters;
- Removes the requirement that APD competitively procure support coordination organizations to provide support coordination services and instead requires support coordination services to be provided by waiver support coordinators who are employees of a qualified organization;
- Requires qualified organizations to:
 - Employee 4 or more support coordinators;
 - Meet certain quality assurance criteria;
 - Ensure that client budgets are linked to levels of need;
 - Document nonwaiver resources; and
 - Prohibit dual employment of support coordinators if such employment interferes with their availability to clients.
- Requires the APD to maintain a public registry of waiver support coordinators and any disciplinary action taken against them;
- Authorizes the APD to take disciplinary action against qualified organizations who violate statutory requirements;
- Provides due process to any qualified organization that receives an adverse decision from the APD;
- Provides an exemption to the CON review and fee for certain ICF/DDs; and
- Revises the effective date to July 1, 2020.

B. Amendments:

None.

By Senator Bean

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1 A bill to be entitled
 2 An act relating to individuals with disabilities;
 3 amending s. 393.063, F.S.; defining the term
 4 "significant additional need"; revising the definition
 5 of the term "support coordinator"; amending s.
 6 393.066, F.S.; requiring persons and entities under
 7 contract with the Agency for Persons with Disabilities
 8 to use the agency data management systems to bill for
 9 services; repealing s. 393.0661, F.S., relating to the
 10 home and community-based services delivery system;
 11 amending s. 393.0662, F.S.; revising criteria used by
 12 the agency to develop a client's iBudget; revising
 13 criteria used by the agency to authorize additional
 14 funding for certain clients; requiring the agency to
 15 certify and document the use of certain services
 16 before approving the expenditure of certain funds;
 17 requiring the Agency for Health Care Administration to
 18 seek federal approval to provide consumer-directed
 19 options; authorizing the Agency for Persons with
 20 Disabilities and the Agency for Health Care
 21 Administration to adopt rules; requiring the Agency
 22 for Health Care Administration to seek federal waivers
 23 and amend contracts under certain conditions;
 24 requiring the Agency for Persons with Disabilities to
 25 collect premiums or cost sharing; providing
 26 construction; providing for the reimbursement of
 27 certain providers of services; requiring the Agency
 28 for Persons with Disabilities to submit quarterly
 29 status reports to the Governor, the chair of the

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30 Senate Appropriations Committee, and the chair of the
 31 House Appropriations Committee; requiring the Agency
 32 for Persons with Disabilities, in consultation with
 33 the Agency for Health Care Administration, to submit a
 34 certain plan to the Governor, the chair of the Senate
 35 Appropriations Committee, and the chair of the House
 36 Appropriations Committee under certain conditions;
 37 requiring the Agency for Persons with Disabilities, in
 38 consultation with the Agency for Health Care
 39 Administration, to provide quarterly reconciliation
 40 reports to the Governor and the Legislature within a
 41 specified timeframe; revising rulemaking authority of
 42 the Agency for Persons with Disabilities and the
 43 Agency for Health Care Administration; creating s.
 44 393.0663, F.S.; requiring the Agency for Persons with
 45 Disabilities to competitively procure qualified
 46 organizations to provide support coordination
 47 services; requiring such procurement to be initiated
 48 on a specified date; providing requirements for
 49 contracts awarded by the agency; amending s. 409.906,
 50 F.S.; requiring the Agency for Health Care
 51 Administration to contract with an external vendor for
 52 certain medical necessity determinations; requiring
 53 the Agency for Persons with Disabilities to seek
 54 federal approval to implement certain payment rates;
 55 amending ss. 409.968 and 1002.385, F.S.; conforming
 56 cross-references; providing an effective date.

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

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Section 1. Present subsections (39) through (45) of section 393.063, Florida Statutes, are redesignated as subsections (40) through (46), respectively, a new subsection (39) is added to that section, and present subsection (41) of that section is amended, to read:

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

(39) "Significant additional need" means a medically necessary need for a service increase arising after the beginning of the service plan year which would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy.

(42)(41) "Support coordinator" means an employee of a qualified organization pursuant to s. 393.0663 ~~a person who is~~ designated by the agency to assist individuals and families in identifying their capacities, needs, and resources, as well as finding and gaining access to necessary supports and services; coordinating the delivery of supports and services; advocating on behalf of the individual and family; maintaining relevant records; and monitoring and evaluating the delivery of supports and services to determine the extent to which they meet the needs and expectations identified by the individual, family, and others who participated in the development of the support plan.

Section 2. Subsection (2) of section 393.066, Florida Statutes, is amended to read:

393.066 Community services and treatment.—

(2) Necessary services shall be purchased, rather than provided directly by the agency, when the purchase of services

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is more cost-efficient than providing them directly. All purchased services must be approved by the agency. As a condition of payment, persons or entities under contract with the agency to provide services shall use agency data management systems to document service provision to clients before billing and must use the agency data management systems to bill for services. Contracted persons and entities shall meet the minimum hardware and software technical requirements established by the agency for the use of such systems. Such persons or entities shall also meet any requirements established by the agency for training and professional development of staff providing direct services to clients.

Section 3. Section 393.0661, Florida Statutes, is repealed.

Section 4. Section 393.0662, Florida Statutes, is amended to read:

393.0662 Individual budgets for delivery of home and community-based services; iBudget system established.—The Legislature finds that improved financial management of the existing home and community-based Medicaid waiver program is necessary to avoid deficits that impede the provision of services to individuals who are on the waiting list for enrollment in the program. The Legislature further finds that clients and their families should have greater flexibility to choose the services that best allow them to live in their community within the limits of an established budget. Therefore, the Legislature intends that the agency, in consultation with the Agency for Health Care Administration, shall manage the service delivery system using individual budgets as the basis for allocating the funds appropriated for the home and

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community-based services Medicaid waiver program among eligible enrolled clients. The service delivery system that uses individual budgets shall be called the iBudget system.

(1) The agency shall administer an individual budget, referred to as an iBudget, for each individual served by the home and community-based services Medicaid waiver program. The funds appropriated to the agency shall be allocated through the iBudget system to eligible, Medicaid-enrolled clients. For the iBudget system, eligible clients shall include individuals with a developmental disability as defined in s. 393.063. The iBudget system shall provide for: enhanced client choice within a specified service package; appropriate assessment strategies; an efficient consumer budgeting and billing process that includes reconciliation and monitoring components; a role for support coordinators that avoids potential conflicts of interest; a flexible and streamlined service review process; and the equitable allocation of available funds based on the client's level of need, as determined by the allocation methodology.

(a) In developing each client's iBudget, the agency shall use the allocation methodology as defined in s. 393.063(4), in conjunction with an assessment instrument that the agency deems to be reliable and valid, including, but not limited to, the agency's Questionnaire for Situational Information. The allocation methodology shall determine the amount of funds allocated to a client's iBudget.

(b) The agency may authorize additional funding based on a client having one or more significant additional needs ~~of the following needs~~ that cannot be accommodated within the funding determined by the algorithm and having no other resources,

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supports, or services available to meet the needs. Such additional funding may be provided only after the determination of a client's initial allocation amount and after the agency has certified and documented the use of all available resources under the Medicaid state plan as described in subsection (2).

~~need:~~

~~1. An extraordinary need that would place the health and safety of the client, the client's caregiver, or the public in immediate, serious jeopardy unless the increase is approved. However, the presence of an extraordinary need in and of itself does not warrant authorized funding by the agency. An extraordinary need may include, but is not limited to:~~

~~a. A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;~~

~~b. A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;~~

~~c. A chronic comorbid condition. As used in this subparagraph, the term "comorbid condition" means a medical condition existing simultaneously but independently with another medical condition in a patient; or~~

~~d. A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene.~~

~~2. A significant need for one-time or temporary support or services that, if not provided, would place the health and safety of the client, the client's caregiver, or the public in~~

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serious jeopardy. A significant need may include, but is not limited to, the provision of environmental modifications, durable medical equipment, services to address the temporary loss of support from a caregiver, or special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition. As used in this subparagraph, the term "temporary" means a period of fewer than 12 continuous months. However, the presence of such significant need for one-time or temporary supports or services in and of itself does not warrant authorized funding by the agency.

3. A significant increase in the need for services after the beginning of the service plan year that would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy because of substantial changes in the client's circumstances, including, but not limited to, permanent or long-term loss or incapacity of a caregiver, loss of services authorized under the state Medicaid plan due to a change in age, or a significant change in medical or functional status which requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget. As used in this subparagraph, the term "long-term" means a period of 12 or more continuous months. However, such significant increase in need for services of a permanent or long-term nature in and of itself does not warrant authorized funding by the agency.

4. A significant need for transportation services to a waiver-funded adult day training program or to waiver-funded employment services when such need cannot be accommodated within

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a client's iBudget as determined by the algorithm without affecting the health and safety of the client, if public transportation is not an option due to the unique needs of the client or other transportation resources are not reasonably available.

The agency shall reserve portions of the appropriation for the home and community-based services Medicaid waiver program for adjustments required pursuant to this paragraph and may use the services of an independent actuary in determining the amount to be reserved.

(c) A client's annual expenditures for home and community-based Medicaid waiver services may not exceed the limits of his or her iBudget. The total of all clients' projected annual iBudget expenditures may not exceed the agency's appropriation for waiver services.

(2) The Agency for Health Care Administration, in consultation with the agency, shall seek federal approval to amend current waivers, request a new waiver, and amend contracts as necessary to manage the iBudget system, improve services for eligible and enrolled clients, and improve the delivery of services through the home and community-based services Medicaid waiver program and the Consumer-Directed Care Plus Program, including, but not limited to, enrollees with a dual diagnosis of a developmental disability and a mental health disorder.

(3) The agency must certify and document within each client's cost plan that the a client has used ~~must use~~ all available services authorized under the state Medicaid plan, school-based services, private insurance and other benefits, and

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233 any other resources that may be available to the client before
 234 using funds from his or her iBudget to pay for support, ~~and~~
 235 services, and any significant additional needs as determined by
 236 a qualified organization contracted pursuant to s.
 237 409.906(13)(c).

238 (4) Rates for any or all services established under rules
 239 of the Agency for Health Care Administration must be designated
 240 as the maximum rather than a fixed amount for individuals who
 241 receive an iBudget, except for services specifically identified
 242 in those rules that the agency determines are not appropriate
 243 for negotiation, which may include, but are not limited to,
 244 residential habilitation services.

245 (5) The agency shall ensure that clients and caregivers
 246 have access to training and education that inform them about the
 247 iBudget system and enhance their ability for self-direction.
 248 Such training and education must be offered in a variety of
 249 formats and, at a minimum, must address the policies and
 250 processes of the iBudget system and the roles and
 251 responsibilities of consumers, caregivers, waiver support
 252 coordinators, providers, and the agency, and must provide
 253 information to help the client make decisions regarding the
 254 iBudget system and examples of support and resources available
 255 in the community.

256 (6) The agency shall collect data to evaluate the
 257 implementation and outcomes of the iBudget system.

258 (7) The Agency for Health Care Administration shall seek
 259 federal approval to provide a consumer-directed option for
 260 persons with developmental disabilities. The agency and the
 261 Agency for Health Care Administration may adopt rules necessary

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262 to administer this subsection.

263 (8) The Agency for Health Care Administration shall seek
 264 federal waivers and amend contracts as necessary to make changes
 265 to services defined in federal waiver programs as follows:

266 (a) Supported living coaching services may not exceed 20
 267 hours per month for persons who also receive in-home support
 268 services.

269 (b) Limited support coordination services are the only type
 270 of support coordination services which may be provided to
 271 persons under the age of 18 who live in the family home.

272 (c) Personal care assistance services are limited to 180
 273 hours per calendar month and may not include rate modifiers.
 274 Additional hours may be authorized for persons who have
 275 intensive physical, medical, or adaptive needs if such hours are
 276 essential for avoiding institutionalization.

277 (d) Residential habilitation services are limited to 8
 278 hours per day. Additional hours may be authorized for persons
 279 who have intensive medical or adaptive needs and if such hours
 280 are essential for avoiding institutionalization, or for persons
 281 who possess behavioral problems that are exceptional in
 282 intensity, duration, or frequency and present a substantial risk
 283 of harming themselves or others.

284 (e) The agency shall conduct supplemental cost plan reviews
 285 to verify the medical necessity of authorized services for plans
 286 that have increased by more than 8 percent during either of the
 287 2 preceding fiscal years.

288 (f) The agency shall implement a consolidated residential
 289 habilitation rate structure to increase savings to the state
 290 through a more cost-effective payment method and establish

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291 uniform rates for intensive behavioral residential habilitation
 292 services.

293 (g) The geographic differential for Miami-Dade, Broward,
 294 and Palm Beach Counties for residential habilitation services
 295 must be 7.5 percent.

296 (h) The geographic differential for Monroe County for
 297 residential habilitation services must be 20 percent.

298 (9) The agency shall collect premiums or cost sharing
 299 pursuant to s. 409.906(13)(c).

300 (10) This section or any related rule does not prevent or
 301 limit the Agency for Health Care Administration, in consultation
 302 with the agency, from adjusting fees, reimbursement rates,
 303 lengths of stay, number of visits, or number of services, or
 304 from limiting enrollment or making any other adjustment
 305 necessary to comply with the availability of moneys and any
 306 limitations or directions provided in the General Appropriations
 307 Act.

308 (11) A provider of services rendered to persons with
 309 developmental disabilities pursuant to a federally approved
 310 waiver shall be reimbursed according to a rate methodology based
 311 upon an analysis of the expenditure history and prospective
 312 costs of providers participating in the waiver program, or under
 313 any other methodology developed by the Agency for Health Care
 314 Administration, in consultation with the agency, and approved by
 315 the Federal Government in accordance with the waiver.

316 (12) The agency shall submit quarterly status reports to
 317 the Executive Office of the Governor, the chair of the Senate
 318 Appropriations Committee or its successor, and the chair of the
 319 House Appropriations Committee or its successor containing all

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320 of the following information:

321 (a) The financial status of home and community-based
 322 services, including the number of enrolled individuals who are
 323 receiving services through one or more programs.

324 (b) The number of individuals who have requested services
 325 who are not enrolled but who are receiving services through one
 326 or more programs, with a description indicating the programs
 327 from which the individual is receiving services.

328 (c) The number of individuals who have refused an offer of
 329 services but who choose to remain on the list of individuals
 330 waiting for services.

331 (d) The number of individuals who have requested services
 332 but who are receiving no services.

333 (e) A frequency distribution indicating the length of time
 334 individuals have been waiting for services.

335 (f) Information concerning the actual and projected costs
 336 compared to the amount of the appropriation available to the
 337 program and any projected surpluses or deficits.

338 (13) If at any time an analysis by the agency, in
 339 consultation with the Agency for Health Care Administration,
 340 indicates that the cost of services is expected to exceed the
 341 amount appropriated, the agency shall submit a plan in
 342 accordance with subsection (10) to the Executive Office of the
 343 Governor, the chair of the Senate Appropriations Committee or
 344 its successor, and the chair of the House Appropriations
 345 Committee or its successor to remain within the amount
 346 appropriated. The agency shall work with the Agency for Health
 347 Care Administration to implement the plan so as to remain within
 348 the appropriation.

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349 (14) The agency, in consultation with the Agency for Health
 350 Care Administration, shall provide a quarterly reconciliation
 351 report of all home and community-based services waiver
 352 expenditures from the Agency for Health Care Administration's
 353 claims management system with service utilization from the
 354 Agency for Persons with Disabilities Allocation, Budget, and
 355 Contract Control system. The reconciliation report shall be
 356 submitted to the Governor, the President of the Senate, and the
 357 Speaker of the House of Representatives no later than 30 days
 358 after the close of each quarter.

359 (15)(7) The agency and the Agency for Health Care
 360 Administration may adopt rules specifying the allocation
 361 algorithm and methodology; criteria and processes for clients to
 362 access reserved funds for significant additional needs
 363 extraordinary needs, temporarily or permanently changed needs,
 364 and one-time needs; and processes and requirements for selection
 365 and review of services, development of support and cost plans,
 366 and management of the iBudget system as needed to administer
 367 this section.

368 Section 5. Section 393.0663, Florida Statutes, is created
 369 to read:

370 393.0663 Waiver support coordination services.—The agency
 371 shall competitively procure two or more qualified organizations
 372 to provide support coordination services. In awarding a contract
 373 to a qualified organization, the agency shall take into account
 374 price, quality, and accessibility to these services. The agency
 375 shall initiate procurement on October 1, 2020.

376 (1) The contract must include provisions requiring
 377 compliance with agency cost-containment initiatives.

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

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378 (2) The contract must require support coordinators to
 379 ensure client budgets are linked to levels of need.

380 (3) The contract must require support coordinators to avoid
 381 potential conflicts of interest.

382 (4) The contract must require the organization to perform
 383 all duties and meet all standards related to support
 384 coordination as provided in the Developmental Disabilities
 385 Waiver Services Coverage and Limitations Handbook.

386 (5) The contract shall be 3 years in duration. Following
 387 the initial 3-year period, the contract may be renewed annually
 388 for 3 consecutive years and may not exceed 1 year in duration.

389 (6) The contract may provide for support coordination
 390 services statewide or by agency region, at the discretion of the
 391 agency.

392 Section 6. Present paragraphs (c) and (d) of subsection
 393 (13) of section 409.906, Florida Statutes, are redesignated as
 394 paragraphs (d) and (e), respectively, a new paragraph (c) is
 395 added to that subsection, and subsection (15) of that section is
 396 amended, to read:

397 409.906 Optional Medicaid services.—Subject to specific
 398 appropriations, the agency may make payments for services which
 399 are optional to the state under Title XIX of the Social Security
 400 Act and are furnished by Medicaid providers to recipients who
 401 are determined to be eligible on the dates on which the services
 402 were provided. Any optional service that is provided shall be
 403 provided only when medically necessary and in accordance with
 404 state and federal law. Optional services rendered by providers
 405 in mobile units to Medicaid recipients may be restricted or
 406 prohibited by the agency. Nothing in this section shall be

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construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(13) HOME AND COMMUNITY-BASED SERVICES.—

(c) The agency shall competitively procure a qualified organization to perform medical necessity determinations of significant additional needs requests, as defined in s. 393.063.

(15) INTERMEDIATE CARE FACILITY FOR THE DEVELOPMENTALLY DISABLED SERVICES.—The agency may pay for health-related care and services provided on a 24-hour-a-day basis by a facility licensed and certified as a Medicaid Intermediate Care Facility for the Developmentally Disabled, for a recipient who needs such care because of a developmental disability. Payment shall not include bed-hold days except in facilities with occupancy rates of 95 percent or greater. The agency is authorized to seek any federal waiver approvals to implement this policy. The agency shall seek federal approval to implement a payment rate for Medicaid intermediate care facilities serving individuals with developmental disabilities, severe maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical

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conditions, or a dual diagnosis of developmental disability and mental illness.

Section 7. Paragraph (a) of subsection (4) of section 409.968, Florida Statutes, is amended to read:

409.968 Managed care plan payments.—

(4) (a) Subject to a specific appropriation and federal approval under s. 409.906(13) (e) ~~s. 409.906(13) (d)~~, the agency shall establish a payment methodology to fund managed care plans for flexible services for persons with severe mental illness and substance use disorders, including, but not limited to, temporary housing assistance. A managed care plan eligible for these payments must do all of the following:

1. Participate as a specialty plan for severe mental illness or substance use disorders or participate in counties designated by the General Appropriations Act;

2. Include providers of behavioral health services pursuant to chapters 394 and 397 in the managed care plan's provider network; and

3. Document a capability to provide housing assistance through agreements with housing providers, relationships with local housing coalitions, and other appropriate arrangements.

Section 8. Paragraph (d) of subsection (2) of section 1002.385, Florida Statutes, is amended to read:

1002.385 The Gardiner Scholarship.—

(2) DEFINITIONS.—As used in this section, the term:

(d) "Disability" means, for a 3- or 4-year-old child or for a student in kindergarten to grade 12, autism spectrum disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric

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465 Association; cerebral palsy, as defined in s. 393.063(6); Down
466 syndrome, as defined in s. 393.063(15); an intellectual
467 disability, as defined in s. 393.063(24); Phelan-McDermid
468 syndrome, as defined in s. 393.063(28); Prader-Willi syndrome,
469 as defined in s. 393.063(29); spina bifida, as defined in s.
470 393.063(41) ~~s. 393.063(40)~~; being a high-risk child, as defined
471 in s. 393.063(23)(a); muscular dystrophy; Williams syndrome;
472 rare diseases which affect patient populations of fewer than
473 200,000 individuals in the United States, as defined by the
474 National Organization for Rare Disorders; anaphylaxis; deaf;
475 visually impaired; traumatic brain injured; hospital or
476 homebound; or identification as dual sensory impaired, as
477 defined by rules of the State Board of Education and evidenced
478 by reports from local school districts. The term "hospital or
479 homebound" includes a student who has a medically diagnosed
480 physical or psychiatric condition or illness, as defined by the
481 state board in rule, and who is confined to the home or hospital
482 for more than 6 months.

483 Section 9. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 29, 2020

I respectfully request that **Senate Bill # 82**, relating to Individuals with Disabilities, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean". The signature is written in a cursive style.

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020
Meeting Date

CS/SB 82
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Janice Phillips

Job Title Support Coordinator

Address 1831 Fiddler Ct.

Phone 850 545 2234

Tallahassee FL 32308
City State Zip

Email jphillips@hmsfl.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Association of Support Cos. Agencies

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Feb. 27, 2020

Meeting Date

PCB 82

Bill Number (if applicable)

329026; 909432; 446518

Amendment Barcode (if applicable)

Topic APD/Individuals with Disabilities

Name Kirk Hall

Job Title CEO

Address 2898 Mahan Drive Suite 1

Street

Tallahassee

City

FL

State

32308

Zip

Phone 850-921-0460

Email kirk@arcflorida.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Arc of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020

Meeting Date

SB 82

Bill Number (if applicable)

Topic APD - Individuals w/ Disabilities

Amendment Barcode (if applicable)

Name Dixie Sansom

Job Title Lobbyist

Address P.O. Box 98

Phone 321.543.7195

Street

Cocoa

City

FL

State

32929-0098

Zip

Email dixie.sansom@fla.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing The Assoc of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

SB 82
Bill Number (if applicable)

Topic Individuals with Disabilities

Amendment Barcode (if applicable)

Name Suzanne Sewell

Job Title President & CEO

Address 2475 Apalachee PK Way, Suite 205 Phone 942-3500

Street

Tallahassee, FL 32301

City

State

Zip

Email ssewello@floridacarp.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida ARP

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 122 (603180)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senators Rouson, Berman, Hooper, and others

SUBJECT: Child Welfare

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Preston	Hendon	CF	Fav/CS
2. Sneed	Kidd	AHS	Recommend: Fav/CS
3. Sneed	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 122 is titled “Jordan’s Law” and makes a number of changes to the laws related to the child welfare system in an attempt to address issues that were identified in the case of Jordan Belliveau, a two-year old boy who was killed by his mother in Pinellas County. The bill requires specified child welfare professionals and law enforcement officers to receive training, developed by the Department of Health, on the recognition of and response to head trauma and brain injury in children under six years old. The bill also requires Guardian ad Litem (GAL) program staff to receive training developed by the GAL training curriculum committee on the recognition of and responses to head trauma and brain injury in children under six years old. The bill also:

- Requires the Department of Children and Families (DCF or department), in collaboration with the Florida Institute for Child Welfare (institute), to develop and implement a comprehensive uniform child welfare workforce framework based on a nationally recognized model and specifies issues to be addressed.
- Conforms education and training requirements to the new child welfare workforce framework.
- Allows credentialing entities that certify child welfare personnel to access certain records held by the department related to child abuse and neglect and provides additional duties for the department and third party credentialing entities related to ethics and professional conduct violations.

- Authorizes a parent or legal guardian of a child removed from his or her home as a result of a medical evaluation performed by a Child Protection Team, to request a second, independent evaluation by a physician who has met the qualifications of s. 39.303(b), F.S., in order to determine whether the child has been the victim of abuse or neglect. Requires the court to consider the second evaluation when determining whether to remove a child from the home.
- Authorizes the DCF to pilot the effectiveness of case management services in CBCs serving up to three judicial circuits with high removal rates, significant budget deficits and high case management turnover, and have experienced significant increases in children entering out-of-home care.
- Revises the mission of the institute to include advancing the well-being of children and families who are involved with, or at risk of becoming involved with, the child welfare system by facilitating and supporting statewide partnerships to develop competency-based education, training, and support to prepare a diverse group of social work professionals for careers in child welfare.

The bill is expected to have an indeterminate fiscal impact on state expenditures. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Jordan Belliveau

Jordan Belliveau, Jr., was killed by his mother in September 2018 when he was two years old. At the time of his death, the family was under court-ordered protective supervision as Jordan, who had been removed from his parent's custody in October 2016, was reunified with his mother, 21-year old Charisee Stinson, in May 2018. In addition to the open service case, there was also an active child abuse investigation due to ongoing domestic violence between his mother and father, 22-year-old Jordan Belliveau, Sr.

Due to lack of communication to the court, lack of communication between the Pinellas County Sheriff's Office and the department, and lack of evidence provided by Directions for Living, the contracted case management organization for Eckerd Connects, the community-based care lead agency (CBC), regarding the parent's case plan compliance, ongoing family issues that created an unsafe home environment for Jordan were never addressed. Jordan was initially reported missing by his mother in September 2018 and a statewide Amber Alert was issued. His body was found by law enforcement four days after his death. His mother was charged with aggravated child abuse and first-degree murder. His mother admitted to killing Jordan by hitting him, which caused the back of his head to hit a wall in their home.

Special Review of the Case Involving Jordan Belliveau Jr.

Case Summary

Given the circumstances of the case, former interim secretary of the department, Rebecca Kapusta, immediately initiated a special review to evaluate the circumstances surrounding Jordan's death and to assess the services provided during the 17 months he remained removed from the home through his reunification with his mother in May 2018. The multidisciplinary

team was not only comprised of individuals who specialize in child welfare, but also those with mental health, and domestic violence expertise (both from a treatment and law enforcement perspective) to address the reunification decision and actions that occurred when subsequent concerns were identified.¹

Jordan's family first came in contact with the DCF in October 2016 when a report was made to the hotline alleging Jordan was in an unsafe home environment that included gang violence. Jordan was placed in foster care after his mother was unable to obtain alternative housing. He was subsequently adjudicated dependent on November 1, 2016, and placed in foster care. His parents were offered a case plan with tasks including finding stable housing and receiving mental health services and counseling.

Throughout Jordan's case, his mother and father were either non-compliant or only partially compliant with their case plans. Nevertheless, due to lack of communication to the court and lack of evidence provided by the case management organization, Directions for Living, regarding compliance, Jordan was eventually reunified with his mother and father. After reunification and while still under judicial supervision, domestic violence continued between the parents, with Jordan's father being arrested for domestic violence against Jordan's mother in July 2018. However, the incident was not immediately reported to the hotline upon his arrest, and thus the incident was not reported to the court at a hearing the next day regarding Jordan's reunification.

When the incident was reported to the hotline three weeks later, a child protective investigation was conducted by the Pinellas County Sheriff's Office. However, the investigator determined that Jordan was not currently in danger, and therefore, found there was no need to remove him from the home. Given the ongoing and escalating level of violence between the parents, the inability to control the situation in the home and the risk of harm posed to Jordan, should his parents engage in further altercations, an unsafe home environment should have been identified.

However, with no concerns for Jordan's safety raised after the investigation or during subsequent hearings, there was no consideration for an emergency modification of his placement and Jordan was reunited with his father. On August 31, 2018, a case manager visited Jordan's parents to discuss several issues regarding lack of cooperation with the Guardian ad Litem and case plan tasks. The case manager emphasized the continued need for Jordan's parents to participate in services or risk losing custody of Jordan. Less than 24 hours after the visit, Jordan was reported missing by his mother. Four days later, law enforcement found his body. Jordan's mother admitted to killing him by hitting him in a "moment of frustration" which "in turn caused the back of his head to strike an interior wall of her home."²

Findings in the Report

- The decision to reunify Jordan was driven primarily by the parents' perceived compliance with case plan tasks and not behavioral change. There was a noted inability by all parties involved to recognize and address additional concerns that became evident throughout the

¹ Department of Children and Families, *Special Review of the Case Involving Jordan Belliveau, Jr.* (Jan. 11, 2019), available at <http://www.dcf.state.fl.us/newsroom/docs/Belliveau%20Special%20Review%202018-632408.pdf>. (Last visited November 15, 2019).

² *Id.*

life of the case. Instead, case decisions were solely focused on mitigating the environmental reasons Jordan came into care and failed to address the overall family conditions.

- Following reunification, policies and procedures to ensure child safety and wellbeing were not followed. In addition, Directions for Living case management staff did not take action on the mother's lack of compliance and her failure to participate with the reunification program prior to and following reunification.
- When the new child abuse report was received in August 2018, alleging increased volatility between the parents, the present danger was not appropriately assessed and identified. The assessment by the Pinellas County Sheriff's child protective investigator (CPI) was based solely on the fact that the incident was not reported to the hotline when it initially occurred. The CPI failed to identify the active danger threats occurring within the household that were significant, immediate, and clearly observable. Given the circumstances, a modification of Jordan's placement should have been considered.
- Despite the benefit of co-location, there was a noted lack of communication and collaboration between the Pinellas County Sheriff's Office CPI unit and Directions for Living case management staff in shared cases involving Jordan and his family, especially regarding the August 2018 child abuse investigation.
- In addition to the lack of communication and collaboration between frontline investigations and case management staff noted above, there was an absence of shared ownership between all entities involved throughout the life of Jordan's case, which demonstrates a divided system of care. In addition, the lack of multidisciplinary team approach resulted in an inability to adequately address the identified concerns independent of one another.
- The biopsychosocial assessments failed to consider the history and information provided by the parents and resulted in treatment plans that were ineffective to address behavioral change. Moreover, there was an over-reliance on the findings of the biopsychosocial assessments as to whether focused evaluations were warranted (e.g., substance abuse, mental health, domestic violence, etc.), despite the abundance of information to support such evaluations were necessary.³

Conclusion

The report's findings and conclusion do not indicate that Jordan's death was the result of any shortcomings or loopholes in the law or lack of training related to the identification of brain injury, but rather due to the multiple failures of individuals working with children in the child welfare system to communicate, coordinate and cooperate:

Complex child welfare cases are difficult enough when high caseloads and continual staff turnover plague an agency. However, it is further impacted when those involved in the case (protective investigations, case management, clinical providers, legal, Guardians ad Litem, and the judiciary) fail to work together to ensure the best decisions are being made on behalf of the child and their family.

This case highlights the fractured system of care in Circuit 6, Pinellas County, with each of the various parts of the system operating

³ *Id.*

independently of one another, without regard or respect as to the role their part plays in the overall child welfare system. Until the pieces of the local child welfare system are made whole, decision-making will continue to be fragmented and based on isolated views of a multi-faceted situation.⁴

Training on Head Trauma and Brain Injury in Abused and Neglected Children

Head Trauma and Brain Injury in Children

Abusive head trauma is a leading cause of child abuse deaths in children under five in the United States.⁵ Head trauma and injuries can be mild, like a bump or bruise, or they can be more severe, like a concussion or a fractured skull bone, and may include internal bleeding and damage to the brain. A number of actions can cause head trauma and brain injury in children. The most commonly known physical abuse that results in a brain injury is shaken-baby syndrome⁶; however, head trauma and other forms of physical abuse, like hitting or striking a child, can cause brain injuries. Caregiver neglect can also cause brain injuries through inadequate supervision or by providing an unsafe home environment. Additionally, other forms of abuse that do not involve physical abuse to the head, such as choking or strangling, can damage the brain. Disruption in oxygen to the brain, called hypoxia, can cause long-term disabilities and damage to a child's brain.⁷

Current Brain Injury Training Requirements

Currently, all case managers, Guardian ad Litem staff and volunteers, dependency court judges, child protective investigators and supervisors, Children's Legal Services' attorneys, and law enforcement officers are required to complete required training for their position. Typically, this is done as preservice and continuing education training. None of the required training includes the recognition of and response to head trauma and brain injury in a child under age six.⁸

Education and Training Requirements for Child Welfare Staff

Training and Certification

In 1986, the Legislature required the Department of Health and Rehabilitative Services (HRS) to establish, maintain, and oversee the operation of child welfare training academies in the state for the expressed purpose of enabling the state to provide a systematic approach to staff development and training for dependency program staff. The Legislature further intended that this approach to training would aid in the reduction of poor staff morale and of staff turnover, positively impact the quality of decisions made regarding children and families and afford a better quality of care for children placed in out-of-home care.⁹ The HRS established a number of

⁴ *Id.*

⁵ Spies, EL, Ph.D. and Klevens, J., MD, Ph.D., *Fatal Abusive Head Trauma among Children Aged <5 Years – United States, 1999-2014* (May 27, 2016).

⁶ Tina Joyce, Martin Huecker, *Pediatric Abusive Head Trauma (Shaken Baby Syndrome)*, available at: <https://www.ncbi.nlm.nih.gov/books/NBK499836/> (last visited February 24, 2020).

⁷ James E. Lewis, Ph.D., *Neuropsychological Evaluations of Children and Adults in Child Welfare Cases*, available at: <http://centervideo.forest.usf.edu/clsneuropsych/start.html> (last visited February 24, 2020).

⁸ For specific training requirements, see ss. 25.385, 39.8296, 402.402, 409.988, 943.13 and 943.135, F.S.

⁹ Chapter 86-220, L.O.F. The first training academy was required to be operational by June 30, 1987 and be located at Tallahassee Community College.

training academies statewide that were widely recognized as a national model for child welfare workforce training.

In 2000, the Legislature authorized the department to create certification programs for its employees and service providers to ensure that only qualified employees and service providers provide client services. The department was authorized to develop rules that included qualifications for certification, including training and testing requirements, continuing education requirements for ongoing certification, and decertification procedures to be used to determine when an individual no longer meets the qualifications for certification and to implement the decertification of an employee or agent.¹⁰ The department subsequently developed 11 types of certification designations for child protection professionals.

In 2011, at the urging of the CBCs, the Legislature eliminated the department's child welfare training program and removed the department's ability to create certification programs.¹¹

Education

The college degrees most tailored to and associated with child welfare are the bachelor's and master's degrees in social work. During the first half of the 20th century, the federal government, in cooperation with universities and local agencies, established a child welfare system staffed by individuals with professional social work educations. Child welfare came to be viewed as a prestigious specialty within the social work profession.

In the 1990's, an increased recognition of child abuse led to enactment of state child abuse and neglect reporting laws and toll-free numbers to report abuse. This resulted in a large increase of child abuse reports, and resources for the preparation and support of additional staff needed to respond to the reports became inadequate. States moved quickly to hire additional employees to investigate abuse. One way to expand the workforce was to reduce staff qualifications. In response to having a varied workforce without similar expertise and training, agencies began to structure child welfare work to reduce its complexity and make it possible for people with fewer qualifications to adequately perform required tasks.

Several studies have found evidence that social work education, at either the bachelors of social work (BSW) or masters of social work (MSW) level, positively correlates with performance. A study conducted in Maryland public child welfare agencies found an MSW to be the best predictor of overall performance as measured by supervisory ratings and employee reports of work related competencies. A national study that measured competencies related to 32 job-related duties found that both MSW and BSW staff were better prepared for child welfare work than their colleagues without social work education.¹²

Research conducted with staff in Kentucky's public child welfare agency also revealed that staff with social work degrees scored significantly better on state merit examinations, received somewhat higher ratings from their supervisors, and had higher levels of work commitment than

¹⁰ HB 2125, Chapter 2000-139, L.O.F.

¹¹ HB 279, Chapter 2011-163, L.O.F.

¹² The Florida Senate, Bill Analysis and Fiscal Impact Statement, SB 1666, March 12, 2014, available at: <http://www.flsenate.gov/Session/Bill/2014/1666/Analyses/2014s1666.cf.PDF> (Last visited November 30, 2019).

other staff. A Nevada study showed that caseworkers who had a social work degree were significantly more likely to create a permanent plan for children in their caseloads within three years than their colleagues without social work education.¹³

In 2014, the Legislature required the department to set a goal of having at least half of all child protective investigators and supervisor's with a bachelor's degree or a master's degree in social work from a college or university social work program accredited by the Council on Social Work Education. Despite numerous studies and reports supporting the value of a formal social work education in child welfare, Florida has made little if any progress towards re-professionalizing the workforce. In fact, the state has seen a decline since 2016.

Percentage of Child Protective Investigative Positions With Social Work Degree			
	BSW	MSW	Either
2014			9.5%
2016	12%	3%	
2019	11%	2%	

The Florida Institute for Child Welfare

In 2014, the Legislature established the Florida Institute for Child Welfare (FICW) at the Florida State University College of Social Work. The purpose of the FICW is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research, policy analysis, evaluation, and leadership development.¹⁴ The institute is required to:

- Maintain a program of research that contributes to scientific knowledge and informs both policy and practice.
- Advise the department and other organizations participating in the child protection and child welfare system regarding scientific evidence.
- Provide advice regarding management practices and administrative processes used by DCF and other organizations participating in the child protection and child welfare system and recommend improvements.
- Assess the performance of child protection and child welfare services based on specific outcome measures.
- Evaluate the scope and effectiveness of preservice and inservice training for child protection and child welfare employees and advise and assist the department, in efforts to improve such training.
- Assess the readiness of social work graduates to assume job responsibilities in the child protection and child welfare system and identify gaps in education, which can be addressed through the modification of curricula or the establishment of industry certifications.
- Develop and maintain a program of professional support including training courses and consulting services that assist both individuals and organizations in implementing adaptive and resilient responses to workplace stress.

¹³ *Id.*

¹⁴ Section 1004.615, F.S.

- Participate in the department’s critical incident response team, assist in the preparation of reports about such incidents, and support the committee review of reports and development of recommendations.
- Identify effective policies and promising practices, including, but not limited to, innovations in coordination between entities participating in the child protection and child welfare system, data analytics, working with the local community, and management of human service organizations, and communicate these findings to the department and other organizations participating in the child protection and child welfare system.
- Develop a definition of a child or family at high risk of abuse or neglect. Such a definition must consider characteristics associated with a greater probability of abuse and neglect.¹⁵

III. Effect of Proposed Changes:

Section 1 provides a short title. The bill is titled “Jordan’s Law” after Jordan Belliveau, a two-year old child in Florida’s child welfare dependency system, who was killed by his mother in September 2018.

Section 2 amends s. 39.202, F.S., related to confidentiality of reports and records in cases of child abuse and neglect, to allow credentialing entities that certify child welfare personnel to access certain specified records held by the department related to child abuse and neglect. This will allow the credentialing entity to suspend or revoke the certification of child welfare personnel who work on cases involving children who are abused, neglected or abandoned.

Section 3 amends s. 39.303, F.S., relating to Child Protection Teams, to require the teams to add information on the recognition of and response to head trauma and brain injury in children under six years old to currently mandated trainings developed for program and other employees of the department, employees of the Department of Health, and other medical professionals.

Section 4 amends s. 39.401, F.S., relating to taking a child alleged to be dependent into custody, to authorize a parent or legal guardian of a child who is removed as a result of a determination by a medical evaluation performed by a Child Protection Team to request a second, independent evaluation be performed by a physician who has met the relevant qualifications of s. 39.303(b), F.S., in order to determine whether the child has been the victim of abuse or neglect. The bill requires the court to consider the evaluation when determining whether to remove a child from the home.

Section 5 amends s. 39.820, F.S., relating to definitions, to revise the terms “guardian ad litem” and “guardian advocate.”

Section 6 amends s. 39.8296, F.S., relating to the statewide Office of Guardian ad Litem, to require that training for a guardian ad litem include information on the recognition of and responses to head trauma and brain injury in children under six years old. The bill requires the training curriculum committee, rather than the statewide Guardian Ad Litem office, to develop guardian ad litem training programs, including the development of training on the recognition of and responses to head trauma and brain injury in children under six years old.

¹⁵ *Id.*

Section 7 amends s. 402.40, F.S., relating to child welfare training and certification, to:

Child Welfare Workforce Development Framework and Education Requirements

- Require the department, in collaboration with the institute, to develop and implement a comprehensive uniform child welfare workforce framework based on a nationally recognized model and specifies the following components that must be addressed: recruitment and hiring; education and professional preparation; professional training and development; supervision; retention; caseload and workload; workforce well-being and support; work-life balance and flexible scheduling; agency culture and climate.
- Require the department to develop a protocol for screening candidates for child protective positions and give preference to certain candidates that have specific experience or educational training
- Require by January 1, 2021, the CBCs to submit to the department a plan and timeline for recruiting and hiring child welfare staff, which meet the same educational requirements for child protective staff. The plan and timeline must include the same recruiting and hiring requirements for child welfare staff employed by subcontractors.

Workforce Training

- Require the department to establish a comprehensive system to provide preservice and inservice competency-based training program curricula that all child welfare, including staff employed by a CBC and its subcontractor, are required to participate in and successfully complete.
- Require that the training program include information on the recognition of and responses to head trauma and brain injury in children under six years old.
- Allow the CBCs to develop supplemental training, if needed, but such training cannot not take the place of or conflict with required standardized statewide training.

Workforce Certification

- Require the department approved third-party credentialing entities to require that persons holding a child welfare certification to comply with the new training requirements as a condition of renewal or initial certification. Require the third-party credentialing entity to track and report compliance with this section.
- Require that all certified child welfare professionals follow the third-party credentialing entities code of ethical and professional conduct and disciplinary procedures:
 - Require that the department, CBCs, sheriff's offices, and their contracted providers to report all allegations of suspected or known violations of ethical or professional misconduct standards to the department approved third-party credentialing entity.
 - Require the third-party credentialing entity to review all case records involving the death of a child or other critical incident to ensure compliance with the entities code of ethical and professional conduct and disciplinary procedures.
 - Require the department to provide the third-part credentialing entity with all reports necessary to conduct an investigation on all certified child welfare providers involved with the case.

- Require the department or a subcontracted employer of the certified staff to remove the individual from their duties that require certification as a condition of employment until an initial review is complete and the third-party credentialing entity determines whether an ethics case is warranted.
- Authorize the department to review the decisions of the third-party credentialing entity to deny, revoke, or suspend a certification of an individual.
- Allows a person that receives an adverse determination from a third-party credentialing entity to request an administrative hearing pursuant to ss. 120.569 and 120.57(1), F.S.
- Requires the third-party credentialing entity to track and monitor compliance with the entities code of ethical and professional conduct and disciplinary procedures.

Section 8 amends s. 409.988, F.S., relating to duties of the CBCs, to require that training for all individuals providing care for dependent children include information on the recognition of and responses to head trauma and brain injury in children under six years old that is developed by the Child Protection Team program. The bill also requires lead agencies to ensure the participation and completion of training relevant to the individual's area of responsibility, rather than the receipt of general training.

The bill expands the type of services that the CBCs must provide to dependent children to include intensive family reunification services that combine child welfare and mental health services for families with dependent children under six years old.

Section 9 creates s. 943.17298, F.S., relating to law enforcement training, to require that training for law enforcement officers include information on the recognition of and responses to head trauma and brain injury in children under six years old that is developed by the Child Protection Team program. Such training may either be a part of basic recruit training or continuing education or training.

Section 10 amends s. 1004.615, F.S., relating to the Florida Institute for Child Welfare (institute), to revise the mission of the institute to include advancing the well-being of children and families who are involved with, or at risk of becoming involved with, the child welfare system by facilitating and supporting statewide partnerships to develop competency-based education, training, and support to prepare a diverse group of social work professionals for careers in child welfare. The bill removes a requirement that the department contract with the institute and instead requires the department to collaborate with the institute for the following:

- Design and dissemination of continuum of social work education and training;
- Identification of methods to promote continuing professional development and systems of workplace support for existing child welfare staff;
- Development of a best practice model for providing feedback on curriculum to social work programs;
- Creation of a Title IV-E program designed to provide professional education and monetary support to undergraduate and graduate social work students who intend to pursue or continue a career in child welfare.
- Evaluation and dissemination of evidence-based and promising practices in child welfare and the development of high-quality evaluation into new program models and pilots; and
- Provide consultation on the creation of the Office of Well-Being and Support within the department.

Section 11 repeals s. 402.402, F.S., relating to child protection and child welfare personnel and attorneys employed by the department, to consolidate and eliminate requirements related to education and training which would be encompassed into or become unnecessary as a result of development of a new framework.

Section 12 amends s. 409.996, F.S., relating to duties of the department, to allow the DCF, in collaboration with select CBCs, to establish a program to improve case management services for dependent children under six years old by:

- Limiting caseloads for case managers comprised solely of children under six years old to no more than 15 children per case manager.
- Including case managers in the program who are trained specifically in:
 - Critical child development for children under six years old.
 - Specific practices of child care for children under six years old.
 - The scope of community resources available to children under six years of age.
 - Working with a parent or caregiver and assisting him or her in developing the skills necessary to care for a child under six years old.
- Allowing dependent siblings served by the program to be assigned to the same case manager.
- Requiring the DCF to evaluate the permanency, safety, and well-being of children served through the program and submit a report to the Governor and Legislature by October 1, 2025.

The bill requires the DCF to choose CBCs in circuits with high removal rates, significant budget deficits, significant case management turnover, and the highest numbers of children in out-of-home care or a significant increase in the number of children in out-of-home care over the last three fiscal years. If the DCF chooses to establish such a program, the bill requires the department to select up to three CBCs to develop and implement the program.

Section 13 amends s. 1009.25, F.S. relating to postsecondary fee exemptions, to delete a cross reference.

Section 14 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The CBCs will be required to ensure that individuals providing care for dependent children receive training on recognition of and response to head trauma and brain injury in children under six years old. However, the CBCs may be able to use or adapt training developed by the Department of Health (DOH) into the CBC's existing training curriculum at minimal or no cost.

C. Government Sector Impact:

The DOH may incur expenses related to developing additional training on brain injuries in children for the Child Protection Teams that investigate child abuse cases. The expenses are likely insignificant and can be absorbed within existing department resources.

The bill 122 also requires specified child welfare professionals, guardians ad litem, and law enforcement officers to receive training on the recognition of and response to head trauma and brain injury in children under six years old. The Department of Children and Families (DCF), Guardian ad Litem program, and the Department of Law Enforcement will likely be able to incorporate the necessary changes to their training curricula within existing resources.

Additionally, the bill is expected to have an indeterminate fiscal impact on the DCF to establish a program to provide a comprehensive system to provide both preservice and inservice child welfare competency-based training curricula for all child welfare staff, including all staff providing care for dependent children employed by a CBC or a subcontractor. Currently, the CBCs are required to provide training statewide. According to the DCF, the fiscal impact to the department could be offset if the funding currently provided to the sheriff's offices and the CBCs for this purpose is transferred to the department.¹⁶

¹⁶ The Department of Children and Families Agency Analysis, CS for SB 122, January 28, 2020. On file with the Senate Appropriations Subcommittee on Health and Human Services. The department states, "Title IV-E funding for preservice and inservice training is currently divided between the CBCs and the Department. The CBCs are currently appropriated \$7,377,261 in training funding for preservice and inservice training. In addition, the funding currently used for the training of

VI. Technical Deficiencies:

Subsection (4) is unclear as to whether the department is to develop and implement a training program or only develop a course of instruction.

VII. Related Issues:

The funding of preservice and inservice training currently is allocated to the DCF, sheriffs' offices, and CBCs. The department will have to identify the funds and move the funding from the sheriffs' offices and CBCs to the department. In addition, it may be challenging for the department to develop a training curriculum without additional funds.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 39.202, 39.303, 39.401, 39.820, 39.8296, 402.40, 409.988, 409.996, 1004.615, and 1009.25.

This bill creates 943.17298 of the Florida Statutes.

This bill repeals 402.402 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 February 25, 2020:

The committee substitute:

- Removes the requirement that the DCF create an Office of Well-Being and Support and a helpline for child welfare workers to address work related stress.
- Corrects a drafting error that removed a reference to the third party credentialing entity.
- Clarifies the terms “guardian ad litem” and “guardian advocate.”
- Adds the requirement for the DCF to establish a comprehensive preservice and inservice training program curricula that all child welfare staff, including staff employed by a CBC and its subcontractor, are required to participate in and successfully complete.
- Allows the DCF to establish a pilot program for CBCs in three circuits with high removal rates, significant budget deficits and case management turnover, and high numbers of children in out-of-home care to improve case management services for dependent children under six years old by:
 - Limiting caseloads for certain case managers to no more than 15 children per case manager.
 - Including case managers who are trained in:

CPIs and sheriffs' staff responsible for conducting child protective investigations total \$13,323,377. According to the department, the revenues will need to be retained by the department to cover the cost of preservice and inservice training.”

- Critical child development for children under six years old.
- Specific practices of child care for children under six years old.
- The scope of community resources available to children under six years of age.
- Working with a parent or caregiver and assisting him or her in developing the skills necessary to care for a child under six years old.
- Requiring the DCF to submit a report that evaluates the permanency, safety, and well-being of children served through the program.

Children, Families, and Elder Affairs on January 21, 2020:

The committee substitute does the following:

- Allows the CBCs to develop supplemental training if needed but it cannot not take the place of or conflict with required standardized statewide training.
- Allows credentialing entities to access certain specified records held by the department related to child abuse and neglect and provides additional responsibilities for the department and the credentialing entities related to ethics violations.
- Authorizes a parent or legal guardian of a child who is removed as a result of a determination by a medical evaluation performed by a Child Protection Team to request a second, independent evaluation be performed by a physician who has met the relevant qualifications of s. 39.303(b), F.S., in order to determine whether the child has been the victim of abuse or neglect. Requires the court to consider the evaluation when determining whether to remove a child from the home.

B. Amendments:

None.



311942

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Rouson) recommended the following:

Senate Amendment

Delete line 133
and insert:
as required under ss. 402.40 and 943.17298.



839790

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Rouson) recommended the following:

Senate Amendment

Delete lines 413 - 449
and insert:

1. The department, community based care lead agencies, sheriff offices and their contracted providers shall report all allegations of suspected or known violations of ethical or professional misconduct standards to the department approved third party credentialing entity, including all allegations made to the departments Office of Inspector General on certified



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personnel.

2. The department shall review all case records involving death of a child or other critical incident that is subject to a Critical Incident Rapid Response Team review to ensure compliance with ethical and professional conduct requirements of any certified child welfare professional staff.

3. The department shall provide any reports to the third-party credentialing entity that indicate that ethical or professional conduct requirements were not met so that the credentialing entity may determine if the individual's certification requires suspension or revocation.

4. If it is determined that the individual's certification requires suspension or revocation the department or employer of the certified staff must immediately remove the individual from their duties that require certification as a condition of employment.

5. Any decision by a department approved credentialing entity to deny, revoke, or suspend a certification, or otherwise impose sanctions on an individual who is certified, is reviewable by the department. Upon receiving an adverse determination, the person aggrieved may request an administrative hearing pursuant to ss. 120.569 and 120.57(1) within 30 days after completing any appeals process offered by the credentialing entity or the department, as applicable.

6. The third-party credentialing entity shall track and report compliance with this subsection to the department.



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576-04178-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to child welfare; providing a short title; amending s. 39.202, F.S.; expanding the list of entities with access to certain records that relate to child abandonment, abuse, or neglect held by the Department of Children and Families; amending s. 39.303, F.S.; requiring Child Protection Teams to be capable of providing certain training relating to head trauma and brain injuries in children younger than a specified age; amending s. 39.401, F.S.; authorizing the parent or legal guardian of a child to request a second medical evaluation of a child under certain circumstances; requiring the court to consider such evaluation when determining whether to remove the child from the home; amending s. 39.820, F.S.; revising the definition of the terms "guardian ad litem" and "guardian advocate"; amending s. 39.8296, F.S.; requiring that the guardian ad litem training program include training on the recognition of and responses to head trauma and brain injury in specified children; amending s. 402.40, F.S.; revising legislative findings and providing legislative intent; requiring the department to develop and implement a specified child welfare workforce development framework in collaboration with other specified entities; providing requirements for the department relating to workforce education requirements;



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requiring the department to submit an annual report to the Governor and the Legislature by a specified date; requiring community-based care lead agencies to submit a plan and timeline to the department relating to certain child welfare staff by a specified date; providing requirements for the department related to workforce training; providing additional duties for third-party credentialing entities; requiring certain attorneys employed by the department to complete certain training by a specified date; deleting definitions; deleting provisions relating to core competencies and specializations; amending s. 409.988, F.S.; requiring a lead agency to ensure that certain individuals receive specified training relating to head trauma and brain injuries in children younger than a specified age; revising the types of services a lead agency is required to provide; creating s. 943.17298, F.S.; requiring law enforcement officers to complete training relating to head trauma and brain injuries in children younger than a specified age as part of either basic recruit training or continuing training or education by a specified date; amending s. 1004.615, F.S.; revising the purpose of the Florida Institute for Child Welfare; revising requirements for the institute; revising the contents of the annual report that the institute must provide to the Governor and the Legislature; deleting obsolete provisions; repealing s. 402.402, F.S., relating to child protection and child welfare personnel and attorneys



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57 employed by the department; amending s. 409.996, F.S.;
58 authorizing the department and certain lead agencies
59 to create and implement a program to more effectively
60 provide case management services to specified
61 children; providing criteria for selecting judicial
62 circuits for implementation of the program; specifying
63 requirements of the program; requiring the department
64 to submit a report to the Governor and the Legislature
65 by a specified date under specified conditions;
66 amending s. 1009.25, F.S.; conforming provisions to
67 changes made by the act; providing an effective date.
68

69 Be It Enacted by the Legislature of the State of Florida:
70

71 Section 1. This act may be cited as "Jordan's Law."

72 Section 2. Paragraph (a) of subsection (2) of section
73 39.202, Florida Statutes, is amended to read:

74 39.202 Confidentiality of reports and records in cases of
75 child abuse or neglect.—

76 (2) Except as provided in subsection (4), access to such
77 records, excluding the name of, or other identifying information
78 with respect to, the reporter which shall be released only as
79 provided in subsection (5), shall be granted only to the
80 following persons, officials, and agencies:

81 (a) Employees, authorized agents, or contract providers of
82 the department, the Department of Health, the Agency for Persons
83 with Disabilities, the Office of Early Learning, or county
84 agencies responsible for carrying out:

85 1. Child or adult protective investigations;



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86 2. Ongoing child or adult protective services;
87 3. Early intervention and prevention services;
88 4. Healthy Start services;
89 5. Licensure or approval of adoptive homes, foster homes,
90 child care facilities, facilities licensed under chapter 393,
91 family day care homes, providers who receive school readiness
92 funding under part VI of chapter 1002, or other homes used to
93 provide for the care and welfare of children;
94 6. Employment screening for caregivers in residential group
95 homes; ~~or~~
96 7. Services for victims of domestic violence when provided
97 by certified domestic violence centers working at the
98 department's request as case consultants or with shared clients;
99 or
100 8. Credentialing of child welfare services staff pursuant
101 to s. 402.40.
102

103 Also, employees or agents of the Department of Juvenile Justice
104 responsible for the provision of services to children, pursuant
105 to chapters 984 and 985.

106 Section 3. Paragraph (h) of subsection (3) of section
107 39.303, Florida Statutes, is amended to read:

108 39.303 Child Protection Teams and sexual abuse treatment
109 programs; services; eligible cases.—

110 (3) The Department of Health shall use and convene the
111 Child Protection Teams to supplement the assessment and
112 protective supervision activities of the family safety and
113 preservation program of the Department of Children and Families.
114 This section does not remove or reduce the duty and



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responsibility of any person to report pursuant to this chapter all suspected or actual cases of child abuse, abandonment, or neglect or sexual abuse of a child. The role of the Child Protection Teams is to support activities of the program and to provide services deemed by the Child Protection Teams to be necessary and appropriate to abused, abandoned, and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a Child Protection Team must be capable of providing include, but are not limited to, the following:

(h) Such training services for program and other employees of the Department of Children and Families, employees of the Department of Health, and other medical professionals as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, abandonment, and neglect cases. The training services must include training in the recognition of and appropriate responses to head trauma and brain injury in a child under 6 years of age as required under ss. 39.8296, 402.40, and 943.17298.

A Child Protection Team that is evaluating a report of medical neglect and assessing the health care needs of a medically complex child shall consult with a physician who has experience in treating children with the same condition.

Section 4. Subsection (3) of section 39.401, Florida Statutes, is amended to read:

39.401 Taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department.—



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(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the agent shall review the facts supporting the removal with an attorney representing the department. The purpose of the review is to determine whether there is probable cause for the filing of a shelter petition.

(a) If the facts are not sufficient, the child shall immediately be returned to the custody of the parent or legal custodian.

(b) If the facts are sufficient and the child has not been returned to the custody of the parent or legal custodian, the department shall file the petition and schedule a hearing, and the attorney representing the department shall request that a shelter hearing be held within 24 hours after the removal of the child. While awaiting the shelter hearing, the authorized agent of the department may place the child in licensed shelter care or may release the child to a parent or legal custodian or responsible adult relative or the adoptive parent of the child's sibling who shall be given priority consideration over a licensed placement, or a responsible adult approved by the department if this is in the best interests of the child. Placement of a child which is not in a licensed shelter must be preceded by a criminal history records check as required under s. 39.0138. In addition, the department may authorize placement of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

(c) If the decision to remove a child from the home is predicated upon a medical evaluation performed by a Child



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173 Protection Team pursuant to s. 39.303, the parent or legal
174 guardian of the child may request that a second, independent
175 evaluation be performed by a physician who has met the relevant
176 qualifications of s. 39.303(2)(b) in order to determine whether
177 the child has been the victim of abuse or neglect. The court
178 must consider this evaluation when determining whether to remove
179 a child from the home.

180 Section 5. Section 39.820, Florida Statutes, is amended to
181 read:

182 39.820 Definitions.—As used in this chapter part, the term:

183 (1) "Guardian ad litem" as referred to in any civil or
184 criminal proceeding includes the following: the Statewide
185 Guardian Ad Litem Office, which includes circuit a-certified
186 guardian ad litem programs; program, a duly certified volunteer,
187 a staff member, a staff attorney, a contract attorney, or a
188 certified pro bono attorney working on behalf of a guardian ad
189 litem or the program, staff members of a program office; a
190 court-appointed attorney; or a responsible adult who is
191 appointed by the court to represent the best interests of a
192 child in a proceeding as provided for by law, including, but not
193 limited to, this chapter, who is a party to any judicial
194 proceeding as a representative of the child, and who serves
195 until discharged by the court.

196 (2) "Guardian advocate" means a person appointed by the
197 court to act on behalf of a drug dependent newborn under
198 pursuant to the provisions of this part.

199 Section 6. Paragraph (b) of subsection (2) of section
200 39.8296, Florida Statutes, is amended to read:

201 39.8296 Statewide Guardian Ad Litem Office; legislative



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202 findings and intent; creation; appointment of executive
203 director; duties of office.—

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

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

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

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

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

227 4. The office shall develop a guardian ad litem training
228 program, which shall include, but not be limited to, training on
229 the recognition of and responses to head trauma and brain injury
230 in a child under 6 years of age. The office shall establish a



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231 curriculum committee to develop the training program specified
232 in this subparagraph. The curriculum committee shall include,
233 but not be limited to, dependency judges, directors of circuit
234 guardian ad litem programs, active certified guardians ad litem,
235 a mental health professional who specializes in the treatment of
236 children, a member of a child advocacy group, a representative
237 of a domestic violence advocacy group ~~the Florida Coalition~~
238 ~~Against Domestic Violence~~, and a social worker experienced in
239 working with victims and perpetrators of child abuse.

240 5. The office shall review the various methods of funding
241 guardian ad litem programs, shall maximize the use of those
242 funding sources to the extent possible, and shall review the
243 kinds of services being provided by circuit guardian ad litem
244 programs.

245 6. The office shall determine the feasibility or
246 desirability of new concepts of organization, administration,
247 financing, or service delivery designed to preserve the civil
248 and constitutional rights and fulfill other needs of dependent
249 children.

250 7. In an effort to promote normalcy and establish trust
251 between a court-appointed volunteer guardian ad litem and a
252 child alleged to be abused, abandoned, or neglected under this
253 chapter, a guardian ad litem may transport a child. However, a
254 guardian ad litem volunteer may not be required or directed by
255 the program or a court to transport a child.

256 8. The office shall submit to the Governor, the President
257 of the Senate, the Speaker of the House of Representatives, and
258 the Chief Justice of the Supreme Court an interim report
259 describing the progress of the office in meeting the goals as



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260 described in this section. The office shall submit to the
261 Governor, the President of the Senate, the Speaker of the House
262 of Representatives, and the Chief Justice of the Supreme Court a
263 proposed plan including alternatives for meeting the state's
264 guardian ad litem and attorney ad litem needs. This plan may
265 include recommendations for less than the entire state, may
266 include a phase-in system, and shall include estimates of the
267 cost of each of the alternatives. Each year the office shall
268 provide a status report and provide further recommendations to
269 address the need for guardian ad litem services and related
270 issues.

271 Section 7. Section 402.40, Florida Statutes, is amended to
272 read:

273 (Substantial rewording of section. See
274 s. 402.40, F.S., for present text.)

275 402.40 Child welfare workforce; development; training;
276 certification; well-being.—

277 (1) LEGISLATIVE FINDINGS AND INTENT.—

278 (a) The Legislature finds that positive outcomes for
279 children and families involved with the child welfare system
280 often are attributable to the strong commitment of a well-
281 trained, highly skilled, well-resourced, and dedicated child
282 welfare workforce and that the child welfare system is only as
283 good as the individuals who conduct investigations, provide
284 services to children and families, and manage service delivery.

285 (b) The Legislature also finds that child welfare agencies
286 experience barriers to establishing and maintaining a stable,
287 effective, and diverse workforce because of issues relating to
288 recruitment, education and training, inadequate supervision,



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289 retention and staff turnover, and lack of support for frontline
290 individuals.

291 (c) The Legislature further finds that, although numerous
292 initiatives have been developed to address these challenges,
293 isolated interventions often fail to yield positive results,
294 whereas implementing an integrated framework across multiple
295 domains can help child welfare agencies achieve effective
296 outcomes.

297 (d) It is the intent of the Legislature to ensure a
298 systematic approach to child welfare workforce staff development
299 and the well-being of individuals providing child welfare
300 services by establishing a uniform statewide program.

301 (2) CHILD WELFARE WORKFORCE DEVELOPMENT FRAMEWORK.-In order
302 to promote competency-based, outcome-focused, and data-driven
303 approaches to workforce development, the department, in
304 collaboration with the Florida Institute for Child Welfare,
305 shall develop and implement a comprehensive child welfare
306 development workforce framework using a nationally recognized
307 model for workforce development. The framework must address, at
308 a minimum, all of the following components:

309 (a) Recruitment and hiring.

310 (b) Education and professional preparation.

311 (c) Professional training and development.

312 (d) Supervision.

313 (e) Retention.

314 (f) Caseload and workload.

315 (g) Workforce well-being and support.

316 (h) Work-life balance and flexible scheduling.

317 (i) Agency culture and climate.



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318 (3) WORKFORCE EDUCATION REQUIREMENTS.-

319 (a) The department shall make every effort to recruit and
320 hire qualified professional staff to serve as child protective
321 investigators and child protective investigation supervisors who
322 are qualified by their education and experience to perform
323 social work functions. The department, in collaboration with the
324 lead agencies, subcontracted provider organizations, the Florida
325 Institute for Child Welfare, and other partners in the child
326 welfare system, shall develop a protocol for screening
327 candidates for child protective positions which reflects the
328 preferences specified in subparagraphs 1., 2., and 3. The
329 following persons must be given preference in recruitment, but
330 this preference serves only as guidance and does not limit the
331 department's discretion to select the best available candidates:

332 1. Individuals with a baccalaureate degree in social work,
333 and child protective investigation supervisors with a master's
334 degree in social work, from a college or university social work
335 program accredited by the Council on Social Work Education.

336 2. Individuals with a bachelor's degree or a master's
337 degree in psychology, sociology, counseling, special education,
338 education, human development, child development, family
339 development, marriage and family therapy, or nursing.

340 3. Individuals with baccalaureate degrees who have a
341 combination of directly relevant work and volunteer experience,
342 preferably in a public service field related to children's
343 services, which demonstrates critical thinking skills, formal
344 assessment processes, communication skills, problem solving, and
345 empathy; a commitment to helping children and families; a
346 capacity to work as part of a team; an interest in continuous



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development of skills and knowledge; and sufficient personal strength and resilience to manage competing demands and handle workplace stresses.

(b) By each October 1, the department shall submit a report on the educational qualifications, turnover, and working conditions of child protective investigators and supervisors to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(c) By January 1, 2021, the community-based care lead agencies shall submit to the department a plan and timeline for recruiting and hiring child welfare staff providing care for dependent children which meet the same educational requirements as required for child protective investigators and child protective investigation supervisors under this subsection. The plan and timeline must include the same recruiting and hiring requirements for child welfare staff employed by subcontractors.

(4) WORKFORCE TRAINING.—

(a) In order to enable the state to recruit and retain a qualified and diverse child welfare workforce that is well-trained, well-supervised, and well-supported, the department shall establish a program for a comprehensive system to provide both preservice and inservice child welfare competency-based training curricula that all child welfare staff, including all staff providing care for dependent children employed by a community-based care lead agency or by a subcontractor of such agency, are required to participate in and successfully complete, appropriate to their areas of responsibility. Such program must include training in the recognition of and appropriate responses to head trauma and brain injury in a child



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under 6 years of age, which must be developed by the Child Protection Team Program within the Department of Health.

(b) A community-based care lead agency may develop additional training for persons delivering child welfare services in the agency's service area if the curriculum does not conflict with training required in paragraph (a).

(5) WORKFORCE CERTIFICATION.—The department shall approve one or more third-party credentialing entities for the purpose of developing and administering child welfare certification programs for persons who provide child welfare services. A third-party credentialing entity shall request such approval in writing from the department. In order to obtain approval, the third-party credentialing entity must:

(a) Establish professional requirements and standards that applicants must achieve in order to obtain a child welfare certification and to maintain such certification.

(b) Develop and apply core competencies and examination instruments according to nationally recognized certification and psychometric standards.

(c) Maintain a professional code of ethics and a disciplinary process that apply to all persons holding child welfare certification.

(d) Maintain a database, accessible to the public, of all persons holding child welfare certification, including any history of ethical violations.

(e) Require annual continuing education for persons holding child welfare certification and require certified professionals to comply with the training requirements in subsection (4) as a condition of renewal or initial certification. The third-party



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credentialed entity shall track and report compliance with this section to the department on an annual basis.

(f) Administer a continuing education provider program to ensure that only qualified providers offer continuing education opportunities for certificateholders.

(g) All certified child welfare professionals must follow the requirements of the third-party credentialing entities code of ethical and professional conduct and disciplinary procedures.

1. The department, community based care lead agencies, sheriff offices and their contracted providers shall report all allegations of suspected or known violations of ethical or professional misconduct standards to the department approved third-party credentialing entity, including all allegations made to the department's Office of Inspector General on certified personnel.

2. The third-party credentialing entity shall review all case records involving the death of a child or other critical incident to ensure compliance with the third-party credentialing entity's published code of ethical and professional conduct and disciplinary procedures.

3. The department shall provide the third-party credentialing entity with all reports necessary to conduct a thorough investigation on all certified child welfare service providers involved with the case.

4. The third-party credentialing entity shall immediately suspend the certification of all certified individuals involved in the case pending the results of the initial review of the certified professional's role and performance as it relates to the case circumstance.



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5. The department or sub-contracted employer of the certified staff must immediately remove the individual from their duties that require certification as a condition of employment until the initial review is complete and the third-party credentialing entity determines if an ethics case is warranted.

6. Any decision by a department approved credentialing entity to deny, revoke, or suspend a certification, or otherwise impose sanctions on an individual who is certified, is reviewable by the department. Upon receiving an adverse determination, the person aggrieved may request an administrative hearing pursuant to ss. 120.569 and 120.57(1) within 30 days after completing any appeals process offered by the credentialing entity or the department, as applicable.

7. The third-party credentialing entity shall track and report compliance with this subsection to the department.

(h) Maintain an advisory committee, including representatives from each region of the department, each sheriff's office providing child protective services, and each community-based care lead agency, who shall be appointed by the organization they represent. The third-party credentialing entity may appoint additional members to the advisory committee.

(6) CHILD WELFARE TRAINING TRUST FUND.—

(a) There is created within the State Treasury a Child Welfare Training Trust Fund to be used by the Department of Children and Families for the purpose of funding the professional development of persons providing child welfare services.

(b) One dollar from every noncriminal traffic infraction



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463 collected pursuant to s. 318.14(10)(b) or s. 318.18 shall be
464 deposited into the Child Welfare Training Trust Fund.

465 (c) In addition to the funds generated by paragraph (b),
466 the trust fund shall receive funds generated from an additional
467 fee on birth certificates and dissolution of marriage filings,
468 as specified in ss. 382.0255 and 28.101, respectively, and may
469 receive funds from any other public or private source.

470 (d) Funds that are not expended by the end of the budget
471 cycle or through a supplemental budget approved by the
472 department shall revert to the trust fund.

473 (7) ATTORNEYS EMPLOYED BY THE DEPARTMENT TO HANDLE CHILD
474 WELFARE CASES.—With the exception of attorneys hired after July
475 1, 2014, but before July 1, 2020, who shall complete the
476 training required under this subsection by January 31, 2021,
477 attorneys hired by the department on or after July 1, 2014,
478 whose primary responsibility is representing the department in
479 child welfare cases shall receive training within the first 6
480 months of employment in:

481 (a) The dependency court process, including the attorney's
482 role in preparing and reviewing documents prepared for
483 dependency court for accuracy and completeness;

484 (b) Preparing and presenting child welfare cases, including
485 at least 1 week of shadowing an experienced children's legal
486 services attorney who is preparing and presenting cases;

487 (c) Safety assessment, safety decisionmaking tools, and
488 safety plans;

489 (d) Developing information presented by investigators and
490 case managers to support decisionmaking in the best interest of
491 children; and



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492 (e) The experiences and techniques of case managers and
493 investigators, including shadowing an experienced child
494 protective investigator and an experienced case manager for at
495 least 8 hours.

496 (8) ADOPTION OF RULES.—The department shall adopt rules
497 necessary to administer this section.

498 Section 8. Paragraph (f) of subsection (1) and subsection
499 (3) of section 409.988, Florida Statutes, is amended to read:
500 409.988 Lead agency duties; general provisions.—

501 (1) DUTIES.—A lead agency:

502 (f) Shall ensure that all individuals providing care for
503 dependent children participate in and successfully complete the
504 program of ~~receive appropriate~~ training relevant to the
505 individual's area of responsibility and meet the minimum
506 employment standards established by the department pursuant to
507 s. 402.40. The training curriculum must include training in the
508 recognition of and appropriate responses to head trauma and
509 brain injury in a child under 6 years of age developed by the
510 Child Protection Team Program within the Department of Health.

511 (3) SERVICES.—A lead agency must provide dependent children
512 with services that are supported by research or that are
513 recognized as best practices in the child welfare field. The
514 agency shall give priority to the use of services that are
515 evidence-based and trauma-informed and may also provide other
516 innovative services, including, but not limited to, family-
517 centered and cognitive-behavioral interventions designed to
518 mitigate out-of-home placements, and intensive family
519 reunification services that combine child welfare and mental
520 health services for families with dependent children under 6



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521 years of age.

522 Section 9. Section 943.17298, Florida Statutes, is created
523 to read:

524 943.17298 Training in the recognition of and responses to
525 head trauma and brain injury.—Each law enforcement officer must
526 successfully complete training on the subject of the recognition
527 of and appropriate responses to head trauma and brain injury in
528 a child under 6 years of age developed by the Child Protection
529 Team Program within the Department of Health to aid an officer
530 in the detection of head trauma and brain injury due to child
531 abuse. Such training must be completed as part of the basic
532 recruit training for a law enforcement officer, as required
533 under s. 943.13(9), or as a part of continuing training or
534 education required under s. 943.135(1), before July 1, 2022.

535 Section 10. Section 1004.615, Florida Statutes, is amended
536 to read:

537 1004.615 Florida Institute for Child Welfare.—

538 (1) There is established the Florida Institute for Child
539 Welfare within the Florida State University College of Social
540 Work. The purpose of the institute is to advance the well-being
541 of children and families who are involved with, or at risk of
542 becoming involved with, the child welfare system by facilitating
543 and supporting statewide partnerships to develop competency-
544 based education, training, and support to prepare a diverse
545 group of social work professionals for careers in child welfare
546 by improving the performance of child protection and child
547 welfare services through research, policy analysis, evaluation,
548 and leadership development. The institute shall consist of a
549 consortium of public and private universities offering degrees



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550 in social work and shall be housed within the Florida State
551 University College of Social Work.

552 (2) Using such resources as authorized in the General
553 Appropriations Act, the Department of Children and Families
554 shall collaborate ~~contract~~ with the institute for performance of
555 the duties described in subsection (3) ~~(4)~~ using state
556 appropriations, public and private grants, and other resources
557 obtained by the institute.

558 (3) In order to increase and retain a higher percentage of
559 professionally educated social workers in the child welfare
560 system and serve as a statewide resource for child welfare
561 workforce education and training, the institute, in
562 collaboration with the Department of Children and Families,
563 shall:

564 (a) Design and disseminate a continuum of social work
565 education and training which emphasizes child welfare workforce
566 stabilization and professionalization by aligning social work
567 curriculum and training with critical practice skills pursuant
568 to s. 402.40.

569 (b) Identify methods to promote continuing professional
570 development and systems of workplace support for existing child
571 welfare staff.

572 (c) Develop a best practice model for providing feedback on
573 curriculum to social work programs and for ensuring that interns
574 who will be entering the child welfare profession are well-
575 supervised by university personnel during their internships.

576 (d) Create a Title IV-E program designed to provide
577 professional education and monetary support to undergraduate and
578 graduate social work students who intend to pursue or continue a



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career in child welfare. Goals of the program should include:

1. Increasing the number of individuals in the child welfare workforce who have a bachelor's degree or master's degree in social work.

2. Prioritizing the enrollment of current child welfare staff employed by the state.

3. Prioritizing the enrollment of students who reflect the diversity of the state's child welfare population.

4. Providing specific program support through the provision of specialized competency-based child welfare curriculum and monetary support to students.

(e) Engage in evaluation and dissemination of evidence-based and promising practices in child welfare and build high-quality evaluation into new program models and pilots.

~~The institute shall work with the department, sheriffs providing child protective investigative services, community-based care lead agencies, community-based care provider organizations, the court system, the Department of Juvenile Justice, the Florida Coalition Against Domestic Violence, and other partners who contribute to and participate in providing child protection and child welfare services.~~

~~(4) The institute shall:~~

~~(a) Maintain a program of research which contributes to scientific knowledge and informs both policy and practice related to child safety, permanency, and child and family well-being.~~

~~(b) Advise the department and other organizations participating in the child protection and child welfare system~~



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~~regarding scientific evidence on policy and practice related to child safety, permanency, and child and family well-being.~~

~~(c) Provide advice regarding management practices and administrative processes used by the department and other organizations participating in the child protection and child welfare system and recommend improvements that reduce burdensome, ineffective requirements for frontline staff and their supervisors while enhancing their ability to effectively investigate, analyze, problem solve, and supervise.~~

~~(d) Assess the performance of child protection and child welfare services based on specific outcome measures.~~

~~(e) Evaluate the scope and effectiveness of preservice and inservice training for child protection and child welfare employees and advise and assist the department in efforts to improve such training.~~

~~(f) Assess the readiness of social work graduates to assume job responsibilities in the child protection and child welfare system and identify gaps in education which can be addressed through the modification of curricula or the establishment of industry certifications.~~

~~(g) Develop and maintain a program of professional support including training courses and consulting services that assist both individuals and organizations in implementing adaptive and resilient responses to workplace stress.~~

~~(h) Participate in the department's critical incident response team, assist in the preparation of reports about such incidents, and support the committee review of reports and development of recommendations.~~

~~(i) Identify effective policies and promising practices,~~



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637 ~~including, but not limited to, innovations in coordination~~
638 ~~between entities participating in the child protection and child~~
639 ~~welfare system, data analytics, working with the local~~
640 ~~community, and management of human service organizations, and~~
641 ~~communicate these findings to the department and other~~
642 ~~organizations participating in the child protection and child~~
643 ~~welfare system.~~

644 ~~(j) Develop a definition of a child or family at high risk~~
645 ~~of abuse or neglect. Such a definition must consider~~
646 ~~characteristics associated with a greater probability of abuse~~
647 ~~and neglect.~~

648 ~~(5) The President of the Florida State University shall~~
649 ~~appoint a director of the institute. The director must be a~~
650 ~~child welfare professional with a degree in social work who~~
651 ~~holds a faculty appointment in the Florida State University~~
652 ~~College of Social Work. The institute shall be administered by~~
653 ~~the director, and the director's office shall be located at the~~
654 ~~Florida State University. The director is responsible for~~
655 ~~overall management of the institute and for developing and~~
656 ~~executing the work of the institute consistent with the~~
657 ~~responsibilities in subsection (3) (4). The director shall~~
658 ~~engage individuals in other state universities with accredited~~
659 ~~colleges of social work to participate in the institute.~~
660 Individuals from other university programs relevant to the
661 institute's work, including, but not limited to, economics,
662 management, law, medicine, and education, may also be invited by
663 the director to contribute to the institute. The universities
664 participating in the institute shall provide facilities, staff,
665 and other resources to the institute to establish statewide



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666 access to institute programs and services.

667 ~~(5)(6) By each~~ October 1 ~~of each year~~, the institute shall
668 provide a written report to the Governor, the President of the
669 Senate, and the Speaker of the House of Representatives which
670 outlines its activities in the preceding year, reports
671 significant research findings, as well as results of other
672 programs, and provides specific recommendations for improving
673 education, training, and support for individuals in the child
674 welfare workforce ~~child protection and child welfare services.~~

675 ~~(a) The institute shall include an evaluation of the~~
676 ~~results of the educational and training requirements for child~~
677 ~~protection and child welfare personnel established under this~~
678 ~~act and recommendations for application of the results to child~~
679 ~~protection personnel employed by sheriff's offices providing~~
680 ~~child protection services in its report due October 1, 2017.~~

681 ~~(b) The institute shall include an evaluation of the~~
682 ~~effects of the other provisions of this act and recommendations~~
683 ~~for improvements in child protection and child welfare services~~
684 ~~in its report due October 1, 2018.~~

685 ~~(7) The institute shall submit a report with~~
686 ~~recommendations for improving the state's child welfare system.~~
687 ~~The report shall address topics including, but not limited to,~~
688 ~~enhancing working relationships between the entities involved in~~
689 ~~the child protection and child welfare system, identification of~~
690 ~~and replication of best practices, reducing paperwork,~~
691 ~~increasing the retention of child protective investigators and~~
692 ~~case managers, and caring for medically complex children within~~
693 ~~the child welfare system, with the goal of allowing the child to~~
694 ~~remain in the least restrictive and most nurturing environment.~~



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695 ~~The institute shall submit an interim report by February 1,~~
696 ~~2015, and final report by October 1, 2015, to the Governor, the~~
697 ~~President of the Senate, and the Speaker of the House of~~
698 ~~Representatives.~~

699 Section 11. Section 402.402, Florida Statutes, is
700 repealed.

701 Section 12. Subsection (24) is added to section 409.996,
702 Florida Statutes, to read:

703 409.996 Duties of the Department of Children and Families.—
704 The department shall contract for the delivery, administration,
705 or management of care for children in the child protection and
706 child welfare system. In doing so, the department retains
707 responsibility for the quality of contracted services and
708 programs and shall ensure that services are delivered in
709 accordance with applicable federal and state statutes and
710 regulations.

711 (24) The department, in collaboration with the lead
712 agencies serving the judicial circuits selected in paragraph
713 (a), may create and implement a program to more effectively
714 provide case management services for dependent children under 6
715 years of age.

716 (a) If the program is created, the department shall select
717 up to three judicial circuits in which to develop and implement
718 the program, with priority given to a circuit that has a high
719 removal rate, significant case management turnover rate, and the
720 highest numbers of children in out-of-home care or a significant
721 increase in the number of children in out-of-home care over the
722 last 3 fiscal years.

723 (b) If the program is created, it must do each of the



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724 following:

725 1. Include caseloads for dependency case managers comprised
726 solely of children who are under 6 years of age, except as
727 provided in paragraph (c). The maximum caseload for a case
728 manager shall be no more than 15 children, if possible.

729 2. Include case managers who are trained specifically in:

730 a. Critical child development for children under 6 years of
731 age;

732 b. Specific practices of child care for children under 6
733 years of age;

734 c. The scope of community resources available to children
735 under 6 years of age; and

736 d. Working with a parent or caregiver and assisting him or
737 her in developing the skills necessary to care for the health,
738 safety, and well-being of a child under 6 years of age.

739 (c) If a child being served through the program has a
740 dependent sibling, the sibling may be assigned to the same case
741 manager as the child being served through the program; however,
742 each sibling counts toward the case manager's maximum caseload
743 as provided under paragraph (b).

744 (d) If the program is created, the department shall
745 evaluate the permanency, safety, and well-being of children
746 being served through the program and submit a report to the
747 Governor, the President of the Senate, and the Speaker of the
748 House of Representatives by October 1, 2025, detailing its
749 findings.

750 Section 13. Paragraph (h) of subsection (1) of section
751 1009.25, Florida Statutes, is amended to read:

752 1009.25 Fee exemptions.—



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753 (1) The following students are exempt from the payment of
754 tuition and fees, including lab fees, at a school district that
755 provides workforce education programs, Florida College System
756 institution, or state university:

757 (h) Pursuant to s. 402.403, child protection and child
758 welfare personnel ~~as defined in s. 402.402~~ who are enrolled in
759 an accredited bachelor's degree or master's degree in social
760 work program, provided that the student attains at least a grade
761 of "B" in all courses for which tuition and fees are exempted.

762 Section 14. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 122

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senators Rouson, Berman, Hooper, and others

SUBJECT: Child Welfare

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.	Sneed	Kidd	AHS	Recommend: Fav/CS
3.	Sneed	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 122 is titled “Jordan’s Law” and makes a number of changes to the laws related to the child welfare system in an attempt to address issues that were identified in the case of Jordan Belliveau, a two-year old boy who was killed by his mother in Pinellas County. The bill requires specified child welfare professionals and law enforcement officers to receive training, developed by the Department of Health, on the recognition of and response to head trauma and brain injury in children under six years old. The bill also requires Guardian ad Litem (GAL) program staff to receive training developed by the GAL training curriculum committee on the recognition of and responses to head trauma and brain injury in children under six years old. The bill also:

- Requires the Department of Children and Families (DCF or department), in collaboration with the Florida Institute for Child Welfare (institute), to develop and implement a comprehensive uniform child welfare workforce framework based on a nationally recognized model and specifies issues to be addressed.
- Conforms education and training requirements to the new child welfare workforce framework.
- Allows credentialing entities that certify child welfare personnel to access certain records held by the department related to child abuse and neglect and provides additional duties for the department and third party credentialing entities related to ethics and professional conduct violations.

- Authorizes a parent or legal guardian of a child removed from his or her home as a result of a medical evaluation performed by a Child Protection Team, to request a second, independent evaluation by a physician who has met the qualifications of section 39.303(b), Florida Statutes, in order to determine whether the child has been the victim of abuse or neglect. Requires the court to consider the second evaluation when determining whether to remove a child from the home.
- Authorizes the DCF to pilot the effectiveness of case management services in CBCs serving up to three judicial circuits with high removal rates, significant budget deficits and high case management turnover, and have experienced significant increases in children entering out-of-home care.
- Revises the mission of the institute to include advancing the well-being of children and families who are involved with, or at risk of becoming involved with, the child welfare system by facilitating and supporting statewide partnerships to develop competency-based education, training, and support to prepare a diverse group of social work professionals for careers in child welfare.

The bill is expected to have an indeterminate fiscal impact on state expenditures. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Jordan Belliveau

Jordan Belliveau, Jr., was killed by his mother in September 2018 when he was two years old. At the time of his death, the family was under court-ordered protective supervision as Jordan, who had been removed from his parent's custody in October 2016, was reunified with his mother, 21-year old Charisee Stinson, in May 2018. In addition to the open service case, there was also an active child abuse investigation due to ongoing domestic violence between his mother and father, 22-year-old Jordan Belliveau, Sr.

Due to lack of communication to the court, lack of communication between the Pinellas County Sheriff's Office and the department, and lack of evidence provided by Directions for Living, the contracted case management organization for Eckerd Connects, the community-based care lead agency (CBC), regarding the parent's case plan compliance, ongoing family issues that created an unsafe home environment for Jordan were never addressed. Jordan was initially reported missing by his mother in September 2018 and a statewide Amber Alert was issued. His body was found by law enforcement four days after his death. His mother was charged with aggravated child abuse and first-degree murder. His mother admitted to killing Jordan by hitting him, which caused the back of his head to hit a wall in their home.

Special Review of the Case Involving Jordan Belliveau Jr.

Case Summary

Given the circumstances of the case, former interim secretary of the department, Rebecca Kapusta, immediately initiated a special review to evaluate the circumstances surrounding Jordan's death and to assess the services provided during the 17 months he remained removed

from the home through his reunification with his mother in May 2018. The multidisciplinary team was not only comprised of individuals who specialize in child welfare, but also those with mental health, and domestic violence expertise (both from a treatment and law enforcement perspective) to address the reunification decision and actions that occurred when subsequent concerns were identified.¹

Jordan's family first came in contact with the DCF in October 2016 when a report was made to the hotline alleging Jordan was in an unsafe home environment that included gang violence. Jordan was placed in foster care after his mother was unable to obtain alternative housing. He was subsequently adjudicated dependent on November 1, 2016, and placed in foster care. His parents were offered a case plan with tasks including finding stable housing and receiving mental health services and counseling.

Throughout Jordan's case, his mother and father were either non-compliant or only partially compliant with their case plans. Nevertheless, due to lack of communication to the court and lack of evidence provided by the case management organization, Directions for Living, regarding compliance, Jordan was eventually reunified with his mother and father. After reunification and while still under judicial supervision, domestic violence continued between the parents, with Jordan's father being arrested for domestic violence against Jordan's mother in July 2018. However, the incident was not immediately reported to the hotline upon his arrest, and thus the incident was not reported to the court at a hearing the next day regarding Jordan's reunification.

When the incident was reported to the hotline three weeks later, a child protective investigation was conducted by the Pinellas County Sheriff's Office. However, the investigator determined that Jordan was not currently in danger, and therefore, found there was no need to remove him from the home. Given the ongoing and escalating level of violence between the parents, the inability to control the situation in the home and the risk of harm posed to Jordan, should his parents engage in further altercations, an unsafe home environment should have been identified.

However, with no concerns for Jordan's safety raised after the investigation or during subsequent hearings, there was no consideration for an emergency modification of his placement and Jordan was reunited with his father. On August 31, 2018, a case manager visited Jordan's parents to discuss several issues regarding lack of cooperation with the Guardian ad Litem and case plan tasks. The case manager emphasized the continued need for Jordan's parents to participate in services or risk losing custody of Jordan. Less than 24 hours after the visit, Jordan was reported missing by his mother. Four days later, law enforcement found his body. Jordan's mother admitted to killing him by hitting him in a "moment of frustration" which "in turn caused the back of his head to strike an interior wall of her home."²

Findings in the Report

- The decision to reunify Jordan was driven primarily by the parents' perceived compliance with case plan tasks and not behavioral change. There was a noted inability by all parties

¹ Department of Children and Families, *Special Review of the Case Involving Jordan Belliveau, Jr.* (Jan. 11, 2019), available at <http://www.dcf.state.fl.us/newsroom/docs/Belliveau%20Special%20Review%202018-632408.pdf>. (Last visited November 15, 2019).

² *Id.*

involved to recognize and address additional concerns that became evident throughout the life of the case. Instead, case decisions were solely focused on mitigating the environmental reasons Jordan came into care and failed to address the overall family conditions.

- Following reunification, policies and procedures to ensure child safety and wellbeing were not followed. In addition, Directions for Living case management staff did not take action on the mother's lack of compliance and her failure to participate with the reunification program prior to and following reunification.
- When the new child abuse report was received in August 2018, alleging increased volatility between the parents, the present danger was not appropriately assessed and identified. The assessment by the Pinellas County Sheriff's child protective investigator (CPI) was based solely on the fact that the incident was not reported to the hotline when it initially occurred. The CPI failed to identify the active danger threats occurring within the household that were significant, immediate, and clearly observable. Given the circumstances, a modification of Jordan's placement should have been considered.
- Despite the benefit of co-location, there was a noted lack of communication and collaboration between the Pinellas County Sheriff's Office CPI unit and Directions for Living case management staff in shared cases involving Jordan and his family, especially regarding the August 2018 child abuse investigation.
- In addition to the lack of communication and collaboration between frontline investigations and case management staff noted above, there was an absence of shared ownership between all entities involved throughout the life of Jordan's case, which demonstrates a divided system of care. In addition, the lack of multidisciplinary team approach resulted in an inability to adequately address the identified concerns independent of one another.
- The biopsychosocial assessments failed to consider the history and information provided by the parents and resulted in treatment plans that were ineffective to address behavioral change. Moreover, there was an over-reliance on the findings of the biopsychosocial assessments as to whether focused evaluations were warranted (e.g., substance abuse, mental health, domestic violence, etc.), despite the abundance of information to support such evaluations were necessary.³

Conclusion

The report's findings and conclusion do not indicate that Jordan's death was the result of any shortcomings or loopholes in the law or lack of training related to the identification of brain injury, but rather due to the multiple failures of individuals working with children in the child welfare system to communicate, coordinate and cooperate:

Complex child welfare cases are difficult enough when high caseloads and continual staff turnover plague an agency. However, it is further impacted when those involved in the case (protective investigations, case management, clinical providers, legal, Guardians ad Litem, and the judiciary) fail to work together to ensure the best decisions are being made on behalf of the child and their family.

³ *Id.*

This case highlights the fractured system of care in Circuit 6, Pinellas County, with each of the various parts of the system operating independently of one another, without regard or respect as to the role their part plays in the overall child welfare system. Until the pieces of the local child welfare system are made whole, decision-making will continue to be fragmented and based on isolated views of a multi-faceted situation.⁴

Training on Head Trauma and Brain Injury in Abused and Neglected Children

Head Trauma and Brain Injury in Children

Abusive head trauma is a leading cause of child abuse deaths in children under five in the United States.⁵ Head trauma and injuries can be mild, like a bump or bruise, or they can be more severe, like a concussion or a fractured skull bone, and may include internal bleeding and damage to the brain. A number of actions can cause head trauma and brain injury in children. The most commonly known physical abuse that results in a brain injury is shaken-baby syndrome⁶; however, head trauma and other forms of physical abuse, like hitting or striking a child, can cause brain injuries. Caregiver neglect can also cause brain injuries through inadequate supervision or by providing an unsafe home environment. Additionally, other forms of abuse that do not involve physical abuse to the head, such as choking or strangling, can damage the brain. Disruption in oxygen to the brain, called hypoxia, can cause long-term disabilities and damage to a child's brain.⁷

Current Brain Injury Training Requirements

Currently, all case managers, Guardian ad Litem staff and volunteers, dependency court judges, child protective investigators and supervisors, Children's Legal Services' attorneys, and law enforcement officers are required to complete required training for their position. Typically, this is done as preservice and continuing education training. None of the required training includes the recognition of and response to head trauma and brain injury in a child under age six.⁸

Education and Training Requirements for Child Welfare Staff

Training and Certification

In 1986, the Legislature required the Department of Health and Rehabilitative Services (HRS) to establish, maintain, and oversee the operation of child welfare training academies in the state for the expressed purpose of enabling the state to provide a systematic approach to staff development and training for dependency program staff. The Legislature further intended that this approach to training would aid in the reduction of poor staff morale and of staff turnover, positively impact the quality of decisions made regarding children and families and afford a

⁴ *Id.*

⁵ Spies, EL, Ph.D. and Klevens, J., MD, Ph.D., *Fatal Abusive Head Trauma among Children Aged <5 Years – United States, 1999-2014* (May 27, 2016).

⁶ Tina Joyce, Martin Huecker, *Pediatric Abusive Head Trauma (Shaken Baby Syndrome)*, available at: <https://www.ncbi.nlm.nih.gov/books/NBK499836/> (last visited February 24, 2020).

⁷ James E. Lewis, Ph.D., *Neuropsychological Evaluations of Children and Adults in Child Welfare Cases*, available at: <http://centervideo.forest.usf.edu/clsneuropsych/start.html> (last visited February 24, 2020).

⁸ For specific training requirements, see ss. 25.385, 39.8296, 402.402, 409.988, 943.13 and 943.135, F.S.

better quality of care for children placed in out-of-home care.⁹ The HRS established a number of training academies statewide that were widely recognized as a national model for child welfare workforce training.

In 2000, the Legislature authorized the department to create certification programs for its employees and service providers to ensure that only qualified employees and service providers provide client services. The department was authorized to develop rules that included qualifications for certification, including training and testing requirements, continuing education requirements for ongoing certification, and decertification procedures to be used to determine when an individual no longer meets the qualifications for certification and to implement the decertification of an employee or agent.¹⁰ The department subsequently developed 11 types of certification designations for child protection professionals.

In 2011, at the urging of the CBCs, the Legislature eliminated the department's child welfare training program and removed the department's ability to create certification programs.¹¹

Education

The college degrees most tailored to and associated with child welfare are the bachelor's and master's degrees in social work. During the first half of the 20th century, the federal government, in cooperation with universities and local agencies, established a child welfare system staffed by individuals with professional social work educations. Child welfare came to be viewed as a prestigious specialty within the social work profession.

In the 1990's, an increased recognition of child abuse led to enactment of state child abuse and neglect reporting laws and toll-free numbers to report abuse. This resulted in a large increase of child abuse reports, and resources for the preparation and support of additional staff needed to respond to the reports became inadequate. States moved quickly to hire additional employees to investigate abuse. One way to expand the workforce was to reduce staff qualifications. In response to having a varied workforce without similar expertise and training, agencies began to structure child welfare work to reduce its complexity and make it possible for people with fewer qualifications to adequately perform required tasks.

Several studies have found evidence that social work education, at either the bachelors of social work (BSW) or masters of social work (MSW) level, positively correlates with performance. A study conducted in Maryland public child welfare agencies found an MSW to be the best predictor of overall performance as measured by supervisory ratings and employee reports of work related competencies. A national study that measured competencies related to 32 job-related duties found that both MSW and BSW staff were better prepared for child welfare work than their colleagues without social work education.¹²

⁹ Chapter 86-220, L.O.F. The first training academy was required to be operational by June 30, 1987 and be located at Tallahassee Community College.

¹⁰ HB 2125, Chapter 2000-139, L.O.F.

¹¹ HB 279, Chapter 2011-163, L.O.F.

¹² The Florida Senate, Bill Analysis and Fiscal Impact Statement, SB 1666, March 12, 2014, available at: <http://www.flsenate.gov/Session/Bill/2014/1666/Analyses/2014s1666.cf.PDF> (Last visited November 30, 2019).

Research conducted with staff in Kentucky's public child welfare agency also revealed that staff with social work degrees scored significantly better on state merit examinations, received somewhat higher ratings from their supervisors, and had higher levels of work commitment than other staff. A Nevada study showed that caseworkers who had a social work degree were significantly more likely to create a permanent plan for children in their caseloads within three years than their colleagues without social work education.¹³

In 2014, the Legislature required the department to set a goal of having at least half of all child protective investigators and supervisor's with a bachelor's degree or a master's degree in social work from a college or university social work program accredited by the Council on Social Work Education. Despite numerous studies and reports supporting the value of a formal social work education in child welfare, Florida has made little if any progress towards re-professionalizing the workforce. In fact, the state has seen a decline since 2016.

Percentage of Child Protective Investigative Positions With Social Work Degree			
	BSW	MSW	Either
2014			9.5%
2016	12%	3%	
2019	11%	2%	

The Florida Institute for Child Welfare

In 2014, the Legislature established the Florida Institute for Child Welfare (FICW) at the Florida State University College of Social Work. The purpose of the FICW is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research, policy analysis, evaluation, and leadership development.¹⁴ The institute is required to:

- Maintain a program of research that contributes to scientific knowledge and informs both policy and practice.
- Advise the department and other organizations participating in the child protection and child welfare system regarding scientific evidence.
- Provide advice regarding management practices and administrative processes used by DCF and other organizations participating in the child protection and child welfare system and recommend improvements.
- Assess the performance of child protection and child welfare services based on specific outcome measures.
- Evaluate the scope and effectiveness of preservice and inservice training for child protection and child welfare employees and advise and assist the department, in efforts to improve such training.
- Assess the readiness of social work graduates to assume job responsibilities in the child protection and child welfare system and identify gaps in education, which can be addressed through the modification of curricula or the establishment of industry certifications.

¹³ *Id.*

¹⁴ Section 1004.615, F.S.

- Develop and maintain a program of professional support including training courses and consulting services that assist both individuals and organizations in implementing adaptive and resilient responses to workplace stress.
- Participate in the department's critical incident response team, assist in the preparation of reports about such incidents, and support the committee review of reports and development of recommendations.
- Identify effective policies and promising practices, including, but not limited to, innovations in coordination between entities participating in the child protection and child welfare system, data analytics, working with the local community, and management of human service organizations, and communicate these findings to the department and other organizations participating in the child protection and child welfare system.
- Develop a definition of a child or family at high risk of abuse or neglect. Such a definition must consider characteristics associated with a greater probability of abuse and neglect.¹⁵

III. Effect of Proposed Changes:

Section 1 provides a short title. The bill is titled "Jordan's Law" after Jordan Belliveau, a two-year old child in Florida's child welfare dependency system, who was killed by his mother in September 2018.

Section 2 amends s. 39.202, F.S., related to confidentiality of reports and records in cases of child abuse and neglect, to allow credentialing entities that certify child welfare personnel to access certain specified records held by the department related to child abuse and neglect. This will allow the credentialing entity to suspend or revoke the certification of child welfare personnel who work on cases involving children who are abused, neglected or abandoned.

Section 3 amends s. 39.303, F.S., relating to Child Protection Teams, to require the teams to add information on the recognition of and response to head trauma and brain injury in children under six years old to currently mandated trainings developed for program and other employees of the department, employees of the Department of Health, and other medical professionals.

Section 4 amends s. 39.401, F.S., relating to taking a child alleged to be dependent into custody, to authorize a parent or legal guardian of a child who is removed as a result of a determination by a medical evaluation performed by a Child Protection Team to request a second, independent evaluation be performed by a physician who has met the relevant qualifications of s. 39.303(b), F.S., in order to determine whether the child has been the victim of abuse or neglect. The bill requires the court to consider the evaluation when determining whether to remove a child from the home.

Section 5 amends s. 39.820, F.S., relating to definitions, to revise the terms "guardian ad litem" and "guardian advocate."

Section 6 amends s. 39.8296, F.S., relating to the statewide Office of Guardian ad Litem, to require that training for a guardian ad litem include information on the recognition of and responses to head trauma and brain injury in children under six years old. The bill requires the

¹⁵ *Id.*

training curriculum committee, rather than the statewide Guardian Ad Litem office, to develop guardian ad litem training programs, including the development of training on the recognition of and responses to head trauma and brain injury in children under six years old.

Section 7 amends s. 402.40, F.S., relating to child welfare training and certification, as follows.

Child Welfare Workforce Development Framework and Education Requirements

Section 7 of the bill:

- Requires the department, in collaboration with the institute, to develop and implement a comprehensive uniform child welfare workforce framework based on a nationally recognized model and specifies the following components that must be addressed: recruitment and hiring; education and professional preparation; professional training and development; supervision; retention; caseload and workload; workforce well-being and support; work-life balance and flexible scheduling; agency culture and climate.
- Requires the department to develop a protocol for screening candidates for child protective positions and give preference to certain candidates that have specific experience or educational training
- Requires by January 1, 2021, the CBCs to submit to the department a plan and timeline for recruiting and hiring child welfare staff, which meet the same educational requirements for child protective staff. The plan and timeline must include the same recruiting and hiring requirements for child welfare staff employed by subcontractors.

Workforce Training

Section 7 of the bill:

- Requires the department to establish a comprehensive system to provide preservice and inservice competency-based training program curricula that all child welfare, including staff employed by a CBC and its subcontractor, are required to participate in and successfully complete.
- Requires that the training program include information on the recognition of and responses to head trauma and brain injury in children under six years old.
- Allows the CBCs to develop supplemental training, if needed, but such training cannot not take the place of or conflict with required standardized statewide training.

Workforce Certification

Section 7 of the bill:

- Requires the department approved third-party credentialing entities to require that persons holding a child welfare certification to comply with the new training requirements as a condition of renewal or initial certification. Require the third-party credentialing entity to track and report compliance with this section.
- Requires that all certified child welfare professionals follow the third-party credentialing entities code of ethical and professional conduct and disciplinary procedures:
 - Requires that the department, CBCs, sheriff's offices, and their contracted providers to report all allegations of suspected or known violations of ethical or professional misconduct standards to the department approved third-party credentialing entity.

- Requires the department to review all case records involving the death of a child or other critical incident that is subject to a Critical Incident Rapid Response Team (CIRRT)¹⁶ review, to ensure compliance with the credentialing entity's code of ethical and professional conduct.
- Requires the department to provide the third-party credentialing entity with any reports that indicate that violations of ethical or professional conduct were committed by a certified child welfare professional involved with the case.
- Requires that, if it is determined that an individual's certification should be suspended or revoked, the department or employer of the certified staff immediately remove the individual from their duties that require certification as a condition of employment.
- Authorizes the department to review the decisions of the third-party credentialing entity to deny, revoke, or suspend a certification of an individual.
- Allows a person that receives an adverse determination from a third-party credentialing entity to request an administrative hearing pursuant to ss. 120.569 and 120.57(1), F.S.
- Requires the third-party credentialing entity to track and report compliance to the department.

Section 8 amends s. 409.988, F.S., relating to duties of the CBCs, to require that training for all individuals providing care for dependent children include information on the recognition of and responses to head trauma and brain injury in children under six years old that is developed by the Child Protection Team program. The bill also requires lead agencies to ensure the participation and completion of training relevant to the individual's area of responsibility, rather than the receipt of general training.

The bill expands the type of services that the CBCs must provide to dependent children to include intensive family reunification services that combine child welfare and mental health services for families with dependent children under six years old.

Section 9 creates s. 943.17298, F.S., relating to law enforcement training, to require that training for law enforcement officers include information on the recognition of and responses to head trauma and brain injury in children under six years old that is developed by the Child Protection Team program. Such training may either be a part of basic recruit training or continuing education or training.

Section 10 amends s. 1004.615, F.S., relating to the Florida Institute for Child Welfare (institute), to revise the mission of the institute to include advancing the well-being of children and families who are involved with, or at risk of becoming involved with, the child welfare system by facilitating and supporting statewide partnerships to develop competency-based education, training, and support to prepare a diverse group of social work professionals for careers in child welfare. The bill removes a requirement that the department contract with the institute and instead requires the department to collaborate with the institute for the following:

- Design and dissemination of continuum of social work education and training;
- Identification of methods to promote continuing professional development and systems of workplace support for existing child welfare staff;

¹⁶Section 39.2015, F.S.

- Development of a best practice model for providing feedback on curriculum to social work programs;
- Creation of a Title IV-E program designed to provide professional education and monetary support to undergraduate and graduate social work students who intend to pursue or continue a career in child welfare.
- Evaluation and dissemination of evidence-based and promising practices in child welfare and the development of high-quality evaluation into new program models and pilots; and
- Provide consultation on the creation of the Office of Well-Being and Support within the department.

Section 11 repeals s. 402.402, F.S., relating to child protection and child welfare personnel and attorneys employed by the department, to consolidate and eliminate requirements related to education and training which would be encompassed into or become unnecessary as a result of development of a new framework.

Section 12 amends s. 409.996, F.S., relating to duties of the department, to allow the DCF, in collaboration with select CBCs, to establish a program to improve case management services for dependent children under six years old by:

- Limiting caseloads for case managers comprised solely of children under six years old to no more than 15 children per case manager.
- Including case managers in the program who are trained specifically in:
 - Critical child development for children under six years old.
 - Specific practices of child care for children under six years old.
 - The scope of community resources available to children under six years of age.
 - Working with a parent or caregiver and assisting him or her in developing the skills necessary to care for a child under six years old.
- Allowing dependent siblings served by the program to be assigned to the same case manager.
- Requiring the DCF to evaluate the permanency, safety, and well-being of children served through the program and submit a report to the Governor and Legislature by October 1, 2025.

The bill requires the DCF to choose CBCs in circuits with high removal rates, significant budget deficits, significant case management turnover, and the highest numbers of children in out-of-home care or a significant increase in the number of children in out-of-home care over the last three fiscal years. If the DCF chooses to establish such a program, the bill requires the department to select up to three CBCs to develop and implement the program.

Section 13 amends s. 1009.25, F.S. relating to postsecondary fee exemptions, to delete a cross reference.

Section 14 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The CBCs will be required to ensure that individuals providing care for dependent children receive training on recognition of and response to head trauma and brain injury in children under six years old. However, the CBCs may be able to use or adapt training developed by the Department of Health (DOH) into the CBC's existing training curriculum at minimal or no cost.

C. Government Sector Impact:

The DOH may incur expenses related to developing additional training on brain injuries in children for the Child Protection Teams that investigate child abuse cases. The expenses are likely insignificant and can be absorbed within existing department resources.

The bill also requires specified child welfare professionals, guardians ad litem, and law enforcement officers to receive training on the recognition of and response to head trauma and brain injury in children under six years old. The Department of Children and Families (DCF), Guardian ad Litem program, and the Department of Law Enforcement will likely be able to incorporate the necessary changes to their training curricula within existing resources.

Additionally, the bill is expected to have an indeterminate fiscal impact on the DCF to establish a program to provide a comprehensive system to provide both preservice and in-service child welfare competency-based training curricula for all child welfare staff, including all staff providing care for dependent children employed by a CBC or a subcontractor. Currently, the CBCs are required to provide training statewide. According

to the DCF, the fiscal impact to the department could be offset if the funding currently provided to the sheriff's offices and the CBCs for this purpose is transferred to the department.¹⁷

VI. Technical Deficiencies:

Subsection (4) is unclear as to whether the department is to develop and implement a training program or only develop a course of instruction.

VII. Related Issues:

The funding of preservice and inservice training currently is allocated to the DCF, sheriffs' offices, and CBCs. The department will have to identify the funds and move the funding from the sheriffs' offices and CBCs to the department. In addition, it may be challenging for the department to develop a training curriculum without additional funds.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 39.202, 39.303, 39.401, 39.820, 39.8296, 402.40, 409.988, 409.996, 1004.615, and 1009.25.

This bill creates 943.17298 of the Florida Statutes.

This bill repeals 402.402 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute:

- Removes the requirement that the DCF create an Office of Well-Being and Support and a helpline for child welfare workers to address work related stress.
- Corrects a drafting error that removed a reference to the third party credentialing entity.
- Clarifies the terms “guardian ad litem” and “guardian advocate.”
- Adds the requirement for the DCF to establish a comprehensive preservice and inservice training program curricula that all child welfare staff, including staff employed by a CBC and its subcontractor, are required to participate in and successfully complete.

¹⁷ The Department of Children and Families Agency Analysis, CS for SB 122, January 28, 2020. On file with the Senate Appropriations Subcommittee on Health and Human Services. The department states, “Title IV-E funding for preservice and inservice training is currently divided between the CBCs and the Department. The CBCs are currently appropriated \$7,377,261 in training funding for preservice and inservice training. In addition, the funding currently used for the training of CPIs and sheriffs' staff responsible for conducting child protective investigations total \$13,323,377. According to the department, the revenues will need to be retained by the department to cover the cost of preservice and inservice training.”

- Allows the DCF to establish a pilot program for CBCs in three circuits with high removal rates, significant budget deficits and case management turnover, and high numbers of children in out-of-home care to improve case management services for dependent children under six years old by:
 - Limiting caseloads for certain case managers to no more than 15 children per case manager.
 - Including case managers who are trained in:
 - Critical child development for children under six years old.
 - Specific practices of child care for children under six years old.
 - The scope of community resources available to children under six years of age.
 - Working with a parent or caregiver and assisting him or her in developing the skills necessary to care for a child under six years old.
 - Requiring the DCF to submit a report that evaluates the permanency, safety, and well-being of children served through the program.
- Provides a process for the DCF, CBCs, sheriff offices, and their contracted providers to follow when reviewing cases involving the death of a child that require a Critical Incident Rapid Response Review, for determining if the child welfare professional violated ethical or professional conduct requirements before the third-party credentialing entity can suspend or revoke the child welfare professional's certification.
- Corrects a cross reference.

Children, Families, and Elder Affairs on January 21, 2020:

The committee substitute does the following:

- Allows the CBCs to develop supplemental training if needed but it cannot not take the place of or conflict with required standardized statewide training.
- Allows credentialing entities to access certain specified records held by the department related to child abuse and neglect and provides additional responsibilities for the department and the credentialing entities related to ethics violations.
- Authorizes a parent or legal guardian of a child who is removed as a result of a determination by a medical evaluation performed by a Child Protection Team to request a second, independent evaluation be performed by a physician who has met the relevant qualifications of s. 39.303(b), F.S., in order to determine whether the child has been the victim of abuse or neglect. Requires the court to consider the evaluation when determining whether to remove a child from the home.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs; and
Senators Rouson, Berman, Hooper, and Book

586-02427-20

2020122c1

1 A bill to be entitled
2 An act relating to child welfare; providing a short
3 title; amending s. 39.202, F.S.; expanding the list of
4 entities with access to certain records that relate to
5 child abandonment, abuse, or neglect held by the
6 Department of Children and Families; amending s.
7 39.303, F.S.; requiring Child Protection Teams to be
8 capable of providing certain training relating to head
9 trauma and brain injuries in children younger than a
10 specified age; amending s. 39.401, F.S.; authorizing
11 the parent or legal guardian of a child to request a
12 second medical evaluation of a child under certain
13 circumstances; requiring the court to consider such
14 evaluation when determining whether to remove the
15 child from the home; amending s. 39.8296, F.S.;
16 revising the membership of the curriculum committee
17 established to develop a specified training program;
18 requiring the training program to include certain
19 training relating to head trauma and brain injuries in
20 children younger than a specified age; amending s.
21 402.40, F.S.; revising legislative findings and
22 providing legislative intent; requiring the department
23 to develop and implement a specified child welfare
24 workforce development framework in collaboration with
25 other specified entities; providing requirements for
26 the department relating to workforce education
27 requirements; requiring the department to submit an
28 annual report to the Governor and the Legislature by a
29 specified date; requiring community-based care lead

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30 agencies to submit a plan and timeline to the
31 department relating to certain child welfare staff by
32 a specified date; providing requirements for the
33 department related to workforce training; providing
34 legislative findings; requiring the department to
35 establish an Office of Well-Being and Support;
36 requiring the department to contract with certain
37 university-based centers to develop and coordinate the
38 implementation of a specified helpline; requiring the
39 department to submit a report on the implementation of
40 such helpline to the Governor and the Legislature on a
41 specified date; providing additional duties for third-
42 party credentialing entities; requiring certain
43 attorneys employed by the department to complete
44 certain training by a specified date; deleting
45 definitions; deleting provisions relating to core
46 competencies and specializations; amending s. 409.988,
47 F.S.; requiring a lead agency to ensure that certain
48 individuals receive specified training relating to
49 head trauma and brain injuries in children younger
50 than a specified age; revising the types of services a
51 lead agency is required to provide; creating s.
52 943.17298, F.S.; requiring law enforcement officers to
53 complete training relating to head trauma and brain
54 injuries in children younger than a specified age as
55 part of either basic recruit training or continuing
56 training or education by a specified date; amending s.
57 1004.615, F.S.; revising the purpose of the Florida
58 Institute for Child Welfare; revising requirements for

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the institute; revising the contents of the annual report that the institute must provide to the Governor and the Legislature; deleting obsolete provisions; repealing s. 402.402, F.S., relating to child protection and child welfare personnel and attorneys employed by the department; amending ss. 409.996 and 1009.25, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. This act may be cited as "Jordan's Law."

Section 2. Paragraph (a) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, the Office of Early Learning, or county agencies responsible for carrying out:

1. Child or adult protective investigations;
2. Ongoing child or adult protective services;
3. Early intervention and prevention services;
4. Healthy Start services;

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5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapter 393, family day care homes, providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of children;

6. Employment screening for caregivers in residential group homes; ~~or~~

7. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients; or

8. Credentialing of child welfare services staff pursuant to s. 402.40.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985.

Section 3. Paragraph (h) of subsection (3) of section 39.303, Florida Statutes, is amended to read:

39.303 Child Protection Teams and sexual abuse treatment programs; services; eligible cases.—

(3) The Department of Health shall use and convene the Child Protection Teams to supplement the assessment and protective supervision activities of the family safety and preservation program of the Department of Children and Families. This section does not remove or reduce the duty and responsibility of any person to report pursuant to this chapter all suspected or actual cases of child abuse, abandonment, or neglect or sexual abuse of a child. The role of the Child

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Protection Teams is to support activities of the program and to provide services deemed by the Child Protection Teams to be necessary and appropriate to abused, abandoned, and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a Child Protection Team must be capable of providing include, but are not limited to, the following:

(h) Such training services for program and other employees of the Department of Children and Families, employees of the Department of Health, and other medical professionals as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, abandonment, and neglect cases. The training services must include training in the recognition of and appropriate responses to head trauma and brain injury in a child under 6 years of age as required under ss. 39.8296, 402.40, and 943.17298.

A Child Protection Team that is evaluating a report of medical neglect and assessing the health care needs of a medically complex child shall consult with a physician who has experience in treating children with the same condition.

Section 4. Subsection (3) of section 39.401, Florida Statutes, is amended to read:

39.401 Taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department.—

(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the agent shall review the facts supporting the removal with an attorney

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representing the department. The purpose of the review is to determine whether there is probable cause for the filing of a shelter petition.

(a) If the facts are not sufficient, the child shall immediately be returned to the custody of the parent or legal custodian.

(b) If the facts are sufficient and the child has not been returned to the custody of the parent or legal custodian, the department shall file the petition and schedule a hearing, and the attorney representing the department shall request that a shelter hearing be held within 24 hours after the removal of the child. While awaiting the shelter hearing, the authorized agent of the department may place the child in licensed shelter care or may release the child to a parent or legal custodian or responsible adult relative or the adoptive parent of the child's sibling who shall be given priority consideration over a licensed placement, or a responsible adult approved by the department if this is in the best interests of the child. Placement of a child which is not in a licensed shelter must be preceded by a criminal history records check as required under s. 39.0138. In addition, the department may authorize placement of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

(c) If the decision to remove a child from the home is predicated upon a medical evaluation performed by a Child Protection Team pursuant to s. 39.303, the parent or legal guardian of the child may request that a second, independent evaluation be performed by a physician who has met the relevant

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175 qualifications of s. 39.303(2)(b) in order to determine whether
 176 the child has been the victim of abuse or neglect. The court
 177 must consider this evaluation when determining whether to remove
 178 a child from the home.

179 Section 5. Paragraph (b) of subsection (2) of section
 180 39.8296, Florida Statutes, is amended to read:

181 39.8296 Statewide Guardian Ad Litem Office; legislative
 182 findings and intent; creation; appointment of executive
 183 director; duties of office.—

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

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

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

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

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

207 ~~4. The office shall develop a guardian ad litem training~~
 208 ~~program.~~ The office shall establish a curriculum committee to
 209 develop a guardian ad litem the training program ~~specified in~~
 210 ~~this subparagraph.~~ The curriculum committee shall include, but
 211 not be limited to, dependency judges, directors of circuit
 212 guardian ad litem programs, active certified guardians ad litem,
 213 a mental health professional who specializes in the treatment of
 214 children, a member of a child advocacy group, a representative
 215 of the Florida Coalition Against Domestic Violence, an
 216 individual with a degree in social work, and a social worker
 217 experienced in working with victims and perpetrators of child
 218 abuse. The training program must include training in the
 219 recognition of and appropriate responses to head trauma and
 220 brain injury in a child under 6 years of age developed by the
 221 Child Protection Team Program within the Department of Health.

222 5. The office shall review the various methods of funding
 223 guardian ad litem programs, shall maximize the use of those
 224 funding sources to the extent possible, and shall review the
 225 kinds of services being provided by circuit guardian ad litem
 226 programs.

227 6. The office shall determine the feasibility or
 228 desirability of new concepts of organization, administration,
 229 financing, or service delivery designed to preserve the civil
 230 and constitutional rights and fulfill other needs of dependent
 231 children.

232 7. In an effort to promote normalcy and establish trust

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between a court-appointed volunteer guardian ad litem and a child alleged to be abused, abandoned, or neglected under this chapter, a guardian ad litem may transport a child. However, a guardian ad litem volunteer may not be required or directed by the program or a court to transport a child.

8. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court an interim report describing the progress of the office in meeting the goals as described in this section. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court a proposed plan including alternatives for meeting the state's guardian ad litem and attorney ad litem needs. This plan may include recommendations for less than the entire state, may include a phase-in system, and shall include estimates of the cost of each of the alternatives. Each year the office shall provide a status report and provide further recommendations to address the need for guardian ad litem services and related issues.

Section 6. Section 402.40, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 402.40, F.S., for present text.)

402.40 Child welfare workforce; development; training; certification; well-being.-

(1) LEGISLATIVE FINDINGS AND INTENT.-

(a) The Legislature finds that positive outcomes for children and families involved with the child welfare system

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often are attributable to the strong commitment of a well-trained, highly skilled, well-resourced, and dedicated child welfare workforce and that the child welfare system is only as good as the individuals who conduct investigations, provide services to children and families, and manage service delivery.

(b) The Legislature also finds that child welfare agencies experience barriers to establishing and maintaining a stable, effective, and diverse workforce because of issues relating to recruitment, education and training, inadequate supervision, retention and staff turnover, and lack of support for frontline individuals.

(c) The Legislature further finds that, although numerous initiatives have been developed to address these challenges, isolated interventions often fail to yield positive results, whereas implementing an integrated framework across multiple domains can help child welfare agencies achieve effective outcomes.

(d) It is the intent of the Legislature to ensure a systematic approach to child welfare workforce staff development and the well-being of individuals providing child welfare services by establishing a uniform statewide program.

(2) CHILD WELFARE WORKFORCE DEVELOPMENT FRAMEWORK.-In order to promote competency-based, outcome-focused, and data-driven approaches to workforce development, the department, in collaboration with the Florida Institute for Child Welfare, shall develop and implement a comprehensive child welfare development workforce framework using a nationally recognized model for workforce development. The framework must address, at a minimum, all of the following components:

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291 (a) Recruitment and hiring.
 292 (b) Education and professional preparation.
 293 (c) Professional training and development.
 294 (d) Supervision.
 295 (e) Retention.
 296 (f) Caseload and workload.
 297 (g) Workforce well-being and support.
 298 (h) Work-life balance and flexible scheduling.
 299 (i) Agency culture and climate.
 300 (3) WORKFORCE EDUCATION REQUIREMENTS.—
 301 (a) The department shall make every effort to recruit and
 302 hire qualified professional staff to serve as child protective
 303 investigators and child protective investigation supervisors who
 304 are qualified by their education and experience to perform
 305 social work functions. The department, in collaboration with the
 306 lead agencies, subcontracted provider organizations, the Florida
 307 Institute for Child Welfare, and other partners in the child
 308 welfare system, shall develop a protocol for screening
 309 candidates for child protective positions which reflects the
 310 preferences specified in subparagraphs 1., 2., and 3. The
 311 following persons must be given preference in recruitment, but
 312 this preference serves only as guidance and does not limit the
 313 department's discretion to select the best available candidates:
 314 1. Individuals with a baccalaureate degree in social work,
 315 and child protective investigation supervisors with a master's
 316 degree in social work, from a college or university social work
 317 program accredited by the Council on Social Work Education.
 318 2. Individuals with a bachelor's degree or a master's
 319 degree in psychology, sociology, counseling, special education,

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320 education, human development, child development, family
 321 development, marriage and family therapy, or nursing.
 322 3. Individuals with baccalaureate degrees who have a
 323 combination of directly relevant work and volunteer experience,
 324 preferably in a public service field related to children's
 325 services, which demonstrates critical thinking skills, formal
 326 assessment processes, communication skills, problem solving, and
 327 empathy; a commitment to helping children and families; a
 328 capacity to work as part of a team; an interest in continuous
 329 development of skills and knowledge; and sufficient personal
 330 strength and resilience to manage competing demands and handle
 331 workplace stresses.
 332 (b) By each October 1, the department shall submit a report
 333 on the educational qualifications, turnover, and working
 334 conditions of child protective investigators and supervisors to
 335 the Governor, the President of the Senate, and the Speaker of
 336 the House of Representatives.
 337 (c) By January 1, 2021, the community-based care lead
 338 agencies shall submit to the department a plan and timeline for
 339 recruiting and hiring child welfare staff providing care for
 340 dependent children which meet the same educational requirements
 341 as required for child protective investigators and child
 342 protective investigation supervisors under this subsection. The
 343 plan and timeline must include the same recruiting and hiring
 344 requirements for child welfare staff employed by subcontractors.
 345 (4) WORKFORCE TRAINING.—
 346 (a) In order to enable the state to recruit and retain a
 347 qualified and diverse child welfare workforce that is well-
 348 trained, well-supervised, and well-supported, the department

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shall establish a program for a comprehensive system to provide both preservice and inservice child welfare competency-based training that all child welfare staff, including all staff providing care for dependent children employed by a community-based care lead agency or by a subcontractor of such agency, are required to participate in and successfully complete, appropriate to their areas of responsibility. Such program must include training in the recognition of and appropriate responses to head trauma and brain injury in a child under 6 years of age, which must be developed by the Child Protection Team Program within the Department of Health.

(b) A community-based care lead agency may develop additional training for persons delivering child welfare services in the agency's service area if the curriculum does not conflict with training required in paragraph (a).

(c) By October 1, 2021, the department shall establish, maintain, and oversee the operation of at least one regional child welfare professional development center in this state. The department shall determine the number and location of, and the timeframe for establishing, additional development centers and shall contract for the operation of the centers with a public postsecondary institution pursuant to s. 402.7305.

(5) WORKFORCE WELL-BEING AND SUPPORT.—The Legislature finds that vicarious trauma, burnout, and lack of self-care can challenge all first responders, including child welfare professionals. First responders who care for others often need peer counseling, crisis support, and other resilience-building services to normalize issues and promote retention. The Legislature further finds that these activities are best

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provided by those with shared life experiences who may provide assistance that traditional mental health or employee assistance programs are unable to provide.

(a) The department shall establish an Office of Well-Being and Support.

(b) The department shall contract with one or more university-based centers that have expertise in behavioral health to develop and coordinate the implementation of a helpline that is operational 24 hours per day and 7 days a week, staffed by former child welfare supervisors and caseworkers and child protective investigators, and reflective of the nationally recognized best practice reciprocal peer support model. The helpline must be capable of providing peer support, telephone assessment, and referral services.

(c) The department shall submit a report providing an update on the activities of the office and implementation of the helpline to the Governor, the President of the Senate, and the Speaker of the House of Representatives on December 1, 2020.

(6) WORKFORCE CERTIFICATION.—The department shall approve one or more third-party credentialing entities for the purpose of developing and administering child welfare certification programs for persons who provide child welfare services. A third-party credentialing entity shall request such approval in writing from the department. In order to obtain approval, the third-party credentialing entity must:

(a) Establish professional requirements and standards that applicants must achieve in order to obtain a child welfare certification and to maintain such certification.

(b) Develop and apply core competencies and examination

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instruments according to nationally recognized certification and psychometric standards.

(c) Maintain a professional code of ethics and a disciplinary process that apply to all persons holding child welfare certification.

(d) Maintain a database, accessible to the public, of all persons holding child welfare certification, including any history of ethical violations.

(e) Require annual continuing education for persons holding child welfare certification and require certified professionals to comply with the training requirements in subsection (4) as a condition of renewal or initial certification. The third-party credentialing entity shall track and report compliance with this section to the department on an annual basis.

(f) Administer a continuing education provider program to ensure that only qualified providers offer continuing education opportunities for certificateholders.

(g) All certified child welfare professionals must follow the requirements of the third-party credentialing entities code of ethical and professional conduct and disciplinary procedures.

1. The department, community based care lead agencies, sheriff offices and their contracted providers shall report all allegations of suspected or known violations of ethical or professional misconduct standards to the department approved third-party credentialing entity, including all allegations made to the department's Office of Inspector General on certified personnel.

2. The third-party credentialing entity shall review all case records involving the death of a child or other critical

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incident to ensure compliance with the third-party credentialing entity's published code of ethical and professional conduct and disciplinary procedures.

3. The department shall provide the third-party credentialing entity with all reports necessary to conduct a thorough investigation on all certified child welfare service providers involved with the case.

4. The third-party credentialing entity shall immediately suspend the certification of all certified individuals involved in the case pending the results of the initial review of the certified professional's role and performance as it relates to the case circumstance.

5. The department or sub-contracted employer of the certified staff must immediately remove the individual from their duties that require certification as a condition of employment until the initial review is complete and the third-party credentialing entity determines if an ethics case is warranted.

6. Any decision by a department approved credentialing entity to deny, revoke, or suspend a certification, or otherwise impose sanctions on an individual who is certified, is reviewable by the department. Upon receiving an adverse determination, the person aggrieved may request an administrative hearing pursuant to ss. 120.569 and 120.57(1) within 30 days after completing any appeals process offered by the credentialing entity or the department, as applicable.

7. The third-party credentialing entity shall track and report compliance with this subsection to the department.

(h) Maintain an advisory committee, including

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representatives from each region of the department, each sheriff's office providing child protective services, and each community-based care lead agency, who shall be appointed by the organization they represent. The third-party credentialing entity may appoint additional members to the advisory committee.

(7) CHILD WELFARE TRAINING TRUST FUND.—

(a) There is created within the State Treasury a Child Welfare Training Trust Fund to be used by the Department of Children and Families for the purpose of funding the professional development of persons providing child welfare services.

(b) One dollar from every noncriminal traffic infraction collected pursuant to s. 318.14(10)(b) or s. 318.18 shall be deposited into the Child Welfare Training Trust Fund.

(c) In addition to the funds generated by paragraph (b), the trust fund shall receive funds generated from an additional fee on birth certificates and dissolution of marriage filings, as specified in ss. 382.0255 and 28.101, respectively, and may receive funds from any other public or private source.

(d) Funds that are not expended by the end of the budget cycle or through a supplemental budget approved by the department shall revert to the trust fund.

(8) ATTORNEYS EMPLOYED BY THE DEPARTMENT TO HANDLE CHILD WELFARE CASES.—With the exception of attorneys hired after July 1, 2014, but before July 1, 2020, who shall complete the training required under this subsection by January 31, 2021, attorneys hired by the department on or after July 1, 2014, whose primary responsibility is representing the department in child welfare cases shall receive training within the first 6

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months of employment in:

(a) The dependency court process, including the attorney's role in preparing and reviewing documents prepared for dependency court for accuracy and completeness;

(b) Preparing and presenting child welfare cases, including at least 1 week of shadowing an experienced children's legal services attorney who is preparing and presenting cases;

(c) Safety assessment, safety decisionmaking tools, and safety plans;

(d) Developing information presented by investigators and case managers to support decisionmaking in the best interest of children; and

(e) The experiences and techniques of case managers and investigators, including shadowing an experienced child protective investigator and an experienced case manager for at least 8 hours.

(8) ADOPTION OF RULES.—The department shall adopt rules necessary to administer this section.

Section 7. Paragraph (f) of subsection (1) and subsection (3) of section 409.988, Florida Statutes, is amended to read:

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(f) Shall ensure that all individuals providing care for dependent children participate in and successfully complete the program of ~~receive appropriate~~ training relevant to the individual's area of responsibility and meet the minimum employment standards established by the department pursuant to s. 402.40. The training curriculum must include training in the recognition of and appropriate responses to head trauma and

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brain injury in a child under 6 years of age developed by the
Child Protection Team Program within the Department of Health.

(3) SERVICES.—A lead agency must provide dependent children
with services that are supported by research or that are
recognized as best practices in the child welfare field. The
agency shall give priority to the use of services that are
evidence-based and trauma-informed and may also provide other
innovative services, including, but not limited to, family-
centered and cognitive-behavioral interventions designed to
mitigate out-of-home placements and intensive family
reunification services that combine child welfare and mental
health services for families with dependent children under 6
years of age.

Section 8. Section 943.17298, Florida Statutes, is created
to read:

943.17298 Training in the recognition of and responses to
head trauma and brain injury.—Each law enforcement officer must
successfully complete training on the subject of the recognition
of and appropriate responses to head trauma and brain injury in
a child under 6 years of age developed by the Child Protection
Team Program within the Department of Health to aid an officer
in the detection of head trauma and brain injury due to child
abuse. Such training must be completed as part of the basic
recruit training for a law enforcement officer, as required
under s. 943.13(9), or as a part of continuing training or
education required under s. 943.135(1), before July 1, 2022.

Section 9. Section 1004.615, Florida Statutes, is amended
to read:

1004.615 Florida Institute for Child Welfare.—

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(1) There is established the Florida Institute for Child
Welfare within the Florida State University College of Social
Work. The purpose of the institute is to advance the well-being
of children and families who are involved with, or at risk of
becoming involved with, the child welfare system by facilitating
and supporting statewide partnerships to develop competency-
based education, training, and support to prepare a diverse
group of social work professionals for careers in child welfare
~~by improving the performance of child protection and child~~
~~welfare services through research, policy analysis, evaluation,~~
~~and leadership development.~~ The institute shall consist of a
consortium of public and private universities offering degrees
in social work and shall be housed within the Florida State
University College of Social Work.

(2) Using such resources as authorized in the General
Appropriations Act, the Department of Children and Families
shall collaborate ~~contract~~ with the institute for performance of
the duties described in subsection (3) ~~(4)~~ using state
appropriations, public and private grants, and other resources
obtained by the institute.

(3) In order to increase and retain a higher percentage of
professionally educated social workers in the child welfare
system and serve as a statewide resource for child welfare
workforce education and training, the institute, in
collaboration with the Department of Children and Families,
shall:

(a) Design and disseminate a continuum of social work
education and training which emphasizes child welfare workforce
stabilization and professionalization by aligning social work

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curriculum and training with critical practice skills pursuant to s. 402.40.

(b) Identify methods to promote continuing professional development and systems of workplace support for existing child welfare staff.

(c) Develop a best practice model for providing feedback on curriculum to social work programs and for ensuring that interns who will be entering the child welfare profession are well-supervised by university personnel during their internships.

(d) Create a Title IV-E program designed to provide professional education and monetary support to undergraduate and graduate social work students who intend to pursue or continue a career in child welfare. Goals of the program should include:

1. Increasing the number of individuals in the child welfare workforce who have a bachelor's degree or master's degree in social work.

2. Prioritizing the enrollment of current child welfare staff employed by the state.

3. Prioritizing the enrollment of students who reflect the diversity of the state's child welfare population.

4. Providing specific program support through the provision of specialized competency-based child welfare curriculum and monetary support to students.

(e) Engage in evaluation and dissemination of evidence-based and promising practices in child welfare and build high-quality evaluation into new program models and pilots.

The institute shall also provide consultation on the creation of the Office of Well-Being and Support within the Department of

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~~Children and Families pursuant to s. 402.40 The institute shall work with the department, sheriffs providing child protective investigative services, community-based care lead agencies, community-based care provider organizations, the court system, the Department of Juvenile Justice, the Florida Coalition Against Domestic Violence, and other partners who contribute to and participate in providing child protection and child welfare services.~~

~~(4) The institute shall:~~

~~(a) Maintain a program of research which contributes to scientific knowledge and informs both policy and practice related to child safety, permanency, and child and family well-being.~~

~~(b) Advise the department and other organizations participating in the child protection and child welfare system regarding scientific evidence on policy and practice related to child safety, permanency, and child and family well-being.~~

~~(c) Provide advice regarding management practices and administrative processes used by the department and other organizations participating in the child protection and child welfare system and recommend improvements that reduce burdensome, ineffective requirements for frontline staff and their supervisors while enhancing their ability to effectively investigate, analyze, problem solve, and supervise.~~

~~(d) Assess the performance of child protection and child welfare services based on specific outcome measures.~~

~~(e) Evaluate the scope and effectiveness of preservice and inservice training for child protection and child welfare employees and advise and assist the department in efforts to~~

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639 ~~improve such training.~~

640 ~~(f) Assess the readiness of social work graduates to assume~~
 641 ~~job responsibilities in the child protection and child welfare~~
 642 ~~system and identify gaps in education which can be addressed~~
 643 ~~through the modification of curricula or the establishment of~~
 644 ~~industry certifications.~~

645 ~~(g) Develop and maintain a program of professional support~~
 646 ~~including training courses and consulting services that assist~~
 647 ~~both individuals and organizations in implementing adaptive and~~
 648 ~~resilient responses to workplace stress.~~

649 ~~(h) Participate in the department's critical incident~~
 650 ~~response team, assist in the preparation of reports about such~~
 651 ~~incidents, and support the committee review of reports and~~
 652 ~~development of recommendations.~~

653 ~~(i) Identify effective policies and promising practices,~~
 654 ~~including, but not limited to, innovations in coordination~~
 655 ~~between entities participating in the child protection and child~~
 656 ~~welfare system, data analytics, working with the local~~
 657 ~~community, and management of human service organizations, and~~
 658 ~~communicate these findings to the department and other~~
 659 ~~organizations participating in the child protection and child~~
 660 ~~welfare system.~~

661 ~~(j) Develop a definition of a child or family at high risk~~
 662 ~~of abuse or neglect. Such a definition must consider~~
 663 ~~characteristics associated with a greater probability of abuse~~
 664 ~~and neglect.~~

665 ~~(5) The President of the Florida State University shall~~
 666 ~~appoint a director of the institute. The director must be a~~
 667 ~~child welfare professional with a degree in social work who~~

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668 holds a faculty appointment in the Florida State University
 669 College of Social Work. The institute shall be administered by
 670 the director, and the director's office shall be located at the
 671 Florida State University. The director is responsible for
 672 overall management of the institute and for developing and
 673 executing the work of the institute consistent with the
 674 responsibilities in subsection (3) ~~(4)~~. The director shall
 675 engage individuals in other state universities with accredited
 676 colleges of social work to participate in the institute.
 677 Individuals from other university programs relevant to the
 678 institute's work, including, but not limited to, economics,
 679 management, law, medicine, and education, may also be invited by
 680 the director to contribute to the institute. The universities
 681 participating in the institute shall provide facilities, staff,
 682 and other resources to the institute to establish statewide
 683 access to institute programs and services.

684 (5)(6) By each October 1 ~~of each year~~, the institute shall
 685 provide a written report to the Governor, the President of the
 686 Senate, and the Speaker of the House of Representatives which
 687 outlines its activities in the preceding year, reports
 688 significant research findings, as well as results of other
 689 programs, and provides specific recommendations for improving
 690 education, training, and support for individuals in the child
 691 welfare workforce ~~child protection and child welfare services.~~

692 ~~(a) The institute shall include an evaluation of the~~
 693 ~~results of the educational and training requirements for child~~
 694 ~~protection and child welfare personnel established under this~~
 695 ~~act and recommendations for application of the results to child~~
 696 ~~protection personnel employed by sheriff's offices providing~~

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2020122c1

child protection services in its report due October 1, 2017.

~~(b) The institute shall include an evaluation of the effects of the other provisions of this act and recommendations for improvements in child protection and child welfare services in its report due October 1, 2018.~~

~~(7) The institute shall submit a report with recommendations for improving the state's child welfare system. The report shall address topics including, but not limited to, enhancing working relationships between the entities involved in the child protection and child welfare system, identification of and replication of best practices, reducing paperwork, increasing the retention of child protective investigators and case managers, and caring for medically complex children within the child welfare system, with the goal of allowing the child to remain in the least restrictive and most nurturing environment. The institute shall submit an interim report by February 1, 2015, and final report by October 1, 2015, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.~~

Section 10. Section 402.402, Florida Statutes, is repealed.

Section 11. Subsection (9) of section 409.996, Florida Statutes, is amended to read:

409.996 Duties of the Department of Children and Families.—
The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that services are delivered in

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accordance with applicable federal and state statutes and regulations.

(9) The department shall develop, in cooperation with the lead agencies, ~~a third-party credentialing entity approved pursuant to s. 402.40(3)~~, and the Florida Institute for Child Welfare established pursuant to s. 1004.615, a standardized competency-based curriculum for certification training for child protection staff.

Section 12. Paragraph (h) of subsection (1) of section 1009.25, Florida Statutes, is amended to read:

1009.25 Fee exemptions.—

(1) The following students are exempt from the payment of tuition and fees, including lab fees, at a school district that provides workforce education programs, Florida College System institution, or state university:

(h) Pursuant to s. 402.403, child protection and child welfare personnel ~~as defined in s. 402.402~~ who are enrolled in an accredited bachelor's degree or master's degree in social work program, provided that the student attains at least a grade of "B" in all courses for which tuition and fees are exempted.

Section 13. This act shall take effect July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

122
Bill Number (if applicable)

Topic Child Welfare

839790
Amendment Barcode (if applicable)

Name Victoria Zepp

Job Title Chief Policy Officer

Address 317 E. Park Ave

Phone 850/561-1102

TLH FL 32301
City State Zip

Email Victoria@fchildrency

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FCC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/27/20

Meeting Date

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

122

Bill Number (if applicable)

Topic Child Welfare

Amendment Barcode (if applicable)

Name Eric Stern

Job Title Leg Comm Member

Address 1747 Orlando Central Pkwy

Phone 800-373-2752

Street

Orlando

City

FL

State

32809

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

122
Bill Number (if applicable)

Topic Child Welfare

Amendment Barcode (if applicable)

Name Jordan Reed

Job Title Legislative Intern

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing National Association of Social Workers Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

122

Bill Number (if applicable)

Topic SB 122

Amendment Barcode (if applicable)

Name Dr. Cherie Card

Job Title Chief of Community Based Care

Address 100 N. Shurcrest Dr.

Street

Phone 813 843 1827

Clearwater FL 33765

City

State

Zip

Email CCARD@Eckerd.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Eckerd Connects

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/27/20

Meeting Date

122

Bill Number (if applicable)

Topic Child Welfare

Amendment Barcode (if applicable)

Name Victoria Zepp

Job Title Chief Policy Officer

Address 317 E. Park Ave

Phone 850/501-1102

Tallahassee FL 32301
City State Zip

Email Victoria@f1children.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FCC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 170

INTRODUCER: Criminal Justice Committee; and Senators Stewart, Perry, and Harrell

SUBJECT: Time Limitation on the Prosecution of Sexual Battery Cases

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	Fav/CS
2. <u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	Recommend: Favorable
3. <u>Dale</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 170 provides that there is no time limitation for prosecuting sexual battery, pursuant to section 794.011, Florida Statutes, when the victim is younger than 18 years of age at the time of the offense, and the offense was committed on or after July 1, 2020. This bill creates a new exception to the general time limitation proscribed in section 775.15, Florida Statutes.

Section 775.15, Florida Statutes, sets forth time limitations for the prosecution of crime. Prosecution is barred if it is not commenced within the time limitations provided in section 775.15, Florida Statutes. The general time limitations for the prosecution of offenses are based upon the degree of offense. This section also provides exceptions to the general time limitations. There are multiple exceptions that apply to violations of section 794.011, Florida Statutes.

This bill is effective July 1, 2020.

II. Present Situation:

Statute of Limitations

Historical Perspective

At common law, there was no time limitation under which a criminal charge was barred from prosecution. Time limitations for criminal prosecutions exist only as a creation of statute and are considered to be acts of grace by the State.¹

In *State v. Hickman*, the court stated:

The only purpose of a Statute limiting the time within which a criminal charge may be prosecuted is to protect every person from being interminably under the threat or cloud of possible criminal prosecution, which otherwise might be indefinitely delayed until the time when defense witnesses might die, disappear or otherwise become unavailable, judges would change office, or innumerable other time hazards might develop, which could conceivably defeat, or at least hamper, an otherwise good defense.²

Since the creation of statutes of limitation, courts have held that:

- Generally, the statute of limitation that was in effect when a crime was committed controls.³
- Statutes of limitation in criminal cases should be construed liberally in favor of the defendant.⁴
- The Legislature may apply time limitations retroactively without violating the ex post facto clause of the State Constitution⁵ if the Legislature makes the change before the prosecution is barred under the old statute and clearly demonstrates that the new statute applies to cases pending when the extension takes effect.⁶
- Courts have recently upheld extensions of time limitations for sexual battery when the amendment takes effect before the case was procedurally barred.⁷

¹ *State v. Hickman*, 189 So. 2d 254, 261-62 (Fla. 2d DCA 1966).

² *Id.*

³ *Beyer v. State*, 76 So.3d 1132, 1134 (Fla. 4th DCA 2012).

⁴ *Id.*

⁵ FLA. CONST. art. I, s. 10.

⁶ *Schargschwerdt v. Kanerek*, 553 So.2d 218, 220 (Fla. 4th DCA 1989), citing *Andrews v. State*, 392 So.2d 270 (Fla. 2d DCA 1980), rev. denied, 399 So.2d 114 (Fla. 1981); See also *United States v. Richardson*, 512 F. 2d 105, 106 (3rd Cir. 1975); *Smith v. State*, 213 So.3d 722, 1740 (Fla. 2017).

⁷ *Brown v. State*, 179 So. 3d 466, 468 (Fla. 4th DCA 2015) (The court affirmed the conviction for one count of sexual battery on a victim less than 16 years of age. The abuse occurred between May 1997 and July 1998. The abuse was reported November 15, 1999. The State brought charges against the defendant in 2011. The Statute of limitation in effect at the time of the offense would have barred prosecution in November 2003; however, the Legislature amended the statute of limitations in October 2003 to provide no time limitation for the offense for which the defendant was charged. Because the case was not barred at the time the amended statute of limitations went into effect, the court held that the statute of limitation was properly extended and did not violate the ex post facto clause).

Existing Provisions

Section 775.15, F.S., sets forth time limitations, also referred to as statutes of limitation, for the prosecution of crime. Prosecution is barred if it is not commenced within the time limitations provided in this section. The time limitation for prosecuting a criminal case begins to run on the day after the offense is committed, unless otherwise stated. An offense is deemed to have been committed when either every element of the offense has occurred or, if it plainly appears that the legislative purpose is to prohibit a continuing course of conduct, at the time when the course of conduct or the defendant's complicity therein is terminated.⁸

In part, s. 775.15, F.S., provides time limitations for initiating a criminal prosecution for a felony offense. The general provisions provide that there is:

- No time limitation for prosecuting a capital felony, a life felony, a felony resulting in death.⁹
- A 4-year time limitation for prosecuting a first degree felony.¹⁰
- A 3-year time limitation for prosecuting a second or third degree felony.¹¹

However, a number of exceptions to the time limitation provisions mentioned above exist. Many of these exceptions are specific to certain offenses or types of victims. Many of these exceptions apply to sexual battery, pursuant to s. 794.011, F.S. These exceptions include:

- No time limitation for prosecuting:
 - A first or second degree felony sexual battery when the victim is under 18 years of age and he or she reports the crime to law enforcement within 72 hours provided the offense was not barred from prosecution on or before December 31, 1984;¹²
 - A first degree felony sexual battery when the victim is younger than 18 years of age provided the offense was not barred from prosecution on or before October 1, 2003;¹³
 - Any felony sexual battery when the victim is younger than 16 years of age provided the offense was not barred from prosecution on or before July 1, 2010;¹⁴
 - A first or second degree felony sexual battery when the victim is 16 years of age or older and reports the crime to law enforcement within 72 hours;¹⁵
- There is an eight-year time limitation on prosecuting a first or second degree felony sexual battery when the victim is 16 years of age or older at the time of the offense provided the offense was not barred from prosecution on or before July 1, 2015, except for:
 - A first or second degree felony sexual battery when the victim is 16 years of age or older and reports the crime to law enforcement within 72 hours; or
 - A first degree felony sexual battery when the victim is younger than 18 years of age provided the offense was not barred from prosecution on or before October 1, 2003.¹⁶

⁸ Section 775.15(3), F.S.

⁹ Section 775.15(1), F.S.

¹⁰ Section 775.15(2)(a), F.S. A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

¹¹ Section 775.15(2)(b), F.S. A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine and a third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

¹² Section 775.15(13)(a), F.S.

¹³ Section 775.15(13)(b), F.S.

¹⁴ Section 775.15(13)(c), F.S.

¹⁵ Section 775.15(14)(a), F.S.

¹⁶ Section 775.15(14)(b), F.S.

In addition to the time periods prescribed in this section, the prosecution for specific enumerated offenses,¹⁷ including sexual battery, may be prosecuted at any time after the date on which the offender's identity is established, or should have been established through the exercise of due diligence, through the analysis of deoxyribonucleic acid (DNA) evidence collected at the time of the original investigation. The DNA sample for these prosecutions must be available for testing by the accused.¹⁸

Another exception provides that the applicable period of limitation does not begin to run until the victim of a sexual battery or other specified offense reaches the age of 18 years or the violation is reported to a law enforcement or governmental agency, whichever occurs first. This provision only applies to a victim who was younger than 18 years of age at the time of the offense.¹⁹

III. Effect of Proposed Changes:

The bill provides that there is no time limitation for prosecuting offenses of sexual battery, pursuant to s. 794.011, F.S., when the victim is younger than 18 years of age and the offense was committed on or after July 1, 2020. This creates a new exception to the general time limitations proscribed in s. 775.15, F.S.

This change is not retroactive and applies only to crimes committed on or after July 1, 2020.

The bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

It is possible that the requirements of the bill related to time limitations may result in local fund expenditures for housing offenders in county jail, or investigating future offenses that otherwise would have been barred from prosecution. However, because any such local funding resulting from the requirements of the bill will directly relate to the defense and prosecution of criminal offenses, under Article VII, subsection 18(d) of the Florida Constitution, it appears there is no unfunded mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁷ Section 775.15(16)(a), F.S., applies these provisions to the following offenses: aggravated battery or any felony battery offense under ch. 784, F.S.; kidnapping offenses under s. 787.01, F.S., or false imprisonment offenses under s. 787.02, F.S.; sexual battery offenses under ch. 794, F.S.; lewd or lascivious offenses under s. 800.04, F.S., s. 825.1025, F.S., or s. 847.0135(5), F.S.; burglary offenses under s. 810.02, F.S.; robbery offenses under s. 812.13, F.S., s. 812.131, F.S., or s. 812.135, F.S.; carjacking offenses under s. 812.133, F.S.; or aggravated child abuse under s. 827.03, F.S.

¹⁸ Section 775.15(16)(a), F.S.

¹⁹ Section 775.15(13)(a), F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference has not reviewed the bill at this time.

The Department of Corrections (DOC) reports that there are three sexual battery offenses against a minor victim that have a time limitation on when prosecution may proceed. Over the last three fiscal years, the DOC received a total of 120 admissions for these three offenses. This includes 95 prison commitments and 25 supervision placements.

According to the DOC, although data is not available on the number of unreported offenses that could be captured with an expanded statute of limitations, it is unlikely that the increase would be significant.²⁰

In future years, the bill may result in a negative indeterminate fiscal impact to the courts, State Attorneys, and Public Defenders due to removing the time limitations for prosecution of sexual battery offenses committed on or after July 1, 2020, against children between the ages of 16 and 18.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁰ The DOC SB 170 Agency Analysis, p. 2. Dated October 18, 2019 (on file with the Appropriations Subcommittee on Criminal and Civil Justice).

VIII. Statutes Affected:

This bill substantially amends section 775.15 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 Criminal Justice on October 22, 2019:

The committee substitute ensures that the proposed time limitations will not be applied retroactively and will only apply to crimes committed on or after July 1, 2020.

- B. **Amendments:**

None.

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

By the Committee on Criminal Justice; and Senators Stewart and Perry

591-00982-20

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1 A bill to be entitled
 2 An act relating to the time limitation on the
 3 prosecution of sexual battery cases; amending s.
 4 775.15, F.S.; providing that a prosecution may be
 5 commenced at any time for specified sexual battery
 6 offenses against victims who were younger than a
 7 certain age at the time the offense was committed;
 8 providing applicability; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Subsection (20) is added to section 775.15,
 13 Florida Statutes, and subsection (2) of that section is
 14 republished, to read:
 15 775.15 Time limitations; general time limitations;
 16 exceptions.—
 17 (2) Except as otherwise provided in this section,
 18 prosecutions for other offenses are subject to the following
 19 periods of limitation:
 20 (a) A prosecution for a felony of the first degree must be
 21 commenced within 4 years after it is committed.
 22 (b) A prosecution for any other felony must be commenced
 23 within 3 years after it is committed.
 24 (c) A prosecution for a misdemeanor of the first degree
 25 must be commenced within 2 years after it is committed.
 26 (d) A prosecution for a misdemeanor of the second degree or
 27 a noncriminal violation must be commenced within 1 year after it
 28 is committed.
 29 (20) If a victim was younger than 18 years of age at the

Page 1 of 2

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

591-00982-20

2020170c1

30 time the offense was committed, a prosecution for a violation of
 31 s. 794.011 may be commenced at any time. This subsection applies
 32 to an offense that is committed on or after July 1, 2020.
 33 Section 2. This act shall take effect July 1, 2020.

Page 2 of 2

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020

Meeting Date

170

Bill Number (if applicable)

Topic Time Limitation / Sexual Battery

Amendment Barcode (if applicable)

Name Dixie Sansom

Job Title hobbyist

Address PO Box 98

Phone 321 543-7195

Street

Cocoa

City

FL

State

32923

Zip

Email dixiesansom@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The Atty Gen of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

170

Bill Number (if applicable)

Topic SB 170 - Time Limitation on Prosecution of Sexual Battery Amendment Barcode (if applicable)

Name Anita Berry

Job Title Copyist

Address 101 East College Ave, SUITE 502

Street

Phone 301 524 0172

Tallahassee FL 32301

City

State

Zip

Email anita@jordanlaw.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Palm Beach County

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020

Meeting Date

SB 170

Bill Number (if applicable)

Topic Time Limitation on the Prosecution of
Sexual Battery Cases

Amendment Barcode (if applicable)

Name Matt Puckett

Job Title lobbyist

Address 300 East Brevard St

Phone _____

Street

Tallahassee

FL

32301

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Police Benevolent Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

02/27/2020

Meeting Date

SB 0170

Bill Number (if applicable)

Topic Time Limits on the Prosecution of Sexual Battery

Amendment Barcode (if applicable)

Name Jennifer Drift

Job Title Executive Director

Address 1820 E. PARK AVE

Phone (850) 297-2000

Street

TALLAHASSEE

City

FL

State

32301

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA COUNCIL AGAINST SEXUAL VIOLENCE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

02/27/2020

Meeting Date

SB 170

Bill Number (if applicable)

Topic Time Limitation on the Prosecution of Sexual Battery Cases

Amendment Barcode (if applicable)

Name Gary Hester

Job Title Government Affairs

Address P.O. Box 14038

Phone 863-287-8438

Street

Tallahassee

Florida

32317

Email garywhester@gmail.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-28-2020

Meeting Date

SB170

Bill Number (if applicable)

Topic Time limitations to Prosecuting sexual battery Amendment Barcode (if applicable)

Name Katrina Ovesterhaus

Job Title owner

Address 970 SW PalmCove Dr.

Street

Phone 772.267.6353

Palm City Florida 34990

City

State

Zip

Email katovesterhaus@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 19, 2020

I respectfully request that **Senate Bill #: 170** relating to Time Limitation on the Prosecution of Sexual Battery Cases, be placed on the:

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

A handwritten signature in cursive script that reads "Linda Stewart".

Senator Linda Stewart
Florida Senate, District 13

c.c. Cynthia Sauls Kynoch, Staff Director
Alicia Weiss, Senior Administrative Assistant

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 178 (266148)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Infrastructure and Security Committee; and Senators Rodriguez and Berman

SUBJECT: Public Financing of Construction Projects

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Schreiber	Rogers	EN	Favorable
2. Price	Miller	IS	Fav/CS
3. Reagan	Betta	AEG	Recommend: Fav/CS
4. Reagan	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 178 requires a public entity that commissions or manages a construction project within the coastal building zone using funds appropriated from the state to conduct a sea-level impact projection (SLIP) study prior to commencing construction. The bill provides that this provision is effective one year after the Department of Environmental Protection's (DEP) rule regarding SLIP studies is finalized. The required study must be conducted, submitted to the DEP, and published on the DEP's website before construction can commence.

The bill requires the DEP to adopt rules establishing standards for the SLIP studies, and the standards must include certain requirements for how the studies will be conducted and the information they must contain. The DEP must publish and maintain a copy of all SLIP studies on its website for 10 years after receipt. The bill requires the DEP to adopt rules as necessary to administer the section and authorizes the DEP to enforce the requirements of the section.

The bill authorizes the DEP to bring a civil action to seek injunctive relief to cease construction, enforce the section or rules adopted pursuant thereto, or seek recovery of state funds expended on a coastal structure, if construction commences without complying with the section. The bill states that the section may not be construed to create a cause of action for damages or otherwise

authorize the imposition of penalties by a public entity for failure to implement what is contained in the SLIP study.

The bill may have both negative and positive fiscal impacts in indeterminate amounts. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Sea-Level Rise and Coastal Flooding

With 1,350 miles of coastline and relatively low elevations, Florida is particularly vulnerable to coastal flooding.¹ There are three primary ways that climate change influences coastal flooding: sea-level rise, storm surge intensity, and rainfall intensity and frequency.²

Sea-level rise is an observed increase in the average local sea level or global sea-level trend.³ The two major causes of global sea-level rise are thermal expansion caused by the warming of the oceans (water expands as it warms) and the loss of land-based ice (ice sheets and glaciers) due to melting.⁴ Since 1880, the average global sea level has risen about 8 to 9 inches, and the rate of global sea-level rise has been accelerating.⁵ The National Oceanic and Atmospheric Administration (NOAA) utilizes tide gauges to measure changes in sea level, and provides data on local sea-level-rise trends.⁶ Analysis of this data shows some low-lying areas in the southeastern U.S. experience higher local rates of sea-level rise than the global average.⁷

Below is a table of projections for future sea-level rise, globally and in regions of Florida, by the year 2100:

¹ This measurement of Florida's coastline increases to over 8,000 miles when accounting for bays, inlets, and waterways. See Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida*, 107-108, 162 (2018) [hereinafter *SHMP*], available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 16, 2019).

² *Id.* at 107.

³ DEP, *Florida Adaptation Planning Guidebook*, Glossary (2018) [hereinafter *DEP Guidebook*], available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 16, 2019); NASA, *Facts: Sea Level*, <https://climate.nasa.gov/vital-signs/sea-level/> (last visited Oct. 16, 2019).

⁴ *DEP Guidebook*, at Glossary; NOAA, *Climate Change: Ocean Heat Content*, <https://www.climate.gov/news-features/understanding-climate/climate-change-ocean-heat-content> (last visited Oct. 16, 2019). More than 90 percent of the warming that has happened on Earth over the past 50 years has occurred in the ocean; IPCC, *The Ocean and Cryosphere in a Changing Climate*, SPM-8, SPM-10, SPM-19, SPM -21, SPM-23, 1-14, 4-3, 4-4, 4-14 (Sept. 2019) [hereinafter *IPCC Ocean and Cryosphere*], available at https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf (last visited Oct. 16, 2019). Uncertainty regarding projected sea-level rise by 2100 is mainly determined by ice sheets, especially in Antarctica and Greenland, which are losing ice at increasing rates.

⁵ U.S. Global Change Research Program, *Fourth National Climate Assessment*, 757 (2018) [hereinafter *NCA4*], available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Oct. 31, 2019); *IPCC Ocean and Cryosphere*, at 4-3.

⁶ NOAA, *What is a Tide Gauge?*, <https://oceanservice.noaa.gov/facts/tide-gauge.html> (last visited Oct. 17, 2019); NOAA, *Tides and Currents, Sea Level Trends*, <https://tidesandcurrents.noaa.gov/sltrends/> (last visited Oct. 16, 2019); see *DEP Guidebook*, at 8, 16.

⁷ *NCA4*, at 757.

Sea-Level Rise Projections for the Year 2100			
Source	Scale	Low (feet)	High (feet)
Intergovernmental Panel on Climate Change ⁸	Global	1.4	2.75
U.S. Global Change Research Program ⁹	Global	1	4.3
Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group ¹⁰	Southeast Florida	2.59	6.75
The Tampa Bay Climate Science Advisory Panel ¹¹	Tampa Bay Region	2	8.5

Florida's coastal communities are experiencing high-tide flooding events, sometimes referred to as "sunny day" or "nuisance" flooding, with increasing frequency because sea-level rise increases the height of high tides.¹² In Florida, the area at risk from one foot of projected sea-level rise contains more than 65,000 homes and 121,909 people, and Florida's 35 coastal counties contain 76 percent of its population.¹³ In the U.S., sea-level rise and flooding threaten approximately \$1 trillion in national wealth held in coastal real estate, and analyses estimate that there is a chance Florida could lose more than \$300 billion in property value by 2100.¹⁴ Sea-level rise affects the salinity of both surface water and groundwater through saltwater intrusion, posing a risk particularly for shallow coastal aquifers.¹⁵ Sea-level rise also pushes saltwater further

⁸ *IPCC Ocean and Cryosphere*, at 1-15, 4-4, CCB9-21. These projections are relative to a period of 1986-2005, and the projected range is based on different "representative concentration pathways," which are scenarios of future concentrations of greenhouse gases and aerosols and chemically active gases, and land use changes.

⁹ *NCA4*, at 406, 758, available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Oct. 31, 2019).

¹⁰ Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group, *Unified Sea Level Rise Projection, Southeast Florida*, 4-5 (2015), available at <https://southeastfloridacclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf> (last visited Oct. 21, 2019). These projections are compared to the sea level in 1992.

¹¹ Tampa Bay Climate Science Advisory Panel, *Recommended Projections of Sea Level Rise in the Tampa Bay Region*, 1, 7 (Apr. 2019), available at http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP_SLR_Recommendation_2019.pdf (last visited Oct. 16, 2019).

¹² *SHMP*, at 108, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 15, 2019); NOAA, *High-Tide Flooding*, <https://toolkit.climate.gov/topics/coastal-flood-risk/shallow-coastal-flooding-nuisance-flooding> (last visited Oct. 16, 2019).

¹³ *DEP Guidebook*, at III, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 16, 2019).

¹⁴ *NCA4*, at 324, 758; Zillow, *Climate Change and Housing: Will a Rising Tide Sink All Homes?* (2017), <https://www.zillow.com/research/climate-change-underwater-homes-12890/> (last visited Oct. 31, 2019) (stating that by 2100 \$883 billion in U.S. homes are at risk of being underwater with the total value of potentially underwater properties in Florida at \$413 billion); Union of Concerned Scientists, *New Study Finds 1 Million Florida Homes Worth \$351 Billion Will Be At Risk From Tidal Flooding* (2018), <https://www.ucsusa.org/about/news/1-million-florida-homes-risk-tidal-flooding> (last visited Oct. 31, 2019).

¹⁵ *SHMP*, at 106, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 31, 2019).

upstream in tidal rivers and streams, raises coastal groundwater tables, and pushes saltwater further inland at the margins of coastal wetlands.¹⁶

Storm surge intensity and the intensity and precipitation rates of hurricanes are generally projected to increase.¹⁷ Higher sea levels will cause storm surges to travel farther inland and impact more properties than in the past.¹⁸ Storms and sea-level rise are likely to lead to increased coastal erosion.¹⁹

Increases in evaporation rates and water vapor in the atmosphere increases rainfall intensity and precipitation extremes. This sudden onset of water can overwhelm stormwater infrastructure.²⁰ As sea levels and groundwater levels rise, low areas drain more slowly. The combined effects of rising sea levels and extreme rainfall events are increasing the frequency and magnitude of coastal and lowland flood events.²¹

Coastal Construction

Coastal Construction Control Line

Under Florida law, coastal construction is regulated by the Department of Environmental Protection (DEP).²² The Legislature has found that it is in the best interest of the state to protect Florida's beaches and dunes from imprudent construction that can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access.²³ "Coastal construction" is defined as any work or activity likely to have a material physical effect on existing coastal conditions or natural shore and inlet processes.²⁴ Florida's coastal local governments may establish coastal construction zoning and building codes in lieu of the statutory requirements as long as they are approved by the DEP.²⁵

The coastal construction control line (CCCL) defines the portion of the beach-dune system that is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other forces such as wind, wave, or water level changes.²⁶ A 100-year storm is a shore-incident hurricane or any other storm with accompanying wind, wave, and storm surge intensity having a one percent

¹⁶ *Id.* at 108.

¹⁷ *Id.* at 106, 141; *IPCC Ocean and Cryosphere*, at 6-21, available at https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf (last visited Oct. 16, 2019); *NCA4*, at 95, 97, 116-117, 1482, available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Oct. 31, 2019).

¹⁸ *NCA4*, at 758; *SHMP*, at 107, 112-113, 158-160; see also NOAA, *Florida Marine Debris Emergency Response Guide: Comprehensive Guidance Document* (Jan. 2019), available at https://marinedebris.noaa.gov/sites/default/files/publications-files/FL_Marine_Debris_Emergency_Response_Guide_2019.pdf (last visited Oct. 16, 2019).

¹⁹ *NCA4*, 331, 340-341, 833, 1054, 1495; *SHMP*, at 108; IPCC, *Climate Change and Land*, 4-44–4-45 (Aug. 2019), available at <https://www.ipcc.ch/site/assets/uploads/2019/08/Fullreport-1.pdf> (last visited Oct. 17, 2019).

²⁰ *SHMP*, at 99, 106, 116, 141, 181; *NCA4*, at 88, 763.

²¹ *SHMP*, at 106; *NCA4*, at 763.

²² Chapter 161, F.S.

²³ Section 161.053(1)(a), F.S.

²⁴ Section 161.021(6), F.S.

²⁵ Section 161.053(3), F.S.

²⁶ Section 161.053, F.S.; Fla. Admin. Code R. 62B-33.005(1); DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program*, 3 (2017), available at <https://floridadep.gov/water/coastal-construction-control-line/documents/homeowners-guide-coastal-construction-control-line> (last visited Oct. 18, 2019).

chance of being equaled or exceeded in any given year.²⁷ Seaward of the CCCL, new construction and improvements to existing structures generally require a CCCL permit from the DEP.²⁸ Due to the potential environmental impacts and greater risk of hazards from wind and flood, the standards for construction seaward of the CCCL are often more stringent than those applied in the rest of the coastal building zone.²⁹ Applicants must show that the proposed project will not result in a significant adverse impact.³⁰ CCCLs are established by the DEP on a county-wide basis, and they currently exist for large portions of Florida's coast.³¹

The "mean high-water line" is the point on the shore marking the average height of the high waters over a 19-year period.³² The mean high-water line is generally the boundary between the publicly-owned foreshore (the land alternately covered and uncovered by the tide) and the dry sand above the line which may be privately owned.³³ Generally, construction is prohibited within 50 feet of the mean high-water line, and this is known as the 50-foot setback.³⁴ Any structures below the mean high-water line which the DEP determines serve no public purpose; endanger human life, health, or welfare; or prove to be undesirable or unnecessary must be adjusted, altered, or removed after written notice by the DEP.³⁵

Above the mean high-water line is the "seasonal high-water line," which accounts for variations in the local mean high water, such as spring tides that occur twice per month.³⁶ The seasonal high-water line is used to create 30-year erosion projections of long-term shoreline recession based on historical measurements.³⁷ The DEP makes 30-year erosion projections of the location of the seasonal high-water line on a site-specific basis upon receipt of an application.³⁸ With certain exceptions, the DEP or local governments may not issue CCCL permits for major structures that are seaward of the 30-year erosion projection.³⁹

²⁷ Fla. Admin. Code R. 62B-33.002(41).

²⁸ Section 161.053, F.S.; Fla. Admin. Code Chapters 62B-33 and 62B-34; DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program*, 2 (2017); DEP, *ASK - Have Questions about the Coastal Construction Control Line (CCCL)?*, <https://floridadep.gov/water/coastal-construction-control-line/content/ask-have-questions-about-coastal-construction> (last visited Oct. 18, 2019).

²⁹ Fla. Admin. Code Ch. 62B-33.

³⁰ Fla. Admin. Code R. 62B-33.005.

³¹ Section 161.053(2), F.S.; DEP Geospatial Open Data, *Coastal Construction Control Lines (CCCL)*, http://geodata.dep.state.fl.us/datasets/4674ee6d93894168933e99aa2f14b923_2?geometry=-102.41%2C25.011%2C-60.596%2C31.77 (last visited Oct. 18, 2019).

³² Section 177.27(14), (15), F.S.

³³ Section 177.28, F.S.; ss. 161.052(1), 161.151(3), 161.161(3)-(5), and 161.191, F.S. Where an "erosion control line" is established, it serves as the mean high-water line when landward of the existing mean high-water line, and all lands seaward of a recorded erosion control line are deemed to be vested in the state.

³⁴ Fla. Admin. Code R. 62B-33.002(17).

³⁵ Section 161.061, F.S.

³⁶ Section 161.053(5)(a)2., F.S. "Seasonal high-water line" is defined as "the line formed by the intersection of the rising shore and the elevation of 150 percent of the local mean tidal range above local mean high water"; NOAA, *What Are Spring and Neap Tides?*, <https://oceanservice.noaa.gov/facts/springtide.html> (last visited Oct. 17, 2019).

³⁷ Fla. Admin. Code R. 62B-33.024.

³⁸ *Id.* Applicants may submit projections by licensed engineers.

³⁹ Section 161.053(5), F.S.; DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program*, 6 (2017), available at <https://floridadep.gov/water/coastal-construction-control-line/documents/homeowners-guide-coastal-construction-control-line> (last visited Oct. 18, 2019).



The Coastal Zone Protection Act

The Coastal Zone Protection Act of 1985 (Act) was created to minimize the impacts that activities or construction near the coast have on Florida's coastal areas.⁴⁰ The Legislature intended the Act to impose strict construction standards in Florida's coastal areas to protect the natural environment, private property, and life.⁴¹ The Act covers activities and construction within the "coastal building zone:" an area stretching landward from the seasonal high-water line to a line 1,500 feet landward from the CCCL, except that on coastal barrier islands, the coastal building zone stretches 5,000 feet landward from the CCCL.⁴² The Act uses the term "construction" to mean either the act of construction or the result of construction, and defines construction as "the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land."⁴³

The Act defines certain types of structures regulated within the coastal building zone.⁴⁴ "Major structure[s]" are residential, commercial, or public buildings, and other construction having the potential for substantial impact on coastal zones.⁴⁵ "Nonhabitable major structure[s]" are structures that people would generally not dwell in, such as parking garages, drainage structures, electrical power plants, transmission lines, and underground storage tanks.⁴⁶ "Minor structure[s]" are structures that are considered to be expendable under wind, wave, or storm forces, and examples include walkways, bathhouses, fences, and uncovered paved areas.⁴⁷

⁴⁰ Sections 161.52-161.58, F.S.

⁴¹ Section 161.53(1),(4), and (5), F.S.

⁴² Section 161.54(1), F.S.; s. 161.55(4), F.S.

⁴³ Section 161.54(5), (12) F.S. "Substantial improvement" means "any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the improvement or repair of the structure to its pre-damage condition equals or exceeds 50 percent of the market value of the structure either: (a) Before the improvement or repair is started; or (b) If the structure has been damaged and is being restored, before the damage occurred."

⁴⁴ Section 161.54(6), F.S.

⁴⁵ Section 161.54(6)(a), F.S.

⁴⁶ Section 161.54(6)(c), F.S.

⁴⁷ Section 161.54(6)(b), F.S.

The Act generally requires construction to be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and preserve dune stability.⁴⁸ Nonhabitable major structures and minor structures must be designed to produce the minimum adverse impact on the beach and dune system.⁴⁹ Minor structures must be designed to produce the minimum adverse impact to adjacent properties and reduce the potential for water or wind-blown material.⁵⁰ The Act states that both the DEP and local governments have the authority to adopt or enforce standards for construction seaward of the CCCL that are as restrictive or more restrictive than the Act.⁵¹

At or before the sale of real property located partially or totally seaward of the CCCL, the seller must give prospective purchasers a certain written disclosure statement, which states that the property may be subject to coastal erosion and to federal, state, and local regulations that govern coastal property.⁵² The disclosure statement indicates that the DEP can provide additional information on whether significant erosion conditions are associated with the shoreline of the property being purchased. The Legislature found it necessary to ensure that purchasers of interests in real property located in coastal areas are fully aware that such lands are subject to frequent and severe fluctuations.⁵³

Florida Building Code

The Department of Business and Professional Regulation's Florida Building Commission (the Commission) develops, amends, and adopts by rule the Florida Building Code.⁵⁴ The Florida Building Code provides the minimum standard building code which must be applied and enforced by each local government in Florida.⁵⁵ The code contains or incorporates by reference all laws and rules governing the design, construction, and repair of public and private structures in the state. In compliance with statutory requirements, local governments may pass ordinances creating local requirements that are more stringent than the statewide code.⁵⁶

The code contains structural design requirements for the design, construction, improvement, and repair of certain structures seaward of the CCCL or the 50-foot setback line.⁵⁷ Special standards in the code apply in areas such as High-Velocity Hurricane Zones and flood hazard areas.⁵⁸ In flood hazard areas, if repairing "substantial damage," meaning the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the before-damaged market value, all aspects of the structure must comply with the requirements for new construction for

⁴⁸ Section 161.55(3), F.S. The Act makes exceptions for certain structures such as piers, beach access ramps, or shore protection structures.

⁴⁹ Section 161.55(1), (2), F.S. Special requirements for flood proofing nonhabitable major structures exist for sewage treatment plants, public water supply systems, and underground utilities. These are intended to prevent infiltration of surface water from a 100-year storm event, or else loss of function during submersion.

⁵⁰ Section 161.55(1), F.S.

⁵¹ Section 161.56(1), F.S.

⁵² Section 161.57(2), F.S.

⁵³ Section 161.57(1), F.S.

⁵⁴ DBPR, *Building Code Information System*, <https://floridabuilding.org/c/default.aspx> (last visited Oct. 18, 2019).

⁵⁵ Section 553.73, F.S.; Fla. Admin. Code R. 61G20-1.001(1).

⁵⁶ Section 553.73 (4)-(5), F.S. Special exemptions apply to ordinances relating to flooding.

⁵⁷ Section 3109, Florida Building Code, Building, 6th Edition (2017), https://codes.iccsafe.org/content/FBC2017/chapter-31-special-construction#FBC2017_Ch31_Sec3109 (last visited Oct. 18, 2019).

⁵⁸ Section 202, Florida Building Code, Building, 6th Edition (2017).

flood design.⁵⁹ “Substantial structural damage” means certain damage to the load-carrying structures of a building, and the code has separate requirements for repairing such damage.⁶⁰

The Commission updates the code every three years, and the 7th edition will be adopted in 2020.⁶¹ The proposed modifications include changes related to hurricane protection, such as new roofing requirements to mitigate water intrusion, more stringent wind resistance for vinyl siding, additional inspections for exterior wall coverings, and revised wind speed requirements for essential facilities.⁶²

Coastal Resilience

State Programs

Governor DeSantis’ Executive Order 19-12 created the Office of Resilience and Coastal Protection to help prepare Florida’s coastal communities and habitats for impacts from sea-level rise by providing funding, technical assistance, and coordination among state, regional, and local entities.⁶³ In August of 2019, the Governor appointed Florida’s first Chief Resilience Officer, which will report to the Executive Officer of the Governor and collaborate with state agencies, local communities, and stakeholders to prepare for sea-level rise and climate change.⁶⁴

The DEP’s Florida Resilient Coastlines Program helps prepare coastal communities and habitats for the effects of climate change and sea-level rise by offering technical assistance and funding to communities dealing with coastal flooding, erosion, and ecosystem changes.⁶⁵ In 2019, the DEP awarded funding for numerous projects providing assistance for coastal Florida communities.⁶⁶ Priority areas include implementing statutory requirements and objectives, vulnerability assessments, adaptation plans, regional efforts, and environmental justice.⁶⁷

⁵⁹ Section 404.5, Florida Building Code, Existing Building, 6th Edition (2017), https://codes.iccsafe.org/content/FEBC2017/chapter-4-prescriptive-compliance-method#FEBC2017_Ch04_Sec404.5 (last visited Oct. 21, 2019).

⁶⁰ Section 404, Florida Building Code, Existing Building, 6th Edition (2017).

⁶¹ Section 553.73(7), F.S.; DBPR, *Materials Related to the 2020 Update, Supplements - Post Commission August 13, 2019*, http://www.floridabuilding.org/fbc/thecode/2020_Code_Development/2020_Code_Development_Process.htm (last visited Oct. 19, 2019). In the top table, under Florida Supplement, the links show modifications approved by the Commission.

⁶² Florida Senate, Committee on Community Affairs, *Video of Committee Meeting on 10/14/2019*, 32:00:00 http://www.flsenate.gov/Media/VideoPlayer?EventId=2443575804_2019101070 (last visited Oct. 19, 2019).

⁶³ State of Florida, Office of the Governor, *Executive Order Number 19-12*, 5 (2019), available at <https://www.flgov.com/wp-content/uploads/2019/01/EO-19-12-.pdf> (last visited Oct. 20, 2019).

⁶⁴ Governor Ron DeSantis, News Releases, *Governor Ron DeSantis Announces Dr. Julia Nesheiwat as Florida’s First Chief Resilience Officer* (Aug. 1, 2019), <https://flgov.com/2019/08/01/governor-ron-desantis-announces-dr-julia-nesheiwat-as-floridas-first-chief-resilience-officer/> (last visited Oct. 20, 2019).

⁶⁵ DEP, *Florida Resilient Coastlines Program*, <https://floridadep.gov/ResilientCoastlines> (last visited Oct. 19, 2019).

⁶⁶ DEP, *Funded Projects*, <https://floridadep.gov/rcp/florida-resilient-coastlines-program/content/funded-projects> (last visited Oct. 19, 2019).

⁶⁷ DEP, *Resiliency Planning Grants, Fiscal Year 2020-2021, Grant Goals and Priorities*, <https://floridadep.gov/sites/default/files/RPG-FY-20-21-Goals-and-Priorities.pdf> (last visited Oct. 19, 2019).

The program has published the Florida Adaptation Planning Guidebook to be used by local governments to develop and update adaptation plans for sea-level rise.⁶⁸ The guidebook breaks down the adaptation planning process into four steps, and below is a summary:

- Context: organizing and engaging stakeholders, and delineating the geographic boundaries of the planning area, including the assets and structures contained therein.
- Vulnerability Assessment: an exposure analysis to determine how much sea-level rise will occur and where, a sensitivity analysis to provide an inventory of community assets and features located in areas at risk, and assigning focus areas that will receive attention in adaptation strategies.
- Adaptation Strategies: assess adaptive capacities such as planning capabilities and fiscal capacity, prioritize adaptation needs, and identify adaptation strategies, which may include strategies in the following categories:
 - “Protection” strategies that are structurally defensive measures;
 - “Accommodation” strategies that alter the design of vulnerable structures so structures or land use can stay in place with modification;
 - “Retreat” strategies; and
 - “Avoidance” strategies that guide development away from areas subject to coastal hazards, by implementing policies or offering incentives.
- Implementation: survey funding options, create a schedule of activities, actions and actors, and monitor and evaluate adaptation strategies.⁶⁹

The DEP’s Florida Coastal Management Program implements the Coastal Partnership Initiative, which makes funding from NOAA available to Florida’s 35 coastal counties, and municipalities therein, that are required to include a coastal zone protection element in their comprehensive plan.⁷⁰ Grant applications must benefit the management of coastal resources, and meet the purpose of at least one of the initiative’s priority areas: resilient communities, coastal resource stewardship, access to coastal resources, and working waterfronts.⁷¹

The DEP issues permits for coastal armoring, defined as manmade structures, such as seawalls or bulkheads, that protect upland properties and structures from erosion, wave action, or currents.⁷² While hardened structures may be necessary in areas of high wave energy, armoring can create problems such as costly construction and maintenance, erosion, and loss of biodiversity and ecosystem services.⁷³ Living shorelines are a nature-based approach to coastal protection, using natural elements such as ecosystems, vegetation, stone, or organic materials to increase coastal resilience and adapt to sea-level rise.⁷⁴ The DEP provides exemptions from environmental

⁶⁸ DEP Guidebook, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 19, 2019).

⁶⁹ *Id.* at 1-61.

⁷⁰ DEP, *Florida Coastal Management Program*, <https://floridadep.gov/rcp/fcmp> (last visited Oct. 19, 2019); DEP, *Coastal Partnership Initiative*, <https://floridadep.gov/rcp/fcmp/content/coastal-partnership-initiative> (last visited Oct. 19, 2019).

⁷¹ Fla. Admin. Code R. Ch. 62S-4.

⁷² Sections 161.053 and 161.085, F.S.; Fla. Admin. Code Rules 62B-33.0051, 62B-34.010(4), and 62B-41.002(4).

⁷³ DEP, *Living Shorelines*, <https://floridadep.gov/rcp/rcp/content/living-shorelines> (last visited Oct. 20, 2019).

⁷⁴ Bilkovic et. al., *Living Shorelines: The Science and Management of Nature-Based Coastal Protection*, Taylor & Francis Group, 11-25 (2017); Florida Living Shorelines, *Home*, <http://floridalivingshorelines.com/> (last visited Oct. 20, 2019).

resource permitting for small-scale shoreline stabilization projects including living shorelines projects.⁷⁵

In addition to the DEP, other state agencies are working on coastal resilience in Florida. The Department of Transportation plans for resilience to prepare Florida's transportation system for potential hazards.⁷⁶ The Department of Economic Opportunity works with the DEP on the Community Resiliency Initiative, assisting communities with adaptation planning.⁷⁷ The Fish and Wildlife Conservation Commission is Florida's lead agency on addressing the impacts of climate change on fish and wildlife, including adaptation strategies for Florida's coastal ecosystems.⁷⁸ The Division of Emergency Management in the Executive Office of the Governor maintains a state-wide emergency management program, and its roles include administering federal mitigation grant programs and serving as Florida's state coordinating agency for the National Flood Insurance Program.⁷⁹

Regional Programs

The water management districts address flood protection as a core part of their respective missions, and many of their activities are related to resilience efforts. For example, the St. John's River Water Management District provides resources and cost-sharing to increase community resilience.⁸⁰ The South Florida Water Management District is implementing comprehensive plans for addressing sea-level rise, including a flood protection level of service program, incorporating sea-level rise projections into planning, conducting vulnerability assessments, and assisting local governments.⁸¹

In 2010, through a proactive regional collaboration to address climate change, the four counties of Broward, Miami-Dade, Monroe, and Palm Beach signed on to the Southeast Florida Regional Climate Change Compact.⁸² The product has included developing a Regional Climate Action

⁷⁵ Fla. Admin. Code R. 62-330.051(12)(e); see UF IFAS, *Streamlining Resiliency: Regulatory Considerations in Permitting Small-Scale Living Shorelines in Florida*, 1-3 (Apr. 2018), <https://edis.ifas.ufl.edu/pdf/SG/SG15500.pdf> (last visited Oct. 20, 2019).

⁷⁶ DOT, *Florida Transportation Plan (FTP): Resilience*, <http://www.floridatransportationplan.com/resilience.htm> (last visited Oct. 25, 2019); DOT, *Florida Transportation Plan (FTP): Resilience Subcommittee Members*, http://www.floridatransportationplan.com/resilience_committee.htm (last visited Oct. 31, 2019).

⁷⁷ DEO, *Adaptation Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/adaptation-planning> (last visited Oct. 19, 2019).

⁷⁸ FWC, *What FWC is Doing*, <https://myfwc.com/conservation/special-initiatives/climate-change/fwc/> (last visited Oct. 19, 2019); FWC, *A Guide to Climate Change Adaptation for Conservation*, 6-81-6-108, 9-35-9-51 (2016), available at <https://myfwc.com/media/5864/adaptation-guide.pdf> (last visited Oct. 20, 2019).

⁷⁹ DEM, *Mitigation*, <https://www.floridadisaster.org/dem/mitigation/> (last visited Oct. 20, 2019); DEM, *State Flood Plain Management Program*, <https://www.floridadisaster.org/dem/mitigation/floodplain/> (last visited Oct. 20, 2019).

⁸⁰ St. John's River Water Management District, *Sea-Level Rise*, <https://www.sjrwmd.com/localgovernments/sea-level-rise/#projects> (last visited Oct. 30, 2019).

⁸¹ Akintunde Owosina, South Florida Water Management District, Governing Board Meeting, June 13, 2019, Chief, Hydrology and Hydraulics Bureau, *Impact of Sea Level Rise on the SFWMD Mission, Focus on Flood Protection*, 2, 6, 7-10 (June 13, 2019) available at <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/21964> (last visited Oct. 20, 2019).

⁸² Regional Climate Leadership Summit, *Southeast Florida Regional Climate Change Compact* (2010), available at <http://southeastfloridacclimatecompact.org/wp-content/uploads/2014/09/compact.pdf> (last visited Oct. 31, 2019); SFRCCC, *What is the Compact?*, <http://southeastfloridacclimatecompact.org/about-us/what-is-the-compact/> (last visited Oct. 31, 2019).

Plan and developing a Unified Sea Level Rise Projection.⁸³ One of the many recommendations in the regional plan is for local governments in the region to incorporate the unified sea-level rise projections into their comprehensive plans, and at least 45 municipalities have completed this recommendation.⁸⁴

Florida's regional planning councils have many programs on resilience initiatives.⁸⁵ For example, the Tampa Bay Regional Planning Council formed the ONE BAY Resilient Communities program, which advances collaborative resilience in the Tampa Bay region.⁸⁶ The East Central Florida Regional Planning Council has produced a Regional Resiliency Action Plan and formed the East Central Florida Regional Resilience Collaborative.⁸⁷ The Northeast Florida Regional Council has provided a Regional Action Plan for sea-level rise.⁸⁸

Local Governments

Florida's local governments in coastal areas must have a coastal management element in their comprehensive plans.⁸⁹ These coastal management elements must use principles to eliminate inappropriate and unsafe development in coastal areas when opportunities arise, and they must:

- Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.
- Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency (FEMA).
- Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in Florida.
- Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable federal flood plain management regulations.
- Require that any construction activities seaward of the coastal construction control lines be consistent with ch. 161, F.S., which regulates coastal construction.

⁸³ SFRCCC, *Regional Climate Action Plan*, <http://southeastfloridaclimatecompact.org/regional-climate-action-plan/> (last visited Oct. 31, 2019); SFRCCC, *Unified Sea Level Rise Projection*, *Southeast Florida*, 5, 11, 13, 33 (2015), available at <http://www.southeastfloridaclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf> (last visited Oct. 31, 2019).

⁸⁴ SFRCCC, *ST-1: Incorporate Projections Into Plans*, <http://southeastfloridaclimatecompact.org/recommendations/incorporate-projections-into-plans/> (last visited Oct. 31, 2019); see also SFRCCC, *Integrating the Unified Sea Level Rise Projection into Local Plans*, 17-21 (2017), available at <https://southeastfloridaclimatecompact.org/wp-content/uploads/2017/01/SLRGuidance-Doc.pdf> (last visited Oct. 16, 2019).

⁸⁵ *Peril of Flood - Florida's Coastal Resiliency Portal*, <https://www.perilofflood.net/> (last visited Oct. 30, 2019).

⁸⁶ Tampa Bay Regional Planning Council, *One Bay Resilient Communities*, <http://www.tbrpc.org/onebay/> (last visited Oct. 31, 2019).

⁸⁷ East Central Florida Regional Planning Council, *East Central Florida Regional Resiliency Action Plan* (2018), available at <http://ftp.ecfrpc.org/Projects/East%20Central%20Florida%20Regional%20Resiliency%20Action%20Plan.pdf> (last visited Oct. 31, 2019); East Central Florida Regional Planning Council, *East Central Florida Regional Resilience Collaborative*, <https://metroplanorlando.org/wp-content/uploads/CFMPOA-MOU-presentation.pdf> (last visited Oct. 31, 2019).

⁸⁸ Northeast Florida Regional Council, *Summary and Regional Action Plan: A Report of the Emergency Preparedness Committee on Sea Level Rise*, <http://www.nefrc.org/WiP/PDFs/Resource-Library/Regional-Action-Plan.pdf> (last visited Oct. 31, 2019).

⁸⁹ Sections 380.24 and 163.3177(6)(g), F.S.

- Encourage local governments to participate in the National Flood Insurance Program Community Rating System administered by the FEMA to achieve flood insurance premium discounts for their residents.⁹⁰

Florida's Community Planning Act authorizes local governments to establish an "adaptation action area" designation in their comprehensive plan for low-lying coastal zones that are experiencing coastal flooding and are vulnerable to the impacts of sea-level rise.⁹¹ This enables local governments to develop policies and funding priorities that improve coastal resilience and plan for sea-level rise.

Flood Insurance

The FEMA administers the National Flood Insurance Program, created to offer federally subsidized flood insurance to property owners and to encourage land-use controls in floodplains.⁹² The National Flood Insurance Program makes flood insurance available to communities that adopt and enforce a floodplain management ordinance to reduce future flood risk to new construction in floodplains.⁹³ Communities eligible to participate in the National Flood Insurance Program community rating system receive discounts on flood insurance premiums.⁹⁴

An important aspect of the National Flood Insurance Program is the flood maps that FEMA creates to support the program.⁹⁵ A Flood Insurance Rate Map is an official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community.⁹⁶ These maps have many applications relevant to resilience planning, including communicating base flood elevations and flood risk, establishing special flood hazard areas where flood insurance is required, and setting local floodplain and building standards.⁹⁷

⁹⁰ Section 163.3178(2)(f), F.S. (referencing 44 C.F.R. part 60, relating to insurance and hazard mitigation, criteria for land management and use); Ch. 2015-69, Laws of Fla. This is referred to as the "Peril of Flood" law.

⁹¹ Sections 163.3177(6)(g) and (10) and 163.3164(1), F.S.; Ch. 2011-139, Laws of Fla.

⁹² 42 U.S.C. § 4001 *et seq.*; 44 C.F.R. Ch. I, Subchap. B.; FEMA, *The National Flood Insurance Program*, <https://www.fema.gov/national-flood-insurance-program> (last visited Oct. 20, 2019).

⁹³ FEMA, *National Flood Insurance Program, Program Description* (Aug. 1, 2002), available at https://www.fema.gov/media-library-data/20130726-1447-20490-2156/nfipdescrip_1.pdf (last visited Oct. 20, 2019).

⁹⁴ FEMA, *Fact Sheet: Community Rating System* (2017), available at https://www.fema.gov/media-library-data/1507029324530-082938e6607d4d9eba4004890dbad39c/NFIP_CRS_Fact_Sheet_2017_508OK.pdf (last visited Oct. 20, 2019).

⁹⁵ FEMA, *FEMA Flood Map Service Center: Welcome!*, <https://msc.fema.gov/portal/home> (last visited Oct. 20, 2019).

⁹⁶ 44 C.F.R. § 59.1.

⁹⁷ FEMA, *Flood Maps: Know Your Risk and Take Action Against Flooding*, 2, available at https://www.fema.gov/media-library-data/1516468489259-8eb4bfef27ab35159b2f140a2926e809/What_Goes_Into_a_Flood_Map.pdf (last visited Oct. 20, 2019); *SHMP*, at 102-103, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 16, 2019); *DEP Guidebook*, at 40-41, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 16, 2019).

III. Effect of Proposed Changes:

Section 1 creates s. 161.551, F.S., titled “Public financing of construction projects within the coastal building zone.” The new section is effective July 1, 2021.

The bill creates definitions for five terms, defining them as they are used in the section:

- “Coastal structure” is defined as “a major structure or nonhabitable major structure within the coastal building zone.” As used within the section, the term “coastal structure” would generally include residential, commercial, and public buildings that could substantially impact coastal zones, as well as major uninhabited structures such as parking garages or drainage structures, that are located landward of the seasonal high-water line to a line 1,500 feet landward from the coastal construction control line.
- “Public entity” is defined as “the state or any of its political subdivisions, or any municipality, county, agency, special district, authority, or other public body corporate of the state which is demonstrated to perform a public function or to serve a governmental purpose that could properly be performed or served by an appropriate governmental unit.”
- “SLIP study” is defined as “a sea level impact projection study” as established by the Department of Environmental Protection (DEP) pursuant to requirements specified in the bill.
- “State-financed constructor” is defined as “a public entity that commissions or manages a construction project using funds appropriated from the state.”
- “Substantial flood damage” is defined to mean “flood, inundation, or wave action damage resulting from a single event, such as a flood or tropical weather system, where such damage exceeds 25 percent of the market value of the coastal structure at the time of the event.”

The bill requires the DEP to develop by rule the standards for a SLIP study. The standards may require that a professional engineer sign off on the study. Further, the rule is effective one year after the date it is finalized and applies only to projects not yet commenced as of the date the rule is finalized. The rule may not apply retroactively to projects that commenced before the date the rule is finalized. The standards must require that state-financed constructors, at a minimum, do all of the following for conducting a SLIP study:

- Use a systematic, interdisciplinary, and scientifically accepted approach in the natural sciences and construction design in conducting the study.
- Assess the flooding, inundation, and wave action damage risks relating to the coastal structure over its expected life or 50 years, whichever is less. This assessment must:
 - Take into account potential sea-level rise and increased storm risk during the expected life of the coastal structure or 50 years, whichever is less, and to the extent possible, account for the contribution of sea-level rise versus land subsidence to the relative local sea-level rise;
 - Provide scientific and engineering evidence of the risk to the coastal structure and methods used to mitigate, adapt to, or reduce this risk;
 - Use and consider available scientific research and generally accepted industry practices;
 - Provide the mean average annual chance of substantial flood damage over the expected life of the coastal structure or 50 years, whichever is less; and
 - Analyze potential public safety and environmental impacts resulting from damage to the coastal structure including, but not limited to, leakage of pollutants, electrocution and explosion hazards, and hazards resulting from floating or flying structural debris.

- Provide alternatives for the coastal structure's design and siting, including discussion of how such alternatives would affect the potential public safety and environmental impacts assessed in the study, as well as the risks and costs associated with maintaining, repairing, and constructing the coastal structure.

The bill requires the DEP to publish and maintain on its website a copy of all SLIP studies it receives pursuant to the bill for a period of at least 10 years following receipt. However, the bill requires the DEP to redact, prior to publication, any portion of a SLIP study containing information that is exempt from Art. I, s. 24(a) of the State Constitution and s. 119.07(1), F.S., which provide for access to public records.

Beginning one year after the DEP's rule regarding SLIP studies is finalized, the bill requires state-financed constructors to conduct SLIP studies pursuant to the DEP's standards. The bill prohibits a state-financed constructor from commencing construction of a coastal structure without first doing all of the following:

- Conducting a SLIP study meeting the standards established by the DEP.
- Submitting the SLIP study to the DEP. If multiple coastal structures are to be built concurrently within one project, a state-financed constructor may conduct and submit one SLIP study for the entire project.
- Receiving notification from the DEP that the study was received and published on the DEP's website for at least 30 days. The bill states that the state-financed constructor is solely responsible for ensuring that the study submitted to the DEP meets the established standards.

If a state-financed constructor begins construction of a coastal structure without first submitting a SLIP study as required under the section, then the DEP is authorized to institute a civil action.

Such civil action may be brought to:

- Seek injunctive relief to cease further construction of the coastal structure;
- Enforce compliance with s. 161.551, F.S., or rules adopted by the DEP pursuant to it; or,
- If the coastal structure has been completed or substantially completed, seek recovery of all or a portion of state funds expended on the coastal structure.

The DEP is required to adopt rules as necessary to administer the section. The DEP is authorized to enforce the requirements of the section. The section may not be construed to create a cause of action for damages or otherwise authorize the imposition of penalties by a public entity for failure to implement what is contained in the SLIP study.

Section 2 provides the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires procedures that identify long-term risks to coastal structures, and potentially avoid some of the large costs of mitigating and dealing with future damage to, or even loss of, coastal structures. To the extent that costs of damage or destruction are avoided, residents and businesses may benefit. The bill may also have a positive, indeterminate impact on private service providers who may be engaged to perform the studies required by the bill. Therefore, the bill may have a positive, indeterminate impact on the private sector.

C. Government Sector Impact:

The bill requires the DEP to promulgate and administer new regulations which may cause the DEP to incur additional costs.

Requiring government entities to conduct a sea-level impact study prior to construction may result in an indeterminate, negative fiscal impact on the government sector in the short-term. However, the bill requires procedures that identify risks and potentially avoid damage and loss of coastal structures that are constructed, at least in part, using funds appropriated from the state. This may result in state funds, or potentially federal grant money that is appropriated from the state, being used for coastal structures that have less risk of damage or loss over time, or coastal structures that may remain undamaged or intact for a longer period of time. Therefore, the bill may result in an indeterminate, positive impact on the government sector in the long-term.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 161.551 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 13, 2020:

The committee substitute:

- Amends the date that a state-financed constructor may not commence construction of a coastal structure without a SLIP study to one year after the DEP's rule regarding slip studies is in effect, rather than July 1, 2021.
- Removes the condition that official baseline projections as provided in s. 14.2031, F.S., must be adopted for the requirements to conduct a SLIP study go into effect.
- Specifies that the DEP's rule regarding SLIP studies must be effective one year after the date it is finalized and applies only to projects that have not yet commenced as of the date the rule is finalized. The rule may not apply retroactively to projects that commenced before the date the rule is finalized.
- Removes the requirement that the DEP's rule require assessments of flooding, inundation, and wave action damage risks to be based on the official baseline projections of sea-level rise and flooding impacts adopted as provided in s. 14.2031, F.S.
- Adds to the requirements for the DEP's rule that assessments of risks to coastal structures must, to the extent possible, account for the contribution of sea-level rise versus land subsidence to the relative local sea-level rise.
- Clarifies that the bill may not be construed to create a cause of action for damages or otherwise authorize the imposition of penalties by a public entity for failure to implement what is contained in the SLIP study.
- Provides an effective date of July 1, 2020.

CS by Infrastructure and Security on December 9, 2019:

The committee substitute:

- Delays the effective date of the bill until the date on which SB 7016 takes effect, July 1, 2020.
- Applies the requirement for a SLIP study after July 1, 2021, contingent on the Sea-Level Rise Task Force's recommended baseline projections being adopted by the Environmental Regulation Commission.
- Provides the flooding, inundation, and wave action damage risk assessment required by the bill be based on the State's official baseline projections.
- Clarifies that the remedies provided in the bill do not apply until after July 1, 2021.

B. Amendments:

None.

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



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

A bill to be entitled

An act relating to public financing of construction
projects; creating s. 161.551, F.S.; defining terms;
prohibiting state-financed constructors from
commencing construction of certain structures in
coastal areas after a specified date without first
taking certain steps regarding a sea level impact
projection study; requiring the Department of
Environmental Protection to develop by rule a standard
for such studies; providing that such rule operates
prospectively on projects that have not yet commenced
as of the finalization of the rule; requiring the
department to publish such studies on its website,
subject to certain conditions; requiring the
department to adopt rules; providing for enforcement;
providing effective dates.

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

Section 1. Effective July 1, 2021, section 161.551, Florida
Statutes, is created to read:

161.551 Public financing of construction projects within
the coastal building zone.-

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

(a) "Coastal structure" means a major structure or
nonhabitable major structure within the coastal building zone.



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(b) "Public entity" means the state or any of its political
subdivisions, or any municipality, county, agency, special
district, authority, or other public body corporate of the state
which is demonstrated to perform a public function or to serve a
governmental purpose that could properly be performed or served
by an appropriate governmental unit.

(c) "SLIP study" means a sea level impact projection study
as established by the department pursuant to subsection (3).

(d) "State-financed constructor" means a public entity that
commissions or manages a construction project using funds
appropriated from the state.

(e) "Substantial flood damage" means flood, inundation, or
wave action damage resulting from a single event, such as a
flood or tropical weather system, where such damage exceeds 25
percent of the market value of the coastal structure at the time
of the event.

(2) Beginning 1 year after the date the rule developed by
the department pursuant to subsection (3) is finalized and is
otherwise in effect, a state-financed constructor may not
commence construction of a coastal structure without:

(a) Conducting a SLIP study that meets the requirements
established by the department;

(b) Submitting the study to the department; and

(c) Receiving notification from the department that the
study was received and that it has been published on the
department's website pursuant to paragraph (6)(a) for at least
30 days. The state-financed constructor is solely responsible
for ensuring that the study submitted to the department for
publication meets the requirements under subsection (3).



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(3) The department shall develop by rule a standard by which a state-financed constructor must conduct a SLIP study and may require that a professional engineer sign off on the study. The rule must be effective 1 year after the date it is finalized and applies only to projects not yet commenced as of the date the rule is finalized. The rule may not apply retroactively to projects that commenced before the date the rule is finalized. At a minimum, the standard must require that a state-financed constructor do all of the following:

(a) Use a systematic, interdisciplinary, and scientifically accepted approach in the natural sciences and construction design in conducting the study.

(b) Assess the flooding, inundation, and wave action damage risks relating to the coastal structure over its expected life or 50 years, whichever is less.

1. The assessment must take into account potential relative local sea-level rise and increased storm risk during the expected life of the coastal structure or 50 years, whichever is less, and, to the extent possible, account for the contribution of sea-level rise versus land subsidence to the relative local sea-level rise.

2. The assessment must provide scientific and engineering evidence of the risk to the coastal structure and methods used to mitigate, adapt to, or reduce this risk.

3. The assessment must use and consider available scientific research and generally accepted industry practices.

4. The assessment must provide the mean average annual chance of substantial flood damage over the expected life of the coastal structure or 50 years, whichever is less.



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5. The assessment must analyze potential public safety and environmental impacts resulting from damage to the coastal structure, including, but not limited to, leakage of pollutants, electrocution and explosion hazards, and hazards resulting from floating or flying structural debris.

(c) Provide alternatives for the coastal structure's design and siting, and how such alternatives would impact the risks specified in subparagraph (b)5. as well as the risk and cost associated with maintaining, repairing, and constructing the coastal structure.

If multiple coastal structures are to be built concurrently within one project, a state-financed constructor may conduct and submit one SLIP study for the entire project for publication by the department.

(4) If a state-financed constructor commences construction of a coastal structure but has not complied with the SLIP study requirement under subsection (2), the department may institute a civil action in a court of competent jurisdiction to:

(a) Seek injunctive relief to cease further construction of the coastal structure or enforce compliance with this section or with rules adopted by the department pursuant to this section.

(b) If the coastal structure has been completed or has been substantially completed, seek recovery of all or a portion of state funds expended on the coastal structure.

(5) This section may not be construed to create a cause of action for damages or otherwise authorize the imposition of penalties by a public entity for failure to implement what is contained in the SLIP study.



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114 (6) The department:

115 (a) Shall publish and maintain a copy of all SLIP studies
116 submitted pursuant to this section on its website for at least
117 10 years after receipt. However, any portion of a study
118 containing information that is exempt from s. 119.07(1) and s.
119 24(a), Art. I of the State Constitution must be redacted by the
120 department before publication.

121 (b) Shall adopt rules as necessary to administer this
122 section.

123 (7) The department may enforce the requirements of this
124 section.

125 Section 2. Except as otherwise expressly provided in this
126 act, this act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 178

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Infrastructure and Security Committee; and Senators Rodriguez and Berman

SUBJECT: Public Financing of Construction Projects

DATE: February 28, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Schreiber	Rogers	EN	Favorable
2. Price	Miller	IS	Fav/CS
3. Reagan	Betta	AEG	Recommend: Fav/CS
4. Reagan	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 178 requires a public entity that commissions or manages a construction project within the coastal building zone using funds appropriated from the state to conduct a sea-level impact projection (SLIP) study prior to commencing construction. The bill provides that this provision is effective one year after the Department of Environmental Protection's (DEP) rule regarding SLIP studies is finalized. The required study must be conducted, submitted to the DEP, and published on the DEP's website before construction can commence.

The bill requires the DEP to adopt rules establishing standards for the SLIP studies, and the standards must include certain requirements for how the studies will be conducted and the information they must contain. The DEP must publish and maintain a copy of all SLIP studies on its website for 10 years after receipt. The bill requires the DEP to adopt rules as necessary to administer the section and authorizes the DEP to enforce the requirements of the section.

The bill authorizes the DEP to bring a civil action to seek injunctive relief to cease construction, enforce the section or rules adopted pursuant thereto, or seek recovery of state funds expended on a coastal structure, if construction commences without complying with the section. The bill states that the section may not be construed to create a cause of action for damages or otherwise

authorize the imposition of penalties by a public entity for failure to implement what is contained in the SLIP study.

The bill may have both negative and positive fiscal impacts in indeterminate amounts. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Sea-Level Rise and Coastal Flooding

With 1,350 miles of coastline and relatively low elevations, Florida is particularly vulnerable to coastal flooding.¹ There are three primary ways that climate change influences coastal flooding: sea-level rise, storm surge intensity, and rainfall intensity and frequency.²

Sea-level rise is an observed increase in the average local sea level or global sea-level trend.³ The two major causes of global sea-level rise are thermal expansion caused by the warming of the oceans (water expands as it warms) and the loss of land-based ice (ice sheets and glaciers) due to melting.⁴ Since 1880, the average global sea level has risen about 8 to 9 inches, and the rate of global sea-level rise has been accelerating.⁵ The National Oceanic and Atmospheric Administration (NOAA) utilizes tide gauges to measure changes in sea level, and provides data on local sea-level-rise trends.⁶ Analysis of this data shows some low-lying areas in the southeastern U.S. experience higher local rates of sea-level rise than the global average.⁷

Below is a table of projections for future sea-level rise, globally and in regions of Florida, by the year 2100:

¹ This measurement of Florida's coastline increases to over 8,000 miles when accounting for bays, inlets, and waterways. See Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida*, 107-108, 162 (2018) [hereinafter *SHMP*], available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 16, 2019).

² *Id.* at 107.

³ DEP, *Florida Adaptation Planning Guidebook*, Glossary (2018) [hereinafter *DEP Guidebook*], available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 16, 2019); NASA, *Facts: Sea Level*, <https://climate.nasa.gov/vital-signs/sea-level/> (last visited Oct. 16, 2019).

⁴ *DEP Guidebook*, at Glossary; NOAA, *Climate Change: Ocean Heat Content*, <https://www.climate.gov/news-features/understanding-climate/climate-change-ocean-heat-content> (last visited Oct. 16, 2019). More than 90 percent of the warming that has happened on Earth over the past 50 years has occurred in the ocean; IPCC, *The Ocean and Cryosphere in a Changing Climate*, SPM-8, SPM-10, SPM-19, SPM -21, SPM-23, 1-14, 4-3, 4-4, 4-14 (Sept. 2019) [hereinafter *IPCC Ocean and Cryosphere*], available at https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf (last visited Oct. 16, 2019). Uncertainty regarding projected sea-level rise by 2100 is mainly determined by ice sheets, especially in Antarctica and Greenland, which are losing ice at increasing rates.

⁵ U.S. Global Change Research Program, *Fourth National Climate Assessment*, 757 (2018) [hereinafter *NCA4*], available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Oct. 31, 2019); *IPCC Ocean and Cryosphere*, at 4-3.

⁶ NOAA, *What is a Tide Gauge?*, <https://oceanservice.noaa.gov/facts/tide-gauge.html> (last visited Oct. 17, 2019); NOAA, *Tides and Currents, Sea Level Trends*, <https://tidesandcurrents.noaa.gov/sltrends/> (last visited Oct. 16, 2019); see *DEP Guidebook*, at 8, 16.

⁷ *NCA4*, at 757.

Sea-Level Rise Projections for the Year 2100			
Source	Scale	Low (feet)	High (feet)
Intergovernmental Panel on Climate Change ⁸	Global	1.4	2.75
U.S. Global Change Research Program ⁹	Global	1	4.3
Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group ¹⁰	Southeast Florida	2.59	6.75
The Tampa Bay Climate Science Advisory Panel ¹¹	Tampa Bay Region	2	8.5

Florida's coastal communities are experiencing high-tide flooding events, sometimes referred to as "sunny day" or "nuisance" flooding, with increasing frequency because sea-level rise increases the height of high tides.¹² In Florida, the area at risk from one foot of projected sea-level rise contains more than 65,000 homes and 121,909 people, and Florida's 35 coastal counties contain 76 percent of its population.¹³ In the U.S., sea-level rise and flooding threaten approximately \$1 trillion in national wealth held in coastal real estate, and analyses estimate that there is a chance Florida could lose more than \$300 billion in property value by 2100.¹⁴ Sea-level rise affects the salinity of both surface water and groundwater through saltwater intrusion, posing a risk particularly for shallow coastal aquifers.¹⁵ Sea-level rise also pushes saltwater further

⁸ *IPCC Ocean and Cryosphere*, at 1-15, 4-4, CCB9-21. These projections are relative to a period of 1986-2005, and the projected range is based on different "representative concentration pathways," which are scenarios of future concentrations of greenhouse gases and aerosols and chemically active gases, and land use changes.

⁹ *NCA4*, at 406, 758, available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Oct. 31, 2019).

¹⁰ Southeast Florida Regional Climate Change Compact Sea Level Rise Work Group, *Unified Sea Level Rise Projection, Southeast Florida*, 4-5 (2015), available at <https://southeastfloridacclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf> (last visited Oct. 21, 2019). These projections are compared to the sea level in 1992.

¹¹ Tampa Bay Climate Science Advisory Panel, *Recommended Projections of Sea Level Rise in the Tampa Bay Region*, 1, 7 (Apr. 2019), available at http://www.tbrpc.org/wp-content/uploads/2019/05/CSAP_SLR_Recommendation_2019.pdf (last visited Oct. 16, 2019).

¹² *SHMP*, at 108, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 15, 2019); NOAA, *High-Tide Flooding*, <https://toolkit.climate.gov/topics/coastal-flood-risk/shallow-coastal-flooding-nuisance-flooding> (last visited Oct. 16, 2019).

¹³ *DEP Guidebook*, at III, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 16, 2019).

¹⁴ *NCA4*, at 324, 758; Zillow, *Climate Change and Housing: Will a Rising Tide Sink All Homes?* (2017), <https://www.zillow.com/research/climate-change-underwater-homes-12890/> (last visited Oct. 31, 2019) (stating that by 2100 \$883 billion in U.S. homes are at risk of being underwater with the total value of potentially underwater properties in Florida at \$413 billion); Union of Concerned Scientists, *New Study Finds 1 Million Florida Homes Worth \$351 Billion Will Be At Risk From Tidal Flooding* (2018), <https://www.ucsusa.org/about/news/1-million-florida-homes-risk-tidal-flooding> (last visited Oct. 31, 2019).

¹⁵ *SHMP*, at 106, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 31, 2019).

upstream in tidal rivers and streams, raises coastal groundwater tables, and pushes saltwater further inland at the margins of coastal wetlands.¹⁶

Storm surge intensity and the intensity and precipitation rates of hurricanes are generally projected to increase.¹⁷ Higher sea levels will cause storm surges to travel farther inland and impact more properties than in the past.¹⁸ Storms and sea-level rise are likely to lead to increased coastal erosion.¹⁹

Increases in evaporation rates and water vapor in the atmosphere increases rainfall intensity and precipitation extremes. This sudden onset of water can overwhelm stormwater infrastructure.²⁰ As sea levels and groundwater levels rise, low areas drain more slowly. The combined effects of rising sea levels and extreme rainfall events are increasing the frequency and magnitude of coastal and lowland flood events.²¹

Coastal Construction

Coastal Construction Control Line

Under Florida law, coastal construction is regulated by the Department of Environmental Protection (DEP).²² The Legislature has found that it is in the best interest of the state to protect Florida's beaches and dunes from imprudent construction that can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access.²³ "Coastal construction" is defined as any work or activity likely to have a material physical effect on existing coastal conditions or natural shore and inlet processes.²⁴ Florida's coastal local governments may establish coastal construction zoning and building codes in lieu of the statutory requirements as long as they are approved by the DEP.²⁵

The coastal construction control line (CCCL) defines the portion of the beach-dune system that is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other forces such as wind, wave, or water level changes.²⁶ A 100-year storm is a shore-incident hurricane or any other storm with accompanying wind, wave, and storm surge intensity having a one percent

¹⁶ *Id.* at 108.

¹⁷ *Id.* at 106, 141; *IPCC Ocean and Cryosphere*, at 6-21, available at https://report.ipcc.ch/srocc/pdf/SROCC_FinalDraft_FullReport.pdf (last visited Oct. 16, 2019); *NCA4*, at 95, 97, 116-117, 1482, available at https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf (last visited Oct. 31, 2019).

¹⁸ *NCA4*, at 758; *SHMP*, at 107, 112-113, 158-160; see also NOAA, *Florida Marine Debris Emergency Response Guide: Comprehensive Guidance Document* (Jan. 2019), available at https://marinedebris.noaa.gov/sites/default/files/publications-files/FL_Marine_Debris_Emergency_Response_Guide_2019.pdf (last visited Oct. 16, 2019).

¹⁹ *NCA4*, 331, 340-341, 833, 1054, 1495; *SHMP*, at 108; IPCC, *Climate Change and Land*, 4-44–4-45 (Aug. 2019), available at <https://www.ipcc.ch/site/assets/uploads/2019/08/Fullreport-1.pdf> (last visited Oct. 17, 2019).

²⁰ *SHMP*, at 99, 106, 116, 141, 181; *NCA4*, at 88, 763.

²¹ *SHMP*, at 106; *NCA4*, at 763.

²² Chapter 161, F.S.

²³ Section 161.053(1)(a), F.S.

²⁴ Section 161.021(6), F.S.

²⁵ Section 161.053(3), F.S.

²⁶ Section 161.053, F.S.; Fla. Admin. Code R. 62B-33.005(1); DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program*, 3 (2017), available at <https://floridadep.gov/water/coastal-construction-control-line/documents/homeowners-guide-coastal-construction-control-line> (last visited Oct. 18, 2019).

chance of being equaled or exceeded in any given year.²⁷ Seaward of the CCCL, new construction and improvements to existing structures generally require a CCCL permit from the DEP.²⁸ Due to the potential environmental impacts and greater risk of hazards from wind and flood, the standards for construction seaward of the CCCL are often more stringent than those applied in the rest of the coastal building zone.²⁹ Applicants must show that the proposed project will not result in a significant adverse impact.³⁰ CCCLs are established by the DEP on a county-wide basis, and they currently exist for large portions of Florida's coast.³¹

The “mean high-water line” is the point on the shore marking the average height of the high waters over a 19-year period.³² The mean high-water line is generally the boundary between the publicly-owned foreshore (the land alternately covered and uncovered by the tide) and the dry sand above the line which may be privately owned.³³ Generally, construction is prohibited within 50 feet of the mean high-water line, and this is known as the 50-foot setback.³⁴ Any structures below the mean high-water line which the DEP determines serve no public purpose; endanger human life, health, or welfare; or prove to be undesirable or unnecessary must be adjusted, altered, or removed after written notice by the DEP.³⁵

Above the mean high-water line is the “seasonal high-water line,” which accounts for variations in the local mean high water, such as spring tides that occur twice per month.³⁶ The seasonal high-water line is used to create 30-year erosion projections of long-term shoreline recession based on historical measurements.³⁷ The DEP makes 30-year erosion projections of the location of the seasonal high-water line on a site-specific basis upon receipt of an application.³⁸ With certain exceptions, the DEP or local governments may not issue CCCL permits for major structures that are seaward of the 30-year erosion projection.³⁹

²⁷ Fla. Admin. Code R. 62B-33.002(41).

²⁸ Section 161.053, F.S.; Fla. Admin. Code Chapters 62B-33 and 62B-34; DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program*, 2 (2017); DEP, *ASK - Have Questions about the Coastal Construction Control Line (CCCL)?*, <https://floridadep.gov/water/coastal-construction-control-line/content/ask-have-questions-about-coastal-construction> (last visited Oct. 18, 2019).

²⁹ Fla. Admin. Code Ch. 62B-33.

³⁰ Fla. Admin. Code R. 62B-33.005.

³¹ Section 161.053(2), F.S.; DEP Geospatial Open Data, *Coastal Construction Control Lines (CCCL)*, http://geodata.dep.state.fl.us/datasets/4674ee6d93894168933e99aa2f14b923_2?geometry=-102.41%2C25.011%2C-60.596%2C31.77 (last visited Oct. 18, 2019).

³² Section 177.27(14), (15), F.S.

³³ Section 177.28, F.S.; ss. 161.052(1), 161.151(3), 161.161(3)-(5), and 161.191, F.S. Where an “erosion control line” is established, it serves as the mean high-water line when landward of the existing mean high-water line, and all lands seaward of a recorded erosion control line are deemed to be vested in the state.

³⁴ Fla. Admin. Code R. 62B-33.002(17).

³⁵ Section 161.061, F.S.

³⁶ Section 161.053(5)(a)2., F.S. “Seasonal high-water line” is defined as “the line formed by the intersection of the rising shore and the elevation of 150 percent of the local mean tidal range above local mean high water”; NOAA, *What Are Spring and Neap Tides?*, <https://oceanservice.noaa.gov/facts/springtide.html> (last visited Oct. 17, 2019).

³⁷ Fla. Admin. Code R. 62B-33.024.

³⁸ *Id.* Applicants may submit projections by licensed engineers.

³⁹ Section 161.053(5), F.S.; DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program*, 6 (2017), available at <https://floridadep.gov/water/coastal-construction-control-line/documents/homeowners-guide-coastal-construction-control-line> (last visited Oct. 18, 2019).



The Coastal Zone Protection Act

The Coastal Zone Protection Act of 1985 (Act) was created to minimize the impacts that activities or construction near the coast have on Florida's coastal areas.⁴⁰ The Legislature intended the Act to impose strict construction standards in Florida's coastal areas to protect the natural environment, private property, and life.⁴¹ The Act covers activities and construction within the "coastal building zone:" an area stretching landward from the seasonal high-water line to a line 1,500 feet landward from the CCCL, except that on coastal barrier islands, the coastal building zone stretches 5,000 feet landward from the CCCL.⁴² The Act uses the term "construction" to mean either the act of construction or the result of construction, and defines construction as "the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land."⁴³

The Act defines certain types of structures regulated within the coastal building zone.⁴⁴ "Major structure[s]" are residential, commercial, or public buildings, and other construction having the potential for substantial impact on coastal zones.⁴⁵ "Nonhabitable major structure[s]" are structures that people would generally not dwell in, such as parking garages, drainage structures, electrical power plants, transmission lines, and underground storage tanks.⁴⁶ "Minor structure[s]" are structures that are considered to be expendable under wind, wave, or storm forces, and examples include walkways, bathhouses, fences, and uncovered paved areas.⁴⁷

⁴⁰ Sections 161.52-161.58, F.S.

⁴¹ Section 161.53(1),(4), and (5), F.S.

⁴² Section 161.54(1), F.S.; s. 161.55(4), F.S.

⁴³ Section 161.54(5), (12) F.S. "Substantial improvement" means "any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the improvement or repair of the structure to its pre-damage condition equals or exceeds 50 percent of the market value of the structure either: (a) Before the improvement or repair is started; or (b) If the structure has been damaged and is being restored, before the damage occurred."

⁴⁴ Section 161.54(6), F.S.

⁴⁵ Section 161.54(6)(a), F.S.

⁴⁶ Section 161.54(6)(c), F.S.

⁴⁷ Section 161.54(6)(b), F.S.

The Act generally requires construction to be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and preserve dune stability.⁴⁸ Nonhabitable major structures and minor structures must be designed to produce the minimum adverse impact on the beach and dune system.⁴⁹ Minor structures must be designed to produce the minimum adverse impact to adjacent properties and reduce the potential for water or wind-blown material.⁵⁰ The Act states that both the DEP and local governments have the authority to adopt or enforce standards for construction seaward of the CCCL that are as restrictive or more restrictive than the Act.⁵¹

At or before the sale of real property located partially or totally seaward of the CCCL, the seller must give prospective purchasers a certain written disclosure statement, which states that the property may be subject to coastal erosion and to federal, state, and local regulations that govern coastal property.⁵² The disclosure statement indicates that the DEP can provide additional information on whether significant erosion conditions are associated with the shoreline of the property being purchased. The Legislature found it necessary to ensure that purchasers of interests in real property located in coastal areas are fully aware that such lands are subject to frequent and severe fluctuations.⁵³

Florida Building Code

The Department of Business and Professional Regulation's Florida Building Commission (the Commission) develops, amends, and adopts by rule the Florida Building Code.⁵⁴ The Florida Building Code provides the minimum standard building code which must be applied and enforced by each local government in Florida.⁵⁵ The code contains or incorporates by reference all laws and rules governing the design, construction, and repair of public and private structures in the state. In compliance with statutory requirements, local governments may pass ordinances creating local requirements that are more stringent than the statewide code.⁵⁶

The code contains structural design requirements for the design, construction, improvement, and repair of certain structures seaward of the CCCL or the 50-foot setback line.⁵⁷ Special standards in the code apply in areas such as High-Velocity Hurricane Zones and flood hazard areas.⁵⁸ In flood hazard areas, if repairing "substantial damage," meaning the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the before-damaged market value, all aspects of the structure must comply with the requirements for new construction for

⁴⁸ Section 161.55(3), F.S. The Act makes exceptions for certain structures such as piers, beach access ramps, or shore protection structures.

⁴⁹ Section 161.55(1), (2), F.S. Special requirements for flood proofing nonhabitable major structures exist for sewage treatment plants, public water supply systems, and underground utilities. These are intended to prevent infiltration of surface water from a 100-year storm event, or else loss of function during submersion.

⁵⁰ Section 161.55(1), F.S.

⁵¹ Section 161.56(1), F.S.

⁵² Section 161.57(2), F.S.

⁵³ Section 161.57(1), F.S.

⁵⁴ DBPR, *Building Code Information System*, <https://floridabuilding.org/c/default.aspx> (last visited Oct. 18, 2019).

⁵⁵ Section 553.73, F.S.; Fla. Admin. Code R. 61G20-1.001(1).

⁵⁶ Section 553.73 (4)-(5), F.S. Special exemptions apply to ordinances relating to flooding.

⁵⁷ Section 3109, Florida Building Code, Building, 6th Edition (2017), https://codes.iccsafe.org/content/FBC2017/chapter-31-special-construction#FBC2017_Ch31_Sec3109 (last visited Oct. 18, 2019).

⁵⁸ Section 202, Florida Building Code, Building, 6th Edition (2017).

flood design.⁵⁹ “Substantial structural damage” means certain damage to the load-carrying structures of a building, and the code has separate requirements for repairing such damage.⁶⁰

The Commission updates the code every three years, and the 7th edition will be adopted in 2020.⁶¹ The proposed modifications include changes related to hurricane protection, such as new roofing requirements to mitigate water intrusion, more stringent wind resistance for vinyl siding, additional inspections for exterior wall coverings, and revised wind speed requirements for essential facilities.⁶²

Coastal Resilience

State Programs

Governor DeSantis’ Executive Order 19-12 created the Office of Resilience and Coastal Protection to help prepare Florida’s coastal communities and habitats for impacts from sea-level rise by providing funding, technical assistance, and coordination among state, regional, and local entities.⁶³ In August of 2019, the Governor appointed Florida’s first Chief Resilience Officer, which will report to the Executive Officer of the Governor and collaborate with state agencies, local communities, and stakeholders to prepare for sea-level rise and climate change.⁶⁴

The DEP’s Florida Resilient Coastlines Program helps prepare coastal communities and habitats for the effects of climate change and sea-level rise by offering technical assistance and funding to communities dealing with coastal flooding, erosion, and ecosystem changes.⁶⁵ In 2019, the DEP awarded funding for numerous projects providing assistance for coastal Florida communities.⁶⁶ Priority areas include implementing statutory requirements and objectives, vulnerability assessments, adaptation plans, regional efforts, and environmental justice.⁶⁷

⁵⁹ Section 404.5, Florida Building Code, Existing Building, 6th Edition (2017), https://codes.iccsafe.org/content/FEBC2017/chapter-4-prescriptive-compliance-method#FEBC2017_Ch04_Sec404.5 (last visited Oct. 21, 2019).

⁶⁰ Section 404, Florida Building Code, Existing Building, 6th Edition (2017).

⁶¹ Section 553.73(7), F.S.; DBPR, *Materials Related to the 2020 Update, Supplements - Post Commission August 13, 2019*, http://www.floridabuilding.org/fbc/thecode/2020_Code_Development/2020_Code_Development_Process.htm (last visited Oct. 19, 2019). In the top table, under Florida Supplement, the links show modifications approved by the Commission.

⁶² Florida Senate, Committee on Community Affairs, *Video of Committee Meeting on 10/14/2019*, 32:00:00 http://www.flsenate.gov/Media/VideoPlayer?EventId=2443575804_2019101070 (last visited Oct. 19, 2019).

⁶³ State of Florida, Office of the Governor, *Executive Order Number 19-12*, 5 (2019), available at <https://www.flgov.com/wp-content/uploads/2019/01/EO-19-12-.pdf> (last visited Oct. 20, 2019).

⁶⁴ Governor Ron DeSantis, News Releases, *Governor Ron DeSantis Announces Dr. Julia Nesheiwat as Florida’s First Chief Resilience Officer* (Aug. 1, 2019), <https://flgov.com/2019/08/01/governor-ron-desantis-announces-dr-julia-nesheiwat-as-floridas-first-chief-resilience-officer/> (last visited Oct. 20, 2019).

⁶⁵ DEP, *Florida Resilient Coastlines Program*, <https://floridadep.gov/ResilientCoastlines> (last visited Oct. 19, 2019).

⁶⁶ DEP, *Funded Projects*, <https://floridadep.gov/rcp/florida-resilient-coastlines-program/content/funded-projects> (last visited Oct. 19, 2019).

⁶⁷ DEP, *Resiliency Planning Grants, Fiscal Year 2020-2021, Grant Goals and Priorities*, <https://floridadep.gov/sites/default/files/RPG-FY-20-21-Goals-and-Priorities.pdf> (last visited Oct. 19, 2019).

The program has published the Florida Adaptation Planning Guidebook to be used by local governments to develop and update adaptation plans for sea-level rise.⁶⁸ The guidebook breaks down the adaptation planning process into four steps, and below is a summary:

- Context: organizing and engaging stakeholders, and delineating the geographic boundaries of the planning area, including the assets and structures contained therein.
- Vulnerability Assessment: an exposure analysis to determine how much sea-level rise will occur and where, a sensitivity analysis to provide an inventory of community assets and features located in areas at risk, and assigning focus areas that will receive attention in adaptation strategies.
- Adaptation Strategies: assess adaptive capacities such as planning capabilities and fiscal capacity, prioritize adaptation needs, and identify adaptation strategies, which may include strategies in the following categories:
 - “Protection” strategies that are structurally defensive measures;
 - “Accommodation” strategies that alter the design of vulnerable structures so structures or land use can stay in place with modification;
 - “Retreat” strategies; and
 - “Avoidance” strategies that guide development away from areas subject to coastal hazards, by implementing policies or offering incentives.
- Implementation: survey funding options, create a schedule of activities, actions and actors, and monitor and evaluate adaptation strategies.⁶⁹

The DEP’s Florida Coastal Management Program implements the Coastal Partnership Initiative, which makes funding from NOAA available to Florida’s 35 coastal counties, and municipalities therein, that are required to include a coastal zone protection element in their comprehensive plan.⁷⁰ Grant applications must benefit the management of coastal resources, and meet the purpose of at least one of the initiative’s priority areas: resilient communities, coastal resource stewardship, access to coastal resources, and working waterfronts.⁷¹

The DEP issues permits for coastal armoring, defined as manmade structures, such as seawalls or bulkheads, that protect upland properties and structures from erosion, wave action, or currents.⁷² While hardened structures may be necessary in areas of high wave energy, armoring can create problems such as costly construction and maintenance, erosion, and loss of biodiversity and ecosystem services.⁷³ Living shorelines are a nature-based approach to coastal protection, using natural elements such as ecosystems, vegetation, stone, or organic materials to increase coastal resilience and adapt to sea-level rise.⁷⁴ The DEP provides exemptions from environmental

⁶⁸ DEP Guidebook, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 19, 2019).

⁶⁹ *Id.* at 1-61.

⁷⁰ DEP, *Florida Coastal Management Program*, <https://floridadep.gov/rcp/fcmp> (last visited Oct. 19, 2019); DEP, *Coastal Partnership Initiative*, <https://floridadep.gov/rcp/fcmp/content/coastal-partnership-initiative> (last visited Oct. 19, 2019).

⁷¹ Fla. Admin. Code R. Ch. 62S-4.

⁷² Sections 161.053 and 161.085, F.S.; Fla. Admin. Code Rules 62B-33.0051, 62B-34.010(4), and 62B-41.002(4).

⁷³ DEP, *Living Shorelines*, <https://floridadep.gov/rcp/rcp/content/living-shorelines> (last visited Oct. 20, 2019).

⁷⁴ Bilkovic et. al., *Living Shorelines: The Science and Management of Nature-Based Coastal Protection*, Taylor & Francis Group, 11-25 (2017); Florida Living Shorelines, *Home*, <http://floridalivingshorelines.com/> (last visited Oct. 20, 2019).

resource permitting for small-scale shoreline stabilization projects including living shorelines projects.⁷⁵

In addition to the DEP, other state agencies are working on coastal resilience in Florida. The Department of Transportation plans for resilience to prepare Florida's transportation system for potential hazards.⁷⁶ The Department of Economic Opportunity works with the DEP on the Community Resiliency Initiative, assisting communities with adaptation planning.⁷⁷ The Fish and Wildlife Conservation Commission is Florida's lead agency on addressing the impacts of climate change on fish and wildlife, including adaptation strategies for Florida's coastal ecosystems.⁷⁸ The Division of Emergency Management in the Executive Office of the Governor maintains a state-wide emergency management program, and its roles include administering federal mitigation grant programs and serving as Florida's state coordinating agency for the National Flood Insurance Program.⁷⁹

Regional Programs

The water management districts address flood protection as a core part of their respective missions, and many of their activities are related to resilience efforts. For example, the St. John's River Water Management District provides resources and cost-sharing to increase community resilience.⁸⁰ The South Florida Water Management District is implementing comprehensive plans for addressing sea-level rise, including a flood protection level of service program, incorporating sea-level rise projections into planning, conducting vulnerability assessments, and assisting local governments.⁸¹

In 2010, through a proactive regional collaboration to address climate change, the four counties of Broward, Miami-Dade, Monroe, and Palm Beach signed on to the Southeast Florida Regional Climate Change Compact.⁸² The product has included developing a Regional Climate Action

⁷⁵ Fla. Admin. Code R. 62-330.051(12)(e); see UF IFAS, *Streamlining Resiliency: Regulatory Considerations in Permitting Small-Scale Living Shorelines in Florida*, 1-3 (Apr. 2018), <https://edis.ifas.ufl.edu/pdf/SG/SG15500.pdf> (last visited Oct. 20, 2019).

⁷⁶ DOT, *Florida Transportation Plan (FTP): Resilience*, <http://www.floridatransportationplan.com/resilience.htm> (last visited Oct. 25, 2019); DOT, *Florida Transportation Plan (FTP): Resilience Subcommittee Members*, http://www.floridatransportationplan.com/resilience_committee.htm (last visited Oct. 31, 2019).

⁷⁷ DEO, *Adaptation Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/adaptation-planning> (last visited Oct. 19, 2019).

⁷⁸ FWC, *What FWC is Doing*, <https://myfwc.com/conservation/special-initiatives/climate-change/fwc/> (last visited Oct. 19, 2019); FWC, *A Guide to Climate Change Adaptation for Conservation*, 6-81-6-108, 9-35-9-51 (2016), available at <https://myfwc.com/media/5864/adaptation-guide.pdf> (last visited Oct. 20, 2019).

⁷⁹ DEM, *Mitigation*, <https://www.floridadisaster.org/dem/mitigation/> (last visited Oct. 20, 2019); DEM, *State Flood Plain Management Program*, <https://www.floridadisaster.org/dem/mitigation/floodplain/> (last visited Oct. 20, 2019).

⁸⁰ St. John's River Water Management District, *Sea-Level Rise*, <https://www.sjrwmd.com/localgovernments/sea-level-rise/#projects> (last visited Oct. 30, 2019).

⁸¹ Akintunde Owosina, South Florida Water Management District, Governing Board Meeting, June 13, 2019, Chief, Hydrology and Hydraulics Bureau, *Impact of Sea Level Rise on the SFWMD Mission, Focus on Flood Protection*, 2, 6, 7-10 (June 13, 2019) available at <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/21964> (last visited Oct. 20, 2019).

⁸² Regional Climate Leadership Summit, *Southeast Florida Regional Climate Change Compact* (2010), available at <http://southeastfloridacclimatecompact.org/wp-content/uploads/2014/09/compact.pdf> (last visited Oct. 31, 2019); SFRCCC, *What is the Compact?*, <http://southeastfloridacclimatecompact.org/about-us/what-is-the-compact/> (last visited Oct. 31, 2019).

Plan and developing a Unified Sea Level Rise Projection.⁸³ One of the many recommendations in the regional plan is for local governments in the region to incorporate the unified sea-level rise projections into their comprehensive plans, and at least 45 municipalities have completed this recommendation.⁸⁴

Florida's regional planning councils have many programs on resilience initiatives.⁸⁵ For example, the Tampa Bay Regional Planning Council formed the ONE BAY Resilient Communities program, which advances collaborative resilience in the Tampa Bay region.⁸⁶ The East Central Florida Regional Planning Council has produced a Regional Resiliency Action Plan and formed the East Central Florida Regional Resilience Collaborative.⁸⁷ The Northeast Florida Regional Council has provided a Regional Action Plan for sea-level rise.⁸⁸

Local Governments

Florida's local governments in coastal areas must have a coastal management element in their comprehensive plans.⁸⁹ These coastal management elements must use principles to eliminate inappropriate and unsafe development in coastal areas when opportunities arise, and they must:

- Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.
- Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency (FEMA).
- Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in Florida.
- Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable federal flood plain management regulations.
- Require that any construction activities seaward of the coastal construction control lines be consistent with ch. 161, F.S., which regulates coastal construction.

⁸³ SFRCCC, *Regional Climate Action Plan*, <http://southeastfloridaclimatecompact.org/regional-climate-action-plan/> (last visited Oct. 31, 2019); SFRCCC, *Unified Sea Level Rise Projection, Southeast Florida*, 5, 11, 13, 33 (2015), available at <http://www.southeastfloridaclimatecompact.org/wp-content/uploads/2015/10/2015-Compact-Unified-Sea-Level-Rise-Projection.pdf> (last visited Oct. 31, 2019).

⁸⁴ SFRCCC, *ST-1: Incorporate Projections Into Plans*, <http://southeastfloridaclimatecompact.org/recommendations/incorporate-projections-into-plans/> (last visited Oct. 31, 2019); see also SFRCCC, *Integrating the Unified Sea Level Rise Projection into Local Plans*, 17-21 (2017), available at <https://southeastfloridaclimatecompact.org/wp-content/uploads/2017/01/SLRGuidance-Doc.pdf> (last visited Oct. 16, 2019).

⁸⁵ *Peril of Flood - Florida's Coastal Resiliency Portal*, <https://www.perilofflood.net/> (last visited Oct. 30, 2019).

⁸⁶ Tampa Bay Regional Planning Council, *One Bay Resilient Communities*, <http://www.tbrpc.org/onebay/> (last visited Oct. 31, 2019).

⁸⁷ East Central Florida Regional Planning Council, *East Central Florida Regional Resiliency Action Plan* (2018), available at <http://ftp.ecfrpc.org/Projects/East%20Central%20Florida%20Regional%20Resiliency%20Action%20Plan.pdf> (last visited Oct. 31, 2019); East Central Florida Regional Planning Council, *East Central Florida Regional Resilience Collaborative*, <https://metroplanorlando.org/wp-content/uploads/CFMPOA-MOU-presentation.pdf> (last visited Oct. 31, 2019).

⁸⁸ Northeast Florida Regional Council, *Summary and Regional Action Plan: A Report of the Emergency Preparedness Committee on Sea Level Rise*, <http://www.nefrc.org/WiP/PDFs/Resource-Library/Regional-Action-Plan.pdf> (last visited Oct. 31, 2019).

⁸⁹ Sections 380.24 and 163.3177(6)(g), F.S.

- Encourage local governments to participate in the National Flood Insurance Program Community Rating System administered by the FEMA to achieve flood insurance premium discounts for their residents.⁹⁰

Florida's Community Planning Act authorizes local governments to establish an "adaptation action area" designation in their comprehensive plan for low-lying coastal zones that are experiencing coastal flooding and are vulnerable to the impacts of sea-level rise.⁹¹ This enables local governments to develop policies and funding priorities that improve coastal resilience and plan for sea-level rise.

Flood Insurance

The FEMA administers the National Flood Insurance Program, created to offer federally subsidized flood insurance to property owners and to encourage land-use controls in floodplains.⁹² The National Flood Insurance Program makes flood insurance available to communities that adopt and enforce a floodplain management ordinance to reduce future flood risk to new construction in floodplains.⁹³ Communities eligible to participate in the National Flood Insurance Program community rating system receive discounts on flood insurance premiums.⁹⁴

An important aspect of the National Flood Insurance Program is the flood maps that FEMA creates to support the program.⁹⁵ A Flood Insurance Rate Map is an official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community.⁹⁶ These maps have many applications relevant to resilience planning, including communicating base flood elevations and flood risk, establishing special flood hazard areas where flood insurance is required, and setting local floodplain and building standards.⁹⁷

⁹⁰ Section 163.3178(2)(f), F.S. (referencing 44 C.F.R. part 60, relating to insurance and hazard mitigation, criteria for land management and use); Ch. 2015-69, Laws of Fla. This is referred to as the "Peril of Flood" law.

⁹¹ Sections 163.3177(6)(g) and (10) and 163.3164(1), F.S.; Ch. 2011-139, Laws of Fla.

⁹² 42 U.S.C. § 4001 *et seq.*; 44 C.F.R. Ch. I, Subchap. B.; FEMA, *The National Flood Insurance Program*, <https://www.fema.gov/national-flood-insurance-program> (last visited Oct. 20, 2019).

⁹³ FEMA, *National Flood Insurance Program, Program Description* (Aug. 1, 2002), available at https://www.fema.gov/media-library-data/20130726-1447-20490-2156/nfipdescrip_1.pdf (last visited Oct. 20, 2019).

⁹⁴ FEMA, *Fact Sheet: Community Rating System* (2017), available at https://www.fema.gov/media-library-data/1507029324530-082938e6607d4d9eba4004890dbad39c/NFIP_CRS_Fact_Sheet_2017_508OK.pdf (last visited Oct. 20, 2019).

⁹⁵ FEMA, *FEMA Flood Map Service Center: Welcome!*, <https://msc.fema.gov/portal/home> (last visited Oct. 20, 2019).

⁹⁶ 44 C.F.R. § 59.1.

⁹⁷ FEMA, *Flood Maps: Know Your Risk and Take Action Against Flooding*, 2, available at https://www.fema.gov/media-library-data/1516468489259-8eb4bfef27ab35159b2f140a2926e809/What_Goes_Into_a_Flood_Map.pdf (last visited Oct. 20, 2019); *SHMP*, at 102-103, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Oct. 16, 2019); *DEP Guidebook*, at 40-41, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Oct. 16, 2019).

III. Effect of Proposed Changes:

Section 1 creates s. 161.551, F.S., titled “Public financing of construction projects within the coastal building zone.” The new section is effective July 1, 2021.

The bill creates definitions for five terms, defining them as they are used in the section:

- “Coastal structure” is defined as “a major structure or nonhabitable major structure within the coastal building zone.” As used within the section, the term “coastal structure” would generally include residential, commercial, and public buildings that could substantially impact coastal zones, as well as major uninhabited structures such as parking garages or drainage structures, that are located landward of the seasonal high-water line to a line 1,500 feet landward from the coastal construction control line.
- “Public entity” is defined as “the state or any of its political subdivisions, or any municipality, county, agency, special district, authority, or other public body corporate of the state which is demonstrated to perform a public function or to serve a governmental purpose that could properly be performed or served by an appropriate governmental unit.”
- “SLIP study” is defined as “a sea level impact projection study” as established by the Department of Environmental Protection (DEP) pursuant to requirements specified in the bill.
- “State-financed constructor” is defined as “a public entity that commissions or manages a construction project using funds appropriated from the state.”
- “Substantial flood damage” is defined to mean “flood, inundation, or wave action damage resulting from a single event, such as a flood or tropical weather system, where such damage exceeds 25 percent of the market value of the coastal structure at the time of the event.”

The bill requires the DEP to develop by rule the standards for a SLIP study. The standards may require that a professional engineer sign off on the study. Further, the rule is effective one year after the date it is finalized and applies only to projects not yet commenced as of the date the rule is finalized. The rule may not apply retroactively to projects that commenced before the date the rule is finalized. The standards must require that state-financed constructors, at a minimum, do all of the following for conducting a SLIP study:

- Use a systematic, interdisciplinary, and scientifically accepted approach in the natural sciences and construction design in conducting the study.
- Assess the flooding, inundation, and wave action damage risks relating to the coastal structure over its expected life or 50 years, whichever is less. This assessment must:
 - Take into account potential sea-level rise and increased storm risk during the expected life of the coastal structure or 50 years, whichever is less, and to the extent possible, account for the contribution of sea-level rise versus land subsidence to the relative local sea-level rise;
 - Provide scientific and engineering evidence of the risk to the coastal structure and methods used to mitigate, adapt to, or reduce this risk;
 - Use and consider available scientific research and generally accepted industry practices;
 - Provide the mean average annual chance of substantial flood damage over the expected life of the coastal structure or 50 years, whichever is less; and
 - Analyze potential public safety and environmental impacts resulting from damage to the coastal structure including, but not limited to, leakage of pollutants, electrocution and explosion hazards, and hazards resulting from floating or flying structural debris.

- Provide alternatives for the coastal structure's design and siting, including discussion of how such alternatives would affect the potential public safety and environmental impacts assessed in the study, as well as the risks and costs associated with maintaining, repairing, and constructing the coastal structure.

The bill requires the DEP to publish and maintain on its website a copy of all SLIP studies it receives pursuant to the bill for a period of at least 10 years following receipt. However, the bill requires the DEP to redact, prior to publication, any portion of a SLIP study containing information that is exempt from Art. I, s. 24(a) of the State Constitution and s. 119.07(1), F.S., which provide for access to public records.

Beginning one year after the DEP's rule regarding SLIP studies is finalized, the bill requires state-financed constructors to conduct SLIP studies pursuant to the DEP's standards. The bill prohibits a state-financed constructor from commencing construction of a coastal structure without first doing all of the following:

- Conducting a SLIP study meeting the standards established by the DEP.
- Submitting the SLIP study to the DEP. If multiple coastal structures are to be built concurrently within one project, a state-financed constructor may conduct and submit one SLIP study for the entire project.
- Receiving notification from the DEP that the study was received and published on the DEP's website for at least 30 days. The bill states that the state-financed constructor is solely responsible for ensuring that the study submitted to the DEP meets the established standards.

If a state-financed constructor begins construction of a coastal structure without first submitting a SLIP study as required under the section, then the DEP is authorized to institute a civil action.

Such civil action may be brought to:

- Seek injunctive relief to cease further construction of the coastal structure;
- Enforce compliance with s. 161.551, F.S., or rules adopted by the DEP pursuant to it; or,
- If the coastal structure has been completed or substantially completed, seek recovery of all or a portion of state funds expended on the coastal structure.

The DEP is required to adopt rules as necessary to administer the section. The DEP is authorized to enforce the requirements of the section. The section may not be construed to create a cause of action for damages or otherwise authorize the imposition of penalties by a public entity for failure to implement what is contained in the SLIP study.

Section 2 provides the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires procedures that identify long-term risks to coastal structures, and potentially avoid some of the large costs of mitigating and dealing with future damage to, or even loss of, coastal structures. To the extent that costs of damage or destruction are avoided, residents and businesses may benefit. The bill may also have a positive, indeterminate impact on private service providers who may be engaged to perform the studies required by the bill. Therefore, the bill may have a positive, indeterminate impact on the private sector.

C. Government Sector Impact:

The bill requires the DEP to promulgate and administer new regulations which may cause the DEP to incur additional costs.

Requiring government entities to conduct a sea-level impact study prior to construction may result in an indeterminate, negative fiscal impact on the government sector in the short-term. However, the bill requires procedures that identify risks and potentially avoid damage and loss of coastal structures that are constructed, at least in part, using funds appropriated from the state. This may result in state funds, or potentially federal grant money that is appropriated from the state, being used for coastal structures that have less risk of damage or loss over time, or coastal structures that may remain undamaged or intact for a longer period of time. Therefore, the bill may result in an indeterminate, positive impact on the government sector in the long-term.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 161.551 of the Florida Statutes.

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

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute:

- Amends the date that a state-financed constructor may not commence construction of a coastal structure without a SLIP study to one year after the DEP's rule regarding slip studies is in effect, rather than July 1, 2021.
- Removes the condition that official baseline projections as provided in s. 14.2031, F.S., must be adopted for the requirements to conduct a SLIP study go into effect.
- Specifies that the DEP's rule regarding SLIP studies must be effective one year after the date it is finalized and applies only to projects that have not yet commenced as of the date the rule is finalized. The rule may not apply retroactively to projects that commenced before the date the rule is finalized.
- Removes the requirement that the DEP's rule require assessments of flooding, inundation, and wave action damage risks to be based on the official baseline projections of sea-level rise and flooding impacts adopted as provided in s. 14.2031, F.S.
- Adds to the requirements for the DEP's rule that assessments of risks to coastal structures must, to the extent possible, account for the contribution of sea-level rise versus land subsidence to the relative local sea-level rise.
- Clarifies that the bill may not be construed to create a cause of action for damages or otherwise authorize the imposition of penalties by a public entity for failure to implement what is contained in the SLIP study.
- Provides an effective date of July 1, 2020.

CS by Infrastructure and Security on December 9, 2019:

The committee substitute:

- Delays the effective date of the bill until the date on which SB 7016 takes effect, July 1, 2020.
- Applies the requirement for a SLIP study after July 1, 2021, contingent on the Sea-Level Rise Task Force's recommended baseline projections being adopted by the Environmental Regulation Commission.
- Provides the flooding, inundation, and wave action damage risk assessment required by the bill be based on the State's official baseline projections.
- Clarifies that the remedies provided in the bill do not apply until after July 1, 2021.

B. Amendments:

None.

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

By the Committee on Infrastructure and Security; and Senator Rodriguez

596-02006-20

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A bill to be entitled

An act relating to public financing of construction projects; creating s. 161.551, F.S.; defining terms; prohibiting state-financed constructors from commencing construction of certain structures in coastal areas after a specified date without first taking certain steps regarding a sea level impact projection study; requiring the Department of Environmental Protection to develop by rule a standard for such studies; requiring the department to publish such studies on its website, subject to certain conditions; requiring the department to enforce certain requirements and to adopt rules; providing for enforcement; providing a contingent effective date.

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

Section 1. Effective July 1, 2021, section 161.551, Florida Statutes, is created to read:

161.551 Public financing of construction projects within the coastal building zone.—

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

(a) "Coastal structure" means a major structure or nonhabitable major structure within the coastal building zone.

(b) "Public entity" means the state or any of its political subdivisions, or any municipality, county, agency, special district, authority, or other public body corporate of the state which is demonstrated to perform a public function or to serve a governmental purpose that could properly be performed or served

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by an appropriate governmental unit.

(c) "SLIP study" means a sea level impact projection study as established by the department pursuant to subsection (3).

(d) "State-financed constructor" means a public entity that commissions or manages a construction project using funds appropriated from the state.

(e) "Substantial flood damage" means flood, inundation, or wave action damage resulting from a single event, such as a flood or tropical weather system, where such damage exceeds 25 percent of the market value of the coastal structure at the time of the event.

(2) After July 1, 2021, if official baseline projections are adopted as provided in s. 14.2031, a state-financed constructor may not commence construction of a coastal structure without:

(a) Conducting a SLIP study that meets the requirements established by the department;

(b) Submitting the study to the department; and

(c) Receiving notification from the department that the study was received and that it has been published on the department's website pursuant to paragraph (6)(a) for at least 30 days. The state-financed constructor is solely responsible for ensuring that the study submitted to the department for publication meets the requirements under subsection (3).

(3) The department shall develop by rule a standard by which a state-financed constructor must conduct a SLIP study and may require that a professional engineer sign off on the study. At a minimum, this standard must require that a state-financed constructor do all of the following:

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(a) Use a systematic, interdisciplinary, and scientifically accepted approach in the natural sciences and construction design in conducting the study.

(b) Based on the official baseline projections of sea-level rise and flooding impacts adopted as provided in s. 14.2031, assess the flooding, inundation, and wave action damage risks relating to the coastal structure over its expected life or 50 years, whichever is less.

1. The assessment must take into account potential sea level rise and increased storm risk during the expected life of the coastal structure or 50 years, whichever is less.

2. The assessment must provide scientific and engineering evidence of the risk to the coastal structure and methods used to mitigate, adapt to, or reduce this risk.

3. The assessment must use and consider available scientific research and generally accepted industry practices.

4. The assessment must provide the mean average annual chance of substantial flood damage over the expected life of the coastal structure or 50 years, whichever is less.

5. The assessment must analyze potential public safety and environmental impacts resulting from damage to the coastal structure including, but not limited to, leakage of pollutants, electrocution and explosion hazards, and hazards resulting from floating or flying structural debris.

(c) Provide alternatives for the coastal structure's design and siting, and how such alternatives would impact the risks specified in subparagraph (b)5. as well as the risk and cost associated with maintaining, repairing, and constructing the coastal structure.

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If multiple coastal structures are to be built concurrently within one project, a state-financed constructor may conduct and submit one SLIP study for the entire project for publication by the department.

(4) If a state-financed constructor commences construction of a coastal structure, but has not complied with the SLIP study requirement under subsection (2), the department may institute a civil action in a court of competent jurisdiction to:

(a) Seek injunctive relief to cease further construction of the coastal structure or enforce compliance with this section or with rules adopted by the department pursuant to this section.

(b) If the coastal structure has been completed or has been substantially completed, seek recovery of all or a portion of state funds expended on the coastal structure.

(5) This section may not be construed to create a cause of action for damages.

(6) The department:

(a) Shall publish and maintain a copy of all SLIP studies submitted pursuant to this section on its website for at least 10 years after receipt. However, any portion of a study containing information that is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution must be redacted by the department before publication.

(b) Shall adopt rules as necessary to administer this section.

(7) The department may enforce the requirements of this section.

Section 2. This act shall take effect on the same date that

596-02006-20

2020178c1

117 SB 7016 or similar legislation takes effect, if such legislation
118 is adopted in the same legislative session or an extension
119 thereof and becomes a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, Vice Chair
Appropriations Subcommittee on Agriculture,
Environment and General Government
Ethics and Elections
Rules

SENATOR JOSE JAVIER RODRIGUEZ
37th District

February 14th, 2020

Chair Bradley
Committee on Appropriations
404 S. Monroe Street
Tallahassee, FL 32399-1100
Sent via email to bradley.rob@flsenate.gov

Chair Bradley,

I respectfully request that you place SB 178: Public Financing of Construction Projects on the agenda of the Appropriations Committee at your earliest convenience.

Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink, appearing to read "JR", is written over a horizontal line.

Senator José Javier Rodríguez
District 37

CC:

Cynthia Sauls Kynoch, Staff Director
Alicia Weiss, Administrative Assistant
Mary Lee, Legislative Assistant
Tonya Shays, Legislative Assistant
Taylor Ferguson, Legislative Assistant

REPLY TO:

✪ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 854-0365
✪ 220 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5037

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, Vice Chair
Appropriations Subcommittee on Agriculture,
Environment and General Government
Ethics and Elections
Rules

SENATOR JOSE JAVIER RODRIGUEZ
37th District

February 24th, 2020

Chair Bradley
Committee on Appropriations
404 S. Monroe Street
Tallahassee, FL 32399-1100
Sent via email to bradley.rob@flsenate.gov

SENATE APPROPRIATIONS
RECEIVED
2020 FEB 24 PM 2:55
SENT TO: CHAIRMAN
STAFF DIR. STAFF

Chair Bradley,

I respectfully request that you place SB 178: Public Financing of Construction Projects on the agenda of the Appropriations Committee at your earliest convenience.

Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Thank you,

Senator José Javier Rodríguez
District 37

CC:

Cynthia Sauls Kynoch, Staff Director
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Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/27/20

Meeting Date

178

Bill Number (if applicable)

Topic Public Financing of Construction Projects

Amendment Barcode (if applicable)

Name Paul Owens

Job Title President, 1000 Friends of Florida

Address 308 N. Monroe St.

Phone 850-222-6277

Street

Tallahassee, FL 32301

Email powens@1000fof.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing 1000 Friends of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 524

INTRODUCER: Appropriations Committee; Finance and Tax Committee; and Senator Gruters

SUBJECT: Sales Tax Holiday for Disaster Preparedness Supplies

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	Favorable
2.	Gross	Diez-Arguelles	FT	Fav/CS
3.	Gross	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 524 establishes an 18-day “disaster preparedness” sales tax holiday, from Friday, May 29 to Monday, June 15, 2020, during which time certain items purchased for disaster preparedness and protection are exempt from the sales and use tax and local discretionary sales surtaxes.

The bill allows the Department of Revenue to adopt emergency rules in order to implement the sales tax holiday.

The bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2019-2020.

The Revenue Estimating Conference has determined the bill will reduce General Revenue Fund receipts by \$20.7 million and local government revenue by \$6.1 million Fiscal Year 2020-2021.

The bill takes effect upon becoming law.

II. Present Situation:

Florida Sales Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁴

In addition to the state tax, section 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."⁵ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.5 to 2.5 percent.⁶

"Disaster Preparedness" Sales Tax Holidays

Florida has enacted a "disaster preparedness" sales tax holiday six times since 2006, exempting specified items in preparation for the Atlantic hurricane season that officially begins June 1 of each year. The types and values of exempted items have varied, and the length of the exemption periods has varied from 3 to 12 days.⁷

The Florida Division of Emergency Management recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit to last for a minimum of 7 days.⁸

The Florida Building Code

In 2000, the Legislature authorized the implementation of the Florida Building Code, and the first edition replaced all local codes on March 1, 2002. There have been six editions to date.⁹

Section 1609.1.2 of the Florida Building Code, 6th Edition (2017) Building, (FBC) requires glazed openings in buildings located within a wind-borne region to be impact resistant or

¹ Section 212.05(1)(a)1.a, F.S.

² Section 212.04(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ See s. 212.07(2), F.S., s. 212.06(3)(a), F.S.

⁵ Section 212.054(2)(a), F.S.

⁶ Office of Economic and Demographic Research, *Florida Tax Handbook*, 16 (2019), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Nov. 8, 2019) at 225-226.

⁷ *Id.* at 160.

⁸ Florida Division of Emergency Management, *Plan & Prepare: Disaster Supply Kit*, available at <https://www.floridadisaster.org/planprepare/disaster-supply-kit/> (last visited Jan. 6, 2020).

⁹ 2017 Florida Building Code – Building, Sixth Edition (July 2017) available at <https://codes.iccsafe.org/content/FBC2017> (last visited Feb. 13, 2020).

protected by an impact-resistant covering. The FBC requires that an impact-resistant glazed opening or garage door meet an approved impact-resistant standard, such as:

- ANSI/DASMA 115 (for garage doors and rolling doors).
- TAS 201, 202 and 203.
- AAMA 506.
- ASTM E1996.
- ASTM E1886.

These standards are methods for testing the structural stability and design of the window or door to ensure protection during periods of high wind.

III. Effect of Proposed Changes:

The bill establishes an 18-day period, from Friday, May 29 to Monday, June 15, 2020, during which the following items are exempt from the state sales tax and local discretionary sales surtaxes:

- Portable self-powered light sources selling for \$20 or less;
- Portable self-powered radios, two-way radios, or weather-band radios selling for \$50 or less;
- Tarpaulins or other flexible waterproof sheeting selling for \$50 or less;
- Any items normally sold as, or generally advertised as, ground anchor systems or tie-down kits selling for \$50 or less;
- Gas or diesel fuel tanks selling for \$25 or less;
- Packages of AA-cell, AAA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- Nonelectric food storage coolers selling for \$30 or less;
- Portable generators used to provide light or communications or preserve food selling for \$750 or less;
- Reusable ice selling for \$10 or less;
- Impact-resistant windows, when sold in units of 20 or fewer; and
- Impact-resistant doors and impact-resistant garage doors, when sold in units of 10 or fewer.

The exemptions for impact-resistant windows, doors, and garage doors apply to purchases made by an owner of residential real property where the impact-resistant windows or doors will be installed. The bill defines “impact-resistant” to mean that the window, door, or garage door complies with the standards for protection of openings and for wind-borne debris protection in the Florida Building Code, 6th Edition (2017) Residential, or in the Florida Building Code, 6th Edition (2017) Building. The purchaser must furnish to the selling dealer an affidavit stating that the items are to be used on residential property owned by the purchaser. The affidavit must include the name of the owner and the address of the residential property where the items will be installed. If a person furnishes a false affidavit to evade payment of the sales tax, the purchaser is subject to repayment of the tax, a mandatory penalty of 200 percent of the tax, and be subject to a fine and punishment as provided by law for a conviction of a felony of the third degree.¹⁰

¹⁰ Section 212.085, F.S. The fine and punishment for a conviction of a felony of the third degree is found in ss. 755.082, F.S., 775.083, F.S., and 775.084, F.S.

The exemptions provided for in the bill do not apply to the following:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

The bill appropriates, for the 2019-2020 Fiscal Year, \$70,072 in nonrecurring funds from the General Revenue Fund to the Department of Revenue for the purpose of implementing the sales tax holiday. Funds remaining unexpended as of June 30, 2020, shall revert and be re-appropriated for the same purpose in the 2020-2021 Fiscal Year.

The Department of Revenue may adopt emergency rules pursuant s. 120.54(4), F.S., for the purpose of implementing the bill.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,^{11, 12} which is \$2.2 million or less for Fiscal Year 2020-2021.¹³

The Revenue Estimating Conference determined that this bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$3.4 million in Fiscal Year 2020-2021. Therefore, the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

¹¹ FLA. CONST. art. VII, s. 18(d).

¹² An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Nov. 8, 2019).

¹³ Based on the Demographic Estimating Conference's April 1, 2020, estimated population adopted on Dec. 3, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Dec. 12, 2019).

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:**

The Revenue Estimating Conference determined that this bill will reduce General Revenue Fund receipts by \$20.7 million and local government revenue by \$6.1 million in Fiscal Year 2020-2021.¹⁴

B. Private Sector Impact:

Persons purchasing exempted items during the sales tax holidays will realize savings.

C. Government Sector Impact:

The bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2019-2020 to administer the “disaster preparedness” sales tax holiday.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates two undesignated sections of chapter law.

¹⁴ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *Disaster Preparedness Holiday, SB 524*, Feb. 3, 2020, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page47-52.pdf (last visited Feb. 10, 2020).

IX. Additional Information:

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute:

- Adds a requirement that the purchaser of the impact-resistant windows, doors, or garage doors submit an affidavit to the selling dealer stating that the item(s) will be installed at residential property owned by the purchaser.
- Establishes penalties for furnishing a false affidavit.

CS by Finance and Tax on February 13, 2020:

The CS:

- Expressly states that garage doors qualify for the exemption if sold in units of 10 or fewer.
- Defines “impact-resistant” to mean that the window, door, or garage door complies with the standards for protection of openings and for windborne debris protection in the Florida Building Code, 6th Edition (2017) Residential, or in the Florida Building Code, 6th Edition (2017) Building.

- B. **Amendments:**

None.



762896

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete line 51
and insert:
Building Code, 6th Edition (2017) Building. The purchaser must furnish to the selling dealer an affidavit stating that the impact-resistant windows, impact-resistant doors, or impact-resistant garage doors to be exempted are for the exclusive use designated herein and must include the name of the owner making the purchase and the address of the residential real property



762896

where the items will be installed. Any person furnishing a false affidavit to such effect for the purpose of evading payment of any tax imposed under chapter 212, Florida Statutes, is subject to the penalties set forth in s. 212.085, Florida Statutes, and as otherwise provided by law.

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

And the title is amended as follows:

Delete line 7

and insert:

term "impact-resistant"; requiring purchasers of certain items to furnish a specified affidavit and information to the selling dealer; providing a criminal penalty for furnishing a false affidavit with certain intent; specifying locations where

By the Committee on Finance and Tax; and Senator Gruters

593-03617-20

2020524c1

A bill to be entitled

An act relating to a sales tax holiday for disaster preparedness supplies; providing exemptions from the sales and use tax for specified disaster preparedness supplies during a specified timeframe; providing applicability for certain exemptions; defining the term "impact-resistant"; specifying locations where the exemptions do not apply; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation; providing an effective date.

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

Section 1. Disaster preparedness supplies; sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on May 29, 2020, through 11:59 p.m. on June 15, 2020, on the sale of:

(a) A portable self-powered light source selling for \$20 or less.

(b) A portable self-powered radio, two-way radio, or weather-band radio selling for \$50 or less.

(c) A tarpaulin or other flexible waterproof sheeting selling for \$50 or less.

(d) An item normally sold as, or generally advertised as, a ground anchor system or tie-down kit selling for \$50 or less.

(e) A gas or diesel fuel tank selling for \$25 or less.

(f) A package of AA-cell, AAA-cell, C-cell, D-cell, 6-volt,

593-03617-20

2020524c1

or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less.

(g) A nonelectric food storage cooler selling for \$30 or less.

(h) A portable generator used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less.

(i) Reusable ice selling for \$10 or less.

(j) Impact-resistant windows, when sold in units of 20 or fewer.

(k) Impact-resistant doors and impact-resistant garage doors, when sold in units of 10 or fewer.

The exemptions under paragraphs (j) and (k) apply to purchases made by an owner of residential real property where the impact-resistant windows, impact-resistant doors, or impact-resistant garage doors will be installed. For the purposes of this section, the term "impact-resistant" means that the window, door, or garage door complies with the standards for protection of openings and for windborne debris protection in the Florida Building Code, 6th Edition (2017) Residential, or in the Florida Building Code, 6th Edition (2017) Building.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The Department of Revenue may, and all conditions are

593-03617-20

2020524c1

59 deemed met to, adopt emergency rules pursuant to s. 120.54(4),
60 Florida Statutes, for the purpose of implementing this section.
61 Notwithstanding any other law, emergency rules adopted pursuant
62 to this subsection are effective for 6 months after adoption and
63 may be renewed during the pendency of procedures to adopt
64 permanent rules addressing the subject of the emergency rule.

65 Section 2. For the 2019-2020 fiscal year, the sum of
66 \$70,072 in nonrecurring funds is appropriated from the General
67 Revenue Fund to the Department of Revenue for the purpose of
68 implementing this act. Funds remaining unexpended or
69 unencumbered from this appropriation as of June 30, 2020, shall
70 revert and be reappropriated for the same purpose in the 2020-
71 2021 fiscal year.

72 Section 3. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

2/27/20

Meeting Date

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

524

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name B.D. Jogerst

Job Title Legislative Assistant

Address 516 N Adams

Street

Phone _____

Tallahassee

City

State

32301

Zip

Email bjogerst@aif.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020

Meeting Date

524

Bill Number (if applicable)

Topic Sale tax holiday - Disaster Prep

Amendment Barcode (if applicable)

Name Jake Farmer

Job Title Director Government Affairs

Address 227 S. Adams St.

Street

Phone 850 222 4082

Tallahassee FL 32301

City

State

Zip

Email Jake@frf.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Retail Federation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 542

INTRODUCER: Commerce and Tourism Committee and Senator Perry

SUBJECT: Back-to-school Sales Tax Holiday

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	<u>Gross</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 542 establishes a 10-day “back-to-school” sales tax holiday, from Friday, July 31, 2020 to Sunday, August 9, 2020, for certain clothing, school supplies, personal computers, and personal computer-related accessories.

The Revenue Estimating Conference determined that this bill will reduce General Revenue Fund receipts by \$50.3 million in Fiscal Year 2020-2021 and reduce local government revenues by \$14.8 million.

The bill appropriates \$237,000 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2019-2020.

The bill takes effect upon becoming law.

II. Present Situation:

Florida Sales Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁴

In addition to the state sales tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."⁵ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.5 to 2.5 percent.⁶

"Back-to-School" Sales Tax Holidays

Florida has enacted a "back-to-school" sales tax holiday 18 times since 1998. The Florida Residents' Tax Relief Act of 1998 established Florida's first tax holiday, during which clothing purchases of \$50 or less were exempt from tax.⁷ Backpacks were added to the tax holiday in 1999 and school supplies were added in 2001. In 2013, the Legislature expanded the exemption to include personal computers and related accessories selling for \$750 or less, purchased for noncommercial home or personal use. The duration of "back-to-school" sales tax holidays has varied from 3 to 10 days. The type and value of exempt items have also varied.⁸

Sixty-seven of the 73 school districts in Florida began the 2019-2020 school year on August 12, 2019, and the remaining school districts began by August 19, 2019.⁹

III. Effect of Proposed Changes:

The bill establishes a 10-day period, from July 31 to August 9, 2020, during which the following items are exempt from the state sales tax and local discretionary sales surtaxes:

¹ Section 212.05(1)(a)1.a, F.S.

² Section 212.04(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ See s. 212.07(2), F.S.

⁵ Section 212.054(2)(a), F.S.

⁶ Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook, Including Fiscal Impact of Potential Changes*, 219-226 (2019), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Feb. 10, 2020).

⁷ Chapter 98-341, Laws of Fla.

⁸ *Supra* note 6, at 156-160.

⁹ Florida Department of Education, *PK-12 Public School Data Publications and Reports*, available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/index.shtml> (last visited Jan 6, 2020).

- Clothing with a sales price of \$60 or less per item. “Clothing” is defined as any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and all footwear, excluding skis, swim fins, roller blades, and skates;
- Wallets and bags with a sales price of \$60 or less per item, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags;
- School supplies with a sales price of \$15 or less per item. “School supplies” is defined as pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, staplers and staples used to secure paper products, protractors, compasses, and calculators;
- Personal computers with a sales price of \$1,000 or less per item. “Personal computers” includes electronic book readers, laptops, desktops, handhelds, tablets, or tower computers and excludes cellular telephones, video game consoles, digital media receivers, or devices that are not primarily designed to process data; and
- Personal computer-related accessories with a sales price of \$1,000 or less per item. “Personal computer-related accessories” includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and non-recreational software regardless of whether the accessories are used in association with a personal computer base unit. The term excludes furniture or systems, devices, software, monitors with a television tuner, or peripherals that are designed or intended primarily for recreational use.

The bill allows a business to opt-out of participating in the sales tax holiday if less than 5 percent of the business’s gross sales of tangible personal property in the prior calendar year consist of items that would be exempt under the bill. A business meeting this threshold must notify the Department of Revenue (DOR), in writing, by July 30, 2020, of its election to collect sales tax during the holiday. The business must post a copy of that notice in a conspicuous location at its place of business.

The exemptions provided for in the bill do not apply to the following:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

The bill appropriates, for Fiscal Year 2019-2020, \$237,000 in nonrecurring funds from the General Revenue Fund to the DOR for the purpose of implementing the sales tax holiday. Funds remaining unexpended as of June 30, 2020, shall revert and be re-appropriated for the same purpose in Fiscal Year 2020-2021.

The DOR may adopt emergency rules pursuant s. 120.54(4), F.S., for the purpose of implementing the bill.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,^{10, 11} which is \$2.2 million or less for Fiscal Year 2020-2021.¹²

The Revenue Estimating Conference determined that this bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$8.3 million in Fiscal Year 2020-2021. Therefore, the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

¹⁰ FLA. CONST. art. VII, s. 18(d).

¹¹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Nov. 12, 2019).

¹² Based on the Demographic Estimating Conference's April 1, 2020, estimated population adopted on July 8, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Nov. 12, 2019).

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

The Revenue Estimating Conference determined that this bill will reduce General Revenue Fund receipts by \$50.3 million in Fiscal Year 2020-2021 and reduce local government revenues by \$14.8 million.¹³

B. Private Sector Impact:

Persons purchasing exempted items during the sales tax holidays will realize savings.

C. Government Sector Impact:

The bill appropriates \$237,000 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2019-2020 to administer the “back-to-school” sales tax holiday.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates two undesignated sections of chapter law.

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 Commerce and Tourism Committee on November 12, 2019:

The committee substitute lengthens the period during which personal computers and personal computer-related accessories are exempt from the state sales tax and local discretionary sales surtaxes.

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 Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *School Sales Tax Holiday, 10 days, \$60 Clothing/\$15 Supplies/\$1,000 or Less Computers, SB 542*, Feb. 3, 2020, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/pdf/page40-46.pdf> (last visited Feb. 10, 2020).

By the Committee on Commerce and Tourism; and Senator Perry

577-01344-20

2020542c1

A bill to be entitled

An act relating to a back-to-school sales tax holiday; providing exemptions from the sales and use tax on the retail sale of certain clothing, wallets, bags, school supplies, personal computers, and personal computer-related accessories during a specified timeframe; defining terms; specifying locations where the exemptions do not apply; authorizing certain dealers to opt out of participating in the tax holiday, subject to certain requirements; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation; providing an effective date.

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

Section 1. Clothing, school supplies, personal computers, and personal computer-related accessories; sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on July 31, 2020, through 11:59 p.m. on August 9, 2020, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of \$60 or less per item. As used in this paragraph, the term "clothing" means:

1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry,

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umbrellas, and handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of \$15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, staplers and staples used to secure paper products, protractors, compasses, and calculators.

(2) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on July 31, 2020, through 11:59 p.m. on August 9, 2020, on the retail sale of personal computers or personal computer-related accessories having a sales price of \$1,000 or less per item and purchased for noncommercial home or personal use. As used in this subsection, the term:

(a) "Personal computers" includes electronic book readers, laptops, desktops, handhelds, tablets, or tower computers. The term does not include cellular telephones, video game consoles, digital media receivers, or devices that are not primarily designed to process data.

(b) "Personal computer-related accessories" includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software, regardless of whether the accessories are used in association with a personal computer base unit. The term does not include furniture or systems, devices, software, monitors

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2020542c1

with a television tuner, or peripherals that are designed or intended primarily for recreational use.

(3) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(4) The tax exemptions provided in this section may apply at the option of a dealer if less than 5 percent of the dealer's gross sales of tangible personal property in the prior calendar year consist of items that would be exempt under this section. If a qualifying dealer chooses not to participate in the tax holiday, the dealer must notify the Department of Revenue in writing by July 30, 2020, of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business.

(5) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing this section. Notwithstanding any other law, emergency rules adopted pursuant to this subsection are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rule.

Section 2. For the 2019-2020 fiscal year, the sum of \$237,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this act. Funds remaining unexpended or unencumbered from this appropriation as of June 30, 2020, shall

577-01344-20

2020542c1

revert and be reappropriated for the same purpose in the 2020-2021 fiscal year.

Section 3. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-20

Meeting Date

542

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name B.D. Jogerst

Job Title Legislative Assistant

Address 516 N Adams

Phone _____

Street

Tallahassee

City

State

32301

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
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2/27/2020
Meeting Date

542
Bill Number (if applicable)

Topic Back-to-School Sales tax Holiday

Amendment Barcode (if applicable)

Name Jake Farmer

Job Title Director Governmental Affairs

Address 227 S. Adams St.

Phone 850 222 4082

Street

Tallahassee FL 32301

City

State

Zip

Email Jake@frf.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Retail Federation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 702

INTRODUCER: Environment and Natural Resources Committee and Senator Albritton

SUBJECT: Petroleum Cleanup

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Rogers	Rogers	EN	Fav/CS
2. Reagan	Betta	AEG	Recommend: Favorable
3. Reagan	Kynoch	AP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 702 revises provisions relating to the Petroleum Cleanup Participation Program to authorize a demonstration of cost savings to replace or supplement the existing cost-share requirement.

The bill deletes the authorization that the limited contamination assessment report and the copayment costs may be reduced or eliminated, if the owner and all operators responsible for restoration demonstrate that they cannot financially comply with the copayment and limited contamination assessment report requirements.

The bill deletes the 120-day time limitation for negotiations for the cost-share aspect of the Petroleum Cleanup Participation Program (PCPP).

The bill deletes a prohibition in the Advance Cleanup Program for the state to pay for limited contamination assessments and replaces it with a requirement that the state issue purchase orders for such assessments.

The bill makes the following revisions to the individual application for the Advance Cleanup Program:

- It deletes the requirement that the limited contamination assessment report be included in the application.

- It adds the requirement that the property owner or responsible party must commit to continue to participate in the advanced cleanup program upon completion of the limited contamination assessment and finalization of the proposed course of action.
- It revises the requirement that the application include a proposed course of action to make it a “conceptual” proposed course of action.

The bill will increase costs for the PCPP paid by the Department of Environmental Protection (DEP) because the bill requires DEP to pay for limited contamination assessments (DEP is currently prohibited from paying for such assessments.) The bill will also increase the costs for the DEP due to the repeal of the requirement that the PCPP require a 25 percent copayment from the owner, operator, or person responsible for the conducting the site rehabilitation. See Section V.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Petroleum Restoration Program

Petroleum is stored in thousands of underground and aboveground storage tank systems throughout Florida. Releases of petroleum into the environment may occur as a result of accidental spills, storage tank system leaks, or poor maintenance practices. These discharges pose a significant threat to groundwater quality,¹ the source of 90 percent of Florida’s drinking water.² The identification and cleanup of petroleum contamination is particularly challenging due to Florida’s diverse geology, diverse water systems, and the complex dynamics between contaminants and the environment.³

In 1983, Florida began enacting legislation to regulate underground and aboveground storage tank systems in an effort to protect Florida’s groundwater from past and future petroleum releases.⁴ The Department of Environmental Protection (DEP) regulates these storage tank systems.⁵

To fund the cleanup of contaminated petroleum sites, the Legislature created the Inland Protection Trust Fund (IPTF).⁶ The state levies an excise tax on each barrel of petroleum and petroleum products produced in or imported into the state to fund the IPTF.⁷ The state determines the amount of the excise tax for each barrel based on a formula that is dependent

¹ U.S. Environmental Protection Agency, *Underground Storage Tanks (USTs)*, <https://www.epa.gov/ust> (last visited Jan. 20, 2020).

² South Florida Water Management District, *Groundwater Modeling*, <https://www.sfwmd.gov/science-data/gw-modeling> (last visited Jan. 20, 2020).

³ Florida Department of Environmental Protection, Division of Waste Management, *Petroleum Contamination Cleanup and Discharge Prevention Programs* (2012) (on file with Senate Environment and Natural Resources Committee).

⁴ Chapter 83-310, Laws of Fla.

⁵ Sections 376.30(3) and 376.303, F.S.

⁶ Section 376.3071(3)-(4), F.S.

⁷ Sections 206.9935(3) and 376.3071(7), F.S.

upon the unobligated balance of the IPTF.⁸ Each year, approximately \$200 million is deposited from the excise tax into the IPTF.^{9,10}

The DEP may establish criteria for the prioritization, assessment and cleanup, and reimbursement for cleanup of areas contaminated by leaking underground petroleum storage tanks.¹¹ The Petroleum Restoration Program (PRP) establishes the requirements and procedures for cleaning up contaminated land, as well as the circumstances under which the state will pay for the cleanup.¹² To receive rehabilitation funding assistance, a site must qualify under one of several programs, which are outlined in the table on the following page.

Table 1: State Assisted Petroleum Cleanup Eligibility Programs		
Program Name	Program Dates	Program Description
Early Detection Incentive Program (EDI) (s. 376.3071(10), F.S.)	Discharges must have been reported between July 1, 1986, and December 31, 1988, to be eligible	<ul style="list-style-type: none"> • First state-assisted cleanup program • 100 percent state funding for cleanup if site owners reported releases • Originally gave site owners the option of conducting cleanup themselves and receiving reimbursement from the state or having the state conduct the cleanup in priority order • Reimbursement option was phased out, so all cleanups are now conducted by the state
Petroleum Liability and Restoration Insurance Program (PLRIP) (s. 376.3072, F.S.)	Discharges must have been reported between January 1, 1989, and December 31, 1998, to be eligible	<ul style="list-style-type: none"> • Required facilities to purchase third party liability insurance to be eligible • Provides varying amounts of state-funded site restoration coverage

⁸ The amount of the excise tax per barrel is based on the following formula: 30 cents if the unobligated balance is between \$100 million and \$150 million; 60 cents if the unobligated balance is above \$50 million, but below \$100 million; and 80 cents if the unobligated balance is \$50 million or less. Section 206.9935(3), F.S.

⁹ DEP, *SOP – 1. Introduction*, <https://floridadep.gov/waste/petroleum-restoration/content/sop-1-introduction> (last visited Jan. 20, 2020).

¹⁰ Sections 206.9935 and 206.9945, F.S.

¹¹ Section 376.3071(5), F.S.

¹² DEP, *Petroleum Restoration Program*, <https://floridadep.gov/Waste/Petroleum-Restoration> (last visited Jan. 20, 2020).

Abandoned Tank Restoration Program (ATRP) (s. 376.305(6), F.S.)	For petroleum storage systems that have not stored petroleum since March 1, 1990 ¹³	Provides 100 percent state funding for cleanup, less deductible, at facilities that had out-of-service or abandoned tanks as of March 1990
Innocent Victim Petroleum Storage System Restoration Program (IVPSSRP) (s. 376.30715, F.S.)	The application period began on July 1, 2005, and remains open	Provides 100 percent state funding for a site acquired before July 1, 1990, that ceased operating as a petroleum storage or retail business before January 1, 1985
Petroleum Cleanup Participation Program (PCPP) (s. 376.3071(13), F.S.)	Remains open	<ul style="list-style-type: none"> • Created to provide financial assistance for sites that had missed all previous opportunities • Only discharges that occurred before 1995 were eligible • Site owner or responsible party must pay 25 percent of cleanup costs¹⁴ • Originally had a \$300,000 cap on the amount of coverage, which was raised to \$400,000 beginning July 1, 2008
Consent Order (aka “Hardship” or “Indigent”) (s. 376.305(6)(b), F.S.)	The program began in 1986 and remains open	<ul style="list-style-type: none"> • Created to provide financial assistance under certain circumstances for sites that the Department initiates an enforcement action to clean up • An agreement is formed whereby the Department conducts the cleanup and the site owner or responsible party pays for a portion of the costs

Petroleum Cleanup Participation Program

In 1996, the Legislature created the Petroleum Cleanup Participation Program (PCPP) to implement a cost-sharing cleanup program to provide rehabilitation funding assistance for all property contaminated by discharges of petroleum or petroleum products from a petroleum storage system that occurred before

January 1, 1995. Petroleum discharges from sources other than a petroleum storage system cannot receive funding under the PCPP.¹⁵ Further, the following sites are not eligible for the PCPP:

- Sites where the DEP has been denied access;
- Sites owned or operated by the federal government;

¹³ The ATRP originally had a one-year application period, but the deadline was extended. The deadline is now waived indefinitely for site owners who are financially unable to pay for the closure of abandoned tanks. Section 376.305(6)(b), F.S.

¹⁴ The 25 percent copay requirement can be reduced or eliminated if the site owner and all responsible parties demonstrate that they are financially unable to comply. Section 376.3071(13)(c), F.S.

¹⁵ Section 376.3071(13), F.S.

- Sites identified by the United States Environmental Protection Agency to be on, or which qualify for listing on, the National Priorities List under Superfund; and
- Sites that are eligible under ATRP, EDI, or PLRIP.¹⁶

The DEP ranks the PCPP program sites based on human health and safety risks.¹⁷ When funds become available, the DEP will notify the owner, operator, or person otherwise responsible for site rehabilitation (owner or responsible party) in writing, based on that priority ranking.¹⁸

Limited Contamination Assessment

After approval from the DEP, the owner or responsible party must enter into a PCPP agreement with the DEP and submit a limited contamination assessment report sufficient to determine the extent of the contamination and cleanup.¹⁹ A limited contamination assessment must be conducted by an engineer or geologist and must address:

- The site history, which describes all current and past petroleum storage systems and the type of products stored in them, as well as the type and volume of products that were discharged at the source property.
- Results of a well survey conducted to locate all private water supply wells within a certain distance of the contamination.
- Results of a soil assessment conducted in and around each potential source area (fuel storage tanks, fuel dispensers, and fuel piping) to determine if there is any contaminated soil present in the unsaturated zone.
- Results of groundwater sampling and analyses from at least one properly constructed monitoring well installed in each source area. If groundwater contamination is detected, the direction of groundwater flow must be determined and additional monitoring wells are required to determine the extent of the groundwater contamination.
- Water level measurements.
- Soil and groundwater samples collected must be analyzed by a DEP approved laboratory and quality assurance samples must be collected/prepared and analyzed.²⁰
- A reasonable, economical, and attainable course of action that is proposed to achieve site rehabilitation.²¹

Costs

The owner or responsible party may recommend a department certified contractor to clean up the PCPP eligible discharge but is not required to do so. Sites qualifying for the program are eligible for up to \$400,000 of site rehabilitation funding.²² The DEP may approve supplemental funding of up to \$100,000 for additional remediation and monitoring at PCPP sites if such remediation

¹⁶ Section 376.3071(13)(h), F.S.

¹⁷ Fla. Admin Code R. 62-771.100(1).

¹⁸ DEP, *Petroleum Cleanup Participation Program (PCPP)*, <https://floridadep.gov/waste/petroleum-restoration/content/petroleum-cleanup-participation-program-pcpp> (last visited Jan. 20, 2020).

¹⁹ Section 376.3071(13)(d), F.S.

²⁰ Fla. Admin. Code R. 62-780.300 and Ch. 62-160.

²¹ DEP, *Petroleum Restoration Program, Limited Contamination Assessment Report (LCAR) Preparation Guidance* (Oct. 1, 2019), available at https://floridadep.gov/sites/default/files/LCAR%20Guidance%20Final%2001Oct2019_0.pdf.

²² Section 376.3071(13)(b), F.S.

and monitoring is necessary to achieve a “No Further Action” (NFA) order.²³ The owner or responsible party must agree to pay a 25 percent copayment.²⁴ The limited contamination assessment report and the copayment costs may be reduced or eliminated if the owner or responsible party demonstrates an inability to pay.²⁵ If the negotiation of the cost-sharing agreement cannot be completed within 120-days after beginning negotiations, the DEP must terminate negotiations and the site becomes ineligible for state funding and for any liability protections under the PCPP.²⁶

No Further Action

The ultimate goal for any contaminated site is for the DEP to issue it a NFA closure.²⁷ NFA closures usually result in reduced remediation costs and allow for contaminated site closures when remediation efforts have reached a diminishing return. An NFA order may require institutional or engineering controls be put in place to prevent or reduce exposure to contamination.²⁸ An institutional control is a restriction on the use of or access to a site to eliminate or minimize exposure to contaminants. Such restrictions may include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements.²⁹ Engineering controls are modifications to a site to reduce or eliminate the potential for exposure to contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures, capping, point of use treatments, or slurry walls.³⁰

Risk Management Level Options (RMOs)

Once a responsible party completes a site assessment, it has three Risk Management Level Options (RMOs) available to perform site rehabilitation to achieve an NFA order.³¹ Under the RMO options, the responsible party must either rehabilitate the site to the default cleanup target levels (CTLs)³² or to alternative CTLs established through a risk assessment. Under RMO I, the DEP will issue a NFA closure without institutional and engineering controls.³³ This option is used when concentrations of contaminants in both soil, groundwater, and surface water are equal to or less than the residential CTLs.³⁴ Additionally, concentrations of contaminants in soil must indicate that contaminants will not leach into the groundwater in violation of the groundwater CTL.³⁵ Under RMO II and RMO III, the DEP will grant an NFA order, subject to institutional controls and/or engineering controls and other conditions determined by the DEP.³⁶

²³ Section 376.3071(13)(c), F.S.

²⁴ Section 376.3071(13)(d), F.S.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Fla. Admin. Code R. 62-780.680.

²⁸ *Id.*

²⁹ Section 376.301(22), F.S.

³⁰ Section 376.301(17), F.S.

³¹ Fla. Admin Code R. 62-780.680(1)-(3).

³² Fla. Admin Code R. 62-777.

³³ Fla. Admin. Code R. 62-780.680(1).

³⁴ The rule also requires that no free product be present. Fla. Admin. Code R. 62-780.680(1). “Free product” means the presence of a non-aqueous phase liquid in the environment in excess of 0.01 foot in thickness, measured at its thickest point. Fla. Admin Code R. 62-780.200.

³⁵ Fla. Admin. Code R. 62-780.680(1).

³⁶ Fla. Admin Code R. 62-780.680(2).

Advanced Cleanup

The Legislature created the Advanced Cleanup Program in 1996 to allow eligible sites to receive state rehabilitation funding in advance of the site's priority ranking to encourage redevelopment and facilitate property transactions or public works projects.³⁷ To participate in Advanced Cleanup Program, a site must be eligible for restoration funding under EDI, PLRIP, ATRP, IVPSSRP, or PCPP.³⁸

Applications for the Advanced Cleanup Program must include a cost-sharing commitment in addition to the 25-percent-copayment requirement.³⁹ An applicant may demonstrate his or her cost-sharing commitment by proposing either a commitment to pay, a demonstrated cost savings to the DEP, or both. The application must be accompanied by a \$250 nonrefundable review fee, a limited contamination assessment report, a proposed course of action, and a site access agreement. The limited contamination assessment report must be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action.⁴⁰ Costs incurred related to conducting the limited contamination assessment report are not refundable from the IPTF.⁴¹

The DEP ranks the applications for the Advanced Cleanup Program based on the percentage of cost-sharing commitment proposed by the applicant, with the highest ranking given to the applicant who proposes the highest percentage of cost sharing.⁴²

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 376.3071(13), F.S., relating to the Petroleum Cleanup Participation Program (PCPP). The bill specifies that the limited contamination assessment report must be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action.

The bill revises the 25-percent cost-share requirement to require the agreement with the Department of Environmental Protection (DEP) to include:

- A 25-percent cost savings to the department;
- A copayment by the owner, operator, or person otherwise responsible for conducting site rehabilitation; or
- A combination of both.

Demonstrated savings includes reduced rates by the proposed agency certified contractor or the difference in cost associated with Risk Management Options Level-I closure versus a Risk Management Options Level-II closure, or both the copayment and demonstrated cost savings.

³⁷ Section 376.30713(1)(a), F.S.

³⁸ Section 376.30713(1)(d), F.S.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Section 376.30713(2)(a), F.S.

⁴² Section 376.30713(2)(b), F.S.

Risk Management Options Level-I is defined as a No Further Action closure without institutional controls or without institutional and engineering controls. This closure applies subject to conditions in department rules and agreements.

Risk Management Options Level-II is defined as a No Further Action closure where institutional controls, and, if appropriate, engineering controls shall apply if the controls are protective of human health, public safety, and the environment. This closure applies subject to conditions in department rules and agreements.

The bill deletes the following:

- The requirement that the owner, operator, or person otherwise responsible for conducting site rehabilitation demonstrate the ability to meet the copayment obligation.
- The authorization that the limited contamination assessment report and the copayment costs may be reduced or eliminated if the owner and all operators responsible for restoration demonstrate that they cannot financially comply with the requirements.
- Direction to the DEP to take into consideration the owner's and operator's net worth in making the determination of financial ability.
- The 120-day time limit on negotiations after which the DEP is required to terminate negotiations and the site shall be ineligible for state funding under the PCPP and all liability protections provided for under the PCPP shall be revoked.

Section 2 of the bill amends s. 376.30713, F.S., relating to the Advanced Cleanup Program. The bill revises the requirements of an individual application for the program as follows:

- It deletes the requirement that the limited contamination assessment report be included in the application.
- It adds the requirement that the property owner or responsible party must commit to continue to participate in the advanced cleanup program upon completion of the limited contamination assessment and finalization of the proposed course of action.
- It revises the requirement that the application include a proposed course of action to make it a "conceptual" proposed course of action.

The bill deletes the following from the requirements for an individual application:

- The requirement that the limited contamination assessment report be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action. Although this provision is deleted from the application requirements, the bill adds it as a requirement for limited contamination assessments that receive state funding (see below).
- The prohibition on refunding costs incurred related to conducting the limited contamination assessment report from the Inland Protection Trust Fund.
- The statement that site eligibility is not an entitlement to advanced cleanup or continued restoration funding; note, however, paragraph (2)(e) of this section retains this same language, so the deletion likely has no legal effect.

Upon acceptance of an advanced cleanup application, the bill requires the applicant's contractor to submit to the DEP a scope of work for a limited contamination assessment. When the scope of work is negotiated and agreed upon, the DEP must issue one or more purchase orders of up to \$35,000 each for the limited contamination assessment. The limited contamination assessment

report must be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may provide cost savings under the Petroleum Cleanup Participation Program (PCPP) for owners, operators, or persons otherwise responsible for conducting site rehabilitation by allowing them to demonstrate cost savings in lieu of or in addition to the copayment requirement. The bill, however, removes the provision that allowed such applicants to reduce or eliminate costs associated with the limited contamination assessment report and the copayment costs if the applicant demonstrated that he or she could not financially comply.

The bill will have a positive fiscal impact on participants in the Advanced Cleanup Program, as the bill requires the Department of Environmental Protection (DEP) to pay for the limited contamination assessment.

C. Government Sector Impact:

The bill will increase the costs to the DEP for the PCPP because of the bill's requirement that the DEP pay for limited contamination assessments (the state is currently prohibited

from paying for such assessments.) Multiple variables are associated with each contaminated site and each site requires extensive assessment to determine the depth of contamination.⁴³ Accordingly, project costs and the cost of limited contamination assessments could vary widely. However, a report by the DEP indicates that site assessments (funded by the DEP through other petroleum restoration programs) cost \$37,303,020 for 1,056 sites in fiscal year 2018-2019,⁴⁴ an average cost of approximately \$35,000 per assessment, which is the amount of the purchase order authorization contained in the bill. Note, however, that limited contamination assessment reports do not need to have the same scope as a site assessment report.⁴⁵

The bill also will increase costs to the DEP for individual clean-up projects due to the repeal of the current statutory requirement that the PCPP require a 25 percent copayment from the owner, operator, or person responsible for the conducting the site rehabilitation.

SB 2500, the General Appropriations Act, appropriates \$125 million for the petroleum tank clean-up program. The addition of paying for assessments and the repeal of the 25 percent copayment for projects will ultimately provide for an increased state cost per project and, since there is a finite amount appropriated for the program, reduce the number of sites rehabilitated.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 376.3071 and 376.30713.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Environment and Natural Resources Committee on January 27, 2020:

- Replaces RMO-I and RMO-II with Risk Management Options Level-I and Risk Management Options Level-II.

⁴³ Florida Department of Environmental Protection, Division of Waste Management, *Petroleum Contamination Cleanup and Discharge Prevention Programs* (2012) (on file with Senate Environment and Natural Resources Committee).

⁴⁴ DEP, *Petroleum Restoration Program Dashboard* (June 2019), available at https://floridadep.gov/sites/default/files/PRP_Dashboard_Jun2019_v2.pdf.

⁴⁵ DEP, *Petroleum Restoration Program, Limited Contamination Assessment Report (LCAR) Preparation Guidance* (Jan 19, 2020), available at https://floridadep.gov/sites/default/files/LCAR%20Guidance%20Final%2001Oct2019_0.pdf.

- Provides definitions with Risk Management Options Level-I and Risk Management Options Level-II.
- Makes minor language clarifications.

B. Amendments:

None.

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

By the Committee on Environment and Natural Resources; and
Senator Albritton

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A bill to be entitled

An act relating to petroleum cleanup; amending s. 376.3071, F.S.; revising requirements for a limited contamination assessment report required to be provided by a property owner, operator, or person otherwise responsible for site rehabilitation to the Department of Environmental Protection under the Petroleum Cleanup Participation Program; amending s. 376.30713, F.S.; revising the contents of an advanced cleanup application to include a specified property owner or responsible party agreement; requiring an applicant to submit a scope of work after the department has accepted the applicant's advanced cleanup application; requiring the department to issue a purchase order for a certain contamination assessment; providing an effective date.

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

Section 1. Subsection (13) of section 376.3071, Florida Statutes, is amended to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—

(13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage detection, reporting, and cleanup of contamination caused by discharges of petroleum or petroleum products, the department shall, within the guidelines established in this subsection, implement a ~~cost-sharing~~ cleanup program to provide rehabilitation funding assistance for all property contaminated

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by discharges of petroleum or petroleum products from a petroleum storage system occurring before January 1, 1995, ~~subject to a copayment provided for in a Petroleum Cleanup Participation Program site rehabilitation agreement.~~ Eligibility is subject to an annual appropriation from the fund. Additionally, funding for eligible sites is contingent upon annual appropriation in subsequent years. Such continued state funding is not an entitlement or a vested right under this subsection. Eligibility shall be determined in the program, notwithstanding any other provision of law, consent order, order, judgment, or ordinance to the contrary.

(a)1. The department shall accept any discharge reporting form received before January 1, 1995, as an application for this program, and the facility owner or operator need not reapply.

2. Regardless of whether ownership has changed, owners or operators of property that is contaminated by petroleum or petroleum products from a petroleum storage system may apply for such program by filing a written report of the contamination incident, including evidence that such incident occurred before January 1, 1995, with the department. Incidents of petroleum contamination discovered after December 31, 1994, at sites which have not stored petroleum or petroleum products for consumption, use, or sale after such date shall be presumed to have occurred before January 1, 1995. An operator's filed report shall be an application of the owner for all purposes.

(b) Subject to annual appropriation from the fund, sites meeting the criteria of this subsection are eligible for up to \$400,000 of site rehabilitation funding assistance in priority order pursuant to subsections (5) and (6). Sites meeting the

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criteria of this subsection for which a site rehabilitation completion order was issued before June 1, 2008, do not qualify for the 2008 increase in site rehabilitation funding assistance and are bound by the pre-June 1, 2008, limits. Sites meeting the criteria of this subsection for which a site rehabilitation completion order was not issued before June 1, 2008, regardless of whether they have previously transitioned to nonstate-funded cleanup status, may continue state-funded cleanup pursuant to this section until a site rehabilitation completion order is issued or the increased site rehabilitation funding assistance limit is reached, whichever occurs first. The department may not pay expenses incurred beyond the scope of an approved contract.

(c) The department may also approve supplemental funding of up to \$100,000 for additional remediation and monitoring if such remediation and monitoring is necessary to achieve a determination of "No Further Action."

(d) Upon notification by the department that rehabilitation funding assistance is available for the site pursuant to subsections (5) and (6), the property owner, operator, or person otherwise responsible for site rehabilitation shall provide the department with a limited contamination assessment report and shall enter into a Petroleum Cleanup Participation Program site rehabilitation agreement with the department. The limited contamination assessment report must be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action. The agreement must provide for a 25-percent cost savings to the department, a copayment by the owner, operator, or person otherwise responsible for conducting site rehabilitation, or a combination of cost savings and a

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copayment. Cost savings to the department may be demonstrated in the form of reduced rates by the proposed agency term contractor or the difference in cost associated with a Risk Management Options Level I closure versus a Risk Management Options Level II closure. For the purpose of this paragraph, the term:

1. "Risk Management Options Level I" means a "No Further Action" closure without institutional controls or without institutional and engineering controls. This closure option applies subject to conditions in department rules and agreements.

2. "Risk Management Options Level II" means a "No Further Action" closure where institutional controls and, if appropriate, engineering controls apply if the controls are protective of human health, public safety, and the environment. This closure option applies subject to conditions in department rules and agreements. The owner, operator, or person otherwise responsible for conducting site rehabilitation shall adequately demonstrate the ability to meet the copayment obligation. The limited contamination assessment report and the copayment costs may be reduced or eliminated if the owner and all operators responsible for restoration under s. 376.308 demonstrate that they cannot financially comply with the copayment and limited contamination assessment report requirements. The department shall take into consideration the owner's and operator's net worth in making the determination of financial ability. In the event the department and the owner, operator, or person otherwise responsible for site rehabilitation cannot complete negotiation of the cost sharing agreement within 120 days after beginning negotiations, the department shall terminate

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~~negotiations and the site shall be ineligible for state funding under this subsection and all liability protections provided for in this subsection shall be revoked.~~

(e) A report of a discharge made to the department by a person pursuant to this subsection or any rules adopted pursuant to this subsection may not be used directly as evidence of liability for such discharge in any civil or criminal trial arising out of the discharge.

(f) This subsection does not preclude the department from pursuing penalties under s. 403.141 for violations of any law or any rule, order, permit, registration, or certification adopted or issued by the department pursuant to its lawful authority.

(g) Upon the filing of a discharge reporting form under paragraph (a), the department or local government may not pursue any judicial or enforcement action to compel rehabilitation of the discharge. This paragraph does not prevent any such action with respect to discharges determined ineligible under this subsection or to sites for which rehabilitation funding assistance is available pursuant to subsections (5) and (6).

(h) The following are excluded from participation in the program:

1. Sites at which the department has been denied reasonable site access to implement this section.

2. Sites that were active facilities when owned or operated by the Federal Government.

3. Sites that are identified by the United States Environmental Protection Agency to be on, or which qualify for listing on, the National Priorities List under Superfund. This exception does not apply to those sites for which eligibility

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has been requested or granted as of the effective date of this act under the Early Detection Incentive Program established pursuant to s. 15, chapter 86-159, Laws of Florida.

4. Sites for which contamination is covered under the Early Detection Incentive Program, the Abandoned Tank Restoration Program, or the Petroleum Liability and Restoration Insurance Program, in which case site rehabilitation funding assistance shall continue under the respective program.

Section 2. Subsection (2) of section 376.30713, Florida Statutes, is amended to read:

376.30713 Advanced cleanup.—

(2) The department may approve an application for advanced cleanup at eligible sites, including applications submitted pursuant to paragraph (c), notwithstanding the site's priority ranking established pursuant to s. 376.3071(5)(a), pursuant to this section. Only the facility owner or operator or the person otherwise responsible for site rehabilitation qualifies as an applicant under this section.

(a) Advanced cleanup applications may be submitted between May 1 and June 30 and between November 1 and December 31 of each fiscal year. Applications submitted between May 1 and June 30 shall be for the fiscal year beginning July 1. An application must consist of:

1. A commitment to pay 25 percent or more of the total cleanup cost deemed recoverable under this section along with proof of the ability to pay the cost share. The department shall determine whether the cost savings demonstration is acceptable. Such determination is not subject to chapter 120.

a. Applications for the aggregate cleanup of five or more

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sites may be submitted in one of two formats to meet the cost-share requirement:

(I) For an aggregate application proposing that the department enter into a performance-based contract, the applicant may use a commitment to pay, a demonstrated cost savings to the department, or both to meet the requirement.

(II) For an aggregate application relying on a demonstrated cost savings to the department, the applicant shall, in conjunction with the proposed agency term contractor, establish and provide in the application the percentage of cost savings in the aggregate that is being provided to the department for cleanup of the sites under the application compared to the cost of cleanup of those same sites using the current rates provided to the department by the proposed agency term contractor.

b. Applications for the cleanup of individual sites may be submitted in one of two formats to meet the cost-share requirement:

(I) For an individual application proposing that the department enter into a performance-based contract, the applicant may use a commitment to pay, a demonstrated cost savings to the department, or both to meet the requirement.

(II) For an individual application relying on a demonstrated cost savings to the department, the applicant shall, in conjunction with the proposed agency term contractor, establish and provide in the application a 25-percent cost savings to the department for cleanup of the site under the application compared to the cost of cleanup of the same site using the current rates provided to the department by the proposed agency term contractor.

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2. A nonrefundable review fee of \$250 to cover the administrative costs associated with the department's review of the application.

3. A property owner or responsible party agreement in which the property owner or responsible party commits to continue to participate in the advanced cleanup program upon completion of the limited contamination assessment and finalization of the proposed course of action ~~limited contamination assessment report.~~

4. A conceptual proposed course of action.

5. A department site access agreement, or similar agreements approved by the department that do not violate state law, entered into with the property owner or owners, as applicable, and evidence of authorization from such owner or owners for petroleum site rehabilitation program tasks consistent with the proposed course of action where the applicant is not the property owner for any of the sites contained in the application.

~~The limited contamination assessment report must be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action. Costs incurred related to conducting the limited contamination assessment report are not refundable from the Inland Protection Trust Fund. Site eligibility under this subsection or any other provision of this section is not an entitlement to advanced cleanup or continued restoration funding.~~

6. A certification ~~The applicant shall certify to the department that the applicant has the prerequisite authority to~~

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enter into an advanced cleanup contract with the department. The certification must be submitted with the application.

(b) The department shall rank the applications based on the percentage of cost-sharing commitment proposed by the applicant, with the highest ranking given to the applicant who proposes the highest percentage of cost sharing. If the department receives applications that propose identical cost-sharing commitments and that exceed the funds available to commit to all such proposals during the advanced cleanup application period, the department shall proceed to rerank those applicants. Those applicants submitting identical cost-sharing proposals that exceed funding availability must be so notified by the department and offered the opportunity to raise their individual cost-share commitments, in a period specified in the notice. At the close of the period, the department shall proceed to rerank the applications pursuant to this paragraph.

(c) Applications for the advanced cleanup of individual sites scheduled for redevelopment are not subject to the application period limitations or the requirement to pay 25 percent of the total cleanup cost specified in paragraph (a) or to the cost-sharing commitment specified in paragraph (1)(d). Applications must be accepted on a first-come, first-served basis and are not subject to the ranking provisions of paragraph

(b). Applications for the advanced cleanup of individual sites scheduled for redevelopment must include:

1. A nonrefundable review fee of \$250 to cover the administrative costs associated with the department's review of the application.

2. A limited contamination assessment report. The report

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must be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action. Costs incurred related to conducting and preparing the report are not refundable from the Inland Protection Trust Fund.

3. A proposed course of action for cleanup of the site.

4. If the applicant is not the property owner for any of the sites contained in the application, a department site access agreement, or a similar agreement approved by the department and not in violation of state law, entered into with the property owner or owners, as applicable, and evidence of authorization from such owner or owners for petroleum site rehabilitation program tasks consistent with the proposed course of action.

5. A certification to the department stating that the applicant has the prerequisite authority to enter into an advanced cleanup contract with the department. The advanced cleanup contract must include redevelopment and site rehabilitation milestones.

6. Documentation, in the form of a letter from the local government having jurisdiction over the area where the site is located, which states that the local government is in agreement with or approves the proposed redevelopment and that the proposed redevelopment complies with applicable law and requirements for such redevelopment.

7. A demonstrated reasonable assurance that the applicant has sufficient financial resources to implement and complete the redevelopment project.

(d) Upon acceptance of an advanced cleanup application, the applicant's selected agency term contractor shall submit to the department a scope of work for a limited contamination

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291 assessment. When the scope of work is negotiated and agreed
292 upon, the department shall issue one or more purchase orders of
293 up to \$35,000 each for the limited contamination assessment. The
294 limited contamination assessment report must be sufficient to
295 support the proposed course of action and to estimate the cost
296 of the proposed course of action.

297 (e) Site eligibility under this section is not an
298 entitlement to advanced cleanup funding or continued restoration
299 funding.

300 Section 3. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 21, 2020

I respectfully request that **Senate Bill #702**, relating to Petroleum Cleanup, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Ben Albritton", is written over a horizontal line.

Senator Ben Albritton
Florida Senate, District 26

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 714

INTRODUCER: Health Policy Committee and Senator Hutson

SUBJECT: Testing for and Treatment of Influenza

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	Fav/CS
2.	Howard	Kidd	AHS	Recommend: Favorable
3.	Howard	Kynoch	AP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 714 amends the definition of the “practice of the profession of pharmacy” to include the testing for and treatment of influenza by a pharmacist under a written protocol with a primary care supervising physician that includes specific terms and conditions.

The bill authorizes a pharmacist to test for and treatment influenza, if the pharmacist:

- Completes a certification program with specific requirements approved by the Board of Medicine (BOM), in consultation with the Board of Osteopathic Medicine (BOOM) and the Board of Pharmacy (BOP), that must be developed and implemented within 90 days after the bill’s effective date;
- Uses a specific instrument and a waived test;
- Uses a specific testing system that meets certain criteria;
- Obtains a complete medical history on a BOM-approved form;
- Provides pharmacy signage recommending follow-up for patients tested;
- Provides the patient with the name and contact information of the pharmacist’s supervising physician;
- Provides the patient with a BOM-approved pamphlet or brochure that includes advising the patient:
 - To seek follow-up care if the test is positive; and
 - That the pharmacist and pharmacy are liable for damages from adverse reactions to the treatment;

- Treats patients only with medications approved by the BOM and reviewed annually;
- Reviews the patient's prescription history for contraindications;
- Maintains at least \$250,000 of professional liability insurance; and
- Maintains, and makes available, medical records for five years using prescribed standards.

The bill also specifies certain persons whom a pharmacist may not test or treat for influenza and that a supervising physician may not supervise pharmacists employed at more than four pharmacy locations.

The Department of Health (department) will experience an increase in workload and costs associated with the requirements of the bill; however, the department anticipates existing resources are adequate to absorb the impact of the bill.

The bill includes language that implementation of the Board of Medicine's (BOM) efforts to carry out the duties required by the bill is contingent upon the enactment of an appropriation within the General Appropriations Act.

The bill takes effect upon becoming a law.

II. Present Situation:

The Practice of Pharmacy

Pharmacy is the third largest health profession behind nursing and medicine.¹ The Board of Pharmacy (BOP), in conjunction with the Department of Health (department), regulates the practice of pharmacists and pharmacies pursuant to ch. 465, F.S.² There are seven types of pharmacies eligible for various operating permits issued by the department:

- Community pharmacy;
- Institutional pharmacy;³
- Nuclear pharmacy;⁴
- Special pharmacy;⁵
- Internet pharmacy;⁶

¹ American Association of Colleges of Pharmacy, *About AACP*, available at <https://www.aacp.org/about-aacp> (last visited Feb. 13, 2020).

² Sections 465.004 and 465.005, F.S.

³ See ss. 465.003(11)(a)2. and 465.019, F.S.

⁴ The term "nuclear pharmacy" includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold. The term "nuclear pharmacy" does not include hospitals licensed under ch. 395, F.S., or the nuclear medicine facilities of such hospitals. See ss. 465.003(11)(a)3. and 465.0193, F.S.

⁵ The term "special pharmacy" includes every location where medicinal drugs are compounded, dispensed, stored, or sold if such locations are not otherwise defined in this subsection. See ss. 465.003(11)(a)4. and 465.0196, F.S.

⁶ The term "internet pharmacy" includes locations not otherwise licensed or issued a permit under this chapter, within or outside this state, which use the Internet to communicate with or obtain information from consumers in this state and use such communication or information to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state. See ss. 465.003(11)(a)5. and 465.0197, F.S.

- Non-resident sterile compounding pharmacy;⁷ and
- Special sterile compounding pharmacy.⁸

Pharmacist Licensure

To be licensed as a pharmacist in Florida, a person must:⁹

- Complete an application and remit an examination fee;
- Be at least 18 years of age;
- Hold a degree from an accredited and approved school or college of pharmacy;¹⁰
- Have completed a BOP-approved internship; and
- Successfully complete the BOP-approved examination.

A pharmacist must complete at least 30 hours of BOP-approved continuing education during each biennial renewal period.¹¹ Pharmacists who are certified to administer vaccines or epinephrine autoinjections must complete a three-hour continuing education course on the safe and effective administration of vaccines and epinephrine injections as a part of the biennial licensure renewal.¹² Pharmacists who administer long-acting antipsychotic medications must complete an approved eight-hour continuing education course as a part of the continuing education for biennial licensure renewal.¹³

Pharmacist Scope of Practice

In Florida, the practice of the profession of pharmacy includes:¹⁴

- Compounding, dispensing, and consulting concerning the contents, therapeutic values, and uses of a medicinal drug;
- Consulting concerning therapeutic values and interactions of patent or proprietary preparations;
- Monitoring a patient's drug therapy and assisting the patient in the management of his or her drug therapy, including the review of the patient's drug therapy and communication with the patient's prescribing health care provider or other persons specifically authorized by the patient, regarding the drug therapy;
- Transmitting information from prescribers to their patients;

⁷ The term "nonresident sterile compounding pharmacy" includes a pharmacy that ships, mails, delivers, or dispenses, in any manner, a compounded sterile product into Florida, a nonresident pharmacy registered under s. 465.0156, F.S., or an outsourcing facility, must hold a nonresident sterile compounding permit *See* s. 465.0158, F.S.

⁸ *See* Fla. Admin. Code R. 64B16-2.100 and 64B16-28.802 (2019). An outsourcing facility is considered a pharmacy and needs to hold a special sterile compounding permit if it engages in sterile compounding.

⁹ Section 465.007, F.S. The department may also issue a license by endorsement to a pharmacist who is licensed in another state upon meeting the applicable requirements set forth in law and rule. *See* s. 465.0075, F.S.

¹⁰ If the applicant has graduated from a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, the applicant must demonstrate proficiency in English, pass the board-approved Foreign Pharmacy Graduate Equivalency Examination, and complete a minimum of 500 hours in a supervised work activity program within Florida under the supervision of a department-licensed pharmacist.

¹¹ Section 465.009, F.S.

¹² Section 465.009(6), F.S.

¹³ Section 465.1893, F.S.

¹⁴ Section 465.003(13), F.S.

- Preparing prepackaged drug products in facilities holding Class III institutional facility permits;¹⁵
- Administering vaccines to adults;¹⁶
- Administering epinephrine injections;¹⁷ and
- Administering antipsychotic medications by injection.¹⁸

A pharmacist may not alter a prescriber's directions, diagnosing or treating any disease, initiating any drug therapy, and practicing medicine or osteopathic medicine, unless permitted by law.¹⁹

Pharmacists may order and dispense drugs that are included in a formulary developed by a committee composed of members of the Boards of Medicine (BOM), Board of Osteopathic Medicine (BOOM), and the BOP.²⁰ The formulary may only include:²¹

- Medicinal drugs of single or multiple active ingredients in any strengths when such active ingredients have been approved individually or in combination for over-the-counter sale by the U.S. Food and Drug Administration (FDA);
- Medicinal drugs recommended by the FDA's Advisory Panel for transfer to over-the-counter status pending approval by the FDA;
- Medicinal drugs containing an antihistamine or decongestant as a single active ingredient or in combination;
- Medicinal drugs containing fluoride in any strength;
- Medicinal drugs containing lindane in any strength;
- Over-the-counter proprietary drugs under federal law that have been approved for reimbursement by the Florida Medicaid Program; and
- Topical anti-infectives, excluding eye and ear topical anti-infectives.

A pharmacist may order, within his or her professional judgment and subject to the stated conditions:²²

- Certain oral analgesics for mild to moderate pain. The pharmacist may order these drugs for minor pain and menstrual cramps for patients with no history of peptic ulcer disease. The prescription is limited to a six day supply for one treatment:
 - Magnesium salicylate/phenyltoloxamine citrate;
 - Acetylsalicylic acid (Zero order release, long acting tablets);
 - Choline salicylate and magnesium salicylate;
 - Naproxen sodium;
 - Naproxen;
 - Ibuprofen;
 - Phenazopyridine, for urinary pain; and

¹⁵ A Class III institutional pharmacy are those pharmacies affiliated with a hospital. *See* s. 465.019(2)(d), F.S.

¹⁶ *See* s. 465.189, F.S.

¹⁷ *Id.*

¹⁸ Section 465.1893, F.S.

¹⁹ Section 465.003(13), F.S.

²⁰ Section 465.186, F.S.

²¹ *Id.*

²² Fla. Admin. Code R. 64B16-27.220, (2019).

- Antipyrine 5.4%, benzocaine 1.4%, glycerin, for ear pain if clinical signs or symptoms of tympanic membrane perforation are not present;
- Anti-nausea preparations;
- Certain antihistamines and decongestants;
- Certain topical antifungal/antibacterial;
- Topical anti-inflammatory preparations containing hydrocortisone not exceeding 2.5%;
- Otic antifungal/antibacterial;
- Salicylic acid 16.7% and lactic acid 16.7% in flexible collodion, to be applied to warts, except for patients under 2 years of age, and those with diabetes or impaired circulation;
- Vitamins with fluoride, excluding vitamins with folic acid in excess of 0.9 mg.;
- Medicinal drug shampoos containing Lindane for the treatment of head lice;
- Ophthalmics. Naphazoline 0.1% ophthalmic solution;
- Certain histamine H2 antagonists;
- Acne products; and
- Topical Antiviral for herpes simplex infections of the lips.²³

One category of pharmacist has a broader scope of practice than other pharmacists. A consultant pharmacist, also known as a senior care pharmacist, provides expert advice on the use of medications to individuals or older adults, wherever they live.²⁴ In addition to the training and education received as a part of a degree program in pharmacy, a consultant pharmacist must complete a consultant pharmacy course and a period of assessment and evaluation under the supervision of a preceptor.²⁵

A consultant pharmacist may order and evaluate laboratory testing in addition to the services provided by a pharmacist. For example, a consultant pharmacist can order and evaluate clinical and laboratory testing for a patient residing in a nursing home upon authorization by the medical director of the nursing home.²⁶ Additionally, a consultant pharmacist may order and evaluate clinical and laboratory testing for individuals under the care of a licensed home health agency, if authorized by a licensed physician, podiatrist, or dentist.²⁷

Pharmacist Administration of Vaccines and Injections

A pharmacist may become certified to administer the immunizations or vaccines listed in the Centers for Disease Prevention and Control (CDC) Adult Immunization Schedule as of February 1, 2015, as well as those recommended for international travel as of July 1, 2015.²⁸ To be certified to administer vaccines, a pharmacist must:

²³ Fla. Admin. Code R. 64B16-27.220 (2019).

²⁴ American Society of Consultant Pharmacists, *What is a Consultant Pharmacist*, available at <http://www.ascp.com/page/whatisacp> (last visited Feb. 13, 2020).

²⁵ Fla. Admin. Code R. 64B16-26.300(3), (2019).

²⁶ Section 465.0125(1), F.S.

²⁷ Section 465.0125(2), F.S. To qualify to order and evaluate such testing, the consultant pharmacist or doctor of pharmacy must complete 3 hours of board-approved training, related to laboratory and clinical testing.

²⁸ Section 465.189, F.S. A registered intern may also administer immunizations or vaccinations under the supervision of a certified pharmacist.

- Enter into a written protocol under a supervising physician licensed under ch. 458, or ch. 459, F.S.;²⁹ which must:
 - Specify the categories and conditions among patients to whom the pharmacist may administer such vaccines;
 - Be appropriate to the pharmacist's training and certification for administering such vaccine;
 - Outline the process and schedule for the review of the administration of vaccines by the pharmacists pursuant to the written protocol; and
 - Be submitted to the BOP;
- Successfully complete a BOP-approved vaccine administration certification program that consists of at least 20 hours of continuing education;³¹
- Pass an examination and demonstrate vaccine administration technique;³²
- Must maintain and make available patient records using the same standards for confidentiality and maintenance of such records as required by s. 456.057, F.S., and maintain the records for at least five years;³³ and
- Maintain at least \$200,000 of professional liability insurance.³⁴

A pharmacist may also administer epinephrine using an autoinjector delivery system, within the framework of the established protocol with the supervising physician, to treat any allergic reaction resulting from a vaccine.³⁵ A pharmacist administering vaccines must provide the department with vaccination records for inclusion in the state's registry of immunization information.³⁶

Pharmacist Administration of Antipsychotic Medication by Injection

In 2017, the Legislature authorized a licensed pharmacist to administer an injection of a long-acting antipsychotic medication³⁷ approved by the United States Food and Drug Administration.³⁸ To be eligible to administer such injections, a pharmacist must:³⁹

²⁹ Section 465.189(1), F.S.

³⁰ Section 465.189(7), F.S.

³¹ Section 465.189(6), F.S., Fla. Admin. Code R. 64B16-26.1031,(2019), provides more detail regarding subject matter that must be included in the certification course.

³² Id.

³³ Section 456.057, F.S., requires certain health care practitioners to develop and implement policies, standards, and procedures to protect the confidentiality and security of medical records, provides conditions under which a medical record may be disclosed without the express consent of the patient, provides procedures for disposing of records when a practice is closing or relocating, and provides for enforcement of its provisions.

³⁴ Section 465.189(3), F.S.

³⁵ Section 465.189(2), F.S.

³⁶ Section 465.189(5), F.S.

³⁷ A long-acting injectable antipsychotic medication may be prescribed to treat symptoms of psychosis associated with schizophrenia or as a mood stabilizer in individuals with bipolar disorder. A long-acting injectable may last from two to 12 weeks. It may be prescribed for individuals who have difficulty remembering to take daily medications or who have a history of discontinuing medication. National Alliance on Mental Illness, *Long-Acting Injectables*, available at <https://www.nami.org/Learn-More/Treatment/Mental-Health-Medications/Long-Acting-Injectables> (last visited Feb 13, 2020).

³⁸ Chapter 2017-134, Laws of Fla., codified at s. 465.1893, F.S.

³⁹ Id.

- Be authorized by and acting within the framework of a protocol with the prescribing physician;
- Practice at a facility that accommodates privacy for nondeltoid injections and conforms with state rules and regulations for the appropriate and safe disposal of medication and medical waste;⁴⁰ and
- Complete an approved eight-hour continuing education course that includes instruction on the safe and effective administration of behavioral health and antipsychotic medications by injection, including potential allergic reactions.

A separate prescription from a physician is required for each injection a pharmacist administers.⁴¹

Diagnostic Tests for Influenza and Streptococcus

Influenza

Influenza (flu) is a contagious viral respiratory illness that infects the nose, throat, and sometimes the lungs. It can cause mild to severe illness, and at times can lead to death.⁴² There are four types of flu virus: Types A, B, C, and D. The influenza A and B viruses are responsible for seasonal flu epidemics each year.⁴³ Influenza type C infections generally cause mild illness and are not thought to cause human flu epidemics. Influenza D viruses primarily affect cattle and are not known to infect or cause illness in people. Influenza A viruses are the only influenza viruses known to cause flu pandemics, i.e., global epidemics of flu disease.⁴⁴

Flu Symptoms

Flu is different from a cold. Flu usually comes on suddenly. People who have flu often feel some, or all, of these symptoms:

- Fever or feeling feverish/chills;
- Cough;
- Sore throat;
- Runny or stuffy nose;
- Muscle or body aches;
- Headaches;
- Fatigue (tiredness); and

Some people may have vomiting and diarrhea, though this is more common in children than adults.⁴⁵

⁴⁰ Section 381.0098, F.S., and Fla. Admin. Code R. 64E-16, (2019), regulate the disposal of biomedical waste.

⁴¹ Section 465.1893(1)(b), F.S.

⁴² Centers for Disease Control and Prevention, *Key Facts about Influenza (Flu)*, (last reviewed July 10, 2019) available at <https://www.cdc.gov/flu/about/keyfacts.htm> (last visited Feb 13, 2020).

⁴³ Center for Disease Control and Prevention, *Influenza (Flu)*, available at <https://www.cdc.gov/flu/about/viruses/index.htm> (last visited Feb. 13, 2020).

⁴⁴ Center for Disease Control and Prevention, *Types of Influenza Viruses*, (November 18, 2019) available at <https://www.cdc.gov/flu/about/viruses/types.htm> (last visited Feb. 13, 2020).

⁴⁵ See note 43. It is important to note that not everyone with flu will have a fever.

Flu Complications

Most people who get the flu will recover in a few days to less than two weeks, but some people will develop moderate complications as a result of flu, including:

- Ear infections;
- Sinus infections; and
- Worsening of chronic medical conditions, such as:
 - Congestive heart failure;
 - Asthma; or
 - Diabetes.⁴⁶

Serious complications can also be triggered by flu and can cause:

- Heart inflammation (myocarditis);
- Brain inflammation (encephalitis);
- Muscle tissue inflammation (myositis, rhabdomyolysis);
- Multi-organ failure (respiratory and kidney failure); and
- Death.⁴⁷

Most people who get sick with flu will have a mild illness, will not need medical care or antiviral drugs, and will recover in less than two weeks. However people with the following health and age factors are at a higher risk of experiencing serious flu complications:

- Adults 65 years and older;
- Children younger than two years old;
- Pregnant women and women up to two weeks after the end of pregnancy;
- American Indians and Alaska Natives;
- People who live in nursing homes and other long-term care facilities;
- People who are obese with a body mass index (BMI) of 40 or higher;
- People younger than 19 years of age on long-term aspirin or salicylate medications;
- People with a weakened immune system due to disease (HIV, some cancers like leukemia) or medications (such as those receiving chemotherapy or radiation treatment for cancer, or persons with chronic conditions requiring chronic corticosteroids or other drugs that suppress the immune system);
- People with:
 - Asthma;
 - Neurologic and neurodevelopment conditions;
 - Blood disorders (such as sickle cell disease);
 - Chronic lung disease (chronic obstructive pulmonary disease and cystic fibrosis);
 - Endocrine disorders (such as diabetes mellitus);
 - Heart disease (congenital heart disease, congestive heart failure and coronary artery disease);
 - Kidney disorders;
 - Liver disorders; and

⁴⁶ Center for Disease Control and Prevention, *Flu Symptoms & Complications*, (September 18, 2019) available at <https://www.cdc.gov/flu/symptoms/symptoms.htm> (last visited Feb. 13, 2020).

⁴⁷ Id.

- Metabolic disorders (inherited metabolic disorders and mitochondrial disorders).⁴⁸

Diagnostic Tests for Flu

In recent years, the FDA has approved several rapid influenza diagnostic tests (RIDTs) to identify the influenza A and B virus nucleoprotein antigens in respiratory specimens and display the result as either positive or negative. These tests can provide results within approximately 15 minutes and may be used to help with diagnosis and treatment decisions for patients. Some RIDTs use an analyzer reader device to standardize the result interpretations. However, a variety of factors can influence the accuracy of a RIDT, including the type of specimen tested, time from illness onset to collection of respiratory specimen for testing, and the prevalence of flu activity in the area. False positive results are more likely at the beginning or end of the flu season or during the summer. False negative results are more likely at the peak of the flu season.⁴⁹

Rapid molecular assays are new tests available to detect influenza virus infection and include the Reverse Transcription-Polymerase Chain Reaction (RT-PCR) test, and other nucleic acid amplification tests. These tests can detect influenza viral ribonucleic acid (RNA) or nucleic acids in respiratory specimens with high sensitivity and high specificity, but the detection does not necessarily indicate a live virus or ongoing viral replication. Rapid molecular assays can provide results in approximately 15-30 minutes. These tests are more accurate than RIDTs and the Infectious Diseases Society of America recommends the rapid molecular assays over RIDT for detecting the flu virus in outpatients. As with RIDTs, the accuracy of rapid molecular assays may be affected by the source of the specimen, specimen handling, and the timing of the collection of the specimen. False negative results may occur due to improper or clinical specimen collection or handling or if the specimen is collected when the patient is no longer shedding detectable flu virus. Although a false positive is rare, it can occur through lab contamination or other factors.⁵⁰

Testing is not needed for all patients with signs and symptoms of flu to make antiviral treatment conditions. A health care practitioner may diagnose an individual with the flu based on symptoms and his or her clinical judgment, irrespective of the test results.⁵¹

Some pharmacies may currently provide flu testing, as well as other health screenings.⁵² However, these pharmacies vary by the types of patients seen, the array of services offered, the type of health care practitioner available, and the type of medications prescribed.

⁴⁸ Center for Disease Control and Prevention, *People at High Risk for Flu Complications*, (last reviewed August 27, 2018), available at <https://www.cdc.gov/flu/highrisk/index.htm> (last visited Feb. 13, 2020).

⁴⁹ Center for Disease Control and Prevention, *Rapid Influenza Diagnostic Tests*, (last reviewed October 25, 2016), available at https://www.cdc.gov/flu/professionals/diagnosis/clinician_guidance_ridt.htm (last visited Feb. 13, 2020).

⁵⁰ Centers for Disease Control and Prevention, *Information on Rapid Molecular Assays, RT-PCR, and other Molecular Assays for Diagnosis of Influenza Virus Infection*, (last reviewed October 21, 2019), available at <https://www.cdc.gov/flu/professionals/diagnosis/molecular-assays.htm> (last visited Feb. 13, 2020).

⁵¹ Id.

⁵² See examples: CVS Pharmacy offers services through its MinuteClinic®, which is staffed by nurse practitioners or physician assistants (see CVS, *MinuteClinic® Services*, available at <https://www.cvs.com/minuteclinic/services?WT.ac=MC-Home-Badge1-services> (last visited Feb. 13, 2020)).

Reporting of Diseases to the Department of Health

Any licensed physician, chiropractic physician, nurse, midwife, medical examiners, hospitals, laboratories, or veterinarians licensed in this state must immediately report the diagnosis or suspected diagnosis of a disease of public health importance to the department. The department, by rule, has designated the diseases and conditions that must be reported, as well as the timeframes for such reports. A suspected or confirmed diagnosis of the flu that is caused by a novel or pandemic strain must be reported immediately. However, strep throat is not among the diseases or conditions that must be reported. The practitioner must report the disease or condition on a form developed by the department, which includes information such as the patient's name, demographic information, diagnosis, test procedure used, and treatment given. The practitioner must make the patient's medical records for such diseases available for onsite inspection by the department.⁵³

III. Effect of Proposed Changes:

Section 1 amends s. 381.0031, F.S., which requires certain health care practitioners, hospitals, and federally-certified laboratories that diagnose or suspect the existence of a disease of public health significance to report that fact to the Department of Health (department). The bill adds the licensed pharmacist with written protocol with a physician that includes ordering and evaluating laboratory and clinical tests to those required to report.

Section 2 amends the definition of the “practice of the profession of pharmacy” to include the testing for, and treatment of, influenza pursuant to s. 465.1895, F.S., which is created by the bill.

Section 3 creates s. 465.1895, F.S., which permits a pharmacist to test for and treat influenza if the pharmacist meets all of the following requirements:

- Enters into a written protocol with a supervising physician licensed under chapters 458 or 459, F.S., which meets the requirements for a written protocol pursuant to Board of Medicine (BOM) rules, adopted in consultation with the Board of Osteopathic Medicine (BOOM) and the Board of Pharmacy (BOP), that includes, at a minimum:
 - Terms and conditions required by s. 465.189(7), F.S., which includes;
 - That the pharmacist, or his designee, must follow up with the patient three days after treatment to determine whether the patient's condition has improved; and
 - If the patient's condition has not improved, the pharmacist must do all of the following:
 - Recommend that the patient seek treatment from the patient's primary care physician or, if the patient has no primary care physician, from the pharmacist's supervising physician;
 - Inform the patient's primary care physician that the patient's condition failed to improve three days after treatment or, if the patient has no primary care physician, the pharmacist must so inform the pharmacist's supervising physician; and
 - Document in the patient's records whether the follow-up occurred or whether attempts to contact the patient were unsuccessful.

⁵³ Section 381.0031, F.S., and Fla. Admin. Code R. 64D-3.029 and 64D-3.030, (2019). See also Florida Department of Health, *Health Care Practitioner Reporting Guidelines for Reportable Diseases and Conditions in Florida*, (October 20, 2016), available at <http://www.floridahealth.gov/diseases-and-conditions/disease-reporting-and-management/documents/guidelines-health-care.pdf> (last visited Feb. 13, 2020).

- A supervising physician's instructions for the treatment of influenza based on the patient's age, symptoms, and test results, including negative results;
- A process and schedule for the supervising physician to review the pharmacist's actions under the written protocol;
- A process and schedule for the pharmacist to notify the supervising physician of the patient's condition, tests administered, test results, and course of treatment; and
- A procedure to notify the patient's primary care provider within two business days after providing any such testing or treatment, when the patient has a primary care provider.
- Uses instruments and waived tests, as defined in 42 C.F.R. s. 493.2.
- Uses a testing system that:
 - Provides automated readings in order to reduce user subjectivity or interpretation of results;
 - Is capable of directly or indirectly interfacing with electronic medical records systems;
 - Is capable of electronically reporting daily deidentified test results to the appropriate agencies; and
 - Uses an instrument that incorporates both internal and external controls and external calibration that show the reagent and assay procedure is performing properly. External controls must be used in accordance with local, state, and federal regulations and accreditation requirements.
- Is certified through a certification program approved by the BOM, in consultation with the BOOM and the BOP. The program must:
 - Be developed and implemented within 90 days after the effective date of the bill.
 - Required to attend eight hours of BOM-approved continuing education with a curriculum approved by the Accreditation Council for Pharmacy Education; and
 - Provide instructional services, including at a minimum, point-of-care testing for influenza and the safe and effective treatment of influenza.
- Has obtained a full past and present history from the patient on a form promulgated and adopted by rule of the BOM that allows the patient to check off medical conditions from a list and add other conditions that are not listed.
- Prominently displays signage indicating that any patient tested and treated at the pharmacy is advised to seek follow-up care from his or her primary care physician or, if the patient has no primary care physician, from the pharmacist's supervising physician.
- Provides the patient with the name and contact information of the pharmacist's supervising physician and a pamphlet or brochure that meets criteria established by BOM rule informing the patient that:
 - If the test indicates that the patient has influenza, the patient is advised to seek follow-up care from the patient's primary care physician or, if the patient has no primary care physician, from the pharmacist's supervising physician; and
 - If the pharmacist treats the patient for influenza, the pharmacist and the pharmacy where the testing and treating occurred are liable for damages the patient suffers as a result of an adverse reaction to the treatment.
- Treats only with limited medications designed to treat influenza which are approved by the BOM and which the BOM reviews annually.
- Reviews the patient's current prescriptions and recent prescription history to check for relative contraindications involving the intended treatment.
- Maintains at least \$250,000 of professional liability insurance.

- Maintains, and makes available, patient records, including the required patient history, test results, and the name and contact information of the pharmacist's supervising physician, for at least five years, using the same standards for confidentiality and record maintenance as required under s. 456.057, F.S.

The bill specifies that a pharmacist may not test for or treat influenza for a patient who:

- Is younger than 18 years of age;
- Is older than 75 years of age;
- Refuses to provide a medical history; or
- Provides a medical history indicating a history of conditions relating to:
 - Heart disease;
 - Bronchial disorders;
 - Pneumonia;
 - Chronic obstructive pulmonary disease;
 - Asthma; or
 - Any other medical conditions the BOM specifies annually by rule.

The bill requires that a supervising physician who enters into a written protocol with a pharmacist must be a primary care physician who is actively practicing in the community in which the pharmacist tests and treats according to BOM rule. A supervising physician may not supervise pharmacists employed at more than four pharmacy locations.

The bill provides that the supervising physician's decision to enter into a written protocol with a pharmacist for the testing and treatment of flu and strep is a professional decision and no person may interfere with that decision regarding entering into such a protocol. A pharmacist may not enter into a written protocol that is to be performed while acting as an employee without the written approval of the owner of the pharmacy.

Implementation of s. 465.1895, F.S., as created by the bill, is contingent on the enactment of an appropriation within the General Appropriations Act that is sufficient to fund the BOM's required duties under the bill.

Section 4 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 714 would increase the Department of Health's workload associated with the submission and tracking of written protocols between pharmacists and supervising physicians, additional complaints, investigations, and prosecution for non-compliance with the requirements of the bill, updating the Licensing and Enforcement Information Database System to include a new modifier to identify certification, and rulemaking. However, the department anticipates current resources are adequate to absorb the impact of the bill.

The bill includes language that implementation of the Board of Medicine's (BOM) efforts to carry out the duties required by the bill is contingent upon the enactment of an appropriation within the General Appropriations Act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0031 and 465.003.

This bill creates section 465.1895 of the Florida Statutes.

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

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

CS by Health Policy on February 18, 2020:

The CS:

- Removes from the definition of the “practice of professional pharmacy” the testing for and treatment of streptococcus from the underlying bill;
- Changes the underlying bill’s rulemaking authority from the BOP to the BOM for rules to:
 - Establish requirements for pharmacist’s written protocol with supervising physician to test and treat for influenza;
 - Approve pharmacist’s required certification program to test for and treat influenza; and
 - Approve the pharmacist’s required one-time, one hour continuing education course required by the certification program.
- Adds the following additional requirements for a pharmacist to test for and treat influenza:
 - Obtain a complete medical history on a BOM approved form;
 - Provide pharmacy signage recommending follow-up for patients tested;
 - Provide the patient with the name and contact information of the supervising physician; and
 - Provide the patient with a BOM approved pamphlet or brochure that includes advising the patient:
- To seek follow-up care if the test is positive; and
 - That the pharmacist and pharmacy are liable for damages from adverse reactions.
 - Treat patients only with medications approved by the BOM, and reviewed annually; and
 - Review the patient’s prescription history for contraindications.
- Specifies patients the pharmacist may not test for or treat for influenza.

B. Amendments:

None.

By the Committee on Health Policy; and Senator Hutson

588-03836-20

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1 A bill to be entitled
 2 An act relating to the testing for and treatment of
 3 influenza; amending s. 381.0031, F.S.; requiring
 4 specified licensed pharmacists to report certain
 5 information to the Department of Health; amending s.
 6 465.003, F.S.; revising the definition of the term
 7 "practice of the profession of pharmacy"; creating s.
 8 465.1895, F.S.; authorizing pharmacists to test for
 9 and treat influenza and providing requirements
 10 relating thereto; requiring the written protocol
 11 between a pharmacist and a supervising physician to
 12 contain certain information, terms, and conditions;
 13 requiring the Board of Medicine, in consultation with
 14 the Board of Pharmacy and the Board of Osteopathic
 15 Medicine, to develop a specified certification program
 16 for pharmacists within a specified timeframe;
 17 requiring a pharmacist to collect a medical history
 18 before testing and treating a patient; requiring a
 19 pharmacy in which a pharmacist tests for and treats
 20 influenza to display and distribute specified
 21 information; providing limitations on the medications
 22 a pharmacist may administer to treat influenza;
 23 requiring pharmacists to review certain information
 24 for a specified purpose before testing and treating
 25 patients; requiring a pharmacist who tests for and
 26 treats influenza to maintain professional liability
 27 insurance in a specified amount; providing
 28 recordkeeping requirements for pharmacists who test
 29 for and treat influenza; providing that a person may

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

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30 not interfere with a physician's professional decision
 31 to enter into a written protocol with a pharmacist;
 32 providing that a pharmacist may not enter into a
 33 written protocol under certain circumstances;
 34 requiring the Board of Medicine, in consultation with
 35 the Board of Pharmacy and the Board of Osteopathic
 36 Medicine, to adopt rules within a specified timeframe;
 37 requiring pharmacists to notify a patient's primary
 38 care provider and follow up with the treated patient
 39 within specified timeframes; prohibiting a pharmacist
 40 from testing or treating patients under certain
 41 circumstances; specifying circumstances under which a
 42 physician may supervise a pharmacist under a written
 43 protocol; providing a contingency on implementation;
 44 providing an effective date.

45
 46 Be It Enacted by the Legislature of the State of Florida:

47
 48 Section 1. Subsection (2) of section 381.0031, Florida
 49 Statutes, is amended to read:

50 381.0031 Epidemiological research; report of diseases of
 51 public health significance to department.—

52 (2) Any practitioner licensed in this state to practice
 53 medicine, osteopathic medicine, chiropractic medicine,
 54 naturopathy, or veterinary medicine; any licensed pharmacist
 55 authorized pursuant to a written protocol to order and evaluate
 56 laboratory and clinical tests; any hospital licensed under part
 57 I of chapter 395; or any laboratory appropriately certified by
 58 the Centers for Medicare and Medicaid Services under the federal

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Clinical Laboratory Improvement Amendments, and the federal rules adopted thereunder, which diagnoses or suspects the existence of a disease of public health significance shall immediately report the fact to the Department of Health.

Section 2. Subsection (13) of section 465.003, Florida Statutes, is amended to read:

465.003 Definitions.—As used in this chapter, the term:

(13) "Practice of the profession of pharmacy" includes compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug; consulting concerning therapeutic values and interactions of patent or proprietary preparations, whether pursuant to prescriptions or in the absence and entirely independent of such prescriptions or orders; and conducting other pharmaceutical services. For purposes of this subsection, "other pharmaceutical services" means the monitoring of the patient's drug therapy and assisting the patient in the management of his or her drug therapy, and includes review of the patient's drug therapy and communication with the patient's prescribing health care provider as licensed under chapter 458, chapter 459, chapter 461, or chapter 466, or similar statutory provision in another jurisdiction, or such provider's agent or such other persons as specifically authorized by the patient, regarding the drug therapy. However, nothing in this subsection may be interpreted to permit an alteration of a prescriber's directions, the diagnosis or treatment of any disease, the initiation of any drug therapy, the practice of medicine, or the practice of osteopathic medicine, unless otherwise permitted by law. "Practice of the profession of pharmacy" also includes any other act, service,

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operation, research, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients. The practice of the profession of pharmacy also includes the administration of vaccines to adults pursuant to s. 465.189, the testing for and treatment of influenza pursuant to s. 465.1895, and the preparation of prepackaged drug products in facilities holding Class III institutional pharmacy permits.

Section 3. Section 465.1895, Florida Statutes, is created to read:

465.1895 Testing for and treatment of influenza.—

(1) A pharmacist may test for and treat influenza if all of the following criteria are met:

(a) The pharmacist has entered into a written protocol with a supervising physician licensed under chapter 458 or chapter 459, and such protocol complies with the requirements in subsection (5) and the Board of Medicine's rules.

(b) The pharmacist uses an instrument and a waived test, as that term is defined in 42 C.F.R. s. 493.2.

(c) The pharmacist uses a testing system that:

1. Provides automated readings in order to reduce user subjectivity or interpretation of results.

2. Is capable of directly or indirectly interfacing with electronic medical records systems.

3. Is capable of electronically reporting daily deidentified test results to the appropriate agencies.

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117 4. Uses an instrument that incorporates both internal and
 118 external controls and external calibration that show the reagent
 119 and assay procedure is performing properly. External controls
 120 must be used in accordance with local, state, and federal
 121 regulations and accreditation requirements.

122 (d) The pharmacist is certified to test for and treat
 123 influenza pursuant to a certification program approved by the
 124 Board of Medicine, in consultation with the board and the Board
 125 of Osteopathic Medicine. The certification program must be
 126 developed and implemented within 90 days after the date upon
 127 which this section becomes effective and must require that the
 128 pharmacist attend, on a one-time basis, 8 hours of continuing
 129 education courses approved by the Board of Medicine. The
 130 continuing education curriculum must be provided by an
 131 organization that is approved by the Accreditation Council for
 132 Pharmacy Education to provide instructional services and must
 133 include, at a minimum, point-of-care testing for influenza and
 134 the safe and effective treatment of influenza.

135 (e) The pharmacist collects from the patient a full history
 136 of the patient's past and present medical conditions on a form
 137 adopted by the Board of Medicine by rule which allows the
 138 patient to check off medical conditions from a list and add
 139 other conditions that are not listed. The history must be
 140 maintained as part of the patient's records in accordance with
 141 subsection (3).

142 (f) The pharmacy in which a pharmacist tests for and treats
 143 influenza prominently displays signage indicating that any
 144 patient tested and treated at the pharmacy is advised to seek
 145 followup care from his or her primary care physician or, if the

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146 patient has no primary care physician, from the pharmacist's
 147 supervising physician.

148 (g) The pharmacist who tests for or treats influenza
 149 provides the patient with the name and contact information for
 150 the pharmacist's supervising physician and a pamphlet or
 151 brochure that meets criteria established by the Board of
 152 Medicine by rule informing the patient that:

153 1. If the test indicates that the patient has influenza,
 154 the patient is advised to seek followup care from the patient's
 155 primary care physician or, if the patient has no primary care
 156 physician, from the pharmacist's supervising physician; and

157 2. If the pharmacist treats the patient for influenza, the
 158 pharmacist and the pharmacy where the testing and treating
 159 occurred are liable for damages the patient suffers as a result
 160 of an adverse reaction to the treatment.

161 (h) The pharmacist's treatment is limited to medications
 162 designed to treat influenza which are approved by the Board of
 163 Medicine and which the Board of Medicine shall review annually.

164 (i) The pharmacist, prior to treating the patient, reviews
 165 the patient's current prescriptions and recent prescription
 166 history to check for relative contraindications involving the
 167 pharmacist's intended treatment.

168 (2) A pharmacist may not enter into a written protocol
 169 under this section unless he or she maintains at least \$250,000
 170 of professional liability insurance and is certified as required
 171 in paragraph (1) (d).

172 (3) A pharmacist who tests for and treats influenza shall
 173 maintain and make available patient records using the same
 174 standards for confidentiality and maintenance of such records as

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those that are imposed on health care practitioners under s. 456.057. Each patient's records maintained under this subsection must include confirmation that the requirements of paragraphs (1)(e) and (1)(g) were fulfilled. Such records shall be maintained for at least 5 years.

(4) The decision by a supervising physician licensed under chapter 458 or chapter 459 to enter into a written protocol under this section is a professional decision on the part of the physician and a person may not interfere with a physician's decision regarding entering into such a protocol. A pharmacist may not enter into a written protocol that is to be performed while acting as an employee without the written approval of the owner of the pharmacy.

(5) The Board of Medicine, in consultation with the board and the Board of Osteopathic Medicine, shall adopt rules establishing requirements for the written protocol within 90 days after the date upon which this section becomes effective. At a minimum, the written protocol shall include:

(a) The terms and conditions required in s. 465.189(7).

(b) Specific categories of patients for whom the supervising physician authorizes the pharmacist to test for and treat influenza.

(c) The supervising physician's instructions for the treatment of influenza based on the patient's age, symptoms, and test results, including negative results.

(d) A process and schedule for the supervising physician to review the pharmacist's actions under the written protocol.

(e) A process and schedule for the pharmacist to notify the supervising physician of the patient's condition, tests

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administered, test results, and course of treatment.

(6) When the patient has a primary care provider, a pharmacist who provides testing for or treatment of influenza under this section shall notify the patient's primary care provider within 2 business days after providing any such testing or treatment.

(7) If a pharmacist tests for and treats influenza for a patient under this section, the pharmacist or his or her designee must follow up with the patient 3 days later to determine whether the patient's condition has improved, and if the patient informs the pharmacist that his or her condition has not improved, the pharmacist shall do all of the following:

(a) Recommend that the patient seek treatment from the patient's primary care physician or, if the patient has no primary care physician, from the pharmacist's supervising physician.

(b) Inform the patient's primary care physician that the patient's condition failed to improve 3 days after treatment or, if the patient has no primary care physician, the pharmacist shall so inform the pharmacist's supervising physician.

(c) Document in the patient's record maintained under subsection (3) whether the followup required under this subsection occurred or whether attempts to contact the patient were unsuccessful.

(8) A pharmacist may not test for or treat influenza under this section for a patient who:

(a) Is younger than 18 years of age;

(b) Is older than 75 years of age;

(c) Refuses to provide a medical history under paragraph

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233 (1) (e); or

234 (d) Provides a medical history under paragraph (1) (e)
235 indicating a history of conditions relating to heart disease,
236 bronchial disorders, pneumonia, chronic obstructive pulmonary
237 disease, asthma, or any other medical conditions as determined
238 by the Board of Medicine by rule on an annual basis.

239 (9) A supervising physician who enters into a written
240 protocol with a pharmacist under this section must be a primary
241 care physician who is actively practicing in the community in
242 which the pharmacist tests and treats under this section
243 according to Board of Medicine rule. A supervising physician may
244 not enter into such a protocol with pharmacists employed at more
245 than four pharmacy locations.

246 (10) Implementation of this section is contingent upon the
247 enactment of an appropriation within the General Appropriations
248 Act which is sufficient to fund the Board of Medicine's efforts
249 to carry out its duties as required under this section.

250 Section 4. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/27/20

Meeting Date

714

Bill Number (if applicable)

Topic Test and Treat

Amendment Barcode (if applicable)

Name Jared Willos

Job Title Director of GR

Address 2544 Blairstone Pines Dr.

Phone 878-7364

Street

Tallahassee

FL

32301

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Osteopathic Medical Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27

Meeting Date

714

Bill Number (if applicable)

Topic FICA Bill

Amendment Barcode (if applicable)

Name Joe Mazzotta MAZZIOTTA

Job Title MD

Address 1301 Hodges Drive
Street

Phone 850.591.0605

Tallahassee FL 32309
City State Zip

Email Joseph.Mazzotta@T4H.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

February 27, 2020

Meeting Date

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

CS/SB 714

Bill Number (if applicable)

Topic TESTING FOR AND TREATMENT OF INFLUENZA

Amendment Barcode (if applicable)

Name Michael Jackson

Job Title Executive Vice President and CEO

Address 610 North Adams Street

Street

Tallahassee

City

Florida

State

32301

Zip

Phone (850) 222-2400

Email mjackson@pharmview.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Pharmacy Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

SB 714

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name ROHAN A. JOSEPH

Job Title MD

Address 2626 LANE DR, STE 206

Street

Phone 850-545-4953

TALLAH, FL

City

State

32312

Zip

Email rohan.joseph@hcahealthcare.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA CHAPTER OF AMERICAN COLLEGE OF SURGEONS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020

Meeting Date

SB714

Bill Number (if applicable)

Topic Prescription Drug Coverage

Amendment Barcode (if applicable)

Name David Poole

Job Title Director Legislative Affairs

Address 1825 Country Club Dr

Phone 850-766-3323

Street

Tallahassee

FL

32301

City

State

Zip

Email david.poole@aidshealth.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing AIDS Healthcare Foundation (AHF)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

714
Bill Number (if applicable)

Topic Testing and Treatment of Influenza

Amendment Barcode (if applicable)

Name Phillip Suderman

Job Title Policy Director

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans for Prosperity

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

714

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name B.D. Jagerst

Job Title Legislative Assistant

Address 516 N Adams

Phone _____

Street

Tallahassee

City

State

32301

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/27/2020
Meeting Date

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

714
Bill Number (if applicable)

Topic Flu test & TREAT

Amendment Barcode (if applicable)

Name JAKE FARMER

Job Title Director Government Affairs

Address 227 S. Adams St.

Phone 222-4082

Tallahassee FL 32301
City State Zip

Email Jake@frf.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Retail Federation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 836

INTRODUCER: Senator Simmons

SUBJECT: Funds for the Operation of Schools

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Brick</u>	<u>Sikes</u>	<u>ED</u>	Favorable
2. <u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Favorable
3. <u>Underhill</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

I. Summary:

SB 836 provides for school districts to receive additional funding through the Florida Education Finance Program (FEFP) for each student who receives an Advanced Placement (AP) Capstone Diploma and meets the requirements for a standard high school diploma.

The bill does not require appropriation of additional state funds. The bill may increase funding provided through the FEFP to those school districts that offer the AP Capstone Diploma. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Articulated acceleration mechanisms are intended to shorten the time necessary for a student to earn a high school diploma and a postsecondary degree, broaden the scope of curricular options available, and increase the depth of study available for a particular subject.¹ The law provides the following benefits to schools and students engaged in these programs:

- Successful completion of a course in any of these programs qualifies for college credit.²
- The percentage of a school's students eligible to earn college credit through any of these programs favorably affects the school's grade.³
- A grade earned in any of these programs is assigned additional weight for determining student eligibility for a Bright Futures Scholarship.⁴

¹ Section 1007.27(1), F.S.

² Section 1003.4295, F.S.

³ Section 1008.34(3)(b)2.b., F.S.

⁴ Section 1009.531(3)(a), F.S.

The AP Program

The AP Program enables students to pursue college-level studies while still in high school.⁵ The program consists of college-level courses developed by the AP Program that high schools can choose to offer, and corresponding exams that are administered once a year.⁶ A student must score a ‘3’ or higher, on a 5-point scale, to earn postsecondary credit through the AP Program.⁷

AP Capstone is a diploma granted to students who earn a score of ‘3’ or higher in AP Seminar and AP Research and on four additional AP exams chosen by the student. The program is based on the AP Seminar and AP Research courses, which are yearlong AP courses.⁸ These courses are designed to complement the other AP courses that the AP Capstone student must take.⁹ AP Seminar and AP Research use an interdisciplinary approach to develop skills students need for college-level work.¹⁰ In the 2018-2019 academic year, 1,402 students in 228 high schools in Florida earned an AP Capstone Diploma.¹¹

International Baccalaureate (IB) and Advanced International Certificate of Education (AICE) Diploma Programs

The IB Diploma is only awarded to students who complete, over the course of a two-year program:¹²

- Six subjects chosen from six subject groups, which include:
 - Studies in language and literature
 - Language acquisition
 - Individuals and societies
 - Sciences
 - Mathematics
 - The arts
- An extended essay with a prescribed limit of 4,000 words.
- A theory of knowledge course exploring the nature of knowledge across all disciplines.
- At least three hours each week in creativity, action, and service, which includes participation in the arts, individual and team sports or expeditions or projects, and community and social service activities.

⁵ College Board, AP Central, *AP at a Glance*, <https://apcentral.collegeboard.org/about-ap/ap-a-glance> (last visited Jan. 8, 2020).

⁶ *Id.*

⁷ See ss. 1007.27(5) and 1007.23(1), F.S.

⁸ College Board, *AP Capstone Diploma Program*, <https://apcentral.collegeboard.org/courses/ap-capstone> (last visited Jan. 3, 2020).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Email, College Board (Jan. 7, 2020).

¹² International Baccalaureate, *The IB Diploma Programme*, <https://web.archive.org/web/20100703000358/http://www.ibo.org/diploma/> (last visited Jan. 8, 2020).

To earn the AICE Diploma, students must achieve seven credits within a 25-month period, including at least one credit in:¹³

- A Cambridge International Global Perspectives & Research course;
- Mathematics and science;
- Languages; and
- Arts and humanities.

Successful completion of an IB or AICE curriculum satisfies the credit requirement for receipt of a standard high school diploma,¹⁴ but no similar recognition exists for completion of an AP Capstone Diploma.

Florida Education Finance Program

The Florida Education Finance Program (FEFP) is the primary mechanism for funding the operating costs of Florida school districts. Under the FEFP, financial support for education is based on the full-time equivalent (FTE) student membership in the public schools.¹⁵ The number of FTE students in each of the funded education programs is multiplied by cost factors¹⁶ relative to each program to obtain weighted FTE student values.¹⁷

A student who is enrolled in the AP, IB, or AICE programs and earns a qualifying score on a subject exam in an AP, IB, or full-credit AICE course generates an additional value of 0.16 FTE student membership for a school district.¹⁸ Additionally, classroom teachers may receive bonus funds for the performance of their students on AP, IB, and AICE examinations. School districts must use the additional FTE funds for purposes specified in law.¹⁹

During the 2018-2019 school year, 107,237 Florida public school students received a score of ‘3’ or higher on 183,438 AP exams.²⁰ In the 2019-2020 fiscal year, the additional FTE membership value associated with each student who earns a qualifying score on an AP exam is approximately \$688.²¹

Florida law currently provides additional bonus funding through the FEFP for school districts for each student who receives an IB or AICE diploma. A student earning an IB or AICE diploma

¹³ Cambridge Assessment International Education, *Cambridge AICE Diploma*, <https://www.cambridgeinternational.org/programmes-and-qualifications/cambridge-advanced/cambridge-aice-diploma/> (last visited Jan. 8, 2020). Students may also complete up to two credits in Interdisciplinary subjects.

¹⁴ Section 1003.4282(1)(a), F.S.

¹⁵ Section 1011.62, F.S.

¹⁶ Program cost factors are based on desired relative cost differences between the following programs as established in the annual General Appropriations Act: grades K-3; 4-8; 9-12; two program cost factors for exceptional students; secondary career education programs; and English for Speakers of Other Languages. Section 1011.62(1)(c), F.S.

¹⁷ Section 1011.62, F.S.; Florida Department of Education, *2019-2020 Funding for Florida School Districts*, <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf>.

¹⁸ Section 1011.62(1)(l)-(n), F.S. A student enrolled in a half-credit AICE course generates an additional value of 0.08 FTE.

¹⁹ Section 1011.62(1)(l)-(n), F.S.

²⁰ Email, College Board (Jan. 7, 2020).

²¹ This figure was calculated with the base student allocation of \$4,279.49, as provided in Specific Appropriation 93, s. 2, ch. 2019-115, L.O.F., and a cost factor of 1.005 for the 9-12 Grade program. No district cost differential was applied.

generates a value of 0.3 FTE.²² In the 2017-2018 fiscal year, approximately 7,271 students received either an IB or an AICE diploma, generating approximately \$9.2 million²³ in additional funding to the school districts.²⁴

III. Effect of Proposed Changes:

The bill provides for school districts to receive additional funding through the FEFP for each student who receives an AP Capstone Diploma and meets the requirements for a standard high school diploma. The bill requires that a value of 0.3 FTE student membership be calculated for each student who receives an AP Capstone Diploma. Such value must be added to the total FTE in basic programs for grades 9 through 12 in the subsequent fiscal year.

In effect, the bill provides the same additional FTE funding for each student who receives an AP Capstone Diploma as a student who receives an IB or AICE diploma. The bill may result in more districts offering, and more students earning, the AP Capstone Diploma.

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.

²² Section 1011.62(1)(l-m), F.S.

²³ *Supra* note 18.

²⁴ Department of Education, Office of Funding and Financial Reporting, *Florida Education Finance Program 2018-19 Third Calculation*, at 14 (2019), available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/18193rdCalc.pdf>.

B. Private Sector Impact:

Students and families of students who earn college credits in high school through the AP Capstone Diploma program may experience cost savings.

C. Government Sector Impact:

The bill does not require appropriation of additional state funds. However, the bill may reallocate funds within the FEFP to those school districts with relatively more students successfully completing dual enrollment coursework and earning the AP Capstone Diploma. Based on 2018-2019 data, AP Capstone Diploma bonus funding within the Florida Education Finance Program is estimated to be \$1.8 million.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1011.62 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

²⁵ 0.3 additional FTE value of \$1,290 multiplied by 1,402 AP Capstone Diploma recipients in 2019.

By Senator Simmons

9-01151-20

2020836__

A bill to be entitled

An act relating to funds for the operation of schools; amending s. 1011.62, F.S.; revising the annual allocation to school districts to include an additional calculation of full-time equivalent membership for students who earn a College Board Advanced Placement Capstone Diploma; providing an effective date.

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

Section 1. Paragraph (n) of subsection (1) of section 1011.62, Florida Statutes, is amended to read:

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

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

(n) *Calculation of additional full-time equivalent membership based on College Board Advanced Placement scores of students and earning College Board Advanced Placement Capstone Diplomas.*—A value of 0.16 full-time equivalent student membership shall be calculated for each student in each advanced placement course who receives a score of 3 or higher on the

9-01151-20

2020836__

College Board Advanced Placement Examination for the prior year and added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. A value of 0.3 full-time equivalent student membership shall be calculated for each student who receives a College Board Advanced Placement Capstone Diploma and meets the requirements for a standard high school diploma under s. 1003.4282. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. Each district must allocate at least 80 percent of the funds provided to the district for advanced placement instruction, in accordance with this paragraph, to the high school that generates the funds. The school district shall distribute to each classroom teacher who provided advanced placement instruction:

1. A bonus in the amount of \$50 for each student taught by the Advanced Placement teacher in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination.

2. An additional bonus of \$500 to each Advanced Placement teacher in a school designated with a grade of "D" or "F" who has at least one student scoring 3 or higher on the College Board Advanced Placement Examination, regardless of the number of classes taught or of the number of students scoring a 3 or higher on the College Board Advanced Placement Examination.

Bonuses awarded under this paragraph shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive. For such courses, the teacher shall earn an

9-01151-20

2020836__

59 additional bonus of \$50 for each student who has a qualifying
60 score.

61 Section 2. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 30, 2020

I respectfully request that **Senate Bill 836**, relating to Funds for the Operation of Schools, be placed on the:

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

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "David Simmons", written over a horizontal line.

Senator David Simmons
Florida Senate, District 9

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

836

Bill Number (if applicable)

Topic Funds for operation of schools

Amendment Barcode (if applicable)

Name Eric Stern

Job Title Leg Comm Member

Address 1747 Orlando Central Pkwy

Phone 800-373-2752

Street

Orlando

FL

32809

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 884 (571032)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); and Senators Hooper and Perry

SUBJECT: Law Enforcement and Correctional Officers

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wagoner	Jones	CJ	Favorable
2.	Jameson	Jameson	ACJ	Recommend: Fav/CS
3.	Jameson	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 884 revises the definition of “law enforcement officer” and “correctional officer” to include those officers employed *part time* for the purposes of misconduct review proceedings under part VI of chapter 112, Florida Statutes. Part VI of chapter 112, Florida Statutes, is commonly referred to as the Law Enforcement Officers’ (LEO) Bill of Rights and affords certain rights and privileges for law enforcement officers and correctional officers.

The bill clarifies that *regardless of the allegation’s origin*, if the investigation of an allegation is not completed within 180 days after the date the agency receives notice of the allegation, an agency may not undertake any disciplinary action against a law enforcement officer or correctional officer. The bill also clarifies that *regardless of the allegation’s origin*, if the agency determines that disciplinary action is appropriate, it must give notice to the law enforcement officer or correctional officer within 180 days after the agency received notice of the alleged misconduct. The bill removes language that limited the 180-day period provision to external complaints.

The bill will have a significant negative fiscal impact on the Department of Corrections and may have a negative fiscal impact on other law enforcement and correctional agencies. See Section V.

The bill is effective July 1, 2020.

II. Present Situation:

Law Enforcement Officers' Bill of Rights; Generally

Section 112.532, F.S., commonly known as the Law Enforcement Officers' (LEO) Bill of Rights,¹ affords law enforcement officers and correctional officers various rights and privileges when a law enforcement officer or a correctional officer is under investigation and subject to interrogation for a reason which could lead to disciplinary action, suspension, demotion, or dismissal. In general, the LEO Bill of Rights includes:

- The right to be informed of the nature of the investigation and the evidence against the law enforcement officer or correctional officer before any interrogation;
- The right to counsel during any interrogation;
- The right to be notified of the reasons for any disciplinary action before it is imposed;
- The right to a transcript of any interrogation;
- The right to a complete copy of the investigatory file; and
- The right to address the findings in the investigatory report with the agency before the disciplinary action is imposed.²

Additionally, the LEO Bill of Rights prescribes the conditions under which any interrogation of the officer must be conducted, including limitations on the time, place, manner, and length of the interrogation, and restrictions on the interrogation techniques.³

Section 112.531(1), F.S., defines “law enforcement officer” as any person, other than a chief of police, who is employed full time by any municipality or the state or any political subdivision thereof and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, traffic, or highway laws of this state. The term includes any person who is appointed by the sheriff as a deputy sheriff.

Section 112.531(2), F.S., defines “correctional officer” as any person, other than a warden, who is appointed or employed full time by the state or any political subdivision thereof whose primary responsibility is the supervision, protection, care, custody, or control of inmates within a correctional institution. The term includes correctional probation officers. The term does not include any secretarial, clerical, or professionally trained personnel.

Limitations Period for Disciplinary Actions

Section 112.532(6), F.S., provides that disciplinary action, suspension, demotion, or dismissal may not be undertaken by an agency against a law enforcement officer or correctional officer for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within 180 days after the date the agency receives notice of the allegation by a person authorized by the agency to initiate an investigation of the misconduct.

In *Fraternal Order of Police, Gator Lodge 67 v. City of Gainesville*, the First District Court of Appeals reviewed an agency's disciplinary action against a law enforcement officer where the

¹ *Fraternal Order of Police, Gator Lodge 67 v. City of Gainesville*, 148 So.3d 798 (Fla. 1st DCA 2014).

² Section 112.532(1)(d), (1)(g), (1)(i), (4)(a), and (4)(b), F.S.

³ Section 112.532(1)(a), (1)(b), (1)(c), (1)(e), and (1)(f), F.S.

investigation exceeded 180 days after an internal complaint was made.⁴ The court found the current language of the 180-day period provision excludes those complaints that originate internally.⁵ The court adopted its prior interpretation of the statute, reasoning that because the period is triggered by the agency's receipt of a complaint, the complaint would need to come from a person outside the agency for the 180-day provision to apply.⁶

If the agency determines that disciplinary action is appropriate, it must complete its investigation and give notice in writing to the law enforcement officer or correctional officer of its intent to proceed with disciplinary action. Notice to the officer must be provided within 180 days after the date the agency received notice of the alleged misconduct. The running of the limitations period may be tolled or extended under certain circumstances.⁷

Compliance Review Procedures

Section 112.534, F.S., provides review procedures and remedial measures if any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of the LEO Bill of Rights. The law enforcement officer or correctional officer⁸ is required to advise the investigator of the intentional violation of the LEO Bill of Rights alleged.⁹ If the investigator fails to cure the violation or continues the violation after being notified by the officer, the officer must request the agency head or his or her designee be informed of the alleged intentional violation.¹⁰ Once this request is made, the interview of the officer must cease.¹¹ Thereafter, a written notice of violation and request for a compliance review hearing must be filed within 3 working days with the agency head or designee which must contain sufficient information to identify the alleged intentional violation of the LEO Bill of Rights.¹²

Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed.¹³

⁴ *Supra* n. 1.

⁵ *Id.*

⁶ *Id.* See *McQuade v. Department of Corrections*, 51 So.3d 489 (Fla. 1st DCA 2010). See also *Migliore v. City of Lauderhill*, 415 So.2d 62 (Fla. 4th DCA 1982), *approved*, 431 So.2d 986 (Fla. 1983).

⁷ The running limitations period may be tolled for a period specified in a written waiver of the limitation by the law enforcement officer or correctional officer; must be tolled during the time that any criminal investigation or prosecution is pending in connection with the act, omission, or other allegation of misconduct; must be tolled if the investigation involves an officer who is incapacitated or otherwise unavailable; may be extended during a multijurisdictional investigation to facilitate coordination with other agencies involved; may be tolled for certain emergencies or natural disasters; and must be tolled during the time that the officer's compliance hearing proceeding is continuing beginning with the filing of the notice of violation and a request for a hearing and ending with the written determination of the compliance review panel or upon the violation being remedied by the agency. Section 112.532(6), F.S.

⁸ For purposes of s. 112.534, F.S., "law enforcement officer" and "correctional officer" includes the officer's representative or legal counsel until such point that a compliance review hearing is commenced. Section 112.534(1), F.S.

⁹ Section 112.534(1)(a), F.S.

¹⁰ Section 112.534(1)(b), F.S.

¹¹ *Id.* Refusal to respond to investigative questions by the officer does not constitute insubordination or any similar type of policy violation.

¹² Section 112.534(1)(c), F.S.

¹³ An alternate date may be chosen by mutual agreement of the officer and agency or for extraordinary reasons. Section 112.534(1)(d), F.S.

An officer under investigation for a disciplinary matter is entitled to a compliance review hearing to review alleged violations of the LEO Bill of Rights, regardless of the source of the complaint that led to the investigation.¹⁴ The compliance review panel¹⁵ reviews the circumstances and facts surrounding the alleged intentional violation and must determine whether or not the investigator or agency intentionally violated the requirements of the LEO Bill of Rights.¹⁶

A compliance review hearing is not available to review violations occurring after the investigation is complete.¹⁷ If an alleged violation is sustained by the compliance review panel, s. 112.534(1)(g), F.S., provides for a limited remedial measure of such violation: the agency head must immediately remove the investigator from any further involvements with the investigation of the office.^{18, 19}

III. Effect of Proposed Changes:

The bill revises the definition of “law enforcement officer” and “correctional officer” to include those officers employed *part time* for the purposes of misconduct review proceedings under part VI of ch. 112, F.S.

Currently, complaints that originate internally are not subject to the provision that requires investigations to be completed within the 180-day time period. The bill clarifies that *regardless of the origin of the allegation or complaint*, if the investigation of an allegation or complaint is not completed within 180 days after the date the agency receives notice of the allegation or complaint, an agency may not undertake any disciplinary action against a law enforcement officer or correctional officer. The bill also clarifies that *regardless of the origin of the allegation or complaint*, if the agency determines that disciplinary action is appropriate, it must give notice to the law enforcement officer or correctional officer within 180 days after the agency received notice of the alleged misconduct. The bill changes language that limited the 180-day period provision to external complaints.

The bill is effective July 1, 2020.

¹⁴ *Supra* n. 1.

¹⁵ The compliance review panel is made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. These members must be active law enforcement or correctional officers from the same law enforcement discipline as the officer filing the request. The panel may be selected from any state, county, or municipal agency within the county in which the officer works. Section 112.534(1)(d), F.S.

¹⁶ Section 112.534(1)(e), F.S.

¹⁷ *Supra* n. 1.

¹⁸ Additionally, the agency head must direct an investigation to be initiated against the investigator determined to have intentionally violated the agency disciplinary action procedures under this part. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position. Section 112.534(1)(g), F.S.

¹⁹ *Supra* n. 1. In *Fraternal Order of Police*, the First District Court of Appeal described the exclusive purpose of the compliance review hearing as a remedy to violations of the LEO Bill of Rights occurring during the investigation, not a name-clearing hearing, by relying on this limited remedy.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill expands the requirement for all law enforcement and correctional agencies to comply with the LEO Bill of Rights to include part time law enforcement officers and correctional officers under investigation and subject to interrogation that could lead to disciplinary action. The bill also requires investigations of allegations or complaints raised internally and externally to be completed within 180 days; currently only externally-generated allegations must be investigated within 180 days. The fiscal impact on these agencies will vary based on the number of part time officers employed and frequency of complaints raised internally.

The Department of Highway Safety and Motor Vehicles reports that the bill does not appear to have any fiscal impact on the department.²⁰

²⁰ The DHSMV, *2020 Agency Analysis for SB 884*, p. 3, December 18, 2019 (on file with the Senate Criminal Justice Committee).

The Department of Corrections reports that most allegations against correctional officers are raised internally. Therefore, the bill will significantly impact the resources necessary to conduct the investigations within the required timeframe.²¹ The DOC indicates that this bill will require a 43 percent increase in investigative staff within their Office of Inspector General as follows:²²

Class Title	Salary & Benefits	FTE	Year 1 Annual Costs
Inspector - DC	\$68,145	37	\$2,521,365
Operations & Mgmt Const I-SES	\$60,657	2	\$121,314
Human Resources Consultant-SES	\$79,650	1	\$79,650
Human Resource Analyst-SES	\$72,692	2	\$145,384
Human Resource Specialist-SES	\$ 62,256	2	\$124,512
Total Salaries & Benefits		44	\$2,992,225
Expense and Other			
Recurring expense-Professional	\$3,378		\$148,632
Non-recurring expense-Professional	\$4,429		\$194,876
Human Resource Services	\$329		\$14,476
Salary incentive (if applicable)	\$1,128		\$41,736
Total Expense and Other			\$399,720
Total		44	\$3,391,945
Recurring GR	\$3,197,069		
Non-recurring	\$194,876		

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 112.531 and 112.532.

²¹ E-mail received from the Department of Corrections, to committee staff (January 10, 2020) (on file with the Senate Criminal Justice Committee).

²² The DOC, *2020 Agency Analysis for SB 884*, p. 4, January 13, 2020.

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

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

Recommended CS by Appropriations Subcommittee on Criminal and Civil Justice on February 18, 2020:

The committee substitute removed the provision that allowed a law enforcement officer or correctional officer to file for injunctive relief in certain situations. The provision amended s. 112.534, F.S., to require the action for injunctive relief be filed in the circuit court where the agency is located, and specified that clear and convincing evidence that an agency violated part VI of chapter 112, F.S., constitutes irreparable harm for purposes of injunctive relief.

B. Amendments:

None.



507994

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Hooper) recommended the following:

Senate Amendment (with title amendment)

Between lines 81 and 82
insert:

Section 3. Paragraph (b) of subsection (1) of section
112.533, Florida Statutes, is amended to read:

112.533 Receipt and processing of complaints.—

(1)

(b)1. Any political subdivision that initiates or receives
a complaint against a law enforcement officer or correctional



507994

officer must within 5 business days forward the complaint to the employing agency of the officer who is the subject of the complaint for review or investigation.

2. For purposes of this paragraph, the term "political subdivision" means a separate agency or unit of local government created or established by law or ordinance and the officers thereof and includes, but is not limited to, an authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

Notwithstanding the rights and privileges provided under this part or any provisions provided in a collective bargaining agreement, the agency head or the agency head's designee may request a sworn or certified investigator from a separate law enforcement or correctional agency to conduct the investigation when a conflict is identified with having an investigator conduct the investigation of an officer of the same employing agency; the employing agency does not have an investigator trained to conduct such investigations; or the agency's investigator is the subject of, or a witness in, the investigation and such agency is composed of any combination of 35 or fewer law enforcement officers or correctional officers. The employing agency must document the identified conflict. Upon completion of the investigation, the investigator shall present the findings without any disciplinary recommendation to the employing agency.



507994

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

41 And the title is amended as follows:

42 Between lines 7 and 8

43 insert:

44 amending s. 112.533, F.S.; authorizing law enforcement
45 and correctional agencies to request a separate agency
46 to conduct an investigation of a complaint under
47 certain circumstances; specifying requirements for
48 such investigations;



181080

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Hooper) recommended the following:

Senate Amendment (with title amendment)

Between lines 81 and 82
insert:

Section 3. For the 2020-2021 fiscal year, the sums of \$3,197,069 in recurring funds and \$194,876 in nonrecurring funds are appropriated from the General Revenue Fund to the Department of Corrections, and 44 full-time equivalent positions with associated salary rate of 1,824,002 are authorized, for the purposes of implementing this act.



181080

11
12 ===== T I T L E A M E N D M E N T =====
13 And the title is amended as follows:
14 Between lines 7 and 8
15 insert:
16 providing appropriations and authorizing positions;



571032

576-03900-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to law enforcement and correctional
officers; reordering and amending s. 112.531, F.S.;
revising definitions; amending s. 112.532, F.S.;
specifying that an allegation or complaint of
misconduct against a law enforcement officer or a
correctional officer may originate from any source;
providing an effective date.

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

Section 1. Section 112.531, Florida Statutes, is reordered
and amended to read:

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

(2) ~~(1)~~ "Law enforcement officer" means any person, other
than a chief of police, who is employed full time or part time
by any municipality or the state or any political subdivision
thereof and whose primary responsibility is the prevention and
detection of crime or the enforcement of the penal, traffic, or
highway laws of this state; and includes any person who is
appointed by the sheriff as a deputy sheriff under ~~pursuant to~~
s. 30.07.

(1) ~~(2)~~ "Correctional officer" means any person, other than
a warden, who is appointed or employed full time or part time by
the state or any political subdivision thereof whose primary
responsibility is the supervision, protection, care, custody, or
control of inmates within a correctional institution; and



571032

576-03900-20

includes correctional probation officers, as defined in s.
943.10(3). However, the term "correctional officer" does not
include any secretarial, clerical, or professionally trained
personnel.

Section 2. Paragraph (a) of subsection (6) of section
112.532, Florida Statutes, is amended to read:

112.532 Law enforcement officers' and correctional
officers' rights.—All law enforcement officers and correctional
officers employed by or appointed to a law enforcement agency or
a correctional agency shall have the following rights and
privileges:

(6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.—

(a) Except as provided in this subsection, disciplinary
action, suspension, demotion, or dismissal may not be undertaken
by an agency against a law enforcement officer or correctional
officer for any act, omission, or other allegation or complaint
of misconduct, regardless of the origin of the allegation or
complaint, if the investigation of the allegation or complaint
is not completed within 180 days after the date the agency
receives notice of the allegation or complaint by a person
authorized by the agency to initiate an investigation of the
misconduct. If the agency determines that disciplinary action is
appropriate, it shall complete its investigation and give notice
in writing to the law enforcement officer or correctional
officer of its intent to proceed with disciplinary action, along
with a proposal of the specific action sought, including length
of suspension, if applicable. Notice to the officer must be
provided within 180 days after the date the agency received
notice of the alleged misconduct, regardless of the origin of



571032

576-03900-20

the allegation or complaint, except as follows:

1. The running of the limitations period may be tolled for a period specified in a written waiver of the limitation by the law enforcement officer or correctional officer.

2. The running of the limitations period is tolled during the time that any criminal investigation or prosecution is pending in connection with the act, omission, or other allegation of misconduct.

3. If the investigation involves an officer who is incapacitated or otherwise unavailable, the running of the limitations period is tolled during the period of incapacitation or unavailability.

4. In a multijurisdictional investigation, the limitations period may be extended for a period of time reasonably necessary to facilitate the coordination of the agencies involved.

5. The running of the limitations period may be tolled for emergencies or natural disasters during the time period wherein the Governor has declared a state of emergency within the jurisdictional boundaries of the concerned agency.

6. The running of the limitations period is tolled during the time that the officer's compliance hearing proceeding is continuing beginning with the filing of the notice of violation and a request for a hearing and ending with the written determination of the compliance review panel or upon the violation being remedied by the agency.

Section 3. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 884

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); and Senators Hooper and Perry

SUBJECT: Law Enforcement and Correctional Officers

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wagoner	Jones	CJ	Favorable
2.	Jameson	Jameson	ACJ	Recommend: Fav/CS
3.	Jameson	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 884 revises the definition of “law enforcement officer” and “correctional officer” to include those officers employed *part time* for the purposes of misconduct review proceedings under part VI of chapter 112, Florida Statutes. Part VI of chapter 112, Florida Statutes, is commonly referred to as the Law Enforcement Officers’ (LEO) Bill of Rights and affords certain rights and privileges for law enforcement officers and correctional officers.

The bill clarifies that *regardless of the allegation’s origin*, if the investigation of an allegation is not completed within 180 days after the date the agency receives notice of the allegation, an agency may not undertake any disciplinary action against a law enforcement officer or correctional officer. The bill also clarifies that *regardless of the allegation’s origin*, if the agency determines that disciplinary action is appropriate, it must give notice to the law enforcement officer or correctional officer within 180 days after the agency received notice of the alleged misconduct. The bill removes language that limited the 180-day period provision to external complaints.

The bill also allows an agency head or the agency head’s designee to request a sworn or certified investigator from a separate law enforcement or correctional agency to conduct an investigation when:

- A conflict is identified with the employing agency
- The employing agency does not have an investigator trained to conduct the investigations, or

- The agency's investigator is the subject of, or a witness in, the investigation and the agency has any combination of 35 or fewer law enforcement officers or correctional officers.

The employing agency must document the conflict, and upon completion of the investigation, the investigator must present the findings without a disciplinary recommendation to the employing agency.

The bill provides an appropriation. See Section V.

The bill is effective July 1, 2020.

II. Present Situation:

Law Enforcement Officers' Bill of Rights; Generally

Section 112.532, F.S., commonly known as the Law Enforcement Officers' (LEO) Bill of Rights,¹ affords law enforcement officers and correctional officers various rights and privileges when a law enforcement officer or a correctional officer is under investigation and subject to interrogation for a reason which could lead to disciplinary action, suspension, demotion, or dismissal. In general, the LEO Bill of Rights includes:

- The right to be informed of the nature of the investigation and the evidence against the law enforcement officer or correctional officer before any interrogation;
- The right to counsel during any interrogation;
- The right to be notified of the reasons for any disciplinary action before it is imposed;
- The right to a transcript of any interrogation;
- The right to a complete copy of the investigatory file; and
- The right to address the findings in the investigatory report with the agency before the disciplinary action is imposed.²

Additionally, the LEO Bill of Rights prescribes the conditions under which any interrogation of the officer must be conducted, including limitations on the time, place, manner, and length of the interrogation, and restrictions on the interrogation techniques.³

Section 112.531(1), F.S., defines "law enforcement officer" as any person, other than a chief of police, who is employed full time by any municipality or the state or any political subdivision thereof and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, traffic, or highway laws of this state. The term includes any person who is appointed by the sheriff as a deputy sheriff.

Section 112.531(2), F.S., defines "correctional officer" as any person, other than a warden, who is appointed or employed full time by the state or any political subdivision thereof whose primary responsibility is the supervision, protection, care, custody, or control of inmates within a

¹ *Fraternal Order of Police, Gator Lodge 67 v. City of Gainesville*, 148 So.3d 798 (Fla. 1st DCA 2014).

² Section 112.532(1)(d), (1)(g), (1)(i), (4)(a), and (4)(b), F.S.

³ Section 112.532(1)(a), (1)(b), (1)(c), (1)(e), and (1)(f), F.S.

correctional institution. The term includes correctional probation officers. The term does not include any secretarial, clerical, or professionally trained personnel.

Limitations Period for Disciplinary Actions

Section 112.532(6), F.S., provides that disciplinary action, suspension, demotion, or dismissal may not be undertaken by an agency against a law enforcement officer or correctional officer for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within 180 days after the date the agency receives notice of the allegation by a person authorized by the agency to initiate an investigation of the misconduct.

In *Fraternal Order of Police, Gator Lodge 67 v. City of Gainesville*, the First District Court of Appeals reviewed an agency's disciplinary action against a law enforcement officer where the investigation exceeded 180 days after an internal complaint was made.⁴ The court found the current language of the 180-day period provision excludes those complaints that originate internally.⁵ The court adopted its prior interpretation of the statute, reasoning that because the period is triggered by the agency's receipt of a complaint, the complaint would need to come from a person outside the agency for the 180-day provision to apply.⁶

If the agency determines that disciplinary action is appropriate, it must complete its investigation and give notice in writing to the law enforcement officer or correctional officer of its intent to proceed with disciplinary action. Notice to the officer must be provided within 180 days after the date the agency received notice of the alleged misconduct. The running of the limitations period may be tolled or extended under certain circumstances.⁷

Compliance Review Procedures

Section 112.534, F.S., provides review procedures and remedial measures if any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of the LEO Bill of Rights. The law enforcement officer or correctional officer⁸ is required to advise the investigator of the intentional violation of the LEO Bill of Rights alleged.⁹ If the investigator fails to cure the violation or continues the violation after being notified by the officer, the officer must request the agency head or his or her designee

⁴ *Supra* n. 1.

⁵ *Id.*

⁶ *Id.* See *McQuade v. Department of Corrections*, 51 So.3d 489 (Fla. 1st DCA 2010). See also *Migliore v. City of Lauderhill*, 415 So.2d 62 (Fla. 4th DCA 1982), *approved*, 431 So.2d 986 (Fla. 1983).

⁷ The running limitations period may be tolled for a period specified in a written waiver of the limitation by the law enforcement officer or correctional officer; must be tolled during the time that any criminal investigation or prosecution is pending in connection with the act, omission, or other allegation of misconduct; must be tolled if the investigation involves an officer who is incapacitated or otherwise unavailable; may be extended during a multijurisdictional investigation to facilitate coordination with other agencies involved; may be tolled for certain emergencies or natural disasters; and must be tolled during the time that the officer's compliance hearing proceeding is continuing beginning with the filing of the notice of violation and a request for a hearing and ending with the written determination of the compliance review panel or upon the violation being remedied by the agency. Section 112.532(6), F.S.

⁸ For purposes of s. 112.534, F.S., "law enforcement officer" and "correctional officer" includes the officer's representative or legal counsel until such point that a compliance review hearing is commenced. Section 112.534(1), F.S.

⁹ Section 112.534(1)(a), F.S.

be informed of the alleged intentional violation.¹⁰ Once this request is made, the interview of the officer must cease.¹¹ Thereafter, a written notice of violation and request for a compliance review hearing must be filed within 3 working days with the agency head or designee, which must contain sufficient information to identify the alleged intentional violation of the LEO Bill of Rights.¹²

Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed.¹³ An officer under investigation for a disciplinary matter is entitled to a compliance review hearing to review alleged violations of the LEO Bill of Rights, regardless of the source of the complaint that led to the investigation.¹⁴ The compliance review panel¹⁵ reviews the circumstances and facts surrounding the alleged intentional violation and must determine whether or not the investigator or agency intentionally violated the requirements of the LEO Bill of Rights.¹⁶

A compliance review hearing is not available to review violations occurring after the investigation is complete.¹⁷ If an alleged violation is sustained by the compliance review panel, s. 112.534(1)(g), F.S., provides for a limited remedial measure of such violation: the agency head must immediately remove the investigator from any further involvements with the investigation of the office.^{18, 19}

III. Effect of Proposed Changes:

The bill revises the definition of “law enforcement officer” and “correctional officer” to include those officers employed *part time* for the purposes of misconduct review proceedings under part VI of ch. 112, F.S.

Currently, complaints that originate internally are not subject to the provision that requires investigations to be completed within the 180-day time period. The bill clarifies that *regardless of the origin of the allegation or complaint*, if the investigation of an allegation or complaint is

¹⁰ Section 112.534(1)(b), F.S.

¹¹ *Id.* Refusal to respond to investigative questions by the officer does not constitute insubordination or any similar type of policy violation.

¹² Section 112.534(1)(c), F.S.

¹³ An alternate date may be chosen by mutual agreement of the officer and agency or for extraordinary reasons. Section 112.534(1)(d), F.S.

¹⁴ *Supra* n. 1.

¹⁵ The compliance review panel is made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. These members must be active law enforcement or correctional officers from the same law enforcement discipline as the officer filing the request. The panel may be selected from any state, county, or municipal agency within the county in which the officer works. Section 112.534(1)(d), F.S.

¹⁶ Section 112.534(1)(e), F.S.

¹⁷ *Supra* n. 1.

¹⁸ Additionally, the agency head must direct an investigation to be initiated against the investigator determined to have intentionally violated the agency disciplinary action procedures under this part. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position. Section 112.534(1)(g), F.S.

¹⁹ *Supra* n. 1. In *Fraternal Order of Police*, the First District Court of Appeal described the exclusive purpose of the compliance review hearing as a remedy to violations of the LEO Bill of Rights occurring during the investigation, not a name-clearing hearing, by relying on this limited remedy.

not completed within 180 days after the date the agency receives notice of the allegation or complaint, an agency may not undertake any disciplinary action against a law enforcement officer or correctional officer. The bill also clarifies that *regardless of the origin of the allegation or complaint*, if the agency determines that disciplinary action is appropriate, it must give notice to the law enforcement officer or correctional officer within 180 days after the agency received notice of the alleged misconduct. The bill changes language that limited the 180-day period provision to external complaints.

The bill amends s. 112.533, F.S., notwithstanding any other provision of that section or any provisions in a collective bargaining agreement, to allow an agency head or the agency head's designee to request a sworn or certified investigator from a separate law enforcement or correctional agency to conduct an investigation when:

- A conflict is identified with the employing agency,
- The employing agency does not have an investigator trained to conduct the investigations, or
- The agency's investigator is the subject of, or a witness in, the investigation and the agency has any combination of 35 or fewer law enforcement officers or correctional officers.

The employing agency must document the conflict, and upon completion of the investigation, the investigator must present the findings without a disciplinary recommendation to the employing agency.

The bill provides an appropriation of \$3,197,069 in recurring funds and \$194,876 in nonrecurring funds from General Revenue to the DOC, and 44 FTE positions with salary rate of 1,824,002.

The bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill expands the requirement for all law enforcement and correctional agencies to comply with the LEO Bill of Rights to include part time law enforcement officers and correctional officers under investigation and subject to interrogation that could lead to disciplinary action. The bill also requires investigations of allegations or complaints raised internally and externally to be completed within 180 days; currently only externally-generated allegations must be investigated within 180 days. The fiscal impact on these agencies will vary based on the number of part time officers employed and frequency of complaints raised internally.

The Department of Highway Safety and Motor Vehicles reports that the bill does not appear to have any fiscal impact on the department.²⁰

The Department of Corrections reports that most allegations against correctional officers are raised internally. Therefore, the bill will significantly impact the resources necessary to conduct the investigations within the required timeframe.²¹ The DOC indicates that this bill will require a 43 percent increase in investigative staff within their Office of Inspector General.²² The committee substitute provides an appropriation of \$3,197,069 in recurring funds and \$194,876 in nonrecurring funds from General Revenue to the DOC, and 44 FTE positions with salary rate of 1,824,002 as follows.

²⁰ The DHSMV, *2020 Agency Analysis for SB 884*, p. 3, December 18, 2019 (on file with the Senate Criminal Justice Committee).

²¹ E-mail received from the Department of Corrections, to committee staff (January 10, 2020) (on file with the Senate Criminal Justice Committee).

²² The DOC, *2020 Agency Analysis for SB 884*, p. 4, January 13, 2020.

Class Title	Salary & Benefits	FTE	Year 1 Annual Costs
Inspector - DC	\$68,145	37	\$2,521,365
Operations & Mgmt Const I-SES	\$60,657	2	\$121,314
Human Resources Consultant-SES	\$79,650	1	\$79,650
Human Resource Analyst-SES	\$72,692	2	\$145,384
Human Resource Specialist-SES	\$ 62,256	2	\$124,512
Total Salaries & Benefits		44	\$2,992,225
Expense and Other			
Recurring expense-Professional	\$3,378		\$148,632
Non-recurring expense-Professional	\$4,429		\$194,876
Human Resource Services	\$329		\$14,476
Salary incentive (if applicable)	\$1,128		\$41,736
Total Expense and Other			\$399,720
Total		44	\$3,391,945
Recurring GR	\$3,197,069		
Non-recurring	\$194,876		

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 112.531 and 112.532.

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

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

CS by Appropriations on February 27, 2020:

The committee substitute:

- Removed the provision that allowed a law enforcement officer or correctional officer to file for injunctive relief in certain situations.
- Amends s. 112.533, F.S., notwithstanding any other provision of that section or any provisions in a collective bargaining agreement, to allow an agency head or the

agency head's designee to request a sworn or certified investigator from a separate law enforcement or correctional agency to conduct an investigation when:

- A conflict is identified with the employing agency,
 - The employing agency does not have an investigator trained to conduct the investigations, or
 - The agency's investigator is the subject of, or a witness in, the investigation and the agency has any combination of 35 or fewer law enforcement officers or correctional officers.
- Requires the employing agency to document the conflict, and upon completion of the investigation, the investigator must present the findings without a disciplinary recommendation to the employing agency.

The committee substitute provides an appropriation of \$3,197,069 in recurring funds and \$194,876 in nonrecurring funds from General Revenue to the DOC, and 44 FTE positions with salary rate of 1,824,002.

B. Amendments:

None.

By Senator Hooper

16-00956A-20

2020884

A bill to be entitled

An act relating to law enforcement and correctional officers; reordering and amending s. 112.531, F.S.; revising the definitions of "correctional officer" and "law enforcement officer" to include persons employed on a part-time basis; amending s. 112.532, F.S.; authorizing an agency to take disciplinary action against a correctional officer or law enforcement officer accused of misconduct within a specified timeframe, regardless of the allegation's origin; requiring an agency to provide an officer with notice of alleged misconduct within a specified timeframe, regardless of the allegation's origin; amending s. 112.534, F.S.; authorizing an officer to bring an action for injunctive relief if a law enforcement or correctional agency fails to comply with certain requirements of part VI of ch. 112, F.S.; providing an effective date.

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

Section 1. Section 112.531, Florida Statutes, is reordered and amended to read:

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

(2)(1) "Law enforcement officer" means any person, other than a chief of police, who is employed full time or part time by any municipality, ~~or~~ the state, or any political subdivision thereof, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, traffic, or

Page 1 of 4

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

16-00956A-20

2020884

highway laws of this state. The term, ~~and~~ includes any person who is appointed by the sheriff as a deputy sheriff pursuant to s. 30.07.

(1)(2) "Correctional officer" means any person, other than a warden, who is appointed or employed full time or part time by the state or any political subdivision thereof whose primary responsibility is the supervision, protection, care, custody, or control of inmates within a correctional institution. The term, ~~and~~ includes correctional probation officers, as defined in s. 943.10(3). ~~However,~~ The term "~~correctional officer~~" does not include any secretarial, clerical, or professionally trained personnel.

Section 2. Paragraph (a) of subsection (6) of section 112.532, Florida Statutes, is amended to read:

112.532 Law enforcement officers' and correctional officers' rights.—All law enforcement officers and correctional officers employed by or appointed to a law enforcement agency or a correctional agency shall have the following rights and privileges:

(6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.—

(a) Except as provided in this subsection, disciplinary action, suspension, demotion, or dismissal may not be undertaken by an agency against a law enforcement officer or correctional officer for any act, omission, or other allegation of misconduct, regardless of the allegation's origin, if the investigation of the allegation is not completed within 180 days after the date the agency receives notice of the allegation ~~by a person authorized by the agency to initiate an investigation of the misconduct~~. If the agency determines that disciplinary

Page 2 of 4

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

16-00956A-20

2020884

59 action is appropriate, it shall complete its investigation and
 60 give notice in writing to the law enforcement officer or
 61 correctional officer of its intent to proceed with disciplinary
 62 action, along with a proposal of the specific action sought,
 63 including length of suspension, if applicable. Notice to the
 64 officer must be provided within 180 days after the date the
 65 agency received notice of the alleged misconduct, regardless of
 66 the allegation's origin, except as follows:

67 1. The running of the limitations period may be tolled for
 68 a period specified in a written waiver of the limitation by the
 69 law enforcement officer or correctional officer.

70 2. The running of the limitations period is tolled during
 71 the time that any criminal investigation or prosecution is
 72 pending in connection with the act, omission, or other
 73 allegation of misconduct.

74 3. If the investigation involves an officer who is
 75 incapacitated or otherwise unavailable, the running of the
 76 limitations period is tolled during the period of incapacitation
 77 or unavailability.

78 4. In a multijurisdictional investigation, the limitations
 79 period may be extended for a period of time reasonably necessary
 80 to facilitate the coordination of the agencies involved.

81 5. The running of the limitations period may be tolled for
 82 emergencies or natural disasters during the time period wherein
 83 the Governor has declared a state of emergency within the
 84 jurisdictional boundaries of the concerned agency.

85 6. The running of the limitations period is tolled during
 86 the time that the officer's compliance hearing proceeding is
 87 continuing beginning with the filing of the notice of violation

16-00956A-20

2020884

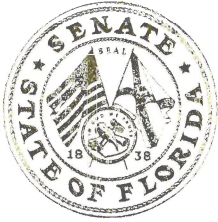
88 and a request for a hearing and ending with the written
 89 determination of the compliance review panel or upon the
 90 violation being remedied by the agency.

91 Section 3. Present subsection (2) of section 112.534,
 92 Florida Statutes, is renumbered as subsection (3), and a new
 93 subsection (2) is added to that section, to read:

94 112.534 Failure to comply; official misconduct.—

95 (2) If any law enforcement agency or correctional agency,
 96 including investigators in an agency's internal affairs or
 97 professional standards division or an assigned investigating
 98 supervisor, fails to comply with the requirements of this part,
 99 or if the injury suffered by the law enforcement officer or
 100 correctional officer employed by or appointed to such agency is
 101 not capable of being remedied by a compliance review hearing,
 102 the officer who is personally injured by such failure to comply
 103 may file an action for injunctive relief in the circuit court
 104 where the agency is located to enforce the requirements of this
 105 part. Clear and convincing evidence that an agency violated this
 106 part constitutes irreparable harm for purposes of injunctive
 107 relief.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ED HOOPER
16th District

COMMITTEES:

Governmental Oversight and Accountability, Chair
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Appropriations Subcommittee on Health and
Human Services
Health Policy
Infrastructure and Security
Joint Select Committee on Collective Bargaining,
Alternating Chair
Joint Administrative Procedures Committee

February 19th, 2020

Honorable Rob Bradley, Chair
Committee on Appropriations
201 Capitol Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley,

I am writing to request that SB 884, Law Enforcement and Correctional Officers,
be placed on the agenda to be heard in the Appropriations Committee.

I appreciate your consideration in this matter.

Sincerely,



Ed Hooper

SENATE APPROPRIATIONS
RECEIVED
2020 FEB 19 AM 9:50
SENT TO: CHAIRMAN
STAFF DIR. STAFF

Cc: Staff Director, Cynthia Sauls Kynoch
Administrative Assistant, Alicia Weiss

REPLY TO:

- ☐ 3450 East Lake Road, Suite 305, Palm Harbor, Florida 34685-2411 (727) 771-2102
- ☐ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

02-27-2020

Meeting Date

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

884

Bill Number (if applicable)

Topic LAW ENFORCEMENT

Amendment Barcode (if applicable)

Name ROBERT CHAMMAN

Job Title STATE EMPLOYEE

Address 5627 WILLIAM RAY ROAD

Phone _____

Street

PLANT CITY

City

FLORIDA

State

37565

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

884

Meeting Date

Bill Number (if applicable)

Topic Leo Bill of Rights

Amendment Barcode (if applicable)

Name Lisa Henning

Job Title Legislative Director

Address 242 Office Plaza Dr.

Phone 850-766-8800

Tallahassee Florida 3230
City State Zip

Email lhenning@legislativefl.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Fraternal Order of Police

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

584
Bill Number (if applicable) _____

Topic LED Bill of Rights

Amendment Barcode (if applicable) _____

Name Steve Zona

Job Title President FOP S-30

Address 242 Office Plaza Dr

Phone 904-759-7414

Street

Tallahassee FL 32301

City

State

Zip

Email —

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Fraternal order of Police

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

02/27/2020

Meeting Date

SB 884

Bill Number (if applicable)

Topic Law Enforcement and Correctional Officers

Amendment Barcode (if applicable)

Name Gary Hester

Job Title Government Affairs

Address P.O. Box 14038

Phone 863-287-8438

Street

Tallahassee

Florida

32317

Email garywhester@gmail.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/27/20

Meeting Date

SB 884

Bill Number (if applicable)

Topic Law Enforcement Officers Bill of Rights

Amendment Barcode (if applicable)

Name Mick McHale

Job Title Lobbyist

Address 300 E. Brevard St.

Phone 850-222-3329

Street

Tallahassee, FL

32301

Email _____

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida P.B.A.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

02/27/2020

Meeting Date

SB 884

Bill Number (if applicable)

507994

Amendment Barcode (if applicable)

Topic Law Enforcement and Correctional Officers

Name Gary Hester

Job Title Government Affairs

Address P.O. Box 14038

Street

Tallahassee

City

Florida

State

32317

Zip

Phone 863-287-8438

Email garywhester@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 916 (370180)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Baxley

SUBJECT: Program of All-Inclusive Care for the Elderly

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kibbey	Brown	HP	Favorable
2.	McKnight	Kidd	AHS	Recommend: Fav/CS
3.	McKnight	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 916 codifies the Program of All-Inclusive Care for the Elderly (PACE) in section 430.84, Florida Statutes. First authorized in 1998, the PACE became operational in Miami-Dade County in 2003 but has not been codified in state law. More than 2,000 Medicaid managed care eligible recipients are currently enrolled in PACE organizations in eight counties. The bill:

- Establishes a statutory process for the review, approval, and oversight of future and current PACE organizations.
- Authorizes the Agency for Health Care Administration (AHCA), in consultation with the Department of Elder Affairs (DOEA), to approve entities that have submitted the required application and data to the federal Centers for Medicare and Medicaid Services (CMS) as PACE organizations pursuant to federal regulations.
- Requires all PACE organizations to meet specific quality and performance standards established by the federal CMS.
- Provides that the AHCA has the responsibility to oversee and monitor Florida's PACE and the contracted organizations.
- Exempts all PACE organizations from the requirements of chapter 641, Florida Statutes, which regulates health maintenance organizations, prepaid health clinics, and other health care service programs.
- Provides that an approved PACE participant residing in a specific geographic area may transfer their PACE approval and assign their PACE contract to any other person meeting federal requirements. Such approved transfer must include the transfer of any funds the

Legislature appropriated to a PACE, and all future appropriations with respect to such PACEs must be made to the approved transferee.

The bill does not repeal or alter any law in effect on June 30, 2020, which authorized a geographic service area and initial enrollees for a prospective PACE organization.

The bill has no fiscal impact on state revenues or expenditures.

The bill is effective July 1, 2020.

II. Present Situation:

Program of All-Inclusive Care for the Elderly

The Program of All-Inclusive Care for the Elderly (PACE) is a capitated benefit model authorized by the federal Balanced Budget Act of 1997 (BBA)¹ that features a comprehensive service delivery system and integrated federal Medicare and state Medicaid financing mechanism. The model, which was tested through the federal Centers for Medicare and Medicaid Services (CMS) demonstration projects beginning in the mid-1980s,² was developed to address the needs of long-term care clients, providers, and payers.

The PACE operates as a three-way agreement between the federal government, the state administering agency, and a PACE organization. In Florida, the PACE is a Florida Medicaid long-term-care managed care plan option, providing comprehensive long-term and acute care services that support Medicaid and Medicare enrollees who would otherwise qualify for Medicaid nursing facility services.³

The PACE is a unique federal/state partnership. The BBA established the PACE model of care as a permanent entity within the Medicare program and enabled states to provide PACE services to Medicaid beneficiaries as an optional state plan service without a Medicaid waiver.

The federal government established the PACE organization requirements and application process; however, the state is responsible for oversight of the application process, which includes reviewing the initial application and providing an on-site readiness review before a PACE organization can be authorized to serve participants. An approved PACE organization must sign a contract with the federal CMS and the state Medicaid agency.

The PACE is administered by the Department of Elder Affairs (DOEA) in consultation with the Agency for Health Care Administration (AHCA). The DOEA oversees the contracted PACE

¹ Specifically, services under the PACE program are authorized under Section 1905(a)(26) of the Social Security Act.

² United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, *CMS Manual System: Pub. 100-11 Programs of All-Inclusive Care for the Elderly (PACE) Manual* (issued June 9, 2011), available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/pacel11c01.pdf> (last visited Jan. 14, 2020).

³ Department of Elder Affairs and Agency for Health Care Administration, *Program of All-Inclusive Care for the Elderly and Statewide Medicaid Managed Care Long-term Care Program Comparison Report* (January 14, 2014), available at https://ahca.myflorida.com/Medicaid/recent_presentations/PACE_Evaluation_2014.pdf (last visited Jan. 14, 2020).

organizations but is not a party to the contract between the federal CMS, the AHCA, and the PACE organizations.⁴ The DOEA, the AHCA, and the federal CMS must approve any applications for new PACE organizations if expansion is authorized by the Legislature through the necessary appropriation of the state matching funds.

A PACE organization must be part of either a city, county, state, or tribal government; a private not-for-profit 501(c)(3) organization; or for-profit entity that is primarily engaged in providing PACE services and must also:

- Have a governing board that includes participant representation;
- Be able to provide the complete service package regardless of frequency or duration of services;
- Have a physical site and staff to provide primary care, social services, restorative therapies, personal care and supportive services, nutritional counseling, recreational therapy, and meals;
- Have a defined service area;
- Have safeguards against conflicts of interest;
- Have a demonstrated fiscal soundness;
- Have a formal participant bill of rights; and
- Have a process to address grievances and appeals.⁵

Eligibility and Benefits

The PACE participants must be at least 55 years of age, live in the PACE center service area, meet eligibility requirements for nursing home care, pursuant to a Comprehensive Assessment and Review for Long-Term Care Services (CARES) pre-admission screening, and be able to live in a community setting without jeopardizing their health or safety. The PACE becomes the sole source of services for these Medicare and Medicaid eligible enrollees. Additionally, by electing to enroll in the PACE, the participant agrees to forgo other options for medical services and receive all of their services through the PACE organization.⁶

Under the PACE, an interdisciplinary team consisting of professional and paraprofessional staff assesses participants' needs, develops care plans, and delivers all services, including acute care and nursing facility services when necessary, which are integrated to provide a seamless delivery model. In most cases, a PACE organization provides social and medical services in a health center with supplemental services through in-home and referral services as necessary. The PACE service package must include all Medicare and Medicaid covered services and other services determined necessary by the multidisciplinary team for the care of the PACE participant.⁷

Before being approved to operate and deliver services, PACE organizations are required to provide evidence of the necessary financial capital to deliver the benefits and services, which include a combined adult day care center and primary care clinic, transportation, and full range of clinical and support staff with the interdisciplinary team of professionals.⁸

⁴ *Id.*

⁵ *Supra* note 2.

⁶ *Id.*

⁷ *Id.*

⁸ *Supra* note 3, at 4.

By federal law, the first three contract years for a PACE organization are considered a trial period, and the PACE organization is subject to annual reviews to ensure compliance.⁹ The site visit reviews include:

- A comprehensive assessment of an organization's fiscal soundness;
- A comprehensive assessment of the organization's capacity to provide all PACE services to all enrolled participants;
- A detailed analysis of the PACE organization's substantial compliance with all the federal statutory requirements and accompanying federal regulations; and
- Compliance with any other elements the Secretary of the U.S. Department of Health and Human Services (Secretary) or the state's administering agency considers necessary and appropriate.¹⁰

Review of the PACE organization may continue after the trial period by the Secretary or the administering state agency as appropriate, depending upon the PACE organization's performance and compliance with requirements and regulations.

No deductibles, copayments, coinsurance, or other cost-sharing can be charged by a PACE organization. No other limits relating to amount, duration, or scope of services that might otherwise apply in Medicaid are permitted.¹¹ The PACE enrollee must accept the PACE center physician as his or her new Medicare primary care physician, if enrolled in Medicare.¹²

Quality of Care Requirements

Each PACE organization is required to develop, implement, maintain, and evaluate an effective data-driven Quality Assurance and Performance Improvement (QAPI) program. The program must incorporate all aspects of the PACE organization's operations, which allows for the identification of areas that need performance improvement. The organization's written QAPI plan must be reviewed by the PACE organization's governing body at least annually. At a minimum, the plan should address the following areas:

- Utilization of services in the PACE organization, especially in key services;
- Participant and caregiver satisfaction with services;
- Data collected during patient assessments to determine if individual and organizational-level outcomes were achieved within a specified time period;
- Effectiveness and safety of direct and contracted services delivered to participants; and
- Outcomes in the organization's non-clinical areas.¹³

⁹ See 42 U.S.C. s. 1395eee(e)(4)(A)(2020).

¹⁰ *Id.*

¹¹ *Supra* note 2.

¹² Department of Elder Affairs and Agency for Health Care Administration, *Program of All-Inclusive Care for the Elderly and Statewide Medicaid Managed Care Long-term Care Program Comparison Report* (January 14, 2014), available at https://ahca.myflorida.com/Medicaid/recent_presentations/PACE_Evaluation_2014.pdf (last visited Jan. 14, 2020).

¹³ *Id.*

Florida PACE

The Florida PACE project was initially authorized in ch. 98-327, Laws of Florida, under the administration of the DOEA operating in consultation with the AHCA.¹⁴ Florida's first PACE organization, located in Miami-Dade County, began serving enrollees in February 2003 with a total of 150 slots. Since then, the Legislature has approved additional slots either as part of the General Appropriations Act (GAA) or general law.

In 2011, the Legislature moved administrative responsibility for the PACE program from the DOEA to the AHCA as part of the expansion of Medicaid managed care into the Statewide Medicaid Managed Care (SMMC) program.¹⁵ Participation by the PACE in the SMMC program is not subject to the procurement requirements or regional plan number limits normally applicable to SMMC plans. Instead, PACE plans may continue to provide services to individuals at such levels and enrollment caps as authorized by the GAA.¹⁶

Currently, four PACE organizations¹⁷ operate in Florida and provide services to participants within specific zip codes in Broward, Miami-Dade, Charlotte, Collier, Lee, Palm Beach, Sarasota, and Pinellas counties. There are 2,253 individuals enrolled in the four Florida PACE organizations.¹⁸

The current PACE approval process requires any entity interested in becoming a PACE organization to submit a comprehensive PACE application to the AHCA, which sets forth details about the adult day care center, staffing, provider network, financial solvency and pro forma financial projections, and policies and procedures, among other elements. The application is similar in detail to the provider applications submitted by managed care plans seeking to provide medical care to Medicaid recipients. PACE providers operating in the same geographic region must establish that there is adequate demand for services so that each provider will be viable. The application requires that documentation be submitted demonstrating that PACE providers in the same geographic region are not competing for the same potential enrollees.

The AHCA and the DOEA review the application and, when the entity has satisfied all requirements, conduct an on-site survey of the entity's readiness to serve PACE enrollees. Once all requirements are met, including full licensure of the PACE center, staffing for key positions, and signed provider network contracts, the AHCA certifies to the federal CMS that the PACE site is ready. At that time, the federal CMS reviews the application and readiness certification and, if all requirements are satisfied, executes a three-way agreement with the PACE provider and the AHCA. The PACE provider may then begin enrolling members, subject to an appropriation to fund the slots.

¹⁴ Chapter 2011-135, s. 24, L.O.F., repealed s. 430.707, F.S., effective October 1, 2013, as part of the expansion of Medicaid managed care.

¹⁵ Chapter 2011-135, s. 24, L.O.F., repealed s. 430.707, F.S., effective October 1, 2013.

¹⁶ Section 409.981(4), F.S.

¹⁷ See the Department of Elder Affairs, Program for All-Inclusive Care for the Elderly <http://elderaffairs.state.fl.us/doea/pace.php> (last visited Feb. 10, 2020).

¹⁸ Agency for Health Care Administration, Florida Statewide Medicaid Monthly Enrollment Report Program Enrollment by Region (December 2019) available at http://ahca.myflorida.com/medicaid/Finance/data_analytics/enrollment_report/index.shtml (last visited Feb. 10, 2020).

Enrollment and Organizational Slots

Slots are authorized by the Legislature for a specific PACE area; however, slots may not always be fully funded in the same year the program is authorized. Some PACE providers need additional time to complete the application process, obtain necessary licensures, or to finalize operations.

Funding and Rates

Each year since the PACE's inception, the Legislature has appropriated funds for PACE organizations through proviso language in the GAA or through one of the GAA's accompanying implementing or conforming bills.¹⁹ These directives provide specific slot increases or decreases by county or authorization for implementation of a new program. In 2013, Governor Rick Scott vetoed all county allocations with the exception of Palm Beach County, noting that the state's focus should be on the implementation of the SMMC and that effectiveness and the need for additional PACE slots should be re-evaluated after that transition was completed.²⁰

PACE organizations receive a capitated Medicaid payment for each enrolled Medicaid long-term care recipient and an enhanced Medicare payment for Medicare enrollees for acute care services from the federal government. The payment amount is established in the GAA and is based on estimates that have been forecast by the Social Services Estimating Conference for the PACE.

Medicaid

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership between the federal and state governments where the federal government establishes the structure for the program and pays a share of the cost. Each state operates its own Medicaid program under a state plan that must be approved by the federal CMS. The plan outlines current Medicaid eligibility standards, policies, and reimbursement methodologies.

To qualify for nursing home care under Medicaid, both an individual's income and assets are reviewed. Additionally, a personal needs allowance is applied as part of the eligibility determination process.²¹ The current standard income limit in Florida for institutional care or services under the home and community based services waiver is \$2,313 for an individual and \$4,626 for a couple. There is also an asset limit for either category of \$2,000 for an individual or \$3,000 for a couple.²²

In Florida, the Medicaid program is administered by the AHCA. The AHCA, however, delegates certain functions to other state agencies, including the Department of Children and Families

¹⁹ Chapter 2013-40, L.O.F.

²⁰ Governor Rick Scott, *Veto Message - SB 1500* (May 20, 2013), p. 28, available at <http://www.flgov.com/wp-content/uploads/2013/05/Message1.pdf> (last visited Jan. 14, 2020).

²¹ The personal needs allowance (PNA) of an individual is defined as that portion of an individual's income that is protected to meet the individual's personal needs while in an institution. See Department of Children and Families, *Glossary (Chapter 4600) "Personal Needs Allowance,"* p. 19, <http://www.dcf.state.fl.us/programs/access/docs/esspolicymanual/4600.pdf> (last visited Jan. 15, 2020).

²² Department of Children and Families, *SSI-Related Program-Financial Eligibility Standards: January 2019*, http://www.dcf.state.fl.us/programs/access/docs/esspolicymanual/a_09.pdf (last visited Jan. 15, 2020).

(DCF), the Agency for Persons with Disabilities (APD), and the DOEA. The AHCA has overall responsibility for the program and qualifies providers, sets payment levels, and pays for services.

The DCF is responsible for determining financial eligibility for Medicaid recipients. The APD operates one of the larger waiver programs under Medicaid, the Home and Community-Based Services (HCBS) Waiver program, serving individuals with developmental disabilities.

Pursuant to s. 409.985, F.S., the DOEA assesses Medicaid recipients to determine if they require nursing home level of care. Specifically, the DOEA determines whether an individual:

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

Floridians who need nursing home care, but do not qualify for Medicaid, must pay from their own funds or through insurance.

Long-Term Care Managed Care

In 2011, HB 7107²³ was signed into law, increasing the use of managed care plans in Medicaid. The law required both Medicaid LTC services and Managed Medical Assistance (MMA) services to be provided through managed care plans.

LTC Managed Care plans participating in SMMC are required to provide minimum benefits that include nursing home care as well as home and community based services. The minimum benefits include:

- Nursing home care;
- Services provided in assisted living facilities;
- Hospice;
- Adult day care;
- Medical equipment and supplies, including incontinence supplies;
- Personal care;
- Home accessibility adaptation;
- Behavior management;
- Home delivered meals;
- Case management;

²³ Chapter 2011-134, L.O.F.

- Therapies, including physical, respiratory, speech, and occupational;
- Intermittent and skilled nursing;
- Medication administration;
- Medication management;
- Nutritional assessment and risk reduction;
- Caregiver training;
- Respite care;
- Transportation; and
- Personal emergency response system.

III. Effect of Proposed Changes:

Section 1 creates s. 430.84, F.S., and codifies the Program of All-Inclusive Care for the Elderly (PACE) within the Florida Statutes. Currently, the program does not have an implementing statute and has been operationalized through annual appropriations, proviso, or bills designed to implement the state budget or conform statute to provisions of the state budget.

Program Creation

The bill authorizes the AHCA, in consultation with the DOEA, to approve entities that have submitted the required application and data to the federal CMS as PACE organizations pursuant to 42 U.S.C. s. 1395eee (2019). Applications, as required by the federal CMS, will be reviewed by the AHCA on an ongoing basis, in consultation with the DOEA for initial approval as PACE organizations. Notice of applications must be published in the Florida Administrative Register.

A prospective PACE organization must submit an application to the AHCA before submitting a request for program funding. An applicant for a PACE program must meet the following requirements:

- Provide evidence that the applicant can meet all of the federal regulations and requirements established by the federal CMS by the proposed implementation date;
- Provide market studies which include an estimate of the potential number of participants and which show the geographic area the applicant proposes to serve;
- Develop a business plan of operation, including pro forma financial statement and projections based on the planned implementation date;
- Show evidence of regulatory compliance and meet market studies requirements, if the applicant is an existing PACE organization which seeks to expand to an additional service area;
- Serve a unique and defined geographic service area without duplication of services or target populations. No more than one PACE organization may be authorized to provide services within any unique and defined geographic area and that area must not overlap with or include any part of a geographic service area that was previously authorized by the Legislature and that is specific to another prospective PACE organization; and
- Submit its complete federal PACE application to the AHCA and the federal CMS within 12 months after date of initial state approval. If the organization fails to timely meet this requirement, the state approval of the application is void.

Quality and Reporting

All PACE organizations are required to meet specific quality and performance standards established by the federal CMS. The AHCA has the responsibility to oversee and monitor Florida's PACE and the contracted organizations through the data and reports submitted periodically to the AHCA and the federal CMS.

The bill exempts all PACE organizations from the requirements of chapter 641, the chapter of Florida law that regulates health maintenance organizations, prepaid health clinics, and other health care service programs.

The bill authorizes that any person whom the agency has approved to enroll participants residing in a specific geographic area in a PACE may transfer such approval, and assign its PACE contract, to any other person meeting federal requirements upon the prior approval of the agency and subject to any other required federal approval. Such approved transfer must include the transfer of any funds the Legislature appropriated to the PACE, and all future appropriations must be made to the approved transferee.

The bill does not repeal or alter any law in effect on June 30, 2020, which authorized a geographic service area and initial enrollees for a prospective PACE organization.

Section 2 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

Additional private sector providers that meet the criteria to be a Program of All-Inclusive Care for the Elderly (PACE) organization and achieve eligibility confirmation status could be approved as PACE sites. Expansion of PACE sites would also mean additional individuals in the community would have access to these services.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In subsection (4) of section 430.84, F.S., the bill directs the AHCA to oversee and monitor the PACE program by using data and reports that the PACE organizations submit periodically to the AHCA and federal CMS. This subsection requires PACE organizations to meet standards established by the federal CMS. The AHCA is in the process of developing additional state standards for PACE organizations that will allow comparisons and evaluation between the PACE and the Statewide Medicaid Managed Care Long-Term Care (LTC) program. The bill currently limits the AHCA's oversight to only federal CMS standards. The AHCA has indicated that it may not be able to compare PACE and the LTC managed care program and ensure comparable quality and patient outcomes.²⁴

VIII. Statutes Affected:

This bill creates section 430.84 of the Florida Statutes.

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

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

**Recommended CS by Appropriations Subcommittee on Health and Human Services
on February 18, 2020:**

The committee substitute:

²⁴ Agency for Health Care Administration, *Senate Bill 916 Analysis* (Nov. 4, 2019) (on file with the Senate Committee on Health Policy).

- Authorizes approved PACE participants to transfer their PACE approval, assign their PACE contract, and transfer any Legislative approved funding to any other person meeting federal requirements;
- Requires that a geographic service area served by a PACE participant must not overlap with or include any part of a geographic service area that was previously authorized by the Legislature and that is specific to another prospective PACE organization; and
- Clarifies that the bill does not repeal or alter any law in effect on June 30, 2020, which authorized a geographic service area and initial enrollees for a prospective PACE organization.

B. Amendments:

None.



104490

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Baxley) recommended the following:

Senate Amendment

Delete line 93
and insert:
CMS and the state administering agency for the PACE program. The
agency shall oversee and monitor



506046

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment (with title amendment)

Between lines 113 and 114
insert:

Section 2. Subject to federal approval of an application to be a provider of the Program of All-Inclusive Care for the Elderly (PACE), the Agency for Health Care Administration shall contract with a private organization that has demonstrated the ability to operate PACE centers in more than one state and that serves more than 500 eligible PACE participants to provide PACE



506046

services to frail elders who reside in Hillsborough, Hernando, or Pasco Counties. The organization is exempt from the requirements of chapter 641, Florida Statutes. The agency, in consultation with the Department of Elderly Affairs and subject to the appropriation of funds by the Legislature, shall approve up to 500 initial enrollees in the PACE program established by the organization to serve frail elders who reside in Hillsborough, Hernando, or Pasco Counties.

Section 3. Subject to federal approval of an application to be a site for the Program of All-Inclusive Care for the Elderly (PACE), the Agency for Health Care Administration shall contract with one private health care organization, the sole member of which is a private, not-for-profit corporation that owns and manages health care organizations that provide comprehensive long-term care services, including nursing home, assisted living, independent housing, home care, adult day care, and care management. The organization shall provide these services to frail and elderly persons who reside in Escambia, Okaloosa, and Santa Rosa Counties. The organization is exempt from the requirements of chapter 641, Florida Statutes. The agency, in consultation with the Department of Elderly Affairs and subject to an appropriation, shall approve up to 200 initial enrollees in the PACE program established by the organization to serve elderly persons who reside in Escambia, Okaloosa, and Santa Rosa Counties.

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

And the title is amended as follows:

Between lines 19 and 20



506046

40 insert:
41 requiring the agency to contract with certain private
42 organizations, subject to federal approval, to provide
43 PACE services in specified counties; providing that
44 such organizations are exempt from the requirements of
45 ch. 641, F.S.; requiring the agency, in consultation
46 with the Department of Elderly Affairs and subject to
47 legislative appropriation, to approve up to specified
48 numbers of initial enrollees in such counties;



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576-03889-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to the Program of All-Inclusive Care for the Elderly; creating s. 430.84, F.S.; defining terms; authorizing the Agency for Health Care Administration, in consultation with the Department of Elderly Affairs, to approve certain applicants to provide benefits pursuant to the Program of All-Inclusive Care for the Elderly (PACE); specifying requirements and procedures for the submission, publication, review, and initial approval of applications; requiring prospective PACE organizations that are granted initial approval to apply within a certain timeframe for federal approval; providing accountability requirements; exempting PACE organizations from certain requirements; authorizing the transfer of PACE approvals and the assignment of PACE contracts if certain conditions are met; specifying a requirement for future appropriations to approved transferees; providing construction; providing an effective date.

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

Section 1. Section 430.84, Florida Statutes, is created to read:

430.84 Program of All-Inclusive Care for the Elderly.—

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



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576-03889-20

(a) "Agency" means the Agency for Health Care Administration.

(b) "Applicant" means an entity that has filed an application with the agency for consideration as a Program of All-Inclusive Care for the Elderly (PACE) organization.

(c) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(d) "Department" means the Department of Elderly Affairs.

(e) "PACE organization" means an entity under contract with the agency to deliver PACE services.

(f) "Participant" means an individual receiving services from a PACE organization and who has been determined by the department to need the level of care required under the state Medicaid plan for coverage of nursing facility services.

(2) PROGRAM CREATION.—The agency, in consultation with the department, may approve entities that have submitted applications required by the CMS to the agency for review and consideration which contain the data and information required in subsection (3) to provide benefits pursuant to the PACE program as established in 42 U.S.C. s. 1395eee and in accordance with the requirements set forth in this section.

(3) PACE ORGANIZATION SELECTION.—The agency, in consultation with the department, shall on a continuous basis review and consider applications required by the CMS for PACE which have been submitted to the agency by entities seeking initial state approval to become PACE organizations. Notice of such applications must be published in the Florida Administrative Register.



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57 (a) A prospective PACE organization shall submit
58 application documents to the agency before requesting program
59 funding. Application documents submitted to and reviewed by the
60 agency, in consultation with the department, must include all of
61 the following:

62 1. Evidence that the applicant is able to meet all of the
63 applicable federal regulations and requirements established by
64 the CMS for participation as a PACE organization by the proposed
65 implementation date.

66 2. Market studies, including an estimate of the number of
67 potential participants and the geographic service area in which
68 the applicant proposes to serve.

69 3. A business plan of operation, including pro forma
70 financial statements and projections, based on the proposed
71 implementation date.

72 (b) Each applicant must propose to serve a unique and
73 defined geographic service area without duplication of services
74 or target populations. No more than one PACE organization may be
75 authorized to provide services within any unique and defined
76 geographic service area. The proposed geographic service area
77 must not overlap with or include any part of a geographic
78 service area that was previously authorized by the Legislature
79 and that is specific to another prospective PACE organization.

80 (c) An existing PACE organization seeking authority to
81 serve an additional geographic service area not previously
82 authorized by the agency or the Legislature must meet the
83 requirements set forth in paragraphs (a) and (b).

84 (d) Any prospective PACE organization that is granted
85 initial state approval by the agency, in consultation with the



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576-03889-20

86 department, shall submit its complete federal PACE application,
87 in accordance with the application process and guidelines
88 established by the CMS, to the agency and the CMS within 12
89 months after the date of initial state approval, or such
90 approval is void.

91 (4) ACCOUNTABILITY.—All PACE organizations must meet
92 specific quality and performance standards established by the
93 CMS for the PACE program. The agency shall oversee and monitor
94 the PACE program and organizations based upon data and reports
95 periodically submitted by PACE organizations to the agency and
96 the CMS. A PACE organization is exempt from the requirements of
97 chapter 641.

98 (5) TRANSFER OF APPROVAL AND ASSIGNMENT OF PACE CONTRACT.—
99 Any person whom the agency has approved to enroll participants
100 residing in a specific geographic area in a Program of All-
101 Inclusive Care for the Elderly may transfer such approval, and
102 assign its PACE contract, to any other person meeting federal
103 requirements upon the prior approval of the agency and subject
104 to any other required federal approval. Such approved transfer
105 must include the transfer of any funds the Legislature
106 appropriated to such Program of All-Inclusive Care for the
107 Elderly, and all future appropriations with respect to such
108 Program of All-Inclusive Care for the Elderly must be made to
109 the approved transferee.

110 (6) CONSTRUCTION.—This section is subject to, and does not
111 repeal or alter, any law in effect on June 30, 2020, which
112 authorized a geographic service area and initial enrollees for a
113 prospective PACE organization.

114 Section 2. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 916

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Baxley

SUBJECT: Program of All-Inclusive Care for the Elderly

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kibbey	Brown	HP	Favorable
2.	Howard	Kidd	AHS	Recommend: Fav/CS
3.	Howard	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 916 codifies the Program of All-Inclusive Care for the Elderly (PACE) in section 430.84, Florida Statutes. First authorized in 1998, the PACE became operational in Miami-Dade County in 2003 but has not been codified in state law. More than 2,000 Medicaid managed care eligible recipients are currently enrolled in PACE organizations in eight counties. The bill:

- Establishes a statutory process for the review, approval, and oversight of future and current PACE organizations.
- Authorizes the Agency for Health Care Administration (AHCA), in consultation with the Department of Elder Affairs (DOEA), to approve entities that have submitted the required application and data to the federal Centers for Medicare and Medicaid Services (CMS) as PACE organizations pursuant to federal regulations.
- Requires all PACE organizations to meet specific quality and performance standards established by the federal CMS and the state administering agency.
- Provides that the AHCA has the responsibility to oversee and monitor Florida's PACE and the contracted organizations.
- Exempts all PACE organizations from the requirements of ch. 641, F.S., which regulates health maintenance organizations, prepaid health clinics, and other health care service programs.
- Provides that an approved PACE participant residing in a specific geographic area may transfer their PACE approval and assign their PACE contract to any other person meeting federal requirements. Such approved transfer must include the transfer of any funds the

Legislature appropriated to a PACE, and all future appropriations with respect to such PACEs must be made to the approved transferee.

The bill does not repeal or alter any law in effect on June 30, 2020, which authorized a geographic service area and initial enrollees for a prospective PACE organization.

The bill has no fiscal impact on state revenues or expenditures.

The bill is effective July 1, 2020.

II. Present Situation:

Program of All-Inclusive Care for the Elderly

The Program of All-Inclusive Care for the Elderly (PACE) is a capitated benefit model authorized by the federal Balanced Budget Act of 1997 (BBA)¹ that features a comprehensive service delivery system and integrated federal Medicare and state Medicaid financing mechanism. The model, which was tested through the federal Centers for Medicare and Medicaid Services (CMS) demonstration projects beginning in the mid-1980s,² was developed to address the needs of long-term care clients, providers, and payers.

The PACE operates as a three-way agreement between the federal government, the state administering agency, and a PACE organization. In Florida, the PACE is a Florida Medicaid long-term care managed care plan option providing comprehensive long-term and acute care services which support Medicaid and Medicare enrollees who would otherwise qualify for Medicaid nursing facility services.³

The PACE is a unique federal/state partnership. The BBA established the PACE model of care as a permanent entity within the Medicare program and enabled states to provide PACE services to Medicaid beneficiaries as an optional state plan service without a Medicaid waiver.

The federal government established the PACE organization requirements and application process; however, the state is responsible for oversight of the application process, which includes reviewing the initial application and providing an on-site readiness review before a PACE organization can be authorized to serve participants. An approved PACE organization must sign a contract with the federal CMS and the state Medicaid agency.

The PACE is administered by the Department of Elder Affairs (DOEA) in consultation with the Agency for Health Care Administration (AHCA). The DOEA oversees the contracted PACE organizations but is not a party to the contract between the federal CMS, the AHCA, and the

¹ Specifically, services under the PACE program are authorized under Section 1905(a)(26) of the Social Security Act.

² United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, *CMS Manual System: Pub. 100-11 Programs of All-Inclusive Care for the Elderly (PACE) Manual* (issued June 9, 2011), available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/pacel11c01.pdf> (last visited Jan. 14, 2020).

³ Department of Elder Affairs and Agency for Health Care Administration, *Program of All-Inclusive Care for the Elderly and Statewide Medicaid Managed Care Long-term Care Program Comparison Report* (January 14, 2014), available at https://ahca.myflorida.com/Medicaid/recent_presentations/PACE_Evaluation_2014.pdf (last visited Jan. 14, 2020).

PACE organizations.⁴ The DOEA, the AHCA, and the federal CMS must approve any applications for new PACE organizations if expansion is authorized by the Legislature through the necessary appropriation of the state matching funds.

A PACE organization must be part of either a city, county, state, or tribal government; a private not-for-profit 501(c)(3) organization; or for-profit entity that is primarily engaged in providing PACE services and must also:

- Have a governing board that includes participant representation;
- Be able to provide the complete service package regardless of frequency or duration of services;
- Have a physical site and staff to provide primary care, social services, restorative therapies, personal care and supportive services, nutritional counseling, recreational therapy, and meals;
- Have a defined service area;
- Have safeguards against conflicts of interest;
- Have a demonstrated fiscal soundness;
- Have a formal participant bill of rights; and
- Have a process to address grievances and appeals.⁵

Eligibility and Benefits

The PACE participants must be at least 55 years of age, live in the PACE center service area, meet eligibility requirements for nursing home care, pursuant to a Comprehensive Assessment and Review for Long-Term Care Services (CARES) pre-admission screening, and be able to live in a community setting without jeopardizing their health or safety. The PACE becomes the sole source of services for these Medicare and Medicaid eligible enrollees. Additionally, by electing to enroll in the PACE, the participant agrees to forgo other options for medical services and receive all of their services through the PACE organization.⁶

Under the PACE, an interdisciplinary team consisting of professional and paraprofessional staff assesses participants' needs, develops care plans, and delivers all services, including acute care and nursing facility services when necessary, which are integrated to provide a seamless delivery model. In most cases, a PACE organization provides social and medical services in a health center with supplemental services through in-home and referral services as necessary. The PACE service package must include all Medicare and Medicaid covered services and other services determined necessary by the multidisciplinary team for the care of the PACE participant.⁷

Before being approved to operate and deliver services, PACE organizations are required to provide evidence of the necessary financial capital to deliver the benefits and services, which include a combined adult day care center and primary care clinic, transportation, and full range of clinical and support staff with the interdisciplinary team of professionals.⁸

⁴ *Id.*

⁵ *Supra* note 2.

⁶ *Id.*

⁷ *Id.*

⁸ *Supra* note 3, at 4.

By federal law, the first three contract years for a PACE organization are considered a trial period, and the PACE organization is subject to annual reviews to ensure compliance.⁹ The site visit reviews include:

- A comprehensive assessment of an organization's fiscal soundness;
- A comprehensive assessment of the organization's capacity to provide all PACE services to all enrolled participants;
- A detailed analysis of the PACE organization's substantial compliance with all the federal statutory requirements and accompanying federal regulations; and
- Compliance with any other elements the Secretary of the U.S. Department of Health and Human Services (Secretary) or the state's administering agency considers necessary and appropriate.¹⁰

Review of the PACE organization may continue after the trial period by the Secretary or the administering state agency as appropriate, depending upon the PACE organization's performance and compliance with requirements and regulations.

No deductibles, copayments, coinsurance, or other cost-sharing can be charged by a PACE organization. No other limits relating to amount, duration, or scope of services that might otherwise apply in Medicaid are permitted.¹¹ The PACE enrollee must accept the PACE center physician as his or her new Medicare primary care physician, if enrolled in Medicare.¹²

Quality of Care Requirements

Each PACE organization is required to develop, implement, maintain, and evaluate an effective data-driven Quality Assurance and Performance Improvement (QAPI) program. The program must incorporate all aspects of the PACE organization's operations, which allows for the identification of areas that need performance improvement. The organization's written QAPI plan must be reviewed by the PACE organization's governing body at least annually. At a minimum, the plan should address the following areas:

- Utilization of services in the PACE organization, especially in key services;
- Participant and caregiver satisfaction with services;
- Data collected during patient assessments to determine if individual and organizational-level outcomes were achieved within a specified time period;
- Effectiveness and safety of direct and contracted services delivered to participants; and
- Outcomes in the organization's non-clinical areas.¹³

⁹ See 42 U.S.C. s. 1395eee(e)(4)(A)(2020).

¹⁰ *Id.*

¹¹ *Supra* note 2.

¹² Department of Elder Affairs and Agency for Health Care Administration, *Program of All-Inclusive Care for the Elderly and Statewide Medicaid Managed Care Long-term Care Program Comparison Report* (January 14, 2014), available at https://ahca.myflorida.com/Medicaid/recent_presentations/PACE_Evaluation_2014.pdf (last visited Jan. 14, 2020).

¹³ *Id.*

Florida PACE

The Florida PACE project was initially authorized in ch. 98-327, Laws of Florida, under the administration of the DOEA operating in consultation with the AHCA.¹⁴ Florida's first PACE organization, located in Miami-Dade County, began serving enrollees in February 2003 with a total of 150 slots. Since then, the Legislature has approved additional slots either as part of the General Appropriations Act (GAA) or general law.

In 2011, the Legislature moved administrative responsibility for the PACE program from the DOEA to the AHCA as part of the expansion of Medicaid managed care into the Statewide Medicaid Managed Care (SMMC) program.¹⁵ Participation by the PACE in the SMMC program is not subject to the procurement requirements or regional plan number limits normally applicable to SMMC plans. Instead, PACE plans may continue to provide services to individuals at such levels and enrollment caps as authorized by the GAA.¹⁶

Currently, four PACE organizations¹⁷ operate in Florida and provide services to participants within specific zip codes in Broward, Miami-Dade, Charlotte, Collier, Lee, Palm Beach, Sarasota, and Pinellas counties. There are 2,253 individuals enrolled in the four Florida PACE organizations.¹⁸

The current PACE approval process requires any entity interested in becoming a PACE organization to submit a comprehensive PACE application to the AHCA, which sets forth details about the adult day care center, staffing, provider network, financial solvency and pro forma financial projections, and policies and procedures, among other elements. The application is similar in detail to the provider applications submitted by managed care plans seeking to provide medical care to Medicaid recipients. PACE providers operating in the same geographic region must establish that there is adequate demand for services so that each provider will be viable. The application requires that documentation be submitted demonstrating that PACE providers in the same geographic region are not competing for the same potential enrollees.

The AHCA and the DOEA review the application and, when the entity has satisfied all requirements, conduct an on-site survey of the entity's readiness to serve PACE enrollees. Once all requirements are met, including full licensure of the PACE center, staffing for key positions, and signed provider network contracts, the AHCA certifies to the federal CMS that the PACE site is ready. At that time, the federal CMS reviews the application and readiness certification and, if all requirements are satisfied, executes a three-way agreement with the PACE provider and the AHCA. The PACE provider may then begin enrolling members, subject to an appropriation to fund the slots.

¹⁴ Chapter 2011-135, s. 24, L.O.F., repealed s. 430.707, F.S., effective October 1, 2013, as part of the expansion of Medicaid managed care.

¹⁵ Chapter 2011-135, s. 24, L.O.F., repealed s. 430.707, F.S., effective October 1, 2013.

¹⁶ Section 409.981(4), F.S.

¹⁷ See the Department of Elder Affairs, Program for All-Inclusive Care for the Elderly <http://elderaffairs.state.fl.us/doea/pace.php> (last visited Feb. 10, 2020).

¹⁸ Agency for Health Care Administration, Florida Statewide Medicaid Monthly Enrollment Report Program Enrollment by Region (December 2019) available at http://ahca.myflorida.com/medicaid/Finance/data_analytics/enrollment_report/index.shtml (last visited Feb. 10, 2020).

Enrollment and Organizational Slots

Slots are authorized by the Legislature for a specific PACE area; however, slots may not always be fully funded in the same year the program is authorized. Some PACE providers need additional time to complete the application process, obtain necessary licensures, or to finalize operations.

Funding and Rates

Each year since the PACE's inception, the Legislature has appropriated funds for PACE organizations through proviso language in the GAA or through one of the GAA's accompanying implementing or conforming bills.¹⁹ These directives provide specific slot increases or decreases by county or authorization for implementation of a new program. In 2013, Governor Rick Scott vetoed all county allocations with the exception of Palm Beach County, noting that the state's focus should be on the implementation of the SMMC and that effectiveness and the need for additional PACE slots should be re-evaluated after that transition was completed.²⁰

PACE organizations receive a capitated Medicaid payment for each enrolled Medicaid long-term care recipient and an enhanced Medicare payment for Medicare enrollees for acute care services from the federal government. The payment amount is established in the GAA and is based on estimates that have been forecast by the Social Services Estimating Conference for the PACE.

Medicaid

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership between the federal and state governments where the federal government establishes the structure for the program and pays a share of the cost. Each state operates its own Medicaid program under a state plan that must be approved by the federal CMS. The plan outlines current Medicaid eligibility standards, policies, and reimbursement methodologies.

To qualify for nursing home care under Medicaid, both an individual's income and assets are reviewed. Additionally, a personal needs allowance is applied as part of the eligibility determination process.²¹ The current standard income limit in Florida for institutional care or services under the home and community based services waiver is \$2,313 for an individual and \$4,626 for a couple. There is also an asset limit for either category of \$2,000 for an individual or \$3,000 for a couple.²²

In Florida, the Medicaid program is administered by the AHCA. The AHCA, however, delegates certain functions to other state agencies, including the Department of Children and Families

¹⁹ Chapter 2013-40, L.O.F.

²⁰ Governor Rick Scott, *Veto Message - SB 1500* (May 20, 2013), p. 28, available at <http://www.flgov.com/wp-content/uploads/2013/05/Message1.pdf> (last visited Jan. 14, 2020).

²¹ The personal needs allowance (PNA) of an individual is defined as that portion of an individual's income that is protected to meet the individual's personal needs while in an institution. See Department of Children and Families, *Glossary (Chapter 4600) "Personal Needs Allowance,"* p. 19, <http://www.dcf.state.fl.us/programs/access/docs/esspolicymanual/4600.pdf> (last visited Jan. 15, 2020).

²² Department of Children and Families, *SSI-Related Program-Financial Eligibility Standards: January 2019*, http://www.dcf.state.fl.us/programs/access/docs/esspolicymanual/a_09.pdf (last visited Jan. 15, 2020).

(DCF), the Agency for Persons with Disabilities (APD), and the DOEA. The AHCA has overall responsibility for the program and qualifies providers, sets payment levels, and pays for services.

The DCF is responsible for determining financial eligibility for Medicaid recipients. The APD operates one of the larger waiver programs under Medicaid, the Home and Community-Based Services (HCBS) Waiver program, serving individuals with developmental disabilities.

Pursuant to s. 409.985, F.S., the DOEA assesses Medicaid recipients to determine if they require nursing home level of care. Specifically, the DOEA determines whether an individual:

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

Floridians who need nursing home care, but do not qualify for Medicaid, must pay from their own funds or through insurance.

Long-Term Care Managed Care

In 2011, HB 7107²³ was signed into law, increasing the use of managed care plans in Medicaid. The law required both Medicaid LTC services and Managed Medical Assistance (MMA) services to be provided through managed care plans.

LTC Managed Care plans participating in SMMC are required to provide minimum benefits that include nursing home care as well as home and community based services. The minimum benefits include:

- Nursing home care;
- Services provided in assisted living facilities;
- Hospice;
- Adult day care;
- Medical equipment and supplies, including incontinence supplies;
- Personal care;
- Home accessibility adaptation;
- Behavior management;
- Home delivered meals;
- Case management;

²³ Chapter 2011-134, L.O.F.

- Therapies, including physical, respiratory, speech, and occupational;
- Intermittent and skilled nursing;
- Medication administration;
- Medication management;
- Nutritional assessment and risk reduction;
- Caregiver training;
- Respite care;
- Transportation; and
- Personal emergency response system.

III. Effect of Proposed Changes:

Section 1 creates s. 430.84, F.S., and codifies the Program of All-Inclusive Care for the Elderly (PACE) within the Florida Statutes. Currently, the program does not have an implementing statute and has been operationalized through annual appropriations, proviso, or bills designed to implement the state budget or conform statute to provisions of the state budget.

Program Creation

The bill authorizes the AHCA, in consultation with the DOEA, to approve entities that have submitted the required application and data to the federal CMS as PACE organizations pursuant to 42 U.S.C. s. 1395eee (2019). Applications, as required by the federal CMS, will be reviewed by the AHCA on an ongoing basis, in consultation with the DOEA for initial approval as PACE organizations. Notice of applications must be published in the Florida Administrative Register.

A prospective PACE organization must submit an application to the AHCA before submitting a request for program funding. An applicant for a PACE program must meet the following requirements:

- Provide evidence that the applicant can meet all of the federal regulations and requirements established by the federal CMS by the proposed implementation date;
- Provide market studies which include an estimate of the potential number of participants and which show the geographic area the applicant proposes to serve;
- Develop a business plan of operation, including pro forma financial statement and projections based on the planned implementation date;
- Show evidence of regulatory compliance and meet market studies requirements, if the applicant is an existing PACE organization which seeks to expand to an additional service area;
- Serve a unique and defined geographic service area without duplication of services or target populations. No more than one PACE organization may be authorized to provide services within any unique and defined geographic area and that area must not overlap with or include any part of a geographic service area that was previously authorized by the Legislature and that is specific to another prospective PACE organization; and
- Submit its complete federal PACE application to the AHCA and the federal CMS within 12 months after date of initial state approval. If the organization fails to timely meet this requirement, the state approval of the application is void.

Quality and Reporting

All PACE organizations are required to meet specific quality and performance standards established by the federal CMS and the state administering agency. The AHCA has the responsibility to oversee and monitor Florida's PACE and the contracted organizations through the data and reports submitted periodically to the AHCA and the federal CMS.

The bill exempts all PACE organizations from the requirements of chapter 641, the chapter of Florida law that regulates health maintenance organizations, prepaid health clinics, and other health care service programs.

The bill authorizes that any person whom the agency has approved to enroll participants residing in a specific geographic area in a PACE may transfer such approval, and assign its PACE contract, to any other person meeting federal requirements upon the prior approval of the agency and subject to any other required federal approval. Such approved transfer must include the transfer of any funds the Legislature appropriated to the PACE, and all future appropriations must be made to the approved transferee.

The bill does not repeal or alter any law in effect on June 30, 2020, which authorized a geographic service area and initial enrollees for a prospective PACE organization.

Section 2 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

Additional private sector providers that meet the criteria to be a Program of All-Inclusive Care for the Elderly (PACE) organization and achieve eligibility confirmation status could be approved as PACE sites. Expansion of PACE sites would also mean additional individuals in the community would have access to these services.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 430.84 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 Appropriations on February 27, 2020:

The committee substitute:

- Authorizes approved PACE participants to transfer their PACE approval, assign their PACE contract, and transfer any Legislative approved funding to any other person meeting federal requirements;
- Requires that a geographic service area served by a PACE participant must not overlap with or include any part of a geographic service area that was previously authorized by the Legislature and that is specific to another prospective PACE organization;
- Clarifies that the bill does not repeal or alter any law in effect on June 30, 2020, which authorized a geographic service area and initial enrollees for a prospective PACE organization; and
- Requires that all PACE organizations meet specific quality and performance standards established by the state administering agency in addition to those required by the federal CMS.

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 Baxley

12-00748A-20

2020916__

A bill to be entitled

An act relating to the Program of All-Inclusive Care for the Elderly; creating s. 430.84, F.S.; defining terms; authorizing the Agency for Health Care Administration, in consultation with the Department of Elderly Affairs, to approve certain applicants to provide benefits pursuant to the Program of All-Inclusive Care for the Elderly (PACE); specifying requirements and procedures for the submission, publication, review, and initial approval of applications; requiring prospective PACE organizations that are granted initial approval to apply within a certain timeframe for federal approval; providing accountability requirements; exempting PACE organizations from certain requirements; providing an effective date.

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

Section 1. Section 430.84, Florida Statutes, is created to read:

430.84 Program of All-Inclusive Care for the Elderly.—

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

(a) "Agency" means the Agency for Health Care Administration.

(b) "Applicant" means an entity that has filed an application with the agency for consideration as a Program of All-Inclusive Care for the Elderly (PACE) organization.

(c) "CMS" means the Centers for Medicare and Medicaid

12-00748A-20

2020916__

Services within the United States Department of Health and Human Services.

(d) "Department" means the Department of Elderly Affairs.

(e) "PACE organization" means an entity under contract with the agency to deliver PACE services.

(f) "Participant" means an individual receiving services from a PACE organization and who has been determined by the department to need the level of care required under the state Medicaid plan for coverage of nursing facility services.

(2) PROGRAM CREATION.—The agency, in consultation with the department, may approve entities that have submitted applications required by the CMS to the agency for review and consideration which contain the data and information required in subsection (3) to provide benefits pursuant to the PACE program as established in 42 U.S.C. s. 1395eee and in accordance with the requirements set forth in this section.

(3) PACE ORGANIZATION SELECTION.—The agency, in consultation with the department, shall on a continuous basis review and consider applications required by the CMS for PACE which have been submitted to the agency by entities seeking initial state approval to become PACE organizations. Notice of such applications must be published in the Florida Administrative Register.

(a) A prospective PACE organization shall submit application documents to the agency before requesting program funding. Application documents submitted to and reviewed by the agency, in consultation with the department, must include all of the following:

1. Evidence that the applicant is able to meet all of the

12-00748A-20 2020916__
 59 applicable federal regulations and requirements established by
 60 the CMS for participation as a PACE organization by the proposed
 61 implementation date.

62 2. Market studies, including an estimate of the number of
 63 potential participants and the geographic service area in which
 64 the applicant proposes to serve.

65 3. A business plan of operation, including pro forma
 66 financial statements and projections, based on the proposed
 67 implementation date.

68 (b) Each applicant must propose to serve a unique and
 69 defined geographic service area without duplication of services
 70 or target populations. No more than one PACE organization may be
 71 authorized to provide services within any unique and defined
 72 geographic service area.

73 (c) An existing PACE organization seeking authority to
 74 serve an additional geographic service area not previously
 75 authorized by the agency or the Legislature must meet the
 76 requirements set forth in paragraphs (a) and (b).

77 (d) Any prospective PACE organization that is granted
 78 initial state approval by the agency, in consultation with the
 79 department, shall submit its complete federal PACE application,
 80 in accordance with the application process and guidelines
 81 established by the CMS, to the agency and the CMS within 12
 82 months after the date of initial state approval, or such
 83 approval is void.

84 (4) ACCOUNTABILITY.—All PACE organizations must meet
 85 specific quality and performance standards established by the
 86 CMS for the PACE program. The agency shall oversee and monitor
 87 the PACE program and organizations based upon data and reports

12-00748A-20 2020916__
 88 periodically submitted by PACE organizations to the agency and
 89 the CMS. A PACE organization is exempt from the requirements of
 90 chapter 641.

91 Section 2. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

COMMITTEES:

Ethics and Elections, *Chair*
Appropriations Subcommittee on Education
Education
Finance and Tax
Health Policy
Judiciary

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY

12th District

February 18, 2020

The Honorable Chairman Rob Bradley
414 Senate Office Building
Tallahassee, Florida 32399

Dear Chairman Bradley,

I would like to request that CS/SB 916 Program of All-Inclusive Care for the Elderly be heard in the next Appropriations Committee meeting.

This bill establishes a statutory process for the review, approval, and oversight of future current PACE organizations. It provides notification requirements for PACE organization applications.

Also, this bill codifies AHCA and the Department of Elder Affairs to provide monitoring and oversight of PACE organizations.

Thank you for your favorable consideration.

Onward & Upward,



Senator Dennis K. Baxley
Senate District 12

DKB/dd

cc: Cynthia Sauls Kynoch, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012
Email: baxley.dennis@flsenate.gov

Bill Galvano
President of the Senate

David Simmons
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-20

Meeting Date

916

Bill Number (if applicable)

Topic PALF

Amendment Barcode (if applicable)

Name CLIFF BAUER

Job Title Pres

Address 5200 NE 2nd Ave
Street

Phone _____

Miami FL 33137
City State Zip

Email clbauer@miamijewishhealth.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA PALF CENTERS

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-20

Meeting Date

SB 916

Bill Number (if applicable)

Topic Program of All-Inclusive Care for Elderly

Amendment Barcode (if applicable)

Name Dorene Barker

Job Title Associate State Director

Address 215 South Monroe St, Suite 603

Phone 850-228-4387

Street

Tallahassee

FL

32301

City

State

Zip

Email debarker@aarfp.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing AARFP FL

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 918

INTRODUCER: Senator Brandes

SUBJECT: Civic Education

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Dew	Sikes	ED	Favorable
2. Underhill	Elwell	AED	Recommend: Favorable
3. Underhill	Kynoch	AP	Favorable

I. Summary:

SB 918 authorizes the development and integration of a nonpartisan civic literacy practicum and the designation of a public school providing high-quality civic learning as a Freedom School. Specifically, the bill requires:

- The Commissioner of Education to develop minimum criteria for a nonpartisan civic literacy practicum that may be incorporated into a school's curriculum for the high school United States Government course, along with a process for district school boards to verify student completion of the practicum.
- School districts to include and accept nonpartisan civic literacy practicum activities and hours in requirements for academic awards.
- The State Board of Education to annually designate each public school in the state which provides students with high-quality civic learning, based on specified criteria, as a Freedom School.

The bill has a fiscal impact, however the Department of Education can implement the provisions of the bill with existing resources. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Florida law requires the adoption of standards for core curricula content taught in public schools and specifies the requirements students must meet to earn a standard high school diploma.¹

¹ Sections 1003.41 and 1003.4282(3), F.S.

Next Generation Sunshine State Standards

The Next Generation Sunshine State Standards (NGSSS) establish the core content to be taught in Florida and specify the core knowledge and skills K-12 public school students are expected to acquire.² The curricular content must integrate critical-thinking, problem-solving, and workforce-literacy skills; communication, reading, and writing skills; collaboration skills; information and media-literacy skills; and civic-engagement skills, among others.³

The State Board of Education (SBE) is responsible for adopting the NGSSS and subsequent revisions to standards in rule.⁴ NGSSS for social studies include at a minimum curricular content for geography, United States and world history, government, civics, humanities, economics, and financial literacy.⁵

High School Diploma Requirements

A student can graduate from a Florida high school with a standard high school diploma through successfully completing one of the following options:⁶

- The 24-credit option;
- The 18-credit Academically Challenging Curriculum to Enhance Learning (ACCEL) option;
- The Career and Technical Education (CTE) Pathway;
- An International Baccalaureate (IB) curriculum; or
- An Advanced International Certificate of Education (AICE) curriculum.

To earn a standard high school diploma through the 24-credit option, 18-credit ACCEL option, or CTE Pathway, a student must complete 14 credits in the following subject areas:⁷

- Four credits in English Language Arts (ELA) I, II, III, and IV.
- Four credits in mathematics, including one each in Algebra I and Geometry.
- Three credits in science, including one credit in Biology I and two credits in equally rigorous courses.⁸
- Three credits in social studies, including one credit each in United States History and World History; one-half credit in economics, which must include financial literacy; and one-half credit in United States Government.

Service Learning

Service learning refers to a student-centered, research-based teaching and learning strategy that engages students in meaningful service activities in their schools or communities.⁹ Service learning activities are directly tied to academic curricula, standards, and course, district, or state

² Section 1003.41(1), F.S.

³ *Id.*

⁴ Section 1003.41(3)-(4), F.S.

⁵ Section 1003.41(2)(d), F.S.

⁶ Section 1003.4282(1)(a), F.S.

⁷ Section 1003.4282(3), F.S.

⁸ Two of the three science credits must have a laboratory component. Section 1003.4282(3)(c), F.S.

⁹ Section 1003.497(1), F.S.

assessments.¹⁰ The Department of Education must encourage school districts to initiate, adopt, expand and institutionalize service-learning programs, activities, and policies in kindergarten through grade 12.

Civic Literacy in Florida

Florida law establishes civic literacy as a priority of the Florida K-20 education system and defines civic literacy to mean that students are prepared to become civically engaged and knowledgeable adults who make positive contributions to their communities.¹¹

III. Effect of Proposed Changes:

The bill authorizes the development and integration of a nonpartisan civic literacy practicum and the designation of a public school providing high-quality civic learning as a Freedom School. Specifically, the bill requires:

- The Commissioner of Education (commissioner) to develop minimum criteria for a nonpartisan civic literacy practicum that may be incorporated into a school's curriculum for the high school United States Government course, along with a process for district school boards to verify student completion of the practicum.
- School districts to include and accept nonpartisan civic literacy practicum activities and hours in requirements for academic awards.
- The State Board of Education (SBE) to annually designate each public school in the state which provides students with high-quality civic learning, based on specified criteria, as a Freedom School.

The bill requires the commissioner to develop minimum criteria for a nonpartisan civic literacy practicum that may be incorporated into a school's curriculum for the high school United States Government course required for high school graduation, beginning with the 2021-2022 school year. The bill also requires the commissioner to develop a process by which a district school board can verify that a student successfully completed a practicum meeting the required criteria, specifically:

- The criteria must require a student to:
 - Identify a civic issue that impacts his or her community.
 - Rigorously research the issue from multiple perspectives and develop a plan for his or her personal involvement in addressing the issue.
 - Create a portfolio to evaluate and reflect upon his or her experience and the outcomes or likely outcomes of his or her involvement. A portfolio must, at a minimum, include research, evidence, and a written plan of involvement.
- A civic literacy practicum must be:
 - Nonpartisan;
 - Focus on addressing at least one community issue; and
 - Promote a student's ability to consider differing points of view and engage in civil discourse with individuals who hold an opposing opinion.

¹⁰ *Id.*

¹¹ Section 1000.03(5)(c), F.S.

School districts are required to include and accept nonpartisan civic literacy practicum activities and hours in requirements for academic awards, especially those awards that currently include community service as a criterion or selection actor. The bill authorizes school districts to count the hours outside of classroom instruction a student devotes to the nonpartisan civic literacy practicum to implement his or her plan of involvement toward meeting the community service requirements of the Florida Bright Futures Scholarship Program.

The bill requires the SBE to designate, on an annual basis, each public school in the state which provides students with high-quality civic learning, including civic-engagement skills, as a Freedom School. The SBE must establish the criteria for a school's designation as a Freedom School, which must include:

- The extent to which strategies to develop high-quality civic learning, including civic-engagement skills, are integrated into the classroom using best instructional practices.
- The scope of integration of high-quality civic learning, including civic-engagement skills, across the school's curricula.
- The extent to which the school supports interdisciplinary, teacher-led professional learning communities to support continuous improvement in instruction and student achievement.
- The percentage of students graduating with a standard high school diploma who successfully completed a civic literacy practicum and earned associated community service.

This bill aligns with the Governor's Executive Order 19-32, which requires the commissioner to review Florida's education standards and materials and to identify opportunities to equip high school graduates with sufficient knowledge of America's civics.

The creation of a civic literacy practicum may promote civic literacy in Florida and create an additional pathway for students to fulfil the community service requirements of other academic awards.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures. There may be costs for a school district to incorporate a nonpartisan civic literacy practicum into a school's curriculum for the high school United States Government course. However, the nonpartisan civic literacy practicum is not required and a school district will only experience these costs if the district chooses to incorporate the practicum into its curriculum for the course.

The bill requires the Department of Education to develop criteria for the practicum, to determine the status of whether or not each school has a practicum as part of the U.S. Government course, to review the process by which a district can verify that a student successfully completes a practicum, and to establish the criteria for designation of a participating school as a Freedom School. The number of schools that may participate is unknown. The department estimated that it would require two additional staff (Program Specialist IV and an Administrative Assistant) at \$146,789 to implement the provisions of the bill.¹² However, the department has vacant positions that could be used to absorb any additional workload.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1003.44 of the Florida Statutes.

¹² Department of Education, *Senate Bill 918 Fiscal Analysis* (Dec. 16, 2019) (on file with the Appropriations Subcommittee on Education).

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 Brandes

24-01214-20

2020918__

1 A bill to be entitled
 2 An act relating to civic education; amending s.
 3 1003.44, F.S.; requiring the Commissioner of Education
 4 to develop minimum criteria for a nonpartisan civic
 5 literacy practicum for high school students, beginning
 6 with a specified school year; requiring the
 7 commissioner to develop a certain process for use by
 8 district school boards; specifying criteria for the
 9 civic literacy practicum; authorizing students to
 10 apply the hours they devote to practicum activities to
 11 certain community service requirements; requiring the
 12 State Board of Education to designate certain high
 13 schools as Freedom Schools, based on criteria the
 14 board establishes relating to students' civic learning
 15 and civic engagement; providing an effective date.
 16
 17 Be It Enacted by the Legislature of the State of Florida:
 18
 19 Section 1. Present subsection (5) of section 1003.44,
 20 Florida Statutes, is redesignated as subsection (6), and a new
 21 subsection (5) is added to that section, to read:
 22 1003.44 Patriotic programs; rules.—
 23 (5) (a) In order to help students evaluate the roles,
 24 rights, and responsibilities of United States citizens and
 25 determine methods of active participation in society,
 26 government, and the political system, the commissioner shall
 27 develop minimum criteria for a nonpartisan civic literacy
 28 practicum that may be incorporated into a school's curriculum
 29 for the high school United States Government course under s.

Page 1 of 3

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

24-01214-20

2020918__

30 1003.4282(3) (d), beginning with the 2021-2022 school year. The
 31 commissioner also shall develop a process by which a district
 32 school board can verify that a student successfully completed a
 33 practicum meeting the criteria.
 34 1. The criteria must require a student to:
 35 a. Identify a civic issue that impacts his or her
 36 community.
 37 b. Rigorously research the issue from multiple perspectives
 38 and develop a plan for his or her personal involvement in
 39 addressing the issue.
 40 c. Create a portfolio to evaluate and reflect upon his or
 41 her experience and the outcomes or likely outcomes of his or her
 42 involvement. A portfolio must, at minimum, include research,
 43 evidence, and a written plan of involvement.
 44 2. A civic literacy practicum must be nonpartisan, focus on
 45 addressing at least one community issue, and promote a student's
 46 ability to consider differing points of view and engage in civil
 47 discourse with individuals who hold an opposing opinion.
 48 (b) The hours outside of classroom instruction which a
 49 student devotes to the nonpartisan civic literacy practicum to
 50 implement his or her plan of involvement may be counted toward
 51 meeting the community service requirements of the Florida Bright
 52 Futures Scholarship Program. School districts must include and
 53 accept nonpartisan civic literacy practicum activities and hours
 54 in requirements for academic awards, especially those awards
 55 that currently include community service as a criterion or
 56 selection factor.
 57 (c) The State Board of Education shall annually designate
 58 each public school in the state which provides students with

Page 2 of 3

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

24-01214-20

2020918__

59 high-quality civic learning, including civic-engagement skills,
60 as a Freedom School. The state board shall establish the
61 criteria for a school's designation as a Freedom School. The
62 criteria must include:

63 1. The extent to which strategies to develop high-quality
64 civic learning, including civic-engagement skills, are
65 integrated into the classroom using best instructional
66 practices.

67 2. The scope of integration of high-quality civic learning,
68 including civic-engagement skills, across the school's
69 curricula.

70 3. The extent to which the school supports
71 interdisciplinary, teacher-led professional learning communities
72 to support continuous improvement in instruction and student
73 achievement.

74 4. The percentage of students graduating with a standard
75 high school diploma who successfully completed a civic literacy
76 practicum and earned community service hours as provided in this
77 subsection.

78 Section 2. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 19, 2020

I respectfully request that **Senate Bill #918**, relating to **Civic Education**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal flourish extending to the right.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

918

Bill Number (if applicable)

Topic ~~DFS Package~~ Civic Education

Amendment Barcode (if applicable)

Name Edward Briggs

Job Title Dir. of Gov't & Comm. Affairs

Address 235 W. Boral Blvd. Ste. 640

Street

Phone 850-933-5594

Boral
City

FL
State

33511
Zip

Email edward@raconyell.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Helios Education Foundation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

SB 918

Bill Number (if applicable)

Topic A Bill on Civic Education

Amendment Barcode (if applicable)

Name OSIRIS RAMOS JR.

Job Title Graduate Advisor

Address 5945 SE General Lee Terrace

Phone (772) 284-6046

Street

Stuart

City

FL

State

34997

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida YMCA Youth In Government

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 922

INTRODUCER: Appropriations Committee; Commerce and Tourism Committee; and Senator Gruters

SUBJECT: Economic Development

DATE: March 2, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Reeves	McKay	CM	Fav/CS
2. Howard	Kidd	AHS	Recommend: Favorable
3. Hrdlicka	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 922 provides that certain businesses that relocate to, or expand into, a county affected by Hurricane Michael are eligible to receive an increased “tax refund” under the Qualified Target Industry Tax Refund Program, and authorizes certain businesses located in a county affected by Hurricane Michael to apply for an economic recovery extension.

The bill removes the scheduled date after which an applicant may not be certified for the program. The bill makes the program permanent.

The bill may have a significant yet indeterminate fiscal impact on state expenditures. Payment for performance under the program is subject to specific annual appropriation by the legislature.

The bill takes effect on July 1, 2020.

II. Present Situation:

Qualified Target Industry Tax Refund Program

The Qualified Target Industry (QTI) Tax Refund Program was created by the Legislature in 1994¹ to encourage the creation and retention of high-quality, high-wage jobs by providing a

¹ Chapter 94-136, s. 76, Laws of Fla.

state grant equal to the amount paid for certain state and local taxes² to eligible businesses creating jobs in certain target industries.³ The amount of the tax refund awarded through the program is determined by the number of jobs created by, the average annual wages paid by, and the location of the eligible business. Under current law, no additional applicants may be certified under the program after June 30, 2020; existing agreements will continue in effect according to their terms.⁴

In order to be eligible to receive a grant, a business must apply to be certified as a qualified target industry business with the Department of Economic Opportunity (DEO).⁵ Businesses must be engaged in one of Florida's target industries as identified by the DEO and Enterprise Florida, Inc. (EFI).⁶ The current qualified target industries are aviation and aerospace; life sciences; manufacturing; defense and homeland security; information technology; financial and professional services; logistics and distribution; research and development; cleantech; and corporate headquarters.⁷

Qualified target industry businesses are eligible to receive a tax refund equal to \$3,000 per newly created job. If a business is located in a rural community or an enterprise zone, the amount is increased to \$6,000 per created job.⁸ Qualified target industry businesses may also be eligible for the following additional tax refund payments:⁹

- \$1,000 per created job if such jobs pay an average annual wage of at least 150 percent of the average private sector wage in a business's area;
- \$2,000 per created job if such jobs pay an average annual wage of at least 200 percent of the average private sector wage in a business's area;
- \$1,000 per created job if a business's local financial support is equal to the state's incentive award; and

² Tax refunds may be claimed for the following taxes paid: sales and use taxes, corporate income taxes, insurance premium taxes, intangible personal property taxes, excise taxes, ad valorem taxes, certain state communication services taxes, excise taxes on documents. *See* s. 288.106(3)(9), F.S.

³ Section 288.106(1), F.S.

⁴ Section 288.106(9), F.S.

⁵ Section 288.106(4), F.S.

⁶ Section 288.106(2)(q), F.S. Every three years, beginning January 1, 2011, DEO must consult with EFI, economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists to review and revise the list of target industries. Target industries are determined according to criteria found in statute.

⁷ Enterprise Florida, Inc., *Qualified Targeted Industries for Incentives*, available at https://www.enterpriseflorida.com/wp-content/uploads/SI_Targeted_Industries.pdf (last visited January 22, 2020).

⁸ Section 288.106(3)(b)1., F.S.

⁹ Section 288.106(3)(b), F.S.

- \$2,000 per created job if a business falls within one of the designated high-impact sectors¹⁰ or increases exports of its goods through a seaport¹¹ or airport in the state by at least 10 percent by value or tonnage in each of the years the business receives a tax refund payment.

A qualified target industry business cannot receive more than \$1.5 million in any fiscal year, or more than \$2.5 million in any fiscal year if the business is located in an enterprise zone.¹² The total state share of payments may not exceed \$35 million.¹³

To date, 1,360 businesses have been approved to participate in the QTI program and over \$260 million has been awarded. In Fiscal Year 2018-2019, 7,462 jobs were created by 321 businesses actively participating in the program. The total number of jobs created exceeded the number of total new jobs expected to be created by 3,184.¹⁴

QTI Agreement

Each qualified target industry business must enter into a written agreement with the DEO that specifies certain criteria that must be met in order to be eligible for a payment, including receipts showing the amount of taxes paid and data showing that the business met its performance requirements.¹⁵ Compliance with the terms and conditions of the agreement is a condition precedent for the receipt of a tax refund each year unless the department grants the business an economic recovery extension.¹⁶

In the event of negative economic conditions in a business's industry, a named hurricane or tropical storm, or specific acts of terrorism, a qualified target industry business may request an economic recovery extension. The request must provide evidence detailing how the aforementioned conditions have prevented a business from carrying out the terms of its agreement.¹⁷ Upon approval, the DEO will renegotiate a business's agreement. Agreements may not be extended for more than 2 years, and a business that receives an extension may not receive

¹⁰ Pursuant to s. 288.108(6), F.S., EFI must consult with the DEO, economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists every three years, beginning January 1, 2011, to review the designated high-impact sectors. The sectors currently designated as high impact are transportation equipment (including aviation and aerospace), information technology, life sciences, financial services, corporate headquarters, and clean energy. See Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 7*, 17 (2019), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1916rpt.pdf> (last visited January 22, 2020).

¹¹ Section 288.106(3)(b)4.b., F.S., limits seaports to the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.

¹² Section 288.106(3)(c), F.S.

¹³ Section 288.095(3)(a), F.S.

¹⁴ Florida Department of Economic Opportunity, 2019 Incentives Report, 7-8, available at http://www.floridajobs.org/docs/default-source/reports-and-legislation/2018-2019-annual-incentives-report---final.pdf?sfvrsn=c2a340b0_2 (last visited February 4, 2020).

¹⁵ Section 288.106(5)(a), F.S. The DEO may waive the requirement for proof of taxes paid in future years for a business that provides the DEO with proof that, in a single year, the business has paid an amount of certain state taxes that is at least equal to the total amount of payments that the business would receive through successful completion of its agreement. Section 288.106(6), F.S.

¹⁶ Section 288.106(5)(b), F.S.

¹⁷ Section 288.106(5)(b)1., F.S.

a tax refund for the period covered by the extension.¹⁸ Requests for an economic recovery extension were permitted in lieu of any claim scheduled between January 1, 2009, and July 1, 2012.¹⁹

Disproportionally Affected Counties

In response to the Deepwater Horizon oil spill, the Legislature enacted a special incentive within the QTI program to encourage business investment in the counties disproportionately affected by the oil spill.²⁰ The DEO was authorized to waive any or all wage or local financial support requirements between July 1, 2011, and June 30, 2014, for a business located in a Disproportionally Affected County. Disproportionally Affected Counties are currently defined as Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, or Wakulla County. During this period, a qualified target industry business that relocated all or part of its business to one of such counties from another state was eligible for a tax refund of up to \$6,000 per job created.²¹

Hurricane Michael

Hurricane Michael made landfall in the Florida Panhandle as a Category 5 Hurricane on October 10, 2018. The storm, the fourth most powerful hurricane to hit the country, remained at category 3 strength as it traveled into southwest Georgia. Storm surge and 160 mph winds caused destruction and losses of almost \$7 billion along the hurricane's path.²² In the year following the storm, FEMA has provided \$1.9 billion in federal funds for housing assistance, disaster loans, public assistance grants, and hazard mitigation grants.²³ Businesses have been slow to reopen, largely due to a shortage of workers worsened by the lack of affordable housing in the area.²⁴

III. Effect of Proposed Changes:

Qualified Target Industry Tax Refund Program (Sections 1 and 2)

The bill creates two new provisions related to businesses located in a county affected by Hurricane Michael. The bill amends s. 288.106(8), F.S., to replace references to a "Disproportionally Affected County" with a "county affected by Hurricane Michael." The bill defines a "county affected by Hurricane Michael" as Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Wakulla, Walton, or Washington County.

¹⁸ Section 288.106(5)(b)3., F.S.

¹⁹ Section 288.106(5)(b)1., F.S.

²⁰ Chapter 2011-142, s. 150, Laws of Fla.

²¹ Section 288.106(8), F.S.

²² Associated Press, *A year after Michael, Florida community still in crisis*, October 9, 2019, available at <https://apnews.com/0d260a9ec44545458ab1f25b6f969a5a> (last visited February 4, 2020).

²³ Federal Emergency Management Agency, *Florida Hurricane Michael*, available at <https://www.fema.gov/disaster/4399> (last visited February 4, 2020).

²⁴ National Public Radio, *Recovery is Slow in the Florida Panhandle a Year after Hurricane Michael*, October 10, 2019, available at: <https://www.npr.org/2019/10/10/768722573/recovery-is-slow-in-the-florida-panhandle-a-year-after-hurricane-michael> (last visited February 4, 2020).

The bill amends s. 288.106(5)(b)4., F.S., to allow a qualified target industry business located in a county affected by Hurricane Michael to request an economic recovery extension in lieu of any claim scheduled to be submitted after January 1, 2021, but before July 1, 2023.

The bill allows the DEO to waive wage and local financial support requirements for businesses that locate or expand in a county affected by Hurricane Michael. The DEO may waive such requirements between July 1, 2020, and June 30, 2023. The bill requires that the DEO's decision to waive such requirements be stated in writing. Under the bill, a business that "relocates from another state to, or establishes its business or expands its existing business in, a county affected by Hurricane Michael" is eligible for a payment of up to \$10,000 per job created.

The bill repeals the provision that prohibits the certification of applicants after June 30, 2020. In effect, the bill permanently reauthorizes the program.

The bill amends s. 189.033, F.S., to remove a cross-reference and provides that, as used in s. 189.033, F.S., the term "disproportionally affected county" retains its original definition of Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, or Wakulla County.

Effective Date (Section 3)

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The maximum grant award available to a qualified target industry business that relocates to or expands into to a county affected by Hurricane Michael is \$10,000 per created job, which could incentivize certain businesses to relocate to or expand into those areas.

Businesses that are located in a county affected by Hurricane Michael that are unable to meet the terms of their current agreements with the DEO may benefit from receiving an economic recovery extension and extending the term of the agreement by up to two years.

C. Government Sector Impact:

The bill may have a significant yet indeterminate fiscal impact on future state expenditures. Payment of QTI contracts or agreements are subject to specific annual appropriation by the legislature.²⁵ The annual funding cap of \$35 million, pursuant to s. 288.095(3)(a), F.S., still applies.

The bill allows applicants to be certified for the QTI program after June 30, 2020. The DEO will be able to enter into new contracts or agreements under the program.

The bill creates a special incentive of up to \$10,000 per employee for QTI projects within a county affected by Hurricane Michael.²⁶

Additionally, payments that otherwise may not have been made because the business could not meet the terms of the agreement, may be made over a longer term if the business qualified for an economic recovery extension.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 189.003 and 288.106.

²⁵ Section 288.106(5)(d), F.S.

²⁶ Department of Economic Opportunity, *Senate Bill 922 Fiscal Analysis* (November 18, 2019) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

IX. Additional Information:

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute removes the provisions related to surf pools.

CS by Commerce and Tourism on January 21, 2020:

- Deletes a cross-reference to the definition of “disproportionally affected county”;
- Defines “disproportionally affected county” in place of the cross-reference;
- Defines “surf pool”;
- Provides that certain surf pools are exempt from supervision established in ch. 514, F.S., if a local government has permitted such a surf pool through a special use permit process; and
- Updates a reference to a redesignated statute.

- B. **Amendments:**

None.



230682

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 121 - 154.

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

And the title is amended as follows:

Delete lines 18 - 22

and insert:

189.033, F.S.; conforming a

By the Committee on Commerce and Tourism; and Senator Gruters

577-02404-20

2020922c1

A bill to be entitled

An act relating to economic development; amending s. 288.106, F.S.; authorizing a qualified target industry business located in a county affected by Hurricane Michael to submit a request to the Department of Economic Opportunity for an economic recovery extension in lieu of a tax refund claim scheduled to be submitted during a specified timeframe; authorizing the department to waive certain requirements during a specified timeframe; requiring the department to state any waiver in writing; providing that certain businesses are eligible for a specified tax refund payment; defining the term "county affected by Hurricane Michael"; deleting obsolete provisions; deleting a provision relating to the future expiration of certification for the tax refund program for qualified target industry businesses; amending s. 514.0115, F.S.; exempting certain surf pools from supervision under ch. 514, F.S.; providing exceptions, defining the term "surf pool"; amending s. 553.77, F.S.; conforming a cross-reference to changes made by the act; amending s. 189.033, F.S.; conforming a cross-reference to changes made by the act; providing an effective date.

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

Section 1. Paragraph (b) of subsection (5) and subsections (8) and (9) of section 288.106, Florida Statutes, are amended to

Page 1 of 7

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

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read:

288.106 Tax refund program for qualified target industry businesses.—

(5) TAX REFUND AGREEMENT.—

(b) Compliance with the terms and conditions of the agreement is a condition precedent for the receipt of a tax refund each year. The failure to comply with the terms and conditions of the tax refund agreement results in the loss of eligibility for receipt of all tax refunds previously authorized under this section and the revocation by the department of the certification of the business entity as a qualified target industry business, unless the business is eligible to receive and elects to accept a prorated refund under paragraph (6)(e) or the department grants the business an economic recovery extension.

1. A qualified target industry business may submit a request to the department for an economic recovery extension. The request must provide quantitative evidence demonstrating how negative economic conditions in the business's industry, the effects of a named hurricane or tropical storm, or specific acts of terrorism affecting the qualified target industry business have prevented the business from complying with the terms and conditions of its tax refund agreement.

2. Upon receipt of a request under subparagraph 1., the department has 45 days to notify the requesting business, in writing, whether its extension has been granted or denied. In determining whether an extension should be granted, the department shall consider the extent to which negative economic conditions in the requesting business's industry have occurred

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

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in the state or the effects of a named hurricane or tropical storm or specific acts of terrorism affecting the qualified target industry business have prevented the business from complying with the terms and conditions of its tax refund agreement. The department shall consider current employment statistics for this state by industry, including whether the business's industry had substantial job loss during the prior year, when determining whether an extension shall be granted.

3. As a condition for receiving a prorated refund under paragraph (6)(e) or an economic recovery extension under this paragraph, a qualified target industry business must agree to renegotiate its tax refund agreement with the department to, at a minimum, ensure that the terms of the agreement comply with current law and the department's procedures governing application for and award of tax refunds. Upon approving the award of a prorated refund or granting an economic recovery extension, the department shall renegotiate the tax refund agreement with the business as required by this subparagraph. When amending the agreement of a business receiving an economic recovery extension, the department may extend the duration of the agreement for a period not to exceed 2 years.

4. A qualified target industry business located in a county affected by Hurricane Michael, as defined in subsection (8), may submit a request for an economic recovery extension to the department in lieu of any tax refund claim scheduled to be submitted after January 1, 2021 ~~2009~~, but before July 1, 2023 ~~2012~~.

5. A qualified target industry business that receives an economic recovery extension may not receive a tax refund for the

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period covered by the extension.

(8) SPECIAL INCENTIVES.—If the department determines it is in the best interest of the public for reasons of facilitating economic development, growth, or new employment opportunities within a ~~Disproportionally Affected~~ affected by Hurricane Michael, the department ~~may~~, between July 1, 2020 ~~2011~~, and June 30, 2023 ~~2014~~, may waive any or all wage or local financial support eligibility requirements. If the department elects to waive wage or financial support eligibility requirements, the waiver must be stated in writing. and allow A qualified target industry business that relocates from another state to, or establishes which relocates all or a portion of its business or expands its existing business in, a to a Disproportionally Affected county affected by Hurricane Michael is eligible to receive a tax refund payment of up to \$10,000 ~~\$6,000~~ multiplied by the number of jobs specified in the tax refund agreement under subparagraph (5)(a)1. over the term of the agreement. ~~Prior to granting such waiver, the executive director of the department shall file with the Governor a written statement of the conditions and circumstances constituting the reason for the waiver.~~ Such business shall be eligible for the additional tax refund payments specified in subparagraph (3)(b)4. if it meets the criteria. As used in this section, the term ~~"Disproportionally Affected county affected by Hurricane Michael"~~ means Bay County, Calhoun County ~~Escambia County~~, Franklin County, Gadsden County, Gulf County, Holmes County, Jackson County, Jefferson County, Leon County, Liberty County, Okaloosa County, Santa Rosa County, Walton County, ~~or~~ Wakulla County, Walton County, or Washington County.

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~~(9) EXPIRATION. An applicant may not be certified as qualified under this section after June 30, 2020. A tax refund agreement existing on that date shall continue in effect in accordance with its terms.~~

Section 2. Present subsection (7) of section 514.0115, Florida Statutes, is redesignated as subsection (8), and a new subsection (7) is added to that section, to read:

514.0115 Exemptions from supervision or regulation; variances.—

(7) A surf pool that is larger than 4 acres and is certified by the Department of Economic Opportunity to be a part of a new development with an investment value of at least \$100 million is exempt from supervision under this chapter provided that it is permitted by a local government pursuant to a special use permit process in which the local government asserts regulatory authority over the construction of the surf pool and, in consultation with the department, establishes through the local government's special use permitting process the conditions for the surf pool's operation, water quality, and necessary lifesaving equipment. This subsection does not affect the department's or a county health department's right of entry pursuant to s. 514.04 or its authority to seek an injunction pursuant to s. 514.06 to restrain the operation of a surf pool permitted and operated under this subsection if it presents significant risks to public health. For the purposes of this subsection, the term "surf pool" means a pool designed to generate waves dedicated to the activity of surfing on a surfboard or analogous surfing device commonly used in the ocean and intended for sport, as opposed to general play intent for

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wave pools, other large-scale public swimming pools, or other public bathing places.

Section 3. Subsection (7) of section 553.77, Florida Statutes, is amended to read:

553.77 Specific powers of the commission.—

(7) Building officials shall recognize and enforce variance orders issued by the Department of Health pursuant to s. 514.0115(8) ~~s. 514.0115(7)~~, including any conditions attached to the granting of the variance.

Section 4. Section 189.033, Florida Statutes, is amended to read:

189.033 Independent special district services in disproportionately affected county; rate reduction for providers providing economic benefits.—If the governing body of an independent special district that provides water, wastewater, and sanitation services in a disproportionately affected county, ~~as defined in s. 288.106(8)~~, determines that a new user or the expansion of an existing user of one or more of its utility systems will provide a significant benefit to the community in terms of increased job opportunities, economies of scale, or economic development in the area, the governing body may authorize a reduction of its rates, fees, or charges for that user for a specified period of time. A governing body that exercises this power must do so by resolution that states the anticipated economic benefit justifying the reduction as well as the period of time that the reduction will remain in place. As used in this section, the term "disproportionally affected county" means Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, or

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175 Wakulla County.

176 Section 5. This act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Banking and Insurance

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JOE GRUTERS

23rd District

February 13, 2020

The Honorable Rob Bradley, Chair
Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley:

I am writing to request that Senate Bill 922, Economic Development to be placed on the agenda of the next Appropriations Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me.
Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

cc: Cynthia Sauls Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:

- ☐ 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- ☐ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020
Meeting Date

SB 922
Bill Number (if applicable)

Topic Economic Development

Amendment Barcode (if applicable)

Name Lauren Storch

Job Title Government Relations

Address 601 E. Kennedy Blvd.
Street

Phone 813-274-6831

Tampa FL 33602
City State Zip

Email storchla@HCFI.gov.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Hillsborough County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-20

Meeting Date

922

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name B. D. Jogerst

Job Title Legislative Assistant

Address ~~Tallahassee~~ 516 N Adams

Phone _____

Street

Tallahassee

City

State

32301

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020

Meeting Date

922

Bill Number (if applicable)

Topic Economic Development

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough S

Phone 850-521-1200

Street

Tallahassee

FL

32311

Email cjohnson@flchamber.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

922

Bill Number (if applicable)

Topic Economic Development

Amendment Barcode (if applicable)

Name Nicholas Alvarez

Job Title Legislative Affairs Director

Address 107 E. Madison St
Street

Phone 850 294 3653

Tallahassee FL 32399
City State Zip

Email nicholas.alvarez@doe.state.fl.us

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Department of Economic Opportunity

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/CS/SB 1066

INTRODUCER: Appropriations Committee; Finance and Tax Committee; Community Affairs Committee; and Senator Gruters

SUBJECT: Impact Fees

DATE: March 4, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Fav/CS</u>
3.	<u>Babin</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1066 imposes new requirements related to impact fees. The bill:

- Prohibits the application of a new or increased impact fee to pending permit applications unless the result is to reduce the total impact fees or mitigation costs imposed on the applicant.
- Authorizes local governments with charters that contain provisions providing for school capacity to require contributions related to public education that are used to mitigate impacts not otherwise funded by impact fees or other exactions related to public education facilities, under certain circumstances.
- Provides that impact fee credits are assignable and transferable at any time after establishment within the same impact fee zone or impact fee district, or an adjoining zone or district within the same local jurisdiction.

The Revenue Estimating Conference determined that a prior version of the bill (CS/SB 1066) had an indeterminate, positive or negative, impact on local government impact fee revenues beginning in Fiscal Year 2020-2021. Staff estimates that the changes made by the current version of the bill (CS/CS/CS/SB 1066) do not change the fiscal impact.

The bill takes effect July 1, 2020.

II. Present Situation:

Local Government Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹ Those counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.² Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.³

Local Government Impact Fees

Pursuant to home rule authority, counties and municipalities may impose proprietary fees,⁴ regulatory fees, and special assessments⁵ to pay the cost of providing a facility or service or regulating an activity. As one type of regulatory fee, impact fees are charges imposed by local governments against new development to pay for the cost of capital facilities made necessary by such growth.⁶ Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee. With respect to a school impact fee, the fee is imposed by the respective board of county commissioners at the request of the school board.

Section 163.31801(3), F.S., provides requirements and procedures for the adoption of an impact fee. An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum:

- Require that the calculation of the impact fee be based on the most recent and localized data;
- Provide for accounting and reporting of impact fee collections and expenditures. If a local government imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund;
- Limit administrative charges for the collection of impact fees to actual costs; and
- Require that notice be provided at least 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee.

¹ FLA. CONST. art. VIII, s. 1(f).

² FLA. CONST. art. VIII, s. 1(g).

³ FLA. CONST. art. VIII, s. 2(b); s. 166.021(1), F.S.

⁴ Office of Economic and Demographic Research, The Florida Legislature, *2019 Local Government Financial Handbook*, available at <http://edr.state.fl.us/Content/local-government/reports/lgfh19.pdf> (last visited Feb. 12, 2020). Examples of proprietary fees include admissions fees, franchise fees, user fees, and utility fees.

⁵ *Id.* Special assessments are typically used to construct and maintain capital facilities or to fund certain services.

⁶ See *supra* note 4 at p. 13.

Some local governments impose impact fees specifically for local school facilities.⁷ School districts have authority to impose ad valorem taxes within the district for school purposes⁸ but are not general purpose governments with home rule power⁹ and are not expressly authorized to impose impact fees.¹⁰ Local governments imposing specific impact fees for education capital improvements typically collect the fees for deposit directly into an account segregated for funding those improvements.¹¹ Local government ordinances creating the impact fee also typically stipulate that the funds be used only for education capital improvement projects.¹² The credit imposed for impact fees imposed for public educational facilities must be based on the total impact fee assessed and not limited to the impact fee imposed for a particular type of school.¹³

Section 163.31801(4), F.S., provides that any contribution for public education facilities must be credited against education-based impact fees on a dollar-for-dollar basis.

Section 163.31801(5), F.S., provides that if a local government increases its impact fee rates, the holder of any impact fee credits, whether such credits are granted under concurrency, developments of regional impact, or otherwise,¹⁴ which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established.¹⁵

Section 163.31801(7), F.S., provides that in any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees, as provided in s. 163.3180(6) (h) 2.b., F.S.,¹⁶ the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and s. 163.31801, F.S. The court may not use a deferential standard for the benefit of the government.

Chapter 2019-165, Laws of Fla., amended s. 163.31801, F.S., to codify the 'dual rational nexus test' for impact fees, as articulated in case law. This test requires an impact fee to be proportional

⁷ See, e.g., Miami-Dade County Code of Ordinances ch. 33K, *Educational Facilities Impact Fee Ordinance* and Orange County Code of Ordinances ch. 23, art. V, *School Impact Fees*.

⁸ FLA. CONST. art. VII, s. 9(a), and art. IX, s. 4(b); See s. 1011.71, F.S.

⁹ See FLA. CONST. art. VIII, ss. 1(f)-(g) and 2

¹⁰ Section 163.31801(2), F.S.

¹¹ In Miami-Dade County, the education facility impact fee is paid to the County Planning & Zoning Director, who must then deposit that amount into a specific trust fund maintained by the county. See Miami-Dade County Code of Ordinances, ss. 33K-7(a), 33K-10(c). In Orange County, the school impact fee is paid to the county or municipality (if the land being developed is within a municipality), which then transfers the funds collected at least quarterly to the Orange County School District. The District is responsible for maintaining the trust into which the impact fee revenues must be deposited. See Orange County Code of Ordinances, s. 23-142.

¹² See Miami-Dade County Code of Ordinances, s. 33K-11(a); Orange County Code of Ordinances, s. 23-143(b).

¹³ Section 163.3180(6)(h)2.b., F.S.

¹⁴ Local governments often specify types of credits and how they operate.

¹⁵ This subsection shall operate prospectively and not retrospectively.

¹⁶ With respect to school concurrency applied by a local government, when a contribution of land; the construction, expansion, or payment for land acquisition; the construction or expansion of a public school facility, or a portion thereof; or the construction of a specified charter school is used as proportionate-share mitigation, the local government is required to credit such contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by a local ordinance for the same need, on a dollar-for-dollar basis.

and have a reasonable connection, or rational nexus, between 1) the proposed new development and the need and the impact of additional capital facilities, and 2) the expenditure of funds and the benefits accruing to the proposed new development.¹⁷ Local governments are prohibited from requiring the payment of impact fees prior to issuing a property's building permit.¹⁸

Additionally, ch. 2019-165, Laws of Fla., established that impact fee funds must be earmarked for capital facilities that benefit new residents and may not be used to pay existing debt unless specific conditions are met.¹⁹ Provisions also authorized a local government to provide an exception or waiver for an impact fee for affordable housing. If a local government provides such an exception or waiver, it is not required to use any revenues to offset the impact.²⁰ Impact fee provisions in s. 163.31801, F.S., do not apply to water and sewer connection fees.

Concurrency and Proportionate Share

Concurrency requires public facilities and services to be available concurrent with the impacts of new development. Concurrency was formerly required for transportation, schools, and parks and recreation, but in 2011, the Legislature made concurrency for these facilities optional with the passage of the Community Planning Act (CPA).²¹ Concurrency on a statewide basis is required only for sanitary sewer, solid waste, drainage, and potable water. However, any local government is authorized to extend the concurrency requirement to additional public facilities within its jurisdiction.²² "Area" or "area of jurisdiction" within the CPA means the total area qualifying under the act, whether this be all of the lands lying within the limits of an incorporated municipality, lands in and adjacent to incorporated municipalities, all unincorporated lands within a county, or areas comprising combinations of the lands in incorporated municipalities and unincorporated areas of counties.²³

Many local governments continue to exercise the option to impose concurrency on transportation and school facilities. If a local government elects to apply concurrency to either transportation or school facilities, or both, its comprehensive plan must provide principles, guidelines, standards, and strategies, including adopted levels of service,²⁴ to guide its application of concurrency requirements.²⁵ Concurrency is tied to provisions requiring local governments to adopt level-of-service (LOS) standards, address existing deficiencies, and provide infrastructure to accommodate new growth reflected in the comprehensive plan.²⁶ Local governments are charged with setting LOS standards within their jurisdictions. The local comprehensive plan must demonstrate, for required or optional concurrency requirements, that the adopted LOS standards

¹⁷ Section 163.31801(3)(f) and (g), F.S.

¹⁸ Section 163.31801(3)(e), F.S.

¹⁹ Section 163.31801(3)(h) and (i), F.S.

²⁰ Section 163.31801(8), F.S.

²¹ Chapter 2011-139, s. 15, Laws of Fla.

²² Section 163.3180(1), F.S.

²³ Section 163.3164(6), F.S.

²⁴ "Level of service" is defined in s. 163.3164(28), F.S., to mean "an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility."

²⁵ See ss. 163.3180(5) and (6), F.S., with respect to concurrency applied to transportation facilities and to public education facilities, respectively.

²⁶ See generally s. 163.3180, F.S.

can be reasonably met, and infrastructure needed to ensure that the LOS standards are achieved and maintained for a five-year period must be identified.²⁷ Generally, if the LOS standards are not met, development permits may not be issued without an applicable exception.

Proportionate share is a tool local governments may use to require developers to help mitigate the impacts of their development notwithstanding a failure to achieve and maintain the adopted LOS standards.²⁸ Proportionate share generally requires developers to contribute to costs, or build facilities, necessary to offset a new development's impacts.²⁹ Local governments may require proportionate share contributions from developers for both transportation and school impacts.³⁰

A local government applying the concurrency requirement to transportation facilities must comply with the statutory requirements in order to achieve and maintain the LOS standard adopted in the comprehensive plan.³¹ A local government that later repeals transportation concurrency is encouraged to apply statutory criteria to an alternative mobility funding system. A mobility fee-based funding system adopted by a local government must comply with the dual rational nexus test applicable to impact fees.³²

With respect to school concurrency applied by a local government, when a contribution of land; the construction, expansion, or payment for land acquisition; the construction or expansion of a public school facility, or a portion thereof; or the construction of a specified charter school is used as proportionate-share mitigation, the local government is required to credit such contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by a local ordinance for the same need, on a dollar-for-dollar basis.³³

School Per-Student Station Costs

Each district school board must meet all educational plant space needs of its elementary, middle, and high schools.³⁴ Section 1013.64(6)(b)1, F.S., specifies maximum total costs per student station for each school level as of January 2006, adjusted annually to reflect increases or decreases in the Consumer Price Index. Chapter 2019-23, Laws of Fla., directed the Department of Education in conjunction with the Office of Economic and Demographic Research to review and adjust the cost per student station limits to reflect actual construction costs by January 1, 2020, and annually thereafter.

²⁷ Section 163.3180(1)(b), F.S.

²⁸ Florida Department of Community Affairs (now Department of Economic Opportunity), *Transportation Concurrency: Best Practices Guide*, pg. 64 (2007), available at http://www.cutr.usf.edu/pdf/DCA_TCBP%20Guide.pdf (last visited Feb. 12, 2020).

²⁹ *Id.*

³⁰ Sections 163.3180(5) and 163.3180(6), F.S.

³¹ Section 163.3180(5), F.S.

³² Section 163.3180(5)(i), F.S.

³³ Section 163.3180(6)(h)2.b., F.S.

³⁴ Section 1013.64(6), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 163.31801, F.S., to provide that unless the result is to reduce the total mitigation costs or impact fees imposed on an applicant, new or increased impact fees may not apply to current or pending permit applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee.

The bill also allows certain local governments to impose both a contribution requirement related to public education facilities and an education-related impact fee without any offsetting credit. In order to qualify, the local government must be governed by a charter that was adopted and implemented before December 31, 2006, and the charter language must contain provisions for providing school capacity. Qualifying local governments must use the contributions related to public education facilities to fund impacts not otherwise funded by education-related impact fees, and the contributions must be based on the difference between the cost per student station as determined by the education facilities impact fee study on which the then-current education-based impact fee is based, subject to s. 1013.64(2)(a)6. and (6)(b), and the cost per student station funded by the education-based impact fee.

Lastly, the bill provides that impact fee credits are assignable³⁵ and transferable at any time after establishment from one development or parcel to another with the same impact fee zone or impact fee district. The credits may be transferred to an adjoining impact fee zone or impact fee district within the same local jurisdiction, but only if the adjoining impact fee zone or impact fee district benefits from the improvement or contribution that generated the credit.

Section 2 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the Florida Constitution provides that municipalities and counties are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. However, the mandate requirement does not apply to laws having an insignificant impact,³⁶ which for Fiscal Year 2020-2021 is forecast at approximately \$2.2 million.^{37,38}

Article VII, s. 18(b) of the Florida Constitution provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature

³⁵ Assignability is the quality or attribute which permits a thing to be transferred or negotiated. *See* BLACK'S LAW DICTIONARY (6th ed. 1990).

³⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 5, 2020).

³⁷ FLA. CONST. art. VII, s. 18(d).

³⁸ Based on the Florida Demographic Estimating Conference's December 3, 2019 population forecast for 2020 of 21,555,986. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 5, 2020).

may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that cities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. As in Subsection 18(a), the mandate requirement does not apply to laws having an insignificant impact.

Under this bill, municipalities and counties that assess impact fees may realize a reduction in impact fee collections (revenues) as a result of the prohibition of applying new or increased fees on pending applications and the requirement to allow the transfers of impact fee credits. If the reduction to collections is determined to exceed \$2.2 million in the aggregate, and no other exemption or exception applies, in order to be binding on the municipalities and counties, the bill must contain a finding of important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature. If a reduction in authority to raise revenues is found and the reduction exceeds the aggregate threshold, final passage of the bill would require approval by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that a prior version of the bill (CS/SB 1066) had an indeterminate, positive or negative, impact on local government impact fee revenues beginning in Fiscal Year 2020-2021. Staff estimates that the changes made by the current version of the bill (CS/CS/CS/SB 1066) do not change the fiscal impact.

B. Private Sector Impact:

The bill's provisions related to assignable and transferable impact fee credits may have an indeterminate impact on holders of such credits or contributions.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.31801 of the Florida Statutes.

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

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

CS/CS/CS by Appropriations on March 03, 2020:

The committee substitute

- Removes all issues from the bill, except for the following:
 - Retains, without amendment, the language in the CS/CS that provides that new impact fees can only apply to existing applications if the result is to reduce the total mitigation costs or impact fees imposed on an applicant.
 - Inserts new language that allows certain local governments to collect both public education facility contributions and school impact fees under certain circumstances.
 - Amends the impact fee credit transfer provisions to limit credit transfers within the same local jurisdiction.

CS/CS by Finance and Tax on February 18, 2020:

The committee substitute:

- Clarifies that the bill applies to a special district that adopts, collects and administers an impact fee.
- Expands the definition of “infrastructure” to include, for independent special fire control and rescue districts, new facilities as defined in s. 191.009(4), F.S.
- Provides that new impact fees apply to existing applications if the result is to reduce the total mitigation costs or impact fees imposed on an applicant.
- Limits the use of impact fee credits to the same type of public facility for which the impact fee applies located within the geographic boundary of the local government jurisdiction where the impact fee is imposed, as well as a zone or district that receives benefit from the improvement. The committee substitute applies these same restrictions to alternative mobility funding systems as provided for in s. 163.3180(5)(i), F.S.
- Requires, for purposes of impact fee credits, that a benefit be recognized within any zone or district located within five miles of the zone or district where the credit was generated.
- Clarifies that impact fee credits are intended to ensure that impact fees or equivalent contributions are not collected more than once for the same impacts.

- Clarifies that contributions related to the transportation system are creditable against impact fees, mobility fees, or other forms of exactions that are charged to mitigate transportation impacts.
- Further details the composition and duties of the impact fee review committee.

CS by Community Affairs on February 10, 2020:

The committee substitute:

- Provides impact fee related definitions for infrastructure and public facility.
- Establishes a 36-month age-of-data requirement for analysis sources used to calculate impact fees.
- Provides that new or increased impact fees may not apply to current or pending permit applications submitted prior to the effective date of an ordinance imposing new or increased fees.
- Includes contributions within exiting impact fee challenge provisions and makes the challenges applicable to all of ch. 163, F.S.
- Clarifies that impact fee credits are assignable and transferrable within the same impact fee jurisdiction.
- Provides directives on how and when contributions in lieu of impact fees are credited.
- Removes a requirement that an impact fee review committee select an impact fee consultant.

B. Amendments:

None.



593778

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/04/2020	.	
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The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment

Delete line 57
and insert:
defined in s. 163.3164(39) and includes public libraries,
emergency medical services, and any fire and law



277762

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/04/2020	.	
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The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 57 - 247
and insert:
defined in s. 163.3164(39) and includes public libraries,
emergency medical services, and any fire and law enforcement
facility. For independent special fire control and rescue
districts, the term "infrastructure" also includes new
facilities as defined in s. 191.009(4).
(4) At a minimum, each county and municipality that adopts,



277762

collects, or administers an impact fee by ordinance and each special district that adopts, collects, and administers an impact fee by resolution ~~an impact fee adopted by ordinance of a county or municipality or by resolution of a special district must satisfy all of the following conditions:~~

(a) Require that the calculation of any new or updated the impact fee must be based on the most recent and localized data collected within the last 36 months and excludes any cost that does not meet the definition of infrastructure.

(b) Account for the revenues and expenditures of such impact fee in a separate impact fee account, if the local governmental entity imposes an impact fee to address its infrastructure needs ~~The local government must provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund.~~

(c) Limit administrative charges for the collection of impact fees must be limited to actual costs. The cost per student station established in school impact fee calculations may not exceed that statutory total maximum cost per student station calculated under s. 1013.64(6).

(d) ~~The local government must~~ Provide notice not less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. Unless the result is to reduce the total mitigation costs or impact fees imposed on an applicant, new or increased impact fees may not apply to current or pending permit applications submitted before the effective



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40 date of an ordinance or resolution imposing a new or increased
41 impact fee. A county or municipality is not required to wait 90
42 days to decrease, suspend, or eliminate an impact fee.

43 ~~(e) Collection of the impact fee may not be required to~~
44 ~~occur earlier than the date of issuance of the building permit~~
45 ~~for the property that is subject to the fee.~~

46 ~~(f)~~ Ensure that the impact fee ~~is~~ must be proportional and
47 reasonably connected to, or has ~~have~~ a rational nexus with, the
48 need for additional infrastructure ~~capital facilities~~ and the
49 increased impact generated by the new residential or commercial
50 construction.

51 ~~(f)(g)~~ Ensure that the impact fee ~~is~~ must be proportional
52 and reasonably connected to, or has ~~have~~ a rational nexus with,
53 the expenditures of the funds collected and the benefits
54 accruing to the new residential or nonresidential construction.

55 ~~(g)(h)~~ The local government must Specifically earmark funds
56 collected under the impact fee for use in acquiring,
57 constructing, or improving infrastructure ~~capital facilities~~ to
58 benefit new users.

59 (5) Collection of the impact fee may not be required to
60 occur earlier than the date of issuance of the building permit
61 for the property that is subject to the fee.

62 ~~(6)(i)~~ Revenues generated by the impact fee may not be
63 used, in whole or in part, to pay existing debt or for
64 previously approved projects unless the expenditure is
65 reasonably connected to, or has a rational nexus with, the
66 increased impact generated by the new residential or
67 nonresidential construction.

68 ~~(7)(4)~~ Notwithstanding any charter provision, comprehensive



277762

69 plan policy, ordinance, or resolution, the local government must
70 credit against the collection of the impact fee any form of
71 contribution, whether identified in a proportionate share
72 agreement or other form of exaction, related to public education
73 facilities, including land dedication, site planning and design,
74 or construction. Any contribution must be applied to reduce any
75 education-based impact fees on a dollar-for-dollar basis at fair
76 market value. This subsection does not apply to a local
77 government governed by a charter that was adopted and
78 implemented before December 31, 2006, which charter language
79 contains provisions for providing school capacity so long as the
80 funds collected pursuant to the charter provision are used to
81 mitigate impacts not otherwise funded by impact fees or other
82 local exactions relating to public education facilities and the
83 funds are applied in a manner that is proportional and
84 reasonably connected to, or has a rational nexus with, the need
85 for additional capital facilities, the need for which is
86 generated by the new residential development. Contributions to
87 mitigate impacts not otherwise funded by impact fees must be
88 based on the difference between the cost per student station as
89 determined by the educational facilities impact fee study on
90 which the then-current education-based impact fee is based,
91 subject to s. 1013.64(2)(a)6. and (6)(b), and the cost per
92 student station funded by the education-based impact fee. Such
93 contributions may not be collected before the issuance of a
94 building permit.

95 (8)(5) If a local government increases its impact fee
96 rates, the holder of any impact fee credits, whether such
97 credits are granted under s. 163.3180, s. 380.06, or otherwise,



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which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established. This subsection shall operate prospectively and not retrospectively.

(9)(6) Audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39 and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section and the spending period provision in the local ordinance or resolution.

(10)(7) In any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees or for contributions made as provided in this chapter ~~s. 163.3180(6)(h)2.b.~~, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and this section. The court may not use a deferential standard for the benefit of the government.

(11) Impact fee credits are assignable and transferable at any time after establishment from one development or parcel to any other within the same impact fee zone or district or in an adjoining zone or district which receives benefits from the improvement or contribution that generated the credits.

(12)(8) A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as



277762

defined in s. 420.9071. If a county, municipality, or special district provides such an exception or waiver, it is not required to use any revenues to offset the impact.

(13) To ensure impact fees or equivalent contributions are not imposed more than once for the same impacts, a local government shall provide impact fee credits or other forms of compensation if a contribution is greater in value than the applicable impact fee. Contributions related to the transportation system are creditable against the combined total of all impact fees, mobility fees, or other forms of exactions charged to mitigate transportation impacts. This subsection applies at the time any contribution is accepted, regardless of when the contributions were agreed upon or committed to.

(14) ~~(9)~~ This section does not apply to water and sewer

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete lines 13 - 24
and insert:
governments; providing applicability; providing a calculation on which contributions to mitigate impacts not otherwise funded by impact fees must be based; prohibiting such contributions from being collected before the issuance of building permits; providing that impact fee credits are assignable and transferable under certain conditions;



891604

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2020	.	
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The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 163.31801, Florida Statutes, is amended
to read:

163.31801 Impact fees; short title; intent; minimum
requirements; audits; challenges.—

(1) This section may be cited as the "Florida Impact Fee
Act."



891604

(2) The Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments' reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district adopts an impact fee by resolution, the governing authority complies with this section.

(3) At a minimum, an impact fee adopted by ordinance of a county or municipality or by resolution of a special district must satisfy all of the following conditions:

(a) The calculation of the impact fee must be based on the most recent and localized data.

(b) The local government must provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund.

(c) Administrative charges for the collection of impact fees must be limited to actual costs.

(d) The local government must provide notice not less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee. Unless the result is to reduce the



891604

total mitigation costs or impact fees imposed on an applicant,
new or increased impact fees may not apply to current or pending
permit applications submitted before the effective date of an
ordinance or resolution imposing a new or increased impact fee.

(e) Collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.

(f) The impact fee must be proportional and reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.

(g) The impact fee must be proportional and reasonably connected to, or have a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction.

(h) The local government must specifically earmark funds collected under the impact fee for use in acquiring, constructing, or improving capital facilities to benefit new users.

(i) Revenues generated by the impact fee may not be used, in whole or in part, to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or nonresidential construction.

(4) Notwithstanding any charter provision, comprehensive plan policy, ordinance, or resolution, the local government must credit against the collection of the impact fee any contribution, whether identified in a proportionate share agreement or other form of exaction, related to public education



891604

69 facilities, including land dedication, site planning and design,
70 or construction. Any contribution must be applied to reduce any
71 education-based impact fees on a dollar-for-dollar basis at fair
72 market value. This subsection does not apply to a local
73 government governed by a charter that was adopted and
74 implemented before December 31, 2006, which charter language
75 contains provisions for providing school capacity, so long as
76 the funds collected pursuant to the charter provision are used
77 to mitigate impacts not otherwise funded by impact fees or other
78 local exactions relating to public education facilities, and the
79 funds are applied in a manner that is proportional and
80 reasonably connected to, or has a rational nexus with, the need
81 for additional capital facilities, the need for which is
82 generated by the new residential development. Contributions to
83 mitigate impacts not otherwise funded by impact fees must be
84 based on the difference between the cost per student station as
85 determined by the educational facilities impact fee study on
86 which the then-current education-based impact fee is based,
87 subject to s. 1013.64(2)(a)6. and (6)(b), and the cost per
88 student station funded by the education-based impact fee. Such
89 contributions may not be collected before the issuance of a
90 building permit.

91 (5) If a local government increases its impact fee rates,
92 the holder of any impact fee credits, whether such credits are
93 granted under s. 163.3180, s. 380.06, or otherwise, which were
94 in existence before the increase, is entitled to the full
95 benefit of the intensity or density prepaid by the credit
96 balance as of the date it was first established. This subsection
97 shall operate prospectively and not retrospectively.



891604

(6) Audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39 and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section.

(7) In any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees as provided in s. 163.3180(6)(h)2.b., the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and this section. The court may not use a deferential standard for the benefit of the government.

(8) Impact fee credits are assignable and transferable at any time after establishment from one development or parcel to any other that is within the same impact fee zone or impact fee district or that is within an adjoining impact fee zone or impact fee district within the same local government jurisdiction and receives benefits from the improvement or contribution that generated the credits.

(9)~~(8)~~ A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as defined in s. 420.9071. If a county, municipality, or special district provides such an exception or waiver, it is not required to use any revenues to offset the impact.

(10)~~(9)~~ This section does not apply to water and sewer



891604

connection fees.

Section 2. This act shall take effect July 1, 2020.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to impact fees; amending s. 163.31801,
F.S.; prohibiting new or increased impact fees from
applying to certain applications; providing an
exception; providing applicability; providing a
calculation on which contributions to mitigate impacts
not otherwise funded by impact fees must be based;
prohibiting such contributions from being collected
before the issuance of building permits; providing
that impact fee credits are assignable and
transferable under certain conditions; providing an
effective date.



569730

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/04/2020	.	
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The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment to Amendment (277762)

Delete line 9
and insert:
facilities as defined in s. 191.009(4). The term further
includes housing that is affordable as defined in s. 420.0004.



199538

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/26/2020	.	
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The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment

Delete line 60
and insert:
facilities as defined in s. 191.009(4). The term further
includes housing that is affordable as defined in s. 420.0004.



590750

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/26/2020	.	
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The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment

Delete lines 67 - 232
and insert:

(a) Require that the calculation of any new or updated the impact fee must be based on the most recent and localized data collected within the last 36 months and excludes any cost that does not meet the definition of infrastructure.

(b) Account for the revenues and expenditures of such impact fee in a separate impact fee account, if the local



590750

11 governmental entity imposes an impact fee to address its
12 infrastructure needs ~~The local government must provide for~~
13 ~~accounting and reporting of impact fee collections and~~
14 ~~expenditures. If a local governmental entity imposes an impact~~
15 ~~fee to address its infrastructure needs, the entity must account~~
16 ~~for the revenues and expenditures of such impact fee in a~~
17 ~~separate accounting fund.~~

18 (c) Limit administrative charges for the collection of
19 impact fees ~~must be limited~~ to actual costs. The cost per
20 student station established in school impact fee calculations
21 may not exceed that statutory total maximum cost per student
22 station calculated under s. 1013.64(6).

23 (d) ~~The local government must~~ Provide notice not less than
24 90 days before the effective date of an ordinance or resolution
25 imposing a new or increased impact fee. Unless the result is to
26 reduce the total mitigation costs or impact fees imposed on an
27 applicant, new or increased impact fees may not apply to current
28 or pending permit applications submitted before the effective
29 date of an ordinance or resolution imposing a new or increased
30 impact fee. A county or municipality is not required to wait 90
31 days to decrease, suspend, or eliminate an impact fee.

32 (e) ~~Collection of the impact fee may not be required to~~
33 ~~occur earlier than the date of issuance of the building permit~~
34 ~~for the property that is subject to the fee.~~

35 ~~(f)~~ Ensure that the impact fee is ~~must be~~ proportional and
36 reasonably connected to, or has ~~have~~ a rational nexus with, the
37 need for additional infrastructure ~~capital facilities~~ and the
38 increased impact generated by the new residential or commercial
39 construction.



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40 ~~(f)-(g)~~ Ensure that the impact fee ~~is must be~~ proportional
41 and reasonably connected to, or has ~~have~~ a rational nexus with,
42 the expenditures of the funds collected and the benefits
43 accruing to the new residential or nonresidential construction.

44 ~~(g)-(h)~~ ~~The local government must~~ Specifically earmark funds
45 collected under the impact fee for use in acquiring,
46 constructing, or improving infrastructure ~~capital facilities~~ to
47 benefit new users.

48 (5) Collection of the impact fee may not be required to
49 occur earlier than the date of issuance of the building permit
50 for the property that is subject to the fee.

51 ~~(6)-(i)~~ Revenues generated by the impact fee may not be
52 used, in whole or in part, to pay existing debt or for
53 previously approved projects unless the expenditure is
54 reasonably connected to, or has a rational nexus with, the
55 increased impact generated by the new residential or
56 nonresidential construction.

57 ~~(7)-(4)~~ The local government must credit against the
58 collection of the impact fee any contribution, whether
59 identified in a proportionate share agreement or other form of
60 exaction, related to public education facilities, including land
61 dedication, site planning and design, or construction. Any
62 contribution must be applied to reduce any education-based
63 impact fees on a dollar-for-dollar basis at fair market value.

64 ~~(8)-(5)~~ If a local government increases its impact fee
65 rates, the holder of any impact fee credits, whether such
66 credits are granted under s. 163.3180, s. 380.06, or otherwise,
67 which were in existence before the increase, is entitled to the
68 full benefit of the intensity or density prepaid by the credit



590750

balance as of the date it was first established. This subsection shall operate prospectively and not retrospectively.

(9) ~~(6)~~ Audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39 and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section and the spending period provision in the local ordinance or resolution.

(10) ~~(7)~~ In any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees or for contributions made as provided in this chapter s. 163.3180(6)(h)2.b., the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and this section. The court may not use a deferential standard for the benefit of the government.

(11) Impact fee credits are assignable and transferable at any time after establishment for the same type of public facility for which the impact fee applies to any development or parcel located within the geographic boundary of the local government jurisdiction where the impact fee is imposed and situated geographically within an impact fee zone or district that receives a benefit from the improvement, dedication, or payment which generated the credit to be transferred. If a local government elects to use an alternative mobility funding system as provided for in s. 163.3180(5)(i) in lieu of impact fees,



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transportation credits are assignable and transferable at any time after establishment to any development or parcel within the geographic boundary of the local government jurisdiction where the credit was established so long as the credit is applied to a zone or district which is receiving a benefit from the contribution to the alternative mobility funding system which generated the credit. Under either system described in this subsection, a benefit shall be recognized within any zone or district located within 5 miles of the zone or district where the credits were generated.

~~(12)~~(8) A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as defined in s. 420.9071. If a county, municipality, or special district provides such an exception or waiver, it is not required to use any revenues to offset the impact.

(13) To ensure impact fees or equivalent contributions are not imposed more than once for the same impacts, a local government shall provide impact fee credits or other forms of compensation if a contribution is greater in value than the applicable impact fee. Contributions related to the transportation system are creditable against the combined total of all impact fees, mobility fees, or other forms of exactions charged to mitigate transportation impacts. This subsection applies at the time any contribution is accepted, regardless of when the contributions were agreed upon or committed to.

(14) (a) Before enacting an impact fee, each county and municipality must establish an impact fee review and advisory committee.



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(b)1. The committee shall be composed of the following members appointed by the county commission or the governing body of the municipality, as applicable:

a. Two members who represent the business community who are not elected officials or employees of the local government jurisdiction.

b. Two members who are local licensed general or residential contractors, who are not elected officials or employees of the local government jurisdiction.

c. One at-large member who is not an elected official or employee of the local government jurisdiction.

2. The county commission or the governing body of the municipality, as applicable, may appoint three alternate members, consisting of one representative from each of the categories described in sub-subparagraphs 1.a., b., and c., who shall serve in the absence of their respective member.

3. Members and alternate members must be qualified electors of the county or municipality, as applicable.

4. Members and alternate members shall serve at the pleasure of the local government and shall serve until they are replaced.

(c)1. Each committee meeting must be duly noticed and open to the public as required by s. 286.011.

2. A meeting may not be held unless a quorum is present. A quorum consists of a majority of members of the committee, but an alternate member shall count toward the quorum when a regular member is absent.

3. Members of the committee shall serve without compensation.



590750

156 4. In lieu of establishing an impact fee review committee
157 as required in paragraph (a), a local governmental entity that
158 assesses an impact fee may use an existing committee that
159 contains representation from the building or development
160 community and reviews building or development projects.



101774

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/04/2020	.	
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The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 150 - 169
and insert:

(11) Impact fee credits are assignable and transferable at any time after establishment from one development or parcel to any other within the same impact fee zone or district or in an adjoining zone or district which receives benefits from the improvement or contribution that generated the credits.



101774

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

12 And the title is amended as follows:

13 Delete lines 15 - 17

14 and insert:

15 requiring local governments to

By the Committees on Finance and Tax; and Community Affairs; and
Senator Gruters

593-03916-20

20201066c2

A bill to be entitled

An act relating to impact fees; amending s. 163.31801, F.S.; revising legislative findings; defining terms; revising requirements for counties and municipalities that adopt, collect, or administer an impact fee by ordinance and for special districts that adopt, collect, and administer an impact fee by resolution; providing minimum requirements for such counties, municipalities, and special districts; prohibiting new or increased impact fees from applying to certain applications; providing an exception; providing timeframes for the collection of impact fees by local governments; providing that impact fee credits are assignable and transferable under certain conditions; providing that transportation credits, used in lieu of impact fees, are assignable and transferable under certain conditions; requiring local governments to provide impact fee credits or other forms of compensation under certain conditions; providing applicability; requiring certain counties and municipalities to establish impact fee review and advisory committees; providing for membership; providing procedures for holding meetings and establishing quorums; providing committee duties; providing an effective date.

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

Section 1. Section 163.31801, Florida Statutes, is amended

Page 1 of 9

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

593-03916-20

20201066c2

to read:

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges.—

(1) This section may be cited as the "Florida Impact Fee Act."

(2) The Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments' reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts, collects, or administers an impact fee by ordinance or a special district adopts, collects, and administers an impact fee by resolution, the governing authority complies with this section to ensure a consistent statewide process.

(3) For purposes of this section:

(a) The term "infrastructure" means any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of a public facility, excluding the cost of repairs or maintenance, that have a life expectancy of 5 or more years; any related land acquisition, land improvement, design, engineering, and permitting costs; and all other related construction costs required to bring the public facility into service.

(b) The term "public facility" means any facility as defined in s. 163.3164(39) and includes any fire and law enforcement facility. For independent special fire control and

Page 2 of 9

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

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rescue districts, the term "infrastructure" also includes new facilities as defined in s. 191.009(4).

(4) At a minimum, each county and municipality that adopts, collects, or administers an impact fee by ordinance and each special district that adopts, collects, and administers an impact fee by resolution ~~an impact fee adopted by ordinance of a county or municipality or by resolution of a special district~~ must satisfy all of the following conditions:

(a) Require that the calculation of the impact fee must be based on the most recent and localized data collected within the last 36 months and excludes any cost that does not meet the definition of infrastructure.

(b) Account for the revenues and expenditures of such impact fee in a separate impact fee account, if the local governmental entity imposes an impact fee to address its infrastructure needs ~~The local government must provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund.~~

(c) Limit administrative charges for the collection of impact fees ~~must be limited~~ to actual costs. The cost per student station established in school impact fee calculations may not exceed that statutory total maximum cost per student station calculated under s. 1013.64(6).

(d) ~~The local government must~~ Provide notice not less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. Unless the result is to

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reduce the total mitigation costs or impact fees imposed on an applicant, new or increased impact fees may not apply to current or pending permit applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee. A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee.

(e) ~~Collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.~~

~~(f)~~ Ensure that the impact fee is ~~must be~~ proportional and reasonably connected to, or has ~~have~~ a rational nexus with, the need for additional infrastructure capital facilities and the increased impact generated by the new residential or commercial construction.

~~(f)(g)~~ Ensure that the impact fee is ~~must be~~ proportional and reasonably connected to, or has ~~have~~ a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction.

~~(g)(h)~~ The local government must Specifically earmark funds collected under the impact fee for use in acquiring, constructing, or improving infrastructure capital facilities to benefit new users.

(5) Collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.

~~(6)(i)~~ Revenues generated by the impact fee may not be used, in whole or in part, to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the

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increased impact generated by the new residential or nonresidential construction.

~~(7)(4)~~ The local government must credit against the collection of the impact fee any contribution, whether identified in a proportionate share agreement or other form of exaction, related to public education facilities, including land dedication, site planning and design, or construction. Any contribution must be applied to reduce any education-based impact fees on a dollar-for-dollar basis at fair market value.

~~(8)(5)~~ If a local government increases its impact fee rates, the holder of any impact fee credits, whether such credits are granted under s. 163.3180, s. 380.06, or otherwise, which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established. This subsection shall operate prospectively and not retrospectively.

~~(9)(6)~~ Audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39 and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section and the spending period provision in the local ordinance or resolution.

~~(10)(7)~~ In any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees or for contributions made as provided in this chapter s. 163.3180(6)(h)2.b., the government has the burden of proving by a preponderance of the

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evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and this section. The court may not use a deferential standard for the benefit of the government.

(11) Impact fee credits are assignable and transferable at any time after establishment for the same type of public facility for which the impact fee applies to any development or parcel located within the geographic boundary of the local government jurisdiction where the impact fee is imposed and situated geographically within an impact fee zone or district that receives a benefit from the improvement, dedication, or payment which generated the credit to be transferred. If a local government elects to use an alternative mobility funding system as provided for in s. 163.3180(5)(i) in lieu of impact fees, transportation credits are assignable and transferable at any time after establishment to any development or parcel within the geographic boundary of the local government jurisdiction where the credit was established so long as the credit is applied to a zone or district which is receiving a benefit from the contribution to the alternative mobility funding system which generated the credit. Under either system described in this subsection, a benefit shall be recognized within any zone or district located within 5 miles of the zone or district where the credits were generated.

~~(12)(8)~~ A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as defined in s. 420.9071. If a county, municipality, or special district provides such an exception or waiver, it is not

593-03916-20

20201066c2

required to use any revenues to offset the impact.

(13) To ensure impact fees or equivalent contributions are not imposed more than once for the same impacts, a local government shall provide impact fee credits or other forms of compensation if a contribution is greater in value than the applicable impact fee. Contributions related to the transportation system are creditable against the combined total of all impact fees, mobility fees, or other forms of exactions charged to mitigate transportation impacts. This subsection applies at the time any contribution is accepted, regardless of when the contributions were agreed upon or committed to.

(14)(a) Before enacting an impact fee, each county and municipality must establish an impact fee review and advisory committee.

(b)1. The committee shall be composed of the following members appointed by the county commission or the governing body of the municipality, as applicable:

a. Two members who are employed by the county or municipality. If a school impact fee is assessed or under consideration, one of the two members shall be employed by the school district.

b. Two members who represent the business community who are not elected officials or employees of the local government jurisdiction.

c. Two members who are local licensed general or residential contractors, who are not elected officials or employees of the local government jurisdiction.

d. One at-large member who is not an elected official or employee of the local government jurisdiction.

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20201066c2

2. The county commission or the governing body of the municipality, as applicable, may appoint three alternate members, consisting of one representative from each of the categories described in sub-subparagraphs 1.a., b., and c., who shall serve in the absence of their respective member.

3. Members and alternate members must be qualified electors of the county or municipality, as applicable.

4. Members and alternate members shall serve at the pleasure of the local government and shall serve until they are replaced.

(c)1. Each committee meeting must be duly noticed and open to the public as required by s. 286.011.

2. A meeting may not be held unless a quorum is present. A quorum consists of a majority of members of the committee, but an alternate member shall count toward the quorum when a regular member is absent.

3. A member who fails to attend three consecutive meetings or fails to attend two-thirds of the meetings within a calendar year automatically forfeits the appointment, and the county commissioners or members of the governing body of the municipality, as applicable, shall promptly fill the vacancy.

4. Members of the committee shall serve without compensation.

5. A small county as defined in s. 110.1228(1)(c) or a small municipality as defined in s. 110.1228(1)(b) which assesses an impact fee may utilize an existing committee that contains representation from the building or development community and reviews building or development in lieu of the impact fee review committee provided herein.

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(d) The committee shall meet as needed to examine impact fee policies and provide recommendations on impact fee decisions, including, but not limited to, reviewing all of the following:

1. The selection of an impact fee consultant.

2. Impact fee studies and study recommendations.

3. Policies and methodologies for determining impact fees on new developments and new construction.

4. Changes to impact fee calculations.

5. After each impact fee is adopted by the local government and at least before a county or municipality adopts its budget, the proposed budget for expending impact fees to ensure the fee is used in accordance with this section and other pertinent sections of state law.

(15)(9) This section does not apply to water and sewer connection fees.

Section 2. This act shall take effect July 1, 2020.



277762

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/04/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 57 - 247
and insert:
defined in s. 163.3164(39) and includes public libraries,
emergency medical services, and any fire and law enforcement
facility. For independent special fire control and rescue
districts, the term "infrastructure" also includes new
facilities as defined in s. 191.009(4).
(4) At a minimum, each county and municipality that adopts,



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collects, or administers an impact fee by ordinance and each special district that adopts, collects, and administers an impact fee by resolution ~~an impact fee adopted by ordinance of a county or municipality or by resolution of a special district must satisfy all of the following conditions:~~

(a) Require that the calculation of any new or updated the impact fee must be based on the most recent and localized data collected within the last 36 months and excludes any cost that does not meet the definition of infrastructure.

(b) Account for the revenues and expenditures of such impact fee in a separate impact fee account, if the local governmental entity imposes an impact fee to address its infrastructure needs ~~The local government must provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund.~~

(c) Limit administrative charges for the collection of impact fees must be limited to actual costs. The cost per student station established in school impact fee calculations may not exceed that statutory total maximum cost per student station calculated under s. 1013.64(6).

(d) ~~The local government must~~ Provide notice not less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. Unless the result is to reduce the total mitigation costs or impact fees imposed on an applicant, new or increased impact fees may not apply to current or pending permit applications submitted before the effective



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40 date of an ordinance or resolution imposing a new or increased
41 impact fee. A county or municipality is not required to wait 90
42 days to decrease, suspend, or eliminate an impact fee.

43 ~~(e) Collection of the impact fee may not be required to~~
44 ~~occur earlier than the date of issuance of the building permit~~
45 ~~for the property that is subject to the fee.~~

46 ~~(f)~~ Ensure that the impact fee is ~~must be~~ proportional and
47 reasonably connected to, or has ~~have~~ a rational nexus with, the
48 need for additional infrastructure ~~capital facilities~~ and the
49 increased impact generated by the new residential or commercial
50 construction.

51 ~~(f)(g)~~ Ensure that the impact fee is ~~must be~~ proportional
52 and reasonably connected to, or has ~~have~~ a rational nexus with,
53 the expenditures of the funds collected and the benefits
54 accruing to the new residential or nonresidential construction.

55 ~~(g)(h)~~ The local government must Specifically earmark funds
56 collected under the impact fee for use in acquiring,
57 constructing, or improving infrastructure ~~capital facilities~~ to
58 benefit new users.

59 (5) Collection of the impact fee may not be required to
60 occur earlier than the date of issuance of the building permit
61 for the property that is subject to the fee.

62 ~~(6)(i)~~ (6) Revenues generated by the impact fee may not be
63 used, in whole or in part, to pay existing debt or for
64 previously approved projects unless the expenditure is
65 reasonably connected to, or has a rational nexus with, the
66 increased impact generated by the new residential or
67 nonresidential construction.

68 ~~(7)(4)~~ Notwithstanding any charter provision, comprehensive



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plan policy, ordinance, or resolution, the local government must credit against the collection of the impact fee any form of contribution, whether identified in a proportionate share agreement or other form of exaction, related to public education facilities, including land dedication, site planning and design, or construction. Any contribution must be applied to reduce any education-based impact fees on a dollar-for-dollar basis at fair market value. This subsection does not apply to a local government governed by a charter that was adopted and implemented before December 31, 2006, which charter language contains provisions for providing school capacity so long as the funds collected pursuant to the charter provision are used to mitigate impacts not otherwise funded by impact fees or other local exactions relating to public education facilities and the funds are applied in a manner that is proportional and reasonably connected to, or has a rational nexus with, the need for additional capital facilities, the need for which is generated by the new residential development. Contributions to mitigate impacts not otherwise funded by impact fees must be based on the difference between the cost per student station as determined by the educational facilities impact fee study on which the then-current education-based impact fee is based, subject to s. 1013.64(2)(a)6. and (6)(b), and the cost per student station funded by the education-based impact fee. Such contributions may not be collected before the issuance of a building permit.

(8)(5) If a local government increases its impact fee rates, the holder of any impact fee credits, whether such credits are granted under s. 163.3180, s. 380.06, or otherwise,



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which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established. This subsection shall operate prospectively and not retrospectively.

(9)(6) Audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39 and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section and the spending period provision in the local ordinance or resolution.

(10)(7) In any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees or for contributions made as provided in this chapter ~~s. 163.3180(6)(h)2.b.~~, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and this section. The court may not use a deferential standard for the benefit of the government.

(11) Impact fee credits are assignable and transferable at any time after establishment from one development or parcel to any other within the same impact fee zone or district or in an adjoining zone or district which receives benefits from the improvement or contribution that generated the credits.

(12)(8) A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as



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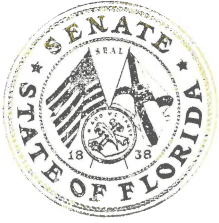
defined in s. 420.9071. If a county, municipality, or special district provides such an exception or waiver, it is not required to use any revenues to offset the impact.

(13) To ensure impact fees or equivalent contributions are not imposed more than once for the same impacts, a local government shall provide impact fee credits or other forms of compensation if a contribution is greater in value than the applicable impact fee. Contributions related to the transportation system are creditable against the combined total of all impact fees, mobility fees, or other forms of exactions charged to mitigate transportation impacts. This subsection applies at the time any contribution is accepted, regardless of when the contributions were agreed upon or committed to.

(14) ~~(9)~~ This section does not apply to water and sewer

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete lines 13 - 24
and insert:
governments; providing applicability; providing a calculation on which contributions to mitigate impacts not otherwise funded by impact fees must be based; prohibiting such contributions from being collected before the issuance of building permits; providing that impact fee credits are assignable and transferable under certain conditions;



February 19, 2020

The Honorable Rob Bradley, Chair
Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley:

I am writing to request that Senate Bill 1066, Impact fees to be placed on the agenda of the next Appropriations Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me.
Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

cc: Cynthia Sauls Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

SENT TO: CHAIRMAN
STAFF DIR.
2020 FEB 24 PM 1:14
RECEIVED
SENATE APPROPRIATIONS

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020

Meeting Date

1066

Bill Number (if applicable)

277762

Amendment Barcode (if applicable)

Topic Impact Fees

Name Wayne Bertsch (BIRCH)

Job Title Gov Relations

Address 7227 Land O Lakes Blvd

Street

Land O Lakes FL 34637

City

State

Zip

Phone 850 251 1835

Email wbertsch@pasco.k12.fl.us

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Pasco County Schools

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

Feb. 27, 2020

Meeting Date

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

SB 1066C2

Bill Number (if applicable)

277762

Amendment Barcode (if applicable)

Topic Impact Fees

Name Kyle Shephard

Job Title Director of Intergovernmental Relations

Address 400 S. Orange Ave.

Street

Phone 407 579 5952

Orlando

City

FL

State

32801

Zip

Email kyle.shephard@
orlando.gov

Speaking: ☐ For ☐ Against ☐ Information

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

Representing City of Orlando

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

SB 1066

Bill Number (if applicable)

27762

Amendment Barcode (if applicable)

Topic Impact Fees

Name Cady Wendy

Job Title Director of Legislative and Congressional Relations

Address 445 W. Amelia Street

Street

Orlando

City

FL

State

32801

Zip

Phone (407) 317-3200

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Orange County Public Schools

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/27/2020

Meeting Date

1066

Bill Number (if applicable)

Topic IMPACT FEES

Amendment Barcode (if applicable)

Name AMY PATTERSON

Job Title Director-Capital Projects - Collier County

Address 2685 S. Horseshoe Dr. Suite 103

Phone 239-252-5721

Street

Naples

FL

State

34104

Zip

Email amy.patterson@collier
CountyFl.gov

Speaking: ☐ For ☐ Against ☐ Information

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

Representing COLLIER COUNTY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2-27-22

Meeting Date

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

SB 1066

Bill Number (if applicable)

Topic IMPACT FEES

Amendment Barcode (if applicable)

Name KARI HEBRANK

Job Title

Address 215 S. Monroe St.

Phone 850-564-7824

Tallahassee FL 32301

Email khebrank@cafltonfields.ca

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida House District

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/27/20

Meeting Date

1066

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Marco Paredes

Job Title _____

Address 106 E. College Ave.

Phone 850-354-7608

Street

Tallahassee

City

FL

State

32301

Zip

Email mparedes@stearnsweaver.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing M/I Homes of Tampa

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27

Meeting Date

1066

Bill Number (if applicable)

Topic IMPACT FEES

Amendment Barcode (if applicable)

Name DANE BENNETT

Job Title DIR. OF GOV. AFFAIRS

Address 2600 CENTENNIAL PLACE

Phone 850-702-9475

Street

TALLAHASSEE

City

FL

State

32308

Zip

Email DBENNETT@FHBA.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL HOME BUILDERS ASSOCIATION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

1066
Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Jason Pepe

Job Title Government Relations

Address 901 E Kennedy Blvd

Phone 813-272-4000

Street
City Tampa State FL Zip 33601

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Hillsborough Schools

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1074

INTRODUCER: Military and Veterans Affairs and Space Committee; and Senators Wright and Albritton

SUBJECT: Surviving Spouse Ad Valorem Tax Reduction

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	<u>Fav/CS</u>
2. <u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Favorable</u>
3. <u>Babin</u>	<u>Kynoch</u>	<u>AP</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1074 is the implementing legislation for SJR 1076. The bill allows the homestead property tax discount for disabled veterans to transfer to a veteran's surviving spouse upon the death of the veteran, provided the veteran had received the discount. The discount is available for combat-disabled veterans aged 65 or older.

The bill grants the Department of Revenue emergency rulemaking authority.

If the related amendment proposed by SJR 1076 is approved by the electors, the Revenue Estimating Conference has determined that the bill will reduce local property taxes by \$1 million, beginning in Fiscal Year 2021-2022, increasing to \$4 million by Fiscal Year 2025-2026.

The bill takes effect on the effective date of the amendment to the State Constitution proposed by SJR 1076, or a similar joint resolution with substantially the same specific intent and purpose.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The State Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property,⁴ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the State Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that may receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Homestead Exemption

Every person having legal or equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹¹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. The additional exemption does not apply to ad valorem taxes levied by school districts.¹²

If a person is entitled to an exemption from taxation, he or she must file an application on or before March 1 requesting the exemption with the appropriate county property appraiser.¹³ The Department of Revenue prescribes the forms upon which the application is made.¹⁴

¹ Both real property and tangible personal property can be subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4, 9 (Fla. 1973).

³ See s. 192.001(3) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art VII, s. 6(a).

¹² FLA. CONST. art VII, s. 6(a).

¹³ Section 196.011(1)(a), F.S.

¹⁴ *Id.*

Property Tax Exemptions for Veterans and Surviving Spouses

Florida provides several property tax exemptions for disabled veterans and their surviving spouses. These include exemptions for the following persons:

- A veteran with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.¹⁵
- A veteran with a total service-connected disability that confines him or her to a wheelchair is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.¹⁶
- A veteran disabled to a degree of 10 percent or more by misfortune or during wartime service is entitled to an exemption for any property up to \$5,000. Upon the death of the veteran, the exemption carries over to the veteran's unremarried surviving spouse.¹⁷
- The unremarried surviving spouse of a veteran who died while on active duty is entitled to a complete exemption for property owned and used as a homestead if the veteran was a permanent resident of Florida on the day he or she died.¹⁸

Tax Discount on Homestead Property for a Combat-disabled Veteran

In addition to the property tax exemptions described above, certain combat-disabled veterans are entitled to a discount on their homestead property taxes.¹⁹ The discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.²⁰ The discount is applied as a reduction to the taxable value of the homestead property.²¹

To qualify for the tax discount, the veteran must:

- Be aged 65 or older;
- Be partially or totally disabled with combat-related disabilities; and
- Have received an honorable discharge.²²

In addition to filing an application with the county tax appraiser for the discount, an eligible veteran must also provide to the tax appraiser by March 1:

- An official letter from the United States Department of Veterans Affairs which includes the percentage of the veteran's service-connected disability and evidence that reasonably identifies the disability as combat-related;
- A copy of the veteran's honorable discharge; and
- Proof of age as of January 1 of the year to which the discount will apply.²³

¹⁵ Section 196.081(1)-(3), F.S.

¹⁶ Section 196.091(1) and (3), F.S.

¹⁷ Section 196.24, F.S.

¹⁸ Section 196.081(4), F.S.

¹⁹ Section 196.082, F.S.

²⁰ Section 196.082(2), F.S.

²¹ Section 196.082(5), F.S.

²² Section 196.082(1), F.S.

²³ Section 196.082(3), F.S.

Unlike the exemptions described above, the discount for a combat-related, disabled veteran does not carry over to a surviving spouse.²⁴

III. Effect of Proposed Changes:

This bill allows the homestead property tax discount for disabled veterans to transfer to a veteran's surviving spouse upon the death of the veteran, provided the veteran had received the discount. The discount is available for combat-disabled veterans aged 65 or older.

To receive the property tax discount, the surviving spouse must permanently reside at and hold legal or beneficial title to the homestead property. The surviving spouse is eligible for the discount until he or she:

- Remarries;
- Sells the property; or
- Otherwise disposes of the property.

However, after selling or otherwise disposing of the property, a surviving spouse may carry over the discount to a new, permanent residence as long as he or she remains unmarried. The amount of the discount is based on the latest tax roll of the original property.

For surviving spouses that do not apply timely, the bill authorizes the surviving spouse to petition the value adjustment board.

The Department of Revenue is authorized to adopt emergency rules to administer the provisions of this bill.

The bill is linked to SJR 1076, which provides ballot language to amend the constitution to add the benefit for a qualifying surviving spouse.

The bill takes effect on the effective date of the amendment to the State Constitution proposed by SJR 1076, or a similar joint resolution with substantially the same specific intent and purpose if the voters approve the amendment at the general election of November 2020 or at an earlier special election specifically authorized by law for that purpose.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provisions in Article VII, s. 18 of the State Constitution do not apply to bills that implement constitutional amendments.

B. Public Records/Open Meetings Issues:

None.

²⁴ See s. 196.082, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

The Revenue Estimating Conference has determined that, if the constitutional amendment proposed by SJR 1076 is approved by the electors, the bill will reduce local property tax receipts by \$1.0 million beginning in Fiscal Year 2021-2022, increasing to \$4.0 million by Fiscal Year 2025-2026.²⁵

B. Private Sector Impact:

A qualifying surviving spouse of a veteran who had received the tax discount on homestead property would be eligible for the same discount, thereby financially benefitting from the bill.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Revenue indicates that if the bill passes, it would need to amend two forms.²⁶

VIII. Statutes Affected:

This bill substantially amends section 196.082 of the Florida Statutes.

²⁵ Office of Economic and Demographic Research, *Revenue Estimating Conference, Impact Conference, 01/10/20 Revenue Impact Results*, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page55-61.pdf (last visited Feb. 06, 2020).

²⁶ Department of Revenue, *2020 Agency Legislative Bill Analysis, SB 1074* (Jan. 6, 2020) (on file with the Senate Committee on Finance and Tax).

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Military and Veterans Affairs and Space on January 22, 2020:

The CS refers to the linked joint resolution in the bill as “SJR 1076.”

B. Amendments:

None.

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

By the Committee on Military and Veterans Affairs and Space; and
Senator Wright

583-02453-20

20201074c1

A bill to be entitled

An act relating to a surviving spouse ad valorem tax reduction; amending s. 196.082, F.S.; authorizing the surviving spouses of certain permanently disabled veterans to carry over a certain discount on ad valorem taxes on homestead property under specified conditions; authorizing the discount to be transferred to another permanent residence under specified conditions; providing a procedure by which an applicant may file an application after a specified date and request the discount; authorizing the Department of Revenue to adopt emergency rules; providing a contingent effective date.

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

Section 1. Present subsections (3) through (6) of section 196.082, Florida Statutes, are redesignated as subsections (4) through (7), respectively, and a new subsection (3) is added to that section, to read:

196.082 Discounts for disabled veterans; surviving spouse carryover.—

(3) If the partially or totally and permanently disabled veteran predeceases his or her spouse and if, upon the death of the veteran, the spouse holds the legal or beneficial title to the homestead and permanently resides thereon as specified in s. 196.031, the discount from ad valorem tax that the veteran received carries over to the benefit of the veteran's spouse until such time as he or she remarries or sells or otherwise

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

583-02453-20

20201074c1

disposes of the property. If the spouse sells or otherwise disposes of the property, a discount not to exceed the dollar amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence, as long as it is used as his or her primary residence and he or she does not remarry. An applicant who is qualified to receive a discount under this section and who fails to file an application by March 1 may file an application for the discount and may file a petition pursuant to s. 194.011(3) with the value adjustment board requesting that the discount be granted. Such application and petition shall be subject to the same procedures as for exemptions set forth in s. 196.011(8).

Section 2. The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to administer this act. Notwithstanding any other law, emergency rules adopted pursuant to this section are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules. This section expires January 1, 2022.

Section 3. This act shall take effect on the effective date of the amendment to the State Constitution proposed by SJR 1076, or a similar joint resolution having substantially the same specific intent and purpose, if such amendment is approved at the next general election or at an earlier special election specifically authorized by law for that purpose.

Page 2 of 2

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs and Space, *Chair*
Children, Families, and Elder Affairs
Commerce and Tourism
Environment and Natural Resources

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR TOM A. WRIGHT

14th District

February 15, 2020

The Honorable Rob Bradley
414, Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 1074: Surviving Spouse Ad Valorem Tax Reduction

Dear Chairman Bradley:

Senate Bill 1074, relating to Surviving Spouse Ad Valorem Tax Reduction has been referred to the Committee on Appropriations. I am requesting your consideration on placing SB 1074 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Tom A. Wright".

Tom A. Wright, District 14

cc: Cynthia Kynoch, Staff Director of the Committee on Appropriations
Alicia Weiss, Administrative Assistant of the Committee on Appropriations

REPLY TO:

- ☐ 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- ☐ 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

27 FEB 2020

Meeting Date

SB1074

Bill Number (if applicable)

Topic Surviving Spouse Ad Valorem Tax Reduction

Amendment Barcode (if applicable)

Name Raf Clark

Job Title LEGISLATIVE AFFAIRS DIRECTOR

Address 400 S. MARCOS STREET STE 2105

Phone 850-487-1533

Street

TALLAHASSEE

City

FL

State

32399

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Dept of Veterans' Affairs

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

1074
Bill Number (if applicable)

Topic Surviving Spouse Ad Valorem Tax Reduction

Amendment Barcode (if applicable)

Name Shawn Foster

Job Title Lobbyist

Address 5957 Riviera Lane
Street

Phone 727 808 4131

New Port Richey, FL
City State

34655
Zip

Email foster@slgcorp.us

Speaking: ☒ For ☐ Against ☐ Information

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

Representing American Legion Auxiliary

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SJR 1076

INTRODUCER: Senators Wright and Albritton

SUBJECT: Surviving Spouse Ad Valorem Tax Reduction

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	<u>Babin</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

I. Summary:

SJR 1076 proposes an amendment to the Florida Constitution to allow the homestead property tax discount for disabled veterans to transfer to a veteran's surviving spouse upon the death of the veteran, provided the veteran had received the discount. The discount is available for veterans aged 65 or older who have permanent, combat-related disabilities.

The joint resolution requires approval by a three-fifths vote of the membership of each house of the Legislature for passage.

The Department of State estimates the publication costs for advertising the proposed amendment based on a rate of \$92.93 per word to be approximately \$74,251.07.

If the proposed amendment is approved by the electors, the Revenue Estimating Conference has determined that it will reduce local property taxes by \$1.0 million, beginning in Fiscal Year 2021-2022, increasing to \$4.0 million by Fiscal Year 2025-2026.

If approved by the electors, the amendment takes effect January 1, 2021.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31.

The State Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property,⁴ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the State Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that may receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Homestead Exemption

Every person having legal or equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹¹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. The additional exemption does not apply to ad valorem taxes levied by school districts.¹²

Property Tax Exemptions for Veterans and Surviving Spouses

Florida provides several property tax exemptions for disabled veterans and their surviving spouses. These include exemptions for the following persons:

¹ Both real property and tangible personal property can be subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4, 9 (Fla. 1973).

³ *See* s. 192.001(3) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art VII, s. 6(a).

¹² FLA. CONST. art VII, s. 6(a).

- A veteran with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.¹³
- A veteran with a total service-connected disability that confines him or her to a wheelchair is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.¹⁴
- A veteran disabled to a degree of 10 percent or more by misfortune or during wartime service is entitled to an exemption for any property up to \$5,000. Upon the death of the veteran, the exemption carries over to the veteran's unremarried surviving spouse.¹⁵
- The unremarried surviving spouse of a veteran who died while on active duty is entitled to a complete exemption for property owned and used as a homestead if the veteran was a permanent resident of Florida on the day he or she died.¹⁶

Tax Discount on Homestead Property for a Combat-disabled Veteran

In addition to the property tax exemptions described above, certain combat-disabled veterans are entitled to a discount on their homestead property taxes.¹⁷ The discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.¹⁸ The discount is applied as a reduction to the taxable value of the homestead property.¹⁹

To qualify for the tax discount, the veteran must:

- Be aged 65 or older;
- Be partially or totally disabled with combat-related disabilities; and
- Have received an honorable discharge.²⁰

Unlike the other exemptions described above, the discount for a combat-related disability does not carry over to a surviving spouse.²¹

III. Effect of Proposed Changes:

This bill proposes an amendment to the Florida Constitution to allow the homestead property tax discount for a veteran aged 65 or older who has a permanent, combat-related disability to carry over to the veteran's surviving spouse upon the veteran's death, provided that the veteran applied for and received the discount.

To receive the property tax discount, the surviving spouse must permanently reside at and hold legal or beneficial title to the homestead property. The surviving spouse is eligible for the discount until he or she:

¹³ Section 196.081(1)-(3), F.S.

¹⁴ Section 196.091(1) and (3), F.S.

¹⁵ Section 196.24, F.S.

¹⁶ Section 196.081(4), F.S.

¹⁷ Section 196.082, F.S.

¹⁸ Section 196.082(2), F.S.

¹⁹ Section 196.082(5), F.S.

²⁰ Section 196.082(1), F.S.

²¹ See s. 196.082, F.S.

- Remarries;
- Sells the property; or
- Otherwise disposes of the property.

After selling or otherwise disposing of the property, however, a surviving spouse may transfer the discount to a new, permanent residence as long as he or she remains unmarried. The amount of the discount transferred may not exceed the dollar amount granted on the most recent ad valorem tax roll of the original property.

The joint resolution provides that the amendment is self-executing and does not require implementing legislation.

If approved by the electors, the amendment takes effect January 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18 of the State Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article XI, s. 1 of the State Constitution authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, s. 5(e) of the State Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date specified in the amendment. The joint resolution specifies that the amendment takes effect January 1, 2021.

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

The Revenue Estimating Conference has determined that, if adopted by the electors, the amendment will reduce local property tax receipts by \$1.0 million beginning in Fiscal Year 2021-2022, increasing to \$4.0 million by Fiscal Year 2025-2026.²²

B. Private Sector Impact:

A qualifying surviving spouse of a veteran who had received the tax discount on homestead property would be eligible for the same discount, thereby financially benefitting from the bill.

C. Government Sector Impact:

Article XI, s. 5(d) of the State Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county in which a newspaper is published.

The Division of Elections is required to twice advertise the full text of proposed constitutional amendments in English and Spanish in the newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county, and to translate the amendments into Spanish.

The cost to advertise this amendment in newspapers and produce booklets for the 2020 General Election is estimated to be \$74,251.07, at a minimum. More accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.²³ Additionally, whether the estimate changes due to placement on the ballot at the Primary Election, rather than the General Election in 2020 is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²² Office of Economic and Demographic Research, *Revenue Estimating Conference, Impact Conference, 01/10/20 Revenue Impact Results*, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page181-189.pdf (last visited Feb. 09, 2020).

²³ Email correspondence with Maria Matthews, Director of Division of Elections, Department of State (Jan. 8, 2020) (on file with the Senate Committee on Finance and Tax).

VIII. Statutes Affected:

The joint resolution amends Article VII, section 6 of the State Constitution.

The joint resolution creates a new section in Article XII of the State Constitution.

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

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

None.

B. Amendments:

None.

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

By Senator Wright

14-01266A-20

20201076__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution to provide for the carryover of the homestead property tax discount for certain veterans with permanent combat-related disabilities to a veteran's surviving spouse if certain criteria are met, to authorize the transfer of the discount to a surviving spouse's new homestead property if certain criteria are met, and to provide an effective date.

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

That the following amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district

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

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20201076__

levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

(d) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant either or

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both of the following additional homestead tax exemptions:

(1) An exemption not exceeding fifty thousand dollars to a person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, who has attained age sixty-five, and whose household income, as defined by general law, does not exceed twenty thousand dollars; or

(2) An exemption equal to the assessed value of the property to a person who has the legal or equitable title to real estate with a just value less than two hundred and fifty thousand dollars, as determined in the first tax year that the owner applies and is eligible for the exemption, and who has maintained thereon the permanent residence of the owner for not less than twenty-five years, who has attained age sixty-five, and whose household income does not exceed the income limitation prescribed in paragraph (1).

The general law must allow counties and municipalities to grant these additional exemptions, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.

(e) (1) Each veteran who is age 65 or older who is partially or totally permanently disabled shall receive a discount from the amount of the ad valorem tax otherwise owed on homestead property the veteran owns and resides in if the disability was combat related and the veteran was honorably discharged upon separation from military service. The discount shall be in a percentage equal to the percentage of the veteran's permanent,

14-01266A-20

20201076

service-connected disability as determined by the United States Department of Veterans Affairs. To qualify for the discount granted by this paragraph subsection, an applicant must submit to the county property appraiser, by March 1, an official letter from the United States Department of Veterans Affairs stating the percentage of the veteran's service-connected disability and such evidence that reasonably identifies the disability as combat related and a copy of the veteran's honorable discharge. If the property appraiser denies the request for a discount, the appraiser must notify the applicant in writing of the reasons for the denial, and the veteran may reapply. The Legislature may, by general law, waive the annual application requirement in subsequent years.

(2) If a veteran who receives the discount described in paragraph (1) predeceases his or her spouse, and if, upon the death of the veteran, the surviving spouse holds the legal or beneficial title to the homestead property and permanently resides thereon, the discount carries over to the surviving spouse until he or she remarries or sells or otherwise disposes of the homestead property. If the surviving spouse sells or otherwise disposes of the property, a discount not to exceed the dollar amount granted from the most recent ad valorem tax roll may be transferred to the surviving spouse's new homestead property, if used as his or her permanent residence and he or she has not remarried.

(3) This subsection is self-executing and does not require implementing legislation.

(f) By general law and subject to conditions and limitations specified therein, the Legislature may provide ad

14-01266A-20 20201076__

117 valorem tax relief equal to the total amount or a portion of the
 118 ad valorem tax otherwise owed on homestead property to:

119 (1) The surviving spouse of a veteran who died from
 120 service-connected causes while on active duty as a member of the
 121 United States Armed Forces.

122 (2) The surviving spouse of a first responder who died in
 123 the line of duty.

124 (3) A first responder who is totally and permanently
 125 disabled as a result of an injury or injuries sustained in the
 126 line of duty. Causal connection between a disability and service
 127 in the line of duty shall not be presumed but must be determined
 128 as provided by general law. For purposes of this paragraph, the
 129 term "disability" does not include a chronic condition or
 130 chronic disease, unless the injury sustained in the line of duty
 131 was the sole cause of the chronic condition or chronic disease.

132

133 As used in this subsection and as further defined by general
 134 law, the term "first responder" means a law enforcement officer,
 135 a correctional officer, a firefighter, an emergency medical
 136 technician, or a paramedic, and the term "in the line of duty"
 137 means arising out of and in the actual performance of duty
 138 required by employment as a first responder.

ARTICLE XII

SCHEDULE

141 Ad valorem tax discount for surviving spouses of certain
 142 permanently disabled veterans.-The amendment to Section 6 of
 143 Article VII, relating to the ad valorem tax discount for spouses
 144 of certain deceased veterans who had permanent, combat-related
 145 disabilities, and this section shall take effect January 1,

Page 5 of 6

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

14-01266A-20 20201076__

146 2021.

147

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

150 CONSTITUTIONAL AMENDMENT

151 ARTICLE VII, SECTION 6

152 ARTICLE XII

153 AD VALOREM TAX DISCOUNT FOR SPOUSES OF CERTAIN DECEASED
 154 VETERANS WHO HAD PERMANENT, COMBAT-RELATED DISABILITIES.-
 155 Provides that the homestead property tax discount for certain
 156 veterans with permanent combat-related disabilities carries over
 157 to such veteran's surviving spouse who holds legal or beneficial
 158 title to, and who permanently resides on, the homestead
 159 property, until he or she remarries or sells or otherwise
 160 disposes of the property. The discount may be transferred to a
 161 new homestead property of the surviving spouse under certain
 162 conditions. The amendment takes effect January 1, 2021.

Page 6 of 6

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs and Space, *Chair*
Children, Families, and Elder Affairs
Commerce and Tourism
Environment and Natural Resources

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR TOM A. WRIGHT

14th District

February 15, 2020

The Honorable Rob Bradley
414, Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Joint Resolution 1076: Surviving Spouse Ad Valorem Tax Reduction

Dear Chairman Bradley:

Senate Joint Resolution 1076, relating to Surviving Spouse Ad Valorem Tax Reduction has been referred to the Committee on Appropriations. I am requesting your consideration on placing SJR 1076 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Tom A. Wright".

Tom A. Wright, District 14

cc: Cynthia Kynoch, Staff Director of the Committee on Appropriations
Alicia Weiss, Administrative Assistant of the Committee on Appropriations

REPLY TO:

- ☐ 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- ☐ 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

27 FEB 2020

Meeting Date

SB 1076

Bill Number (if applicable)

Topic Surviving Spouse Ad Valorem Tax Reduction

Amendment Barcode (if applicable)

Name Ray Clark

Job Title Legislative Affairs Director

Address 400 S. Monroe Street Ste 205

Phone 850-487-1533

Tallahassee
City

FL
State

32399
Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Dept of Veteran's Affairs

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/12
Meeting Date

1076
Bill Number (if applicable)

Topic Surviving Spouse Ad Valorem Tax Reduction

Amendment Barcode (if applicable)

Name Shawn Foster

Job Title Lobbyist

Address 5957 Riviera Lane
Street

Phone 727-808-4131

New Port Richey, FL 34655
City State Zip

Email foster@scgroup.us

Speaking: ☐ For ☐ Against ☐ Information

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

Representing American Legion Auxiliary

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2 27 20

Meeting Date

1076

Bill Number (if applicable)

Topic Spousal Tax Exemption

Amendment Barcode (if applicable)

Name Dan HendricksonJob Title vol pres, Tallahassee Veterans Legal CollaborativeAddress PO Box 1201

Street

Tallahassee,

City

FL

State

32332

Zip

Phone 850/ 570-1967Email danbhendrickson@comcast.netSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVEAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2 27 20

Meeting Date

1076

Bill Number (if applicable)

Topic Spousal Tax Exemption

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title vol pres, Tallahassee Veterans Legal Collaborative

Address PO Box 1201

Phone 850/ 570-1967

Street

Tallahassee,

FL

32332

Email danbhendrickson@comcast.net

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 1092

INTRODUCER: Senators Bean and Perry

SUBJECT: Fire Prevention and Control

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2. <u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Favorable
3. <u>Sanders</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

I. Summary:

SB 1092 creates the Firefighter Cancer Decontamination Equipment Grant Program within the Division of the State Fire Marshal (Division) to provide financial assistance to qualifying fire departments to help procure equipment, supplies, and educational training material designed to mitigate exposure to hazardous, cancer-causing chemicals.

The bill authorizes the State Fire Marshal to adopt rules and procedures to administer the program, including for the approval of applications and development of need-based criteria. Needs-based criteria must include, but are not limited to, decontamination equipment and supply needs of the fire department, the financial needs of the fire department, and the level of nonstate matching funds proposed in the application.

The bill requires grant recipients to:

- Provide a minimum 25 percent nonstate matching funds;
- Report their activity to the Division of State Fire Marshal for submission in the Fire and Emergency Incident Information Reporting System;
- Comply with the Florida Firefighters Occupational Safety and Health Act; and
- Comply with any other rule determined by the State Fire Marshal to effectively implement, administer, and manage the program.

SB 2500, the Senate General Appropriations Act for Fiscal Year 2020-2021, provides \$150,000 in general revenue funds to create this program.

The bill takes effect July 1, 2020.

II. Present Situation:

Division of the State Fire Marshal

State law on fire prevention and control designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division.¹ Pursuant to this authority, the State Fire Marshal:

- Regulates, trains, and certifies fire service personnel;
- Investigates the causes of fires;
- Enforces arson laws;
- Regulates the installation of fire equipment;
- Conducts firesafety inspections of state property;
- Develops firesafety standards;
- Provides facilities for the analysis of fire debris; and
- Operates the Florida State Fire College.

The Division is comprised of two bureaus: the Bureau of Fire Prevention (BFP) and the Bureau of Fire Standards and Training (BFST).² The BFP conducts fire/life safety inspections and construction plans review on all state-owned buildings; regulates the fireworks and the fire sprinkler industries; inspects and licenses boilers; and certifies suppression industry workers.³ The BFST approves firefighter training curricula; offers fire service training at the Florida State Fire College; and certifies that fire service members meet industry-based standards.⁴

Florida Fire Prevention Code

The State Fire Marshal adopts by rule the Florida Fire Prevention Code (FFPC),⁵ which contains all firesafety laws and rules that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules.⁶ The State Fire Marshal adopts a new edition of the FFPC every three years.⁷ The FFPC includes national firesafety and life safety standards set forth by the National Fire Protection Association (NFPA),⁸ including the NFPA's Fire Code (1), Life Safety Code (101), and Guide on Alternative Approaches to Life Safety (101A).⁹

¹ Section 633.104, F.S.

² Department of Financial Services, Division of the State Fire Marshal, *What We Do*, <https://www.myfloridacfo.com/division/sfm/> (last visited December 19, 2019).

³ *Id.*

⁴ *Id.*

⁵ Section 633.202(2), F.S.

⁶ Section 633.202(1), F.S.

⁷ *Id.*

⁸ Section 633.202(2), F.S. Founded in 1896, the NFPA is a global, nonprofit organization devoted to eliminating death, injury, property and economic loss due to fire, electrical, and related hazards. It has developed over 300 voluntary consensus codes and standards in the areas of fire, electrical, and building safety, which are widely used by state and local officials. National Fire Protection Association, *About NFPA*, <https://www.nfpa.org/about-nfpa> (last visited December 19, 2019).

⁹ The NFPA states that the Guide on Alternative Approaches to Life Safety “is intended to be used in conjunction with the NFPA 101: Life Safety Code, not as a substitute.” National Fire Protection Association, *NFPA 101A: A Guides on*

Firesafety Enforcement by Local Governments

State law requires all municipalities, counties, and special districts with firesafety responsibilities to enforce the FFPC as the minimum fire prevention code, which operates uniformly among local government and in conjunction with the Florida Building Code.¹⁰ These local enforcing authorities may adopt more stringent firesafety standards, subject to certain requirements in s. 633.208, F.S., but may not enact firesafety ordinances which conflict with ch. 633, F.S., or any other state law.¹¹

The chiefs of local government fire service providers (or their designees) are authorized to enforce ch. 633, F.S., and the rules prescribed by the State Fire Marshal within their respective jurisdictions as agents of those jurisdictions, not agents of the State Fire Marshal.¹² Each county, municipality, and special district with firesafety enforcement responsibilities is also required to employ or contract with a firesafety inspector (certified by the State Fire Marshal) to conduct all firesafety inspections required by law.¹³

Firefighter Assistance Grant Program

The 2016 Legislature created the Firefighter Assistance Grant Program (FAGP) for the purpose of assisting fire departments in providing firefighter training and procuring necessary firefighter personal protective equipment, self-contained breathing apparatus equipment, and fire engine pumper apparatus equipment.¹⁴ The Division administers the FAGP and annually awards grants to volunteer and combination (combination of career and volunteer) fire departments using the annual Florida Fire Service Needs Assessment Survey.¹⁵

Firefighter Cancer Initiative

The 2015 Legislature appropriated \$965,000 in nonrecurring funds from General Revenue for the purpose of identifying exposures that account for increased cancer risk among firefighters; expanding access to cancer screenings across the state; enabling prevention and earlier detection of the disease; and developing new technology and methods that measure exposure in the field.¹⁶ The University of Miami Sylvester Comprehensive Cancer Center created and administers the Firefighter Cancer Initiative (FCI) in collaboration with the State Fire Marshal.¹⁷ To date, the FCI has participation from more than 3,700 firefighters, distributed more than 4,000 post fire on-

Alternative Approaches to Life Safety, <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=101A> (last visited December 19, 2019).

¹⁰ Sections 633.108 and 633.208, F.S.

¹¹ Section 633.214(4), F.S. The State Fire Marshal maintains a list of local amendments to the FFPC. This information is available at <https://www.myfloridacfo.com/Division/SFM/bfp/LocalAmendments.htm> (last visited December 19, 2019).

¹² Section 633.118, F.S.

¹³ Section 633.216(1), F.S.

¹⁴ Chapter 2016-132, L.O.F.

¹⁵ *Id.*

¹⁶ Chapter 2015-232, L.O.F., s. 6 (Specific Appropriation 2382A).

¹⁷ Appropriations Project Request 1549 (2019 Reg. Session), https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=1549_v1.pdf&DocumentType=MemberBudgetRequests&Session=2019&BillNumber=4091 (last visited December 19, 2019).

scene decontamination kits to fire departments, and secured more than \$2 million in external funding.¹⁸

Each post fire on-scene decontamination kit includes the following tools needed for firefighters to effectively clean their gear after exposure to a fire:

- Flash drive, including education videos and training outline;
- Laminated Field Operation Guide;
- Standard Operating Guideline;
- Five gallon bucket and leak-proof lid;
- Five gallon six mil clear bags;
- Duct tape;
- Dish soap;
- Short handle scrub brush;
- All-purpose spray bottle;
- Dermal wipes;
- Two 50 foot, 5/8 inch hose lines;
- Two garden hose nozzles;
- Two adapters; and
- Collapsible traffic cone.¹⁹

Elevated Mortality Patterns and Cancer Incidence Rates in Firefighters

Firefighters are at higher risk of developing and dying from cancer than the general population of the United States due to carcinogenic exposure on the job.²⁰ Recent studies quantifying the relationship between occupational exposures and cancer risk indicate firefighters have a nine percent higher risk of being diagnosed with cancer and a 14 percent higher risk of dying from cancer than the general population in the United States.²¹ Excess risk has been attributed to several cancer sites, including malignancies of respiratory, digestive, and urinary systems.²²

Carcinogenic exposure is both airborne (inhaled) and bloodborne (transdermal), and is present both on-scene and in the firehouse, as fire and emergency services stations are the collection points for contaminated equipment from emergency scenes.²³ Additionally, the increased use of plastics and synthetic materials in modern construction and furnishings has rendered today's

¹⁸ *Id.*

¹⁹ Press Release, Department of Financial Services, *CFO Jimmy Patronis, Sylvester Comprehensive Cancer Center Deliver more than 4,000 Cancer Exposure Decontamination Kits to Florida Firefighters* (August 2, 2018) <https://www.myfloridacfo.com/sitePages/newsroom/pressRelease.aspx?id=5071> (last visited December 19, 2019).

²⁰ See Mortality and cancer incidence in a pooled cohort of US firefighters from San Francisco, Chicago, and Philadelphia (1950-2009) available at https://www.cdc.gov/niosh/firefighters/pdfs/OEM_FF_Ca_Study_10-2013.pdf (last visited December 19, 2019).

²¹ *Id.*

²² *Id.*, see also Exposure-response relationships for select cancer and non-cancer health outcomes in a cohort of US firefighters from San Francisco, Chicago, and Philadelphia (1950-2009) available at [https://www.cdc.gov/niosh/firefighters/pdfs/Daniels-et-al-\(2015\)-508.pdf](https://www.cdc.gov/niosh/firefighters/pdfs/Daniels-et-al-(2015)-508.pdf) (last visited December 19, 2019).

²³ Federal Emergency Management Agency, US Fire Administration, *Safety and Health Considerations for the Design of Fire and Emergency Medical Services Stations* (May 2018), https://www.usfa.fema.gov/downloads/pdf/publications/design_of_fire_ems_stations.pdf (last visited December 19, 2019).

house fires more hazardous than house fires of previous generations.²⁴ By some estimates, firefighters may be exposed to as many 90,000 chemicals in the firefighting environment.²⁵

III. Effect of Proposed Changes:

Section 1 creates the Firefighter Cancer Decontamination Equipment Grant Program within the Division to provide financial assistance to qualifying fire departments to help procure equipment, supplies, and educational training material designed to mitigate exposure to hazardous, cancer-causing chemicals.

It authorizes the State Fire Marshal to adopt rules and procedures to administer the program, including for the approval of applications and development of need-based criteria. Needs-based criteria must include, but are not limited to, decontamination equipment and supply needs of the fire department, the financial needs of the fire department, and the level of nonstate matching funds proposed in the application.

It further requires grant recipients to:

- Provide a minimum 25 percent nonstate matching funds;
- Report their activity to the Division of State Fire Marshal for submission in the Fire and Emergency Incident Information Reporting System;
- Comply with the Florida Firefighters Occupational Safety and Health Act; and
- Comply with any other rule determined by the State Fire Marshal to effectively implement, administer, and manage the program.

Section 2 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²⁴ *Id.*

²⁵ Toxic chemicals that may be found in any given firefighting environment include acetaldehyde, acrolein, acrylonitrile, arsenic, benzene, butadiene, coal-tar pitch, carbon monoxide, ethyl benzene, formaldehyde, hydrogen chloride, isocyanates, methyl methacrylate, naphthalene, nickel, polycyclic aromatic hydrocarbons, polybrominated diphenyl ethers, polychlorinated biphenyls, styrene, toluene, toluene diisocyanate, and vinyl chloride.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 2500, the Senate General Appropriations Act for Fiscal Year 2020-2021, provides \$150,000 in general revenue funds to create this program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 633.137 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Bean

4-00998A-20

20201092__

A bill to be entitled

An act relating to fire prevention and control; creating s. 633.137, F.S.; creating the Firefighter Cancer Decontamination Equipment Grant Program within the Division of State Fire Marshal of the Department of Financial Services for certain purposes; requiring the division to administer the program and annually award grants, and distribute equipment and training, to qualifying fire departments in a certain manner; requiring the State Fire Marshal to adopt rules and procedures; providing application criteria; providing requirements for grant recipients; providing an effective date.

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

Section 1. Section 633.137, Florida Statutes, is created to read:

633.137 Firefighter Cancer Decontamination Equipment Grant Program.—

(1) The Firefighter Cancer Decontamination Equipment Grant Program is created within the division to help protect the health and safety of firefighters in this state. The program shall provide financial assistance to help fire departments, including volunteer fire departments, procure equipment, supplies, and educational training designed to mitigate exposure to hazardous, cancer-causing chemicals.

(2) The division shall administer the program and annually award grants to fire departments on a need-based basis. The

Page 1 of 2

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4-00998A-20

20201092__

division shall distribute equipment and training in a manner that leads to the greatest reduction in incidences of firefighters being exposed to hazardous post-fire contaminants.

(3) The State Fire Marshal shall adopt rules and procedures for the program, including for the approval of applications and development of need-based criteria. This criteria shall include, but are not limited to, the decontamination equipment and supply needs of the fire department, the financial needs of the fire department, and the level of nonstate matching funds proposed in the application. Grant applications must include a minimum of 25 percent nonstate funding.

(4) Grant recipients must:

(a) Report their activity to the division for submission in the Fire and Emergency Incident Information Reporting System created under s. 633.136.

(b) Comply with the Florida Firefighters Occupational Safety and Health Act, ss. 633.502-633.536.

(c) Comply with any other rule determined by the State Fire Marshal to effectively and efficiently implement, administer, and manage the program.

Section 2. This act shall take effect July 1, 2020.

Page 2 of 2

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The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 18, 2020

I respectfully request that **Senate Bill # 1092**, relating to Fire Prevention and Control, be placed on the:

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

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

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

FEB 27, 2020

Meeting Date

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

SB 1092

Bill Number (if applicable)

Topic Fire Prevention & Control

Amendment Barcode (if applicable)

Name Chief Ray Colburn

Job Title Executive Director

Address 5289 Palm Dr

Phone 407-468-6622

Street

MELBOURNE BEACH, FL

32951

Email ray@ffca.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA FIRE CHIEFS' ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/27

Meeting Date

1092

Bill Number (if applicable)

Topic Fire Prevention and Control

Amendment Barcode (if applicable)

Name Meredith Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address PL 11, The Capitol

Street

Phone (850) 413-2890

Tallahassee

City

FL

State

32399

Zip

Email Meredith.Stanfield@myfloridacfo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing CFO's State Fire Marshal Jimmy Potuchis

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2. 27 - 20

Meeting Date

1092

Bill Number (if applicable)

Topic FIRE PREVENTION + CONTROL

Amendment Barcode (if applicable)

Name Wayne "Bernie" BERNOSKA

Job Title PRESIDENT

Address 343 MADISON ST.

Phone 321-231-9116

Street

TALLAHASSEE

FL

32301

Email Bernie@FPFP.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA PROFESSIONAL FIREFIGHTER

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

02/21/2020

Meeting Date

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

1092

Bill Number (if applicable)

Topic FIRE PREVENTION AND CONTROL

Amendment Barcode (if applicable)

Name ROBERT CHAPMAN

Job Title STATE EMPLOYEE

Address 3622 WOLFEHAM ROAD

Phone

Street

PLANT CITY

FLORIDA

33605

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

1092
Bill Number (if applicable)

Topic Fire Prevention and Control

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address Do Box 1757

Phone 850-701-3621

Street

Tallahassee

FL

32302

City

State

Zip

Email ahughes@flcities.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 1116

INTRODUCER: Senators Brandes, Pizzo, Bracy, and others

SUBJECT: Trust Funds/State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Favorable
2.	Forbes	Jameson	ACJ	Recommend: Favorable
3.	Forbes	Kynoch	AP	Favorable

I. Summary:

SB 1116 creates section 944.73, Florida Statutes, establishing a State-Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections (DOC). The bill states that the purpose of the trust fund is to benefit and provide for the welfare of inmates incarcerated in state-operated correctional facilities. The bill requires money to be deposited into and the expenditures made from the trust fund as provided in section 945.215, Florida Statutes. This trust fund is substantively identical to the Privately Operated Institutions Inmate Welfare Trust Fund (POIWTF).

As with POIWTF, the newly created section 944.73, Florida Statutes, provides that notwithstanding section 216.301, Florida Statutes, and pursuant to section 216.351, Florida Statutes, any balance in the trust fund at the end of any fiscal year must remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.

As required by the Florida Constitution, the bill provides that the State-Operated Institutions Inmate Welfare Trust Fund must be terminated on July 1, 2024, unless terminated sooner or recreated. Additionally, the bill requires the trust fund to be reviewed as provided in section 215.3206(1) and (2), Florida Statutes, before its scheduled termination.

The bill creates a trust fund and requires that specified proceeds and donations be deposited into the trust fund, rather than the General Revenue Fund, which will result in less funds being deposited into the General Revenue Fund. However, the funds deposited into the Inmate Welfare Trust Fund pursuant to the bill must be used to fund services and programming that are required to be provided to inmates. To the extent that the bill transitions the funding of such programming from the General Revenue Fund to the newly created trust fund, the bill will have an indeterminate fiscal impact on the DOC and the General Revenue Fund. See Section V.

The bill is effective July 1, 2020.

II. Present Situation:

Trust Funds

Establishment of Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only. Except for trust funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least the following:

- The name of the trust fund.
- The agency or branch of state government responsible for administering the trust fund.
- The requirements or purposes that the trust fund is established to meet.
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.¹

Florida Constitution Requirement for Trust Funds

The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.² By law the Legislature may set a shorter time period for which any trust fund is authorized.³

Review of Trust Funds

The Legislature must review all state trust funds at least once every 4 years,⁴ prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,⁵ or such earlier date as the Legislature may specify.⁶

The agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.⁷ Each recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.⁸ A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.⁹

¹ Section 215.3207, F.S.

² Art. III, s. 19(f)(2), Fla. Const.

³ *Id.*

⁴ Section 215.3208(1), F.S.

⁵ Pursuant to Art. III, s. 19(f), Fla. Const.

⁶ Section 215.3206(1), F.S.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

When the Legislature terminates a trust fund, the agency or branch of state government that administers the trust fund must pay any outstanding debts or obligations of the trust fund as soon as practicable.¹⁰ The Legislature may also provide for the distribution of moneys in that trust fund. If no such distribution is provided, the moneys remaining after all outstanding obligations of the trust fund are met must be deposited in the General Revenue Fund.¹¹

Inmate Welfare

In part, s. 945.215, F.S., requires that certain proceeds from specified revenue streams or donations related to inmates in the DOC be deposited into the General Revenue Fund, including:

- Proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities.¹²
- Proceeds from contracted telephone commissions.¹³
- Any funds that may be assigned by inmates or donated to the DOC by the general public or an inmate service organization.¹⁴
- All proceeds from the following sources:
 - The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
 - Disciplinary fines imposed against inmates;
 - Forfeitures of inmate earnings; and
 - Unexpended balances in individual inmate trust fund accounts of less than \$1.¹⁵

The DOC does not currently have a trust fund to be used for the welfare of inmates incarcerated in state-operated facilities, but one was in operation from 1998 to 2003.¹⁶ The 2003 Legislature passed and the Governor signed SB 954 (2003), which terminated the Inmate Welfare Trust Fund and required all proceeds and donations from inmates in state-operated correctional facilities to be deposited into the General Revenue Fund rather than the Inmate Welfare Trust Fund. The DOC reports that it has deposited the following amount of funds into General Revenue related to canteen commissions, vending commissions, and medical copay:

- Fiscal Year 2016-2017: \$34,150,970;
- Fiscal Year 2017-2018: \$36,569,593; and
- Fiscal Year 2018-2019: \$35,760,957.¹⁷

¹⁰ Section 215.3208(2)(a), F.S.

¹¹ *Id.* at (b).

¹² Section 945.215(1)(a), F.S. Funds necessary to purchase items for resale at inmate canteens and vending machines are required to be deposited into local bank accounts designated by the DOC.

¹³ Section 945.215(1)(b), F.S.

¹⁴ Section 945.215(1)(c), F.S. However, the department shall not accept any donation from, or on behalf of, any individual inmate.

¹⁵ Section 945.215(1)(d), F.S.

¹⁶ Chapter 98-388, L.O.F., created the Inmate Welfare Trust Fund. Chapter 2003-179, L.O.F., terminated the Inmate Welfare Trust Fund.

¹⁷ The DOC, Email from Scotti Vaughan, Deputy Legislative Affairs Director, Re: GR Deposits, January 14, 2020 (on file with Senate Criminal Justice Committee)(hereinafter cited as “The DOC Email”).

Privately Operated Inmate Welfare Trust Fund

Section 944.72, F.S., establishes the Privately Operated Institutions Inmate Welfare Trust Fund (POIWTF) within the DOC. The purpose of the POIWTF is for the benefit and welfare of inmates incarcerated in private correctional facilities under contract with the DOC pursuant to ch. 944, F.S., or the Department of Management Services (DMS) pursuant to ch. 957, F.S.¹⁸ Moneys are required to be deposited in the trust fund and expenditures made from the POIWTF as provided in s. 945.215, F.S.¹⁹ Further, notwithstanding the provisions of s. 216.301, F.S., and pursuant to s. 216.351, F.S., any balance in the trust fund at the end of any fiscal year must remain in the POIWTF at the end of the year and be available for carrying out the purposes of the POIWTF.²⁰

The net proceeds derived from inmate canteens, vending machines used primarily by inmates, telephone commissions, and similar sources at private correctional facilities must be deposited into the POIWTF. The funds in the POIWTF must be expended only pursuant to legislative appropriation.²¹

The DMS is required to annually compile a report that documents POIWTF receipts and expenditures at each private correctional facility, including to specifically identify receipt sources and expenditures. The DMS is required to compile this report for the prior fiscal year and submit the report by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives and to the Executive Office of the Governor.²²

The DOC reports that some of the current uses of the POIWTF include training service dogs for veterans, barbering and cosmetology programs, Commercial Driver's License programs, welding, architectural drafting, wastewater management training, veterinary assistant training, chapel programs, visitation activities, cable television, and wellness equipment.²³ Additionally, the DOC reports that the POIWTF has a cash balance of \$6,916,086 as of January 13, 2020.²⁴

Programming for Inmates in State-Operated Facilities

All major institutions, or prisons, are similar to small towns in that they have their own academic and vocational schools, places of worship, medical services, maintenance facilities, parks (for visiting family), and often their own water supplies. Placement is based on institutional and

¹⁸ Section 945.215(2)(a), F.S.

¹⁹ Section 944.72(1), F.S.

²⁰ Section 944.72(2), F.S. Section 216.301, F.S., specifically addresses an agency's duty to identify any incurred obligations and undisbursed balances at the end of each fiscal year. Section 216.351, F.S., provides that any subsequent inconsistent laws supersedes ch. 216, F.S., only to the extent that they do so by express reference to s. 216.351.

²¹ Section 945.215(2)(b), F.S.

²² Section 945.215(2)(c), F.S.

²³ The DOC, SB 1116 Agency Analysis, p. 2 (hereinafter cited as "The DOC SB 1116 Agency Analysis") (on file with the Senate Criminal Justice Committee).

²⁴ The DOC Email.

individual need such as programs, education, health, and availability of bed space.²⁵ Chapter 944, F.S., requires the DOC to provide a variety of services and programming to inmates committed to the custody of the DOC, including:

- Substance abuse treatment programs;²⁶
- Transitional services;²⁷
- Educational and vocational programs;²⁸ and
- Faith- and character-based programs.²⁹

For instance, s. 944.473(2), F.S., requires each inmate to be assessed to determine if he or she qualifies to receive mandated substance-abuse treatment while incarcerated. The DOC provides four levels of inmate substance abuse programming, including intensive outpatient, residential therapeutic community, program centers, and work release centers. In Fiscal Year 2017-2018, a total of 10,844 inmates participated in some form of substance abuse treatment.

The above-mentioned services and programs provide inmates with skills and tools to assist with an inmate's successful transition into the community upon release. These services are not offered at all prisons, therefore, services that an inmate needs to best provide rehabilitative programming are paramount to placement decisions.³⁰ The DOC reports that an estimated six percent of the department's spending is being used to pay for all prison programming.³¹

The DOC reports that the creation of a trust fund for the benefit of inmates in state-operated facilities will provide the DOC and its inmates with valuable resources to combat inmate idleness and improve safety within state-operated institutions as well as assist in expanding the above-mentioned programming efforts allowing the DOC to better attain its overall goal of developing, improving, and readying the people in its care to return to their communities. Further, the DOC reports that studies have shown that inmates who are provided with programming and wellness opportunities and other recreational equipment are better suited in an incarcerated environment resulting in far less instances of inmate-on-inmate violence.³²

III. Effect of Proposed Changes:

The bill creates s. 944.73, F.S., establishing a State-Operated Institutions Inmate Welfare Trust Fund within the DOC that is substantively the same as the POIWTF, but with the stated purpose to benefit and provide for the welfare of inmates incarcerated in state-operated correctional

²⁵ The DOC, *Annual Report Fiscal Year 2017-18*, p. 13, available at http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf (last visited January 14, 2020)(hereinafter cited as "Annual Report").

²⁶ See Annual Report, p. 45.

²⁷ Sections 944.701-944.708, F.S.

²⁸ Section 944.801, F.S. In FY 2017-18, the DOC had 16,630 inmates participating in educational programs, 18,734 in academic programs, and 6,328 in vocational programs. Annual Report, at 33.

²⁹ Section 944.803, F.S., encourages the DOC to operate faith- and character-based facilities, which emphasize the importance of personal responsibility, meaningful work, education, substance abuse treatment, and peer support.

³⁰ Annual Report, at 33.

³¹ The DOC, SB 1118 Agency Analysis, p. 3-4 (hereinafter cited as "The DOC SB 1118 Agency Analysis")(on file with the Senate Criminal Justice Committee).

³² See The DOC SB 1116 Agency Analysis, p. 2 and the DOC SB 1118 Agency Analysis, p. 4.

facilities. Money is required to be deposited into and the expenditures made from the trust fund as provided in s. 945.215, F.S.

As with POIWTF, the newly created s. 944.73, F.S., provides that notwithstanding s. 216.301, F.S., and pursuant to s. 216.351, F.S., any balance in the trust fund at the end of any fiscal year must remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.

As required by the Florida Constitution, the bill provides that the State-Operated Institutions Inmate Welfare Trust Fund will terminate on July 1, 2024, unless terminated sooner or recreated. Additionally, the bill requires the trust fund to be reviewed as provided in s. 215.3206(1) and (2), F.S., before its scheduled termination.

The bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Article III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Article III, s. 19(f)(2) of the Florida Constitution specifies that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law the Legislature may set a shorter time period for which any trust fund is authorized.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a trust fund and requires that specified proceeds and donations be deposited into the trust fund, rather than the General Revenue Fund, which will result in less funds being deposited into the General Revenue Fund. However, the funds deposited into the Inmate Welfare Trust Fund pursuant to the bill must be used to fund services and programming that are required to be provided to inmates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 944.73 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Brandes

24-01048A-20

20201116__

1 A bill to be entitled
2 An act relating to trust funds; creating s. 944.73,
3 F.S.; creating the State-Operated Institutions Inmate
4 Welfare Trust Fund within the Department of
5 Corrections; providing the purpose of the trust fund;
6 providing for future review and termination or re-
7 creation of the trust fund; providing an effective
8 date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Section 944.73, Florida Statutes, is created to
13 read:
14 944.73 State-Operated Institutions Inmate Welfare Trust
15 Fund.—
16 (1) The State-Operated Institutions Inmate Welfare Trust
17 Fund is created within the Department of Corrections. The
18 purpose of the trust fund is to benefit and provide for the
19 welfare of inmates incarcerated in state-operated correctional
20 facilities.
21 (2) Moneys shall be deposited and the expenditures made
22 from the trust fund as provided in s. 945.215.
23 (3) Notwithstanding s. 216.301 and pursuant to s. 216.351,
24 any balance in the trust fund at the end of any fiscal year
25 shall remain in the trust fund at the end of the year and shall
26 be available for carrying out the purposes of the trust fund.
27 (4) In accordance with s. 19(f), Art. III of the State
28 Constitution, the State-Operated Institutions Inmate Welfare
29 Trust Fund, unless terminated sooner, shall be terminated on

Page 1 of 2

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

24-01048A-20

20201116__

30 July 1, 2024. Before its scheduled termination, the trust fund
31 shall be reviewed as provided in s. 215.3206(1) and (2).
32 Section 2. This act shall take effect July 1, 2020.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 19, 2020

I respectfully request that **Senate Bill #1116**, relating to **Trust Funds/State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal flourish extending to the right.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

SB 1116
Bill Number (if applicable)

Topic SB 1116

Amendment Barcode (if applicable)

Name Jared Torres

Job Title Legislative Affairs Director

Address 501 South Calhoun Street
Street

Phone 850-77-3030

Tallahassee Florida 32309
City State Zip

Email Jared.Torres@FDC.myflorid.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Department of Corrections

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1118 (773884)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senators Brandes, Pizzo, Bracy, and others

SUBJECT: Inmate Welfare Trust Funds

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cox	Jones	CJ	Fav/CS
2. Forbes	Jameson	ACJ	Recommend: Fav/CS
3. Forbes	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1118, which is linked to the passage of SB 1116, amends section 945.215, Florida Statutes, to authorize, up to \$10 million collected from certain proceeds and donations by the Department of Corrections (DOC) relating to inmates to be deposited into the State-Operated Institutions Inmate Welfare Trust Fund, rather than into the General Revenue Fund. Any proceeds or funds above the \$10 million cap must be deposited into the General Revenue Fund. Further, funds in the trust fund may only be expended pursuant to legislative appropriation.

In addition, the bill specifies that for an inmate who is transferred between department facilities, is released, dies, or escapes during incarceration, any unexpended inmate trust fund account balances of less than \$1 shall be transferred to the trust fund, or to general revenue if the fund has reached the \$10 million cap. Similarly, if an inmate escapes, any forfeited prisoner earnings shall be deposited in the trust fund or general revenue.

SB 1116, which is linked to this bill, creates the State-Operated Institutions Inmate Welfare Trust Fund within the DOC to benefit and provide for the welfare of inmates incarcerated in state-operated correctional facilities.

The bill provides that the State-Operated Institutions Inmate Welfare Trust Fund is a trust held by the DOC for the benefit and welfare of inmates incarcerated in correctional facilities operated

directly by the DOC. Additionally, the bill specifically enumerates the ways that the DOC may use the funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund and requires the funds to be used exclusively to provide for or operate specified programming needs at correctional facilities operated by the DOC.

The bill requires the DOC to compile and submit a report detailing specific information related to the State-Operated Institutions Inmate Welfare Trust Fund to the Executive Office of the Governor and the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives annually by October 1 of each year.

The bill provides an appropriation of \$10 million in recurring funds for FY 2020-2021 from the State-Operated Institutions Inmate Welfare Trust Fund to the DOC for the purpose of providing for the welfare of inmates incarcerated in correctional facilities operated directly by the DOC pursuant to section 945.215(2), Florida Statutes.

The bill requires that a specified amount of proceeds and donations from certain sources be deposited into the State-Operated Institutions Inmate Welfare Trust Fund, rather than the General Revenue Fund. However, the funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund must be used to fund services and programming for inmates. To the extent that the bill transitions the funding of such programming, the bill will have an indeterminate fiscal impact on the DOC and the General Revenue Fund. See Section V.

The bill is effective on the same date that SB 1116 or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only.¹ The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.² By law the Legislature may set a shorter time period for which any trust fund is authorized.³ The Legislature must review all state trust funds at least once every 4 years,⁴ prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,⁵ or such earlier date as the Legislature may specify⁶ and recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.⁷

¹ Section 215.3207, F.S.

² Art. III, s. 19(f)(2), Fla. Const.

³ *Id.*

⁴ Section 215.3208(1), F.S.

⁵ Pursuant to Art. III, s. 19(f), Fla. Const.

⁶ Section 215.3206(1), F.S.

⁷ *Id.*

SB 1116, which is linked to this bill, establishes the State-Operated Institutions Inmate Welfare Trust Fund within the DOC to benefit and provide for the welfare of inmates incarcerated in state-operated correctional facilities.

Inmate Welfare

In part, s. 945.215, F.S., requires that certain proceeds from specified revenue streams or donations related to inmates in the DOC be deposited into the General Revenue Fund, including:

- Proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities.⁸
- Proceeds from contracted telephone commissions.⁹
- Any funds that may be assigned by inmates or donated to the DOC by the general public or an inmate service organization.¹⁰
- All proceeds from the following sources:
 - The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
 - Disciplinary fines imposed against inmates;
 - Forfeitures of inmate earnings; and
 - Unexpended balances in individual inmate trust fund accounts of less than \$1.¹¹

The DOC does not currently have a trust fund to be used for the welfare of inmates incarcerated in state-operated facilities, but one was in operation from 1998 to 2003.¹² The 2003 Legislature passed and the Governor signed SB 954 (2003), which terminated the Inmate Welfare Trust Fund and required all proceeds and donations from inmates in state-operated correctional facilities to be deposited into the General Revenue Fund rather than the Inmate Welfare Trust Fund. The DOC reports that it has deposited the following amount of funds into General Revenue related to canteen commissions, vending commissions, and medical copay:

- Fiscal Year 2016-2017: \$34,150,970;
- Fiscal Year 2017-2018: \$36,569,593; and
- Fiscal Year 2018-2019: \$35,760,957.¹³

Privately Operated Inmate Welfare Trust Fund

Section 944.72, F.S., establishes the Privately Operated Institutions Inmate Welfare Trust Fund (POIWTF) within the DOC. The purpose of the POIWTF is for the benefit and welfare of inmates incarcerated in private correctional facilities under contract with the DOC pursuant to ch. 944, F.S., or the Department of Management Services (DMS) pursuant to ch. 957, F.S.¹⁴

⁸ Section 945.215(1)(a), F.S. Funds necessary to purchase items for resale at inmate canteens and vending machines are required to be deposited into local bank accounts designated by the DOC.

⁹ Section 945.215(1)(b), F.S.

¹⁰ Section 945.215(1)(c), F.S. However, the department shall not accept any donation from, or on behalf of, any individual inmate.

¹¹ Section 945.215(1)(d), F.S.

¹² Chapter 98-388, L.O.F., created the Inmate Welfare Trust Fund. Chapter 2003-179, L.O.F., terminated the Inmate Welfare Trust Fund.

¹³ The DOC, Email from Scotti Vaughan, Deputy Legislative Affairs Director, Re: GR Deposits, January 14, 2020 (on file with Senate Criminal Justice Committee)(hereinafter cited as “The DOC Email”).

¹⁴ Section 945.215(2)(a), F.S.

Moneys are required to be deposited in the trust fund and expenditures made from the POIWTF as provided in s. 945.215, F.S.¹⁵ Further, notwithstanding the provisions of s. 216.301, F.S., and pursuant to s. 216.351, F.S., any balance in the trust fund at the end of any fiscal year must remain in the POIWTF at the end of the year and be available for carrying out the purposes of the POIWTF.¹⁶

The net proceeds derived from inmate canteens, vending machines used primarily by inmates, telephone commissions, and similar sources at private correctional facilities must be deposited into the POIWTF. The funds in the POIWTF must be expended only pursuant to legislative appropriation.¹⁷

The DMS is required to annually compile a report that documents POIWTF receipts and expenditures at each private correctional facility, including to specifically identify receipt sources and expenditures. The DMS is required to compile this report for the prior fiscal year and submit the report by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives and to the Executive Office of the Governor.¹⁸

Programming for Inmates in State-Operated Facilities

All major institutions, or prisons, are similar to small towns in that they have their own academic and vocational schools, places of worship, medical services, maintenance facilities, parks (for visiting family), and often their own water supplies. Placement is based on institutional and individual need such as programs, education, health, and availability of bed space.¹⁹ Chapter 944, F.S., requires the DOC to provide a variety of services and programming to inmates committed to the custody of the DOC, including:

- Substance abuse treatment programs;²⁰
- Transitional services;²¹
- Educational and vocational programs;²² and
- Faith- and character-based programs.²³

¹⁵ Section 944.72(1), F.S.

¹⁶ Section 944.72(2), F.S. Section 216.301, F.S., specifically addresses an agency's duty to identify any incurred obligations and undisbursed balances at the end of each fiscal year. Section 216.351, F.S., provides that any subsequent inconsistent laws supersede ch. 216, F.S., only to the extent that they do so by express reference to s.216.351, F.S.

¹⁷ Section 945.215(2)(b), F.S.

¹⁸ Section 945.215(2)(c), F.S.

¹⁹ The DOC, *Annual Report Fiscal Year 2017-18*, p. 13, available at http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf (last visited January 14, 2020)(hereinafter cited a "Annual Report").

²⁰ Section 944.473(2), F.S., requires each inmate to be assessed to determine if he or she qualifies to receive mandated substance-abuse treatment while incarcerated. The DOC provides four levels of inmate substance abuse programming, including intensive outpatient, residential therapeutic community, program centers, and work release centers. In FY 2017-18, a total of 10,844 inmates participated in some form of substance abuse treatment. *See* Annual Report, p. 45.

²¹ Sections 944.701-944.708, F.S.

²² Section 944.801, F.S. In Fiscal Year 2017-2018, the DOC had 16,630 inmates participating in educational programs, 18,734 in academic programs, and 6,328 in vocational programs. Annual Report, at 33.

²³ Section 944.803, F.S., encourages the DOC to operate faith- and character-based facilities, which emphasize the importance of personal responsibility, meaningful work, education, substance abuse treatment, and peer support.

These services and programs provide inmates with skills and tools to assist with an inmate's successful transition into the community upon release. These services are not offered at all prisons, therefore, services that an inmate needs to best provide rehabilitative programming are paramount to placement decisions.²⁴ The DOC reports that an estimated six percent of the department's spending is being used to pay for all prison programming.²⁵

III. Effect of Proposed Changes:

The bill amends s. 945.215, F.S, authorizing the deposit of up to \$10 million collected from the above-mentioned funds into the State-Operated Institutions Inmate Welfare Trust Fund, created by SB 1116, rather than into the General Revenue Fund, including proceeds and donations collected from the:

- Proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities.
- Proceeds from contracted telephone commissions.
- Any funds that may be assigned by inmates or donated to the DOC by the general public or an inmate service organization.
- All proceeds from the following sources:
 - The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
 - Disciplinary fines imposed against inmates;
 - Forfeitures of inmate earnings; and
 - Unexpended balances in individual inmate trust fund accounts of less than \$1.

The bill requires any proceeds or funds collected in a fiscal year above the \$10 million cap must be deposited into the General Revenue Fund. Further, funds in the trust fund may only be expended pursuant to legislative appropriation.

The bill requires that when an inmate is transferred between DOC facilities, is released, dies, or escapes during incarceration, any unexpended inmate trust fund account balance of less than \$1 must be transferred to the trust fund, or to general revenue if the \$10 million cap has been reached. In the case of an escape, any portion of inmates' earnings that are forfeited shall be deposited into the trust fund, or into general revenue.

The bill provides that the State-Operated Institutions Inmate Welfare Trust Fund is a trust held by the DOC for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the DOC.

Additionally, the bill restricts the manner with which the funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund may be expended. The bill provides that the funds must be used exclusively to provide for or operate specified programming needs at correctional facilities operated by the DOC, specifically including:

- Literacy programs, vocational training programs, and educational programs.

²⁴ Annual Report, at 33.

²⁵ The DOC, SB 1118 Agency Analysis, p. 3-4 (hereinafter cited as "The DOC SB 1118 Agency Analysis")(on file with the Senate Criminal Justice Committee).

- Inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries.
- Inmate substance abuse treatment programs and transition and life skills training programs.
- The purchase, rental, maintenance, or repair of electronic or audiovisual equipment, media, services, and programming used by inmates.
- The purchase, rental, maintenance, or repair of recreation and wellness equipment.
- The purchase, rental, maintenance, or repair of bicycles used by inmates traveling to and from employment in the work-release program authorized under s. 945.091(1)(b), F.S.

The bill also requires the DOC to compile and submit a report to the Executive Office of the Governor and the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives annually by October 1 of each year documenting the receipts and expenditures of the State-Operated Institutions Inmate Welfare Trust Fund for the previous fiscal year. The report must be compiled at both the statewide and institutional levels.

The bill provides an appropriation of \$10 million in recurring funds for the 2020-2021 fiscal year from the State-Operated Institutions Inmate Welfare Trust Fund to the DOC for the purpose of providing for the welfare of inmates incarcerated in correctional facilities operated directly by the DOC pursuant to s. 945.215(2), F.S.

The bill is effective on the same date that SB 1116 or similar legislation takes effect if such legislation is enacted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides an appropriation of \$10 million in recurring funds for the 2020-2021 fiscal year from the State-Operated Institutions Inmate Welfare Trust Fund to the DOC for the purpose of providing for the welfare of inmates incarcerated in correctional facilities operated directly by the DOC pursuant to s. 945.215(2), F.S.

The bill requires that specified proceeds and donations be deposited into the State-Operated Institutions Inmate Welfare Trust Fund. Currently, annual proceeds in the amount of \$36 million are deposited into the General Revenue Fund each year from inmate canteen and vending receipts. The bill redirects \$10 million in General Revenue funds to the newly created trust fund. The funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund pursuant to the bill are required to be used to fund services and programming for inmates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 945.215 of the Florida Statutes.

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

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

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on February 13, 2020:

The committee substitute amends s. 944.516, F.S., to require that when an inmate is transferred between DOC facilities, is released, dies, or escapes, any unexpended inmate trust fund account balance of less than \$1 must be transferred to the State-Operated Institution Inmate Welfare Trust Fund, or as provide in s. 945.215 (2) (b), to general revenue as is currently is done. In addition, the committee substitute amends s. 946.002, F.S., to require

that if a prisoner escapes, any forfeited earnings shall be deposited into the trust fund of DOC or, as provided in s. 945.215(2) (b), into general revenue.

CS by Criminal Justice on January 21, 2020:

The committee substitute adds the specific linked bill number, SB 1116, to the contingent effective date language.

B. Amendments:

None.



676616

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment

Delete lines 102 - 146
and insert:
\$2.5 million in any fiscal year. Any proceeds or funds that
would cause deposits into the trust fund to exceed this limit
must be deposited into the General Revenue Fund.
(c) Funds in the trust fund shall be used exclusively to
provide for or operate any of the following at correctional
facilities operated by the department:



676616

11 1. Literacy programs, vocational training programs, and
12 educational programs.

13 2. Inmate chapels, faith-based programs, visiting
14 pavilions, visiting services and programs, family services and
15 programs, and libraries.

16 3. Inmate substance abuse treatment programs and transition
17 and life skills training programs.

18 4. The purchase, rental, maintenance, or repair of
19 electronic or audiovisual equipment, media, services, and
20 programming used by inmates.

21 5. The purchase, rental, maintenance, or repair of
22 recreation and wellness equipment.

23 6. The purchase, rental, maintenance, or repair of bicycles
24 used by inmates traveling to and from employment in the work-
25 release program authorized under s. 945.091(1)(b).

26 (d) Funds in the trust fund may be expended only pursuant
27 to legislative appropriation.

28 (e) The department shall annually compile a report that
29 documents State-Operated Institutions Inmate Welfare Trust Fund
30 receipts and expenditures. This report must be compiled at both
31 the statewide and institutional levels. The department must
32 submit the report for the previous fiscal year by October 1 of
33 each year to the Executive Office of the Governor and the chairs
34 of the appropriate substantive and fiscal committees of the
35 Senate and the House of Representatives.

36 Section 3. Paragraph (b) of subsection (4) of section
37 946.002, Florida Statutes, is amended to read:

38 946.002 Requirement of labor; compensation; amount;
39 crediting of account of prisoner; forfeiture; civil rights;



676616

prisoner not employee or entitled to compensation insurance
benefits.—

(4)

(b) When any prisoner escapes, the department shall
determine what portion of the prisoner's earnings shall be
forfeited, and such forfeiture shall be deposited in the State
Treasury in the State-Operated Institutions Inmate Welfare Trust
Fund of the department or, as provided in s. 945.215(2)(b), into
the General Revenue Fund.

Section 4. For the 2020-2021 fiscal year, the sum of \$2.5



162448

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment

Delete line 146
and insert:
Section 4. For the 2020-2021 fiscal year, the sum of \$2.5



773884

576-03589-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to inmate welfare trust funds;
amending s. 944.516, F.S.; requiring that certain
amounts in inmate trust fund accounts be deposited
into the trust fund; amending s. 945.215, F.S.;
requiring that specified proceeds and funds be
deposited into the State-Operated Institutions Inmate
Welfare Trust Fund; providing that the trust fund is a
trust held by the Department of Corrections for the
benefit and welfare of certain inmates; prohibiting
deposits into the trust fund from exceeding a
specified amount per fiscal year; requiring that
deposits in excess of that amount be deposited into
the General Revenue Fund; requiring that funds of the
trust fund be used exclusively for specified purposes
at correctional facilities operated by the department;
requiring that funds from the trust fund be expended
only pursuant to legislative appropriation; requiring
the department to annually compile a report
documenting trust fund receipts and expenditures;
requiring the department to submit the report to the
Governor and the Legislature by a specified date each
year; amending s. 946.002, F.S.; requiring that
certain prisoner earnings are deposited into the trust
fund; providing an appropriation; providing a
contingent effective date.



773884

576-03589-20

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

Section 1. Subsection (5) of section 944.516, Florida
Statutes, is amended to read:

944.516 Money or other property received for personal use
or benefit of inmate; deposit; disposition of unclaimed trust
funds.—The Department of Corrections shall protect the financial
interest of the state with respect to claims which the state may
have against inmates in state institutions under its supervision
and control and shall administer money and other property
received for the personal benefit of such inmates. In carrying
out the provisions of this section, the department may delegate
any of its enumerated powers and duties affecting inmates of an
institution to the warden or regional director who shall
personally, or through designated employees of his or her
personal staff under his or her direct supervision, exercise
such powers or perform such duties.

(5) When an inmate is transferred between department
facilities, is released from the custody of the department,
dies, or escapes during incarceration, and the inmate has an
unexpended inmate trust fund account balance of less than \$1,
that balance shall be transferred to the State-Operated
Institutions Inmate Welfare Trust Fund or, as provided in s.
945.215(2)(b), into the General Revenue Fund.

Section 2. Present subsections (2) and (3) of section
945.215, Florida Statutes, are redesignated as subsections (3)
and (4), respectively, a new subsection (2) is added to that
section, and paragraphs (a) through (d) of subsection (1) of
that section are amended, to read:



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576-03589-20

945.215 Inmate welfare and employee benefit trust funds.-

(1) INMATE PURCHASES; DEPARTMENT OF CORRECTIONS.-

(a) The net proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or, as provided in paragraph (2)(b), into ~~the~~ the General Revenue Fund; however, funds necessary to purchase items for resale at inmate canteens and vending machines must be deposited into local bank accounts designated by the department.

(b) All proceeds from contracted telephone commissions must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or, as provided in paragraph (2)(b), into ~~the~~ the General Revenue Fund. The department shall develop and update, as necessary, administrative procedures to verify that:

1. Contracted telephone companies accurately record and report all telephone calls made by inmates incarcerated in correctional facilities under the department's jurisdiction;

2. Persons who accept collect calls from inmates are charged the contracted rate; and

3. The department receives the contracted telephone commissions.

(c) Any funds that may be assigned by inmates or donated to the department by the general public or an inmate service organization must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or, as provided in paragraph (2)(b), into ~~the~~ the General Revenue Fund; however, the department shall not accept any donation from, or on behalf of, any individual inmate.



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576-03589-20

(d) All proceeds from the following sources must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or, as provided in paragraph (2)(b), into ~~the~~ the General Revenue Fund:

1. The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
2. Disciplinary fines imposed against inmates;
3. Forfeitures of inmate earnings; and
4. Unexpended balances in individual inmate trust fund accounts of less than \$1.

(2) STATE-OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND.-

(a) The State-Operated Institutions Inmate Welfare Trust Fund constitutes a trust held by the department for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the department.

(b) Deposits into the trust fund may not exceed a total of \$10 million in any fiscal year. Any proceeds or funds that would cause deposits into the trust fund to exceed this limit must be deposited into the General Revenue Fund.

(c) Funds in the trust fund shall be used exclusively to provide for or operate any of the following at correctional facilities operated by the department:

1. Literacy programs, vocational training programs, and educational programs.

2. Inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries.

3. Inmate substance abuse treatment programs and transition and life skills training programs.



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115 4. The purchase, rental, maintenance, or repair of
116 electronic or audiovisual equipment, media, services, and
117 programming used by inmates.

118 5. The purchase, rental, maintenance, or repair of
119 recreation and wellness equipment.

120 6. The purchase, rental, maintenance, or repair of bicycles
121 used by inmates traveling to and from employment in the work-
122 release program authorized under s. 945.091(1)(b).

123 (d) Funds in the trust fund may be expended only pursuant
124 to legislative appropriation.

125 (e) The department shall annually compile a report that
126 documents State-Operated Institutions Inmate Welfare Trust Fund
127 receipts and expenditures. This report must be compiled at both
128 the statewide and institutional levels. The department must
129 submit the report for the previous fiscal year by October 1 of
130 each year to the Executive Office of the Governor and the chairs
131 of the appropriate substantive and fiscal committees of the
132 Senate and the House of Representatives.

133 Section 3. Paragraph (b) of subsection (4) of section
134 946.002, Florida Statutes, is amended to read:

135 946.002 Requirement of labor; compensation; amount;
136 crediting of account of prisoner; forfeiture; civil rights;
137 prisoner not employee or entitled to compensation insurance
138 benefits.—

139 (4)

140 (b) When any prisoner escapes, the department shall
141 determine what portion of the prisoner's earnings shall be
142 forfeited, and such forfeiture shall be deposited in the State
143 Treasury in the State-Operated Institutions Inmate Welfare Trust



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144 Fund of the department or, as provided in s. 945.215(2)(b), into
145 the General Revenue Fund.

146 Section 4. For the 2020-2021 fiscal year, the sum of \$10
147 million in recurring funds is appropriated from the State-
148 Operated Institutions Inmate Welfare Trust Fund to the
149 Department of Corrections for the purpose of providing for the
150 welfare of inmates incarcerated in correctional facilities
151 operated directly by the department pursuant to s. 945.215(2),
152 Florida Statutes.

153 Section 5. This act shall take effect on the same date that
154 SB 1116 or similar legislation takes effect if such legislation
155 is enacted in the same legislative session or an extension
156 thereof and becomes a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1118

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senators Brandes, Pizzo, Bracy, and others

SUBJECT: Inmate Welfare Trust Funds

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Fav/CS
2.	Forbes	Jameson	ACJ	Recommend: Fav/CS
3.	Forbes	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1118, which is linked to the passage of SB 1116, amends section 945.215, Florida Statutes, to authorize, up to \$2.5 million collected from certain proceeds and donations by the Department of Corrections (DOC) relating to inmates to be deposited into the State-Operated Institutions Inmate Welfare Trust Fund, rather than into the General Revenue Fund. Any proceeds or funds above the \$2.5 million cap must be deposited into the General Revenue Fund. Further, funds in the trust fund may only be expended pursuant to legislative appropriation.

In addition, the bill specifies that, for an inmate who is transferred between department facilities, is released, dies, or escapes during incarceration, any unexpended inmate trust fund account balances of less than \$1 shall be transferred to the trust fund or, if the fund has reached the \$2.5 million cap, transferred to general revenue. Similarly, if an inmate escapes, any forfeited prisoner earnings shall be deposited in the trust fund or general revenue.

SB 1116, which is linked to this bill, creates the State-Operated Institutions Inmate Welfare Trust Fund within the DOC to benefit and provide for the welfare of inmates incarcerated in state-operated correctional facilities.

The bill provides that the State-Operated Institutions Inmate Welfare Trust Fund is a trust held by the DOC for the benefit and welfare of inmates incarcerated in correctional facilities operated

directly by the DOC. Additionally, the bill specifically enumerates the ways that the DOC may use the funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund and requires the funds to be used exclusively to provide for or operate specified programming needs at correctional facilities operated by the DOC.

The bill requires the DOC to compile and submit a report detailing specific information related to the State-Operated Institutions Inmate Welfare Trust Fund to the Executive Office of the Governor and the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives annually by October 1 of each year.

The bill provides an appropriation of \$2.5 million in recurring funds for FY 2020-2021 from the State-Operated Institutions Inmate Welfare Trust Fund to the DOC for the purpose of providing for the welfare of inmates incarcerated in correctional facilities operated directly by the DOC pursuant to section 945.215(2), Florida Statutes.

The bill requires that a specified amount of proceeds and donations from certain sources be deposited into the State-Operated Institutions Inmate Welfare Trust Fund, rather than the General Revenue Fund. However, the funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund must be used to fund services and programming for inmates. To the extent that the bill transitions the funding of such programming, the bill will have an indeterminate fiscal impact on the DOC and the General Revenue Fund. See Section V.

The bill is effective on the same date that SB 1116 or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only.¹ The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.² By law the Legislature may set a shorter time period for which any trust fund is authorized.³ The Legislature must review all state trust funds at least once every 4 years,⁴ prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,⁵ or such earlier date as the Legislature may specify⁶ and recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.⁷

¹ Section 215.3207, F.S.

² Art. III, s. 19(f)(2), Fla. Const.

³ *Id.*

⁴ Section 215.3208(1), F.S.

⁵ Pursuant to Art. III, s. 19(f), Fla. Const.

⁶ Section 215.3206(1), F.S.

⁷ *Id.*

SB 1116, which is linked to this bill, establishes the State-Operated Institutions Inmate Welfare Trust Fund within the DOC to benefit and provide for the welfare of inmates incarcerated in state-operated correctional facilities.

Inmate Welfare

In part, s. 945.215, F.S., requires that certain proceeds from specified revenue streams or donations related to inmates in the DOC be deposited into the General Revenue Fund, including:

- Proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities.⁸
- Proceeds from contracted telephone commissions.⁹
- Any funds that may be assigned by inmates or donated to the DOC by the general public or an inmate service organization.¹⁰
- All proceeds from the following sources:
 - The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
 - Disciplinary fines imposed against inmates;
 - Forfeitures of inmate earnings; and
 - Unexpended balances in individual inmate trust fund accounts of less than \$1.¹¹

The DOC does not currently have a trust fund to be used for the welfare of inmates incarcerated in state-operated facilities, but one was in operation from 1998 to 2003.¹² The 2003 Legislature passed and the Governor signed SB 954 (2003), which terminated the Inmate Welfare Trust Fund and required all proceeds and donations from inmates in state-operated correctional facilities to be deposited into the General Revenue Fund rather than the Inmate Welfare Trust Fund. The DOC reports that it has deposited the following amount of funds into General Revenue related to canteen commissions, vending commissions, and medical copay:

- Fiscal Year 2016-2017: \$34,150,970;
- Fiscal Year 2017-2018: \$36,569,593; and
- Fiscal Year 2018-2019: \$35,760,957.¹³

Privately Operated Inmate Welfare Trust Fund

Section 944.72, F.S., establishes the Privately Operated Institutions Inmate Welfare Trust Fund (POIWTF) within the DOC. The purpose of the POIWTF is for the benefit and welfare of inmates incarcerated in private correctional facilities under contract with the DOC pursuant to ch. 944, F.S., or the Department of Management Services (DMS) pursuant to ch. 957, F.S.¹⁴

⁸ Section 945.215(1)(a), F.S. Funds necessary to purchase items for resale at inmate canteens and vending machines are required to be deposited into local bank accounts designated by the DOC.

⁹ Section 945.215(1)(b), F.S.

¹⁰ Section 945.215(1)(c), F.S. However, the department shall not accept any donation from, or on behalf of, any individual inmate.

¹¹ Section 945.215(1)(d), F.S.

¹² Chapter 98-388, L.O.F., created the Inmate Welfare Trust Fund. Chapter 2003-179, L.O.F., terminated the Inmate Welfare Trust Fund.

¹³ The DOC, Email from Scotti Vaughan, Deputy Legislative Affairs Director, Re: GR Deposits, January 14, 2020 (on file with Senate Criminal Justice Committee)(hereinafter cited as “The DOC Email”).

¹⁴ Section 945.215(2)(a), F.S.

Moneys are required to be deposited in the trust fund and expenditures made from the POIWTF as provided in s. 945.215, F.S.¹⁵ Further, notwithstanding the provisions of s. 216.301, F.S., and pursuant to s. 216.351, F.S., any balance in the trust fund at the end of any fiscal year must remain in the POIWTF at the end of the year and be available for carrying out the purposes of the POIWTF.¹⁶

The net proceeds derived from inmate canteens, vending machines used primarily by inmates, telephone commissions, and similar sources at private correctional facilities must be deposited into the POIWTF. The funds in the POIWTF must be expended only pursuant to legislative appropriation.¹⁷

The DMS is required to annually compile a report that documents POIWTF receipts and expenditures at each private correctional facility, including to specifically identify receipt sources and expenditures. The DMS is required to compile this report for the prior fiscal year and submit the report by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives and to the Executive Office of the Governor.¹⁸

Programming for Inmates in State-Operated Facilities

All major institutions, or prisons, are similar to small towns in that they have their own academic and vocational schools, places of worship, medical services, maintenance facilities, parks (for visiting family), and often their own water supplies. Placement is based on institutional and individual need such as programs, education, health, and availability of bed space.¹⁹ Chapter 944, F.S., requires the DOC to provide a variety of services and programming to inmates committed to the custody of the DOC, including:

- Substance abuse treatment programs;²⁰
- Transitional services;²¹
- Educational and vocational programs;²² and
- Faith- and character-based programs.²³

¹⁵ Section 944.72(1), F.S.

¹⁶ Section 944.72(2), F.S. Section 216.301, F.S., specifically addresses an agency's duty to identify any incurred obligations and undisbursed balances at the end of each fiscal year. Section 216.351, F.S., provides that any subsequent inconsistent laws supersede ch. 216, F.S., only to the extent that they do so by express reference to s.216.351, F.S.

¹⁷ Section 945.215(2)(b), F.S.

¹⁸ Section 945.215(2)(c), F.S.

¹⁹ The DOC, *Annual Report Fiscal Year 2017-18*, p. 13, available at http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf (last visited January 14, 2020)(hereinafter cited an "Annual Report").

²⁰ Section 944.473(2), F.S., requires each inmate to be assessed to determine if he or she qualifies to receive mandated substance-abuse treatment while incarcerated. The DOC provides four levels of inmate substance abuse programming, including intensive outpatient, residential therapeutic community, program centers, and work release centers. In FY 2017-18, a total of 10,844 inmates participated in some form of substance abuse treatment. *See* Annual Report, p. 45.

²¹ Sections 944.701-944.708, F.S.

²² Section 944.801, F.S. In Fiscal Year 2017-2018, the DOC had 16,630 inmates participating in educational programs, 18,734 in academic programs, and 6,328 in vocational programs. Annual Report, at 33.

²³ Section 944.803, F.S., encourages the DOC to operate faith- and character-based facilities, which emphasize the importance of personal responsibility, meaningful work, education, substance abuse treatment, and peer support.

These services and programs provide inmates with skills and tools to assist with an inmate's successful transition into the community upon release. These services are not offered at all prisons, therefore, services that an inmate needs to best provide rehabilitative programming are paramount to placement decisions.²⁴ The DOC reports that an estimated six percent of the department's spending is being used to pay for all prison programming.²⁵

III. Effect of Proposed Changes:

The bill amends s. 945.215, F.S, authorizing the deposit of up to \$2.5 million collected from the above-mentioned funds into the State-Operated Institutions Inmate Welfare Trust Fund, created by SB 1116, rather than into the General Revenue Fund, including proceeds and donations collected from the:

- Proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities.
- Proceeds from contracted telephone commissions.
- Any funds that may be assigned by inmates or donated to the DOC by the general public or an inmate service organization.
- All proceeds from the following sources:
 - The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
 - Disciplinary fines imposed against inmates;
 - Forfeitures of inmate earnings; and
 - Unexpended balances in individual inmate trust fund accounts of less than \$1.

The bill requires any proceeds or funds collected in a fiscal year above the \$2.5 million cap must be deposited into the General Revenue Fund. Further, funds in the trust fund may only be expended pursuant to legislative appropriation.

The bill requires that when an inmate is transferred between DOC facilities, is released, dies, or escapes during incarceration, any unexpended inmate trust fund account balance of less than \$1 must be transferred to the trust fund or, if the \$2.5 million cap has been reached, transferred to general revenue. In the case of an escape, any portion of inmates' earnings that are forfeited shall be deposited into the trust fund or into general revenue.

The bill provides that the State-Operated Institutions Inmate Welfare Trust Fund is a trust held by the DOC for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the DOC.

Additionally, the bill restricts the manner with which the funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund may be expended. The bill provides that the funds must be used exclusively to provide for or operate specified programming needs at correctional facilities operated by the DOC, specifically including:

- Literacy programs, vocational training programs, and educational programs.

²⁴ Annual Report, at 33.

²⁵ The DOC, SB 1118 Agency Analysis, p. 3-4 (hereinafter cited as "The DOC SB 1118 Agency Analysis")(on file with the Senate Criminal Justice Committee).

- Inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries.
- Inmate substance abuse treatment programs and transition and life skills training programs.
- The purchase, rental, maintenance, or repair of electronic or audiovisual equipment, media, services, and programming used by inmates.
- The purchase, rental, maintenance, or repair of recreation and wellness equipment.
- The purchase, rental, maintenance, or repair of bicycles used by inmates traveling to and from employment in the work-release program authorized under s. 945.091(1)(b), F.S.

The bill also requires the DOC to compile and submit a report to the Executive Office of the Governor and the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives annually by October 1 of each year documenting the receipts and expenditures of the State-Operated Institutions Inmate Welfare Trust Fund for the previous fiscal year. The report must be compiled at both the statewide and institutional levels.

The bill provides an appropriation of \$2.5 million in recurring funds for the 2020-2021 fiscal year from the State-Operated Institutions Inmate Welfare Trust Fund to the DOC for the purpose of providing for the welfare of inmates incarcerated in correctional facilities operated directly by the DOC pursuant to s. 945.215(2), F.S.

The bill is effective on the same date that SB 1116 or similar legislation takes effect if such legislation is enacted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides an appropriation of \$2.5 million in recurring funds for the 2020-2021 fiscal year from the State-Operated Institutions Inmate Welfare Trust Fund to the DOC for the purpose of providing for the welfare of inmates incarcerated in correctional facilities operated directly by the DOC pursuant to s. 945.215(2), F.S.

The bill requires that specified proceeds and donations be deposited into the State-Operated Institutions Inmate Welfare Trust Fund. Currently, annual proceeds in the amount of \$36 million are deposited into the General Revenue Fund each year from inmate canteen and vending receipts. The bill redirects \$2.5 million in General Revenue funds to the newly created trust fund. The funds deposited into the State-Operated Institutions Inmate Welfare Trust Fund pursuant to the bill are required to be used to fund services and programming for inmates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 945.215 of the Florida Statutes.

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

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute amends s. 944.516, F.S., to require that when an inmate is transferred between DOC facilities, is released, dies, or escapes, any unexpended inmate trust fund account balance of less than \$1 must be transferred to the State-Operated Institution Inmate Welfare Trust Fund, or as provide in s. 945.215 (2) (b), to general revenue as is currently is done. In addition, the committee substitute amends s. 946.002, F.S., to require that if a prisoner escapes, any forfeited earnings shall be deposited into the trust fund of DOC

or, as provided in s. 945.215(2) (b), into general revenue. In addition, the committee substitute redirects \$2.5 million from general revenue to the newly created trust fund and provides an appropriation of \$ 2.5 million in recurring funds into the fund for the 2020-2021 fiscal year.

CS by Criminal Justice on January 21, 2020:

The committee substitute adds the specific linked bill number, SB 1116, to the contingent effective date language.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senators Brandes and Pizzo

591-02399-20

20201118c1

A bill to be entitled

An act relating to inmate welfare trust funds; amending s. 945.215, F.S.; requiring that specified proceeds and funds be deposited into the State-Operated Institutions Inmate Welfare Trust Fund; providing that the trust fund is a trust held by the Department of Corrections for the benefit and welfare of certain inmates; prohibiting deposits into the trust fund from exceeding a specified amount per fiscal year; requiring that deposits in excess of that amount be deposited into the General Revenue Fund; requiring that funds of the trust fund be used exclusively for specified purposes at correctional facilities operated by the department; requiring that funds from the trust fund be expended only pursuant to legislative appropriation; requiring the department to annually compile a report documenting trust fund receipts and expenditures; requiring the department to submit the report to the Governor and the Legislature by a specified date each year; providing an appropriation; providing a contingent effective date.

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

Section 1. Present subsections (2) and (3) of section 945.215, Florida Statutes, are redesignated as subsections (3) and (4), respectively, a new subsection (2) is added to that section, and paragraphs (a) through (d) of subsection (1) of that section are amended, to read:

Page 1 of 4

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

591-02399-20

20201118c1

945.215 Inmate welfare and employee benefit trust funds.—

(1) INMATE PURCHASES; DEPARTMENT OF CORRECTIONS.—

(a) The net proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or, as provided in paragraph (2)(b), into ~~in~~ the General Revenue Fund; however, funds necessary to purchase items for resale at inmate canteens and vending machines must be deposited into local bank accounts designated by the department.

(b) All proceeds from contracted telephone commissions must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or, as provided in paragraph (2)(b), into ~~in~~ the General Revenue Fund. The department shall develop and update, as necessary, administrative procedures to verify that:

1. Contracted telephone companies accurately record and report all telephone calls made by inmates incarcerated in correctional facilities under the department's jurisdiction;

2. Persons who accept collect calls from inmates are charged the contracted rate; and

3. The department receives the contracted telephone commissions.

(c) Any funds that may be assigned by inmates or donated to the department by the general public or an inmate service organization must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or, as provided in paragraph (2)(b), into ~~in~~ the General Revenue Fund; however, the department shall not accept any donation from, or on behalf of, any individual inmate.

Page 2 of 4

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

591-02399-20

20201118c1

(d) All proceeds from the following sources must be deposited into the State-Operated Institutions Inmate Welfare Trust Fund or, as provided in paragraph (2)(b), into the ~~in~~ the General Revenue Fund:

1. The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
2. Disciplinary fines imposed against inmates;
3. Forfeitures of inmate earnings; and
4. Unexpended balances in individual inmate trust fund accounts of less than \$1.

(2) STATE-OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND.-

(a) The State-Operated Institutions Inmate Welfare Trust Fund constitutes a trust held by the department for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the department.

(b) Deposits into the trust fund may not exceed a total of \$10 million in any fiscal year. Any proceeds or funds that would cause deposits into the trust fund to exceed this limit must be deposited into the General Revenue Fund.

(c) Funds in the trust fund shall be used exclusively to provide for or operate any of the following at correctional facilities operated by the department:

1. Literacy programs, vocational training programs, and educational programs.
2. Inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries.
3. Inmate substance abuse treatment programs and transition and life skills training programs.

591-02399-20

20201118c1

4. The purchase, rental, maintenance, or repair of electronic or audiovisual equipment, media, services, and programming used by inmates.

5. The purchase, rental, maintenance, or repair of recreation and wellness equipment.

6. The purchase, rental, maintenance, or repair of bicycles used by inmates traveling to and from employment in the work-release program authorized under s. 945.091(1)(b).

(d) Funds in the trust fund may be expended only pursuant to legislative appropriation.

(e) The department shall annually compile a report that documents State-Operated Institutions Inmate Welfare Trust Fund receipts and expenditures. This report must be compiled at both the statewide and institutional levels. The department must submit the report for the previous fiscal year by October 1 of each year to the Executive Office of the Governor and the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives.

Section 2. For the 2020-2021 fiscal year, the sum of \$10 million in recurring funds is appropriated from the State-Operated Institutions Inmate Welfare Trust Fund to the Department of Corrections for the purpose of providing for the welfare of inmates incarcerated in correctional facilities operated directly by the department pursuant to s. 945.215(2), Florida Statutes.

Section 3. This act shall take effect on the same date that SB 1116 or similar legislation takes effect if such legislation is enacted in the same legislative session or an extension thereof and becomes a law.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 19, 2020

I respectfully request that **Senate Bill #1118**, relating to **Inmate Welfare Trust Funds**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal flourish extending to the right.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

SB 1118
Bill Number (if applicable)

Topic SB 1118

Amendment Barcode (if applicable)

Name Jared Torres

Job Title Legislative Affairs Director

Address 501 South Calhoun Street
Street

Phone 850-717-3030

Tallahassee Florida 32399
City State Zip

Email Jared.Torres@FDC.myflorida.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Department of Corrections

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1120 (137486)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senator Harrell

SUBJECT: Substance Abuse Services

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3.	<u>Sneed</u>	<u>Kynoch</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1120 addresses individuals who have been disqualified from employment with substance abuse treatment or recovery residence service providers following a failed background screening, by requiring the Department of Children and Families (DCF) to provide exemptions from employment disqualification for certain offenses. The bill condenses several background screening sections of chapter 397, Florida Statutes, into a single set of requirements.

Additionally, the bill modifies patient-brokering laws to exempt discounts, waivers of payment, or payments not prohibited by the federal anti-kickback statute or regulations. The bill also applies such exemptions to all payment methods used by federal health care programs, and provides that patient-brokering constitutes a first-degree misdemeanor.

The bill is expected to have an insignificant fiscal impact on state government. The bill may result in a positive, yet indeterminate fiscal impact on private health care providers.

The bill takes effect on July 1, 2020.

II. Present Situation:

Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.¹ Substance use disorder occurs when the chronic use of alcohol or drugs causes significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.² Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance use disorder.³ Brain imaging studies of persons with substance use disorders show physical changes in areas of the brain that are critical to judgment, decision making, learning and memory, and behavior control.⁴

Substance Abuse Treatment in Florida

The Department of Children and Families (DCF) administers a statewide system of safety net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery. SAMH programs include a range of prevention, acute interventions (such as crisis stabilization or detoxification), residential, transitional housing, outpatient treatment, and recovery support services.

The DCF provides treatment for substance abuse through a community-based provider system that serves adolescents and adults affected by substance misuse, abuse or dependence.⁵ The department regulates substance abuse treatment by licensing individual treatment components under ch. 397, F.S., and ch. 65D-30, F.A.C.

In 2017 several changes were made to the DCF's licensure program for substance abuse treatment providers in ch. 397, F.S.⁶ The changes included revisions to the licensure application requirements that require applicants to provide detailed information about the clinical services they provide.

Recovery Residences

Recovery residences function under the premise that individuals benefit in their recovery by residing in an alcohol and drug-free environment. Recovery residences are designed to be

¹ World Health Organization. *Substance Abuse*, available at http://www.who.int/topics/substance_abuse/en/ (last visited January 22, 2020).

² Substance Abuse and Mental Health Services Administration, *Substance Use Disorders*, available at <http://www.samhsa.gov/disorders/substance-use> (last visited January 22, 2020).

³ National Institute on Drug Abuse, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited January 22, 2020).

⁴ *Id.*

⁵ Department of Children and Families, *Treatment for Substance Abuse*, <http://www.myflfamilies.com/service-programs/substance-abuse/treatment-and-detoxification> (last visited January 22, 2020).

⁶ Ch. 2017-173, L.O.F.

financially self-sustaining through rent and fees paid by residents, and there is no limit on the length of stay for those who abide by the rules.⁷

Section 397.311, F.S., defines a recovery residence as a residential dwelling unit, or other form of group housing, offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment. A 2009 Connecticut study notes the following: “Sober houses do not provide treatment, [they are] just a place where people in similar circumstances can support one another in sobriety. Because they do not provide treatment, they typically are not subject to state regulation.”⁸

Voluntary Certification of Recovery Residences in Florida

Florida does not license recovery residences. Instead, in 2015 the Legislature enacted sections 397.487–397.4872, F.S., which establish voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.

While certification is voluntary, Florida law incentivizes certification. Since July 1, 2016, Florida has prohibited licensed substance abuse service providers from referring patients to a recovery residence unless the recovery residence is certified and is actively managed by a certified recovery residence administrator.⁹ Referrals by licensed service providers to uncertified recovery residences are limited to those licensed service providers under contract with a managing entity as defined in s. 394.9082, F.S.; referrals by a recovery residence to a licensed service provider when the recovery residence or its owners, directors, operators, or employees do not benefit, directly or indirectly, from the referral; and referrals before July 1, 2018 by a licensed service provider to that licensed service provider’s wholly owned subsidiary.¹⁰

Background Screening under Ch. 435, F.S.

Chapter 435, F.S., addresses background screening requirements for persons seeking employment or for employees in positions that require a background screening. An employer¹¹ may not hire, select, or otherwise allow an employee to have contact with a vulnerable person¹² that would place the employee in a role that requires a background screening until the screening process is completed and demonstrates the absence of any grounds for the denial or termination of employment. If the screening process shows any grounds for the denial or termination of employment, the employer may not hire, select, or otherwise allow the employee to have contact

⁷ Department of Children and Families, *Recovery Residence Report* (October 1, 2013), available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/SoberHomesPR/DCFProvisoRpt-SoberHomes.pdf> (last visited February 11, 2020).

⁸ Office of Legislative Services, Connecticut General Assembly, *Sober Homes*, 2009-R-0316 (September 2, 2009), available at <https://www.cga.ct.gov/2009/rpt/2009-R-0316.htm> (last visited February 11, 2020).

⁹ Section 397.4873(1), F.S.

¹⁰ Section 397.4873(2), F.S.

¹¹ Section 435.02(3), F.S., defines “employer” as any person or entity required by law to conduct screening of employees pursuant to ch. 435, F.S.

¹² Section 415.102(28), F.S., defines “vulnerable adult” as a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

with any vulnerable person that would place the employee in a role that requires background screening unless the employee is granted an exemption for disqualification by the agency¹³ as provided under s. 435.07, F.S.¹⁴

If an employer becomes aware that an employee has been arrested for a disqualifying offense, the employer must remove the employee from contact with any vulnerable person that places the employee in a role that requires a background screening until the arrest is resolved in a way that the employer determines that the employee is still eligible for employment under ch. 435, F.S.¹⁵ The employer must terminate the employment of any of its personnel found to be in noncompliance with the minimum standards of ch. 435, F.S., or place the employee in a position for which background screening is not required unless the employee is granted an exemption from disqualification pursuant to s. 435.07, F.S.¹⁶

An employer may hire an employee to a position that requires a background screening before the employee completes the screening process for training and orientation purposes. However, the employee may not have direct contact with vulnerable persons until the screening process is completed and the employee demonstrates that he or she exhibits no behaviors that warrant the denial or termination of employment.¹⁷

Sections 435.03 and 435.04, F.S., outline the screening requirements. There are two levels of background screening: level 1 and level 2:

- Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,¹⁸ and may include criminal records checks through local law enforcement agencies.¹⁹
- Level 2 screening includes, but, is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.²⁰

The security background investigations under s. 435.04, F.S., for level 2 screening must ensure that no persons subject to this section have been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent, and the record has not been sealed or expunged for, any offense listed in s. 435.04(2), F.S., or a similar law of another jurisdiction.²¹

¹³ Section 435.02(1), F.S., defines “agency” as any state, county, or municipal agency that grants licenses or registration permitting the operation of an employer, or is itself an employer, or that otherwise facilitates the screening of employees pursuant to ch. 435, F.S. If there is no state agency or the municipal or county agency chooses not to conduct employment screening, “agency” means the Department of Children and Families.

¹⁴ Section 435.06(2)(a), F.S.

¹⁵ Section 435.06(2)(b), F.S.

¹⁶ Section 435.06(2)(c), F.S.

¹⁷ Section 435.06(2)(d), F.S.

¹⁸ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. Available at <https://www.nsopw.gov/> (last visited January 22, 2020).

¹⁹ Section 435.03(1), F.S.

²⁰ Section 435.04(1)(a), F.S.

²¹ Section 435.04(2), F.S.

Additionally, such investigations must ensure that no person subject to s. 435.04, F.S., has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to any offense that constitutes domestic violence in s. 741.28, F.S., whether such act was committed in this state or another jurisdiction.²²

For both levels of screening, the person required to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening under ch. 435, F.S.,²³ and must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.²⁴ Every employee must attest, subject to penalty of perjury, to meeting the requirements for qualifying for employment pursuant ch. 435, F.S., and agreeing to inform the employer immediately if arrested for any of the disqualifying offenses while employed by the employer.²⁵

For level 1 screening, the employer must submit the information necessary for screening to the Florida Department of Law Enforcement (FDLE) within 5 working days after receiving it. The FDLE must conduct a search of its records and respond to the employer or agency. The employer must inform the employee whether screening has revealed any disqualifying information.²⁶

For level 2 screening, the employer or agency must submit the information necessary for screening to the FDLE within 5 working days after receiving it. The FDLE must perform a criminal history record check of its records and request that the FBI perform a national criminal history record check. The FDLE must respond to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying information.²⁷

Each employer licensed or registered with an agency must conduct level 2 screening and must submit to the agency annually or at the time of license renewal, under penalty of perjury, a signed attestation attesting to compliance with the provisions of ch. 435, F.S.²⁸

Individuals Requiring Background Screening Under ch. 397, F.S.

Only certain individuals affiliated with substance abuse treatment providers require background screening. Section 397.4073, F.S., requires all owners, directors, chief financial officers, and clinical supervisors of service providers, service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services, and peer specialists who have direct contact with individuals receiving services, to undergo level 2 background screenings. The credentialing entity for recovery residences must deny an application if any of these individuals has been found guilty of, plead nolo contendere to, or had an adjudication of guilt withheld for, any offense listed in s. 408.809(4), F.S., unless the department has issued an exemption under s. 397.4073, F.S.

²² Section 435.04(3), F.S.

²³ Section 435.05(1)(a), F.S.

²⁴ Section 435.05(1)(d), F.S.

²⁵ Section 435.05(2), F.S.

²⁶ Section 435.05(1)(b), F.S.

²⁷ Section 435.05(1)(c), F.S.

²⁸ Section 435.05(3), F.S.

Regarding recovery residences, ss. 397.487(6), F.S., 397.4871(5), F.S., and 408.809, F.S., each require level 2 background screening for all recovery residence owners, directors, and chief financial officers, and for administrators seeking certification.

Exemptions from Disqualification for Employment

Section 435.07(1), F.S., authorizes the head of the appropriate agency to grant to any employee otherwise disqualified from employment due to certain disqualifying offenses an exemption from such disqualification. For a felony, three years must have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed. No waiting period applies to misdemeanors.

Additionally, s. 435.07(2), F.S., provides that persons employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of certain crimes may be exempted from disqualification from employment, without applying the 3-year waiting period. The crimes specified under the statute are:²⁹

- Section 796.07(2)(e), F.S., (prostitution-related offenses);
- Section 810.02(4), F.S., (unarmed burglary of a structure);
- Section 812.014(2), F.S., (third degree grand theft);
- Section 817.563, F.S., (sale of imitation controlled substance);
- Section 831.01, F.S., (forgery);
- Section 832.02, F.S., (offenses involving uttering or publishing a forged instrument);
- Section 893.13, F.S., (controlled substances offenses, excluding drug trafficking); and
- Section 893.147, F.S., (drug paraphernalia offenses).

Section 397.4073(4), F.S., authorizes the DCF to grant any service provider personnel an exemption from disqualification as provided in s. 435.07, F.S. Additionally, the department may grant exemptions from disqualification to service provider personnel whose background checks indicate crimes under ss. 817.563, 893.13 (controlled substances offenses, excluding drug trafficking), or 893.147, F.S., or grant exemptions from disqualification which would limit service provider personnel to working with adults in substance abuse treatment facilities. The DCF must render a decision on the application for exemption from disqualification within 60 days after the department receives the completed application. Individuals are permitted to work under supervision for up to 90 days in programs or facilities that treat co-occurring substance use and mental health disorders while the DCF evaluates their applications for an exemption from disqualification, so long as it has been five or more years since the individuals have completed all non-monetary conditions associated with their most recent disqualifying offense.

Section 397.4872(1), F.S., provides that the individual exemptions to staff disqualification or administrator ineligibility may be requested if a recovery residence deems the decision will benefit the program. Requests for exemptions must be submitted in writing to the DCF within 20 days after the denial by the credentialing entity and must include a justification for the exemption. Subsection (2) provides, with some exceptions, the DCF may exempt a person from ss. 397.487(6), and 397.4871(5), F.S., if it has been at least three years since the person has

²⁹ Section 435.07(2), F.S.

completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense.

Patient Brokering

In Florida, it is unlawful for any person, including a health care provider or health care facility, to engage in patient brokering.³⁰ Patient brokering is paying to induce, or make a payment in return for, a referral of a patient to or from a health care provider or health care facility. Such payments include commissions, benefits, bonuses, rebates, kickbacks, bribes, split-fee arrangements, in cash or in kind, provided directly or indirectly.³¹ A person who violates the patient brokering statute commits a felony of the third degree.³² If the violation involves 10 to 19 patients, the person commits a felony of the second degree.³³ If the violation involves more than 20 patients, the person commits a felony of the first degree.³⁴

However, there are a number of exceptions to the prohibition on patient brokering, which means health care providers or other entities can engage in practices that involve some types of payment without committing a crime. These exceptions include:³⁵

- Any discount, payment, waiver of payment, or payment expressly authorized by the federal anti-kickback statute or regulations;
- Any payment, compensation or financial arrangements within a group practice, provided such payment, compensation, or arrangement is not to or from persons who are not members of the group practice;
- Payments to a health care provider or health care facility for professional consultation services;
- Commissions, fees, or other remuneration lawfully paid to insurance agents;
- Payments by a health insurer who reimburses, provides, offers to provide, or administers health, mental health, or substance abuse goods or services under a health benefit plan;
- Payments to or by a health care provider or health care facility that has contracted with a health insurer, health care purchasing group, or the Medicare or Medicaid program to provide health, mental health, or substance abuse goods or services under a health benefit;
- Lawfully authorized insurance advertising gifts;
- Commissions or fees paid to a nurse registry for referring persons providing health care services to clients of the nurse registry;
- Certain payments by health care providers or health care facilities to a health, mental health, or substance abuse information service that provides information upon request and without charge to consumers about provider of health care good or services to enable consumers to select appropriate providers of facilities; and
- Certain payments authorized for assisted living facilities.

³⁰ Section 817.505, F.S.

³¹ Section 817.505(1), F.S.

³² Punishable by a term of imprisonment not to exceed 5 years and a fine of \$50,000.

³³ Punishable by a term of imprisonment not to exceed 15 years and a fine of \$100,000.

³⁴ Punishable by a term of imprisonment not to exceed 30 years and a fine of \$500,000.

³⁵ Section 817.505(3), F.S.

Until 2019, the patient brokering statute did not apply to any discount, payment, waiver of payment, or payment practice that was not prohibited by the federal anti-kickback statute. In 2019, the Legislature enacted legislation that applied this exception to only those payment practices expressly authorized under federal law.³⁶ This change created uncertainty for those using payment arrangements that were not prohibited under federal law but also not expressly authorized.

Federal Anti-Kickback Statute

Federal law prohibits payment for the referral of an individual to a person for furnishing or arranging to furnish any item or service for which payment may be made under a federal health care program.³⁷ Violation of the federal anti-kickback statute is a felony that is punishable by a fine of up to \$25,000 or up to five years in prison, or both.³⁸ However, there are several exceptions to the federal statute, including, but not limited to:³⁹

- Discounts properly disclosed and appropriately reflected in the costs claimed and charges made by the provider or entity;
- Payments between employers and employees for employment in the provision of covered items or services;
- Certain payments to a group purchasing organization;
- Waivers of co-insurance;
- Certain risk-sharing agreements; and
- The waiver of any cost-sharing provisions by a pharmacy.

Payment arrangements that do not specifically meet one of the exceptions are reviewed on a case-by-case basis to determine if the parties have the requisite criminal intent.⁴⁰ The Office of the Inspector General within the U.S. Department of Health and Human Services, is proposing additional exceptions to the anti-kickback statute, including payment arrangements that are currently used by health care practitioners but are not specifically authorized under the statute.⁴¹

III. Effect of Proposed Changes:

Section 1 amends s. 397.4073, F.S., requiring that certified recovery residence owners, directors, chief financial officers, and certified recovery residence administrators are subject to level 2 background screening as provided under s. 408.809, F.S., and ch. 435, F.S. These positions already require a level 2 background screening under current law; the bill streamlines the background screening language in ch. 397, F.S., to one section of statute rather than two sections.

The bill also requires the DCF to grant applications for exemption from employment disqualification for service providers that treat adolescents aged 13 or older whose background

³⁶ Chapter 2019-59, L.O.F.

³⁷ 42 U.S.C., s. 1320a-7b(b).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ U.S. Department of Health and Human Services, *HHS Office of Inspector General Fact Sheet: Notice of Proposed Rulemaking OIG-0936-AA10-P*, (Oct. 2019), available at https://oig.hhs.gov/authorities/docs/2019/CoordinatedCare_FactSheet_October2019.pdf (last visited February 11, 2020).

⁴¹ *Id.*

checks indicate crimes referenced in s. 397.4073(4)(b), F.S., provided that at least five years (or three years if certified as a Peer Specialist) have elapsed since the applicant for an exemption from disqualification has completed, or has been lawfully released from confinement, supervision, or a nonmonetary condition imposed by a court for the applicant's most recent disqualifying offense under s. 397.417, F.S., and the applicant has not been arrested for any criminal offense within the past three years. Currently, the DCF has discretion in whether or not to grant such applications.

Section 2 amends s. 397.487, F.S., by removing language related to level 2 background screenings for certified recovery residence owners, directors, chief financial officers, and certified recovery residence administrators made obsolete by moving the background screening requirement to s. 397.4073, F.S.

Section 3 amends s. 397.4872, F.S., by removing language related to exemptions from disqualification made obsolete by the bill.

Section 4 amends s. 397.4873, F.S., providing that anyone who willfully and knowingly facilitates patient brokering is guilty of a first-degree misdemeanor.

Section 5 amends s. 817.505, F.S., revising the patient brokering statute such that it does not apply to any discount, payment, waiver of payment, payment practice, or payment scheme that is expressly authorized by the federal anti-kickback statute or regulations.

The bill also makes such exception applicable to any payment scheme, regardless of whether it involves services paid in whole or in part by a federal health care program designated in the federal anti-kickback statute or regulations.

Section 6 amends s. 397.4871, F.S., by adding offenses listed under s. 408.809, F.S., to those currently referenced in s. 435.04(2), F.S., for recovery residence administrator certification. The offenses added by incorporating s. 408.809, F.S., include financial crimes such as Medicaid fraud, forgery, and patient brokering. The bill also amends statutory references for determining whether the DCF can grant a background screening exemption for recovery residence administrators from s. 397.4872, F.S., to s. 397.4073, F.S. or s. 435.07, F.S.

Section 7 amends s. 435.07, F.S., by requiring the DCF to exempt individuals disqualified during background screening for committing specific offenses. The crimes specified in the bill are:

- Section. 777.04, F.S., (Attempt to commit a criminal offense, solicitation of another person to commit a criminal offense, or conspiracy to commit a criminal offense);
- Section 796.07(2)(e), F.S., (Person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation);
- Section 810.02(4), F.S., (Burglary);
- Section 812.014(2)(c), F.S., (Grand theft);
- Section 817.563, F.S., (Sale of controlled substances);
- Section 831.01, F.S. (Forgery);
- Section 831.02, F.S., (Uttering forged instruments);

- Section 893.13, F.S., (Sale, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, controlled substances); and
- Section 893.147, F.S., (Use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia, specified machines, and materials).

Section 8 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the DCF, substance use treatment providers and recovery residences may realize savings by being able to fill positions faster with the changes identified in the bill.⁴² Additionally, PCS/CS/SB 1120 alleviates confusion on which payment arrangements are permissible under the state patient brokering law. This may result in increased revenues for the private sector resulting from more allowable payment agreement options between health care providers.⁴³

⁴² *Id.*

⁴³ Department of Children and Families Agency Analysis of HB 649. On file with the Senate Committee on Children, Families, and Elder Affairs.

C. **Government Sector Impact:**

The bill is expected to have an insignificant fiscal impact on the DCF.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 397.4073, 397.487, 397.4871, 397.4872, 397.4873, 435.07, and 817.505.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 18, 2020:

The committee substitute requires the DCF to grant applicants exemptions from disqualifying offenses under s. 435.07, F.S., provided that at least three years has elapsed for a certified peer specialist, or five years has passed for a non-certified substance abuse treatment or recovery residence service provider, since completion or release from confinement, supervision, or nonmonetary conditions imposed by the court, and has not been arrested for any criminal offense within the past three years.

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

- Provides that anyone who willfully and knowingly facilitates patient brokering is guilty of a first-degree misdemeanor.

B. **Amendments:**

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to substance abuse services; amending s. 397.4073, F.S.; specifying that certified recovery residence administrators and certain persons associated with certified recovery residences are subject to certain background screenings; requiring, rather than authorizing, the exemption from disqualification from employment for certain substance abuse service provider personnel; revising eligibility for exemption from disqualification from employment for such personnel; amending s. 397.487, F.S.; deleting a provision relating to background screenings for certain persons associated with applicant recovery residences; amending s. 397.4872, F.S.; deleting provisions relating to exemptions from disqualification for certain persons associated with recovery residences; amending s. 397.4873, F.S.; providing criminal penalties for violations relating to recovery residence patient referrals; amending s. 817.505, F.S.; revising provisions relating to payment practices exempt from prohibitions on patient brokering; amending ss. 397.4871 and 435.07, F.S.; conforming provisions to changes made by the act; providing an effective date.

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



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

397.4073 Background checks of service provider personnel.—

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

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

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

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

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

4. All certified recovery residence owners, directors, chief financial officers, and certified recovery residence administrators are subject to level 2 background screening as provided under s. 408.809 and chapter 435.

(4) EXEMPTIONS FROM DISQUALIFICATION.—

(b) Since rehabilitated substance abuse impaired persons are effective in the successful treatment and rehabilitation of



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individuals with substance use disorders, for service providers which treat adolescents 13 years of age and older, service provider personnel whose background checks indicate crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related criminal attempt, solicitation, or conspiracy under s. 777.04, shall may be exempted from disqualification from employment pursuant to this paragraph, provided that 5 years or more, or, in the case of a peer specialist certified pursuant to s. 397.417, 3 years or more, have elapsed since the applicant for an exemption from disqualification has completed or has been lawfully released from confinement, supervision, or a nonmonetary condition imposed by a court for the applicant's most recent disqualifying offense under this subsection and the applicant for exemption has not been arrested for any criminal offense within the past 3 years.

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

397.487 Voluntary certification of recovery residences.-

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



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~~accordance with s. 435.04, the department shall notify the credentialing agency of an owner's, director's, or chief financial officer's eligibility based on the results of his or her background screening.~~

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

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

~~(1) Individual exemptions to staff disqualification or administrator ineligibility may be requested if a recovery residence deems the decision will benefit the program. Requests for exemptions must be submitted in writing to the department within 20 days after the denial by the credentialing entity and must include a justification for the exemption.~~

~~(2) The department may exempt a person from ss. 397.487(6) and 397.4871(5) if it has been at least 3 years since the person has completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense. An exemption from the disqualifying offenses may not be given under any circumstances for any person who is a:~~

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

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

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

~~(3) By April 1, 2016, each credentialing entity shall submit a list to the department of all recovery residences and recovery residence administrators certified by the credentialing entity that hold a valid certificate of compliance. Thereafter, the credentialing entity must notify the department within 3~~



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business days after a new recovery residence or recovery residence administrator is certified or a recovery residence or recovery residence administrator's certificate expires or is terminated. The department shall publish on its website a list of all recovery residences that hold a valid certificate of compliance. The department shall also publish on its website a list of all recovery residence administrators who hold a valid certificate of compliance. A recovery residence or recovery residence administrator shall be excluded from the list upon written request to the department by the listed individual or entity.

Section 4. Present subsections (4), (5), and (6) of section 397.4873, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, a new subsection (4) is added to that section, and subsection (1) of that section is republished, to read:

397.4873 Referrals to or from recovery residences; prohibitions; penalties.—

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

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



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Section 5. Paragraph (a) of subsection (3) of section 817.505, Florida Statutes, is amended to read:

817.505 Patient brokering prohibited; exceptions; penalties.—

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

(a) Any discount, payment, waiver of payment, or payment practice not prohibited ~~expressly authorized~~ by 42 U.S.C. s. 1320a-7b(b) ~~42 U.S.C. s. 1320a-7b(b)(3)~~ or regulations promulgated ~~adopted~~ thereunder, regardless of whether such discount, payment, waiver of payment, or payment practice involves items or services for which payment may be made in whole or in part under federal health care programs as defined in 42 U.S.C. s. 1320a-7b(f), as that definition exists on July 1, 2020.

Section 6. Subsection (5) of section 397.4871, Florida Statutes, is amended to read:

397.4871 Recovery residence administrator certification.—

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



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Section 7. Subsection (2) of section 435.07, Florida Statutes, is amended to read:

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

(2) Persons employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, or any related criminal attempt, solicitation, or conspiracy under s. 777.04, shall may be exempted from disqualification from employment pursuant to this chapter, provided that 5 years or more, or, in the case of a certified peer specialist pursuant to s. 397.417, 3 years or more, have elapsed since the applicant for an exemption from disqualification has completed or has been lawfully released from confinement, supervision, or a nonmonetary condition imposed by a court for the applicant's most recent disqualifying offense under this subsection and the applicant for exemption has not been arrested for any criminal offense within the past 3 years without application of the waiting period in subparagraph (1)(a)1.

Section 8. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1120

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senator Harrell

SUBJECT: Substance Abuse Services

DATE: February 28, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3.	<u>Sneed</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1120 addresses individuals who have been disqualified from employment with substance abuse treatment or recovery residence service providers following a failed background screening, by requiring the Department of Children and Families (DCF) to provide exemptions from employment disqualification for certain offenses. The bill condenses several background screening sections of chapter 397, Florida Statutes, into a single set of requirements.

Additionally, the bill modifies patient-brokering laws to exempt discounts, waivers of payment, or payments not prohibited by the federal anti-kickback statute or regulations. The bill also applies such exemptions to all payment methods used by federal health care programs, and provides that patient-brokering constitutes a first-degree misdemeanor.

The bill is expected to have an insignificant fiscal impact on state government. The bill may result in a positive, yet indeterminate fiscal impact on private health care providers.

The bill takes effect on July 1, 2020.

II. Present Situation:

Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.¹ Substance use disorder occurs when the chronic use of alcohol or drugs causes significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.² Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance use disorder.³ Brain imaging studies of persons with substance use disorders show physical changes in areas of the brain that are critical to judgment, decision making, learning and memory, and behavior control.⁴

Substance Abuse Treatment in Florida

The Department of Children and Families (DCF) administers a statewide system of safety net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery. SAMH programs include a range of prevention, acute interventions (such as crisis stabilization or detoxification), residential, transitional housing, outpatient treatment, and recovery support services.

The DCF provides treatment for substance abuse through a community-based provider system that serves adolescents and adults affected by substance misuse, abuse or dependence.⁵ The department regulates substance abuse treatment by licensing individual treatment components under ch. 397, F.S., and ch. 65D-30, F.A.C.

In 2017 several changes were made to the DCF's licensure program for substance abuse treatment providers in ch. 397, F.S.⁶ The changes included revisions to the licensure application requirements that require applicants to provide detailed information about the clinical services they provide.

Recovery Residences

Recovery residences function under the premise that individuals benefit in their recovery by residing in an alcohol and drug-free environment. Recovery residences are designed to be

¹ World Health Organization. *Substance Abuse*, available at http://www.who.int/topics/substance_abuse/en/ (last visited January 22, 2020).

² Substance Abuse and Mental Health Services Administration, *Substance Use Disorders*, available at <http://www.samhsa.gov/disorders/substance-use> (last visited January 22, 2020).

³ National Institute on Drug Abuse, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited January 22, 2020).

⁴ *Id.*

⁵ Department of Children and Families, *Treatment for Substance Abuse*, <http://www.myflfamilies.com/service-programs/substance-abuse/treatment-and-detoxification> (last visited January 22, 2020).

⁶ Ch. 2017-173, L.O.F.

financially self-sustaining through rent and fees paid by residents, and there is no limit on the length of stay for those who abide by the rules.⁷

Section 397.311, F.S., defines a recovery residence as a residential dwelling unit, or other form of group housing, offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment. A 2009 Connecticut study notes the following: “Sober houses do not provide treatment, [they are] just a place where people in similar circumstances can support one another in sobriety. Because they do not provide treatment, they typically are not subject to state regulation.”⁸

Voluntary Certification of Recovery Residences in Florida

Florida does not license recovery residences. Instead, in 2015 the Legislature enacted sections 397.487–397.4872, F.S., which establish voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.

While certification is voluntary, Florida law incentivizes certification. Since July 1, 2016, Florida has prohibited licensed substance abuse service providers from referring patients to a recovery residence unless the recovery residence is certified and is actively managed by a certified recovery residence administrator.⁹ Referrals by licensed service providers to uncertified recovery residences are limited to those licensed service providers under contract with a managing entity as defined in s. 394.9082, F.S.; referrals by a recovery residence to a licensed service provider when the recovery residence or its owners, directors, operators, or employees do not benefit, directly or indirectly, from the referral; and referrals before July 1, 2018 by a licensed service provider to that licensed service provider’s wholly owned subsidiary.¹⁰

Background Screening under Ch. 435, F.S.

Chapter 435, F.S., addresses background screening requirements for persons seeking employment or for employees in positions that require a background screening. An employer¹¹ may not hire, select, or otherwise allow an employee to have contact with a vulnerable person¹² that would place the employee in a role that requires a background screening until the screening process is completed and demonstrates the absence of any grounds for the denial or termination of employment. If the screening process shows any grounds for the denial or termination of employment, the employer may not hire, select, or otherwise allow the employee to have contact

⁷ Department of Children and Families, *Recovery Residence Report* (October 1, 2013), available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/SoberHomesPR/DCFProvisoRpt-SoberHomes.pdf> (last visited February 11, 2020).

⁸ Office of Legislative Services, Connecticut General Assembly, *Sober Homes*, 2009-R-0316 (September 2, 2009), available at <https://www.cga.ct.gov/2009/rpt/2009-R-0316.htm> (last visited February 11, 2020).

⁹ Section 397.4873(1), F.S.

¹⁰ Section 397.4873(2), F.S.

¹¹ Section 435.02(3), F.S., defines “employer” as any person or entity required by law to conduct screening of employees pursuant to ch. 435, F.S.

¹² Section 415.102(28), F.S., defines “vulnerable adult” as a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

with any vulnerable person that would place the employee in a role that requires background screening unless the employee is granted an exemption for disqualification by the agency¹³ as provided under s. 435.07, F.S.¹⁴

If an employer becomes aware that an employee has been arrested for a disqualifying offense, the employer must remove the employee from contact with any vulnerable person that places the employee in a role that requires a background screening until the arrest is resolved in a way that the employer determines that the employee is still eligible for employment under ch. 435, F.S.¹⁵ The employer must terminate the employment of any of its personnel found to be in noncompliance with the minimum standards of ch. 435, F.S., or place the employee in a position for which background screening is not required unless the employee is granted an exemption from disqualification pursuant to s. 435.07, F.S.¹⁶

An employer may hire an employee to a position that requires a background screening before the employee completes the screening process for training and orientation purposes. However, the employee may not have direct contact with vulnerable persons until the screening process is completed and the employee demonstrates that he or she exhibits no behaviors that warrant the denial or termination of employment.¹⁷

Sections 435.03 and 435.04, F.S., outline the screening requirements. There are two levels of background screening: level 1 and level 2:

- Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,¹⁸ and may include criminal records checks through local law enforcement agencies.¹⁹
- Level 2 screening includes, but, is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.²⁰

The security background investigations under s. 435.04, F.S., for level 2 screening must ensure that no persons subject to this section have been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent, and the record has not been sealed or expunged for, any offense listed in s. 435.04(2), F.S., or a similar law of another jurisdiction.²¹

¹³ Section 435.02(1), F.S., defines “agency” as any state, county, or municipal agency that grants licenses or registration permitting the operation of an employer, or is itself an employer, or that otherwise facilitates the screening of employees pursuant to ch.435, F.S. If there is no state agency or the municipal or county agency chooses not to conduct employment screening, “agency” means the Department of Children and Families.

¹⁴ Section 435.06(2)(a), F.S.

¹⁵ Section 435.06(2)(b), F.S.

¹⁶ Section 435.06(2)(c), F.S.

¹⁷ Section 435.06(2)(d), F.S.

¹⁸ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. Available at <https://www.nsopw.gov/> (last visited January 22, 2020).

¹⁹ Section 435.03(1), F.S.

²⁰ Section 435.04(1)(a), F.S.

²¹ Section 435.04(2), F.S.

Additionally, such investigations must ensure that no person subject to s. 435.04, F.S., has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to any offense that constitutes domestic violence in s. 741.28, F.S., whether such act was committed in this state or another jurisdiction.²²

For both levels of screening, the person required to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening under ch. 435, F.S.,²³ and must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.²⁴ Every employee must attest, subject to penalty of perjury, to meeting the requirements for qualifying for employment pursuant ch. 435, F.S., and agreeing to inform the employer immediately if arrested for any of the disqualifying offenses while employed by the employer.²⁵

For level 1 screening, the employer must submit the information necessary for screening to the Florida Department of Law Enforcement (FDLE) within 5 working days after receiving it. The FDLE must conduct a search of its records and respond to the employer or agency. The employer must inform the employee whether screening has revealed any disqualifying information.²⁶

For level 2 screening, the employer or agency must submit the information necessary for screening to the FDLE within 5 working days after receiving it. The FDLE must perform a criminal history record check of its records and request that the FBI perform a national criminal history record check. The FDLE must respond to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying information.²⁷

Each employer licensed or registered with an agency must conduct level 2 screening and must submit to the agency annually or at the time of license renewal, under penalty of perjury, a signed attestation attesting to compliance with the provisions of ch. 435, F.S.²⁸

Individuals Requiring Background Screening Under ch. 397, F.S.

Only certain individuals affiliated with substance abuse treatment providers require background screening. Section 397.4073, F.S., requires all owners, directors, chief financial officers, and clinical supervisors of service providers, service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services, and peer specialists who have direct contact with individuals receiving services, to undergo level 2 background screenings. The credentialing entity for recovery residences must deny an application if any of these individuals has been found guilty of, plead nolo contendere to, or had an adjudication of guilt withheld for, any offense listed in s. 408.809(4), F.S., unless the department has issued an exemption under s. 397.4073, F.S.

²² Section 435.04(3), F.S.

²³ Section 435.05(1)(a), F.S.

²⁴ Section 435.05(1)(d), F.S.

²⁵ Section 435.05(2), F.S.

²⁶ Section 435.05(1)(b), F.S.

²⁷ Section 435.05(1)(c), F.S.

²⁸ Section 435.05(3), F.S.

Regarding recovery residences, ss. 397.487(6), F.S., 397.4871(5), F.S., and 408.809, F.S., each require level 2 background screening for all recovery residence owners, directors, and chief financial officers, and for administrators seeking certification.

Exemptions from Disqualification for Employment

Section 435.07(1), F.S., authorizes the head of the appropriate agency to grant to any employee otherwise disqualified from employment due to certain disqualifying offenses an exemption from such disqualification. For a felony, three years must have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed. No waiting period applies to misdemeanors.

Additionally, s. 435.07(2), F.S., provides that persons employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of certain crimes may be exempted from disqualification from employment, without applying the 3-year waiting period. The crimes specified under the statute are:²⁹

- Section 796.07(2)(e), F.S., (prostitution-related offenses);
- Section 810.02(4), F.S., (unarmed burglary of a structure);
- Section 812.014(2), F.S., (third degree grand theft);
- Section 817.563, F.S., (sale of imitation controlled substance);
- Section 831.01, F.S., (forgery);
- Section 832.02, F.S., (offenses involving uttering or publishing a forged instrument);
- Section 893.13, F.S., (controlled substances offenses, excluding drug trafficking); and
- Section 893.147, F.S., (drug paraphernalia offenses).

Section 397.4073(4), F.S., authorizes the DCF to grant any service provider personnel an exemption from disqualification as provided in s. 435.07, F.S. Additionally, the department may grant exemptions from disqualification to service provider personnel whose background checks indicate crimes under ss. 817.563, 893.13 (controlled substances offenses, excluding drug trafficking), or 893.147, F.S., or grant exemptions from disqualification which would limit service provider personnel to working with adults in substance abuse treatment facilities. The DCF must render a decision on the application for exemption from disqualification within 60 days after the department receives the completed application. Individuals are permitted to work under supervision for up to 90 days in programs or facilities that treat co-occurring substance use and mental health disorders while the DCF evaluates their applications for an exemption from disqualification, so long as it has been five or more years since the individuals have completed all non-monetary conditions associated with their most recent disqualifying offense.

Section 397.4872(1), F.S., provides that the individual exemptions to staff disqualification or administrator ineligibility may be requested if a recovery residence deems the decision will benefit the program. Requests for exemptions must be submitted in writing to the DCF within 20 days after the denial by the credentialing entity and must include a justification for the exemption. Subsection (2) provides, with some exceptions, the DCF may exempt a person from ss. 397.487(6), and 397.4871(5), F.S., if it has been at least three years since the person has

²⁹ Section 435.07(2), F.S.

completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense.

Patient Brokering

In Florida, it is unlawful for any person, including a health care provider or health care facility, to engage in patient brokering.³⁰ Patient brokering is paying to induce, or make a payment in return for, a referral of a patient to or from a health care provider or health care facility. Such payments include commissions, benefits, bonuses, rebates, kickbacks, bribes, split-fee arrangements, in cash or in kind, provided directly or indirectly.³¹ A person who violates the patient brokering statute commits a felony of the third degree.³² If the violation involves 10 to 19 patients, the person commits a felony of the second degree.³³ If the violation involves more than 20 patients, the person commits a felony of the first degree.³⁴

However, there are a number of exceptions to the prohibition on patient brokering, which means health care providers or other entities can engage in practices that involve some types of payment without committing a crime. These exceptions include:³⁵

- Any discount, payment, waiver of payment, or payment expressly authorized by the federal anti-kickback statute or regulations;
- Any payment, compensation or financial arrangements within a group practice, provided such payment, compensation, or arrangement is not to or from persons who are not members of the group practice;
- Payments to a health care provider or health care facility for professional consultation services;
- Commissions, fees, or other remuneration lawfully paid to insurance agents;
- Payments by a health insurer who reimburses, provides, offers to provide, or administers health, mental health, or substance abuse goods or services under a health benefit plan;
- Payments to or by a health care provider or health care facility that has contracted with a health insurer, health care purchasing group, or the Medicare or Medicaid program to provide health, mental health, or substance abuse goods or services under a health benefit;
- Lawfully authorized insurance advertising gifts;
- Commissions or fees paid to a nurse registry for referring persons providing health care services to clients of the nurse registry;
- Certain payments by health care providers or health care facilities to a health, mental health, or substance abuse information service that provides information upon request and without charge to consumers about provider of health care good or services to enable consumers to select appropriate providers of facilities; and
- Certain payments authorized for assisted living facilities.

³⁰ Section 817.505, F.S.

³¹ Section 817.505(1), F.S.

³² Punishable by a term of imprisonment not to exceed 5 years and a fine of \$50,000.

³³ Punishable by a term of imprisonment not to exceed 15 years and a fine of \$100,000.

³⁴ Punishable by a term of imprisonment not to exceed 30 years and a fine of \$500,000.

³⁵ Section 817.505(3), F.S.

Until 2019, the patient brokering statute did not apply to any discount, payment, waiver of payment, or payment practice that was not prohibited by the federal anti-kickback statute. In 2019, the Legislature enacted legislation that applied this exception to only those payment practices expressly authorized under federal law.³⁶ This change created uncertainty for those using payment arrangements that were not prohibited under federal law but also not expressly authorized.

Federal Anti-Kickback Statute

Federal law prohibits payment for the referral of an individual to a person for furnishing or arranging to furnish any item or service for which payment may be made under a federal health care program.³⁷ Violation of the federal anti-kickback statute is a felony that is punishable by a fine of up to \$25,000 or up to five years in prison, or both.³⁸ However, there are several exceptions to the federal statute, including, but not limited to:³⁹

- Discounts properly disclosed and appropriately reflected in the costs claimed and charges made by the provider or entity;
- Payments between employers and employees for employment in the provision of covered items or services;
- Certain payments to a group purchasing organization;
- Waivers of co-insurance;
- Certain risk-sharing agreements; and
- The waiver of any cost-sharing provisions by a pharmacy.

Payment arrangements that do not specifically meet one of the exceptions are reviewed on a case-by-case basis to determine if the parties have the requisite criminal intent.⁴⁰ The Office of the Inspector General within the U.S. Department of Health and Human Services, is proposing additional exceptions to the anti-kickback statute, including payment arrangements that are currently used by health care practitioners but are not specifically authorized under the statute.⁴¹

III. Effect of Proposed Changes:

Section 1 amends s. 397.4073, F.S., requiring that certified recovery residence owners, directors, chief financial officers, and certified recovery residence administrators are subject to level 2 background screening as provided under s. 408.809, F.S., and ch. 435, F.S. These positions already require a level 2 background screening under current law; the bill streamlines the background screening language in ch. 397, F.S., to one section of statute rather than two sections.

The bill also requires the DCF to grant applications for exemption from employment disqualification for service providers that treat adolescents aged 13 or older whose background

³⁶ Chapter 2019-59, L.O.F.

³⁷ 42 U.S.C., s. 1320a-7b(b).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ U.S. Department of Health and Human Services, *HHS Office of Inspector General Fact Sheet: Notice of Proposed Rulemaking OIG-0936-AA10-P*, (Oct. 2019), available at https://oig.hhs.gov/authorities/docs/2019/CoordinatedCare_FactSheet_October2019.pdf (last visited February 11, 2020).

⁴¹ *Id.*

checks indicate crimes referenced in s. 397.4073(4)(b), F.S., provided that at least five years (or three years if certified as a Peer Specialist) have elapsed since the applicant for an exemption from disqualification has completed, or has been lawfully released from confinement, supervision, or a nonmonetary condition imposed by a court for the applicant's most recent disqualifying offense under s. 397.417, F.S., and the applicant has not been arrested for any criminal offense within the past three years. Currently, the DCF has discretion in whether or not to grant such applications.

Section 2 amends s. 397.487, F.S., by removing language related to level 2 background screenings for certified recovery residence owners, directors, chief financial officers, and certified recovery residence administrators made obsolete by moving the background screening requirement to s. 397.4073, F.S.

Section 3 amends s. 397.4872, F.S., by removing language related to exemptions from disqualification made obsolete by the bill.

Section 4 amends s. 397.4873, F.S., providing that anyone who willfully and knowingly facilitates patient brokering is guilty of a first-degree misdemeanor.

Section 5 amends s. 817.505, F.S., revising the patient brokering statute such that it does not apply to any discount, payment, waiver of payment, payment practice, or payment scheme that is expressly authorized by the federal anti-kickback statute or regulations.

The bill also makes such exception applicable to any payment scheme, regardless of whether it involves services paid in whole or in part by a federal health care program designated in the federal anti-kickback statute or regulations.

Section 6 amends s. 397.4871, F.S., by adding offenses listed under s. 408.809, F.S., to those currently referenced in s. 435.04(2), F.S., for recovery residence administrator certification. The offenses added by incorporating s. 408.809, F.S., include financial crimes such as Medicaid fraud, forgery, and patient brokering. The bill also amends statutory references for determining whether the DCF can grant a background screening exemption for recovery residence administrators from s. 397.4872, F.S., to s. 397.4073, F.S. or s. 435.07, F.S.

Section 7 amends s. 435.07, F.S., by requiring the DCF to exempt individuals disqualified during background screening for committing specific offenses. The crimes specified in the bill are:

- Section. 777.04, F.S., (Attempt to commit a criminal offense, solicitation of another person to commit a criminal offense, or conspiracy to commit a criminal offense);
- Section 796.07(2)(e), F.S., (Person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation);
- Section 810.02(4), F.S., (Burglary);
- Section 812.014(2)(c), F.S., (Grand theft);
- Section 817.563, F.S., (Sale of controlled substances);
- Section 831.01, F.S. (Forgery);
- Section 831.02, F.S., (Uttering forged instruments);

- Section 893.13, F.S., (Sale, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, controlled substances); and
- Section 893.147, F.S., (Use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia, specified machines, and materials).

Section 8 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the DCF, substance use treatment providers and recovery residences may realize savings by being able to fill positions faster with the changes identified in the bill.⁴² Additionally, CS/CS/SB 1120 alleviates confusion on which payment arrangements are permissible under the state patient brokering law. This may result in increased revenues for the private sector resulting from more allowable payment agreement options between health care providers.⁴³

⁴² *Id.*

⁴³ Department of Children and Families Agency Analysis of HB 649. On file with the Senate Committee on Children, Families, and Elder Affairs.

C. Government Sector Impact:

The bill is expected to have an insignificant fiscal impact on the DCF.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 397.4073, 397.487, 397.4871, 397.4872, 397.4873, 435.07, and 817.505.

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

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute requires the DCF to grant applicants exemptions from disqualifying offenses under s. 435.07, F.S., provided that at least three years has elapsed for a certified peer specialist, or five years has passed for a non-certified substance abuse treatment or recovery residence service provider, since completion or release from confinement, supervision, or nonmonetary conditions imposed by the court, and has not been arrested for any criminal offense within the past three years.

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

- Provides that anyone who willfully and knowingly facilitates patient brokering is guilty of a first-degree misdemeanor.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs; and
Senator Harrell

586-02769-20

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A bill to be entitled

An act relating to substance abuse services; amending s. 397.4073, F.S.; specifying that certified recovery residence administrators and certain persons associated with certified recovery residences are subject to certain background screenings; requiring, rather than authorizing, the exemption from disqualification from employment for certain substance abuse service provider personnel; amending s. 397.487, F.S.; deleting a provision relating to background screenings for certain persons associated with applicant recovery residences; amending s. 397.4872, F.S.; deleting provisions relating to exemptions from disqualification for certain persons associated with recovery residences; amending s. 397.4873, F.S.; providing criminal penalties for violations relating to recovery residence patient referrals; amending s. 817.505, F.S.; revising provisions relating to payment practices exempt from prohibitions on patient brokering; amending ss. 397.4871 and 435.07, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) and paragraph (b) of subsection (4) of section 397.4073, Florida Statutes, are amended to read:
397.4073 Background checks of service provider personnel.—

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

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

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

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

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

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

4. All certified recovery residence owners, directors, chief financial officers, and certified recovery residence administrators are subject to level 2 background screening as provided under s. 408.809 and chapter 435.

(4) EXEMPTIONS FROM DISQUALIFICATION.—

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

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

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831.01, s. 831.02, s. 893.13, or s. 893.147, and any related criminal attempt, solicitation, or conspiracy under s. 777.04, shall ~~may~~ be exempted from disqualification from employment pursuant to this paragraph.

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

397.487 Voluntary certification of recovery residences.—

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

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

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

~~(1) Individual exemptions to staff disqualification or administrator ineligibility may be requested if a recovery residence deems the decision will benefit the program. Requests for exemptions must be submitted in writing to the department within 20 days after the denial by the credentialing entity and~~

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~~must include a justification for the exemption.~~

~~(2) The department may exempt a person from ss. 397.487(6) and 397.4871(5) if it has been at least 3 years since the person has completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense. An exemption from the disqualifying offenses may not be given under any circumstances for any person who is a:~~

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

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

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

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

Section 4. Present subsections (4), (5), and (6) of section

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397.4873, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, a new subsection (4) is added to that section, and subsection (1) of that section is republished, to read:

397.4873 Referrals to or from recovery residences; prohibitions; penalties.—

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

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

Section 5. Paragraph (a) of subsection (3) of section 817.505, Florida Statutes, is amended to read:

817.505 Patient brokering prohibited; exceptions; penalties.—

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

(a) Any discount, payment, waiver of payment, or payment practice not prohibited expressly authorized by 42 U.S.C. s. 1320a-7b(b) 42 U.S.C. s. 1320a-7b(b) (3) or regulations promulgated adopted thereunder regardless of whether such discount, payment, waiver of payment, or payment practice involves items or services for which payment may be made in

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whole or in part under federal health care programs as defined in 42 U.S.C. s. 1320a-7b(f), as that definition exists on July 1, 2020.

Section 6. Subsection (5) of section 397.4871, Florida Statutes, is amended to read:

397.4871 Recovery residence administrator certification.—

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

Section 7. Subsection (2) of section 435.07, Florida Statutes, is amended to read:

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

(2) Persons employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.

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175 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, or any
176 related criminal attempt, solicitation, or conspiracy under s.
177 777.04, shall ~~may~~ be exempted from disqualification from
178 employment pursuant to this chapter without application of the
179 waiting period in subparagraph (1)(a)1.

180 Section 8. This act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GAYLE HARRELL
25th District

COMMITTEES:

Health Policy, *Chair*
Appropriations Subcommittee on Health
and Human Services, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Children, Families, and Elder Affairs
Military and Veterans Affairs and Space

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

February 19, 2020

Senator Rob Bradley
201 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Bradley,

I respectfully request that **SB 1120 – Substance Abuse Services** be placed on the next available agenda for the Appropriations Committee Meeting. SB 1120 passed its last committee stop unanimously.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink that reads "Gayle".

Senator Gayle Harrell
Senate District 25

Cc: Cynthia Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019
- 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1262 (455640)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Judiciary Committee; and Senators Bracy and Rodriguez

SUBJECT: 1920 Ocoee Election Day Riots

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	<u>Dale</u>	<u>Kynoch</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1262 directs or encourages officials including the Commissioner of Education's African American History Task Force, the Secretary of State, the Secretary of Environmental Protection, and district school boards to take steps to publicize the history of the Ocoee Election Day Riots in 1920.

The bill has no fiscal impact to the state.

The bill takes effect July 1, 2020.

II. Present Situation:

The November 1920 Ocoee Violence

“Racial violence in the United States during the early 1900’s was high, with the number of lynchings of African Americans increasing from 38 in 1917 to 58 in 1918.”¹ Before the presidential election in November 1920, the Ku Klux Klan Grand Master of Florida sent a letter to a politician who had been working to register African-American voters, who tended to vote

¹ Office of Program Policy Analysis and Governmental Accountability, *Ocoee Election Day Violence – November 1920*, Report No. 19-15 at 2 (<http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1915rpt.pdf>) (Last visited February 10, 2020).

Republican.² In the letter, the Ku Klux Klan Grand Master threatened that, if the politician continued his efforts to register African Americans, “there would be serious trouble.”³

“The 1920 Census reported 255 African-American residents and 560 white residents of Ocoee.”⁴ Mose Norman, an African-American resident who was not allowed to vote in the general election for failure to pay a poll tax, recorded names of others who had not been permitted to vote in his precinct.⁵ After an altercation with either the local constable or a group of white residents, Norman went to the home of July Perry, another African-American resident, before fleeing Ocoee.⁶

“Later in the day, some white Ocoee residents formed a posse and were deputized” by the Orange County sheriff and were charged with arresting Norman and Perry.⁷ The posse went to Perry’s house, wounding Perry and his 19-year-old daughter, Caretha, with gunfire; Norman had already fled Ocoee.⁸

After retreating and requesting assistance from other areas of Orange County, the posse returned to the house and captured Caretha Perry therein.⁹ July Perry was captured in a sugarcane patch near his house and taken to a hospital to treat his gunshot wounds, after which he was placed in the custody of the Orange County sheriff and was lynched, hanged, and shot by a mob.¹⁰

A mob then set fire to all African-American-owned buildings in northern Ocoee, destroying more than 20 houses, two churches, and one fraternal lodge.¹¹ Based on differing reports, between three and 60 African Americans died resulting from the violence on November 2-3, 1920.¹² In the days following this violence, the remaining African-American residents fled Ocoee, leaving their homes and property.¹³

Section 1003.42(2)(h), F.S.

Section 1003.42(2)(h), F.S., requires members of the instructional staff of Florida public schools to teach about “[t]he history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society.”

² *Id.*

³ *Id.*

⁴ *Id.* at 3.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

III. Effect of Proposed Changes:

The bill directs the Commissioner of Education's African American History Task Force to examine ways in which the history of the Ocoee violence can be taught pursuant to s. 1003.42(2)(h), F.S. The task force is required to submit recommendations to the commissioner by March 1, 2021.

The bill also directs the Secretary of State to determine ways in which the Museum of Florida History and other state museums can propagate the history of the Ocoee violence and to seek such history's inclusion in the National Museum of African American History and Culture of the Smithsonian Institution.

The bill directs the Secretary of Environmental Protection to assess if any state park may be named in recognition of any victim of the Ocoee violence. The bill encourages district school boards to consider naming facilities in recognition of victims of the Ocoee violence.

The bill takes effect July 1, 2020 except as otherwise expressly provided in the bill.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates undesignated sections of the Florida Statutes.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on February 18, 2020:

The committee substitute:

- Removes language creating the Ocoee Election Day Riots Descendant Compensation Fund Program; and
- Removes the requirement of the Department of Economic Opportunity to prioritize applications from black business enterprises in areas directly impacted by the Ocoee violence.

CS by Judiciary on January 21, 2020:

The committee substitute differs from the underlying bill by identifying the bill number for the linked bill creating the trust fund described in SB 1264.

- B. Amendments:

None.



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576-03903-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to the 1920 Ocoee Election Day Riots; directing the Commissioner of Education's African American History Task Force to determine ways in which the 1920 Ocoee Election Day Riots may be included in required instruction on African-American history; requiring the task force to submit recommendations to the commissioner and the State Board of Education by a specified date; directing the Secretary of State to take certain action regarding the inclusion of the history of the 1920 Ocoee Election Day Riots in museum exhibits; directing the Secretary of Environmental Protection to assess naming opportunities for state parks, or a portion of a facility therein, in recognizing victims of the 1920 Ocoee Election Day Riots; authorizing the secretary to appoint a committee to assist in assessing naming opportunities; requiring the secretary to submit recommendations to the Legislature under specified circumstances; encouraging district school boards to assess naming opportunities for school facilities in recognizing victims of the 1920 Ocoee Election Day Riots; providing an effective date.

WHEREAS, in the decades following the conclusion of Reconstruction, Jim Crow laws were enacted throughout the southern United States, including Florida, which mandated



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segregation and imposed numerous restrictions, such as the imposition of poll taxes and literacy requirements, thereby suppressing the ability of African Americans to participate in the democratic process, and

WHEREAS, throughout the country, organizations such as the Ku Klux Klan staged rallies, marches, and other demonstrations in an effort to intimidate African Americans and any allies from organizing and attempting to exercise the right to vote, and

WHEREAS, as the 1920 presidential election approached, efforts were undertaken in Orange County by numerous organizations and individuals, including Judge John M. Cheney and two prominent African-American residents of Ocoee, Julius "July" Perry and Moses Norman, to register African-American voters to allow for their participation in the upcoming election, and

WHEREAS, on November 2, 1920, as several African Americans in Ocoee, including Moses Norman, unsuccessfully attempted to vote on Election Day, violence ensued as a mob of approximately 100 white men formed and marched to Julius "July" Perry's residence, and proceeded to open gunfire as Julius "July" Perry attempted to defend himself along with his property and family, and

WHEREAS, after the Perry family eventually fled the residence, Julius "July" Perry was soon arrested and subsequently shot and lynched after the mob gained access to his jail cell with the aid of local law enforcement, and

WHEREAS, the violence spread throughout the African-American community of Ocoee and upwards of 60 people are estimated to have perished while dozens of homes, two churches,



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and a lodge meeting hall were set ablaze and gunfire overtook the community, and

WHEREAS, in the aftermath of the riots, nearly all African-American residents of the community were forced to flee, abandoning their residences and property and relocating elsewhere, and

WHEREAS, there is no record that state or local government officials took any action to prevent the tragedy that occurred in Ocoee, or reasonably investigated the matter in the riot's aftermath in an effort to bring the perpetrators of the incident to justice or to allow the displaced African-American residents to return to their homes and property, and

WHEREAS, in November 2018, the Ocoee City Commission adopted a proclamation that acknowledged the acts of domestic terror inflicted upon the African-American residents of Ocoee and western Orange County on November 2, 1920, and required the installation of a historical marker in a public space describing the events of that day, and

WHEREAS, the Florida Legislature recognizes an obligation to acknowledge the injuries, damages, infringement of civil rights, and loss of life that African-American residents sustained as a result of the violence and destruction that occurred in Ocoee in November 1920, NOW, THEREFORE,

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

Section 1. The Commissioner of Education's African American History Task Force is directed to examine ways in which the history of the 1920 Ocoee Election Day Riots may be included in



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instruction on African-American history required pursuant to s. 1003.42(2)(h), Florida Statutes. The task force shall submit its recommendations to the Commissioner of Education and the State Board of Education by March 1, 2021.

Section 2. The Secretary of State is directed to:

(1) In coordination with the Division of Cultural Affairs of the Department of State, determine ways in which the Museum of Florida History and other state museums may promote the history of the 1920 Ocoee Election Day Riots through exhibits and educational programs.

(2) Collaborate with the National Museum of African American History and Culture of the Smithsonian Institution to seek inclusion of the history of the 1920 Ocoee Election Day Riots in the museum's exhibits.

Section 3. The Secretary of Environmental Protection is directed to assess if any state park, or a portion of or a facility therein, may be named in recognition of any victim of the 1920 Ocoee Election Day Riots. The secretary may appoint a committee to assess naming opportunities. If a change to state law is required in order to change the designation of a state park, or a portion of or a facility therein, the secretary shall submit any such recommendation to the President of the Senate and the Speaker of the House of Representatives.

Section 4. District school boards are encouraged to assess naming opportunities for school facilities in recognition of victims of the 1920 Ocoee Election Day Riots.

Section 5. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1262

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Judiciary Committee; and Senators Bracy and Rodriguez

SUBJECT: 1920 Ocoee Election Day Riots

DATE: February 28, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Elsesser	Cibula	JU	Fav/CS
2. Dale	Jameson	ACJ	Recommend: Fav/CS
3. Dale	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1262 directs or encourages officials including the Commissioner of Education's African American History Task Force, the Secretary of State, the Secretary of Environmental Protection, and district school boards to take steps to publicize the history of the Ocoee Election Day Riots in 1920.

The bill has no fiscal impact to the state.

The bill takes effect July 1, 2020.

II. Present Situation:

The November 1920 Ocoee Violence

"Racial violence in the United States during the early 1900's was high, with the number of lynchings of African Americans increasing from 38 in 1917 to 58 in 1918."¹ Before the presidential election in November 1920, the Ku Klux Klan Grand Master of Florida sent a letter to a politician who had been working to register African-American voters, who tended to vote

¹ Office of Program Policy Analysis and Governmental Accountability, *Ocoee Election Day Violence – November 1920*, Report No. 19-15 at 2 (<http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1915rpt.pdf>) (Last visited February 10, 2020).

Republican.² In the letter, the Ku Klux Klan Grand Master threatened that, if the politician continued his efforts to register African Americans, “there would be serious trouble.”³

“The 1920 Census reported 255 African-American residents and 560 white residents of Ocoee.”⁴ Mose Norman, an African-American resident who was not allowed to vote in the general election for failure to pay a poll tax, recorded names of others who had not been permitted to vote in his precinct.⁵ After an altercation with either the local constable or a group of white residents, Norman went to the home of July Perry, another African-American resident, before fleeing Ocoee.⁶

“Later in the day, some white Ocoee residents formed a posse and were deputized” by the Orange County sheriff and were charged with arresting Norman and Perry.⁷ The posse went to Perry’s house, wounding Perry and his 19-year-old daughter, Caretha, with gunfire; Norman had already fled Ocoee.⁸

After retreating and requesting assistance from other areas of Orange County, the posse returned to the house and captured Caretha Perry therein.⁹ July Perry was captured in a sugarcane patch near his house and taken to a hospital to treat his gunshot wounds, after which he was placed in the custody of the Orange County sheriff and was lynched, hanged, and shot by a mob.¹⁰

A mob then set fire to all African-American-owned buildings in northern Ocoee, destroying more than 20 houses, two churches, and one fraternal lodge.¹¹ Based on differing reports, between three and 60 African Americans died resulting from the violence on November 2-3, 1920.¹² In the days following this violence, the remaining African-American residents fled Ocoee, leaving their homes and property.¹³

Section 1003.42(2)(h), F.S.

Section 1003.42(2)(h), F.S., requires members of the instructional staff of Florida public schools to teach about “[t]he history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society.”

² *Id.*

³ *Id.*

⁴ *Id.* at 3.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

III. Effect of Proposed Changes:

The bill directs the Commissioner of Education's African American History Task Force to examine ways in which the history of the Ocoee violence can be taught pursuant to s. 1003.42(2)(h), F.S. The task force is required to submit recommendations to the commissioner by March 1, 2021.

The bill also directs the Secretary of State to determine ways in which the Museum of Florida History and other state museums can propagate the history of the Ocoee violence and to seek such history's inclusion in the National Museum of African American History and Culture of the Smithsonian Institution.

The bill directs the Secretary of Environmental Protection to assess if any state park may be named in recognition of any victim of the Ocoee violence. The bill encourages district school boards to consider naming facilities in recognition of victims of the Ocoee violence.

The bill takes effect July 1, 2020 except as otherwise expressly provided in the bill.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates undesignated sections of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute:

- Removes language creating the Ocoee Election Day Riots Descendant Compensation Fund Program; and
- Removes the requirement of the Department of Economic Opportunity to prioritize applications from black business enterprises in areas directly impacted by the Ocoee violence.

CS by Judiciary on January 21, 2020:

The committee substitute differs from the underlying bill by identifying the bill number for the linked bill creating the trust fund described in SB 1264.

- B. Amendments:

None.

By the Committee on Judiciary; and Senators Bracy and Rodriguez

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1 A bill to be entitled
 2 An act relating to the 1920 Ocoee Election Day Riots;
 3 creating s. 16.63, F.S.; establishing the Ocoee
 4 Election Day Riots Descendant Compensation Fund
 5 Program within the Department of Legal Affairs;
 6 specifying the purpose of the program; requiring the
 7 department to accept and process applications for
 8 payment of claims for compensation; requiring the
 9 department to provide certain notice of the program;
 10 specifying procedures and requirements regarding
 11 applications for compensation; requiring the
 12 department to approve applications for payment if
 13 certain conditions are met, subject to certain
 14 limitations; providing for contingent repeal; amending
 15 s. 288.7102, F.S.; requiring the Department of
 16 Economic Opportunity to prioritize certain
 17 applications for the Black Business Loan Program;
 18 directing the Commissioner of Education's African
 19 American History Task Force to determine ways in which
 20 the 1920 Ocoee Election Day Riots may be included in
 21 required instruction on African-American history;
 22 requiring the task force to submit recommendations to
 23 the commissioner and the State Board of Education by a
 24 specified date; directing the Secretary of State to
 25 take certain action regarding the inclusion of the
 26 history of the 1920 Ocoee Election Day Riots in museum
 27 exhibits; directing the Secretary of Environmental
 28 Protection to assess naming opportunities for state
 29 parks, or a portion of a facility therein, in

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30 recognizing victims of the 1920 Ocoee Election Day
 31 Riots; authorizing the secretary to appoint a
 32 committee to assist in assessing naming opportunities;
 33 requiring the secretary to submit recommendations to
 34 the Legislature under specified circumstances;
 35 encouraging district school boards to assess naming
 36 opportunities for school facilities in recognizing
 37 victims of the 1920 Ocoee Election Day Riots;
 38 providing effective dates.
 39

40 WHEREAS, in the decades following the conclusion of
 41 Reconstruction, Jim Crow laws were enacted throughout the
 42 southern United States, including Florida, which mandated
 43 segregation and imposed numerous restrictions, such as the
 44 imposition of poll taxes and literacy requirements, thereby
 45 suppressing the ability of African Americans to participate in
 46 the democratic process, and

47 WHEREAS, throughout the country, organizations such as the
 48 Ku Klux Klan staged rallies, marches, and other demonstrations
 49 in an effort to intimidate African Americans and any allies from
 50 organizing and attempting to exercise the right to vote, and

51 WHEREAS, as the 1920 presidential election approached,
 52 efforts were undertaken in Orange County by numerous
 53 organizations and individuals, including Judge John M. Cheney
 54 and two prominent African-American residents of Ocoee, Julius
 55 "July" Perry and Moses Norman, to register African-American
 56 voters to allow for their participation in the upcoming
 57 election, and

58 WHEREAS, on November 2, 1920, as several African Americans

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

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in Ocoee, including Moses Norman, unsuccessfully attempted to vote on Election Day, violence ensued as a mob of approximately 100 white men formed and marched to Julius "July" Perry's residence, and proceeded to open gunfire as Julius "July" Perry attempted to defend himself along with his property and family, and

WHEREAS, after the Perry family eventually fled the residence, Julius "July" Perry was soon arrested and subsequently shot and lynched after the mob gained access to his jail cell with the aid of local law enforcement, and

WHEREAS, the violence spread throughout the African-American community of Ocoee and upwards of 60 people are estimated to have perished while dozens of homes, two churches, and a lodge meeting hall were set ablaze and gunfire overtook the community, and

WHEREAS, in the aftermath of the riots, nearly all African-American residents of the community were forced to flee, abandoning their residences and property and relocating elsewhere, and

WHEREAS, there is no record that state or local government officials took any action to prevent the tragedy that occurred in Ocoee, or reasonably investigated the matter in the riot's aftermath in an effort to bring the perpetrators of the incident to justice or to allow the displaced African-American residents to return to their homes and property, and

WHEREAS, in November 2018, the Ocoee City Commission adopted a proclamation that acknowledged the acts of domestic terror inflicted upon the African-American residents of Ocoee and western Orange County on November 2, 1920, and required the

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installation of a historical marker in a public space describing the events of that day, and

WHEREAS, the Florida Legislature recognizes an obligation to redress the injuries, damages, infringement of civil rights, and loss of life that African-American residents sustained as a result of the violence and destruction that occurred in Ocoee in November 1920, NOW, THEREFORE,

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

Section 1. If SB 1264 or similar legislation establishing the Ocoee Election Day Riots Descendant Compensation Trust Fund is adopted in the 2020 Regular Session or an extension thereof, section 16.63, Florida Statutes, is created to read:

16.63 Ocoee Election Day Riots Descendant Compensation Fund Program.—

(1) The Ocoee Election Day Riots Descendant Compensation Fund Program is established in the Department of Legal Affairs. The purpose of the program is to compensate direct descendants of individuals who were killed, injured, or otherwise victimized by the violence that took place at Ocoee, Florida, on November 2, 1920.

(2) The Department of Legal Affairs shall accept and process applications for payment of claims for compensation pursuant to this section. The department shall provide reasonable notice of the availability of compensation, including through Internet postings on the department's website.

(3) A claim for compensation must be on forms approved by the department and must include all of the following:

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(a) The name and contact information of an applicant who is submitting a claim for compensation.

(b) The name of the victim who was killed, injured, or otherwise victimized as a result of the 1920 Ocoee Election Day Riots for whom the applicant is seeking compensation on behalf of.

(c) Reasonable proof establishing the applicant's lineage to an individual who was killed, injured, or otherwise victimized as a result of the 1920 Ocoee Election Day Riots, including, but not limited to, census records.

(d) A statement that the applicant affirms that he or she agrees not to seek a claim bill regarding the underlying incident from the Legislature.

(4) Upon receipt and verification of a valid claim of compensation, the department shall approve such application for payment. The amount of compensation awarded may not exceed \$150,000 per individual who was killed, injured, or otherwise victimized by the violence that took place at Ocoee. If multiple descendants of a single individual apply for compensation on behalf of that individual, the amount of compensation shall be prorated among any eligible claimants. A descendant may not receive compensation for more than one individual.

(5) This section is repealed July 1, 2024, unless the Ocoee Election Day Riots Descendant Compensation Trust Fund established pursuant to s. 16.631 is re-created by such date.

Section 2. Subsection (2) of section 288.7102, Florida Statutes, is amended to read:

288.7102 Black Business Loan Program.—

(2) The department shall establish an application and

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annual certification process for entities seeking funds to participate in providing loans, loan guarantees, or investments in black business enterprises pursuant to the Florida Black Business Investment Act. The department shall process all applications and recertifications submitted by June 1 on or before July 31. The department shall prioritize any applications for black business enterprises in areas directly impacted by the 1920 Ocoee Election Day Riots so long as such entities meet the other requirements established in this section.

Section 3. The Commissioner of Education's African American History Task Force is directed to examine ways in which the history of the 1920 Ocoee Election Day Riots may be included in instruction on African-American history required pursuant to s. 1003.42(2)(h), Florida Statutes. The task force shall submit its recommendations to the Commissioner of Education and the State Board of Education by March 1, 2021.

Section 4. The Secretary of State is directed to:

(1) In coordination with the Division of Cultural Affairs of the Department of State, determine ways in which the Museum of Florida History and other state museums may promote the history of the 1920 Ocoee Election Day Riots through exhibits and educational programs.

(2) Collaborate with the National Museum of African American History and Culture of the Smithsonian Institution to seek inclusion of the history of the 1920 Ocoee Election Day Riots in the museum's exhibits.

Section 5. The Secretary of Environmental Protection is directed to assess if any state park, or a portion of or a facility therein, may be named in recognition of any victim of

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175 the 1920 Ocoee Election Day Riots. The secretary may appoint a
176 committee to assess naming opportunities. If a change to state
177 law is required in order to change the designation of a state
178 park, or a portion of or a facility therein, the secretary shall
179 submit any such recommendation to the President of the Senate
180 and the Speaker of the House of Representatives.

181 Section 6. District school boards are encouraged to assess
182 naming opportunities for school facilities in recognition of
183 victims of the 1920 Ocoee Election Day Riots.

184 Section 7. Except as otherwise expressly provided in this
185 act, this act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 1298 (595712)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government) and Senator Simmons

SUBJECT: Office of the Judges of Compensation Claims

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Davis/Betta</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Fav/CS
3.	<u>Davis</u>	<u>Kynoch</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1298 requires judges of compensation claims to be paid “a salary equal to that of a county court judge,” which is currently \$27,258 higher than the salary of a judge of compensation claims. The bill sets the salary of the Deputy Chief Judge of Compensation Claims at \$1,000 more than that of a county court judge. County court judges are currently paid \$151,822 per year.

The proposed committee substitute appropriates \$1,114,078 in recurring funds from the Division of Administrative Hearing’s Operating Trust Fund for the purpose of increasing the salaries of the judges of compensation claims.

The bill takes effect July 1, 2020.

II. Present Situation:

Overview

Judges of compensation claims are paid \$124,564.20 per year, except the Deputy Chief Judge, who is paid \$127,422.12 per year.

Judges of Compensation Claims

The judges of compensation claims have exclusive jurisdiction over workers' compensation cases.¹ When an employer disputes an employee's claim for workers' compensation, the employee may initiate litigation of the matter by filing a petition with the Office of the Judges of Compensation Claims (OJCC). Even after a petition is filed, a workers' compensation dispute may be resolved through mediation² or arbitration.³ But, when necessary, a judge of compensation claims may hold a hearing to resolve the matter.⁴ Upon conclusion of the hearing, the judge's order may be appealed to the First District Court of Appeal, which has sole appellate jurisdiction.⁵

The OJCC is headed by the Deputy Chief Judge, who reports to the director and Chief Judge of the Division of Administrative Hearings.⁶

Judges of compensation claims are nominated by a statewide nominating commission and appointed by the Governor to a four-year term. The Governor may re-appoint a judge to successive four-year terms and may remove a judge for cause during any term.⁷

The Annual Salary of the Judges of Compensation Claims

Judges of compensation claims are paid \$124,564.20 per year, except the Deputy Chief Judge, who is paid \$127,422.12 per year.⁸

These salaries are roughly equivalent to those of administrative law judges (ALJs), who preside at the Division of Administrative Hearings. The standard ALJ salary is \$123,070 per year, while Senior ALJs are paid \$124,320 per year and the Deputy Chief ALJ is paid \$125,820 per year.⁹ The Chief Judge determines these salaries, except for his own, which is \$131,409.36, and was set by the Florida Cabinet upon his hiring.¹⁰

Until January 1, 1994, the salary of the judges of compensation claims was linked to the salary of Circuit Court judges, who are now paid \$160,688.04 annually.¹¹ But since 1994, the salary of judges of compensation claims has increased only when the Legislature has appropriated general

¹ See *Sanders v. City of Orlando*, 997 So. 2d 1089, 1094 (Fla. 2008).

² See s. 440.25, F.S.

³ See s. 440.1926, F.S.

⁴ See s. 440.25(4), F.S.

⁵ Section 440.271, F.S.

⁶ The DOAH Chief Judge acts as the OJCC's "agency head for all purposes." Section 440.45(1)(a), F.S. DOAH and the OJCC exist within the Department of Management Services, but the department may not direct DOAH or the OJCC in any way. Instead the department must "provide administrative support and service to the office to the extent requested by the director of the Division of Administrative Hearings." Section 440.45(1)(a), F.S.

⁷ *Id.*

⁸ Div. of Admin. Hearings, *Analysis of House Bill 1049* (Jan. 3, 2020) (on file with the Senate Committee on Judiciary).

⁹ Newly hired ALJs are paid \$121,320 for their first year, before being raised to the standard rate. Conversation with Cindy Ardoin, Budget Officer, Florida Division of Administrative Hearings (Jan. 14, 2020).

¹⁰ *Id.*

¹¹ Ch. 2018-9, s. 8, Laws of Fla.

state-employee salary increases. The salaries and other expenses of the OJCC are paid from the Workers' Compensation Administration Trust Fund.¹²

Workers' Compensation Administration Trust Fund

Section 440.50, F.S., creates the Workers' Compensation Administration Trust Fund. The revenue sources for this fund are fees, licenses and taxes as provided by ch. 440, F.S., including an assessment paid by carriers writing workers' compensation insurance in the state and selfinsurers. This fund pays for expenses related to the administration of ch. 440, F.S., including the salaries of judges of compensation claims. The fund is administered by the Division of Workers' Compensation within the Department of Financial Services.

III. Effect of Proposed Changes:

The bill requires judges of compensation claims to be paid "a salary equal to that of a county court judge," which is currently \$27,527.80 higher than the salary of a judge of compensation claims. The bill sets the salary of the Deputy Chief Judge of Compensation Claims at \$1,000 more than that of a county court judge. County court judges are currently paid \$151,822 per year.

The bill appropriates \$1,114,078 in recurring funds from the Division of Administrative Hearing's Operating Trust Fund for the purpose of adjusting the salaries of the judges of compensation claims.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

¹² Div. of Admin. Hearings, *Analysis of Senate Bill 780* (Feb. 11, 2019) (on file with the Senate Committee on Judiciary).

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires a recurring appropriation of \$1,114,078 from the Operating Trust Fund of the Division of Administrative Hearings. The revenue to support the Office of Judges of Compensation Claims comes from the Workers' Compensation Administration Trust Fund within the Department of Financial Services.

VI. Technical Deficiencies:

None

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 440.45 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 13, 2020:

The committee substitute adds the provision requiring that the salary of a judge of compensation claims is equal to that of a county court judge and sets the salary of the deputy chief judge at \$1,000 above that of a judge of compensation claims.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

A bill to be entitled

An act relating to the Office of the Judges of
Compensation Claims; amending s. 440.45, F.S.;
specifying the salaries of full-time judges of
compensation claims and the Deputy Chief Judge of
Compensation Claims; providing an appropriation;
providing an effective date.

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

Section 1. Paragraph (f) is added to subsection (2) of
section 440.45, Florida Statutes, to read:

440.45 Office of the Judges of Compensation Claims.—
(2)

(f) Each full-time judge of compensation claims shall
receive a salary equal to that of a county court judge. The
Deputy Chief Judge shall receive a salary of \$1,000 more per
year than the salary paid to a full-time judge of compensation
claims.

Section 2. For the 2020-2021 fiscal year, the sum of
\$1,114,087 in recurring funds is appropriated from the Operating
Trust Fund to the Division of Administrative Hearings, and the
associated salary rate of 870,392 is authorized, for the
purposes of making salary adjustments to judges of compensation
claims.

Section 3. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1298

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government) and Senator Simmons

SUBJECT: Office of the Judges of Compensation Claims

DATE: February 28, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Davis/Betta</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Fav/CS
3.	<u>Davis</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1298 requires judges of compensation claims to be paid “a salary equal to that of a county court judge,” which is currently \$27,258 higher than the salary of a judge of compensation claims. The bill sets the salary of the Deputy Chief Judge of Compensation Claims at \$1,000 more than that of a county court judge. County court judges are currently paid \$151,822 per year.

The proposed committee substitute appropriates \$1,114,078 in recurring funds from the Division of Administrative Hearing’s Operating Trust Fund for the purpose of increasing the salaries of the judges of compensation claims.

The bill takes effect July 1, 2020.

II. Present Situation:

Overview

Judges of compensation claims are paid \$124,564.20 per year, except the Deputy Chief Judge, who is paid \$127,422.12 per year.

Judges of Compensation Claims

The judges of compensation claims have exclusive jurisdiction over workers' compensation cases.¹ When an employer disputes an employee's claim for workers' compensation, the employee may initiate litigation of the matter by filing a petition with the Office of the Judges of Compensation Claims (OJCC). Even after a petition is filed, a workers' compensation dispute may be resolved through mediation² or arbitration.³ But, when necessary, a judge of compensation claims may hold a hearing to resolve the matter.⁴ Upon conclusion of the hearing, the judge's order may be appealed to the First District Court of Appeal, which has sole appellate jurisdiction.⁵

The OJCC is headed by the Deputy Chief Judge, who reports to the director and Chief Judge of the Division of Administrative Hearings.⁶

Judges of compensation claims are nominated by a statewide nominating commission and appointed by the Governor to a four-year term. The Governor may re-appoint a judge to successive four-year terms and may remove a judge for cause during any term.⁷

The Annual Salary of the Judges of Compensation Claims

Judges of compensation claims are paid \$124,564.20 per year, except the Deputy Chief Judge, who is paid \$127,422.12 per year.⁸

These salaries are roughly equivalent to those of administrative law judges (ALJs), who preside at the Division of Administrative Hearings. The standard ALJ salary is \$123,070 per year, while Senior ALJs are paid \$124,320 per year and the Deputy Chief ALJ is paid \$125,820 per year.⁹ The Chief Judge determines these salaries, except for his own, which is \$131,409.36, and was set by the Florida Cabinet upon his hiring.¹⁰

Until January 1, 1994, the salary of the judges of compensation claims was linked to the salary of Circuit Court judges, who are now paid \$160,688.04 annually.¹¹ But since 1994, the salary of judges of compensation claims has increased only when the Legislature has appropriated general

¹ See *Sanders v. City of Orlando*, 997 So. 2d 1089, 1094 (Fla. 2008).

² See s. 440.25, F.S.

³ See s. 440.1926, F.S.

⁴ See s. 440.25(4), F.S.

⁵ Section 440.271, F.S.

⁶ The DOAH Chief Judge acts as the OJCC's "agency head for all purposes." Section 440.45(1)(a), F.S. DOAH and the OJCC exist within the Department of Management Services, but the department may not direct DOAH or the OJCC in any way. Instead the department must "provide administrative support and service to the office to the extent requested by the director of the Division of Administrative Hearings." Section 440.45(1)(a), F.S.

⁷ *Id.*

⁸ Div. of Admin. Hearings, *Analysis of House Bill 1049* (Jan. 3, 2020) (on file with the Senate Committee on Judiciary).

⁹ Newly hired ALJs are paid \$121,320 for their first year, before being raised to the standard rate. Conversation with Cindy Ardoin, Budget Officer, Florida Division of Administrative Hearings (Jan. 14, 2020).

¹⁰ *Id.*

¹¹ Ch. 2018-9, s. 8, Laws of Fla.

state-employee salary increases. The salaries and other expenses of the OJCC are paid from the Workers' Compensation Administration Trust Fund.¹²

Workers' Compensation Administration Trust Fund

Section 440.50, F.S., creates the Workers' Compensation Administration Trust Fund. The revenue sources for this fund are fees, licenses and taxes as provided by ch. 440, F.S., including an assessment paid by carriers writing workers' compensation insurance in the state and selfinsurers. This fund pays for expenses related to the administration of ch. 440, F.S., including the salaries of judges of compensation claims. The fund is administered by the Division of Workers' Compensation within the Department of Financial Services.

III. Effect of Proposed Changes:

The bill requires judges of compensation claims to be paid "a salary equal to that of a county court judge," which is currently \$27,527.80 higher than the salary of a judge of compensation claims. The bill sets the salary of the Deputy Chief Judge of Compensation Claims at \$1,000 more than that of a county court judge. County court judges are currently paid \$151,822 per year.

The bill appropriates \$1,114,078 in recurring funds from the Division of Administrative Hearing's Operating Trust Fund for the purpose of adjusting the salaries of the judges of compensation claims.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

¹² Div. of Admin. Hearings, *Analysis of Senate Bill 780* (Feb. 11, 2019) (on file with the Senate Committee on Judiciary).

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires a recurring appropriation of \$1,114,078 from the Operating Trust Fund of the Division of Administrative Hearings. The revenue to support the Office of Judges of Compensation Claims comes from the Workers' Compensation Administration Trust Fund within the Department of Financial Services.

VI. Technical Deficiencies:

None

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 440.45 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Appropriations on February 27, 2020:

The committee substitute adds the provision requiring that the salary of a judge of compensation claims is equal to that of a county court judge and sets the salary of the deputy chief judge at \$1,000 above that of a judge of compensation claims.

B. Amendments:

None.

By Senator Simmons

9-01564-20

20201298__

A bill to be entitled

An act relating to the Office of the Judges of Compensation Claims; amending s. 440.45, F.S.; providing an appropriation to the Division of Administrative Hearings for adjustments to salaries of the judges of compensation claims; requiring the Deputy Chief Judge to recommend such salary adjustments within the appropriated amount; requiring that such salary adjustments be paid out of a specified trust fund; providing an effective date.

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

Section 1. Paragraph (f) is added to subsection (2) of section 440.45, Florida Statutes, to read:

440.45 Office of the Judges of Compensation Claims.—

(2)

(f) Beginning with the 2020-2021 fiscal year, the sum of \$1,159,440 in recurring funds from the Operating Trust Fund is appropriated to the Division of Administrative Hearings, and the associated salary rate of 870,392 is authorized, for the purpose of making adjustments to salaries of the judges of compensation claims. The Deputy Chief Judge shall recommend adjustments to the salaries of the judges of compensation claims within the amount appropriated by this paragraph. The salary adjustments must be paid out of the Workers' Compensation Administration Trust Fund established under s. 440.50.

Section 2. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 14, 2020

I respectfully request that **Senate Bill 1298**, relating to Office of the Judges of Compensation Claims, be placed on the:

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

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "David Simmons", written over a horizontal line.

Senator David Simmons
Florida Senate, District 9

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020

Meeting Date

1298

Bill Number (if applicable)

Topic Judges of Compensation Claims

Amendment Barcode (if applicable)

Name Grace Lovett

Job Title V.P. Government Affairs

Address 227 S. Adams St.

Street

Phone 850 222 4082

Tallahassee FL 32301

City

State

Zip

Email grace@frf.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Retail Federation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

1298

Bill Number (if applicable)

Topic JUDGES OF COMPENSATION CLAIMS

Amendment Barcode (if applicable)

Name RICHARD CHAIT

Job Title ATTORNEY - CHAIR OF LEGISLATIVE COMMITTEE - WORKERS' COMP SECTION OF FLA BAR

Address 2030 S. DOUGLAS RD - STE 217

Phone 305 442 2318

Street

CORAL GABLES

FL

33134

City

State

Zip

Email RICHARD.CHAIT@FORTNAWORKERS.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing WORKERS' COMPENSATION SECTION - FLA BAR

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

* BUT NOT FOR THE SECTION

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1312

INTRODUCER: Appropriations Committee; and Senators Montford and Gainer

SUBJECT: Voting Systems

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Roberts</u>	<u>EE</u>	Favorable
2.	<u>Hackett</u>	<u>McVane</u>	<u>GO</u>	Favorable
3.	<u>Wells</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1312 gives county canvassing boards and supervisors of elections the *option* to use state-certified, digital-imaging, automated tabulating equipment that is not part of the county's voting system to conduct both machine and manual *recounts*. Currently, only nine counties — Bay, Broward, Columbia, Hillsborough, Indian River, Leon, Nassau, Putnam, and St. Lucie — are expected to use such equipment to conduct *post-certification*, automated *audits* for the 2020 election cycle.

The bill authorizes the logic and accuracy testing of voting tabulating equipment to start as early as 25 days before early voting begins, rather than 10 days before early voting begins as under current law, to avoid any delay in the canvassing of vote-by-mail ballots. This section is effective upon becoming a law.

The bill has an indeterminate fiscal impact.

The bill takes effect January 1, 2021, except as otherwise expressly provided.

II. Present Situation:

Florida's Voting Systems

Florida's Electronic Voting Systems Act makes the Department of State responsible for developing and adopting standards for electronic voting and for certifying electronic voting systems for use in the state.¹ A "voting system" is a method of casting and processing votes that consists of electromechanical components and, in most instances, utilizes marksense² ballots.³ The voting system may also include things like procedures, operating manuals, supplies, printouts, and other software necessary for the system's operation.

The Division of Elections within the Department of State must approve all voting systems used in Florida elections. Florida's certification process is among the most comprehensive in the nation. The Electronic Voting Systems Act in the Florida Elections Code prescribes the general standards for the approval of voting systems; division rule further details the complex, technical certification requirements.⁴ The certification process tests the reliability of both the hardware and software components of the voting system to make sure that they meet rigorous standards.

Recounts

The preliminary results of an extremely close election may warrant a statutory *machine* and/or *manual* recount, depending on the margin of victory. The recount occurs *before* the election results are certified. The purpose of the recount is to determine *who won an election*. The State Elections Canvassing Commission, in the case of federal, state, and multicounty races, and the local county canvassing board in most other elections, must certify the results by the 9th day after a primary election and the 14th day after a general election.⁵

The current recount framework, with only a few minor modifications for peripheral issues, has been in effect since the Legislature enacted the Florida Election Reform Act of 2001 – which completely overhauled the state's outdated recount process after the 2000 U.S. presidential recount.

¹ See ss. 101.5601 – 101.5614, F.S.

² The term "marksense ballots" is defined to mean "that printed sheet of paper, used in conjunction with an electronic or electromechanical vote tabulation voting system, containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote." Section 97.021(5)(a), F.S.

³ Section 97.021(45), F.S.

⁴ Sections 101.5605 and 101.5606, F.S.; see, Florida Division of Elections, Bureau of Voting Systems Certification, Form DS-DE 101 (eff. Jan. 12, 2005) (incorporated by reference, Rule 1S-5.001, F.A.C.); and the 66-page document of the Florida Division of Elections, Bureau of Voting Systems Certification, Florida Voting System Standards, containing technical requirements for certification, available at <http://dos.myflorida.com/media/693718/dsde101.pdf> (last visited February 13, 2020).

⁵ Section 102.111(2), F.S. County canvassing boards must submit final returns to the Department of State for races certified by the Elections Canvassing Commission no later than 5:00 p.m. on the 7th day after a primary election and by noon on the 12th day after a general election. Section 102.112(1),(2), F.S. (Prior to 2007, the deadline for the county canvassing board to submit general election results was even earlier — 5:00 p.m. on the 11th day after the election. Chapter 2007-30, s. 32, LAWS OF FLA.).

Machine Recounts

If the *first* set of unofficial results⁶ indicate that the margin of victory in any race is one-half of one percent or less, each canvassing board must run the marksense ballots through the *voting system's* automatic tabulating equipment for every affected precinct.⁷ During this machine recount process, the tabulators sort out the overvotes and undervotes, in case the results are close enough to warrant a manual recount of overvotes and undervotes. Touchscreen ballots for disabled voters are recounted by examining and reconciling discrepancies in the precinct tabulator counters. There are also requirements for canvassing boards to perform L & A (“logic-and-accuracy”) tests on the tabulation equipment prior to re-tabulation, duplicating damaged ballots, and addressing voting discrepancies.

Manual Recounts

If the machine recount results comprising the *second* set of unofficial results⁸ indicate a margin of victory of one-quarter of one percent or less, the county canvassing board generally must conduct a manual recount of the *overvotes* and *undervotes*.⁹

The majority of the manual recount process involves teams of two electors (preferably from opposing parties) reviewing marksense paper ballots to determine whether there is a “clear indication on the ballot that the voter has made a definite choice” – a very detailed process in the case of some markings.¹⁰ If a team cannot agree, the ballot is “bumped up” to the canvassing board for a final determination.¹¹

Recounts are governed by complex procedures and requirements designed to protect the integrity of the process, involving:

- Duplication of ballots;
- Security of ballots during the recount;
- Time and location of the recount;
- Opportunity for public observance;
- Objections to ballot determinations;
- Recordation of recount proceedings; and,
- Processes relating to affected candidates.¹²

⁶ County canvassing boards must report the first set of unofficial results in federal, statewide, state, or multicounty office or ballot measure to the Department of State by noon of the 3rd day after a primary election and noon of the 4th day after a general election. Section 102.141(5), F.S.

⁷ Section 102.141(7), F.S. A losing candidate within one-half of one percent or less can waive the automatic recount in writing. *Id.*

⁸ County canvassing boards must report the second set of unofficial results in federal, statewide, state, or multicounty office or ballot measure to the Department of State by 3:00 p.m. of the 5th day after a primary election and 3:00 p.m. of the 9th day after a general election. Section 102.141(7)(c), F.S.

⁹ Section 102.166(1), F.S. A manual recount is not required if the losing candidate waives the recount or if the number of overvotes and undervotes to be recounted is fewer than the number of votes needed to change the election outcome. *Id.*

¹⁰ Section 102.166(4)(b) and (5)(a), F.S. The division has a 14-page rule detailing which ballot markings constitute a valid vote in the context of how a voter filled out a particular ballot. Rule 1S-2.027, F.A.C. There are also some relatively straightforward rules for counting touchscreen ballots cast on disability voting equipment. *Id.*

¹¹ Section 102.166(5)(c), F.S.

¹² Section 102.166(5)(b) and (d), F.S.; Rule 1S-2.031, F.A.C. (Recount Procedures).

The recount process – both machine and manual – creates numerous logistical and organizational challenges for county supervisors of elections; depending on the race and the number of ballots involved, it can be a very time-consuming and labor-intensive process. With rare exception,¹³ county canvassing boards and supervisors of elections have repeatedly risen to the challenge when a state-certified recount has been necessary.¹⁴

Voting System Audits

Voting system audits, as distinct from recounts, are conducted *after* the final canvassing board certifies the election results for the purposes of *confirming* the accuracy of the *voting system tabulation* and *identifying problems and recommending cures for future elections*.

Section 101.591(1), F.S., provides:

“Immediately following the certification of each election, the county canvassing board... shall conduct a manual audit or an automated, independent audit of the voting systems used in randomly selected precincts (emphasis added).

Manual random audits consist of a public, hand tally of one to two percent of precincts in a single race on the ballot.¹⁵ The audit includes a tally of Election Day, vote-by-mail, early voting, provisional, and overseas ballots.

Automated audits are much more extensive, tallying votes cast across every race that appears on the ballot.¹⁶ The tally includes all election day, vote-by-mail, early voting, provisional, and

¹³ In the 2018 General Election, Broward, Hillsborough, Miami-Dade, and Palm Beach counties were reported to have missed an interim deadline for submitting *unofficial* results to the state. Frances Robles, New York Times, Nearly 3,000 Votes Disappeared from Florida’s Recount. That’s Not Supposed to Happen (Nov. 16, 2018), available at <https://www.nytimes.com/2018/11/16/us/voting-machines-florida.html> (last visited February 13, 2020). Notwithstanding, all but Palm Beach County, because of its antiquated voting system hardware, were able to certify *final* results to the state in all recount races by the deadline on the 12th day following the election.

¹⁴ For more than eight election cycles beginning in 2002, county canvassing boards conducted *recounts in 37 elections* (37 machine; 15 manual) (review of primary, general, and special election results from 2002-2018, excluding the 2018 General Election). *See generally*, Florida Division of Elections, Election Results Archive website, available at <https://results.elections.myflorida.com/> (last visited February 13, 2020). Some of these recounts may have involved multiple counties, effectively increasing the total numbers (assuming each county’s recount constitutes a separate event). In the 2018 General Election, canvassing boards and supervisors *simultaneously* conducted an additional 204 countywide *machine* recounts and 137 countywide *manual* recounts in three separate statewide races (U.S. Senate, Governor, and Commissioner of Agriculture), one Florida Senate race (District 18), and two Florida House races (District 26 and District 89). *See generally*, Florida Division of Elections, Election Results Archive website, available at <https://results.elections.myflorida.com/> (last visited February 13, 2020).

¹⁵ Section 101.591(2)(a), F.S.

¹⁶ Section 101.591(2)(b), F.S. In 2013, Florida became the first state to give counties the option of conducting post-certification audits either manually or through an automated, independent method. Chapter 2013-57, s. 10, LAWS OF FLA; Hillary Lincoln, Marketing and Communications Manager, Clear Ballot, Clear Ballot’s Audit of Florida’s Presidential Election Results a Success (Dec. 14, 2016) (press release), available at <http://www.prnewswire.com/news-releases/clear-ballots-audit-of-floridas-presidential-election-results-a-success-300378422.html> (last visited February 13, 2020) [hereinafter, Clear Ballot, 2016 Press Release]. The Florida Division of Elections indicates that the *ClearAudit* digital imaging system from Clear Ballot Group of Boston, MA, was the only system approved to conduct automated audits for the 2016 and 2018 general election cycles. *See*, Florida Division of Elections, Approvals and Technical Advisories (identifying Democracy

overseas ballot in at least of 20 percent of the precincts chosen at random by the canvassing board.

The division “approves” the independent audit equipment pursuant to both statutory and administrative rule standards. The automated audit equipment must be:¹⁷

- Completely independent of the primary voting system;
- Fast enough to produce audit results no later than midnight of the 7th day following election certification; and
- Capable of demonstrating that the audit system has accurately tallied the ballots.

Administrative Rule 1S-5.026, F.A.C., contains additional “approval” requirements and procedures, which are not as comprehensive as the requirements for certifying full voting systems.¹⁸

The canvassing board must complete the audit no later than midnight of the 7th day after it certifies the election results.¹⁹ The canvassing board must provide a report to the Department of State by the 15th day after completing the audit that addresses:²⁰

- The overall accuracy of the audit;
- A description of any problems or discrepancies encountered;
- The likely cause of such problems or discrepancies; and
- Recommended corrective action with respect to avoiding or mitigating such circumstances in future elections.

If a manual recount takes place, the affected canvassing board is not required to conduct the audit.²¹

Live, Inc.’s, *LiveBallot* electronic ballot delivery/duplication [non-audit] system as the only other system that the division “approved”), available at <http://dos.myflorida.com/elections/voting-systems/approvals-and-technical-advisories/> (last visited February 13, 2020); Maria Matthews, Director, Florida Division of Elections, *ClearAudit 1.4.4. Approval Letter* (July 27, 2018), available at <https://dos.myflorida.com/media/699784/clearaudit-144-approval-7272018.pdf> (approving *ClearAudit* as alternative to manual audit process provided in s. 101.591, F.S., for the 2018 election cycle) (last visited February 13, 2020); Maria Matthews, Director, Florida Division of Elections, *Clear Ballot Group’s ClearAudit 1.0.6 Interim Approval Extension Letter* (Jan. 25, 2016) (approving *ClearAudit* as alternative to manual audit process provided in s. 101.591, F.S., for the 2016 election cycle), available at <http://dos.myflorida.com/media/695954/clearaudit-106-interim-approval-extension-1252016.pdf> (last visited February 13, 2020). Seven of Florida’s 67 counties – Bay, Broward, Columbia, Leon, Nassau, Putnam, and St. Lucie – used the Clear Ballot product to audit nearly 14 percent of the ballots cast in the Florida 2016 General Election. Clear Ballot, *2016 Press Release*. Since that time, it is the understanding of the Senate Ethics and Elections Committee staff that Hillsborough and Indian River counties have also purchased the equipment and plan to use it to conduct the legally required, post-election-certification audits in the 2020 election cycle; and that Palm Beach may be piloting the technology. See E-mail from Ronald Labasky, Executive Director, Florida Supervisors of Elections, to Senate Ethics and Elections Committee staff (Feb. 13, 2020) (On file with the Senate Appropriations Committee).

¹⁷ Section 101.591(2)(c), F.S.

¹⁸ Rule 1S-5.026, F.A.C. (Post-Election Certification Voting System Audit).

¹⁹ Section 101.591(4), F.S.

²⁰ Section 101.591(5), F.S.

²¹ Section 101.591(6), F.S.

Logic and Accuracy Testing; Voting Tabulators

Each county election supervisor publicly tests the voting tabulating equipment for proper operation within 10 days before the start of early voting in the county.²² Since each supervisor has the discretion to begin early voting from the 10th to the 15th day before the election,²³ supervisors must conduct logic and accuracy testing sometime between the 20th and 25th days before an election.

In 2019, the Legislature's major election administration reform act moved up by one week the earliest starting date to canvass vote-by-mail ballots from the 15th to the 22nd day before the start of an election.²⁴ The act's oversight in not conforming the overlapping logic and accuracy testing dates, however, means that supervisors who don't start early voting until the 10th, 11th, or 12th day before an election will have to delay starting their vote-by-mail canvass by a couple of days in order to complete logic and accuracy testing.

III. Effect of Proposed Changes:

The bill grants county canvassing boards and supervisors of elections the *option* to use digital imaging, automated tabulating equipment that is not part of the voting system to conduct *pre-certification* machine *and* manual recounts.

In the machine recount process, the ballots are run through the digital imaging tabulators and not the voting system's tabulators that performed the original tally. Overvotes and undervotes may be sorted physically or digitally, in case the results are close enough to require a manual recount.

To facilitate faster manual recounts of overvotes and undervotes, the bill specifically allows for the counting of the actual paper ballots *or* the digital image of the ballots. The bill clarifies that it does not preclude the comparison of a digital image of the ballot with its corresponding physical paper ballot during a manual recount.

Further, the bill directs the Florida Division of Elections to adopt by rule "procedures relating to the certification, and the use thereof, of automatic tabulating equipment that is not part of a voting system." Use of the word "certification" suggests a higher threshold for authorization than the current "approval" process for automated *audit* systems, something more akin to the *voting systems* certification standards.

Related to logic and accuracy testing, the bill authorizes the testing of voting tabulating equipment as early as 25 days before early voting begins, rather than 10 days before early voting begins as under current law. This section of the bill is effective upon becoming a law.

Except as otherwise provided, the bill takes effect on January 1, 2020.

²² Section 101.5612 (1) and (2), F.S.

²³ Section 101.657(1)(d), F.S.

²⁴ Section 101.68(2)(a), F.S.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

To the extent a county chooses to purchase digital imaging, automated tabulating equipment for recounts, private sector companies that manufacture, sell, or lease such systems may benefit.

C. Government Sector Impact:

The bill makes the use of digital imaging systems for recounts permissive. To the extent a county elects to use such equipment that is not part of the voting system, that county may incur additional costs to purchase the equipment. However, to the extent a county uses such equipment to conduct automated audits, those counties may realize cost savings in the event of a recount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 4 of the bill amends s. 106.166, F.S., to require the Florida Division of Elections to adopt by rule “procedures relating to the certification, and the use thereof, of automatic tabulating equipment that is not part of a voting system.”

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 97.021, 101.5612, 101.5614, 102.141, and 102.166.

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

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

CS by Appropriations on February 27, 2020:

The committee substitute:

- Authorizes the logic and accuracy testing of voting tabulating equipment to start as early as 25 days before early voting begins, rather than 10 days before early voting begins as under current law, to avoid any delay in the canvassing of vote-by-mail ballots. This section is effective upon becoming a law.
- Clarifies that the bill does not preclude the comparison of a digital image of the ballot with its corresponding physical paper ballot during a manual recount.
- Changes the effective date of the bill to January 1, 2021, except as otherwise expressly provided, making most of the provisions of the bill effective after the 2020 General Election.

B. Amendments:

None.



561048

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Montford) recommended the following:

Senate Amendment (with directory and title amendments)

Delete line 179

and insert:

(6) Nothing in this section precludes a county canvassing board or local board involved in the recount from comparing a digital image of a ballot to the corresponding physical paper ballot during a manual recount.

Section 5. Effective upon becoming a law, subsection (2) of section 101.5612, Florida Statutes, is amended to read:



561048

101.5612 Testing of tabulating equipment.—

(2) On any day not more than 25 ~~10~~ days before ~~prior to~~ the commencement of early voting as provided in s. 101.657, the supervisor of elections shall have the automatic tabulating equipment publicly tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. If the ballots to be used at the polling place on election day are not available at the time of the testing, the supervisor may conduct an additional test not more than 10 days before election day. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication on the supervisor of elections' website and once in one or more newspapers of general circulation in the county or, if there is no newspaper of general circulation in the county, by posting the notice in at least four conspicuous places in the county. The supervisor or the municipal elections official may, at the time of qualifying, give written notice of the time and location of the public preelection test to each candidate qualifying with that office and obtain a signed receipt that the notice has been given. The Department of State shall give written notice to each statewide candidate at the time of qualifying, or immediately at the end of qualifying, that the voting equipment will be tested and advise each candidate to contact the county supervisor of elections as to the time and location of the public preelection test. The supervisor or the municipal elections official shall, at least 30 ~~15~~ days before ~~prior to~~ the commencement of early voting as provided in s. 101.657, send written notice by certified mail to the county party chair of each political party and to all candidates for



561048

other than statewide office whose names appear on the ballot in the county and who did not receive written notification from the supervisor or municipal elections official at the time of qualifying, stating the time and location of the public preelection test of the automatic tabulating equipment. The canvassing board shall convene, and each member of the canvassing board shall certify to the accuracy of the test. For the test, the canvassing board may designate one member to represent it. The test shall be open to representatives of the political parties, the press, and the public. Each political party may designate one person with expertise in the computer field who shall be allowed in the central counting room when all tests are being conducted and when the official votes are being counted. The designee shall not interfere with the normal operation of the canvassing board.

Section 6. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect January 1, 2021.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete line 115

and insert:

102.166, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

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

And the title is amended as follows:

Delete lines 19 - 20



561048

69 and insert:
70 tabulating equipment for manual recounts; providing
71 construction; amending s. 101.5612, F.S.; revising the
72 timeframes for conducting public preelection testing
73 of automatic tabulating equipment; providing effective
74 dates.

By Senator Montford

3-01197A-20

20201312__

1 A bill to be entitled
 2 An act relating to voting systems; amending s. 97.021,
 3 F.S.; defining the term "automatic tabulating
 4 equipment" for purposes of the Florida Election Code;
 5 amending s. 101.5614, F.S.; revising procedures
 6 governing the canvassing of returns to specify usage
 7 of a voting system's automatic tabulating equipment;
 8 amending s. 102.141, F.S.; clarifying the
 9 circumstances under which ballots must be processed
 10 through automatic tabulating equipment in a recount;
 11 amending s. 102.166, F.S.; specifying the manner by
 12 which a manual recount may be conducted; revising
 13 requirements for hardware or software used in a manual
 14 recount; authorizing overvotes and undervotes to be
 15 identified and sorted physically or digitally in a
 16 manual recount; revising minimum requirements for
 17 Department of State rules to require procedures
 18 regarding the certification and use of automatic
 19 tabulating equipment for manual recounts; providing an
 20 effective date.
 21
 22 Be It Enacted by the Legislature of the State of Florida:
 23
 24 Section 1. Present subsections (5) through (46) of section
 25 97.021, Florida Statutes, are renumbered as subsections (6)
 26 through (47), respectively, and a new subsection (5) is added to
 27 that section, to read:
 28 97.021 Definitions.—For the purposes of this code, except
 29 where the context clearly indicates otherwise, the term:

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

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30 (5) "Automatic tabulating equipment" means an apparatus
 31 that automatically examines, counts, and records votes.
 32 Section 2. Paragraph (a) of subsection (4) and subsections
 33 (6) and (7) of section 101.5614, Florida Statutes, are amended
 34 to read:
 35 101.5614 Canvass of returns.—
 36 (4) (a) If any vote-by-mail ballot is physically damaged so
 37 that it cannot properly be counted by the voting system's
 38 automatic tabulating equipment, a true duplicate copy shall be
 39 made of the damaged ballot in the presence of witnesses and
 40 substituted for the damaged ballot. Likewise, a duplicate ballot
 41 shall be made of a vote-by-mail ballot containing an overvoted
 42 race or a marked vote-by-mail ballot in which every race is
 43 undervoted which shall include all valid votes as determined by
 44 the canvassing board based on rules adopted by the division
 45 pursuant to s. 102.166(4). Upon request, a physically present
 46 candidate, a political party official, a political committee
 47 official, or an authorized designee thereof, must be allowed to
 48 observe the duplication of ballots. All duplicate ballots shall
 49 be clearly labeled "duplicate," bear a serial number which shall
 50 be recorded on the defective ballot, and be counted in lieu of
 51 the defective ballot. After a ballot has been duplicated, the
 52 defective ballot shall be placed in an envelope provided for
 53 that purpose, and the duplicate ballot shall be tallied with the
 54 other ballots for that precinct.
 55 (6) Vote-by-mail ballots may be counted by the voting
 56 system's automatic tabulating equipment if they have been marked
 57 in a manner which will enable them to be properly counted by
 58 such equipment.

Page 2 of 7

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(7) The return printed by the voting system's automatic tabulating equipment, to which has been added the return of write-in, vote-by-mail, and manually counted votes and votes from provisional ballots, shall constitute the official return of the election upon certification by the canvassing board. Upon completion of the count, the returns shall be open to the public. A copy of the returns may be posted at the central counting place or at the office of the supervisor of elections in lieu of the posting of returns at individual precincts.

Section 3. Paragraph (a) of subsection (7) of section 102.141, Florida Statutes, is amended to read:

102.141 County canvassing board; duties.—

(7) If the unofficial returns reflect that a candidate for any office was defeated or eliminated by one-half of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-half of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-half of a percent or less of the votes cast on such measure, a recount shall be ordered of the votes cast with respect to such office or measure. The Secretary of State is responsible for ordering recounts in federal, state, and multicounty races. The county canvassing board or the local board responsible for certifying the election is responsible for ordering recounts in all other races. A recount need not be ordered with respect to the returns for any office, however, if the candidate or candidates defeated or eliminated from contention for such office by one-half of a percent or less of the votes cast for such office request in writing that a recount

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not be made.

(a) Each canvassing board responsible for conducting a recount shall put each marksense ballot through automatic tabulating equipment and determine whether the returns correctly reflect the votes cast. If any marksense ballot is physically damaged so that it cannot be properly counted by the automatic tabulating equipment during the recount, a true duplicate shall be made of the damaged ballot pursuant to the procedures in s. 101.5614(4). Immediately before the start of the recount, a test of the tabulating equipment shall be conducted as provided in s. 101.5612. If the test indicates no error, the recount tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly. If an error is detected, the cause therefor shall be ascertained and corrected and the recount repeated, as necessary. The canvassing board shall immediately report the error, along with the cause of the error and the corrective measures being taken, to the Department of State. No later than 11 days after the election, the canvassing board shall file a separate incident report with the Department of State, detailing the resolution of the matter and identifying any measures that will avoid a future recurrence of the error. If the automatic tabulating equipment used in a recount is not part of the voting system and the ballots have already been processed through such equipment, the canvassing board is not required to put each ballot through any automatic tabulating equipment again.

Section 4. Subsections (1), (2), and (5) of section 102.166, Florida Statutes, are amended to read:

102.166 Manual recounts of overvotes and undervotes.—

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(1) If the second set of unofficial returns pursuant to s. 102.141 indicates that a candidate for any office was defeated or eliminated by one-quarter of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-quarter of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-quarter of a percent or less of the votes cast on such measure, a manual recount of the overvotes and undervotes cast in the entire geographic jurisdiction of such office or ballot measure shall be ordered unless:

(a) The candidate or candidates defeated or eliminated from contention by one-quarter of 1 percent or fewer of the votes cast for such office request in writing that a recount not be made; or

(b) The number of overvotes and undervotes is fewer than the number of votes needed to change the outcome of the election.

The Secretary of State is responsible for ordering a manual recount for federal, state, and multicounty races. The county canvassing board or local board responsible for certifying the election is responsible for ordering a manual recount for all other races. A manual recount consists of a recount of marksense ballots or of digital images of those ballots by a person.

(2) Any hardware or software used to identify and sort overvotes and undervotes for a given race or ballot measure must be certified by the Department of State ~~as part of the voting system pursuant to s. 101.015.~~ Any such hardware or software

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must be capable of simultaneously identifying and sorting overvotes and undervotes in multiple races while simultaneously counting votes. Overvotes and undervotes must be identified and sorted while recounting ballots pursuant to s. 102.141. Overvotes and undervotes may be identified and sorted physically or digitally.

(5) Procedures for a manual recount are as follows:

(a) The county canvassing board shall appoint as many counting teams of at least two electors as is necessary to manually recount the ballots. A counting team must have, when possible, members of at least two political parties. A candidate involved in the race shall not be a member of the counting team.

(b) Each duplicate ballot prepared pursuant to s. 101.5614(4) or s. 102.141(7) shall be compared with the original ballot to ensure the correctness of the duplicate.

(c) If a counting team is unable to determine whether the ballot contains a clear indication that the voter has made a definite choice, the ballot shall be presented to the county canvassing board for a determination.

(d) The Department of State shall adopt detailed rules prescribing additional recount procedures for each certified voting system which shall be uniform to the extent practicable. The rules shall address, at a minimum, the following areas:

1. Security of ballots during the recount process;
2. Time and place of recounts;
3. Public observance of recounts;
4. Objections to ballot determinations;
5. Record of recount proceedings; ~~and~~
6. Procedures relating to candidate and petitioner

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representatives; and

7. Procedures relating to the certification and the use of
automatic tabulating equipment that is not part of a voting
system.

Section 5. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Environment and Natural Resources, *Chair*
Education, *Vice Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Education
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR BILL MONTFORD

Minority Leader Pro Tempore
3rd District

February 17, 2020

Senator Rob Bradley, Chair
Senate Appropriations Committee
414 Senate Office Building
Tallahassee, Florida 32399-1100

Dear Chair Bradley,

I respectfully request that the following bills be placed on the next Appropriations Committee Agenda.

SB 1312 – A bill relating to Voting Systems.

Your consideration is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bill Montford".

William J. Montford III

WJM:rm

REPLY TO:

- ☐ 410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- ☐ 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-2020

Meeting Date

1312

Bill Number (if applicable)

561048

Amendment Barcode (if applicable)

Topic VOTING SYSTEMS / RESULTS

Name MARK EARLEY

Job Title SUPERVISOR OF ELECTIONS

Address 2480-1 APALACHICHA RD NW

Street

TALLAH FL 32301

City

State

Zip

Phone _____

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL SUPERVISORS OF ELECTIONS + VOTERS OF LEON CO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

SB 1312

Bill Number (if applicable)

Topic Voting Systems

Amendment Barcode (if applicable)

Name FRENCH BROWN

Job Title Lobbyist

Address 118 S. Monroe St. Suite 815

Phone 850 459 0992

Street

Tallahassee

FL

32301

City

State

Zip

Email fbrown@deanhead.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Verified Voting

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

1312
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jasmyne Henderson

Job Title Lobbyist

Address 1020 East Park Avenue

Phone (850) 216-1002

Tallahassee Florida 32301
City State Zip

Email Jasmyne@pittman-law.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Miami-Dade County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020
Meeting Date

1312
Bill Number (if applicable)

Topic Voting Systems

Amendment Barcode (if applicable)

Name David Ramba

Job Title Lobbyist

Address 120 S Monroe St
Street

Phone _____

TLH FL 32301
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Supervisors of Elections

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-2020

Meeting Date

1312

Bill Number (if applicable)

Topic VOTING SYSTEMS / RECOUNTS

Amendment Barcode (if applicable)

Name MARK EARLEY

Job Title SUPERVISOR OF ELECTIONS

Address 2990-1 APACHEE Pkwy

Phone 850 606 8683

Street

TALLAHASSEE FL 32301

Email earley@leecountyfl.gov

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL SUPERVISORS OF ELECTIONS & VOTERS OF LEON COUNTY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2-27-20

Meeting Date

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

SB 1312

Bill Number (if applicable)

Topic VOTING SYSTEMS

Amendment Barcode (if applicable)

Name TAYLOR BIEHL

Job Title Dir Govt Relations (CAPITOL ALLIANCE GROUP)

Address 106 E. COLLEGE AVE STE 640

Phone 850-224-1660

Street

TLH

FL

32301

City

State

Zip

Email TAYLOR@CAPITOLALLIANCEGROUP.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing LEON COUNTY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1326

INTRODUCER: Appropriations Committee and Senator Simpson

SUBJECT: Department of Children and Families

DATE: March 2, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hendon	Hendon	CF	Favorable
2. Sneed	Kidd	AHS	Recommend: Favorable
3. Sneed	Kynoch	AP	Fav/CS

I. Summary:

CS/SB 1326, also referred to as the “State of Hope Act,” makes several changes to the child welfare programs administered by the Department of Children and Families (DCF or department) to promote accountability and improve program performance. The bill:

- Requires local community alliances to include a representative of a faith-based organization and encourages the involvement of community-based and faith-based organizations in the community system of care. Requires the community-based care lead agencies (CBCs) to assign an employee to serve as a liaison to these organizations.
- Establishes the Office of Quality within the DCF to measure and monitor the performance of internal and contracted operations and recommend initiatives to correct deficiencies.
- Requires the DCF to implement programs to prevent and mitigate the impact of secondary traumatic stress and burnout among child protective investigators (CPIs).
- Revises the CBC funding formula for the allocation of new funding for core services.
- Requires the DCF to report the difference between the CBC’s funding levels and optimal funding levels. Additionally, it requires the DCF to take these differences into account when allocating risk pool funding to CBCs.
- Authorizes the DCF to contract for children’s legal services (CLS) and requires oversight of CLS attorneys under contract with the DCF.
- Requires the DCF to develop a statewide accountability system for child welfare.
- Requires the DCF to implement two 2-year pilot projects to improve child welfare services in the Sixth and Thirteenth judicial circuits.
- Expands the functions of the Florida Institute for Child Welfare (FICW) to inform, train, and engage social work students for a successful career in child welfare and directs the FICW to work with the FSU College of Social Work to redesign the social work curriculum to enable students to learn from real-world child welfare cases.
- Directs the DCF, in collaboration with the FICW, to develop an expanded career ladder for CPIs.

- Directs the FICW, subject to an appropriation, to design and implement a career long professional development curriculum for child welfare professionals by July 1, 2021.

The bill appropriates to the DCF \$8,235,052 of recurring funds from the General Revenue Fund for the judicial circuit pilot projects, and \$5,350,000 of recurring funds from the General Revenue Fund and associated salary rate for up to 125 currently authorized positions for the establishment of the Office of Quality.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline (hotline) and child protective investigations. The Department of Children and Families (DCF or department) and community-based care lead agencies (CBCs) work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

The DCF's practice model is based on the safety of the child within his or her home, using in-home services such as parent coaching and counseling to maintain and strengthen that child's natural supports in his or her environment. The DCF contracts for case management, out-of-home services, and related services with CBCs. The transition to outsourced provision of child welfare services is intended to increase local community ownership of service delivery and design. CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.

The DCF remains responsible for a number of child welfare functions, including operating the hotline, performing child protective investigations, and providing children's legal services.¹ Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.²

Community Alliances

In 2000, the Legislature amended s. 20.19, F.S., to include community alliances as an element of the state's community-based care child welfare system. Section 20.19(5), F.S., requires DCF to work with local communities to establish a community alliance or similar group of stakeholders, community leaders, client representatives and funders of human services in each county to provide a focal point for community participation and governance of community-based services.

The community alliances:

- Plan resource utilization in the community, including DCF and local funding;

¹ OPPAGA, report 06-50

² *Id.*

- Assess needs and establish community priorities for service delivery;
- Determine community outcome goals to supplement state-required outcomes;
- Serve as a catalyst for community resource development;
- Provide community education and advocacy on delivery of services; and
- Promote prevention and early intervention services.³

Initially, community alliances must include members from:

- DCF;
- County government;
- The school district;
- The county United Way;
- The county sheriff's office;
- The circuit court corresponding to the county; and
- The county children's board, if one exists.⁴

After the initial meeting of the community alliance, it may increase its membership to include the state attorney for the judicial circuit, the public defender, and other individuals who represent funding organizations, are community leaders, have knowledge of community-based service issues, or represent perspectives that will enable them to accomplish the duties of the community alliances.⁵

The community alliances are a central point for community input and collaboration and build on the community-based care model of building partnerships in the community to affect the outcomes, quality effectiveness, and efficiency of services. The role of the community alliances is to encourage community involvement to influence outcomes for children and their families.⁶

Community-Based and Faith-Based Organizations

Community-based and faith-based organizations have a history of providing assistance for those in need in their local communities. Florida has recognized these organizations could assist the work of the state. In 2004, Governor Bush signed an Executive Order⁷ creating the Governor's Faith-Based and Community-based Advisory Board, and, in 2006, the Legislature codified the advisory board in statute as the Florida Faith-based and Community-based Advisory Council (council). The purpose of the council is to advise the Governor and the Legislature on policies, priorities, and objectives for the state's effort "to enlist, equip, empower, and expand the work of faith-based, volunteer, and other community organizations to the full extent permitted by law."⁸ Past activities of the council have included promoting Florida's efforts to strengthen systems to better recruit families to meet the needs of children and youth awaiting adoption by providing

³ Section 20.19(5)(b), F.S.

⁴ Section 20.19(5)(d), F.S.

⁵ *Id.*

⁶ Department of Children and Families, *Community Alliances Resource Handbook*, (December 2000).

⁷ Executive Order No. 04-245, November 18, 2004. This Executive Order was amended by Executive Order No. 05-24, February 1, 2005, which incorporated by reference all of the first order, extended the time for a written report of the advisory board, and provided a January 1, 2007, expiration date for the order.

⁸ Section 14.31, F.S.

information to and assisting faith-based and community-based groups in their efforts to match families with children and youth awaiting adoption.

Currently, the community alliances are not statutorily mandated to identify existing programs and services delivered by community-based and faith-based organizations, nor are they encouraged to develop and make available such programs and services by these organizations. Additionally, current law does not mandate that the initial membership of the community alliances include a representative of a faith-based organization involved in providing services to strengthen families and protect child-welfare.

Child Protective Investigations

A child protective investigation begins with a report by any person to the Florida Abuse Hotline. The state is required to maintain a 24/hour, 7/day capacity for receiving reports of maltreatments. The reports are sent out to child protective investigators (CPIs) across the state to investigate.

The CPI receiving the report is most commonly a department employee, but in seven counties the local sheriff's office performs the investigative function. There are currently 1,789 positions within the department and Sheriff's Offices to conduct child abuse investigations.⁹

Court hearings are required whenever a child is removed from his or her home. The attorneys in these cases are either department employees or employees of the Attorney General's Office under contract to the department or, in one case, the state attorney's office in the 6th circuit (Pinellas and Pasco Counties).

The lead agencies and their subcontractors are the primary providers of services to children and families in the child welfare system. There are currently 17 CBCs with contracts covering all 20 judicial circuits.¹⁰ The CBCs and their subcontractors employ case managers to oversee the provision of services to children in the child welfare system. Many of the services are not directly provided by the CBCs or the case management subcontractors, but are provided by health care, substance abuse, mental health, and other specialized community based providers.

Child Protective Investigators

Career Advancement

The DCF attempted to create a type of career advancement incentive in 2017 with the implementation of the Child Protection Glide Path. The Glide Path was to increase recruitment and retention of critical staff positions by allowing CPIs to demonstrate specific skills and core competencies associated with their class title to achieve a competency-based increase in salary.¹¹

⁹ The Department of Children and Families, SB 1326 Bill Analysis, January 14, 2020. On file with the Senate Committee on Children, Families and Elder Affairs.

¹⁰ The Department of Children and Families website, available at: https://www.myflfamilies.com/service-programs/community-based-care/docs/lead_agency_map.pdf (last visited January 17, 2020).

¹¹ Florida Department of Children and Families, *Child Protective Investigator and Child Protective Supervisor Educational Qualifications, Turnover, and Working Conditions Status Report*, October 1, 2019, available at: <http://www.centerforchildwelfare.org/kb/LegislativeMandatedRpts/CPI%20SuperCPI%20and%20CPI%20Supervisor%20%20Workforce%202019%20.docx.pdf> (last visited January 26, 2020).

The Child Protection Glide Path divided CPI positions into five class titles with CPI class title having three salary levels based on skills and core competencies achieved. However, in June 2019, the DCF discontinued the Child Protection Glide Path for a new Career Path initiative designed to increase employee satisfaction and retention.

Education Qualifications

In 2014, the Legislature passed a bill mandating the DCF to recruit qualified professional staff and required DCF to make every effort to recruit and hire social workers. The DCF was required to set a goal of having at least half of all CPIs and CPI supervisors with a bachelor's degree or master's degree in social work from a college or university social work program accredited by the Council on Social Work Education by July 1, 2019. Florida has made little progress in achieving this goal. In 2018, 15 percent of CPIs held a degree in social work; that decreased to 13 percent at June 30, 2019.¹²

Turnover and Vacancies

The DCF has had a high turnover for CPIs for a number of years. The turnover rate for all CPI positions during the past two years has averaged around 37 percent,¹³ with the highest turnover occurring in entry-level CPI positions with an average turnover rate of 48 percent. High staff turnover puts vulnerable children at risk for recurrence of abuse, neglect, or abandonment and hinders timely intervention and permanency. When investigator positions are vacant or newly-hired investigators have reduced caseloads, the remaining staff must carry higher caseloads, which leads to burnout from workload and reduces the time and attention the CPI can provide to each case. Additionally, staff turnover costs the state money because of the associated expenses of training and onboarding new staff.

Sheriff's Offices that Conduct Child Protective Investigations

The DCF is authorized to enter into contracts with county sheriffs for the provision of child protective investigations.¹⁴ Sheriff's offices in seven counties are currently responsible for performing child protective investigations: Broward, Hillsborough, Manatee, Pasco, Pinellas, Seminole, and Walton. The sheriffs are funded by the DCF through grants. While s. 39.3065, F.S., specifically tasks four sheriff's offices to provide these services, all seven receive funding through the General Appropriations Act (GAA) to conduct child protective investigations. For the 2019-2020 fiscal year, a total of \$57,673,013 was appropriated to the DCF to provide for the grants to the seven county sheriff's offices.¹⁵

DCF has limited involvement in the quality assurance process for sheriff-provided child investigative services, despite DCF remaining ultimately responsible for that function. For instance, the sheriff's offices performing child protective investigations themselves report

¹² Florida Department of Children and Families, Office of Child Welfare, *Child Protective Investigators and Supervisors with a Social Work Degree – Statewide*, available at: <https://www.myflfamilies.com/programs/childwelfare/dashboard/education.shtml> (last visited Jan. 27, 2020).

¹³ *Supra* note 11.

¹⁴ Section 39.3065, F.S.

¹⁵ Specific Appropriation 315, General Appropriations Act, Chapter 2019-115, Laws of Fla.

metrics and provide data through the central system of record.¹⁶ While s. 39.3065(3)(d), F.S., requires a peer review for the sheriffs' program performance evaluation that involves both DCF and the sheriffs, the team's membership is largely sheriff's office representatives (composed of five or six sheriff's representatives and two DCF representatives¹⁷). This peer review team identifies closed investigations for the review and develops the approach for the review, which assesses compliance with statutory requirements, quality of investigations, safety decisions, and safety actions implemented throughout the life of the case.¹⁸

Although sheriffs providing child protective investigations are required by the grant agreement to act in accordance with state and federal law, no statutory mandate imposes the same procedures, policies, and outcomes on the sheriffs as are imposed on the DCF's CPIs. The DCF tracks the work of its CPIs through a CPI scorecard on its Child Welfare Dashboard.¹⁹ The CPI scorecard is used to measure the standards of the child protective investigations across the state, considering six measures²⁰ to ensure investigations are providing successful outcomes for children and families.²¹ The information on the sheriffs providing child protective investigations is limited on DCF's CPI scorecard due to limitations of data collection specified in their grant agreements.²²

Secondary Traumatic Stress in Child Welfare Professionals

Secondary traumatic stress and burnout from job-related activities is a leading cause for high turnover in the child welfare profession. Secondary traumatic stress is the emotional duress when an individual hears about firsthand trauma in the experiences of another.²³ Child welfare professionals engage daily with people who have experienced trauma. Case managers and CPIs hear about the abuse and neglect children have suffered, and the act of listening to traumatic stories can take an emotional toll that compromises a worker's professional and personal life.²⁴ Given the nature of the work in which child welfare professionals engage, they are at a high risk of developing secondary traumatic stress. Studies have shown that secondary traumatic stress predicts whether a professional will leave the field for another line of work.

¹⁶ Supra note 9.

¹⁷ Florida Department of Children and Families, *Florida Sheriffs Performing Child Protective Investigations, Annual Program Performance Evaluation Report, Fiscal Year 2107-2018*, available at: https://www.myflfamilies.com/service-programs/child-welfare/docs/2018LMRs/SO%20Annual%20Peer%20Review%20DCF%20Report%202017_2018.pdf (last visited January 26, 2020).

¹⁸ *Id.*

¹⁹ Florida Department of Children and Families, Office of Child Welfare, *CPI Scorecard*, available at: <https://www.myflfamilies.com/programs/childwelfare/dashboard/cpi-scorecard.shtml> (last visited January 24, 2020).

²⁰ These measures include alleged victims seen within 24 hours, child protective investigations and supervisors with social work degrees, child protective investigators with more than 20 open investigations, investigations commenced within 24 hours, investigations that had an initial supervisory consultation within 5 days, and retention of child protective investigators.

²¹ Supra note 19.

²² *Id.*

²³ The National Child Traumatic Stress Network, *Secondary Traumatic Stress: A Fact Sheet for Child-Serving Professionals*, https://www.nctsn.org/sites/default/files/resources/fact-sheet/secondary_traumatic_stress_child_serving_professionals.pdf (last visited January 24, 2020).

²⁴ *Id.*

Children's Legal Services

DCF directly or through contract provides attorneys to prepare and present cases in dependency court and ensures attorneys provide the court with adequate information for informed decision-making in dependency cases.²⁵ Children's Legal Services (CLS) represents the state during dependency cases governed by ch. 39, F.S. CLS attorneys advocate for the safety, well-being, and permanency of Florida's abused, abandoned, and neglected children. CLS attorneys often become involved in the case when a CPI seeks to remove a child from an unsafe home. The attorneys work with case management services to ensure families receive necessary services to alleviate unsafe conditions in the home so a child can be reunited with his or her parents. CLS attorneys carry multiple cases and must ensure state and federal legal requirements are met.²⁶

Section 409.996(17), F.S., directs the DCF to contract with the state attorney in the Sixth Judicial Circuit for the provision of children's legal services.²⁷ The Attorney General provides children's legal services in Hillsborough and Broward Counties.²⁸ Currently, the DCF provides minimal qualitative oversight of contracted attorneys that deliver children's legal services.²⁹

Child Welfare Accountability

Section 409.996 (18), F.S., requires the department, in consultation with the CBCs, to establish a quality assurance program for contracted services to dependent children. The quality assurance program must be based on standards established by federal and state law and national accrediting organizations.

Section 409.997(2), F.S., established the Child Welfare Results-Oriented Accountability Program. The department, the CBCs, and the CBC subcontractors share the responsibility for achieving the outcome goals specified in s. 409.986(2), F.S. The purpose of the results-oriented accountability program is to monitor and measure the use of resources, the quality and amount of services provided, and child and family outcomes. The program includes data analysis, research review, and evaluation. The program is to produce an assessment of individual entities' performance, as well as the performance of groups of entities working together on a local, regional, and statewide basis to provide an integrated system of care. Data analyzed and communicated through the accountability program is to inform the department's development and maintenance of an inclusive, interactive, and evidence-supported program of quality improvement that promotes individual skill building as well as organizational learning.

²⁵ Section 409.996, F.S.

²⁶ Florida Department of Children and Families, *Children's Legal Services*, available at: <https://www.myflfamilies.com/service-programs/childrens-legal-services/about-us.shtml> (last visited January 25, 2020).

²⁷ *Id.*

²⁸ Florida Department of Children and Families, *A Comprehensive, Multi-Year Review of the Revenues, Expenditures, and Financial Position of All Community-Based Care Lead Agencies with System of Care Analysis*, available at: http://www.centerforchildwelfare.org/kb/LegislativeMandatedRpts/Comprehensive_Review_of_Revenues_Expenditures_...pdf (last visited January 28, 2020).

²⁹ *Supra* note 19.

Community Based Care Funding Formula

Section 409.991, F.S., provides the basis for allocating funds for CBCs and defines the differences between “core services funds” and other specific appropriations that may be provided to CBCs. The core services funds are currently allocated through the equity allocation model.³⁰ The law defines the three components of the model: proportion of children in the population, proportion of Hotline workload, and proportion of children in care. This method supports per child funding inequities by establishing that 100 percent of recurring core funding is based upon the fiscal year 2014-2015 recurring base of core funding.³¹ The equity allocation model is only applied to new funding that is appropriated to the system of care. The statute further establishes that 70 percent of any new funding for the system of care is shared by all CBCs and 30 percent of any new funds will be allocated among CBCs funded below their equitable share.

Because the core services funding for each CBC was established based upon the total expenditures by the DCF when the CBCs were created, significant core funding inequities have been institutionalized into the system of care. Since 2006, the “per child in care funding” varies as much as 2:1, from the highest to lowest funded CBC. The lack of equitable funding has led to the creation of risk pool funding, contract amendments, and specific mid-year appropriations to address current year deficits in multiple CBCs. Over the last five fiscal years, the Legislature has appropriated an additional \$95 million in nonrecurring funds, or about \$19 million annually, to address these operational shortfalls. Additionally, when the DCF has reprocured services in these districts, more than half of the markets were essentially non-competitive. According to the DCF, in eight of the last 19 solicitations, only one provider bid on services for a district service area. These districts represent 52 percent of the population of Florida. The perceived underfunding of the CBCs has constrained the DCF’s efforts to hold the CBCs accountable for performance and improvement, and to competitively procure for the best providers available.³²

Florida Institute for Child Welfare

In 2014, the Legislature established the Florida Institute for Child Welfare (FICW) at the Florida State University College of Social Work. The Legislature created the FICW to provide research and evaluation that contributes to a more sustainable, accountable, and effective child welfare system. The purpose of the FICW is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research, policy analysis, evaluation, and leadership development.³³ The FICW is required to:

- Maintain a program of research contributing to the scientific knowledge related to child safety, permanency, and child and family well-being.
- Advise the DCF and other organizations about scientific evidence regarding child welfare practice, as well as management practices and administrative processes.
- Assess performance of child welfare services based on specified outcome measures.
- Evaluate training requirements for the child welfare workforce and the effectiveness of training.

³⁰ Section 409.991(b), F.S.

³¹ Department of Children and Families, SB 1326 Bill Analysis, January 14, 2020. On file with the Senate Committee on Children, Families and Elder Affairs.

³² *Id.*

³³ Section 1004.615, F.S.

- Develop a program of training and consulting to assist organizations with employee retention.
- Identify and communicate effective policies and promising practices.
- Recommend improvements in the state's child welfare system.
- Submit annual reports to the Governor and Legislature.

The FICW sponsors and supports interdisciplinary research projects and program evaluation initiatives that contribute to a knowledge relevant to enhancing Florida's child welfare outcomes. Additionally, the FICW is tasked with establishing new partnerships and strengthening existing relationships with research and policymakers around the state through an affiliate network, CBCs, service providers, and other entities. The affiliate network is made up of 14 public and private universities with accredited degrees in social work.³⁴ In 2017, the FICW expanded its affiliate network to include research affiliates,³⁵ and there are now over 50 research faculty affiliates.³⁶

III. Effect of Proposed Changes:

Section 1 amends s. 20.19, F.S., relating to local community alliances, to require community alliances to include a representative of a faith-based organization and encourage the development and availability of community-based and faith-based organizations in the community system of care. The bill also establishes the Office of Quality within the DCF. The purpose of the Office of Quality is to ensure the DCF and contract service providers meet the highest levels of performance standards. The Office will:

- Conduct ongoing quality assurance reviews of department programs and contract service providers, at least quarterly, using randomly selected cases.
- Strengthen the departments' data and its analytic capabilities to identify systemic strengths and deficiencies.
- Recommend initiatives to correct program and system deficiencies;
- Collaborate with the department's partners to improve quality, efficiency and effectiveness;
- Report any persistent failures by the department to meet performance standards and recommend corrective actions provided under the bill; and
- By December 1, report to the Governor and Legislature, for the preceding fiscal year which encompasses all legislatively mandated statewide reports required to be issued by the department.

Section 2 amends s. 402.402, F.S. relating to child protection and child welfare staff, including attorneys who handle child welfare cases, and requires the DCF to implement policies and programs that mitigate and prevent the effects of secondary traumatic stress and burnout among CPI staff, including:

³⁴ Florida Institute for Child Welfare at Florida State University, *FY 2018-2019 Annual Report*, October 1, 2019, available at: https://issuu.com/fsuchildwelfare/docs/annual_report_2018-2019_final (last visited March 2, 2020).

³⁵ *Id.*

³⁶ Florida Institute for Child Welfare, *Affiliate Directory*, September 2019, available at: <https://ficw.fsu.edu/affiliates> (last visited March 2, 2020).

- Initiatives to encourage and inspire CPI staff, including recognizing their achievements on a recognition wall within their unit.
- Formal procedures for providing support to CPI staff after a critical incident has occurred such as a child fatality.
- Initial training upon appointment to a supervisory position and annual continuing education for supervisors on how to prevent secondary traumatic stress and burnout among their employees.
- Monitoring levels of secondary traumatic stress and burnout among individual employees.
- Ongoing training in self-care for all CPI staff.
- Report on CPI professional advancement in the department's annual required report on *Child Protective Investigators and Supervisors*.

The DCF is authorized to provide support programs such as formal peer counseling and other programs to reduce the effects of secondary traumatic stress and burnout among CPI staff.

The bill also requires the attorneys in the Sixth Judicial Circuit and the Attorney General's Office that provide children's legal services (CLS) in Hillsborough and Broward Counties to receive the same training within the first six months of employment as required of DCF-employed CLS attorneys.

Section 3 amends s. 409.988, relating to lead agency duties, requiring a CBC to identify an employee to serve as a liaison with the community alliance and community-based and faith based organizations interested in volunteering services or other assistance to the children and families served by the CBC.

Section 4 amends s. 409.991, F.S., relating to the allocation of funds for CBCs, requiring the DCF (unless otherwise specified in the General Appropriations Act), to allocate new funding received for CBC core services using an objective, workload-based methodology. The DCF may develop the methodology in rule. The purpose of developing the new methodology is to determine the optimal funding level for the CBCs by taking into account the following workload components:

- Prevention services;
- Client services;
- Licensed out-of-home care costs; and
- Staffing, by using a ratio for case managers compared to the caseload requirements specified in s. 20.19(4)(c)2., F.S.³⁷

By using the new methodology the DCF will be able to compare the optimal funding level to the actual allocated funding for the most recent fiscal year and determine the percentage of optimal funding each CBC is receiving. The new methodology will allocate new core services funding in a manner inversely proportional to each CBCs optimal funding percentage.

³⁷ Section 20.19(4)(c)2., F.S., provides that case manager caseloads do not exceed the Child Welfare League Standards by more than two cases.

Additionally, the DCF must consider (unless otherwise specified in the General Appropriations Act), a CBC's funding level compared to its optimal funding level when allocating risk pool³⁸ funding.

A report is due from the DCF by November 1 of each year to the Governor and Legislature that:

- Includes the current funding level and the optimal funding level for each CBC.
- Identifies any CBC that is persistently funded at less than the optimal funding level.
- Provides recommended strategies to address the shortfall, including, but not limited to, business process redesign, the adoption of best practices, and requests for additional funding.

Section 5 amends s. 409.996, F.S., relating to the duties of the department in the community based care system for child welfare. The bill provides new accountability measures in the areas of the state where the department contracts for legal services for child welfare. The bill requires the contracted attorneys to use the Florida's Child Welfare Practice Model. Program performance evaluations are to be conducted on an ongoing basis using criteria developed by the department. The evaluation must be conducted by a team of peer reviewers and use a random sample of cases. The department must report each November 1 to the Governor and Legislature on the performance of contracted attorneys providing children's legal services on behalf of the department.

The bill also requires the DCF to develop a statewide accountability system based on measurable quality standards. The DCF must implement the accountability system by July 1, 2021. The system must:

- Assess the overall health of the child welfare system, by circuit, using a grading criteria established by the department.
- Include a quality measurement system with domains and clearly defined levels of quality that measures performance standards for CPIs, CBCs, and CLS services, using criteria established by the department. The criteria must address applicable federal- and state-mandated metrics.
- Align with the principles of the results-oriented accountability program established under s. 409.997, F.S.

The DCF and CBCs will use the information from the accountability system to improve service delivery. The department must report each December 1 to the Governor and Legislature on the overall health of the state's child welfare system. The DCF is provided rulemaking authority to implement the statewide accountability system.

Subject to an appropriation for the 2020-2021 and 2021-2022 fiscal years, the DCF will implement 2-year pilot projects in the Sixth (Pasco and Pinellas) and Thirteenth (Hillsborough) judicial circuits for the purpose of improving child welfare outcomes in these areas. To implement the pilot projects, the DCF must:

- Establish performance metrics and performance standards for the two CBCs.
- Provide incentive funds to the CBCs for these circuits if they exceed performance standards.
- Submit a report each year through June 30, 2022.

³⁸ Section 409.990, F.S.

The bill appropriates recurring funds to the DCF to provide for the incentive funding for these pilot projects.

Section 6 amends s. 1004.615, F.S., relating to the Florida Institute for Child Welfare (FICW), to expand the functions of the institute to inform, train, and engage social work students for a successful career in child welfare. The bill directs the FICW to work with the FSU College of Social Work to redesign the social work curriculum to enable students to learn from real-world child welfare cases. The bill also requires the DCF to work with the FICW to develop an expanded career ladder for CPIs. Additionally, subject to an appropriation, the FICW is required to develop, in collaboration with the DCF, the CBCs, case management service providers, and other child welfare stakeholders, a career long professional development curriculum for child welfare professionals by July 1, 2021.

Section 7 directs the DCF, in collaboration with the FICW, to develop an expanded career ladder for CPIs. The department must submit the career ladder proposal to the Governor and Legislature by November 1, 2020.

Section 8 appropriates recurring funds to the DCF from the General Revenue Fund of \$8,235,052 for incentive funding for the pilot projects in the Sixth and Thirteenth judicial circuits. Additionally, the bill appropriates \$5,350,000 to the department for the establishment of the Office of Quality. The bill authorizes additional salary rate of 2,907,885 to DCF and allows the department to reassign up to 125 currently authorized positions to implement the Office of Quality in accordance with the budget amendment provisions in ch. 216, F.S.

Section 9 names Sections 1, 2, and 3 in the bill the “State of Hope Act.”

Section 10 provides the bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The CBCs will need to assign an employee to serve as a liaison to local community alliances and community-based and faith-based organizations to encourage involvement in the community system of care. The requirement is expected to have a minimal fiscal impact on the CBC expenditures.

C. Government Sector Impact:

The bill appropriates \$8,235,052 in recurring funds from the General Revenue Fund to the DCF for the pilot projects for the Sixth and Thirteenth judicial circuits and \$5,350,000 in recurring funds from the General Revenue Fund for the establishment of the Office of Quality. The bill also authorizes additional salary rate of 2,907,885 and allows the department to submit a budget amendment to reassign up to 125 currently authorized positions for the Office of Quality.

The bill expands the functions of the Florida Institute for Child Welfare (FICW) to inform, train, and engage social work students for a successful career in child welfare and directs the FICW to work with the FSU College of Social Work to redesign the social work curriculum to enable students to learn from real-world child welfare cases. The bill directs the FICW to collaborate with the DCF on the development of an expanded career ladder for CPIs.

Additionally, the bill directs the FICW, subject to an appropriation, to design and implement a career long professional development curriculum for child welfare professionals at all levels and from all disciplines by July 1, 2021. The cost for the FICW to develop and implement a social work training curriculum for all child welfare professionals is indeterminate, but potentially significant. The bill does not provide an appropriation to the FICW.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.19, 402.402, 409.988, 409.991, 409.996, and 1004.615.

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

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

CS by Appropriations on February 27, 2020:

The committee substitute:

- Removes the provision on the Differential Response initiative for child abuse reporting.
- Removes the requirement for sheriff offices to adopt the Child Welfare Practice Model and implement child abuse prevention plans.
- Removes the sections relating to behavioral health managing entities.
- Removes provisions relating to a grading system for the managing entities.
- Requires local community alliances to include a member of a faith-based organization and requires the community-based care lead agencies (CBCs) to assign an employee to serve as a liaison with community-based and faith-based organizations.
- Creates the “Office of Quality” rather than the “Office of Quality Assurance and Improvement” within the DCF and:
 - Removes the requirement for the Office to analyze DCF’s compliance with state and federal laws and regulations, and
 - Requires the Office to report annually to the Governor and Legislature and attach all legislatively mandated statewide reports issued by the DCF for the prior fiscal year.
- Revises the CBC funding methodology for the allocation of new funding for core services. The bill directs the DCF to develop the methodology.
- Requires the DCF to compute the optimal funding levels for the CBCs based on the following workload components.
 - Prevention services,
 - Client services,
 - Licensed out-of-home care costs, and
 - Staffing costs.
- Directs the DCF to take into account whether a CBC is above or below the optimal funding amount when allocating the new funding. The new funding should be inversely proportional to the optimal funding level.
- Requires the DCF to report annually to the Governor and Legislature a comparison of CBC funding to optimal funding levels.
- Requires the DCF to take into account whether a CBC is above or below the optimal funding level when allocating risk pool funding.
- Requires the DCF to develop and implement a statewide accountability system by July 1, 2021.

- Creates child welfare performance incentive pilot projects for the CBCs serving the Sixth (Pinellas and Pasco) and Thirteenth (Hillsborough) Judicial Circuits. To implement the pilot projects which expire June 30, 2022, the DCF must:
 - Establish performance metrics and performance standards for the two CBCs.
 - Provide incentive funds to the CBCs in the pilot areas that exceed performance standards.
 - Report on the pilot projects each year.
- Provides that Sections 1, 2, and 3 of the bill may be cited as the “State of Hope Act.”
- Changes the effective date of the bill to “upon becoming a law.”

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/28/2020	.	
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The Committee on Appropriations (Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (b), (d), and (e) of subsection (5)
of section 20.19, Florida Statutes, are amended, and a new
subsection (7) is added to that section, to read:

20.19 Department of Children and Families.—There is created
a Department of Children and Families.

(5) COMMUNITY ALLIANCES.—



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(b) The duties of the community alliance include, but are not limited to:

1. Joint planning for resource utilization in the community, including resources appropriated to the department and any funds that local funding sources choose to provide.

2. Needs assessment and establishment of community priorities for service delivery.

3. Determining community outcome goals to supplement state-required outcomes.

4. Serving as a catalyst for community resource development, including, but not limited to, identifying existing programs and services delivered by and assistance available from community-based organizations and faith-based organizations, and encouraging the development and availability of such programs, services, and assistance by such organizations. The community alliance shall ensure that the community-based care lead agency is aware of such programs, services, and assistance and work to facilitate the lead agency's appropriate use of these resources.

5. Providing for community education and advocacy on issues related to delivery of services.

6. Promoting prevention and early intervention services.

(d) The ~~initial~~ membership of the community alliance in a county, at a minimum, must ~~shall~~ be composed of the following:

1. A representative from the department.

2. A representative from county government.

3. A representative from the school district.

4. A representative from the county United Way.

5. A representative from the county sheriff's office.

6. A representative from the circuit court corresponding to



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the county.

7. A representative from the county children's board, if one exists.

8. A representative of a faith-based organization involved in efforts to prevent child maltreatment, strengthen families, or promote adoption.

~~(e) At any time after the initial meeting of the community alliance,~~ The community alliance shall adopt bylaws and may increase the membership of the alliance to include the state attorney for the judicial circuit in which the community alliance is located, or his or her designee, the public defender for the judicial circuit in which the community alliance is located, or his or her designee, and other individuals and organizations who represent funding organizations, are community leaders, have knowledge of community-based service issues, or otherwise represent perspectives that will enable them to accomplish the duties listed in paragraph (b), if, in the judgment of the alliance, such change is necessary to adequately represent the diversity of the population within the community alliance service circuits.

(7) OFFICE OF QUALITY.—The department shall establish an enterprise wide Office of Quality to ensure that the department and contracted service providers meet the highest levels of performance standards.

(a) Duties of the office include, but are not limited to, all of the following:

1. Identifying performance standards and metrics for department programs and all other service providers, including, but not limited to, behavioral health managing entities,



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community-based care lead agencies, and attorney services.

2. Conducting ongoing quality assurance reviews of department programs and contracted service providers on at least a quarterly basis using cases randomly selected by the department.

3. Strengthening the department's data and analytic capabilities to identify systemic strengths and deficiencies.

4. In consultation with the department's program offices, recommending unique and varied initiatives to correct programmatic and systemic deficiencies.

5. Collaborating and engaging partners of the department to improve service quality, efficiency, and effectiveness.

6. Reporting any persistent failure by the department or contracted providers to meet performance standards and recommending corrective actions to the secretary.

7. By each December 1, developing and submitting an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives for the preceding fiscal year which encompasses all legislatively mandated statewide reports required to be issued by the department.

(b) The department may adopt rules to administer this subsection.

Section 2. Section 409.991, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.991, F.S., for present text.)

409.991 Allocation of funds for community-based care lead agencies.—

(1) As used in this section, the term "core services funds"



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means all funds allocated to lead agencies operating under contract with the department pursuant to s. 409.987, with the following exceptions:

(a) Funds appropriated for independent living services;
(b) Funds appropriated for maintenance adoption subsidies;
(c) Funds allocated by the department for child protective investigative service training;

(d) Nonrecurring funds;
(e) Designated mental health wrap-around service funds;
(f) Funds for special projects for a designated lead agency; and

(g) Funds appropriated for the Guardianship Assistance Program established under s. 39.6225.

(2) The department shall use an objective, workload-based methodology to identify and report the optimal level of funding for each lead agency considering demand for each of the following:

(a) Prevention services;
(b) Client services;
(c) Licensed out-of-home care costs; and
(d) Staffing, using the ratio for case managers compared to the caseload requirements specified in s. 20.19(4)(c)2.

(3) The allocation of core services funds must be based on the following:

(a) The total optimal funding amount as determined by adding together the funding for prevention services, client services, licensed out-of-home care, and staffing.

(b) A comparison of the total optimal funding amount to the actual allocated funding for the most recent fiscal year to



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determine the percentage of optimal funding the lead agency is currently receiving.

(4) By November 1 of each year, the secretary must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes the current funding level of each lead agency based on the optimal funding level as determined by using each lead agency workload using the department's methodology. The report must identify any lead agency that is persistently funded at less than the optimal funding level and recommend strategies to address the shortfall including, but not limited to, business process redesign, the adoption of best practices, and requesting additional funding.

(5) The department may adopt rules to establish the optimal funding levels for lead agencies.

(6) Unless otherwise specified in the General Appropriations Act, the department shall allocate any new funding for core services, based on the department's methodology, to achieve optimal funding for all lead agencies inversely proportional to each lead agency optimal funding percentage.

(7) Unless otherwise specified in the General Appropriations Act, the department shall consider a lead agency's funding level compared to its optimal funding level when allocating funding from the risk pool, as provided in s. 409.990.

Section 3. Subsections (24) and (25) are added to section 409.996, Florida Statutes, to read:

409.996 Duties of the Department of Children and Families.—
The department shall contract for the delivery, administration,



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or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations.

(24) In collaboration with lead agencies, service providers, and other community stakeholders, the department shall develop a statewide accountability system based on measurable quality standards. The accountability system must be implemented by July 1, 2021.

(a) The accountability system must:

1. Assess the overall health of the child welfare system, by circuit, using grading criteria established by the department;

2. Include a quality measurement system with domains and clearly defined levels of quality. The system must measure the performance standards for child protective investigators, lead agencies, and children's legal services throughout the system of care, using criteria established by the department, and, at a minimum, address applicable federal- and state-mandated metrics.

3. Align with the principles of the results-oriented accountability program established under s. 409.997.

(b) After the development and implementation of the accountability system under this subsection, the department and each lead agency shall use the information from the accountability system to promote enhanced quality service delivery within their respective areas of responsibility.

(c) By December 1 of each year, the department shall submit



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a report on the overall health of the child welfare system to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(d) The department may adopt rules to implement this subsection.

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

(a) In implementing the pilot projects, the department shall establish performance metrics and performance standards to assess improvements in safety, permanency, and the well-being of children in the local system of care for the lead agencies in those judicial circuits. Such metrics and standards must be aligned with indicators used in the most recent federal Child and Family Services Reviews.

(b) The lead agencies in the Sixth and Thirteenth Judicial Circuits shall provide performance data to the department each quarter. The department shall review the data for accuracy and completeness and then shall compare the actual performance of the lead agencies to the established performance metrics and standards. Each lead agency that exceeds performance metrics and standards is eligible for incentive funding.

(c) For the first quarter of each fiscal year, the department may advance incentive funding to the lead agencies in an amount equal to one quarter of the total allocated to the pilot project. After each quarter, the department shall assess the performance of the lead agencies for that quarter and adjust the subsequent quarter's incentive funding based on its actual



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prior quarter performance.

(d) The department shall include the results of the pilot projects in the report required under s. 20.19(7). The report must include the department's findings and recommendations relating to the pilot projects.

(e) This subsection expires July 1, 2022.

Section 4. This act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to the Department of Children and Families; amending s. 20.19, F.S.; revising duties and membership of community alliances; requiring the department to establish an Office of Quality; providing duties of the office; requiring the office to develop and submit a report to the Governor and the Legislature annually by a specified date; authorizing the department to adopt rules; amending s. 409.991, F.S.; defining the term "core services funds"; requiring the department to develop a methodology to identify and report the optimal level of funding for community-based care lead agencies; providing requirements for the allocation of core services funds; requiring the Secretary of the Department of Children and Families to submit a report to the Governor and Legislature annually by a specified date;



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providing requirements for such report; authorizing the department to adopt rules; requiring certain funding to be allocated based on the department's methodology, unless otherwise specified in the General Appropriations Act; amending s. 409.996, F.S.; requiring the department to develop a statewide accountability system; requiring that such system be implemented by a specified date; providing requirements for such accountability system; requiring the department and lead agencies to promote enhanced quality service delivery; requiring the department to submit a report to the Governor and the Legislature annually by a specified date; authorizing the department to adopt rules; requiring the department to implement pilot projects to improve child welfare outcomes in specified judicial circuits; requiring the department to establish performance metrics and standards to implement the pilot projects; requiring lead agencies in specified judicial circuits to provide certain data to the department each quarter; requiring the department to review such data; authorizing the department to advance incentive funding to certain lead agencies that meet specified requirements; requiring the department to include certain results in a specified report; providing for future expiration; providing an effective date.



272028

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/26/2020	.	
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	.	
	.	

The Committee on Appropriations (Simpson) recommended the following:

Senate Amendment to Amendment (835096) (with title amendment)

Between lines 219 and 220
insert:

Section 4. (1) For the 2020-2021 fiscal year, the sum of \$6,176,289 in recurring funds is appropriated from the General Revenue Fund, and the sum of \$2,058,763 is appropriated from the Federal Grant Trust Fund, to the Department of Children and Families for incentive funding for the pilot projects required



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under s. 409.996(25), Florida Statutes, as created by this act.

(2) For the 2020-2021 fiscal year, the sum of \$5,350,000 in recurring funds from the General Revenue Fund is appropriated to the Department of Children and Families, and 125 full-time equivalent positions with associated salary rate of 2,907,885 are authorized for the establishment of the Office of Quality, as required under s. 20.19(7), Florida Statutes, as created by this act. The department is authorized to reassign staff and submit budget amendments pursuant to s. 216.292, Florida Statutes, to realign up to 125 currently authorized positions to serve in the Office of Quality.

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

And the title is amended as follows:

Delete line 268

and insert:

future expiration; providing appropriations;
authorizing positions; providing an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
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The Committee on Appropriations (Simpson) recommended the following:

Senate Substitute for Amendment (835096) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (b), (d), and (e) of subsection (5) of section 20.19, Florida Statutes, are amended, and a new subsection (7) is added to that section, to read:

20.19 Department of Children and Families.—There is created a Department of Children and Families.



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(5) COMMUNITY ALLIANCES.—

(b) The duties of the community alliance include, but are not limited to:

1. Joint planning for resource utilization in the community, including resources appropriated to the department and any funds that local funding sources choose to provide.

2. Needs assessment and establishment of community priorities for service delivery.

3. Determining community outcome goals to supplement state-required outcomes.

4. Serving as a catalyst for community resource development, including, but not limited to, identifying existing programs and services delivered by and assistance available from community-based organizations and faith-based organizations, and encouraging the development and availability of such programs, services, and assistance by such organizations. The community alliance shall ensure that the community-based care lead agency is aware of such programs, services, and assistance and work to facilitate the lead agency's appropriate use of these resources.

5. Providing for community education and advocacy on issues related to delivery of services.

6. Promoting prevention and early intervention services.

(d) The initial membership of the community alliance in a county, at a minimum, must ~~shall~~ be composed of the following:

1. A representative from the department.

2. A representative from county government.

3. A representative from the school district.

4. A representative from the county United Way.

5. A representative from the county sheriff's office.



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40 6. A representative from the circuit court corresponding to
41 the county.

42 7. A representative from the county children's board, if
43 one exists.

44 8. A representative of a faith-based organization involved
45 in efforts to prevent child maltreatment, strengthen families,
46 or promote adoption.

47 (e) At any time after the initial meeting of the community
48 alliance, The community alliance shall adopt bylaws and may
49 increase the membership of the alliance to include the state
50 attorney for the judicial circuit in which the community
51 alliance is located, or his or her designee, the public defender
52 for the judicial circuit in which the community alliance is
53 located, or his or her designee, and other individuals and
54 organizations who represent funding organizations, are community
55 leaders, have knowledge of community-based service issues, or
56 otherwise represent perspectives that will enable them to
57 accomplish the duties listed in paragraph (b), if, in the
58 judgment of the alliance, such change is necessary to adequately
59 represent the diversity of the population within the community
60 alliance service circuits.

61 (7) OFFICE OF QUALITY.—The department shall establish an
62 enterprise wide Office of Quality to ensure that the department
63 and contracted service providers meet the highest levels of
64 performance standards.

65 (a) Duties of the office include, but are not limited to,
66 all of the following:

67 1. Identifying performance standards and metrics for
68 department programs and all other service providers, including,



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but not limited to, behavioral health managing entities,
community-based care lead agencies, and attorney services.

2. Conducting ongoing quality assurance reviews of
department programs and contracted service providers on at least
a quarterly basis using cases randomly selected by the
department.

3. Strengthening the department's data and analytic
capabilities to identify systemic strengths and deficiencies.

4. In consultation with the department's program offices,
recommending unique and varied initiatives to correct
programmatic and systemic deficiencies.

5. Collaborating and engaging partners of the department to
improve service quality, efficiency, and effectiveness.

6. Reporting any persistent failure by the department or
contracted providers to meet performance standards and
recommending corrective actions to the secretary.

7. By each December 1, developing and submitting an annual
report to the Governor, the President of the Senate, and the
Speaker of the House of Representatives for the preceding fiscal
year which encompasses all legislatively mandated statewide
reports required to be issued by the department.

(b) The department may adopt rules to administer this
subsection.

Section 2. Section 402.402, Florida Statutes, is amended to
read:

402.402 Child protection and child welfare personnel;
attorneys employed by the department.—

(1) CHILD PROTECTIVE INVESTIGATION PROFESSIONAL STAFF
REQUIREMENTS.—The department is responsible for recruitment of



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98 qualified professional staff to serve as child protective
99 investigators and child protective investigation supervisors.
100 The department shall make every effort to recruit and hire
101 persons qualified by their education and experience to perform
102 social work functions. The department's efforts shall be guided
103 by the goal that ~~by July 1, 2019,~~ at least half of all child
104 protective investigators and supervisors will have a bachelor's
105 degree or a master's degree in social work from a college or
106 university social work program accredited by the Council on
107 Social Work Education. The department, in collaboration with the
108 lead agencies, subcontracted provider organizations, the Florida
109 Institute for Child Welfare created pursuant to s. 1004.615, and
110 other partners in the child welfare system, shall develop a
111 protocol for screening candidates for child protective positions
112 which reflects the preferences specified in paragraphs (a)-(f).
113 The following persons shall be given preference in the
114 recruitment of qualified professional staff, but the preferences
115 serve only as guidance and do not limit the department's
116 discretion to select the best available candidates:

117 (a) Individuals with baccalaureate degrees in social work
118 and child protective investigation supervisors with master's
119 degrees in social work from a college or university social work
120 program accredited by the Council on Social Work Education.

121 (b) Individuals with baccalaureate or master's degrees in
122 psychology, sociology, counseling, special education, education,
123 human development, child development, family development,
124 marriage and family therapy, and nursing.

125 (c) Individuals with baccalaureate degrees who have a
126 combination of directly relevant work and volunteer experience,



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preferably in a public service field related to children's services, demonstrating critical thinking skills, formal assessment processes, communication skills, problem solving, and empathy; a commitment to helping children and families; a capacity to work as part of a team; an interest in continuous development of skills and knowledge; and personal strength and resilience to manage competing demands and handle workplace stresses.

(2) SPECIALIZED TRAINING.—All child protective investigators and child protective investigation supervisors employed by the department or a sheriff's office must complete specialized training either focused on serving a specific population, including, but not limited to, medically fragile children, sexually exploited children, children under 3 years of age, or families with a history of domestic violence, mental illness, or substance abuse, or focused on performing certain aspects of child protection practice, including, but not limited to, investigation techniques and analysis of family dynamics. The specialized training may be used to fulfill continuing education requirements under s. 402.40(3)(e). Individuals ~~hired before July 1, 2014, shall complete the specialized training by June 30, 2016, and individuals~~ hired on or after July 1, 2014, shall complete the specialized training within 2 years after hire. An individual may receive specialized training in multiple areas.

(3) STAFF SUPPORT.—The department shall implement policies and programs that mitigate and prevent the impact of secondary traumatic stress and burnout among child protective investigations staff, including, but not limited to:



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(a) Initiatives to encourage and inspire child protective investigations staff, including recognizing their achievements on a recognition wall within their unit.

(b) Formal procedures for providing support to child protective investigations staff after a critical incident such as a child fatality.

(c) Initial training upon appointment to a supervisory position and annual continuing education for all supervisors on how to prevent secondary traumatic stress and burnout among the employees they supervise.

(d) Monitoring levels of secondary traumatic stress and burnout among individual employees and intervening as needed. The department shall closely monitor and respond to levels of secondary traumatic stress and burnout among employees during the first 2 years after hire.

(e) Ongoing training in self-care for all child protective investigations staff.

Such programs may also include, but are not limited, to formal peer counseling and support programs.

(4)-(3) REPORT.—By each October 1, the department shall submit a report on the educational qualifications, turnover, professional advancement, and working conditions of the child protective investigators and supervisors to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5)-(4) ATTORNEYS EMPLOYED BY OR CONTRACTING WITH THE DEPARTMENT TO HANDLE CHILD WELFARE CASES.—Attorneys hired or contracted with on or after July 1, 2014, whose primary



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responsibility is representing the department in child welfare cases shall, within the first 6 months of employment, receive training in:

(a) The dependency court process, including the attorney's role in preparing and reviewing documents prepared for dependency court for accuracy and completeness.

(b) Preparing and presenting child welfare cases, including at least 1 week shadowing an experienced children's legal services attorney preparing and presenting cases.

(c) Safety assessment, safety decisionmaking tools, and safety plans.

(d) Developing information presented by investigators and case managers to support decisionmaking in the best interest of children.

(e) The experiences and techniques of case managers and investigators, including shadowing an experienced child protective investigator and an experienced case manager for at least 8 hours.

Section 3. Paragraph (1) is added to subsection (1) of section 409.988, Florida Statutes, to read:

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(1) Shall identify an employee to serve as a liaison with the community alliance and community-based and faith-based organizations interested in collaborating with the lead agency or offering services or other assistance on a volunteer basis to the children and families served by the lead agency. The lead agency shall ensure that appropriate lead agency staff and subcontractors, including, but not limited to, case managers,



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are informed of the specific services or assistance available
from community-based and faith-based organizations.

Section 4. Section 409.991, Florida Statutes, is amended to
read:

(Substantial rewording of section. See s. 409.991,
F.S., for present text.)

409.991 Allocation of funds for community-based care lead
agencies.—

(1) As used in this section, the term “core services funds”
means all funds allocated to lead agencies operating under
contract with the department pursuant to s. 409.987, with the
following exceptions:

(a) Funds appropriated for independent living services;
(b) Funds appropriated for maintenance adoption subsidies;
(c) Funds allocated by the department for child protective
investigative service training;

(d) Nonrecurring funds;
(e) Designated mental health wrap-around service funds;
(f) Funds for special projects for a designated lead
agency; and

(g) Funds appropriated for the Guardianship Assistance
Program established under s. 39.6225.

(2) The department shall use an objective, workload-based
methodology to identify and report the optimal level of funding
for each lead agency considering demand for each of the
following:

(a) Prevention services;
(b) Client services;
(c) Licensed out-of-home care costs; and



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(d) Staffing, using the ratio for case managers compared to the caseload requirements specified in s. 20.19(4)(c)2.

(3) The allocation of core services funds must be based on the following:

(a) The total optimal funding amount as determined by adding together the funding for prevention services, client services, licensed out-of-home care, and staffing.

(b) A comparison of the total optimal funding amount to the actual allocated funding for the most recent fiscal year to determine the percentage of optimal funding the lead agency is currently receiving.

(4) By November 1 of each year, the secretary must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes the current funding level of each lead agency based on the optimal funding level as determined by using each lead agency workload using the department's methodology. The report must identify any lead agency that is persistently funded at less than the optimal funding level and recommend strategies to address the shortfall including, but not limited to, business process redesign, the adoption of best practices, and requesting additional funding.

(5) The department may adopt rules to establish the optimal funding levels for lead agencies.

(6) Unless otherwise specified in the General Appropriations Act, the department shall allocate any new funding for core services, based on the department's methodology, to achieve optimal funding for all lead agencies inversely proportional to each lead agency optimal funding percentage.



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(7) Unless otherwise specified in the General Appropriations Act, the department shall consider a lead agency's funding level compared to its optimal funding level when allocating funding from the risk pool, as provided in s. 409.990.

Section 5. Subsections (18) through (23) of section 409.996, Florida Statutes, are renumbered (19) through (24), respectively, paragraph (a) of subsection (1) and subsection (17) of that section are amended, and a new subsection (18), (24), and (25) are added to that section, to read:

409.996 Duties of the Department of Children and Families.—
The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations.

(1) The department shall enter into contracts with lead agencies for the performance of the duties by the lead agencies pursuant to s. 409.988. At a minimum, the contracts must:

(a) Provide for the services needed to accomplish the duties established in s. 409.988 and provide information to the department which is necessary to meet the requirements for a quality assurance program pursuant to subsection (19)~~(18)~~ and the child welfare results-oriented accountability system pursuant to s. 409.997.

(17) The department shall directly ~~or through contract~~ provide attorneys to prepare and present cases in dependency



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301 court and shall ensure that the court is provided with adequate
302 information for informed decisionmaking in dependency cases,
303 including, at a minimum, a face sheet for each case which lists
304 the names and contact information for any child protective
305 investigator, child protective investigation supervisor, case
306 manager, and case manager supervisor, and the regional
307 department official responsible for the lead agency contract.
308 The department shall provide to the court the case information
309 and recommendations provided by the lead agency or
310 subcontractor. ~~For the Sixth Judicial Circuit, the department~~
311 ~~shall contract with the state attorney for the provision of~~
312 ~~these services.~~

313 (18) (a) The department may contract for the provision of
314 children's legal services to prepare and present cases in
315 dependency court. The contracted attorneys shall ensure that the
316 court is provided with adequate information for informed
317 decisionmaking in dependency cases, including, at a minimum, a
318 face sheet for each case which lists the names and contact
319 information for any child protective investigator, child
320 protective investigator supervisor, and the regional department
321 official responsible for the lead agency contract. The
322 contracted attorneys shall provide to the court the case
323 information and recommendations provided by the lead agency or
324 subcontractor. For the Sixth Judicial Circuit, the department
325 shall contract with the state attorney for the provision of
326 these services.

327 (b) The contracted attorneys shall adopt the child welfare
328 practice model, as periodically updated by the department, that
329 is used by attorneys employed by the department. The contracted



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attorneys shall operate in accordance with the same federal and state performance standards and metrics imposed on children's legal services attorneys employed by the department.

(c) The department and contracted attorneys providing children's legal services shall collaborate to monitor program performance on an ongoing basis. The department and contracted attorneys', or a representative from such contracted attorneys' offices, shall meet at least quarterly to collaborate on federal and state quality assurance and quality improvement initiatives.

(d) The department shall conduct an annual program performance evaluation which shall be based on the same child welfare practice model principles and federal and state performance standards that are imposed on children's legal services attorneys employed by the department. The program performance evaluation must be standardized statewide and the department shall select random cases for evaluation. The program performance evaluation shall be conducted by a team of peer reviewers from the respective contracted attorneys' offices that perform children's legal services and representatives from the department.

(e) The department shall publish an annual report regarding, at a minimum, performance quality, outcome-measure attainment, and cost efficiency of the services provided by the contracted attorneys. The annual report must include data and information on the performance of both the contracted attorneys' and the department's attorneys. The department shall submit the annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than November 1 of each year that the contracted attorneys are



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receiving appropriations to provide children's legal services
for the department.

(24) In collaboration with lead agencies, service
providers, and other community stakeholders, the department
shall develop a statewide accountability system based on
measurable quality standards. The accountability system must be
implemented by July 1, 2021.

(a) The accountability system must:

1. Assess the overall health of the child welfare system,
by circuit, using grading criteria established by the
department;

2. Include a quality measurement system with domains and
clearly defined levels of quality. The system must measure the
performance standards for child protective investigators, lead
agencies, and children's legal services throughout the system of
care, using criteria established by the department, and, at a
minimum, address applicable federal- and state-mandated metrics.

3. Align with the principles of the results-oriented
accountability program established under s. 409.997.

(b) After the development and implementation of the
accountability system under this subsection, the department and
each lead agency shall use the information from the
accountability system to promote enhanced quality service
delivery within their respective areas of responsibility.

(c) By December 1 of each year, the department shall submit
a report on the overall health of the child welfare system to
the Governor, the President of the Senate, and the Speaker of
the House of Representatives.

(d) The department may adopt rules to implement this



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subsection.

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

(a) In implementing the pilot projects, the department shall establish performance metrics and performance standards to assess improvements in safety, permanency, and the well-being of children in the local system of care for the lead agencies in those judicial circuits. Such metrics and standards must be aligned with indicators used in the most recent federal Child and Family Services Reviews.

(b) The lead agencies in the Sixth and Thirteenth Judicial Circuits shall provide performance data to the department each quarter. The department shall review the data for accuracy and completeness and then shall compare the actual performance of the lead agencies to the established performance metrics and standards. Each lead agency that exceeds performance metrics and standards is eligible for incentive funding.

(c) For the first quarter of each fiscal year, the department may advance incentive funding to the lead agencies in an amount equal to one quarter of the total allocated to the pilot project. After each quarter, the department shall assess the performance of the lead agencies for that quarter and adjust the subsequent quarter's incentive funding based on its actual prior quarter performance.

(d) The department shall include the results of the pilot projects in the report required under s. 20.19(7). The report must include the department's findings and recommendations



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relating to the pilot projects.

(e) This subsection expires July 1, 2022.

Section 6. Subsections (6) and (7) of section 1004.615, Florida Statutes, are renumbered as subsections (9) and (10), respectively, and new subsections (6), (7), and (8) are added to that section, to read:

1004.615 Florida Institute for Child Welfare.—

(6) The institute and the Florida State University College of Social Work shall design and implement a curriculum that enhances knowledge and skills for the child welfare practice. The institute and the college shall create the curriculum using interactive and interdisciplinary approaches and include opportunities for students to gain an understanding of real-world child welfare cases. The institute shall disseminate the curriculum to other interested state universities and colleges and provide implementation support. The institute shall contract with a person or entity of its choosing, by November 1, 2020, to evaluate the curriculum and make recommendations for improvement. The college shall implement the curriculum during the 2021-2022 school year. This subsection is subject to an appropriation.

(7) The institute, in collaboration with the department, community-based care lead agencies, providers of case management services, and other child welfare stakeholders, shall design and implement a career-long professional development curriculum for child welfare professionals at all levels and from all disciplines. The professional development curriculum must enhance the performance of the current child welfare workforce, address issues related to retention, complement the social work



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curriculum, and be developed using social work principles. The professional development curriculum shall provide career-long coaching, training, certification, and mentorship. The institute must provide the professional support on a continuous basis through online and in-person services. The professional development curriculum must be available by July 1, 2021. The Department of Children and Families must approve the curriculum prior to implementation. This subsection is subject to an appropriation.

(8) The institute shall establish a consulting program for child welfare organizations to enhance workforce culture, supervision, and related management processes to improve retention, effectiveness, and overall well-being of staff to support improved child welfare outcomes. The institute shall select child welfare organizations through a competitive application process and provide ongoing analysis, recommendations, and support from a team of experts on a long-term basis to address systemic and operational workforce challenges. This subsection is subject to an appropriation.

Section 7. The Department of Children and Families, in collaboration with the Florida Institute of Child Welfare, shall develop an expanded career ladder for child protective investigations staff. The career ladder shall include multiple levels of child protective investigator classifications, corresponding milestones and professional development opportunities necessary for advancement, and compensation ranges. The department must submit a proposal for the expanded career ladder to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than



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November 1, 2020.

Section 8. (1) For the 2020-2021 fiscal year, the sum of \$8,235,052 in recurring funds is appropriated from the General Revenue fund to the Department of Children and Families for incentive funding for the pilot projects required in s. 409.998(25), Florida Statutes, as created by this act.

(2) For the 2020-2021 fiscal year the sum of \$5,350,000 in recurring funds from the General Revenue Fund is appropriated to the Department of Children and Families, and 2,907,885 in rate is authorized for the establishment of the Office of Quality, as required in s. 20.19(7), Florida Statutes. The department is authorized to reassign up to 125 currently authorized positions and submit budget amendments pursuant to chapter 216, Florida Statutes, for the Office of Quality to administer and implement the provisions of this act.

Section 9. Sections 1, 2, and 3 of this act may be cited as the "State of Hope Act."

Section 10. This act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the Department of Children and Families; amending s. 20.19, F.S.; revising duties and membership of community alliances; requiring the department to establish an Office of Quality; providing duties of the office; requiring the office



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to develop and submit a report to the Governor and the Legislature annually by a specified date; authorizing the department to adopt rules; amending s. 402.402, F.S.; requiring the department to implement certain policies and programs to improve the well being of certain employees; adding requirements to an annual report; amending s. 409.988, F.S.; requiring community based care lead agencies to name a liaison with the faith-based community; amending s. 409.991, F.S.; defining the term "core services funds"; requiring the department to develop a methodology to identify and report the optimal level of funding for community-based care lead agencies; providing requirements for the allocation of core services funds; requiring the Secretary of the Department of Children and Families to submit a report to the Governor and Legislature annually by a specified date; providing requirements for such report; authorizing the department to adopt rules; requiring certain funding to be allocated based on the department's methodology, unless otherwise specified in the General Appropriations Act; amending s. 409.996, F.S.; requiring the department to develop a statewide accountability system; requiring that such system be implemented by a specified date; providing requirements for such accountability system; requiring the department and lead agencies to promote enhanced quality service delivery; requiring the department to submit a report to the Governor and the Legislature annually by a specified date; authorizing the



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department to adopt rules; requiring the department to implement pilot projects to improve child welfare outcomes in specified judicial circuits; requiring the department to establish performance metrics and standards to implement the pilot projects; requiring lead agencies in specified judicial circuits to provide certain data to the department each quarter; requiring the department to review such data; authorizing the department to advance incentive funding to certain lead agencies that meet specified requirements; requiring the department to include certain results in a specified report; providing for future expiration; amending s. 1004.615, F.S.; to require the Institute for Child Welfare to develop a child welfare education curriculum; develop a child welfare workforce curriculum; provide a consulting program for child welfare organizations; requiring the institute and the Department of Children and Families to develop a proposal for a career ladder for child protective investigations staff; providing a short title; providing an appropriation; providing an effective date.

By Senator Simpson

10-01854-20

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1 A bill to be entitled
 2 An act relating to the Department of Children and
 3 Families; providing a short title; amending s. 20.19,
 4 F.S.; providing for the creation of the Office of
 5 Quality Assurance and Improvement in the Department of
 6 Children and Families; requiring the Secretary of
 7 Children and Families to appoint a chief quality
 8 officer; providing duties of the chief quality
 9 officer; creating s. 39.0012, F.S.; providing
 10 legislative intent; requiring the department to
 11 annually report certain information to the Governor
 12 and the Legislature by a specified date; requiring the
 13 department to publish such report on its website;
 14 providing requirements for such report; amending s.
 15 39.01, F.S.; defining terms; amending s. 39.201, F.S.;
 16 extending the timeframe within which a protective
 17 investigation is required to be commenced in certain
 18 circumstances; specifying factors to be considered
 19 when determining when to commence a protective
 20 investigation; authorizing certain reports to the
 21 central abuse hotline to be referred for precrisis
 22 preventive services; amending s. 39.301, F.S.;
 23 requiring notification of certain staff of certain
 24 reports to the central abuse hotline; requiring
 25 detailed documentation for preventive services;
 26 requiring the department to incorporate into its
 27 quality assurance program the monitoring of reports
 28 that receive preventive services; providing that
 29 onsite investigation visits must be unannounced unless

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

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30 a certain finding is made; requiring that contacts
 31 made involving preventive services be announced unless
 32 there is no reasonable means to do so; amending s.
 33 39.3065, F.S.; providing legislative intent; requiring
 34 certain sheriffs to adopt Florida's Child Welfare
 35 Practice Model and operate under certain provisions of
 36 law; requiring the department and sheriffs to
 37 collaborate and conduct program performance
 38 evaluations; requiring the department and sheriffs, or
 39 their designees, to meet at least quarterly for a
 40 specified purpose; providing that program performance
 41 evaluations be based on criteria developed by the
 42 department; requiring such evaluations to be
 43 standardized using a random sample of cases; revising
 44 the date by which the department is required to submit
 45 an annual report to the Governor and the Legislature;
 46 requiring certain sheriffs to annually submit to the
 47 department a prevention plan; providing requirements
 48 for such prevention plans; authorizing the secretary
 49 of the department to offer resources to sheriffs for
 50 certain purposes; amending s. 394.67, F.S.; defining
 51 the term "performance standards and metrics"; amending
 52 s. 394.9082, F.S.; providing legislative intent;
 53 requiring the department to annually provide a report
 54 containing certain information to the Governor and the
 55 Legislature by a specified date; requiring the
 56 department to publish such report on its website;
 57 providing requirements for such report; requiring the
 58 department to grade each managing entity based on

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59 specified criteria; requiring the department to renew
 60 contracts with managing entities that receive a
 61 specified grade; requiring the department to develop a
 62 system of support and improvement strategies for
 63 certain managing entities; authorizing the department
 64 to provide assistance to certain managing entities;
 65 requiring the department to take certain actions in
 66 response to managing entities that receive a grade of
 67 "D" or "F"; authorizing the department to
 68 competitively procure and contract under certain
 69 circumstances; authorizing the secretary of the
 70 department to direct resources to managing entities
 71 for certain purposes and to terminate contracts with
 72 certain entities; requiring managing entities to pay
 73 certain fines incurred by the department; requiring
 74 managing entities to retain responsibility for any
 75 failures of compliance if the managing entity
 76 subcontracts its duties or services; requiring the
 77 department to conduct program performance evaluations
 78 of managing entities at least annually; requiring
 79 managing entities to allow the department access to
 80 make onsite visits to contracted providers; requiring
 81 the department to adopt rules; deleting provisions
 82 relating to a requirement for the department to
 83 establish performance standards for managing entities;
 84 amending s. 409.986, F.S.; defining terms; amending s.
 85 409.991, F.S.; providing legislative findings and
 86 intent; defining terms; providing for the calculation
 87 of the allocation of core plus funds; prohibiting the

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88 department from reducing or redistributing the
 89 allocation budget for certain lead agencies before the
 90 2023-2024 fiscal year; providing for funding of lead
 91 agencies; providing for the distribution of additional
 92 funding to lead agencies; amending s. 409.996, F.S.;
 93 revising requirements for contracts entered into by
 94 the department with lead agencies; requiring the
 95 department to provide grades for lead agencies based
 96 on specified criteria; requiring the department to
 97 renew contracts with lead agencies that receive a
 98 specified grade; requiring the department to develop a
 99 system of support and improvement strategies for
 100 certain lead agencies; authorizing the department to
 101 provide assistance to certain lead agencies; requiring
 102 the department to take certain actions in response to
 103 lead agencies that receive a grade of "D" or "F";
 104 authorizing the department to competitively procure
 105 and contract under certain circumstances; authorizing
 106 the secretary of the department to offer resources to
 107 lead agencies for certain purposes and to terminate
 108 contracts with certain entities; requiring lead
 109 agencies to pay certain fines incurred by the
 110 department; requiring lead agencies to retain
 111 responsibility for any failures of compliance if the
 112 lead agency subcontracts its duties or services;
 113 requiring the department to adopt rules; requiring
 114 attorneys contracted by the department to adopt
 115 Florida's Child Welfare Practice Model and to operate
 116 in accordance with specified provisions of law;

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117 requiring the department and contracted attorneys to
 118 collaborate and conduct program performance
 119 evaluations; requiring the department and attorneys or
 120 their designees to meet at least quarterly for a
 121 specified purpose; providing requirements for annual
 122 program performance evaluations; requiring the
 123 department to annually submit a report containing
 124 certain information to the Governor and the
 125 Legislature by a specified date; authorizing the
 126 secretary of the department to offer resources to
 127 contracted attorneys for certain purposes; amending s.
 128 409.997, F.S.; requiring certain data to be provided
 129 to the Office of Quality Assurance and Improvement;
 130 requiring the department to conduct certain
 131 evaluations of lead agencies at least annually;
 132 requiring lead agencies to allow the department access
 133 to make onsite visits to contracted providers;
 134 amending ss. 39.202, 39.502, 39.521, 39.6011, 39.6012,
 135 39.701, 39.823, 322.09, 393.065, 394.495, 394.674,
 136 409.987, 409.988, 627.746, 934.255, and 960.065, F.S.;
 137 conforming cross-references; reenacting and amending
 138 s. 39.302(1), F.S., relating to protective
 139 investigations of institutional child abuse,
 140 abandonment, or neglect, to incorporate the amendments
 141 made to s. 39.201, F.S.; reenacting ss. 409.988(1)(b)
 142 and 409.996(1)(a), F.S., relating to lead agency
 143 duties and duties of the department, respectively, to
 144 incorporate the amendment made to s. 409.997, F.S., in
 145 references thereto; providing an effective date.

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146
 147 Be It Enacted by the Legislature of the State of Florida:
 148
 149 Section 1. This act may be cited as the "DCF Accountability
 150 Act."
 151 Section 2. Present subsections (5) and (6) of section
 152 20.19, Florida Statutes, are redesignated as subsections (6) and
 153 (7), respectively, and a new subsection (5) is added to that
 154 section, to read:
 155 20.19 Department of Children and Families.—There is created
 156 a Department of Children and Families.
 157 (5) There is created in the department an Office of Quality
 158 Assurance and Improvement.
 159 (a) The secretary shall appoint a chief quality officer to
 160 lead the office and ensure that the department and its service
 161 providers meet the highest level of performance standards. The
 162 chief quality officer shall serve at the pleasure of the
 163 secretary.
 164 (b) The chief quality officer shall:
 165 1. Analyze and monitor the development and implementation
 166 of federal and state laws, rules, and regulations and other
 167 governmental policies and actions that pertain to persons being
 168 served by the department.
 169 2. Develop and implement performance standards and metrics
 170 for determining the department's compliance with federal and
 171 state laws, rules, and regulations and other governmental
 172 policies and actions.
 173 3. Strengthen the department's data and analytic
 174 capabilities to identify systemic strengths and deficiencies.

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175 4. Identify performance standards and metrics for the
 176 department and all other service providers, including, but not
 177 limited to, law enforcement agencies, managing entities, lead
 178 agencies, and attorney services.

179 5. Recommend unique and varied initiatives to correct
 180 programmatic and systemic deficiencies.

181 6. Collaborate and engage partners of the department to
 182 improve quality, efficiency, and effectiveness.

183 7. Report any persistent failure by the department to meet
 184 performance standards and recommend to the secretary corrective
 185 courses prescribed by statute.

186 8. Prepare an annual report of all contractual performance
 187 metrics, including the most current status of such metrics, to
 188 the secretary.

189 Section 3. Section 39.0012, Florida Statutes, is created to
 190 read:

191 39.0012 Child welfare accountability.—

192 (1) It is the intent of the Legislature that:

193 (a) Florida's child welfare system be held accountable for
 194 providing exemplary services in a manner that is transparent and
 195 that inspires public confidence in the Department of Children
 196 and Families.

197 (b) The department be held accountable to the Governor and
 198 the Legislature for carrying out the purposes of, and the
 199 responsibilities established in, this chapter. It is further the
 200 intent of the Legislature that the department only contract with
 201 entities that carry out the purposes of, and the
 202 responsibilities established in, this chapter.

203 (c) The department, other agencies, the courts, law

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204 enforcement agencies, local communities, and other contracted
 205 child welfare service providers are all held accountable to the
 206 highest standards.

207 (d) While the department has been directed to delegate the
 208 duties of child welfare to other entities, law enforcement
 209 agencies, local communities, and other contracted child welfare
 210 service providers, the department retains direct responsibility
 211 for quality assurance.

212 (e) The department, in consultation with child welfare
 213 service providers, establish overall performance levels and
 214 metrics for any entity that the department contracts with to
 215 provide child welfare services.

216 (f) The department acts to offer increasing levels of
 217 support for child welfare service providers with performance
 218 deficiencies. However, the department may not continue to
 219 contract with child welfare service providers that persistently
 220 fail to meet performance standards and metrics for three or more
 221 consecutive annual performance reviews.

222 (2) By November 1 of each year, the department shall report
 223 on all performance levels and contractual performance metrics,
 224 including the most current status of such levels and metrics, to
 225 the Governor, the President of the Senate, and the Speaker of
 226 the House of Representatives. The department must annually
 227 publish the report on its website. The report must contain the
 228 following information:

229 (a) Performance metrics for the entire child welfare
 230 system, including grades for the lead agencies.

231 (b) Performance metrics by region and type of child welfare
 232 service provider, including performance levels.

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233 (c) A list of the child welfare service providers not in
 234 compliance with performance metrics.

235 (d) Detailed corrective action taken, if any, to bring
 236 child welfare service providers back into compliance with
 237 performance metrics.

238 Section 4. Present subsections (10) through (12), (13)
 239 through (29), (30) through (58), and (59) through (87) of
 240 section 39.01, Florida Statutes, are redesignated as subsections
 241 (11) through (13), (15) through (31), (33) through (61), and
 242 (63) through (91), respectively, new subsections (10), (14),
 243 (32), and (62) are added to that section, and present
 244 subsections (10) and (37) of that section are amended, to read:

245 39.01 Definitions.—When used in this chapter, unless the
 246 context otherwise requires:

247 (10) "Best practices" means a method or program that has
 248 been recognized by the department and has been found to be
 249 successful for compliance with performance standards and
 250 metrics.

251 (11)-(10) "Caregiver" means the parent, legal custodian,
 252 permanent guardian, adult household member, or other person
 253 responsible for a child's welfare as defined in subsection (57)
 254 (54).

255 (14) "Child welfare service provider" means county and
 256 municipal governments and agencies, public and private agencies,
 257 and private individuals and entities with which the department
 258 has a contract or agreement to carry out the purposes of, and
 259 responsibilities established in, this chapter.

260 (32) "Florida's Child Welfare Practice Model" means the
 261 methodology developed by the department, based on child welfare

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262 statutes and rules, to ensure the permanency, safety, and well-
 263 being of children.

264 (40)-(37) "Institutional child abuse or neglect" means
 265 situations of known or suspected child abuse or neglect in which
 266 the person allegedly perpetrating the child abuse or neglect is
 267 an employee of a public or private school, public or private day
 268 care center, residential home, institution, facility, or agency
 269 or any other person at such institution responsible for the
 270 child's welfare as defined in subsection (57) (54).

271 (62) "Performance standards and metrics" means quantifiable
 272 measures used to track and assess performance, as determined by
 273 the department.

274 Section 5. Subsection (5) of section 39.201, Florida
 275 Statutes, is amended to read:

276 39.201 Mandatory reports of child abuse, abandonment, or
 277 neglect; mandatory reports of death; central abuse hotline.—

278 (5) The department shall be capable of receiving and
 279 investigating, 24 hours a day, 7 days a week, reports of known
 280 or suspected child abuse, abandonment, or neglect and reports
 281 that a child is in need of supervision and care and has no
 282 parent, legal custodian, or responsible adult relative
 283 immediately known and available to provide supervision and care.

284 (a) If it appears that the immediate safety or well-being
 285 of a child is endangered, that the family may flee or the child
 286 will be unavailable for purposes of conducting a child
 287 protective investigation, or that the facts otherwise so
 288 warrant, the department shall commence an investigation
 289 immediately, regardless of the time of day or night.

290 (b) In all other child abuse, abandonment, or neglect

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cases, a child protective investigation shall be commenced within either 24 or 72 hours after receipt of the report, depending upon the severity of the alleged abuse, abandonment, or neglect and assessed risk to the child.

1. Factors to be considered in the assessed severity and risk to the child include, but are not limited to:

a. Whether the alleged abuse, abandonment, or neglect incident is alleged to have occurred more than 30 days prior to the reporter's contact with the central abuse hotline.

b. Whether there is credible information to support a finding that the alleged perpetrator will not have access to the alleged child victim for at least 72 hours following the reporter's contact with the central abuse hotline.

c. Whether the alleged child victim no longer resides at or attends the facility where the abuse, abandonment, or neglect is alleged to have occurred.

2. A child protective investigation must be commenced within 24 hours if the incident involves any of the following:

a. Sexual abuse allegations.

b. Human trafficking allegations.

c. The alleged victim is under 1 year of age.

(c) For reports that do not meet the statutory criteria for abuse, abandonment, or neglect, but the circumstances surrounding a family are precrisis in nature, the department may contact and attempt to engage the family in preventive services to prevent the need for more intrusive interventions in the future.

(d) In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own

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expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

Section 6. Present subsections (14) through (23) of section 39.301, Florida Statutes, are redesignated as subsections (15) through (24), respectively, a new subsection (14) is added to that section, and subsections (1), (10), (11), and (13) of that section are amended, to read:

39.301 Initiation of protective investigations.—

(1) Upon receiving a report of known or suspected child abuse, abandonment, or neglect, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated regional district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not

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requiring an immediate onsite protective investigation, the central abuse hotline shall determine whether the report meets criteria for a 24- or 72-hour investigation, or preventive services, and notify the department's designated regional ~~district~~ staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification, the central abuse hotline shall also provide information to regional ~~district~~ staff on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(10) (a) The department's training program for staff responsible for responding to reports accepted by the central abuse hotline must also ensure that child protective responders:

1. Know how to fully inform parents or legal custodians of their rights and options, including opportunities for audio or video recording of child protective responder interviews with parents or legal custodians or children.

2. Know how and when to use the injunction process under s. 39.504 or s. 741.30 to remove a perpetrator of domestic violence from the home as an intervention to protect the child.

3. Know how to explain to the parent, legal custodian, or person who is alleged to have caused the abuse, neglect, or abandonment the results of the investigation and to provide information about his or her right to access confidential reports in accordance with s. 39.202, prior to closing the case.

(b) To enhance the skills of individual staff members and to improve the region's ~~and district's~~ overall child protection system, the department's training program at the regional level

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~~and district levels~~ must include results of qualitative reviews of child protective investigation cases handled within the region ~~or district~~ in order to identify weaknesses as well as examples of effective interventions which occurred at each point in the case.

(c) For all reports received, detailed documentation is required for the investigative activities or preventive services.

(11) The department shall incorporate into its quality assurance program the monitoring of reports that receive a child protective investigation or preventive services to determine the quality and timeliness of safety assessments, engagements with families, teamwork with other experts and professionals, and appropriate investigative activities or preventive services that are uniquely tailored to the safety factors and service needs associated with each child and family.

(13) Onsite investigation visits and face-to-face interviews with the child or family shall be unannounced unless it is determined by the department or its agent or contract provider that such unannounced visit would threaten the safety of the child.

(14) Any contact with the child or family involving preventive services must be announced unless the department or its agent has no means to schedule a visit with the parent or caregiver.

Section 7. Section 39.3065, Florida Statutes, is amended to read:

39.3065 Sheriffs of certain counties to provide child protective investigative services; procedures; funding.—

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(1) It is the intent of the Legislature that each sheriff providing child protective investigative services under this section, in consultation with the Department of Children and Families, adopt Florida's Child Welfare Practice Model and implement a prevention plan for his or her county.

(2) As described in this section, the Department of Children and Families shall, by the end of fiscal year 1999-2000, transfer all responsibility for child protective investigations for Pinellas County, Manatee County, Broward County, and Pasco County to the sheriff of that county in which the child abuse, neglect, or abandonment is alleged to have occurred. Each sheriff is responsible for the provision of all child protective investigations in his or her county. Each individual who provides these services must complete the training provided to and required of protective investigators employed by the Department of Children and Families.

(3) ~~(2)~~ During fiscal year 1998-1999, the Department of Children and Families and each sheriff's office shall enter into a contract for the provision of these services. Funding for the services will be appropriated to the Department of Children and Families, and the department shall transfer to the respective sheriffs for the duration of fiscal year 1998-1999, funding for the investigative responsibilities assumed by the sheriffs, including federal funds that the provider is eligible for and agrees to earn and that portion of general revenue funds which is currently associated with the services that are being furnished under contract, and including, but not limited to, funding for all investigative, supervisory, and clerical positions; training; all associated equipment; furnishings; and

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other fixed capital items. The contract must specify whether the department will continue to perform part or none of the child protective investigations during the initial year. The sheriffs may either conduct the investigations themselves or may, in turn, subcontract with law enforcement officials or with properly trained employees of private agencies to conduct investigations related to neglect cases only. If such a subcontract is awarded, the sheriff must take full responsibility for any safety decision made by the subcontractor and must immediately respond with law enforcement staff to any situation that requires removal of a child due to a condition that poses an immediate threat to the child's life. The contract must specify whether the services are to be performed by departmental employees or by persons determined by the sheriff. During this initial year, the department is responsible for quality assurance, and the department retains the responsibility for the performance of all child protective investigations. The department must identify any barriers to transferring the entire responsibility for child protective services to the sheriffs' offices and must pursue avenues for removing any such barriers by means including, but not limited to, applying for federal waivers. By January 15, 1999, the department shall submit to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate and House committees that oversee departmental activities a report that describes any remaining barriers, including any that pertain to funding and related administrative issues. Unless the Legislature, on the basis of that report or other pertinent information, acts to block a transfer of the entire

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responsibility for child protective investigations to the sheriffs' offices, the sheriffs of Pasco County, Manatee County, Broward County, and Pinellas County, beginning in fiscal year 1999-2000, shall assume the entire responsibility for such services, as provided in subsection (4) ~~(3)~~.

(4) ~~(3)~~ (a) Beginning in fiscal year 1999-2000, the sheriffs of Pasco County, Manatee County, Broward County, and Pinellas County have the responsibility to provide all child protective investigations in their respective counties. Beginning in fiscal year 2000-2001, the Department of Children and Families is authorized to enter into grant agreements with sheriffs of other counties to perform child protective investigations in their respective counties.

(b) The sheriffs shall adopt Florida's Child Welfare Practice Model and operate in accordance with the same federal performance standards and metrics regarding child welfare and protective investigations imposed on operate, at a minimum, in accordance with the performance standards and outcome measures established by the Legislature for protective investigations conducted by the Department of Children and Families. Each individual who provides these services must complete, at a minimum, the training provided to and required of protective investigators employed by the Department of Children and Families.

(c) Funds for providing child protective investigations must be identified in the annual appropriation made to the Department of Children and Families, which shall award grants for the full amount identified to the respective sheriffs' offices. Notwithstanding ~~the provisions of~~ ss. 216.181(16) (b)

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and 216.351, the Department of Children and Families may advance payments to the sheriffs for child protective investigations. Funds for the child protective investigations may not be integrated into the sheriffs' regular budgets. Budgetary data and other data relating to the performance of child protective investigations must be maintained separately from all other records of the sheriffs' offices and reported to the Department of Children and Families as specified in the grant agreement.

(d) The Department of Children and Families and each sheriff shall collaborate and conduct program performance evaluations on an ongoing basis. The department and each sheriff or their designees shall meet at least quarterly to collaborate on federal and state quality assurance and continuous quality improvement initiatives.

(e) ~~(d)~~ The annual program performance evaluation shall be based on criteria developed by mutually agreed upon by the respective sheriffs and the Department of Children and Families for use with all child protective investigators statewide. The program performance evaluation shall be conducted by a team of peer reviewers from the respective sheriffs' offices that perform child protective investigations and representatives from the department. The program performance evaluation shall be standardized using a random sample of cases selected by the department. The Department of Children and Families shall submit an annual report regarding quality performance, outcome-measure attainment, and cost efficiency to the President of the Senate, the Speaker of the House of Representatives, and to the Governor no later than November 1 January 31 of each year the sheriffs are receiving general appropriations to provide child protective

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investigations.

(f) By June 30 of each year, each sheriff shall submit to the department for approval a prevention plan that details his or her approach to prevention within his or her community. The plan must include provisions for engaging prevention services at the earliest point practicable and for using community resources.

(g) At any time, the secretary may offer resources to sheriffs to address any performance deficiencies that directly impact the safety of children in this state.

Section 8. Present subsections (17) through (24) of section 394.67, Florida Statutes, are redesignated as subsections (18) through (25), respectively, a new subsection (17) is added to that section, and subsection (3) of that section is amended, to read:

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

(3) "Crisis services" means short-term evaluation, stabilization, and brief intervention services provided to a person who is experiencing an acute mental or emotional crisis, as defined in subsection (18) ~~(17)~~, or an acute substance abuse crisis, as defined in subsection (19) ~~(18)~~, to prevent further deterioration of the person's mental health. Crisis services are provided in settings such as a crisis stabilization unit, an inpatient unit, a short-term residential treatment program, a detoxification facility, or an addictions receiving facility; at the site of the crisis by a mobile crisis response team; or at a hospital on an outpatient basis.

(17) "Performance standards and metrics" means quantifiable measures used to track and assess performance, as determined by

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the department.

Section 9. Subsections (1) and (7) of section 394.9082, Florida Statutes, are amended, and paragraph (m) is added to subsection (3) of that section, to read:

394.9082 Behavioral health managing entities.—

(1) INTENT AND PURPOSE.—

(a) The Legislature finds that untreated behavioral health disorders constitute major health problems for residents of this state, are a major economic burden to the citizens of this state, and substantially increase demands on the state's juvenile and adult criminal justice systems, the child welfare system, and health care systems. The Legislature finds that behavioral health disorders respond to appropriate treatment, rehabilitation, and supportive intervention. The Legislature finds that local communities have also made substantial investments in behavioral health services, contracting with safety net providers who by mandate and mission provide specialized services to vulnerable and hard-to-serve populations and have strong ties to local public health and public safety agencies. The Legislature finds that a regional management structure that facilitates a comprehensive and cohesive system of coordinated care for behavioral health treatment and prevention services will improve access to care, promote service continuity, and provide for more efficient and effective delivery of substance abuse and mental health services. It is the intent of the Legislature that managing entities work to create linkages among various services and systems, including juvenile justice and adult criminal justice, child welfare, housing services, homeless systems of care, and health care.

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(b) The purpose of the behavioral health managing entities is to plan, coordinate, and contract for the delivery of community mental health and substance abuse services, to improve access to care, to promote service continuity, to purchase services, and to support efficient and effective delivery of services.

(c) It is the further intent of the Legislature that:

1. The department only contract with managing entities that carry out the purposes of, and the responsibilities established in, this chapter.

2. The department and the contracted managing entities are all held accountable to the highest standards. While the department may delegate the duties of specific services to managing entities, the department retains responsibility for quality assurance.

3. The department, in consultation with the contracted managing entities, establish overall performance levels and metrics for the services provided by the managing entities. The performance standards set by the department for the contracted managing entities must, at a minimum, address the tasks contained in the managing entity's contract with the department.

4. The department offers increasing levels of support for managing entities with performance deficiencies. However, the department may not continue to contract with managing entities that consistently fail to meet performance standards and metrics for three or more consecutive annual performance reviews.

(3) DEPARTMENT DUTIES.—The department shall:

(m) By November 1 of each year, provide a report on all performance levels and contractual performance metrics, and the

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most current status of such levels and metrics, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The department must annually publish the report on its website. The report must contain the following information:

1. Performance metrics, including grades, for the managing entities.

2. Performance metrics by region and type of managing entity, including performance levels.

3. A list of the managing entities not in compliance with performance metrics.

4. Detailed corrective action taken, if any, to bring managing entities back into compliance with performance metrics.

(7) PERFORMANCE MEASUREMENT AND ACCOUNTABILITY.—Managing entities shall collect and submit data to the department regarding persons served, outcomes of persons served, costs of services provided through the department's contract, and other data as required by the department. The department shall evaluate managing entity performance and the overall progress made by the managing entity.

(a) The department shall provide a grade to each managing entity based on the department's annual review of the entity's compliance with performance standards and metrics.

(b) A managing entity's performance shall be graded based on a weighted score of the entity's compliance with performance standards and metrics using one of the following grades:

1. "A," managing entities with a weighted score of 4.0 or higher.

2. "B," managing entities with a weighted score of 3.0 to

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639 3.99.

640 3. "C," managing entities with a weighted score of 2.0 to

641 2.99.

642 4. "D," managing entities with a weighted score of 1.0 to

643 1.99.

644 5. "F," managing entities with a weighted score of less

645 than 1.0.

646 (c) If the current contract has a renewal option, the

647 department shall renew the contract of a managing entity that

648 has received an "A" grade for the 2 years immediately preceding

649 the renewal date of the contract.

650 (d) The department shall develop a multitiered system of

651 support and improvement strategies designed to address low

652 performance of managing entities.

653 (e) The department may provide assistance to any managing

654 entity for the purpose of meeting performance standards and

655 metrics. Assistance may include, but is not limited to,

656 recommendations for best practices and implementation of a

657 corrective action plan.

658 (f) The department shall provide assistance to a managing

659 entity that receives a "C" grade or lower on its annual review

660 until it has improved to at least a "B" grade.

661 (g) For any managing entity that has received a grade of

662 "D" or "F," the department shall take immediate action to engage

663 stakeholders in a needs assessment to develop a turnaround

664 option plan. The turnaround option plan may include, but is not

665 limited to, the implementation of corrective actions and best

666 practices designed to improve performance. The department must

667 review and approve the plan before implementation by the

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668 managing entity.

669 (h) Upon a managing entity's receipt of a third consecutive

670 "D" grade or lower, the department shall initiate proceedings to

671 terminate any contract with the managing entity.

672 (i) If cancellation of a contract with a managing entity

673 occurs in a manner that threatens a lapse in services, the

674 department may procure and contract pursuant to s.

675 287.057(3)(a).

676 (j) At any time, the secretary may offer resources to a

677 managing entity to address any deficiencies in meeting

678 performance standards and metrics which directly impact the

679 safety of persons receiving services from the managing entity.

680 (k) Notwithstanding paragraphs (d) through (j), the

681 secretary, at his or her discretion, may terminate a contract

682 with a managing entity that has received an "F" grade or upon

683 the occurrence of an egregious act or omission by the managing

684 entity or its subcontractor.

685 (l) The managing entity shall pay any federal fines

686 incurred by the department as the result of that managing

687 entity's failure to comply with the performance standards and

688 metrics.

689 (m) If the managing entity subcontracts any of its duties

690 or services, the managing entity shall retain responsibility for

691 its failure to comply with performance standards and metrics.

692 (n) The department shall conduct an onsite program

693 performance evaluation of each managing entity at least once per

694 year. Each managing entity must allow the department access to

695 make onsite visits at its discretion to any contracted provider.

696 The onsite evaluation shall consist of a review of a random

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sample of cases selected by the department.

(o) The department shall adopt rules to administer this section, together with other systems, in meeting the community's behavioral health needs, based on consumer-centered outcome measures that reflect national standards, if possible, that can be accurately measured. The department shall work with managing entities to establish performance standards, including, but not limited to:

~~(a) The extent to which individuals in the community receive services, including, but not limited to, parents or caregivers involved in the child welfare system who need behavioral health services.~~

~~(b) The improvement in the overall behavioral health of a community.~~

~~(c) The improvement in functioning or progress in the recovery of individuals served by the managing entity, as determined using person-centered measures tailored to the population.~~

~~(d) The success of strategies to:~~

~~1. Divert admissions from acute levels of care, jails, prisons, and forensic facilities as measured by, at a minimum, the total number and percentage of clients who, during a specified period, experience multiple admissions to acute levels of care, jails, prisons, or forensic facilities;~~

~~2. Integrate behavioral health services with the child welfare system; and~~

~~3. Address the housing needs of individuals being released from public receiving facilities who are homeless.~~

~~(e) Consumer and family satisfaction.~~

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~~(f) The level of engagement of key community constituencies, such as law enforcement agencies, community-based care lead agencies, juvenile justice agencies, the courts, school districts, local government entities, hospitals, and other organizations, as appropriate, for the geographical service area of the managing entity.~~

Section 10. Subsection (3) of section 409.986, Florida Statutes, is amended to read:

409.986 Legislative findings and intent; child protection and child welfare outcomes; definitions.—

(3) DEFINITIONS.—As used in this part, except as otherwise provided, the term:

(a) "Best practices" means a method or program that has been recognized by the department and has been found to be successful for ensuring compliance with performance standards and metrics.

(b) (a) "Care" means services of any kind which are designed to facilitate a child remaining safely in his or her own home, returning safely to his or her own home if he or she is removed from the home, or obtaining an alternative permanent home if he or she cannot remain at home or be returned home. The term includes, but is not limited to, prevention, diversion, and related services.

(c) (b) "Child" or "children" has the same meaning as provided in s. 39.01.

(d) (e) "Community alliance" or "alliance" means the group of stakeholders, community leaders, client representatives, and funders of human services established pursuant to s. 20.19(6) s. 20.19(5) to provide a focal point for community participation

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and oversight of community-based services.

~~(e)(d)~~ "Community-based care lead agency" or "lead agency" means a single entity with which the department has a contract for the provision of care for children in the child protection and child welfare system in a community that is no smaller than a county and no larger than two contiguous judicial circuits. The secretary of the department may authorize more than one eligible lead agency within a single county if doing so will result in more effective delivery of services to children.

(f) "Florida's Child Welfare Practice Model" means the methodology developed by the department based on child welfare statutes and rules to ensure the permanency, safety, and well-being of children.

(g) "Performance standards and metrics" means quantifiable measures used to track and assess performance as determined by the department.

~~(h)(e)~~ "Related services" includes, but is not limited to, family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, coordination of mental health services, postplacement supervision, permanent foster care, and family reunification.

Section 11. Section 409.991, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.991, F.S., for present text.)

409.991 Allocation of funds for community-based care lead agencies.—

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(1) (a) The Legislature finds that there is a need for accountability across the child welfare system and that the distribution of equitable funding across the system to community-based care lead agencies is necessary to ensure the provision of quality services to all persons being served by the contracted lead agencies.

(b) It is the intent of the Legislature that the department calculate funding for lead agencies using a consistent and equitable allocation formula to ensure the provision of quality services to all persons being served by the department.

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

(a) "Area cost differential" means the district cost differential as computed in s. 1011.62(2).

(b) "Caseload" is determined by the following factors:

1. For case managers and program support, caseload is the most recent month-end average of in-home and out-of-home children using counts from the department's child welfare information system for the most recent 24 months.

2. For foster home recruiters and initial licensing staff, homes needed is the sum of 25 percent of the current homes licensed using the most recent month data available plus one-third of the total new homes needed.

3. New homes needed is calculated as 1.6 times the current number of children in foster homes and group homes less the current number of licensed homes.

4. Homes relicensed is calculated as 75 percent of the current homes licensed using the most recent month data available.

5. Removals are the most recent annual average for the

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813 previous 24 months for staff costs, except for the previous 12
 814 months for board costs, including, but not limited to, clothing.

815 6. The average number of adoptions finalized during the
 816 most recent 24 months.

817 7. For board, licensed care caseload is the most recent
 818 month-end average of foster home, group home and residential
 819 treatment facility using counts from the department's child
 820 welfare information system for the most recent 12 months.

821 (c) "Core plus funds" means:

822 1. All funds made available in the community-based care
 823 lead agency category of the General Appropriations Act for the
 824 applicable fiscal year. The term does not include funds
 825 appropriated in the community-based care lead agency category of
 826 the General Appropriations Act for the applicable fiscal year
 827 for independent living.

828 2. All funds allocated by contract with the department to
 829 the lead agency for substance abuse and mental health, or any
 830 funds directly contracted by the department for the sole benefit
 831 of the lead agency.

832 (d) "Florida funding for children model" means an
 833 allocation model that uses the following factors:

834 1. Prevention services;
 835 2. Client services;
 836 3. Licensed out-of-home care; and
 837 4. Staffing.

838 (e) "Group home ceiling" means the difference between the
 839 actual group home average census and the expected group home
 840 census times 50 percent of the average group home board payment.
 841 For purposes of this paragraph:

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842 1. "Actual group home average" means the monthly average
 843 number of children in group care and residential treatment
 844 facilities for the prior 12 months.

845 2. "Expected group home census" means the total number of
 846 removals for the prior 12 months times 1.4 times the ceiling
 847 percentage. The ceiling percentage is 10 percent for the 2021-
 848 2022 fiscal year, 9 percent for the 2022-2023 fiscal year, and 8
 849 percent for the 2023-2024 fiscal year and all subsequent years.

850 (f) "Optimal funding amount" means 100 percent of the
 851 Florida funding for children model amount as calculated by the
 852 department.

853 (g) "Prevention services" means any services or costs
 854 incurred to prevent children from entering or re-entering foster
 855 care, or any services provided to the child or the child's
 856 family or caregiver.

857 (3) The allocation of core plus funds shall be calculated
 858 based on the total of prevention services, client services,
 859 licensed out-of-home care, and staffing and a comparison of the
 860 total optimal funding amount to the actual allocated funding
 861 amount for the most recent fiscal year used to determine the
 862 percentage of optimal funding the lead agency is currently
 863 receiving.

864 (a) Prevention services shall be determined by the most
 865 recent fiscal year of prevention spending by the lead agency
 866 plus 10 percent for general and administrative costs.

867 1. If final expenditure reporting has not yet been
 868 completed, an estimate made to be used for the initial
 869 allocation and final allocations are determined after the
 870 expenditure reporting has been completed.

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871 2. If a lead agency's board costs from the previous year
 872 are reduced, the savings in board costs may be transferred to
 873 prevention services in the following year and counted towards
 874 prevention spending by the lead agency.

875 (b) Client services shall be calculated as an average
 876 amount per caseload as determined by the department then
 877 multiplied by the area cost differential. Caseload is determined
 878 by adding together the following:

879 1. The most recent month-end average of in-home and out-of-
 880 home children using counts from the department's child welfare
 881 information system for the most recent 24 months; and

882 2. The average annual number of adoption finalizations
 883 calculated based on the most recent 24 months.

884 (c) Licensed out-of-home care is calculated based on board
 885 costs.

886 1. Board costs are calculated by multiplying the annual
 887 licensed care caseload times the average board rate plus the
 888 number of annual removals times initial clothing allowance as
 889 determined by the department.

890 2. The annual licensed care caseload is determined by
 891 adding together the following:

892 a. The month-end average of foster home, group home and
 893 residential treatment facility using counts from the
 894 department's child welfare information system for the most
 895 recent 12 months.

896 b. The estimated number of Level 1 foster homes as
 897 determined by calculating 40 percent of the total relative and
 898 nonrelative placements for the most recent 12 months.

899 c. The average board rate is the most recent total amount

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900 of full month payments for all items charged for room and board
 901 in the department's child welfare information system divided by
 902 the number of children included in those payments divided by the
 903 number of days in that month.

904 (d) Staffing is calculated based on the following:

905 1. Staffing need as determined by the following defined
 906 ratios:

907 a. The ratio for case managers as follows:

908 (I) One case manager per 17 children for the 2020-2021
 909 fiscal year.

910 (II) One case manager per 16 children for the 2021-2022
 911 fiscal year.

912 (III) One case manager per 15 children for the 2022-2023
 913 fiscal year.

914 (IV) One case manager per 14 children for the 2023-2024
 915 fiscal year and all subsequent years.

916 b. One case manager supervisor per five case managers.

917 c. One paraprofessional per four case managers.

918 d. One safety practice expert per lead agency.

919 e. One other professional staff per lead agency plus 1 per
 920 every 100 case managers, rounded to the nearest whole number.

921 f. One service coordinator per 20 case managers.

922 g. One service coordination supervisor per five service
 923 coordinators.

924 h. One foster home recruiter per every 50 homes needed.

925 i. One licensing staff:

926 (I) Per every 16 new homes needed;

927 (II) Per every 20 homes relicensed; and

928 (III) Per every 50 Level 1 homes licensed.

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929 j. One placement staff per every 168 removals.

930 k. One out-of-home care supervisor per every five of the

931 total number of foster home recruiters and all licensing staff

932 and placement staff.

933 l. One adoption staff per every 51.33 adoptions.

934 m. One adoption supervisor per five adoption staff.

935 n. One director staff per every five of the total number of

936 case manager supervisors, service coordination supervisors, out-

937 of-home care supervisors, and adoption supervisors, rounded to

938 the nearest whole number.

939 o. One administrative support staff per every four of the

940 total number of case manager supervisors, service coordination

941 supervisors, out-of-home care supervisors, and adoption

942 supervisors.

943 2. Program support is calculated by multiplying the average

944 caseload times the Florida average cost per caseload, determined

945 by the department annually. The caseload is determined by adding

946 together the following:

947 a. The most recent month-end average of in-home and out-of-

948 home children using counts from the department's child welfare

949 information system for the most recent 24 months.

950 b. The average annual number of adoption finalizations

951 calculated based on the most recent 24 months.

952 3. Area cost differential.

953 4. Per position costs for all noted staff positions, as

954 determined by the department annually.

955 5. General and administrative costs of 10 percent

956 multiplied by the total staff costs including all items above.

957 (4) Before full implementation in the 2023-2024 fiscal

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958 year, the department may not reduce or redistribute the

959 allocation budget for a lead agency that is funded at more than

960 110 percent of its optimal funding amount.

961 (5) Unless otherwise specified in the General

962 Appropriations Act, any new core plus funds shall be allocated

963 based on the Florida funding for children model to achieve 90

964 percent or more of optimal funding for all lead agencies.

965 (6) Unless otherwise specified in the General

966 Appropriations Act, any new funds for core services shall be

967 allocated based on the Florida funding for children model.

968 (7) Beginning with the 2020-2021 fiscal year, any

969 additional funding provided to lead agencies must be distributed

970 following the establishment of performance standards and metrics

971 in accordance with rules adopted by the department. For

972 subsequent years, any additional funding provided to lead

973 agencies by the Legislature must be distributed by the

974 department as follows:

975 (a) On July 1, 50 percent of the total additional funding

976 allocated to the lead agency must be distributed.

977 (b) By January 1, the department must evaluate specified

978 performance standards and metrics for the lead agency to

979 determine whether the lead agency's performance has improved

980 since the initial funding was distributed on July 1. If the

981 Office of Quality Assurance and Improvement determines that the

982 lead agency has improved in performance standards and metrics,

983 then the remaining funding must be distributed by February 1. If

984 the lead agency fails to improve performance, then the remaining

985 funding must be redistributed to other lead agencies as

986 determined by the Florida funding for children model.

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987 Section 12. Present subsections (2) through (23) of section
 988 409.996, Florida Statutes, are redesignated as subsections (16)
 989 through (37), respectively, new subsections (2) through (15) are
 990 added to that section, and subsection (1) and present
 991 subsections (17) and (21) are amended, to read:

992 409.996 Duties of the Department of Children and Families.—
 993 The department shall contract for the delivery, administration,
 994 or management of care for children in the child protection and
 995 child welfare system. In doing so, the department retains
 996 responsibility for the quality of contracted services and
 997 programs and shall ensure that services are delivered in
 998 accordance with applicable federal and state statutes and
 999 regulations.

1000 (1) The department shall enter into contracts with lead
 1001 agencies for the performance of the duties by the lead agencies
 1002 pursuant to s. 409.988. At a minimum, the contracts must:

1003 (a) Provide for the services needed to accomplish the
 1004 duties established in s. 409.988 and provide information to the
 1005 department which is necessary to meet the requirements for a
 1006 quality assurance program pursuant to subsection (32) ~~(18)~~ and
 1007 the child welfare results-oriented accountability system
 1008 pursuant to s. 409.997.

1009 (b) Provide for graduated penalties for failure to comply
 1010 with contract terms, including the department terminating the
 1011 contract for failure to meet the performance standards and
 1012 metrics set by the department. The performance standards set by
 1013 the department for the lead agencies must, at a minimum, address
 1014 the following areas:

1015 1. Abuse per 100,000 days in out-of-home care;

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- 1016 2. Abuse during in-home services;
 1017 3. Children entering care and achieving permanency within
 1018 12 months;
 1019 4. Children in care 12 to 23 months achieving permanency
 1020 within 12 months;
 1021 5. Abuse within 6 months of closure of services;
 1022 6. Children receiving dental services;
 1023 7. Children receiving medical services;
 1024 8. Children under supervision who are seen every 30 days;
 1025 9. Children who do not reenter care within 12 months of
 1026 moving to a permanent home;
 1027 10. Placement moves per 1,000 days in out-of-home care;
 1028 11. Sibling groups where all siblings are placed together;
 1029 and
 1030 12. Young adults aging out and educational achievement.

1031
 1032 Such penalties may include financial penalties, enhanced
 1033 monitoring and reporting, corrective action plans, and early
 1034 termination of contracts or other appropriate action to ensure
 1035 contract compliance. The financial penalties shall require a
 1036 lead agency to reallocate funds from administrative costs to
 1037 direct care for children.

1038 (c) Ensure that the lead agency shall furnish current and
 1039 accurate information on its activities in all cases in client
 1040 case records in the state's statewide automated child welfare
 1041 information system.

1042 (d) Specify the procedures to be used by the parties to
 1043 resolve differences in interpreting the contract or to resolve
 1044 disputes as to the adequacy of the parties' compliance with

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their respective obligations under the contract.

(2) The department shall provide a grade for each lead agency based on the department's annual review of the agency's compliance with performance standards and metrics.

(3) A lead agency's performance shall be graded based on a weighted score of its compliance with performance standards and metrics using one of the following grades:

(a) "A," lead agencies with a weighted score of 4.0 or higher.

(b) "B," lead agencies with a weighted score of 3.0 to 3.99.

(c) "C," lead agencies with a weighted score of 2.0 to 2.99.

(d) "D," lead agencies with a weighted score of 1.0 to 1.99.

(e) "F," lead agencies with a weighted score of less than 1.0.

(4) If the current contract has a renewal option, the department shall renew the contract of a lead agency that has received an "A" grade for the 2 years immediately preceding the renewal date of the contract.

(5) The department shall develop a multitiered system of support and improvement strategies designed to address the low performance of a lead agency.

(6) The department may provide assistance to a lead agency for the purpose of meeting performance standards and metrics. Assistance may include, but is not limited to, recommendations for best practices and implementation of a corrective action plan.

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(7) The department shall provide assistance to a lead agency that receives a "C" grade or lower on its annual review until such time that it has improved to at least a "B" grade.

(8) For any lead agency that has received a "D" or "F" grade, the department shall take immediate action to engage stakeholders in a needs assessment to develop a turnaround option plan. The turnaround option plan may include, but is not limited to, the implementation of corrective actions and best practices designed to improve performance. The department must review and approve the plan before implementation by the lead agency.

(9) If cancellation of a contract with a lead agency occurs in a manner that threatens a lapse in services, the department may procure and contract pursuant to s. 287.057(3)(a).

(10) Upon a lead agency's receipt of a third consecutive "D" grade or lower, the department must initiate proceedings to terminate any contract with the lead agency.

(11) At any time, the secretary may offer resources to a lead agency to address any deficiencies in meeting performance standards and metrics which directly impact the safety of children.

(12) Notwithstanding subsections (5) through (11), the secretary, at his or her discretion, may terminate a contract with a lead agency that has received an "F" grade or upon the occurrence of an egregious act or omission by the lead agency or its subcontractor.

(13) The lead agency shall pay any federal fines incurred by the department as the result of that lead agency's failure to comply with the performance standards and metrics.

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(14) If the lead agency chooses to subcontract any duties or services, the lead agency shall retain responsibility for its failure to comply with performance standards and metrics.

(15) The department shall adopt rules to administer subsections (2) through (14).

(31)-(17) The department shall directly or through contract provide attorneys to prepare and present cases in dependency court and shall ensure that the court is provided with adequate information for informed decisionmaking in dependency cases, including a face sheet for each case which lists the names and contact information for any child protective investigator, child protective investigation supervisor, case manager, and case manager supervisor, and the regional department official responsible for the lead agency contract. The department shall provide to the court the case information and recommendations provided by the lead agency or subcontractor. For the Sixth Judicial Circuit, the department shall contract with the state attorney for the provision of these services.

(a) The contracted attorneys shall adopt Florida's Child Welfare Practice Model and operate in accordance with the same federal performance standards and metrics regarding child welfare and protective investigations imposed on the department.

(b) Program performance evaluations shall be collaborative and conducted on an ongoing basis. The department and each contracted attorney or their designee shall meet at least quarterly to collaborate on federal and state quality assurance and continuous quality improvement initiatives.

(c) Annual program performance evaluation shall be based on criteria developed by the department for use with all children's

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legal services counsel statewide. The program performance evaluation shall be conducted by a team of peer reviewers from the respective attorneys' offices that perform children's legal services and representatives from the department. The program performance evaluation shall be standardized using a random sample of cases selected by the department. By November 1 of each year, the department shall submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding quality performance, outcome-measure attainment, and cost efficiency of contracted attorneys who receive general appropriations to provide children's legal services for the department.

(d) At any time, the secretary may offer resources to a contracted attorney to address any performance deficiencies that directly impact the safety of children.

(35)-(21) The department shall periodically, and before procuring a lead agency, solicit comments and recommendations from the community alliance established in s. 20.19(6) ~~or~~ 20.19(5), any other community groups, or public hearings. The recommendations must include, but are not limited to:

(a) The current and past performance of a lead agency.

(b) The relationship between a lead agency and its community partners.

(c) Any local conditions or service needs in child protection and child welfare.

Section 13. Subsection (4) is added to section 409.997, Florida Statutes, and subsection (2) of that section is republished, to read:

409.997 Child welfare results-oriented accountability

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program.—

(2) The purpose of the results-oriented accountability program is to monitor and measure the use of resources, the quality and amount of services provided, and child and family outcomes. The program includes data analysis, research review, and evaluation. The program shall produce an assessment of individual entities' performance, as well as the performance of groups of entities working together on a local, regional, and statewide basis to provide an integrated system of care. Data analyzed and communicated through the accountability program shall inform the department's development and maintenance of an inclusive, interactive, and evidence-supported program of quality improvement which promotes individual skill building as well as organizational learning. Additionally, outcome data generated by the program may be used as the basis for payment of performance incentives if funds for such payments are made available through the General Appropriations Act. The information compiled and utilized in the accountability program must incorporate, at a minimum:

(a) Valid and reliable outcome measures for each of the goals specified in this subsection. The outcome data set must consist of a limited number of understandable measures using available data to quantify outcomes as children move through the system of care. Such measures may aggregate multiple variables that affect the overall achievement of the outcome goals. Valid and reliable measures must be based on adequate sample sizes, be gathered over suitable time periods, and reflect authentic rather than spurious results, and may not be susceptible to manipulation.

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(b) Regular and periodic monitoring activities that track the identified outcome measures on a statewide, regional, and provider-specific basis. Monitoring reports must identify trends and chart progress toward achievement of the goals specified in this subsection. The accountability program may not rank or compare performance among community-based care regions unless adequate and specific adjustments are adopted which account for the diversity in regions' demographics, resources, and other relevant characteristics. The requirements of the monitoring program may be incorporated into the department's quality assurance program.

(c) An analytical framework that builds on the results of the outcomes monitoring procedures and assesses the statistical validity of observed associations between child welfare interventions and the measured outcomes. The analysis must use quantitative methods to adjust for variations in demographic or other conditions. The analysis must include longitudinal studies to evaluate longer term outcomes, such as continued safety, family permanence, and transition to self-sufficiency. The analysis may also include qualitative research methods to provide insight into statistical patterns.

(d) A program of research review to identify interventions that are supported by evidence as causally linked to improved outcomes.

(e) An ongoing process of evaluation to determine the efficacy and effectiveness of various interventions. Efficacy evaluation is intended to determine the validity of a causal relationship between an intervention and an outcome. Effectiveness evaluation is intended to determine the extent to

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which the results can be generalized.

(f) Procedures for making the results of the accountability program transparent for all parties involved in the child welfare system as well as policymakers and the public, which shall be updated at least quarterly and published on the department's website in a manner that allows custom searches of the performance data. The presentation of the data shall provide a comprehensible, visual report card for the state and each community-based care region, indicating the current status of the outcomes relative to each goal and trends in that status over time. The presentation shall identify and report outcome measures that assess the performance of the department, the community-based care lead agencies, and their subcontractors working together to provide an integrated system of care.

(g) An annual performance report that is provided to interested parties including the dependency judge or judges in the community-based care service area. The report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1 of each year.

(4) Data generated in accordance with this section shall be provided directly to the department's Office of Quality Assurance and Improvement in a manner dictated by the department. The department shall conduct an onsite program performance evaluation of each lead agency at least once per year. The department must also have access to make onsite visits at its discretion to any provider contracted by the lead agency. The onsite evaluation must consist of a review using a random sample of cases selected by the department.

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Section 14. Paragraph (t) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed child-caring agency as defined in s. 39.01(44) ~~s. 39.01(41)~~, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

Section 15. Subsections (1) and (19) of section 39.502, Florida Statutes, are amended to read:

39.502 Notice, process, and service.—

(1) Unless parental rights have been terminated, all parents must be notified of all proceedings or hearings involving the child. Notice in cases involving shelter hearings and hearings resulting from medical emergencies must be that most likely to result in actual notice to the parents. In all other dependency proceedings, notice must be provided in accordance with subsections (4)-(9), except when a relative requests notification pursuant to s. 39.301(15)(b) ~~s.~~

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1277 ~~39.301(14)(b)~~, in which case notice shall be provided pursuant
1278 to subsection (19).

1279 (19) In all proceedings and hearings under this chapter,
1280 the attorney for the department shall notify, orally or in
1281 writing, a relative requesting notification pursuant to s.
1282 39.301(15)(b) ~~s. 39.301(14)(b)~~ of the date, time, and location
1283 of such proceedings and hearings, and notify the relative that
1284 he or she has the right to attend all subsequent proceedings and
1285 hearings, to submit reports to the court, and to speak to the
1286 court regarding the child, if the relative so desires. The court
1287 has the discretion to release the attorney for the department
1288 from notifying a relative who requested notification pursuant to
1289 s. 39.301(15)(b) ~~s. 39.301(14)(b)~~ if the relative's involvement
1290 is determined to be impeding the dependency process or
1291 detrimental to the child's well-being.

1292 Section 16. Paragraph (c) of subsection (1) of section
1293 39.521, Florida Statutes, is amended to read:

1294 39.521 Disposition hearings; powers of disposition.—

1295 (1) A disposition hearing shall be conducted by the court,
1296 if the court finds that the facts alleged in the petition for
1297 dependency were proven in the adjudicatory hearing, or if the
1298 parents or legal custodians have consented to the finding of
1299 dependency or admitted the allegations in the petition, have
1300 failed to appear for the arraignment hearing after proper
1301 notice, or have not been located despite a diligent search
1302 having been conducted.

1303 (c) When any child is adjudicated by a court to be
1304 dependent, the court having jurisdiction of the child has the
1305 power by order to:

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1306 1. Require the parent and, when appropriate, the legal
1307 guardian or the child to participate in treatment and services
1308 identified as necessary. The court may require the person who
1309 has custody or who is requesting custody of the child to submit
1310 to a mental health or substance abuse disorder assessment or
1311 evaluation. The order may be made only upon good cause shown and
1312 pursuant to notice and procedural requirements provided under
1313 the Florida Rules of Juvenile Procedure. The mental health
1314 assessment or evaluation must be administered by a qualified
1315 professional as defined in s. 39.01, and the substance abuse
1316 assessment or evaluation must be administered by a qualified
1317 professional as defined in s. 397.311. The court may also
1318 require such person to participate in and comply with treatment
1319 and services identified as necessary, including, when
1320 appropriate and available, participation in and compliance with
1321 a mental health court program established under chapter 394 or a
1322 treatment-based drug court program established under s. 397.334.
1323 Adjudication of a child as dependent based upon evidence of harm
1324 as defined in s. 39.01(38)(g) ~~s. 39.01(35)(g)~~ demonstrates good
1325 cause, and the court shall require the parent whose actions
1326 caused the harm to submit to a substance abuse disorder
1327 assessment or evaluation and to participate and comply with
1328 treatment and services identified in the assessment or
1329 evaluation as being necessary. In addition to supervision by the
1330 department, the court, including the mental health court program
1331 or the treatment-based drug court program, may oversee the
1332 progress and compliance with treatment by a person who has
1333 custody or is requesting custody of the child. The court may
1334 impose appropriate available sanctions for noncompliance upon a

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1335 person who has custody or is requesting custody of the child or
 1336 make a finding of noncompliance for consideration in determining
 1337 whether an alternative placement of the child is in the child's
 1338 best interests. Any order entered under this subparagraph may be
 1339 made only upon good cause shown. This subparagraph does not
 1340 authorize placement of a child with a person seeking custody of
 1341 the child, other than the child's parent or legal custodian, who
 1342 requires mental health or substance abuse disorder treatment.

1343 2. Require, if the court deems necessary, the parties to
 1344 participate in dependency mediation.

1345 3. Require placement of the child either under the
 1346 protective supervision of an authorized agent of the department
 1347 in the home of one or both of the child's parents or in the home
 1348 of a relative of the child or another adult approved by the
 1349 court, or in the custody of the department. Protective
 1350 supervision continues until the court terminates it or until the
 1351 child reaches the age of 18, whichever date is first. Protective
 1352 supervision shall be terminated by the court whenever the court
 1353 determines that permanency has been achieved for the child,
 1354 whether with a parent, another relative, or a legal custodian,
 1355 and that protective supervision is no longer needed. The
 1356 termination of supervision may be with or without retaining
 1357 jurisdiction, at the court's discretion, and shall in either
 1358 case be considered a permanency option for the child. The order
 1359 terminating supervision by the department must set forth the
 1360 powers of the custodian of the child and include the powers
 1361 ordinarily granted to a guardian of the person of a minor unless
 1362 otherwise specified. Upon the court's termination of supervision
 1363 by the department, further judicial reviews are not required if

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1364 permanency has been established for the child.

1365 4. Determine whether the child has a strong attachment to
 1366 the prospective permanent guardian and whether such guardian has
 1367 a strong commitment to permanently caring for the child.

1368 Section 17. Subsection (5) of section 39.6011, Florida
 1369 Statutes, is amended to read:

1370 39.6011 Case plan development.—

1371 (5) The case plan must describe:

1372 (a) The role of the foster parents or legal custodians when
 1373 developing the services that are to be provided to the child,
 1374 foster parents, or legal custodians;

1375 (b) The responsibility of the case manager to forward a
 1376 relative's request to receive notification of all proceedings
 1377 and hearings submitted pursuant to s. 39.301(15)(b) ~~or~~
 1378 ~~39.301(14)(b)~~ to the attorney for the department;

1379 (c) The minimum number of face-to-face meetings to be held
 1380 each month between the parents and the department's family
 1381 services counselors to review the progress of the plan, to
 1382 eliminate barriers to progress, and to resolve conflicts or
 1383 disagreements; and

1384 (d) The parent's responsibility for financial support of
 1385 the child, including, but not limited to, health insurance and
 1386 child support. The case plan must list the costs associated with
 1387 any services or treatment that the parent and child are expected
 1388 to receive which are the financial responsibility of the parent.
 1389 The determination of child support and other financial support
 1390 shall be made independently of any determination of indigency
 1391 under s. 39.013.

1392 Section 18. Paragraph (c) of subsection (1) of section

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39.6012, Florida Statutes, is amended to read:

39.6012 Case plan tasks; services.—

(1) The services to be provided to the parent and the tasks that must be completed are subject to the following:

(c) If there is evidence of harm as defined in s. 39.01(38)(g) ~~s. 39.01(35)(g)~~, the case plan must include as a required task for the parent whose actions caused the harm that the parent submit to a substance abuse disorder assessment or evaluation and participate and comply with treatment and services identified in the assessment or evaluation as being necessary.

Section 19. Paragraph (g) of subsection (1) of section 39.701, Florida Statutes, is amended to read:

39.701 Judicial review.—

(1) GENERAL PROVISIONS.—

(g) The attorney for the department shall notify a relative who submits a request for notification of all proceedings and hearings pursuant to s. 39.301(15)(b) ~~s. 39.301(14)(b)~~. The notice shall include the date, time, and location of the next judicial review hearing.

Section 20. Section 39.823, Florida Statutes, is amended to read:

39.823 Guardian advocates for drug dependent newborns.—The Legislature finds that increasing numbers of drug dependent children are born in this state. Because of the parents' continued dependence upon drugs, the parents may temporarily leave their child with a relative or other adult or may have agreed to voluntary family services under s. 39.301(15) ~~s. 39.301(14)~~. The relative or other adult may be left with a child

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who is likely to require medical treatment but for whom they are unable to obtain medical treatment. The purpose of this section is to provide an expeditious method for such relatives or other responsible adults to obtain a court order which allows them to provide consent for medical treatment and otherwise advocate for the needs of the child and to provide court review of such authorization.

Section 21. Subsection (4) of section 322.09, Florida Statutes, is amended to read:

322.09 Application of minors; responsibility for negligence or misconduct of minor.—

(4) Notwithstanding subsections (1) and (2), if a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01(58) ~~s. 39.01(55)~~, an authorized representative of a residential group home at which such a minor resides, the caseworker at the agency at which the state has placed the minor, or a guardian ad litem specifically authorized by the minor's caregiver to sign for a learner's driver license signs the minor's application for a learner's driver license, that caregiver, group home representative, caseworker, or guardian ad litem does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor by reason of having signed the application. Before signing the application, the caseworker, authorized group home representative, or guardian ad litem shall notify the caregiver or other responsible party of his or her intent to sign and verify the application.

Section 22. Paragraph (b) of subsection (5) of section 393.065, Florida Statutes, is amended to read:

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1451 393.065 Application and eligibility determination.—

1452 (5) The agency shall assign and provide priority to clients

1453 waiting for waiver services in the following order:

1454 (b) Category 2, which includes individuals on the waiting

1455 list who are:

1456 1. From the child welfare system with an open case in the

1457 Department of Children and Families' statewide automated child

1458 welfare information system and who are either:

1459 a. Transitioning out of the child welfare system at the

1460 finalization of an adoption, a reunification with family

1461 members, a permanent placement with a relative, or a

1462 guardianship with a nonrelative; or

1463 b. At least 18 years but not yet 22 years of age and who

1464 need both waiver services and extended foster care services; or

1465 2. At least 18 years but not yet 22 years of age and who

1466 withdrew consent pursuant to s. 39.6251(5)(c) to remain in the

1467 extended foster care system.

1468

1469 For individuals who are at least 18 years but not yet 22 years

1470 of age and who are eligible under sub-subparagraph 1.b., the

1471 agency shall provide waiver services, including residential

1472 habilitation, and the community-based care lead agency shall

1473 fund room and board at the rate established in s. 409.145(4) and

1474 provide case management and related services as defined in s.

1475 409.986(3)(h) ~~s. 409.986(3)(c)~~. Individuals may receive both

1476 waiver services and services under s. 39.6251. Services may not

1477 duplicate services available through the Medicaid state plan.

1478

1479 Within categories 3, 4, 5, 6, and 7, the agency shall maintain a

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1480 waiting list of clients placed in the order of the date that the

1481 client is determined eligible for waiver services.

1482 Section 23. Paragraph (p) of subsection (4) of section

1483 394.495, Florida Statutes, is amended to read:

1484 394.495 Child and adolescent mental health system of care;

1485 programs and services.—

1486 (4) The array of services may include, but is not limited

1487 to:

1488 (p) Trauma-informed services for children who have suffered

1489 sexual exploitation as defined in s. 39.01(81)(g) ~~s.~~

1490 ~~39.01(77)(g)~~.

1491 Section 24. Paragraph (a) of subsection (1) of section

1492 394.674, Florida Statutes, is amended to read:

1493 394.674 Eligibility for publicly funded substance abuse and

1494 mental health services; fee collection requirements.—

1495 (1) To be eligible to receive substance abuse and mental

1496 health services funded by the department, an individual must be

1497 a member of at least one of the department's priority

1498 populations approved by the Legislature. The priority

1499 populations include:

1500 (a) For adult mental health services:

1501 1. Adults who have severe and persistent mental illness, as

1502 designated by the department using criteria that include

1503 severity of diagnosis, duration of the mental illness, ability

1504 to independently perform activities of daily living, and receipt

1505 of disability income for a psychiatric condition. Included

1506 within this group are:

1507 a. Older adults in crisis.

1508 b. Older adults who are at risk of being placed in a more

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restrictive environment because of their mental illness.

c. Persons deemed incompetent to proceed or not guilty by reason of insanity under chapter 916.

d. Other persons involved in the criminal justice system.

e. Persons diagnosed as having co-occurring mental illness and substance abuse disorders.

2. Persons who are experiencing an acute mental or emotional crisis as defined in s. 394.67(18) ~~s. 394.67(17)~~.

Section 25. Subsection (2) of section 409.987, Florida Statutes, is amended to read:

409.987 Lead agency procurement.—

(2) The department shall produce a schedule for the procurement of community-based care lead agencies and provide the schedule to the community alliances established pursuant to s. 20.19(6) ~~s. 20.19(5)~~ and post the schedule on the department's website.

Section 26. Paragraph (c) of subsection (1) of section 409.988, Florida Statutes, is amended to read:

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(c) Shall follow the financial guidelines developed by the department and provide for a regular independent auditing of its financial activities. Such financial information shall be provided to the community alliance established under s. 20.19(6) ~~s. 20.19(5)~~.

Section 27. Section 627.746, Florida Statutes, is amended to read:

627.746 Coverage for minors who have a learner's driver license; additional premium prohibited.—An insurer that issues

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an insurance policy on a private passenger motor vehicle to a named insured who is a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01(58) ~~s. 39.01(55)~~ may not charge an additional premium for coverage of the minor while the minor is operating the insured vehicle, for the period of time that the minor has a learner's driver license, until such time as the minor obtains a driver license.

Section 28. Paragraph (c) of subsection (1) of section 934.255, Florida Statutes, is amended to read:

934.255 Subpoenas in investigations of sexual offenses.—

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

(c) "Sexual abuse of a child" means a criminal offense based on any conduct described in s. 39.01(81) ~~s. 39.01(77)~~.

Section 29. Subsection (5) of section 960.065, Florida Statutes, is amended to read:

960.065 Eligibility for awards.—

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation of a child as defined in s. 39.01(81)(g) ~~s. 39.01(77)(g)~~.

Section 30. For the purpose of incorporating the amendment made by this act to section 39.201, Florida Statutes, in a reference thereto, subsection (1) of section 39.302, Florida Statutes, is reenacted and amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse,

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abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(40) or (57) ~~s. 39.01(37) or (54)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframes ~~timeframe~~ established under s. 39.201(5) and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to

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the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 31. For the purpose of incorporating the amendment made by this act to section 409.997, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 409.988, Florida Statutes, is reenacted to read:

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

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

Section 32. For the purpose of incorporating the amendment made by this act to section 409.997, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 409.996, Florida Statutes, is reenacted to read:

409.996 Duties of the Department of Children and Families.—

The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations.

(1) The department shall enter into contracts with lead agencies for the performance of the duties by the lead agencies pursuant to s. 409.988. At a minimum, the contracts must:

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

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1625 department which is necessary to meet the requirements for a
1626 quality assurance program pursuant to subsection (18) and the
1627 child welfare results-oriented accountability system pursuant to
1628 s. 409.997.

1629 Section 33. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 31st, 2020

I respectfully request that **Senate Bill 1326**, relating to **DCF Accountability**, be placed on the:

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

A handwritten signature in black ink, appearing to read "W. Simpson", is written over a horizontal line.

Senator Wilton Simpson
Florida Senate, District 10

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/27/20

1326

Meeting Date

Bill Number (if applicable)

756.300

Topic Child Welfare

Amendment Barcode (if applicable)

Name Victoria Zepp

Job Title Chief Policy Officer

Address 317 E Park Ave

Phone 800/361-1102

Street

Tallahassee FL 32301

City

State

Zip

Email Victoria.fchildren

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

FL 11

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

SB 1326

Bill Number (if applicable)

SDA 756300

Amendment Barcode (if applicable)

Topic DCF ACCOUNTABILITY ACT

Name NATALIE KELLY

Job Title CEO

Address 122 S. CALHOUN ST.
Street

Phone 850 570 5747

NATALIE@FLMANAGEMENT

Email ENTITIES.COM

TALLAHASSEE
City

FLORIDA
State

32301
Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA ASSOCIATION OF MANAGEMENT ENTITIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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2/27/20

Meeting Date

1326

Bill Number (if applicable)

Topic Department of Children and Family

Amendment Barcode (if applicable)

Name Shawn Foster

Job Title Lobbyist

Address 5957 Riviera Lane

Phone 727 808 4131

Street

New Port Richway, FL 34655

City

State

Zip

Email foster@sigroup.us

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Youth and Family Alternatives

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)

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APPEARANCE RECORD

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

2/27/20

Meeting Date

1326

Bill Number (if applicable)

Topic SB 1326

Amendment Barcode (if applicable)

Name Dr Chris Card

Job Title Chief of Community Based Care

Address 100 N. Starcrest Dr
Street

Phone 813 843 1827

Clearwater FL 33765
City State Zip

Email ccard@eckerd.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Eckerd Connects

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/27/20

Meeting Date

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

1326

Bill Number (if applicable)

Topic Child Welfare

Amendment Barcode (if applicable)

Name Victoria Zepp

Job Title Chief Police Officer

Address 317 E. Park Ave

Phone 850/561-1102

Street

Tallahassee FL 32301

City

State

Zip

Email Victoria.F.Chilbrun@fla.gov

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FCC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

SB 1326
Bill Number (if applicable)

Topic DCF ACCOUNTABILITY ACT

Amendment Barcode (if applicable)

Name NATALIE KELLY

Job Title CEO

Address 122 S. CALHOUN ST.
Street
TALLAHASSEE FLORIDA 32301
City State Zip

Phone 850-570-5747

Email NATALIE@FLMANAGINGENTITIES.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA ASSOCIATION OF MANAGING ENTITIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

1326

Bill Number (if applicable)

Topic Department of Children & Families

Amendment Barcode (if applicable)

Name Jordan Reed

Job Title Legislative Intern

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing National Association of Social Workers Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2.27.20

Meeting Date

SB 1326

Bill Number (if applicable)

Topic Child Welfare

Amendment Barcode (if applicable)

Name Michael Wickersheim

Job Title Legislative Affairs Director

Address 1317 Winewood Blvd

Street

Phone (850) 488-9410

Tallahassee

City

FL

State

32399

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Department of Children and Families

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1370 (651134)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Harrell

SUBJECT: Patient Safety Culture Surveys

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	Fav/CS
2.	McKnight	Kidd	AHS	Recommend: Fav/CS
3.	McKnight	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1370 amends several sections of law to require each hospital and ambulatory surgical center (ASC), including facilities operating exclusively as state facilities, to conduct a patient safety culture survey at least biennially. The bill specifies that facilities must use the Hospital Survey on Patient Safety Culture developed by the federal Agency for Healthcare Research and Quality, requires the survey to be anonymous, allows facilities to contract for the administration of the survey, and requires each facility to submit survey data to the Agency for Health Care Administration (AHCA).

The bill requires the Florida Center for Health Information and Transparency (Florida Center) to customize the survey with additional questions and to collect, compile, and publish aggregated survey data.

The bill authorizes one full-time equivalent (FTE) position with an associated salary rate of 46,560, and \$75,306 in recurring funds and \$87,171 in nonrecurring funds from the Health Care Trust Fund, in Fiscal Year 2020-2021 to the AHCA to implement the bill. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Health Care Facility Regulation

Hospitals

Hospitals are regulated by the Agency for Health Care Administration (AHCA) under ch. 395, F.S., and the general licensure provisions of part II, of ch. 408, F.S. Hospitals offer a range of health care services with beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care.¹ Hospitals must make regularly available, at a minimum, clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment.²

Ambulatory Surgical Centers

An ambulatory surgical center (ASC) is a facility, which is not a part of a hospital, with the primary purpose of providing elective surgical care, in which the patient is admitted and discharged within 24 hours.³ ASCs are licensed and regulated by the AHCA under the same regulatory framework as hospitals.⁴

AHCA Regulation of Hospitals and ASCs

There are 306 licensed hospitals and 479 licensed ASCs in the State of Florida.⁵ As part of state and federal regulatory oversight, the AHCA conducts onsite inspections of hospitals and ASCs to evaluate factors such as:

- Management and administration;
- Nursing services;
- Social services;
- Dietary services;
- Laboratory services; and
- Compliance with state and federal fire safety codes.

The AHCA's regulatory inspections occur periodically, according to specific guidelines for each facility type, and to investigate complaints and serious incidents. The AHCA also conducts annual risk management inspections in each licensed hospital. When deficiencies are found, a report is generated to the facility for corrective action. When necessary, the AHCA staff conducts follow-up surveys or recommend sanctions, fines, and de-certifications when appropriate.

Section 1865(a)(1) of the Social Security Act permits providers and suppliers "accredited" by an approved national accreditation organization (AO) to be exempt from routine surveys by state survey agencies to determine compliance with Medicare conditions. Accreditation by an AO is

¹ Section 395.002(12), F.S.

² *Id.*

³ Section 395.002(3), F.S.

⁴ Sections 395.001-1065, F.S., and Part II, Chapter 408, F.S.

⁵ Agency for Health Care Administration, *House Bill 763 Analysis* (December 4, 2019) (on file with the Senate Committee on Health Policy).

voluntary and is not required for Medicare certification or participation in the Medicare program. Hospitals and ASCs, when accredited, are deemed exempt from the AHCA routine inspections. Currently, 285 hospitals and 404 ASCs are accredited.⁶

Adverse Incidents

The AHCA manages serious patient injury reporting, tracking, trending, and problem resolution programs in hospitals, ASCs, assisted living facilities, nursing homes, and certain health maintenance organizations, as directed by the Florida Statutes. The term “adverse incident” is defined in s. 395.0197(5), F.S., for purposes of reporting to the AHCA from hospitals and ASCs. Section 395.0197(5), F.S., also provides a list of adverse incidents, whether occurring in the licensed facility or arising from health care prior to admission in the licensed facility, that must be reported by the facility to the AHCA within 15 calendar days after its occurrence.

The definition and the list are not identical. Due to this inconsistency, some facilities have communicated uncertainty to the AHCA about whether or not to report certain incidents. This feedback indicates that some hospitals may be under-reporting some incidents while others may be over-reporting. During calendar year 2018, 15 hospitals were cited by the AHCA for failure to submit adverse incident reports while no ASCs were cited.⁷

Adverse incidents are self-reported by the facilities once they determine that an incident meets the statutory definition. The AHCA receives and reviews more than 5,000 adverse incident reports annually. The most frequently reported outcomes from hospitals and ASCs are patient death, a patient requiring surgery that is unrelated to their admitting diagnosis, and surgery to remove a foreign object from a previous surgery. The AHCA publishes quarterly and annual statistics for adverse incidents as required by law. The number of adverse incidents reported from hospitals and ASCs over the previous five calendar years are shown in the following table:⁸

Adverse Incidents Reported to the AHCA		
Calendar Year	Hospitals	ASCs
2019*	617	70
2018	636	77
2017	520	62
2016	470	58
2015	483	69
2014	427	80

**12-month estimate based on 11 months of data*

Patient Safety Culture Surveys

Organizational culture refers to the beliefs, values, and norms shared by staff throughout the organization that influence their actions and behaviors. Patient safety culture is the extent to

⁶ *Supra* note 5.

⁷ *Id.*

⁸ *Id.*

which these beliefs, values, and norms support and promote patient safety.⁹ Patient safety culture can be measured by determining what is rewarded, supported, expected, and accepted in an organization as it relates to patient safety.¹⁰ In a safe culture, employees are guided by an organization-wide commitment to safety in which each member upholds his or her own safety norms and those of co-workers.

Agency for Healthcare Research and Quality Hospital and ASC Patient Safety Culture Survey

In 2004, the federal Agency for Healthcare Research and Quality (AHRQ) released the Hospital Survey on Patient Safety Culture (SOPS 1.0), a staff survey designed to help hospitals assess the culture of safety in their institutions by measuring how their staff perceive various aspects of patient safety culture.¹¹ The survey occurs once every two years and has since been implemented in hundreds of hospitals across the United States and in other countries.

In 2018, the federal AHRQ began developing a new version of the survey, with the goal of shortening the survey.¹² A pilot test was conducted with 25 hospitals, the data from which were used to examine the survey's reliability. In 2019, the federal AHRQ released a new version of the survey, the SOPS 2.0.¹³

The survey asks respondents to indicate to what degree they agree or disagree with a statement, how often something occurs, or provide a specific number or grade. Excerpts of the survey follow.

- Teamwork
 - In this unit, we work together as an effective team.
 - During busy times, staff in this unit help each other.
 - There is a problem with disrespectful behavior by those working in this unit.
 - When one area in this unit gets really busy, others help out.
- Supervisor/Manager, or Clinical Leader Support for Patient Safety
 - My supervisor/manager or clinical leader seriously considers staff suggestions for improving patient safety.
 - My supervisor/manager or clinical leader wants us to work faster during busy times, even if it means taking shortcuts.
 - My supervisor/manager or clinical leader takes action to address patient safety concerns that are brought to their attention.
- Hospital Management Support for Patient Safety

⁹ U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *2018 User Database Report-Hospital Survey on Patient Safety Culture*, p. 3, (March 2018) available at <https://www.ahrq.gov/sites/default/files/wysiwyg/sops/quality-patient-safety/patientsafetyculture/2018hospitalsopsreport.pdf> (last viewed Feb. 6, 2020).

¹⁰ *Id.*

¹¹ U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *Hospital Survey on Patient Safety Culture*, (March 2018) available at <http://www.ahrq.gov/professionals/quality-patient-safety/patientsafetyculture/hospital/index.html> (last viewed Feb. 6, 2020).

¹² U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *Pilot Test Results from the 2019 AHRQ Surveys on Patient Safety Culture (SOPS) Hospital Survey Version 2.0*, p. 2, (September 2019) available at <http://www.ahrq.gov/sites/default/files/wysiwyg/sops/surveys/hospital/hsops2-pilot-results-parti.pdf> (last viewed Feb. 6, 2020).

¹³ The survey is available at <http://www.ahrq.gov/sops/surveys/hospital/index.html> (last viewed Feb. 6, 2020).

- Hospital management provides adequate resources to improve patient safety.
- The actions of hospital management show that patient safety is a top priority.
- Hospital management seems interested in patient safety only after an adverse event happens.
- Communication Openness
 - In this unit, staff speak up if they see something that may negatively affect patient care.
 - When staff in this unit see someone with more authority doing something unsafe for patients, they speak up.
 - In this unit, staff are afraid to ask questions when something does not seem right.
- Handoffs and Information Exchange
 - When transferring patients from one unit to another, important information is often left out.
 - During shift changes, important patient care information is often left out.
 - During shift changes, there is adequate time to exchange all key patient care information.
- Patient Safety Grade- Poor, Fair, Good, Very Good, Excellent
 - How would you rate your unit/work area on patient safety?¹⁴

The federal AHRQ developed a comparative database on the survey, composed of data from U.S. hospitals that administered the survey and voluntarily submitted the data.¹⁵ The database allows hospitals to compare their patient safety culture survey results to those of other hospitals in support of patient safety culture improvement.¹⁶ The federal AHRQ utilizes the database to publish a biennial report presenting non-identifiable statistics on the patient safety culture of all participating hospitals. In 2018, 630 hospitals submitted survey results to the database. However, only 306 of those hospitals submitted surveys in 2016. As a result, to identify trends, comparisons can only be drawn from the data submitted by those 306 hospitals.¹⁷

The federal AHRQ also developed the Ambulatory Surgery Center Survey on Patient Safety Culture in response to interest from ASCs in assessing patient safety culture in their facilities. This survey is designed specifically for ASC staff and asks for their opinions about the culture of patient safety in their facility.¹⁸ In 2014, the federal AHRQ conducted a pilot study on the use of the Patient Safety Culture survey in 59 ASCs.¹⁹ The pilot study was intended to help ASCs assess the extent to which their culture emphasizes the importance of patient safety by viewing the patient safety culture survey results of the ASCs participating in the study.²⁰ The study was also used to prove the reliability and structure of the questions and items contained in the

¹⁴ *Id.*

¹⁵ The database is available at <http://www.ahrq.gov/sops/databases/hospital/index.html> (last viewed Feb. 6, 2020).

¹⁶ U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *2018 User Database Report-Hospital Survey on Patient Safety Culture*, at p. 1, available at <https://www.ahrq.gov/sites/default/files/wysiwyg/sops/quality-patient-safety/patientsafetyculture/2018hospitalsopsreport.pdf> (last viewed Feb. 6, 2020).

¹⁷ *Id.* at p. 29.

¹⁸ The survey is available at <https://www.ahrq.gov/sops/surveys/asc/index.html>. (last viewed Feb. 6, 2020).

¹⁹ U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *Results From the 2014 AHRQ Ambulatory Surgery Center Survey on Patient Safety Culture Pilot Study*, (April 2015) available at https://www.ahrq.gov/sites/default/files/wysiwyg/professionals/quality-patient-safety/patientsafetyculture/asc/resources/asc_pilotstudy.pdf (last viewed Feb. 6, 2020).

²⁰ *Id.* at p. 1.

survey. Based on the testing and input from the federal AHRQ and a technical expert panel, the survey was determined to be reliable and it was made available for industry use.

Florida Center for Health Information and Transparency

The Florida Center for Health Information and Transparency (Florida Center) provides a comprehensive health information system (information system) that includes the collection, compilation, coordination, analysis, indexing, dissemination, and utilization of health-related data. The Florida Center is housed within the AHCA.²¹

Offices within the Florida Center, which serve different functions, are:

- Data Collection and Quality Assurance, which collects patient discharge data from all licensed acute care hospitals (including psychiatric and comprehensive rehabilitation units), comprehensive rehabilitation hospitals, ambulatory surgical centers and emergency departments.
- Risk Management and Patient Safety, which conducts in-depth analyses of reported incidents to determine what happened and how the facility responded to the incident.
- Data Dissemination and Communication, which maintains the AHCA's health information website, provides technical assistance to data users, and creates consumer brochures and other publications.
- Health Information Exchange and Policy Analysis, which monitors innovations in health information technology, informatics, and the exchange of health information and provides a clearinghouse of technical resources on health information exchange, electronic prescribing, privacy and security, and other relevant issues.²²

The Florida Center electronically collects patient data from every Florida licensed inpatient hospital, ASC, emergency department, and comprehensive rehabilitation hospital on a quarterly basis. The data is validated for accuracy and maintained in three major databases: the hospital inpatient database, the ambulatory surgery database, and the emergency department database.

- The hospital inpatient database contains records for each patient stay at Florida acute care facilities, including long-term care hospitals and psychiatric hospitals. These records contain extensive patient information including discharge records, patient demographics, admission information, medical information, and charge data. This database also includes comprehensive inpatient rehabilitation data on patient-level discharge information from Florida's licensed freestanding comprehensive inpatient rehabilitation hospitals and acute care hospital distinct part rehabilitation units.²³
- The ambulatory surgery database contains "same-day surgery" data on reportable patient visits to Florida health care facilities, including freestanding ambulatory surgery centers, short-term acute care hospitals, lithotripsy centers, and cardiac catheterization laboratories. Ambulatory surgery data records include, but are not limited to, patient demographics, medical information, and charge data.²⁴

²¹ Section 408.05, F.S.

²² See *Florida Center for Health Information and Transparency*, available at <http://ahca.myflorida.com/SCHS/> (last visited on Feb. 11, 2020).

²³ See s. 408.061, F.S., and ch. 59E-7, F.A.C.

²⁴ See s. 408.061, F.S., and ch. 59B-9, F.A.C.

- The emergency department database collects reports of all patients who visited an emergency department, but were not admitted for inpatient care. Reports are electronically submitted to the AHCA and include the hour of arrival, the patient's chief complaint, principal diagnosis, race, ethnicity, and external causes of injury.²⁵

The Florida Center maintains www.FloridaHealthFinder.gov, which was established to assist consumers in making informed health care decisions and lead to improvements in quality of care in Florida. The website provides a wide array of search and comparative tools to the public that allows easy access to information on hospitals, ambulatory surgery centers, emergency departments, hospice providers, physician volume, health plans, nursing homes, and prices for prescription drugs in Florida.

The website also provides tools to researchers and professionals to allow specialized data queries, but requires users to have some knowledge of medical coding and terminology. Some of the features and data available on the website include a multimedia encyclopedia and symptoms navigator, hospital and ASC performance data, data on mortality, complication, and infection rates for hospitals, and a facility/provider locator.

The Florida Center also runs Florida Health Price Finder,²⁶ which provides consumers with the ability to research and compare health care costs in Florida at the national, state, and local levels. Supported by a database of more than 15 million lines of insurance claim data sourced directly from Florida insurers, the website displays costs as Care Bundles representing the typical set of services a patient receives as part of treatment for specific medical conditions. Care Bundles are broken down into logical steps, which may include one or more procedures and tests and the 295 care bundles currently available on Florida Health Price Finder account for 90 percent of consumer searches on national pricing websites.

III. Effect of Proposed Changes:

Section 1 amends s. 395.1012, F.S., to require that each hospital and ASC²⁷ must, at least biennially, conduct a patient safety culture survey using the Hospital Survey on Patient Safety Culture developed by the federal AHRQ. The facility:

- Must conduct the survey anonymously to encourage completion of the survey by staff working at the facility;
- May contract for administration of the survey;
- Must submit the survey data to the AHCA in a format specified in rule and including the survey participation rate;
- May develop an internal action plan between surveys to identify measures to improve the survey and submit the plan to the AHCA

Section 3 amends s. 408.05, F.S., to require the Florida Center to collect, compile, and publish patient safety culture survey data and designate the use of updated versions of the survey as they occur. The Florida Center is also required to:

²⁵ *Id.*

²⁶ See <https://pricing.floridahealthfinder.gov/#> (last visited Feb. 11, 2020).

²⁷ Including hospitals and ASCs operating exclusively as state facilities.

- Customize the survey to:
 - Generate data regarding the likelihood of a respondent to seek care for the respondent and the respondent's family at the surveying facility, both in general and within the respondent's specific unit or work area; and
 - Revise the units or work areas identified in the survey to include a pediatric cardiology patient care unit and a pediatric cardiology surgical services unit.
- Publish the survey results for each facility, in the aggregate, by composite measure as defined in the survey and the units or work areas within the facility.

Sections 2 and 4 amend ss. 395.1055 and 408.061, F.S., respectively, to make conforming and cross-reference changes.

Section 5 authorizes one full-time equivalent (FTE) position with an associated salary rate of 46,560, and \$75,306 in recurring funds and \$87,171 in nonrecurring funds from the Health Care Trust Fund, to the AHCA to implement the provisions of the bill.

Section 6 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Hospitals and ASCs that are required to complete and submit a patient safety culture survey or surveys under PCS/CS/SB 1370 will incur an indeterminate cost to fulfill that requirement.

C. Government Sector Impact:

The AHCA has not provided a fiscal impact estimate for SB 1370 or CS/SB 1370. However, under HB 763, which is similar to CS/SB 1370, the AHCA reported²⁸ that it will be required to collect, compile, and prepare the survey results for publication. Data collection will require developing new information technology applications or infrastructure, or both, to accept the survey data files electronically from each of, at least, 776 facilities. Survey data collection must include identity verification to ensure that the party submitting data on behalf of a facility is properly authorized to do so, along with a validation process to ensure that submitted data files are complete and meet required specifications.

The AHCA also reported that, under HB 763, its staff will be required to compile the submitted data for publication. Due to the number of facilities reporting, the AHCA estimates the need for one full-time analyst to perform these functions and to monitor and report facility compliance. The costs associated with internal development of a reporting portal for facilities to submit their survey data are estimated based on known development costs associated with recent and relatively similar reporting projects. The secure data submission portal will need to include identity verification, validation of data specifications, documentation of the date and time of submission, and reporting requirements. The costs for the AHCA to build such a system were estimated at \$60,000 in the first year.

Publication of survey findings or scores at the facility level will require custom programming to the AHCA's existing consumer transparency website, FloridaHealthFinder.gov. The development of new transparency tools in recent years have had associated vendor costs ranging from \$6,400 to \$30,000, depending on the size and scope of the new function or tool. The publication of the patient safety culture survey data would be a significant endeavor, requiring the AHCA's contracted vendor to create search functionality, publication, and integration of results for all of the state's licensed hospitals and ASCs. The AHCA's rough estimate of associated programming and web-design costs was approximately \$25,000 in the first year and \$2,000 recurring annually thereafter.

The AHCA estimated the need for one analyst to manage the survey vendor contract, perform data analysis functions, monitor facility compliance, and analyze and report noncompliant facilities to the AHCA licensure staff for regulatory follow-up as needed. Comparable contracts managed by the AHCA are administered by a Government Analyst II level staff member. The AHCA reported that the patient safety culture survey program

²⁸ *Supra* note 5.

would be a significant implementation, and, in order for it to be successful, the program will require, at a minimum, a dedicated contract manager who also has data analysis skills and experience.

The bill appropriates one full-time equivalent position and \$75,306 in recurring funds and \$87,171 in nonrecurring funds from the Health Care Trust Fund, to the AHCA to implement the bill in Fiscal Year 2020-2021.²⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

The AHCA recommends that hospitals and ASCs be required under the bill to contract with an independent third-party organization to administer the surveys in order to ensure anonymity of responses and encourage honesty from respondents. Under this recommendation, each facility would be required to capture and provide data from a statistically valid sample of employees in order to ensure that findings are representative of the facility as a whole.³⁰

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 395.1012, 395.1055, 408.05, and 408.061.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 18, 2020:

The committee substitute authorizes a position and an appropriation.

CS by Health Policy on February 11, 2020:

The CS replaces requirements in the underlying bill with the requirement that each hospital and ASC conduct a patient safety culture survey at least biennially. The CS eliminates the exemption for facilities operating exclusively as state facilities.

The CS specifies that facilities must use the Hospital Survey on Patient Safety Culture developed by the federal Agency for Healthcare Research and Quality, requires the survey to be anonymous, allows facilities to contract for the administration of the survey, and requires that each facility must submit survey data to the AHCA.

The bill requires the Florida Center to customize the survey with additional questions and to collect, compile, and publish aggregated survey data.

²⁹ *Id.*

³⁰ *Id.*

B. Amendments:

None.

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



641398

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Harrell) recommended the following:

Senate Amendment

Delete line 27
and insert:
conduct a patient safety culture survey using the applicable



358292

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Harrell) recommended the following:

Senate Amendment

Delete lines 75 - 86
and insert:

2. Designate the use of updated versions of the applicable surveys as they occur, and customize the surveys to:

a. Generate data regarding the likelihood of a respondent to seek care for the respondent and the respondent's family at the surveying facility both in general and, for hospitals, within the respondent's specific unit or work area; and



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11 b. Revise the units or work areas identified in the
12 hospital survey to include a pediatric cardiology patient care
13 unit and a pediatric cardiology surgical services unit.

14 3. Publish the survey results for each facility, in the
15 aggregate, by composite measure as defined in the survey, and by
16 the applicable units or work areas within the facility.



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576-03895-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to patient safety culture surveys;
amending s. 395.1012, F.S.; requiring certain licensed
facilities to biennially conduct an anonymous patient
safety culture survey using a specified federal
publication; authorizing facilities to contract for
the administration of the survey; requiring facilities
to biennially submit patient safety culture survey
data to the Agency for Health Care Administration;
authorizing facilities to develop an internal action
plan for a specified purpose and submit such plan to
the agency; amending s. 395.1055, F.S.; conforming a
cross-reference; amending s. 408.05, F.S.; requiring
the agency to collect, compile, and publish patient
safety culture survey data submitted by facilities;
amending s. 408.061, F.S.; revising requirements for
the submission of health care data to the agency;
providing an appropriation; providing an effective
date.

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

Section 1. Subsection (4) is added to section 395.1012,
Florida Statutes, to read:

395.1012 Patient safety.—

(4) Each licensed facility must, at least biennially,
conduct a patient safety culture survey using the Hospital



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Survey on Patient Safety Culture developed by the federal Agency
for Healthcare Research and Quality. Each facility shall conduct
the survey anonymously to encourage completion of the survey by
staff working in or employed by the facility. Each facility may
contract to administer the survey. Each facility shall
biennially submit the survey data to the agency which must be in
a format specified by rule and include the survey participation
rate. Each facility may develop an internal action plan between
conducting surveys to identify measures to improve the survey
and submit the plan to the agency.

Section 2. Paragraph (d) of subsection (14) of section
395.1055, Florida Statutes, is amended to read:

395.1055 Rules and enforcement.—

(14)

(d) Each onsite inspection must include all of the
following:

1. An inspection of the program's physical facilities,
clinics, and laboratories.

2. Interviews with support staff and hospital
administrators.

3. A review of:

a. Randomly selected medical records and reports,
including, but not limited to, advanced cardiac imaging,
computed tomography, magnetic resonance imaging, cardiac
ultrasound, cardiac catheterization, and surgical operative
notes.

b. The program's clinical outcome data submitted to the
Society of Thoracic Surgeons and the American College of
Cardiology pursuant to s. 408.05(3)(1) ~~s. 408.05(3)(k)~~.



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c. Mortality reports from cardiac-related deaths that occurred in the previous year.

d. Program volume data from the preceding year for interventional and electrophysiology catheterizations and surgical procedures.

Section 3. Present paragraphs (d) through (k) of subsection (3) of section 408.05, Florida Statutes, are redesignated as paragraphs (e) through (l), respectively, a new paragraph (d) is added to that subsection, and present paragraph (j) of that subsection is amended, to read:

408.05 Florida Center for Health Information and Transparency.—

(3) HEALTH INFORMATION TRANSPARENCY.—In order to disseminate and facilitate the availability of comparable and uniform health information, the agency shall perform the following functions:

(d)1. Collect, compile, and publish patient safety culture survey data submitted by a facility pursuant to s. 395.1012.

2. Designate the use of updated versions of the survey as they occur, and customize the survey to:

a. Generate data regarding the likelihood of a respondent to seek care for the respondent and the respondent's family at the surveying facility, both in general and within the respondent's specific unit or work area; and

b. Revise the units or work areas identified in the survey to include a pediatric cardiology patient care unit and a pediatric cardiology surgical services unit.

3. Publish the survey results for each facility, in the aggregate, by composite measure as defined in the survey and the



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units or work areas within the facility.

(k)-(j) Conduct and make available the results of special health surveys, including facility patient safety culture surveys, health care research, and health care evaluations conducted or supported under this section. Each year the center shall select and analyze one or more research topics that can be investigated using the data available pursuant to paragraph (c). The selected topics must focus on producing actionable information for improving quality of care and reducing costs. The first topic selected by the center must address preventable hospitalizations.

Section 4. Paragraph (a) of subsection (1) of section 408.061, Florida Statutes, is amended to read:

408.061 Data collection; uniform systems of financial reporting; information relating to physician charges; confidential information; immunity.—

(1) The agency shall require the submission by health care facilities, health care providers, and health insurers of data necessary to carry out the agency's duties and to facilitate transparency in health care pricing data and quality measures. Specifications for data to be collected under this section shall be developed by the agency and applicable contract vendors, with the assistance of technical advisory panels including representatives of affected entities, consumers, purchasers, and such other interested parties as may be determined by the agency.

(a) Data submitted by health care facilities, including the facilities as defined in chapter 395, shall include, but are not limited to: case-mix data, patient admission and discharge data,



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115 hospital emergency department data which shall include the
116 number of patients treated in the emergency department of a
117 licensed hospital reported by patient acuity level, data on
118 hospital-acquired infections as specified by rule, data on
119 complications as specified by rule, data on readmissions as
120 specified by rule, with patient and provider-specific
121 identifiers included, actual charge data by diagnostic groups or
122 other bundled groupings as specified by rule, facility patient
123 safety culture surveys, financial data, accounting data,
124 operating expenses, expenses incurred for rendering services to
125 patients who cannot or do not pay, interest charges,
126 depreciation expenses based on the expected useful life of the
127 property and equipment involved, and demographic data. The
128 agency shall adopt nationally recognized risk adjustment
129 methodologies or software consistent with the standards of the
130 Agency for Healthcare Research and Quality and as selected by
131 the agency for all data submitted as required by this section.
132 Data may be obtained from documents such as, but not limited to:
133 leases, contracts, debt instruments, itemized patient statements
134 or bills, medical record abstracts, and related diagnostic
135 information. Reported data elements shall be reported
136 electronically in accordance with rule 59E-7.012, Florida
137 Administrative Code. Data submitted shall be certified by the
138 chief executive officer or an appropriate and duly authorized
139 representative or employee of the licensed facility that the
140 information submitted is true and accurate.

141 Section 5. For the 2020-2021 fiscal year, one full-time
142 equivalent position with associated salary rate of 46,560 is
143 authorized and the sums of \$75,306 in recurring funds and



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144 \$87,171 in nonrecurring funds from the Health Care Trust Fund
145 are appropriated to the Agency for Health Care Administration
146 for the purpose of implementing the requirements of this act.

147 Section 6. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1370

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Harrell

SUBJECT: Patient Safety Culture Surveys

DATE: March 2, 2020

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1370 amends several sections of law to require each hospital and ambulatory surgical center (ASC), including facilities operating exclusively as state facilities, to conduct a patient safety culture survey at least biennially. The bill specifies that facilities must use the Hospital or ASC Survey on Patient Safety Culture developed by the federal Agency for Healthcare Research and Quality, requires the survey to be anonymous, allows facilities to contract for the administration of the survey, and requires each facility to submit survey data to the Agency for Health Care Administration (AHCA).

The bill requires the Florida Center for Health Information and Transparency (Florida Center) to customize the survey with additional questions and to collect, compile, and publish aggregated survey data submitted by hospitals and ASCs.

The bill also requires the AHCA to customize the hospital survey to allow a respondent to identify themselves as working in certain areas of a hospital that are not currently identifiable in the survey, including, a pediatric cardiology patient care unit and a pediatric cardiology surgical services unit.

The bill authorizes one full-time equivalent (FTE) position with an associated salary rate of 46,560, and \$75,306 in recurring funds and \$87,171 in nonrecurring funds from the Health Care Trust Fund, in Fiscal Year 2020-2021 to the AHCA to implement the bill. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Health Care Facility Regulation

Hospitals

Hospitals are regulated by the Agency for Health Care Administration (AHCA) under ch. 395, F.S., and the general licensure provisions of part II, of ch. 408, F.S. Hospitals offer a range of health care services with beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care.¹ Hospitals must make regularly available, at a minimum, clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment.²

Ambulatory Surgical Centers

An ambulatory surgical center (ASC) is a facility, which is not a part of a hospital, with the primary purpose of providing elective surgical care, in which the patient is admitted and discharged within 24 hours.³ ASCs are licensed and regulated by the AHCA under the same regulatory framework as hospitals.⁴

AHCA Regulation of Hospitals and ASCs

There are 306 licensed hospitals and 479 licensed ASCs in the State of Florida.⁵ As part of state and federal regulatory oversight, the AHCA conducts onsite inspections of hospitals and ASCs to evaluate factors such as:

- Management and administration;
- Nursing services;
- Social services;
- Dietary services;
- Laboratory services; and
- Compliance with state and federal fire safety codes.

The AHCA's regulatory inspections occur periodically, according to specific guidelines for each facility type, and to investigate complaints and serious incidents. The AHCA also conducts annual risk management inspections in each licensed hospital. When deficiencies are found, a report is generated to the facility for corrective action. When necessary, the AHCA staff conducts follow-up surveys or recommend sanctions, fines, and de-certifications when appropriate.

¹ Section 395.002(12), F.S.

² *Id.*

³ Section 395.002(3), F.S.

⁴ Sections 395.001-1065, F.S., and Part II, Chapter 408, F.S.

⁵ Agency for Health Care Administration, *House Bill 763 Analysis* (December 4, 2019) (on file with the Senate Committee on Health Policy).

Section 1865(a)(1) of the Social Security Act permits providers and suppliers “accredited” by an approved national accreditation organization (AO) to be exempt from routine surveys by state survey agencies to determine compliance with Medicare conditions. Accreditation by an AO is voluntary and is not required for Medicare certification or participation in the Medicare program. Hospitals and ASCs, when accredited, are deemed exempt from the AHCA routine inspections. Currently, 285 hospitals and 404 ASCs are accredited.⁶

Adverse Incidents

The AHCA manages serious patient injury reporting, tracking, trending, and problem resolution programs in hospitals, ASCs, assisted living facilities, nursing homes, and certain health maintenance organizations, as directed by the Florida Statutes. The term “adverse incident” is defined in s. 395.0197(5), F.S., for purposes of reporting to the AHCA from hospitals and ASCs. Section 395.0197(5), F.S., also provides a list of adverse incidents, whether occurring in the licensed facility or arising from health care prior to admission in the licensed facility, that must be reported by the facility to the AHCA within 15 calendar days after its occurrence.

The definition and the list are not identical. Due to this inconsistency, some facilities have communicated uncertainty to the AHCA about whether or not to report certain incidents. This feedback indicates that some hospitals may be under-reporting some incidents while others may be over-reporting. During calendar year 2018, 15 hospitals were cited by the AHCA for failure to submit adverse incident reports while no ASCs were cited.⁷

Adverse incidents are self-reported by the facilities once they determine that an incident meets the statutory definition. The AHCA receives and reviews more than 5,000 adverse incident reports annually. The most frequently reported outcomes from hospitals and ASCs are patient death, a patient requiring surgery that is unrelated to their admitting diagnosis, and surgery to remove a foreign object from a previous surgery. The AHCA publishes quarterly and annual statistics for adverse incidents as required by law. The number of adverse incidents reported from hospitals and ASCs over the previous five calendar years are shown in the following table:⁸

Adverse Incidents Reported to the AHCA		
Calendar Year	Hospitals	ASCs
2019*	617	70
2018	636	77
2017	520	62
2016	470	58
2015	483	69
2014	427	80

**12-month estimate based on 11 months of data*

⁶ *Supra* note 5.

⁷ *Id.*

⁸ *Id.*

Patient Safety Culture Surveys

Organizational culture refers to the beliefs, values, and norms shared by staff throughout the organization that influence their actions and behaviors. Patient safety culture is the extent to which these beliefs, values, and norms support and promote patient safety.⁹ Patient safety culture can be measured by determining what is rewarded, supported, expected, and accepted in an organization as it relates to patient safety.¹⁰ In a safe culture, employees are guided by an organization-wide commitment to safety in which each member upholds his or her own safety norms and those of co-workers.

Agency for Healthcare Research and Quality Hospital and ASC Patient Safety Culture Survey

In 2004, the federal Agency for Healthcare Research and Quality (AHRQ) released the Hospital Survey on Patient Safety Culture (SOPS 1.0), a staff survey designed to help hospitals assess the culture of safety in their institutions by measuring how their staff perceive various aspects of patient safety culture.¹¹ The survey occurs once every two years and has since been implemented in hundreds of hospitals across the United States and in other countries.

In 2018, the federal AHRQ began developing a new version of the survey, with the goal of shortening the survey.¹² A pilot test was conducted with 25 hospitals, the data from which were used to examine the survey's reliability. In 2019, the federal AHRQ released a new version of the survey, the SOPS 2.0.¹³

The survey asks respondents to indicate to what degree they agree or disagree with a statement, how often something occurs, or provide a specific number or grade. Excerpts of the survey follow.

- Teamwork
 - In this unit, we work together as an effective team.
 - During busy times, staff in this unit help each other.
 - There is a problem with disrespectful behavior by those working in this unit.
 - When one area in this unit gets really busy, others help out.
- Supervisor/Manager, or Clinical Leader Support for Patient Safety
 - My supervisor/manager or clinical leader seriously considers staff suggestions for improving patient safety.
 - My supervisor/manager or clinical leader wants us to work faster during busy times, even if it means taking shortcuts.

⁹ U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *2018 User Database Report-Hospital Survey on Patient Safety Culture*, p. 3, (March 2018) available at <https://www.ahrq.gov/sites/default/files/wysiwyg/sops/quality-patient-safety/patientsafetyculture/2018hospitalsopsreport.pdf> (last viewed Feb. 6, 2020).

¹⁰ *Id.*

¹¹ U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *Hospital Survey on Patient Safety Culture*, (March 2018) available at <http://www.ahrq.gov/professionals/quality-patient-safety/patientsafetyculture/hospital/index.html> (last viewed Feb. 6, 2020).

¹² U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *Pilot Test Results from the 2019 AHRQ Surveys on Patient Safety Culture (SOPS) Hospital Survey Version 2.0*, p. 2, (September 2019) available at <http://www.ahrq.gov/sites/default/files/wysiwyg/sops/surveys/hospital/hsops2-pilot-results-parti.pdf> (last viewed Feb. 6, 2020).

¹³ The survey is available at <http://www.ahrq.gov/sops/surveys/hospital/index.html> (last viewed Feb. 6, 2020).

- My supervisor/manager or clinical leader takes action to address patient safety concerns that are brought to their attention.
- Hospital Management Support for Patient Safety
 - Hospital management provides adequate resources to improve patient safety.
 - The actions of hospital management show that patient safety is a top priority.
 - Hospital management seems interested in patient safety only after an adverse event happens.
- Communication Openness
 - In this unit, staff speak up if they see something that may negatively affect patient care.
 - When staff in this unit see someone with more authority doing something unsafe for patients, they speak up.
 - In this unit, staff are afraid to ask questions when something does not seem right.
- Handoffs and Information Exchange
 - When transferring patients from one unit to another, important information is often left out.
 - During shift changes, important patient care information is often left out.
 - During shift changes, there is adequate time to exchange all key patient care information.
- Patient Safety Grade- Poor, Fair, Good, Very Good, Excellent
 - How would you rate your unit/work area on patient safety?¹⁴

The federal AHRQ developed a comparative database on the survey, composed of data from U.S. hospitals that administered the survey and voluntarily submitted the data.¹⁵ The database allows hospitals to compare their patient safety culture survey results to those of other hospitals in support of patient safety culture improvement.¹⁶ The federal AHRQ utilizes the database to publish a biennial report presenting non-identifiable statistics on the patient safety culture of all participating hospitals. In 2018, 630 hospitals submitted survey results to the database. However, only 306 of those hospitals submitted surveys in 2016. As a result, to identify trends, comparisons can only be drawn from the data submitted by those 306 hospitals.¹⁷

The federal AHRQ also developed the Ambulatory Surgery Center Survey on Patient Safety Culture in response to interest from ASCs in assessing patient safety culture in their facilities. This survey is designed specifically for ASC staff and asks for their opinions about the culture of patient safety in their facility.¹⁸ In 2014, the federal AHRQ conducted a pilot study on the use of the Patient Safety Culture survey in 59 ASCs.¹⁹ The pilot study was intended to help ASCs assess the extent to which their culture emphasizes the importance of patient safety by viewing

¹⁴ *Id.*

¹⁵ The database is available at <http://www.ahrq.gov/sops/databases/hospital/index.html> (last viewed Feb. 6, 2020).

¹⁶ U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *2018 User Database Report-Hospital Survey on Patient Safety Culture*, at p. 1, available at

<https://www.ahrq.gov/sites/default/files/wysiwyg/sops/quality-patient-safety/patientsafetyculture/2018hospitalsopsreport.pdf> (last viewed Feb. 6, 2020).

¹⁷ *Id.* at p. 29.

¹⁸ The survey is available at <https://www.ahrq.gov/sops/surveys/asc/index.html>. (last viewed Feb. 6, 2020).

¹⁹ U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *Results From the 2014 AHRQ Ambulatory Surgery Center Survey on Patient Safety Culture Pilot Study*, (April 2015) available at https://www.ahrq.gov/sites/default/files/wysiwyg/professionals/quality-patient-safety/patientsafetyculture/asc/resources/asc_pilotstudy.pdf (last viewed Feb. 6, 2020).

the patient safety culture survey results of the ASCs participating in the study.²⁰ The study was also used to prove the reliability and structure of the questions and items contained in the survey. Based on the testing and input from the federal AHRQ and a technical expert panel, the survey was determined to be reliable and it was made available for industry use.

Florida Center for Health Information and Transparency

The Florida Center for Health Information and Transparency (Florida Center) provides a comprehensive health information system (information system) that includes the collection, compilation, coordination, analysis, indexing, dissemination, and utilization of health-related data. The Florida Center is housed within the AHCA.²¹

Offices within the Florida Center, which serve different functions, are:

- Data Collection and Quality Assurance, which collects patient discharge data from all licensed acute care hospitals (including psychiatric and comprehensive rehabilitation units), comprehensive rehabilitation hospitals, ambulatory surgical centers and emergency departments.
- Risk Management and Patient Safety, which conducts in-depth analyses of reported incidents to determine what happened and how the facility responded to the incident.
- Data Dissemination and Communication, which maintains the AHCA's health information website, provides technical assistance to data users, and creates consumer brochures and other publications.
- Health Information Exchange and Policy Analysis, which monitors innovations in health information technology, informatics, and the exchange of health information and provides a clearinghouse of technical resources on health information exchange, electronic prescribing, privacy and security, and other relevant issues.²²

The Florida Center electronically collects patient data from every Florida licensed inpatient hospital, ASC, emergency department, and comprehensive rehabilitation hospital on a quarterly basis. The data is validated for accuracy and maintained in three major databases: the hospital inpatient database, the ambulatory surgery database, and the emergency department database.

- The hospital inpatient database contains records for each patient stay at Florida acute care facilities, including long-term care hospitals and psychiatric hospitals. These records contain extensive patient information including discharge records, patient demographics, admission information, medical information, and charge data. This database also includes comprehensive inpatient rehabilitation data on patient-level discharge information from Florida's licensed freestanding comprehensive inpatient rehabilitation hospitals and acute care hospital distinct part rehabilitation units.²³
- The ambulatory surgery database contains "same-day surgery" data on reportable patient visits to Florida health care facilities, including freestanding ambulatory surgery centers, short-term acute care hospitals, lithotripsy centers, and cardiac catheterization laboratories.

²⁰ *Id.* at p. 1.

²¹ Section 408.05, F.S.

²² See *Florida Center for Health Information and Transparency*, available at <http://ahca.myflorida.com/SCHS/> (last visited on Feb. 11, 2020).

²³ See s. 408.061, F.S., and ch. 59E-7, F.A.C.

Ambulatory surgery data records include, but are not limited to, patient demographics, medical information, and charge data.²⁴

- The emergency department database collects reports of all patients who visited an emergency department, but were not admitted for inpatient care. Reports are electronically submitted to the AHCA and include the hour of arrival, the patient's chief complaint, principal diagnosis, race, ethnicity, and external causes of injury.²⁵

The Florida Center maintains www.FloridaHealthFinder.gov, which was established to assist consumers in making informed health care decisions and lead to improvements in quality of care in Florida. The website provides a wide array of search and comparative tools to the public that allows easy access to information on hospitals, ambulatory surgery centers, emergency departments, hospice providers, physician volume, health plans, nursing homes, and prices for prescription drugs in Florida.

The website also provides tools to researchers and professionals to allow specialized data queries, but requires users to have some knowledge of medical coding and terminology. Some of the features and data available on the website include a multimedia encyclopedia and symptoms navigator, hospital and ASC performance data, data on mortality, complication, and infection rates for hospitals, and a facility/provider locator.

The Florida Center also runs Florida Health Price Finder,²⁶ which provides consumers with the ability to research and compare health care costs in Florida at the national, state, and local levels. Supported by a database of more than 15 million lines of insurance claim data sourced directly from Florida insurers, the website displays costs as Care Bundles representing the typical set of services a patient receives as part of treatment for specific medical conditions. Care Bundles are broken down into logical steps, which may include one or more procedures and tests and the 295 care bundles currently available on Florida Health Price Finder account for 90 percent of consumer searches on national pricing websites.

III. Effect of Proposed Changes:

Section 1 amends s. 395.1012, F.S., to require that each hospital and ASC²⁷ must, at least biennially, conduct a patient safety culture survey using the Hospital or ASC Survey on Patient Safety Culture developed by the federal AHRQ. The facility:

- Must conduct the survey anonymously to encourage completion of the survey by staff working at the facility;
- May contract for administration of the survey;
- Must submit the survey data to the AHCA in a format specified in rule and including the survey participation rate;
- May develop an internal action plan between surveys to identify measures to improve the survey and submit the plan to the AHCA

²⁴ See s. 408.061, F.S., and ch. 59B-9, F.A.C.

²⁵ *Id.*

²⁶ See <https://pricing.floridahealthfinder.gov/#!> (last visited Feb. 11, 2020).

²⁷ Including hospitals and ASCs operating exclusively as state facilities.

Section 3 amends s. 408.05, F.S., to require the Florida Center to collect, compile, and publish patient safety culture survey data and designate the use of updated versions of the applicable surveys as they occur. The Florida Center is also required to:

- Customize the survey to:
 - Generate data regarding the likelihood of a respondent to seek care for the respondent and the respondent's family at the surveying facility both in general and, for hospitals, within the respondent's specific unit or work area; and
 - Revise the units or work areas identified in the hospital survey to include a pediatric cardiology patient care unit and a pediatric cardiology surgical services unit.
- Publish the survey results for each facility, in the aggregate, by composite measure as defined in the survey, and by the applicable units or work areas within the facility.

Sections 2 and 4 amend ss. 395.1055 and 408.061, F.S., respectively, to make conforming and cross-reference changes.

Section 5 authorizes one full-time equivalent (FTE) position with an associated salary rate of 46,560, and \$75,306 in recurring funds and \$87,171 in nonrecurring funds from the Health Care Trust Fund, to the AHCA to implement the provisions of the bill.

Section 6 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Hospitals and ASCs that are required to complete and submit a patient safety culture survey or surveys under CS/CS/SB 1370 will incur an indeterminate cost to fulfill that requirement.

C. Government Sector Impact:

The AHCA has not provided a fiscal impact estimate for SB 1370 or CS/SB 1370. However, under HB 763, which is similar to CS/SB 1370, the AHCA reported²⁸ that it will be required to collect, compile, and prepare the survey results for publication. Data collection will require developing new information technology applications or infrastructure, or both, to accept the survey data files electronically from each of, at least, 776 facilities. Survey data collection must include identity verification to ensure that the party submitting data on behalf of a facility is properly authorized to do so, along with a validation process to ensure that submitted data files are complete and meet required specifications.

The AHCA also reported that, under HB 763, its staff will be required to compile the submitted data for publication. Due to the number of facilities reporting, the AHCA estimates the need for one full-time analyst to perform these functions and to monitor and report facility compliance. The costs associated with internal development of a reporting portal for facilities to submit their survey data are estimated based on known development costs associated with recent and relatively similar reporting projects. The secure data submission portal will need to include identity verification, validation of data specifications, documentation of the date and time of submission, and reporting requirements. The costs for the AHCA to build such a system were estimated at \$60,000 in the first year.

Publication of survey findings or scores at the facility level will require custom programming to the AHCA's existing consumer transparency website, FloridaHealthFinder.gov. The development of new transparency tools in recent years have had associated vendor costs ranging from \$6,400 to \$30,000, depending on the size and scope of the new function or tool. The publication of the patient safety culture survey data would be a significant endeavor, requiring the AHCA's contracted vendor to create search functionality, publication, and integration of results for all of the state's licensed hospitals and ASCs. The AHCA's rough estimate of associated programming and web-design costs was approximately \$25,000 in the first year and \$2,000 recurring annually thereafter.

The AHCA estimated the need for one analyst to manage the survey vendor contract, perform data analysis functions, monitor facility compliance, and analyze and report noncompliant facilities to the AHCA licensure staff for regulatory follow-up as needed. Comparable contracts managed by the AHCA are administered by a Government Analyst II level staff member. The AHCA reported that the patient safety culture survey program

²⁸ *Supra* note 5.

would be a significant implementation, and, in order for it to be successful, the program will require, at a minimum, a dedicated contract manager who also has data analysis skills and experience.

The bill appropriates one full-time equivalent position and \$75,306 in recurring funds and \$87,171 in nonrecurring funds from the Health Care Trust Fund, to the AHCA to implement the bill in Fiscal Year 2020-2021.²⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

The AHCA recommends that hospitals and ASCs be required under the bill to contract with an independent third-party organization to administer the surveys in order to ensure anonymity of responses and encourage honesty from respondents. Under this recommendation, each facility would be required to capture and provide data from a statistically valid sample of employees in order to ensure that findings are representative of the facility as a whole.³⁰

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 395.1012, 395.1055, 408.05, and 408.061.

IX. Additional Information:

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute:

- Requires ASCs to use the ASC Survey on Patient Safety Culture, instead of the Hospital Survey on Patient Safety Culture.
- Revises requirements relating to the collection of data by units or work areas to apply only to the hospital survey.
- Authorizes a position and an appropriation.

CS by Health Policy on February 11, 2020:

The CS replaces requirements in the underlying bill with the requirement that each hospital and ASC conduct a patient safety culture survey at least biennially. The CS eliminates the exemption for facilities operating exclusively as state facilities.

The CS specifies that facilities must use the Hospital Survey on Patient Safety Culture developed by the federal Agency for Healthcare Research and Quality, requires the

²⁹ *Id.*

³⁰ *Id.*

survey to be anonymous, allows facilities to contract for the administration of the survey, and requires that each facility must submit survey data to the AHCA.

The bill requires the Florida Center to customize the survey with additional questions and to collect, compile, and publish aggregated survey data.

B. Amendments:

None.

By the Committee on Health Policy; and Senator Harrell

588-03488-20

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A bill to be entitled

An act relating to patient safety culture surveys; amending s. 395.1012, F.S.; requiring certain licensed facilities to biennially conduct an anonymous patient safety culture survey using a specified federal publication; authorizing facilities to contract for the administration of the survey; requiring facilities to biennially submit patient safety culture survey data to the Agency for Health Care Administration; authorizing facilities to develop an internal action plan for a specified purpose and submit such plan to the agency; amending s. 395.1055, F.S.; conforming a cross-reference; amending s. 408.05, F.S.; requiring the agency to collect, compile, and publish patient safety culture survey data submitted by facilities; amending s. 408.061, F.S.; revising requirements for the submission of health care data to the agency; providing an effective date.

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

Section 1. Subsection (4) is added to section 395.1012, Florida Statutes, to read:

395.1012 Patient safety.—

(4) Each licensed facility must, at least biennially, conduct a patient safety culture survey using the Hospital Survey on Patient Safety Culture developed by the federal Agency for Healthcare Research and Quality. Each facility shall conduct the survey anonymously to encourage completion of the survey by

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

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staff working in or employed by the facility. Each facility may contract to administer the survey. Each facility shall biennially submit the survey data to the agency which must be in a format specified by rule and include the survey participation rate. Each facility may develop an internal action plan between conducting surveys to identify measures to improve the survey and submit the plan to the agency.

Section 2. Paragraph (d) of subsection (14) of section 395.1055, Florida Statutes, is amended to read:

395.1055 Rules and enforcement.—

(14)

(d) Each onsite inspection must include all of the following:

1. An inspection of the program's physical facilities, clinics, and laboratories.

2. Interviews with support staff and hospital administrators.

3. A review of:

a. Randomly selected medical records and reports, including, but not limited to, advanced cardiac imaging, computed tomography, magnetic resonance imaging, cardiac ultrasound, cardiac catheterization, and surgical operative notes.

b. The program's clinical outcome data submitted to the Society of Thoracic Surgeons and the American College of Cardiology pursuant to s. 408.05(3)(1) ~~s. 408.05(3)(k)~~.

c. Mortality reports from cardiac-related deaths that occurred in the previous year.

d. Program volume data from the preceding year for

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59 interventional and electrophysiology catheterizations and
60 surgical procedures.

61 Section 3. Present paragraphs (d) through (k) of subsection
62 (3) of section 408.05, Florida Statutes, are redesignated as
63 paragraphs (e) through (l), respectively, a new paragraph (d) is
64 added to that subsection, and present paragraph (j) of that
65 subsection is amended, to read:

66 408.05 Florida Center for Health Information and
67 Transparency.—

68 (3) HEALTH INFORMATION TRANSPARENCY.—In order to
69 disseminate and facilitate the availability of comparable and
70 uniform health information, the agency shall perform the
71 following functions:

72 (d)1. Collect, compile, and publish patient safety culture
73 survey data submitted by a facility pursuant to s. 395.1012.

74 2. Designate the use of updated versions of the survey as
75 they occur, and customize the survey to:

76 a. Generate data regarding the likelihood of a respondent
77 to seek care for the respondent and the respondent's family at
78 the surveying facility, both in general and within the
79 respondent's specific unit or work area; and

80 b. Revise the units or work areas identified in the survey
81 to include a pediatric cardiology patient care unit and a
82 pediatric cardiology surgical services unit.

83 3. Publish the survey results for each facility, in the
84 aggregate, by composite measure as defined in the survey and the
85 units or work areas within the facility.

86 (k) (j) Conduct and make available the results of special
87 health surveys, including facility patient safety culture

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88 surveys, health care research, and health care evaluations
89 conducted or supported under this section. Each year the center
90 shall select and analyze one or more research topics that can be
91 investigated using the data available pursuant to paragraph (c).
92 The selected topics must focus on producing actionable
93 information for improving quality of care and reducing costs.
94 The first topic selected by the center must address preventable
95 hospitalizations.

96 Section 4. Paragraph (a) of subsection (1) of section
97 408.061, Florida Statutes, is amended to read:

98 408.061 Data collection; uniform systems of financial
99 reporting; information relating to physician charges;
100 confidential information; immunity.—

101 (1) The agency shall require the submission by health care
102 facilities, health care providers, and health insurers of data
103 necessary to carry out the agency's duties and to facilitate
104 transparency in health care pricing data and quality measures.
105 Specifications for data to be collected under this section shall
106 be developed by the agency and applicable contract vendors, with
107 the assistance of technical advisory panels including
108 representatives of affected entities, consumers, purchasers, and
109 such other interested parties as may be determined by the
110 agency.

111 (a) Data submitted by health care facilities, including the
112 facilities as defined in chapter 395, shall include, but are not
113 limited to: case-mix data, patient admission and discharge data,
114 hospital emergency department data which shall include the
115 number of patients treated in the emergency department of a
116 licensed hospital reported by patient acuity level, data on

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hospital-acquired infections as specified by rule, data on complications as specified by rule, data on readmissions as specified by rule, with patient and provider-specific identifiers included, actual charge data by diagnostic groups or other bundled groupings as specified by rule, facility patient safety culture surveys, financial data, accounting data, operating expenses, expenses incurred for rendering services to patients who cannot or do not pay, interest charges, depreciation expenses based on the expected useful life of the property and equipment involved, and demographic data. The agency shall adopt nationally recognized risk adjustment methodologies or software consistent with the standards of the Agency for Healthcare Research and Quality and as selected by the agency for all data submitted as required by this section. Data may be obtained from documents such as, but not limited to: leases, contracts, debt instruments, itemized patient statements or bills, medical record abstracts, and related diagnostic information. Reported data elements shall be reported electronically in accordance with rule 59E-7.012, Florida Administrative Code. Data submitted shall be certified by the chief executive officer or an appropriate and duly authorized representative or employee of the licensed facility that the information submitted is true and accurate.

Section 5. This act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GAYLE HARRELL
25th District

COMMITTEES:

Health Policy, *Chair*
Appropriations Subcommittee on Health
and Human Services, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Children, Families, and Elder Affairs
Military and Veterans Affairs and Space

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

February 19, 2020

Senator Rob Bradley
201 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Bradley,

I respectfully request that **SB 1370 – Patient Safety Culture Surveys** be placed on the next available agenda for the Appropriations Committee Meeting. SB 1370 passed its last committee stop unanimously.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink that reads "Gayle".

Senator Gayle Harrell
Senate District 25

Cc: Cynthia Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019
- 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020

Meeting Date

1370

Bill Number (if applicable)

Topic Patient Safety Culture Surveys

Amendment Barcode (if applicable)

Name Matthew Choy

Job Title Policy Director

Address 136 S Bronough S

Phone 850-521-1200

Street

Tallahassee

FL

32311

Email mchoy@flchamber.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

1370
Bill Number (if applicable)

Topic Health Care

Amendment Barcode (if applicable)

Name Mike Cusick

Job Title _____

Address 200 W. College Ave
Street
Tallahassee FL 32301
City State Zip

Phone 850-222-5620
Email MikeC@MichaelCusick.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Society of Ambulatory Surgical Centers

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1404 (863198)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Banking and Insurance Committee; and Senator Perry

SUBJECT: Department of Financial Services

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Palecki	Knudson	BI	Fav/CS
2. Sanders	Betta	AEG	Recommend: Fav/CS
3. Sanders	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1404 amends sections of Florida Statutes governing the following Department of Financial Services (DFS) Divisions: Investigative and Forensic Services; Public Assistance Fraud; Funeral, Cemetery, and Consumer Services; and State Fire Marshal. The bill:

- Prohibits employees who fall under the State Risk Management Trust Fund from engaging in retaliatory conduct against a sexual harassment victim;
- Provides that willful and knowing dissemination of certain identifying information of a sexual harassment victim is a misdemeanor of the first degree;
- Designates the Division of Public Assistance Fraud a criminal justice agency;
- Amends the composition requirements of the Board of Funeral, Cemetery, and Consumer Services; clarifies member requirements; amends the definition of “quorum” to enable ease of business; removes term staggering requirements; and clarifies rulemaking responsibilities;
- Clarifies and provides grounds for disqualification of death care licensure applicants based on criminal history;
- Amends provisions for criminal background checks for Funeral, Cemetery and Consumer Services applicants;
- Prohibits specific unlicensed funeral activity and increases the penalty to a third-degree felony;
- Increases criminal penalties associated with unlicensed funeral activity;

- Updates the definition of “two-component explosive” to reflect changes in the marketplace;
- Revises the provisions concerning notice to a purchaser of a preneed contract and changes how funds are distributed if the purchaser does not respond to written notice from the licensee;
- Amends continuing education requirements for individuals licensed to solicit, sell, or adjust insurance in the state;
- Allows contractors to begin repairs on a previously permitted fire alarm prior to receiving a permit to do so, yet maintains that such repair will not be compliant until permitted and approved;
- Extends the expiration date for exemptions that allow doorstep refuse and recycling collection containers in apartments with enclosed corridors under certain circumstances;
- Amends the Fire and Emergency Incident Information Reporting Program by replacing “fire protection agencies” with “fire service providers” and defines the term “fire service provider;”
- Eliminates a fire protection sprinkler system contractor designation and increases the number of sprinklers that can be relocated, added or deleted;
- Revises the composition of the Fire and Emergency Incident Information System Technical Advisory Panel and the Firefighters Employment, Standards and Training Council;
- Requires those seeking a license to install or maintain a fire protection system, to successfully complete a prescribed training course, to include both written and practical training, and requires such training to be offered at the State Fire College;
- Creates parity between residential and high rise apartment buildings and extends assessment and compliance deadlines by three years with regards to minimum radio signal strength for fire department communications and two-way radio systems;
- Prohibits influencing a firesafety inspector to violate applicable law through threats, coercion, trickery, or compensation, and prohibits a firesafety inspector from knowingly and willingly accepting such an attempt;
- Allows fire service providers to hire volunteer firefighters, and allow them to continue to function in a volunteer firefighter capacity for the first year of employment while they obtain career firefighter certifications;
- Expands the applicability of criminal penalties for impersonation of investigators and personnel of the DFS; and
- Renames the Florida Blockchain Task Force, incorporates financial technology, and extends the report date from March 21, 2020 to January 31, 2021.

The bill does not impact state revenues or expenditures; however, as to the criminal penalties created by the bill, the Criminal Justice Impact Conference (CJIC) has not yet adopted a prison bed impact for this legislation and the fiscal impact relating to those penalties is indeterminate.

The effective date is July 1, 2020.

II. Present Situation:

The Department of Financial Services (DFS) is statutorily responsible for:

- Carrying out the state's accounting and auditing functions; including preparing the state's Comprehensive Annual Financial Report, monitoring state contracts, and making payment for state expenditures;
- Implementing state fire prevention and control measures, including the investigation of arson and other suspicious fires; training and certification of firefighter candidates; and regulation of explosive storage and use;
- Operating the state's risk management program and securing insurance and reinsurance for covered state liabilities;
- Managing the state Treasury and directing safekeeping and the investment of all state funds;
- Managing the deferred compensation program for state employees;
- Investigating fraud, including insurance fraud, public assistance fraud, and false claims against the state;
- Regulating cemeteries and funeral homes;
- Licensing and oversight of insurance agents and agencies;
- Ensuring that Florida employers provide workers' compensation coverage for their employees in a cost effective manner;
- Assisting consumers in the resolution of issues pertaining to insurance and funeral services; and
- Collecting and returning unclaimed property belonging to Florida residents.¹

The DFS is composed of the following divisions:

- Accounting and Auditing;
- Administration;
- Consumer Services;
- Funeral, Cemetery and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property; and
- Workers' Compensation.²

Division of Public Assistance Fraud

The Division of Public Assistance Fraud (PAF) is responsible for enforcing state laws regarding program eligibility and proper use of public assistance benefits. PAF is responsible for investigating allegations of fraud related to the Cash Assistance/Temporary Assistance for Needy Families (TANF) program, the Supplemental Nutritional Assistance Program (SNAP); Medicaid

¹ Florida Department of Financial Services, *Statement of Agency Organization and Operation*, <https://www.myfloridacfo.com/sitepages/required/agencyorg.aspx> (last visited January 30, 2020).

² Florida Department of Financial Services, *Divisions and Offices* <https://www.myfloridacfo.com/> (last visited January 30, 2019)

recipients; disaster assistance/emergency benefits; the School Readiness and Voluntary Pre-Kindergarten programs; and Social Security Disability benefits.³

PAF has operated as a criminal justice agency since its inception in 1972. However, when the Division of Investigative and Forensic Services (DIFS) was created in 2016, under ch. 20, F.S., PAF was not designated as a criminal justice agency⁴, thereby limiting access to information within criminal records systems. Under Florida law, a criminal justice agency is defined, in part, as any governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.^{5,6} PAF currently operates, in part, as a criminal justice agency. However, current statute does not appropriately reflect this designation.

State Risk Management

The State Risk Management Trust Fund (Fund) is administered by the DFS and is a self-insurance fund.⁷ The Fund provides various types of insurance to all departments of the State of Florida, including their employees, agents, and volunteers.⁸ The Fund provides the following insurance coverage:

- Property Claims, to include:⁹
 - Loss from fire, lightning, sinkholes, and hazards customarily insured by extended coverage;
 - Loss from removal of personal property from such properties when endangered by covered perils;
 - Flood insurance to the extent necessary to meet self-insurance requirements under the National Flood Insurance Program;
 - All buildings, whether financed in whole or in part by revenue bonds or certificates, and the contents thereof of any other buildings leased or rented by the state, to include manufactured homes and contents;
 - Rental value insurance is provided to indemnify the state or its agencies for loss of income when such rental income insurance is required to be carried by bonding or revenue certificates or resolutions; and

³ Division of Public Assistance, <https://myfloridacfo.com/Division/PAF/> (last visited January 16, 2020).

⁴ Department of Financial Services, *Legislative Bill Analysis of SB 1404* (January 14, 2020) (on file with Senate Banking and Insurance Committee).

⁵ Section 943.045(11)(e), F.S. *See also*: s. 943.045(2), F.S.; the term “administration of criminal justice” means “performing functions of detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders by governmental agencies. The administration of criminal justice includes criminal identification activities and the collection, processing, storage, and dissemination of criminal justice information by governmental agencies.”

⁶ Section 943.045(11)(a)-(e), F.S., defines a criminal justice agency as a court, the Department of Law Enforcement, the Department of Juvenile Justice, the protective investigations component of the Department of Children and Families, which investigates the crime of crimes of abuse and neglect, and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule court and that allocates a substantial part of its annual budget to the administration of criminal justice.

⁷ Section 284.30, F.S.

⁸ Section 284.31, F.S.

⁹ Section 284.01, F.S.

- Rental value insurance is also provided to indemnify the state or its agencies for loss of income from those buildings operated and maintained by the Department of Management Services from the Supervision Trust Fund;
- Casualty Claims, to include: ¹⁰
 - Workers' Compensation;
 - General Liability:
 - Premises and Operations
 - Personal Injury; and
 - Professional Malpractice Liability;¹¹
 - Fleet Automotive Liability;
 - Federal Civil Rights Actions under 42 U.S.C. s. 1983 or similar federal statutes; and
 - Court-awarded fees in other proceedings against the state, except for such awards in eminent domain or for inverse condemnation or awards by the Public Employees Relations Commission.

Separate accounts must be kept for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. 1983 or similar federal statutes, and court-awarded attorney's fees barring exceptions.¹²

Each entity covered by the Fund must develop and implement a loss prevention program,¹³ provide for regular and periodic facility and equipment inspections,¹⁴ investigate job-related employee accidents,¹⁵ and establish a program to promote increased safety awareness among employees.¹⁶ The Division of Risk Management, within the DFS, provides loss prevention services and technical assistance to state agencies and universities for managing risk.¹⁷

Premiums, as calculated on all coverages, are billed and charged to each state agency according to coverages obtained from the Fund.^{18, 19} All premiums paid into the Fund and all moneys received from the Fund from investment or any other source is held by the DFS for the purpose of paying: losses, expenses incurred in adjustment of losses, premiums for reinsurance, risk and claims management and operating expenses.^{20, 21}

¹⁰ Section 284.30, F.S.

¹¹ Department of Financial Services, Division of Risk Management, *Insurance Coverage Provided*, <https://www.myfloridacfo.com/Division/Risk/liability/LiabilityInsuranceCoverage.htm> (last visited February 19, 2020).

¹² Section 284.31, F.S.

¹³ Section 284.50(1)(a), F.S.

¹⁴ Section 284.50(1)(b), F.S.

¹⁵ Section 284.50(1)(c), F.S.

¹⁶ Section 284.50(1)(d), F.S.

¹⁷ Department of Financial Services, Division of Risk Management, *Welcome to the Division of Risk Management*, <https://www.myfloridacfo.com/Division/Risk/> (last visited February 19, 2020).

¹⁸ Section 284.02(1), F.S.

¹⁹ Section 284.36, F.S.

²⁰ Section 284.02(2), F.S.

²¹ Section 284.37, F.S.

Funeral, Cemetery, and Consumer Services

Composition and Business of Board of Funeral, Cemetery, and Consumer Services

Section 20.121(4), F.S., creates the Board of Funeral, Cemetery, and Consumer Services (Board) within the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services. The board acts as the licensing authority for the purposes of certain matters related to examinations and other substantive requirements for licensure within the death care industry under ch. 497, F.S., including facility requirements.²²

Currently, the board must have 10 members; one member must be the State Health Officer, or their designee, and the remaining nine members must be nominated by the Chief Financial Officer (CFO), appointed by the Governor, and confirmed by the Senate.²³ The composition of the board must be as follows:

- The State Health Officer.
- Two funeral directors who are:
 - Licensed under part III of ch. 497, F.S., as funeral directors, and
 - Associated with a funeral establishment;
- One funeral director who is:
 - Licensed under part III of ch. 497, F.S.,
 - Associated with a funeral establishment licensed under part III of ch. 497, F.S., that has a valid preneed license issued pursuant to ch. 497, F.S., and
 - Operates a incinerator facility that is approved under ch. 403, F.S., and licensed under part IV of ch. 497, F.S.;
- Two persons whose primary occupation is associated with a licensed cemetery;
- Three consumers who:
 - Are residents of Florida;
 - Have never been licensed funeral directors or embalmers;
 - Are not connected with a cemetery or licensed cemetery company;
 - Are not connected to the death care industry or the practice of embalming, funeral directing, or direct disposition;
 - At least one of which is at least 60 years of age; and
 - At least one of which is a licensed certified public accountant; and
- One principal of a monument establishment licensed under ch. 497, F.S., as a monument builder.

Members must not be principals or employees of the same company or partnership, or group of companies or partnerships under common control.²⁴ The DFS reports that the CFO often does not receive a sufficient amount of applications to fill member positions.²⁵ For example, the

²² See s. 497.103(1)(a)-(cc), F.S. Licenses available to natural persons include: embalmer apprentice and intern; funeral directors and intern; funeral director and embalmer, direct disposer, monument establishment sales agent, and preneed sales agent. Section 497.141(12)(a), F.S. Licenses available to natural persons, corporations, limited liability companies, and partnerships include: funeral establishment, centralized embalming facility, refrigeration facility, direct disposal establishment, monument establishment, cinerator facility, removal service, preneed sales business under s. 497.453, F.S., and cemetery. Section 497.141(12)(b)-(c), F.S.

²³ Section 497.101(1), F.S.

²⁴ Section 497.101(2), F.S.

²⁵ See *Supra* note 4.

position that must be filled by a certified public accountant has remained vacant since September 2017.²⁶

Board members are appointed for four-year terms, except for the State Health Officer, who serves as long as they hold office.²⁷ The CFO is authorized to stagger the terms of members after the terms of the initial members expire.²⁸ The terms have already been staggered at the initiation of the board.²⁹

A quorum is necessary to conduct the business of the board. A quorum consists of six members of the board.³⁰ The DFS indicates that it can be difficult to obtain this number due to board vacancies, absenteeism, and necessary recusal.³¹

The DFS is required to adopt rules regarding application forms and procedures for appointment to the board.³²

Disqualification of Licensure Applicants

Section 497.142(10), F.S., requires all licensure and licensure renewal applicants to disclose criminal history. The following crimes must be disclosed:

- Any felony or misdemeanor, no matter when committed, that was directly or indirectly related to or involving any aspect of the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation;
- Any other felony committed within 20 years preceding the application; and
- Any other misdemeanor committed within five years preceding the application.

Licensing Background Checks

Applicants for licensure under ch. 497, F.S., relating to Funeral, Cemetery, and Consumer Services, must provide certified true copies of any crime committed in any jurisdiction, within the 10 years preceding their application, in order to deem the application complete.³³ Currently, regardless of adjudication, disclosure of the following crimes is required:

- Any felony or misdemeanor, no matter when committed, that was directly or indirectly related to the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation;³⁴
- Any other felony that was committed within the 20 years immediately preceding the application under this chapter;³⁵ and

²⁶ *Id.*

²⁷ Section 497.101(3), F.S.

²⁸ *Id.*

²⁹ *See Supra* note 4.

³⁰ Section 497.101(6), F.S.

³¹ *See Supra* note 4.

³² *Id.*, s. 497.103(2)(c), F.S.

³³ Section 497.142(9), F.S.

³⁴ Section 497.142(10)(c)1., F.S.

³⁵ Section 497.142(10)(c)2., F.S.

- Any other misdemeanor that was committed within the five years preceding the application under this chapter.³⁶

Unlicensed Practice

Chapter 497, F.S., requires individuals to maintain a license for specified death care industry practices. The DFS is authorized to issue administrative complaints against entities believed to be in violation of licensure requirements.³⁷ Section 497.159, F.S., provides for criminal penalties; unlicensed activity is a second degree misdemeanor, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.³⁸

Preneed Contract – Notice to Purchaser

A preneed contract is any arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future.³⁹ To ensure performance of unfulfilled preneed contracts, a preneed licensee must provide written notice to the purchaser or the beneficiary's legally authorized person, with the intent to distribute funds in accordance with the terms of the contract if:

- Fifty years have passed since the date of the preneed contract execution;⁴⁰
- The beneficiary of the preneed contract reaches the age of 105 or older;⁴¹ or
- The social security number of the beneficiary, as shown on the contract, is contained within the United States Social Security Administration Death Master File.⁴²

This written notice must be provided by certified mail, registered mail, or permitted delivery service, return receipt requested.⁴³ Currently, the purchaser or the beneficiary's legally authorized person must respond to such notice within 120 days after delivery, otherwise the funds held in trust will be distributed in accordance with the terms of the preneed contract, the trust agreement, and any applicable provisions of ch. 717, F.S., relating to the disposition of unclaimed property.

Continuing Education Requirements

Individuals licensed to engage in the sale of insurance or adjustment of insurance claims in this state are required to fulfill continuing education requirements, pursuant to s. 626.2815, F.S. Currently, licensees, except title insurance agents, are required to complete a 5-hour update course every two years, specific to the license they hold.⁴⁴ Unless otherwise provided, licensees must also complete 19 hours of elective continuing education courses every two years.⁴⁵ If a licensee has been licensed for six years or more, this requirement drops to 15 hours.⁴⁶ An

³⁶ Section 497.142(10)(c)3., F.S.

³⁷ Section 497.157(2), F.S.

³⁸ Section 497.159(6), F.S.

³⁹ Section 497.005(61), F.S.

⁴⁰ Section 497.459(7)(a)1., F.S.

⁴¹ Section 497.459(7)(a)2., F.S.

⁴² Section 497.459(7)(a)3., F.S.

⁴³ Section 497.459(7)(b)1., F.S.

⁴⁴ Section 626.2815(3), F.S.

⁴⁵ Section 626.2815(3)(a), F.S.

⁴⁶ Section 626.2815(3)(b), F.S.

individual subject to chapter 648, F.S., relating to bail bond agents, is required to complete a 5-hour update course and a minimum of 9 hours of elective continuing education courses every two years.⁴⁷

If continuing education requirements are not met, DFS has the authority to immediately terminate or refuse to renew the appointment of an agent or adjuster, following notification from DFS, unless an extension or waiver has been granted.⁴⁸

State Fire Marshal

Explosives

Chapter 552, F.S., sets forth the requirements to lawfully engage in the business of a manufacturer-distributor, or to acquire, sell, possess, store, or engage in the use of explosives in this state. The chapter's current definition of a two-component explosive requires the use of a "No. 6 blasting cap" for detonation.⁴⁹ No. 6 blasting caps went out of production several years ago and current blasting caps no longer use the same rating system.⁵⁰

Uniform Fire Alarm Permit Application

Contractors are required to file a Uniform Fire Alarm Permit Application with a local law enforcement agency, and must receive the permit before installing, replacing, or repairing an existing fire alarm that was previously permitted by the local enforcement agency, if the local enforcement agency requires a permit for the repair.⁵¹

Doorstep Refuse and Recycling Collection

The State Fire Marshal, by rule, adopts the Florida Fire Prevention Code (Fire Code), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities, and the enforcement of such fire safety laws and rules.⁵² The State Fire Marshal adopts a new edition of the Fire Code every three years.⁵³ The 6th edition of the Fire Code took effect on January 1, 2018.

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code⁵⁴ requirements in s. 633.208, F.S., as long as they do not conflict with ch. 633, F.S., relating to fire prevention and control, or any other state law.⁵⁵

⁴⁷ Section 626.2815(3)(e), F.S.

⁴⁸ Section 626.2815(9), F.S.

⁴⁹ Section 552.081(13), F.S.

⁵⁰ See *Supra* note 4.

⁵¹ Section 553.7921(1)(b), F.S.

⁵² Chapter 69A-60, F.A.C.

⁵³ Section 633.202, F.S.

⁵⁴ Sections 633.108 and 633.208, F.S.

⁵⁵ Sections 633.208 and 633.214(4), F.S.

Residents of apartment buildings may place combustible waste and refuse in exit access corridors in apartment buildings if the following conditions are met:

- Doorstep refuse and recycling collection containers do not exceed 13 gallons for apartment buildings with enclosed corridors and interior or exterior stairs;
- Doorstep refuse and recycling collection containers do not exceed 27 gallons for apartment buildings with open air corridors and exterior stairs or balconies with exterior exit stairs;
- Waste, which is in a doorstep refuse and recycling collection container, is not placed in an exit access corridor for a single period greater than five hours;
- Doorstep refuse and recycling collection containers are not in an exit access corridor for a single period greater than 12 hours for apartment buildings with enclosed corridors and interior or exterior stairs;
- Doorstep refuse and recycling collection containers do not reduce the exit access corridor's width below the width required by the Fire Code;
- Doorstep refuse and recycling collection containers are able to stand upright on their own and may not leak fluids when standing upright; and
- The apartment's management staff have written policies and procedures to ensure compliance with the above conditions. Management staff must enforce the policies and must provide a copy of the policies to the authority having jurisdiction upon request.⁵⁶

Currently, this provision expires on July 1, 2021.

Fire and Emergency Incident Information Reporting Program

The Florida Fire Incident Reporting System (FFIRS) is located within the Division of State Fire Marshal. The FFIRS was created by rule and is a means for fire protection agencies to report and maintain computerized records of fires and other fire department incidents in a uniform manner.⁵⁷ Annual reports are furnished to the Governor, Legislature and fire protection agencies, and upon request, the public.⁵⁸

Established in 2005, the Fire and Emergency Incident Reporting Program (Program), included the creation of the Fire and Emergency Incident Information Technical Advisory Panel (Panel) and codified FFIRS language. The FFIRS is the Florida coordinating officer for the National Fire Incident Reporting Section (NFIRS)⁵⁹. The NFIRS provides system resources and an overview of the standard national reporting system used by the United States fire departments to report fires and other incidents to which they respond and to maintain records of such incidents in a uniform manner.⁶⁰ The NFIRS provides software and training at no cost to fire departments.⁶¹

The Panel was created to advise, review and make recommendations to the State Fire Marshal. Currently, the membership is comprised of 15 members:

⁵⁶ Section 633.202(20), F.S.

⁵⁷ Department of Financial Services, Division of State Fire Marshal, *Florida Fire and Incident Reporting System*, <https://www.myfloridacfo.com/Division/SFM/FFIRS/> (last visited February 18, 2020).

⁵⁸ Section 633.136, F.S.

⁵⁹ See *supra* note 57.

⁶⁰ U.S. Fire Administration, National Fire Incident Reporting System, <https://www.nfirs.fema.gov/> (last visited February 18, 2020).

⁶¹ See *supra* note 57.

- The thirteen members of Firefighters Employment, Standards, and Training Council;⁶²
- One member from the Florida Forest Service, Department of Agriculture and Consumer Services; and
- One member from the Department of Health, appointed by the State Surgeon General.⁶³

Fire Sprinkler Systems

A licensed fire protection engineer or architect, with fire protection design experience, may design any type of fire protection system.⁶⁴ A person certified as a Contractor I,⁶⁵ Contractor II,⁶⁶ or Contractor IV,⁶⁷ under ch. 633, F.S., relating to fire prevention and control, may design fire protection systems of 49 or fewer sprinklers. These designated contractors may also design the alteration of an existing fire sprinkler system, as long as no more than 49 sprinklers are relocated, added, or deleted.⁶⁸

Firesafety Inspectors

Section 633.216, F.S., requires each county, municipality, and special district that has firesafety enforcement responsibilities to employ or contract with a firesafety inspector. Subject to certain exceptions⁶⁹, the firesafety inspector is responsible for conducting all firesafety inspections required by law.⁷⁰ These firesafety inspections include the inspection of buildings and facilities, on a recurring or regular basis, on behalf of the state or any county, municipality, or special district with fire safety responsibilities.⁷¹ The Florida Fire Prevention Code⁷² governs design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules. These local enforcing authorities may adopt more stringent firesafety standards, subject to certain

⁶² See *infra* note 92 and accompanying text.

⁶³ Section 633.136(2), F.S.

⁶⁴ Section 633.102(3), F.S. A fire protection system is defined as “a system individually designed to protect the interior or exterior of a specific building or buildings, structure, or other special hazard from fire.” Section 633.102(11), F.S.

⁶⁵ “A contractor whose business includes the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service all types of fire protection systems, excluding preengineered systems.” Section 633.102(3)(a), F.S.

⁶⁶ “A contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, standpipes, combination standpipes and sprinkler risers, all piping that is an integral part of the system beginning at the point of service as defined in this section, sprinkler tank heaters, air lines, thermal systems used in connection with sprinklers, and tanks and pumps connected thereto, excluding preengineered systems.” Section 633.102(3)(b), F.S.

⁶⁷ “A contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one-family dwellings, detached two-family dwellings, and mobile homes, excluding preengineered systems and excluding single-family homes in cluster units, such as apartments, condominiums, and assisted living facilities or any building that is connected to other dwellings.” Section 633.102(3)(d), F.S.

⁶⁸ s. 633.102(3), F.S.

⁶⁹ For example, this requirement does not apply to farm outbuildings or licensed plumbing contractor installed standpipe systems and certain connected items. Section 633.226, F.S.

⁷⁰ Section 633.216(1), F.S.

⁷¹ Section 633.102(12), F.S.

⁷² Chapter 69A-60, F.A.C. The Florida Fire Prevention Code is adopted by the State Fire Marshal, and contains and incorporates by reference all firesafety laws and rules. s. 633.202(1), F.S.

requirements in s. 633.208, F.S., but may not enact firesafety ordinances which conflict with ch. 633, F.S., or any other state law.⁷³

The Chief Financial Officer is designated as the “State Fire Marshal.”⁷⁴ In any county, municipality, or special district that does not employ or appoint a firesafety inspector, the State Fire Marshal assumes the duties of the local county, municipality, or independent special fire control district with respect to firesafety inspections of educational property.⁷⁵

A person who violates any provision of ch. 633, F.S., Fire Prevention and Control, any order or rules of the State Fire Marshal, or any order to cease and desist or to correct conditions commits a misdemeanor of the second degree.⁷⁶

It is illegal to impersonate the State Fire Marshal or a firesafety inspector. A person who impersonates either official commits a felony of the third degree, and if the impersonation occurs during the commission of a separate felony, a person commits a felony of the first degree.⁷⁷ Section 468.629, F.S., makes it illegal for a person to influence a building code enforcement official by coercion or compensation.⁷⁸ Any person who commits such acts commits a misdemeanor of the first degree, and, if the person was previously convicted of such act, a felony of the third degree.⁷⁹

Volunteer Firefighter Employment

The National Fire Prevention Association estimates that there were approximately 1,056,200 local firefighters in the United States as of 2017.⁸⁰ Of the total number of firefighters, 35 percent were career firefighters, and 65 percent were volunteer firefighters.⁸¹ Florida has 528 fire departments.⁸² At least 315 Florida fire departments utilize volunteers to sustain operations.⁸³ Approximately 12 million Florida residents depend on volunteer firefighters to protect their communities.⁸⁴ The Firefighter Assistance Grant Program, created in 2016 to improve the emergency response capability of fire departments reliant on volunteer firefighters, provides grant money to such fire departments to provide volunteer firefighter training and procure equipment. In 2018, 29 fire departments were awarded such grants.⁸⁵

⁷³ See Rule 69A-60.002, F.A.C.; s. 633.214(4), F.S.

⁷⁴ Section 633.104(1), F.S.

⁷⁵ Section 633.104(7), F.S.

⁷⁶ Section 633.124(1), F.S.

⁷⁷ Section 633.122, F.S.

⁷⁸ Section 468.629(1)(f) and (g), F.S.

⁷⁹ Section 468.629(2), F.S.

⁸⁰ National Fire Prevention Association, U.S. Fire Department Profile, <https://www.nfpa.org/News-and-Research/Data-research-and-tools/Emergency-Responders/US-fire-department-profile> (last visited January 16, 2020).

⁸¹ *Id.*

⁸² National Fire Prevention Association, *Number of U.S. Fire Departments by State*, <https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/Emergency-responders/osNumberOfFireDeptInUS.ashx?la=en> (last visited January 16, 2020).

⁸³ Division of State Fire Marshal, *Florida Volunteer Firefighter Information*, <https://myfloridacfo.com/Division/SFM/VOLFF/default.htm> (last visited January 16, 2020).

⁸⁴ *Id.*

⁸⁵ Division of State Fire Marshal, *FY2018 Florida Firefighter Assistance Grant Award Outcomes*, https://myfloridacfo.com/Division/SFM/VOLFF/FY2018_GrantOutcomes.pdf (last visited January 16, 2020).

Florida fire service providers are currently prohibited from employing an individual to extinguish fires or to supervise those who do unless the individual holds a current and valid Firefighter Certificate of Compliance.⁸⁶ Thus, fire service providers are currently prohibited from employing volunteer firefighters, who hold a Volunteer Firefighter Certificate of Completion.⁸⁷ Volunteer firefighters can enter immediately dangerous to life and health (IDLH) environments. However, if employed by the same department prior to achieving a Firefighter Certificate of Compliance they would not be allowed to enter the IDLH environments they were authorized to enter the day before beginning career employment.⁸⁸

False Personation

Pursuant to s. 843.08, F.S., any person who falsely assumes or pretends to be an officer of a specified type commits a felony of the third degree, a felony of the second degree when committed with another felony, and a felony in the first degree if the felony is the cause of death or personal injury of another individual.⁸⁹ A person who impersonates an officer of the DFS is subject to these criminal penalties.⁹⁰ However, there is no criminal penalty for impersonating an investigator or personnel of the DFS. The DFS employs personnel who are not officers but have access to active criminal cases and conduct criminal investigations.⁹¹

Firefighters Employment, Standards and Training Council (Council)

The Council is comprised of fifteen members and are appointed as follows:

- Two fire chiefs appointed by the Florida Fire Chiefs Association;
- Two firefighters, who are not officers, appointed by the Florida Professional Firefighters Association;
- Two firefighter officers, who are not fire chiefs, appointed by the State Fire Marshal;
- One individual appointed by the Florida League of Cities;
- One individual appointed by the Florida Association of Counties;
- One individual appointed by the Florida Association of Special Districts;
- One individual appointed by the Florida Fire Marshals' and Inspectors' Association;
- One employee of the Florida Forest Service of the Department of Agriculture and Consumer Services appointed by the director of the Florida Forest Service;
- One individual appointed by the State Fire Marshal;
- One director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal; and
- The remaining member, who shall be appointed by the State Fire Marshal, may not be a member or representative of the firefighting profession or of any local government.⁹²

⁸⁶ Section 633.416(1)(a), F.S.

⁸⁷ Section 633.408, F.S.

⁸⁸ See *Supra* note 4.

⁸⁹ Section 843.08, F.S., contains a list specifying which types of officers it is unlawful to impersonate. This list includes, but is not limited to, firefighters, sheriffs, officers of agencies, and school guardians.

⁹⁰ Section 843.08, F.S.

⁹¹ See *Supra* note 4.

⁹² Section 633.402(1), F.S.

There are certain eligibility requirements set forth for membership. Members shall serve only as long as they continue to meet the criteria under which they were appointed or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.⁹³ Members are appointed for four year terms and are not eligible to serve more than two consecutive terms⁹⁴ and serve without compensation⁹⁵ but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.⁹⁶

The Council has special powers in connection with the employment and training of firefighters⁹⁷ to recommend for adoption by the Division of State Fire Marshal:

- Uniform minimum standards for the employment and training of firefighters and training of volunteer firefighters;⁹⁸
- Minimum curriculum requirements for schools operated by or for any fire service provider for the specific purpose of training firefighter trainees, firefighters, and volunteer firefighters;⁹⁹
- Matters relating to the funding, general operation, and administration of the Bureau of Fire Standards and Training (Florida State Fire College), including, but not limited to, all standards, training, curriculum, and the issuance of any certificate of competency required by this chapter;¹⁰⁰

In addition, the Council may make or support studies on any aspect of firefighting employment, education, and training or recruitment¹⁰¹ or may make recommendations concerning any matter within its purview pursuant to this section.¹⁰²

Florida Blockchain Task Force

In 2019, the Florida Blockchain Task Force was established within DFS,¹⁰³ to explore and develop a master plan for fostering the expansion of the blockchain industry in the state. Consisting of 13 appointed members, the task force's master plan must do the following: Identify the economic growth and development opportunities presented by blockchain technology;

- Assess the existing blockchain industry in the state;
- Identify innovative and successful blockchain applications currently used by industry and other governments to determine viability for state applications;
- Review workforce needs and academic programs required to build blockchain technology expertise across all relevant industries; and

⁹³ Section 633.402(1)(b), F.S.

⁹⁴ Section 633.402(2), F.S.

⁹⁵ Section 633.402(7), F.S.

⁹⁶ *Id.*

⁹⁷ Section 633.402(9), F.S.

⁹⁸ Section 633.402(9)(a), F.S.

⁹⁹ Section 633.402(9)(b), F.S.

¹⁰⁰ Section 633.402(9)(c), F.S.

¹⁰¹ Section 633.402(9)(d), F.S.

¹⁰² Section 633.402(9)(e), F.S.

¹⁰³ Chapter 2019-140, Laws of Fla.

- Make recommendations to the Governor and the Legislature that will promote innovation and economic growth by reducing barriers to and expediting the expansion of the state's blockchain industry.¹⁰⁴

The task force is required to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as well as present its findings to the appropriate legislative committees in each house of the Florida Legislature. The report must include the following:

- A general description of the costs and benefits of state and local government agencies using blockchain technology;
- Recommendations concerning the feasibility of implementing blockchain technology in the state and the best approach to finance the cost of implementation;
- Recommendations for specific implementations to be developed by relevant state agencies;
- Any draft legislation the task force deems appropriate to implement such blockchain technologies;
- Identification of one pilot project that may be implemented in the state; and
- Any other information deemed relevant by the task force.

The report is to be submitted within 180 days after the initial meeting. The task force's initial meeting was September 23, 2019, making the current due date for the report March 21, 2020.

Public Records Law

Overview

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹⁰⁵ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.¹⁰⁶

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.¹⁰⁷ The Public Records Act states:

It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.¹⁰⁸

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

¹⁰⁴ Chapter 2019-140, Laws of Fla.

¹⁰⁵ FLA. CONST., art. I, s. 24(a).

¹⁰⁶ *Id.*

¹⁰⁷ Public records laws are found throughout the Florida Statutes.

¹⁰⁸ Section 119.01(1), F.S.

Legislative and Judicial Records

The Public Records Act does not apply to legislative or judicial records.¹⁰⁹ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the Legislature.

Definition

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.¹¹⁰ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”¹¹¹

Access

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.¹¹² A violation of the Public Records Act may result in civil or criminal liability.¹¹³

Exemptions

The Legislature has the sole authority to create an exemption to public records requirements.¹¹⁴ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹¹⁵ An exemption serves an identifiable purpose if it meets one of the following statutory purposes, the Legislature finds that the purpose of the exemption outweighs open government policy, and the purpose cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹¹⁶
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹¹⁷ or

¹⁰⁹ *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995)

¹¹⁰ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

¹¹¹ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

¹¹² Section 119.07(1)(a), F.S.

¹¹³ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹¹⁴ FLA. CONST., art. I, s. 24(c).

¹¹⁵ *Id.*

¹¹⁶ Section 119.15(6)(b)1., F.S.

¹¹⁷ Section 119.15(6)(b)2., F.S.

- It protects trade or business secrets.¹¹⁸

Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. Additionally, a bill enacting an exemption may not contain other substantive provisions¹¹⁹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²⁰

“Confidential and Exempt” or “Exempt” Designations

When creating or expanding a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹²¹ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹²²

Open Government Sunset Review Act

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹²³ with specified exceptions.¹²⁴ It requires the automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹²⁵ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹²⁶

¹¹⁸ Section 119.15(6)(b)3., F.S.

¹¹⁹ The bill may, however, contain multiple exemptions that relate to one subject.

¹²⁰ FLA. CONST., art. I, s. 24(c) and FLA. CONST., art. X, s. 12(e).

¹²¹ If the Legislature designates a record as confidential, the record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹²² *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹²³ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹²⁴ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹²⁵ Section 119.15(3), F.S.

¹²⁶ Section 119.15(6)(b), F.S. Section 119.15(6)(a), F.S., asks the Legislature to carefully question the purpose and necessity of reenacting the exemption, and specifically requires that the Legislature consider the following questions:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

General Public Records Exemptions for State Agency Personnel

There are three general public records exemptions that apply to all state agency personnel: disclosure of an employee's (1) social security number, (2) medical information, and (3) personal identifying information of dependent children who are insured by an agency group insurance plan.¹²⁷

(1) Social Security Numbers

Social security numbers of all current and former agency personnel are confidential and exempt when held by the employing agency.¹²⁸ An employing agency may only release social security numbers for the following reasons:

- It is required by law.
- A receiving government agency needs the social security number to perform its duties.
- The employee consents to disclose his or her social security number.¹²⁹

In addition, there is a general exemption for social security numbers which applies to the public that makes social security numbers confidential and exempt.¹³⁰ This exemption applies to any agency that holds anyone's social security number, including those belonging to the personnel of that agency. This exemption, however, permits the agency to disclose social security numbers of agency personnel in order to administer health or retirement benefits.¹³¹

(2) Medical Information

An agency employee's medical information is also exempt from public disclosure if the medical information could identify the employee. This exemption applies to prospective, current, and former employees.¹³²

(3) Personal Identifying Information

The personal identifying information of a dependent child of an agency employee who is insured by an agency group insurance plan is exempt from public disclosure. This exemption applies to the children of current and former employees and is also retroactively applied.¹³³

Public Records Exemptions for Enumerated Personnel

Provisions in s. 119.071(4)(d), F.S., exempt from public disclosure the personal identification and location information of enumerated agency personnel, their spouses, and their children. The employing agency as well as the employee may assert the right to the exemption by submitting a written request to each agency which holds the employee's information.¹³⁴ Additionally, all of these exemptions have retroactive application.¹³⁵ In order to have such exemption applied to a

¹²⁷ Section 119.071(4)(a) and (b), F.S.

¹²⁸ Section 119.071(4)(a)1., F.S.

¹²⁹ Section 119.071(4)(a), F.S.

¹³⁰ Section 119.071(5)(a)5., F.S.

¹³¹ Section 119.071(5)(a)5.f. and g., F.S.

¹³² Section 119.071(4)(b)1., F.S.

¹³³ Section 119.071(4)(b)2., F.S.

¹³⁴ Section 119.071(4)(d)3., F.S.

¹³⁵ Section 119.071(4)(d)5., F.S.

court record or an official record held by a clerk of court, the party must make a request specifying the document name, type, identification number, and page number.¹³⁶ Any enumerated personnel who has his or her public records held exempt may file a written and notarized request to any record custodian to have the records released to an identified party.¹³⁷

Confidential and Exempt –Alleged Sexual Harassment Victim

Section 119.071(2)(n), F.S., provides that personal identifying information of the alleged victim in an allegation of sexual harassment is confidential and exempt.¹³⁸ Such information may be disclosed to another governmental entity in the furtherance of its official duties.¹³⁹

Section 119.10(2)(a), F.S. provides that any person who willfully and knowingly violates any provisions of chapter 119 commits a first degree misdemeanor punishable by imprisonment up to one year or a fine up to \$1,000.

III. Effect of Proposed Changes:

Division of Public Assistance Fraud (Sections 1 and 20)

Section 1 amends s. 20.121(2)(f), F.S., to designate the Division of Public Assistance Fraud (PAF) as a criminal justice agency for the purposes of ss. 943.045-943.08, F.S. The designation allows the PAF to continue having access to criminal justice information contained in Florida Crime Information Center (FCIC) and National Crime Center Information Center (NCIC) systems of criminal records when conducting criminal investigations and other law enforcement support functions.¹⁴⁰

Section 20 amends s. 943.045, F.S., to include the PAF in the definition of “criminal justice agency.”

State Risk Management

Section 2 creates s. 284.45, F.S., to define a sexual harassment victim as an individual employed with or being considered for employment with an entity participating in the State Risk Management Trust Fund (FUND), who becomes a victim of workplace sexual harassment within the entity. The bill prohibits individuals working for an entity covered by the Fund from engaging in retaliatory conduct, of any kind, toward a sexual harassment victim. The PCS also prohibits the willful and knowing distribution of personal identifying information of a sexual harassment victim, and specifically provides that personal identifying information includes the victim’s name and his or her:

- Home address;
- Home phone number;
- Cellular phone number;

¹³⁶ Section 119.0714(2)(f) and (3)(f), F.S.

¹³⁷ Section 119.071(4)(d)4., F.S.

¹³⁸ Section 119(2)n, F.S., and s. 24(a), Art. 1 of the State Constitution

¹³⁹ Subject to the Open Government Sunset Review Act and stands repeal on October 2, 2022 unless reviewed and saved from repeal through reenactment by the Legislature.

¹⁴⁰ See *supra* note 4.

- E-mail address;
- Social media account username or uniform resource locator (URL); or
- Any other information that could reasonably be used to identify the alleged sexual harassment victim.

Personal identifying information of a victim may not be distributed to any party other than a government entity, in furtherance of its official duties, or pursuant to a court order. Any violation results in a first degree misdemeanor, punishable as provided in s. 775.082, F.S.

Funeral, Cemetery, and Consumer Services

Composition and Business of Board of Funeral, Cemetery, and Consumer Services (Board)

Section 3 amends s. 497.101, F.S., to reduce the minimum number of nominations the Chief Financial Officer (CFO) must make for nine board member positions from three nominations to one. The bill also reduces from three to two the number of positions on the Board that must be filled by consumers who are residents of Florida; have never been licensed funeral directors or embalmers; are not connected with a cemetery or licensed cemetery company nor connected to the death care industry or the practice of embalming, funeral directing, or direct disposition. The Board must also now have a consumer member who is: a resident; a licensed certified public accountant who has never been licensed as a funeral director or embalmer; not a principal or employee of any ch. 497, F.S., licensee; and not otherwise in control (as defined in s. 497.005, F.S.) over any ch. 497, F.S., licensee. This change requires the appointment of a licensed CPA who has some knowledge of and association with, but not a controlling interest in, licensees in the death care industry.

The definition of a “quorum” for the purposes of conducting Board business is amended to constitute a simple majority of eligible members instead of six members.

The section eliminates unnecessary statutory provisions regarding the staggered terms of board members, which have already been established. The statutory change will also eliminate the Department of Financial Services’ (DFS) rulemaking responsibilities concerning the application process, which the DFS asserts is unnecessary, as the Governor makes the appointments.¹⁴¹

Disqualification of Licensure Applicants

Section 4 of the bill creates s. 497.1411, F.S., to provide and clarify grounds for disqualification of licensure applicants based on criminal history. Subsection (1) provides definitions of “applicant,” “felony of the first degree,” “capital felony,” and “financial services business.” Subsection (2) provides an enumerated list of crimes which, if an applicant is found guilty of or pleads nolo contendere to, regardless of adjudication, permanently bars the applicant from licensure under ch. 497, F.S. These crimes are a first degree felony, a capital felony, a felony money laundering offense, or a felony embezzlement.

Subsection (3) provides the following disqualifying periods for other specified crimes:

¹⁴¹ *Id.*

- A 10-year disqualifying period for all felonies involving moral turpitude not subject to a permanent bar on licensure; and
- A five-year disqualifying period for all other felonies and for all misdemeanors directly related to the financial services business, defined as any financial activity regulated by the DFS, the Office of Insurance Regulation, or the Office of Financial Regulation.

These specifications are intended to provide clarity beyond the current statutory scheme, which provides no guidelines to determine whether a specific crime is considered “directly or indirectly related to or involving any aspect of the practice or business” of death care industry functions. The DFS suggests that the lack of clarity and guidance in current statute has led to inconsistencies in recommendations and Board rulings on applications.¹⁴²

Subsection (4) requires the DFS to adopt rules to administer the section. The rules must provide for additional disqualifying periods due to the commitment of multiple crimes and may include other factors reasonably related to the applicant’s criminal history. The rules must also provide mitigating and aggravating factors, except that mitigation may not result in a disqualification period of less than five years.

Subsection (5) specifies that a disqualifying period begins upon an applicant’s final release from supervision or upon completion of the applicant’s criminal sentence. The subsection further prohibits the DFS from issuing a license unless all related fines, court costs and fees, and court-ordered restitutions have been paid. Subsection (6) places the burden of proof for rehabilitation on the applicant.

Subsection (7) allows the DFS to award a license, despite a conviction, upon a grant of a pardon or restoration of civil rights. Subsection (8) authorizes the Board to grant an exemption from a criminal record related disqualification, and provides standards for mitigating factors. Chapter 120, F.S., provides administrative remedies available to applicants for whom the Board has granted or denied an exemption. Subsection (9) clarifies the disqualification periods provided in this section do not apply to the renewal of a license or to a new licensure application if the applicant has an active license as of July 1, 2020 and the applicable criminal history was considered by the Board on the prior active license approval.

Licensing Background Checks

Section 5 amends s. 497.142, F.S., to require certified true copies of any crime committed in any jurisdiction in order to deem an application complete, regardless of how many years have passed. The bill requires disclosure of all felonies, regardless of when committed and regardless of adjudication. It also requires disclosure of any misdemeanor directly or indirectly related to the financial services business,¹⁴³ no matter when committed.

¹⁴² *Id.*

¹⁴³ The bill defines financial services business as “any financial activity regulated by the Department of Financial Services, the Office of Insurance Regulation, or the Office of Financial Regulation.”

Unlicensed Practice

Section 6 of the bill amends s. 497.157, F.S., to increase penalties for unlicensed activity from a misdemeanor to a felony of the third degree. Section 6 also expands unlicensed activity to include acting, advertising, or otherwise holding oneself out to be a funeral director, embalmer, direct disposer, or preneed sales agent, unless currently licensed or appointed as such.

Section 7 of the bill amends s. 497.159, F.S., by removing the second-degree misdemeanor penalty for unlicensed activity under ch. 497, F.S.

Preneed Contract and Notice to Purchaser

Section 8 amends s. 497.459, F.S., to require a preneed licensee to conduct an analysis of his or her preneed contracts at least every three years. The three year period will begin when the first analysis pursuant to this section is conducted, which must occur at least by July 1, 2021. If an analysis finds the contract was executed at least 50 years ago or the beneficiary has reached 105 years of age, the preneed licensee must provide written notice with intent to distribute funds in accordance with the contract. The bill removes the written notice requirement when the social security number of the beneficiary of the contract is contained within the United States Social Security Administration Death Master File. The bill clarifies that such notice is to be provided by the preneed licensee, instead of the trustee.

The bill allows the purchaser or the beneficiary's legally authorized person three years to respond to the written notice. If the purchaser or the beneficiary's legally authorized person fails to respond, the funds held in trust will be distributed within 60 days of the end of the three year period as follows:

- The principle deposited into trust will be remitted to the Unclaimed Property Trust Fund; and
- Any additional funds in trust will be remitted to the preneed licensee.

If funds are distributed from trust, the preneed licensee is absolved of all liability associated with the preneed contract for which the funds were distributed, including any obligation to refund any monies paid by a purchaser. At the time funds are remitted to the Unclaimed Property Trust Fund, the names of the purchaser and beneficiary will be provided to the Division of Unclaimed Property.

The bill clarifies that any purchaser and beneficiary, or legally authorized persons of such, who receives written notice from a preneed licensee, retains all rights to both cancellation and fulfillment between the time of written notice and the distribution of funds. Fulfillment may include identifying a new beneficiary on the preneed contract, which makes the contract effective as of the date of the identification of the new beneficiary.

Explosives

Section 9 updates the definition of "two-component explosives" in s. 552.081, F.S., by removing the requirement of a "No. 6 cap," which is no longer manufactured.

Fire Alarm Permits

Section 10 amends s. 553.7921, F.S., to authorize contractors to begin repairs on existing permitted fire alarms upon filing a Uniform Fire Alarm Permit Application but prior to receiving the permit for the repair. Fire alarms repaired under such circumstances are not considered compliant until the permit is issued and the local law enforcement agency approves the repair.

Continuing Education Requirements

Section 11 amends s. 626.2815, F.S., by lowering the update course requirement to four hours for individuals licensed to solicit, sell, or adjust insurance in the state, barring title insurance agents. The update course is raised to six hours for an individual who holds a license as a customer representative, and who is not a licensed life or health agent. Licensees must complete 20 hours of elective continuing education every two years, and if a licensee has been licensed for six years or more, he or she must complete 16 hours of continuing education every two years. Lastly, individuals who fall under chapter 648, F.S., relating to bail bond agents, are required to complete a four hour update course and a minimum of ten hours of continuing education every two years.

Florida Fire Marshal - Florida Fire Prevention and Control

Fire Sprinkler Systems

Section 12 amends s. 633.102, F.S., to allow a person certified as a Contractor I or a Contractor II to design new fire protection systems of 49 or fewer sprinklers, and to design the alteration of an existing system if it adds 49 or fewer sprinklers. A person certified as a Contractor IV can no longer design or alter fire protection systems. Additionally, the bill allows a Contractor I or II to alter an existing fire sprinkler system, as long as it entails the relocation or deletion of 249 or fewer sprinklers, and such alteration requires no change in occupancy as defined in the Florida Building Code, no change in water demand as defined in National Fire Protection Association Publication (NFPA) No. 13, and the occupancy hazard classification, as defined in NFPA No. 13, is either reduced or remains the same following the alteration.

Fire and Emergency Incident Information Reporting Program

Section 13 amends s. 633.136, F.S., by replacing “fire protection agencies” with “fire service providers” and defines the term “fire service provider.” This section also revises the composition of the Fire and Emergency Incident Information System Technical Advisory Panel (Panel) to:

- Retain 15 members on the Panel;
- Remove one member from the Florida Forest Service, Department of Agriculture and Consumer Services; and
- Remove one member from the Department of Health.

Fire services provider is defined as a municipality or county, the state, the division, or any political subdivision of the state, including authorities and special districts, that employs firefighters or uses volunteer firefighters to provide fire extinguishment or fire prevention

services for the protection of life and property. The term includes any organization under contract or other agreement with such entity to provide such services.¹⁴⁴

Florida Fire Prevention Code

Section 14 amends s. 633.202(18), F.S., to extend the deadlines for certain buildings to comply with requirements for minimum radio strength for fire department communications by three years.

The bill also amends s. 633.202(20), F.S., to extend, by three years, the current expiration of exemptions that allow doorstep refuse and recycling collection containers in apartments with enclosed corridors under certain circumstances.

Influencing a Firesafety Inspector

Section 15 creates s. 633.217, F.S., to prohibit influencing or attempting to influence a firesafety inspector by threatening, coercing, tricking, or offering compensation for the purpose of inducing the firesafety inspector to violate any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S. Subsection (2) prohibits a firesafety inspector from knowingly and willingly accepting an attempt by a person to influence them into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S. Section 633.124(1), F.S., provides that any person who violates any provision of ch. 633, F.S., commits a misdemeanor of the second degree. Violations of s. 633.217, F.S., relating to influencing a firesafety inspector carry the criminal penalty of a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.

State Fire College Training

Section 16 amends s. 633.304, F.S., to require any organization or individual engaging in the business of servicing, repairing, recharging, testing, marking, inspecting, installing, or hydrotesting any fire extinguisher or preengineered system seeking licensure in this state to complete a prescribed training course that:

- Includes both written and practical training;
- Is offered at the State Fire College; and
- Is approved by the State Fire Marshal, as applicable to the class of license being sought.

Firefighters Employment, Standards and Training Council

Section 17 amends s. 633.402, F.S., to revise the composition of the Firefighters Employment, Standards, and Training Council to include:

- One member appointed by the State Fire Marshal, who may not be a representative of the firefighting profession or of any local government; and
- One individual from the Department of Health, appointed by the Surgeon General.

¹⁴⁴ Fire service provider is defined in s. 633.102, F.S.

Volunteer Firefighter Employment

Section 18 amends s. 633.416, F.S., to authorize fire service providers to employ volunteer firefighters and allow them to act in volunteer firefighter capacity for up to one year under the direct supervision of an individual holding a valid firefighter certificate of compliance while they obtain career firefighter certifications. This will increase the availability of firefighters capable of entering immediately dangerous to life and health (IDLH) environments and protecting their communities. The DFS anticipates that this change will improve rural and small agency recruitment and retention efforts by facilitating the hiring of local candidates who are more inclined to remain in the area instead of hiring candidates from other parts of the state who are inclined to return to their home communities once gaining some experience.¹⁴⁵

False Personation

Section 19 of the bill amends s. 843.08, F.S., to expand the applicability of criminal penalties associated with false personation of a fire or arson investigator of the DFS to any personnel or representative of the Division of Investigative and Forensic Services.

Florida Blockchain Task Force

Section 21 amends ch. 2019-140, L.O.F., to rename the Florida Blockchain Task Force to the “Florida Financial Technology and Blockchain Task Force.” The bill incorporates financial technology throughout the duties of the task force, including a requirement that the task force consider financial technology innovations related to money transmitters¹⁴⁶ and payment instrument sellers.¹⁴⁷ Specifically, this requirement includes consideration of mediums of exchange that are in electronic or digital form, and identifying new products and services that could lead to business growth in the state.

The bill extends the due date for the task force’s report from March 21, 2020, to January 21, 2021. All other aspects of the task force remain unchanged.

Section 22 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁴⁵ See *supra* note 4.

¹⁴⁶ “Money transmitter” means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, or payment instruments for the purpose of transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country.” s. 560.103(23), F.S.

¹⁴⁷ “Payment instrument seller” means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which sells a payment instrument.” s. 560.103(30), F.S.

B. Public Records/Open Meetings Issues:

To the extent that an email address or social media account username or uniform resource locator may not actually identify a person, this provision may constitute an expansion of the public records exemption which requires a standalone bill and a two-thirds vote to pass.

Vote Requirement

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of each house for final passage of a bill creating an exemption to the public records requirements.¹⁴⁸ This bill may create an exemption for certain information relating to alleged sexual harassment victims, if it does, the bill requires a two-thirds vote of each house to be enacted.

Public Necessity Statement

Article I, s. 24(c), of the State Constitution requires a bill that creates an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. The bill, in its current form, does not address public necessity for an exemption.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article 1, s. 24(a) of the State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business. This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government. Public records laws are codified in Chapter 119, F.S., the Public Records Act. Section 119.071(2)(n), F.S., makes confidential and exempt from the public disclosure personal identifying information of an alleged victim of sexual harassment. For the purposes of this public records exemption, “personal identifying information” is undefined.

Section 2 of the bill prohibits an individual working for certain agencies from disseminating “personal identifying information” of a sexual harassment victim to any party other than a governmental entity or pursuant to a court order, under threat of criminal punishment. Section 2 of the bill defines “personal identifying information” for

¹⁴⁸ Article X, s. 12(e), of the State Constitution, Rules of Construction, states that a “Vote or other action of a legislative house . . . means the vote or action of a majority or other specified percentage of those members voting on the matter.” Accordingly, this two-thirds vote requirement means a favorable two-thirds vote of the members present and voting for final passage.

the purposes of s. 284.45, F.S., to include the victim's name, home address, home and cellular phone numbers, E-mail address, social media account username or URL, or any other information that could reasonably be used to identify the victim.

In some instances, an e-mail address or social media account information may not, in reality, be personally identifying information under the public records exemption codified in s. 119.071(2)(n), F.S. If that is the case, then the language contained in section 2 of the bill may be viewed as an expansion of the public records exemption. If that is the legislative intent, the Legislature should consider the expanded exemption in a separate bill that otherwise meets the constitutional requirements of an exemption to Art. I, s. 24(a) of the State Constitution – namely a public necessity statement and a two-thirds vote of each chamber of the legislature to be enacting.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not impact state revenues or expenditures. However, in section 6 of the PCS, s. 497.157, F.S., is amended to increase the criminal penalty to a third degree felony for impersonating a funeral director, embalmer, direct disposer, or a preneed sales agent. Also, in section 19 of the PCS, s. 843.08, F.S., relating to false impersonation is amended by expanding the subjects of false impersonation from fire or arson investigators within the Department of Financial Services to all personnel or representatives of the Division of Investigative and Forensic Services. These changes could increase the number of people subject to a felony penalty, but would seem to be insignificant. The Criminal Justice Impact Conference (CJIC) has not adopted a prison bed impact for this legislation.

VI. Technical Deficiencies:

Section 119.071(2)(n), F.S., provides that personal identifying information of the alleged victim in an allegation of sexual harassment is confidential and exempt. The bill creates s. 284.45, F.S., which defines "personal identifying information" for sexual harassment victims to include the victim's name, home address, home and cellular phone numbers, E-mail address, social media account username or URL, or any other information that could reasonably be used to identify the victim.

In some instances, an e-mail address or social media account information may not, in reality, be personally identifying information under the public records exemption codified in s. 119.071(2)(n), F.S. If that is the case, then the language contained in the newly created s. 284.45, F.S., may be viewed as an expansion of the public records exemption. If that is the

legislative intent, the Legislature should consider the expanded exemption in a separate bill that otherwise meets the constitutional requirements of an exemption to Art. I, sec. 24(a) of the State Constitution – namely a public necessity statement and a 2/3 vote of each chamber of the legislature to be enacting.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.121, 497.101, 497.142, 497.157, 497.159, 497.459, 552.081, 553.7921, 626.2815, 633.102, 633.136, 633.202, 633.217, 633.304, 633.402, 633.416, 843.08, and 943.045.

The bill substantially amends chapter 2019-140, Laws of Florida.

This bill creates sections 284.45, 497.1411, and 633.217 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 18, 2020:

The committee substitute:

- Prohibits retaliatory conduct against a sexual harassment victim;
- Prohibits willful and knowledgeable distribution of a victim's personal identifying information and provides criminal penalties for violations;
- Revises the crimes which must be disclosed in order to apply for a license, and deleted conflicting penalties, under ch. 497, F.S., related to Funeral, Cemetery, and Consumer Services;
- Revises provisions concerning notice to purchasers of preneed contracts;
- Adds the ability for a Contractor I or II licensee to alter an existing fire sprinkler system involving 249 or fewer sprinkler heads if there is no change in occupancy of the affected areas, no change in the water demand, and the occupancy hazard classification is reduced or remains the same;
- Extends the current expiration date of July 1, 2021 to July 1, 2024, for provisions that allow residents in apartment buildings to place garbage cans containing combustible waste and refuse in exit access corridors during certain hours;
- Creates parity between residential and high rise apartments for compliance with minimum radio strength for fire department communications and two-way radio system enhancements under the Florida Fire Prevention Code and extended the requirement for assessment and compliance by three years;
- Specifies that training courses offered by the State Fire College must include a written and a practical element and be approved by the State Fire Marshal;

- Revises the Fire and Emergency Incident Information Reporting Program to include a reference to fire service providers; defined the term “fire service providers” and revised the membership of the Fire and Emergency Incident Information System Technical Advisory Panel to delete two state agency members;
- Increases by one the membership of the Firefighters Employment, Standards, and Training Council;
- Revises the continued education hours required for individuals licensed to solicit, sell, or adjust insurance in the state;
- Renames the Florida Blockchain Task Force to the “Florida Financial Technology and Blockchain Task Force;” required the task force to consider financial technology innovations related to money transmitters and payment instrument sellers; and extended the expiration date of the task force to January 31, 2021.

CS by Banking and Insurance on January 21, 2020:

Creates s. 633.217, F.S., prohibiting the act of threatening, coercing, tricking, or attempting to threaten, coerce, or trick, or bribe a firesafety inspector for the purpose of influencing or inducing the firesafety officer to violate any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any other provision of ch. 633, F.S., which governs Fire Prevention and Control.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/04/2020	.	
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The Committee on Appropriations (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

20.121 Department of Financial Services.—There is created a
Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall
consist of the following divisions and office:



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(f) The Division of Public Assistance Fraud, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division shall conduct investigations pursuant to s. 414.411 within or outside of this state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of this state has or may have been violated, it shall refer any records tending to show such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.

Section 2. Section 284.45, Florida Statutes, is created to read:

284.45 Sexual harassment victims.—

(1) An individual working for an entity covered by the State Risk Management Trust Fund may not engage in retaliatory conduct of any kind against a sexual harassment victim. As used in this section, the term "sexual harassment victim" means an individual employed, or being considered for employment, with an entity participating in the State Risk Management Trust Fund, who becomes a victim of workplace sexual harassment through the course of employment, or while being considered for employment, with the entity.

(2) The willful and knowing dissemination of personal identifying information of a sexual harassment victim to any party other than a governmental entity in furtherance of its official duties or pursuant to a court order is a misdemeanor of the first degree, punishable as provided in s. 775.082. For purposes of this subsection, personal identifying information includes the name of the sexual harassment victim and his or



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her:

(a) Home address;

(b) Home phone number;

(c) Cellular phone number;

(d) E-mail address;

(e) Social media account username or uniform resource
locator (URL); or

(f) Any other information that could reasonably be used to
identify an alleged sexual harassment victim.

Section 3. Subsections (1), (2), (3), (6), and (8) of
section 497.101, Florida Statutes, are amended to read:

497.101 Board of Funeral, Cemetery, and Consumer Services;
membership; appointment; terms.—

(1) The Board of Funeral, Cemetery, and Consumer Services
is created within the Department of Financial Services and shall
consist of 10 members, 9 of whom shall be appointed by the
Governor from nominations made by the Chief Financial Officer
and confirmed by the Senate. The Chief Financial Officer shall
nominate one to three persons for each of the nine vacancies on
the board, and the Governor shall fill each vacancy on the board
by appointing one of the ~~three~~ persons nominated by the Chief
Financial Officer to fill that vacancy. If the Governor objects
to each of the ~~three~~ nominations for a vacancy, she or he shall
inform the Chief Financial Officer in writing. Upon notification
of an objection by the Governor, the Chief Financial Officer
shall submit one to three additional nominations for that
vacancy until the vacancy is filled. One member must be the
State Health Officer or her or his designee.

(2) Two members of the board shall be funeral directors



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licensed under part III of this chapter who are associated with a funeral establishment. One member of the board shall be a funeral director licensed under part III of this chapter who is associated with a funeral establishment licensed under part III of this chapter that has a valid preneed license issued pursuant to this chapter and who owns or operates a cinerator facility approved under chapter 403 and licensed under part VI of this chapter. Two members of the board shall be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. Two ~~Three~~ members of the board shall be consumers who are residents of the state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the two consumer members shall be at least 60 years of age, ~~and one shall be licensed as a certified public accountant under chapter 473.~~ One member of the board shall be a consumer who is a resident of this state; is licensed as a certified public accountant under chapter 473; has never been licensed as a funeral director or embalmer; is not a principal or employee of any licensee licensed under this chapter; and does not otherwise have control, as defined in s. 497.005, over any licensee licensed under this chapter. One member of the board shall be a principal of a monument establishment licensed under this chapter as a monument builder. One member shall be the State Health Officer or her or his designee. There shall not be two or more board members who are principals or employees of the same company or partnership or group of companies or



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partnerships under common control.

(3) Board members shall be appointed for terms of 4 years, and the State Health Officer shall serve as long as that person holds that office. The designee of the State Health Officer shall serve at the pleasure of the Governor. ~~When the terms of the initial board members expire, the Chief Financial Officer shall stagger the terms of the successor members as follows: one funeral director, one cemetery representative, the monument builder, and one consumer member shall be appointed for terms of 2 years, and the remaining members shall be appointed for terms of 4 years. All subsequent terms shall be for 4 years.~~

(6) The headquarters and records of the board shall be in the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services in the City of Tallahassee. The board may be contacted through the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services in the City of Tallahassee. The Chief Financial Officer shall annually appoint from among the board members a chair and vice chair of the board. The board shall meet at least every 6 months, and more often as necessary. Special meetings of the board shall be convened upon the direction of the Chief Financial Officer. A quorum is necessary for the conduct of business by the board. Unless otherwise provided by law, a majority of the board members eligible to vote shall constitute a quorum for the purpose of conducting its business ~~six board members shall constitute a quorum for the conduct of the board's business.~~

~~(8) The department shall adopt rules establishing forms by which persons may apply for membership on the board and~~



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~~procedures for applying for such membership. Such forms shall require disclosure of the existence and nature of all current and past employments by or contracts with, and direct or indirect affiliations or interests in, any entity or business that at any time was licensed by the board or by the former Board of Funeral and Cemetery Services or the former Board of Funeral Directors and Embalmers or that is or was otherwise involved in the death care industry, as specified by department rule.~~

Section 4. Section 497.1411, Florida Statutes, is created to read:

497.1411 Disqualification of applicants and licensees; penalties against licensees; rulemaking.-

(1) For purposes of this section, the term:

(a) "Applicant" means an individual applying for licensure or relicensure under this chapter, and an officer, a director, a majority owner, a partner, a manager, or other person who manages or controls an entity applying for licensure or relicensure under this chapter.

(b) "Felony of the first degree" and "capital felony" include all felonies designated as such in this state at the time of the commission of the offense, as well as any offense in another jurisdiction that is substantially similar to an offense so designated in this state.

(c) "Financial services business" means any financial activity regulated by the department, the Office of Insurance Regulation, or the Office of Financial Regulation.

(2) An applicant who has been found guilty of or has pleaded guilty or nolo contendere to any of the following



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crimes, regardless of adjudication, is permanently barred from
licensure under this chapter:

(a) A felony of the first degree.

(b) A capital felony.

(c) A felony money laundering offense.

(d) A felony embezzlement.

(3) An applicant who has been found guilty of or has
pleaded guilty or nolo contendere to a crime not included in
subsection (2), regardless of adjudication, is subject to:

(a) A 10-year disqualifying period for all felonies
involving moral turpitude that are not specifically included in
the permanent bar contained in subsection (2).

(b) A 5-year disqualifying period for all felonies to which
neither the permanent bar in subsection (2) nor the 10-year
disqualifying period in paragraph (a) applies.

(c) A 5-year disqualifying period for all misdemeanors
directly related to the financial services business.

(4) The board shall adopt rules to administer this section.
The rules must provide for additional disqualifying periods due
to the commitment of multiple crimes and may include other
factors reasonably related to the applicant's criminal history.
The rules shall provide for mitigating and aggravating factors.
However, mitigation may not result in a period of
disqualification of less than 5 years and may not mitigate the
disqualifying periods in paragraphs (3)(b) and (c).

(5) For purposes of this section, a disqualifying period
begins upon the applicant's final release from supervision or
upon completion of the applicant's criminal sentence. The
department may not issue a license to an applicant unless all



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185 related fines, court costs and fees, and court-ordered
186 restitution have been paid.

187 (6) After the disqualifying period has expired, the burden
188 is on the applicant to demonstrate that he or she has been
189 rehabilitated, does not pose a risk to the public, is fit and
190 trustworthy to engage in business regulated by this chapter, and
191 is otherwise qualified for licensure.

192 (7) Notwithstanding subsections (2) and (3), an applicant
193 who has been found guilty of, or has pleaded guilty or nolo
194 contendere to, a crime in subsection (2) or subsection (3) and
195 who has subsequently been granted a pardon or the restoration of
196 civil rights pursuant to chapter 940 and s. 8, Art. IV of the
197 State Constitution, or a pardon or the restoration of civil
198 rights under the laws of another jurisdiction with respect to a
199 conviction in that jurisdiction, is not barred or disqualified
200 from licensure under this chapter. However, such a pardon or
201 restoration of civil rights does not require the department to
202 award such license.

203 (8) (a) The board may grant an exemption from
204 disqualification to any person disqualified from licensure under
205 subsection (3) if:

206 1. The applicant has paid in full any fee, fine, fund,
207 lien, civil judgment, restitution, or cost of prosecution
208 imposed by the court as part of the judgment and sentence for
209 any disqualifying offense; and

210 2. At least 5 years have elapsed since the applicant
211 completed or has been lawfully released from confinement,
212 supervision, or nonmonetary condition imposed by the court for a
213 disqualifying offense.



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(b) For the board to grant an exemption under this subsection, the applicant must clearly and convincingly demonstrate that he or she would not pose a risk to persons or property if licensed under this chapter, evidence of which must include, but need not be limited to, facts and circumstances surrounding the disqualifying offense, the time that has elapsed since the offense, the nature of the offense and harm caused to the victim, the applicant's history before and after the offense, and any other evidence or circumstances indicating that the applicant will not present a danger if licensed or certified.

(c) The board has discretion whether to grant or deny an exemption under this subsection. The board's decision is subject to chapter 120.

(9) The disqualification periods provided in this section do not apply to the renewal of a license or to a new application for licensure if the applicant has an active license as of July 1, 2020, and the applicable criminal history was considered by the board on the prior approval of any active license held by the applicant. This subsection does not affect any criminal history disclosure requirement of this chapter.

Section 5. Subsection (9) and paragraph (c) of subsection (10) of section 497.142, Florida Statutes, are amended to read:
497.142 Licensing; fingerprinting and criminal background checks.—

~~(9) If any applicant under this chapter has been, within the 10 years preceding the application under this chapter,~~
convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, any crime in any



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jurisdiction, the application shall not be deemed complete until such time as the applicant provides such certified true copies of the court records evidencing the conviction, finding, or plea as required by this section or, as the licensing authority may by rule require.

(10)(c) Crimes to be disclosed are:

1. Any felony ~~or misdemeanor~~, no matter when committed, ~~that was directly or indirectly related to or involving any aspect of the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation.~~

2. Any misdemeanor, no matter when committed, which was directly or indirectly related to the financial services business as defined in s. 497.1411 ~~Any other felony not already disclosed under subparagraph 1. that was committed within the 20 years immediately preceding the application under this chapter.~~

3. Any other misdemeanor not already disclosed under subparagraph 2. ~~subparagraph 1.~~ that was committed within the 5 years immediately preceding the application under this chapter.

Section 6. Present subsections (2) through (5) of section 497.157, Florida Statutes, are redesignated as subsections (4) through (7), respectively, new subsections (2) and (3) and subsection (8) are added to that section, and present subsection (3) of that section is amended, to read:

497.157 Unlicensed practice; remedies concerning violations by unlicensed persons.—

(2) A person may not be, act as, or advertise or hold



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himself or herself out to be a funeral director, embalmer, or
direct disposer unless he or she is currently licensed by the
department.

(3) A person may not be, act as, or advertise or hold
himself or herself out to be a preneed sales agent unless he or
she is currently licensed by the department and appointed by a
preneed main licensee for which they are executing preneed
contracts.

(5)~~(3)~~ Where the department determines that an emergency
exists regarding any violation of this chapter by any unlicensed
person or entity, the department may issue and serve an
immediate final order upon such unlicensed person or entity, in
accordance with s. 120.569(2)(n). Such an immediate final order
may impose such prohibitions and requirements as are reasonably
necessary to protect the public health, safety, and welfare, and
shall be effective when served.

(a) For the purpose of enforcing such an immediate final
order, the department may file an emergency or other proceeding
in the circuit courts of the state seeking enforcement of the
immediate final order by injunctive or other order of the court.
The court shall issue its injunction or other order enforcing
the immediate final order pending administrative resolution of
the matter under subsection (4) ~~(2)~~, unless the court determines
that such action would work a manifest injustice under the
circumstances. Venue for judicial actions under this paragraph
shall be, at the election of the department, in the courts of
Leon County, or in a county where the respondent resides or has
a place of business.

(b) After serving an immediate final order to cease and



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desist upon any person or entity, the department shall within 10 days issue and serve upon the same person or entity an administrative complaint as set forth in subsection (4) ~~(2)~~, except that, absent order of a court to the contrary, the immediate final order shall be effective throughout the pendency of proceedings under subsection (4) ~~(2)~~.

(8) Any person who is not licensed under this chapter and who engages in activity requiring licensure under this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 7. Subsection (6) of section 497.159, Florida Statutes, is amended to read:

497.159 Crimes.—

~~(6) Any person who is not licensed under this chapter who engages in activity requiring licensure under this chapter, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 8. Subsection (13) of section 552.081, Florida Statutes, is amended to read:

552.081 Definitions.—As used in this chapter:

(13) "Two-component explosives" means any two inert components which, when mixed, become capable of detonation by any detonator ~~a No. 6 blasting cap~~, and shall be classified as a Class "A" explosive when so mixed.

Section 9. Present subsection (2) of section 553.7921, Florida Statutes, is redesignated as subsection (3), a new subsection (2) is added to that section, and subsection (1) of that section is amended, to read:

553.7921 Fire alarm permit application to local enforcement



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agency.-

(1) A contractor must file a Uniform Fire Alarm Permit Application as provided in subsection (3) ~~(2)~~ with the local enforcement agency and must receive the fire alarm permit before:

~~(a) installing or replacing a fire alarm, if the local enforcement agency requires a plan review for the installation or replacement; or~~

~~(b) Repairing an existing alarm system that was previously permitted by the local enforcement agency if the local enforcement agency requires a fire alarm permit for the repair.~~

(2) If the local enforcement agency requires a fire alarm permit to repair an existing alarm system that was previously permitted by the local enforcement agency, a contractor may begin work after filing a Uniform Fire Alarm Permit Application as provided in subsection (3). A fire alarm repaired pursuant to this subsection may not be considered compliant until the required permit is issued and the local enforcement agency approves the repair.

Section 10. Effective January 1, 2021, subsection (3) of section 626.2815, Florida Statutes, is amended to read:

626.2815 Continuing education requirements.-

(3) Each licensee except a title insurance agent must complete a 4-hour ~~5-hour~~ update course every 2 years which is specific to the license held by the licensee. The course must be developed and offered by providers and approved by the department. The content of the course must address all lines of insurance for which examination and licensure are required and include the following subject areas: insurance law updates,



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ethics for insurance professionals, disciplinary trends and case studies, industry trends, premium discounts, determining suitability of products and services, and other similar insurance-related topics the department determines are relevant to legally and ethically carrying out the responsibilities of the license granted. A licensee who holds multiple insurance licenses must complete an update course that is specific to at least one of the licenses held. Except as otherwise specified, any remaining required hours of continuing education are elective and may consist of any continuing education course approved by the department under this section.

(a) Except as provided in paragraphs (b), (c), (d), (e), (i), and (j), each licensee must also complete 20 ~~19~~ hours of elective continuing education courses every 2 years.

(b) A licensee who has been licensed for 6 or more years must also complete a minimum of 16 ~~15~~ hours of elective continuing education every 2 years.

(c) A licensee who has been licensed for 25 years or more and is a CLU or a CPCU or has a Bachelor of Science degree in risk management or insurance with evidence of 18 or more semester hours in insurance-related courses must also complete a minimum of 6 ~~5~~ hours of elective continuing education courses every 2 years.

(d) An individual who holds a license as a customer representative and who is not a licensed life or health agent must also complete a minimum of 6 ~~5~~ hours of continuing education courses every 2 years.

(e) An individual subject to chapter 648 must complete the 4-hour ~~5-hour~~ update course and a minimum of 10 ~~9~~ hours of



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elective continuing education courses every 2 years.

(f) Elective continuing education courses for public adjusters must be specifically designed for public adjusters and approved by the department. Notwithstanding this subsection, public adjusters for workers' compensation insurance or health insurance are not required to take continuing education courses pursuant to this section.

(g) Excess hours accumulated during any 2-year compliance period may be carried forward to the next compliance period.

(h) An individual teaching an approved course of instruction or lecturing at any approved seminar and attending the entire course or seminar qualifies for the same number of classroom hours as would be granted to a person taking and successfully completing such course or seminar. Credit is limited to the number of hours actually taught unless a person attends the entire course or seminar. An individual who is an official of or employed by a governmental entity in this state and serves as a professor, instructor, or in another position or office, the duties and responsibilities of which are determined by the department to require monitoring and review of insurance laws or insurance regulations and practices, is exempt from this section.

(i) For compliance periods beginning on or after October 1, 2014, any person who holds a license as a title insurance agent must complete a minimum of 10 hours of continuing education credit every 2 years in title insurance and escrow management specific to this state and approved by the department, which shall include at least 3 hours of continuing education on the subject matter of ethics, rules, or compliance with state and



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federal regulations relating specifically to title insurance and closing services.

(j) For a licensee who is an active participant in an association, 2 hours of elective continuing education credit per calendar year may be approved by the department, if properly reported by the association.

Section 11. Section 627.70132, Florida Statutes, is amended to read:

627.70132 Notice of windstorm or hurricane claim.—A claim, supplemental claim, or reopened claim under an insurance policy that provides property insurance, as defined in s. 624.604, for loss or damage caused by the peril of windstorm or hurricane is barred unless notice of the claim, supplemental claim, or reopened claim was given to the insurer in accordance with the terms of the policy within 24 months ~~3 years~~ after the hurricane first made landfall or the windstorm caused the covered damage. For purposes of this section, the term “supplemental claim” or “reopened claim” means any additional claim for recovery from the insurer for losses from the same hurricane or windstorm which the insurer has previously adjusted pursuant to the initial claim. This section does not affect any applicable limitation on civil actions provided in s. 95.11 for claims, supplemental claims, or reopened claims timely filed under this section.

Section 12. Section 627.7154, Florida Statutes, is created to read:

627.7154 Water damage limitation.—

(1) As used in this section, the term “water damage” means damage caused by any of the following:



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(a) Water, waterborne material, sewage, or any other substance that backs up, overflows, or is discharged through or from a sewer, sewer system, drain, septic tank system, drain field, sump, sump pump, or related equipment.

(b) Water, waterborne material, sewage, or any other substance that overflows from a sump pump, sump pump well, or any other system designed for the removal of subsurface water that is drained from foundation areas of a structure.

(c) Water, waterborne material, sewage, or any other substance on or below the surface of the ground, regardless of its source, including water or any other substance that exerts pressure on or flows, seeps, or leaks through a building, sidewalk, driveway, foundation, swimming pool, or other structure.

(d) Discharge or overflow of water or steam from within a plumbing, heating, air conditioning, or automatic fire sprinkler system or from within a household appliance.

(e) Water penetration through the roof system or exterior walls or windows, unless water penetration is a direct result of damage caused by a peril other than water.

(f) Escape, overflow, or discharge, for any reason, of water or waterborne material from a dam, levee, seawall, or any other boundary or containment system.

(2) (a) An insurer offering homeowners' policies or endorsements may offer the option of a policy or endorsement with a policy limit for water damage as low as 5 percent of the coverage A policy limit per occurrence, and may also offer homeowners' policies or endorsements with greater policy limits for water damage. Such policy or endorsement may be offered on



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all new business and on all renewals. Except as provided in paragraph (b), an insurer may not condition renewals upon acceptance of the base 5 percent of the coverage A policy limit per occurrence or upon acceptance of an optional higher limit. A policyholder who accepts the base 5 percent of the coverage A policy limit per occurrence option must receive at least a 10 percent discount on the non-wind portion of the premium, and a policyholder who accepts a limit that is greater than 5 percent of the coverage A policy limit must be provided an actuarially reasonable premium credit or discount. An insurer that issues or renews a homeowner's policy with a sublimit pursuant to this subsection must include within the policy documents at initial issuance and at every renewal, in no smaller than 18-point bold type, the following statement: "THIS POLICY LIMITS COVERAGE FOR WATER DAMAGE. YOU MAY WISH TO PURCHASE FULL COVERAGE FOR WATER DAMAGE. PLEASE DISCUSS WITH YOUR INSURANCE AGENT."

(b) An insurer may condition the issuance or renewal of a homeowner's insurance policy on a home older than 40 years of age on the policyholder's acceptance of a policy limit for water damage which is less than the coverage A policy limit.

(c) An insurer may condition the provision of full water damage coverage under a homeowner's insurance policy on the use of a managed repair or preferred vendor program approved by the office.

(d) An insurer may require a water intrusion inspection before binding full water damage coverage under a homeowner's insurance policy.

Section 13. Subsection (3) of section 633.102, Florida Statutes, is amended to read:



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633.102 Definitions.—As used in this chapter, the term:

(3)(a) "Contractor I" means a contractor whose business includes the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service all types of fire protection systems, excluding preengineered systems.

(b) "Contractor II" means a contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, standpipes, combination standpipes and sprinkler risers, all piping that is an integral part of the system beginning at the point of service as defined in this section, sprinkler tank heaters, air lines, thermal systems used in connection with sprinklers, and tanks and pumps connected thereto, excluding preengineered systems.

(c) "Contractor III" means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service carbon dioxide systems, foam extinguishing systems, dry chemical systems, and Halon and other chemical systems, excluding preengineered systems.

(d) "Contractor IV" means a contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one-family dwellings, detached two-family dwellings, and mobile homes, excluding preengineered systems and excluding single-family homes in cluster units, such as apartments, condominiums, and



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assisted living facilities or any building that is connected to other dwellings. A Contractor IV is limited to the scope of practice specified in NFPA 13D.

(e) "Contractor V" means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service the underground piping for a fire protection system using water as the extinguishing agent beginning at the point of service as defined in this act and ending no more than 1 foot above the finished floor.

The definitions in this subsection may not be construed to include engineers or architects and do not limit or prohibit a licensed fire protection engineer or architect with fire protection design experience from designing any type of fire protection system. A distinction is made between system design concepts prepared by the design professional and system layout as defined in this section and typically prepared by the contractor. However, a person certified as a Contractor I or Contractor II, ~~or Contractor IV~~ under this chapter may design new fire protection systems of 49 or fewer sprinklers; ~~and~~ may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation, addition, or deletion of ~~not more than~~ 49 or fewer sprinklers, notwithstanding the size of the existing fire sprinkler system; or may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation or deletion of 249 or fewer sprinklers, notwithstanding the size of the existing fire sprinkler system, if there is no change of occupancy, as defined



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in the Florida Building Code, of the affected areas and there is no change in the water demand as defined in National Fire Protection Association publication NFPA 13 "Standard for the Installation of Sprinkler Systems," and if the occupancy hazard classification as defined in NFPA 13 is reduced or remains the same as a result of the alteration. A person certified as a Contractor I, Contractor II, or Contractor IV may design or alter a fire protection system, the scope of which complies with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, as adopted by the State Fire Marshal, notwithstanding the number of fire sprinklers. Contractor-developed plans may not be required by any local permitting authority to be sealed by a registered professional engineer.

Section 14. Section 633.136, Florida Statutes, is amended to read:

633.136 Fire and Emergency Incident Information Reporting Program; duties; fire reports.—

(1)(a) The Fire and Emergency Incident Information Reporting Program is created within the division. The program shall:

1. Establish and maintain an electronic communication system capable of transmitting fire and emergency incident information to and between fire service providers ~~protection agencies~~.

2. Initiate a Fire and Emergency Incident Information Reporting System that shall be responsible for:

a. Receiving fire and emergency incident information from fire service providers ~~protection agencies~~.



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b. Preparing and disseminating annual reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, fire service providers ~~protection agencies~~, and, upon request, the public. Each report shall include, but not be limited to, the information listed in the National Fire Incident Reporting System.

c. Upon request, providing other states and federal agencies with fire and emergency incident data of this state.

3. Adopt rules to effectively and efficiently implement, administer, manage, maintain, and use the Fire and Emergency Incident Information Reporting Program. The rules shall be considered minimum requirements and shall not preclude a fire service provider ~~protection agency~~ from implementing its own requirements which may not conflict with the rules of the division.

4. By rule, establish procedures and a format for each fire service provider ~~protection agency~~ to voluntarily monitor its records and submit reports to the program.

5. Maintain ~~Establish~~ an electronic information database that is accessible and searchable by fire service providers ~~protection agencies~~.

(b) The division shall consult with the Florida Forest Service of the Department of Agriculture and Consumer Services and the State Surgeon General of the Department of Health to coordinate data, ensure accuracy of the data, and limit duplication of efforts in data collection, analysis, and reporting.

(2) The Fire and Emergency Incident Information System Technical Advisory Panel is created within the division. The



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panel shall advise, review, and recommend to the State Fire Marshal with respect to the requirements of this section. The membership of the panel shall consist of the ~~following~~ 15 members:

~~(a) The current 13 members of the Firefighters Employment, Standards, and Training Council as established in s. 633.402.~~

~~(b) One member from the Florida Forest Service of the Department of Agriculture and Consumer Services, appointed by the director of the Florida Forest Service.~~

~~(c) One member from the Department of Health, appointed by the State Surgeon General.~~

(3) As used in ~~For the purpose of~~ this section, the term "fire service provider" has the same meaning as in s. 633.102 ~~"fire protection agency" shall be defined by rule by the division.~~

Section 15. Subsections (18) and (20) of section 633.202, Florida Statutes, are amended to read:

633.202 Florida Fire Prevention Code.—

(18) The authority having jurisdiction shall determine the minimum radio signal strength for fire department communications in all new high-rise and existing high-rise buildings. Existing buildings are not required to comply with minimum radio strength for fire department communications and two-way radio system enhancement communications as required by the Florida Fire Prevention Code until January 1, 2023 ~~2022~~. However, by January 1, 2022 ~~December 31, 2019~~, an existing building that is not in compliance with the requirements for minimum radio strength for fire department communications must have completed a minimum radio strength assessment ~~apply for an appropriate permit for~~



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the required installation with the local government agency having jurisdiction and must demonstrate that the building will become compliant by January 1, 2023 ~~2022~~. Existing apartment buildings are not required to comply until January 1, 2025. However, existing apartment buildings are required to apply for the appropriate permit for the required communications installation by December 31, 2022.

(20) (a) In apartment occupancies with enclosed corridors served by interior or exterior exit stairs, doorstep refuse and recycling collection containers, which stand upright on their own and do not leak liquids when standing upright, must be allowed in exit access corridors when all of the following conditions exist:

1. The maximum doorstep refuse and recycling collection container size does not exceed 13 gallons.

2. Waste, which is in a doorstep refuse and recycling collection container, is not placed in the exit access corridors for single periods exceeding 5 hours.

3. Doorstep refuse and recycling collection containers do not occupy the exit access corridors for single periods exceeding 12 hours.

4. Doorstep refuse and recycling collection containers do not reduce the means of egress width below that required under NFPA Life Safety Code 101:31, as adopted under the Florida Fire Prevention Code.

5. Management staff have written policies and procedures in place and enforce them to ensure compliance with this paragraph, and, upon request, provide a copy of such policies and procedures to the authority having jurisdiction.



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(b) In apartment occupancies with open-air corridors or balconies served by exterior exit stairs, doorstep refuse and recycling collection containers, which stand upright on their own and do not leak liquids when standing upright, must be allowed in exit access corridors when all of the following conditions exist:

1. The maximum doorstep refuse and recycling collection container size does not exceed 27 gallons.

2. Waste, which is in a doorstep refuse and recycling collection container, is not placed in the exit access corridors for single periods exceeding 5 hours.

3. Doorstep refuse and recycling collection containers do not reduce the means of egress width below that required under NFPA Life Safety Code 101:31, as adopted under the Florida Fire Prevention Code.

4. Management staff have written policies and procedures in place and enforce them to ensure compliance with this paragraph, and, upon request, provide a copy of such policies and procedures to the authority having jurisdiction.

(c) The authority having jurisdiction may approve alternative containers and storage arrangements that are demonstrated to provide an equivalent level of safety to that provided under paragraphs (a) and (b).

(d) The authority having jurisdiction shall allow apartment occupancies a phase-in period until December 31, 2020, to comply with this subsection.

(e) This subsection is repealed on January 1, 2024 ~~July 1, 2021~~.

Section 16. Section 633.217, Florida Statutes, is created



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to read:

633.217 Influencing a firesafety inspector; prohibited acts.—

(1) A person may not influence a firesafety inspector by:

(a) Threatening, coercing, tricking, or attempting to threaten, coerce, or trick the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

(b) Offering any compensation to the firesafety inspector to induce a violation of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

(2) A firesafety inspector may not knowingly and willfully accept an attempt by a person to influence the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

Section 17. Paragraphs (d), (g), and (h) of subsection (4) of section 633.304, Florida Statutes, are amended to read:

633.304 Fire suppression equipment; license to install or maintain.—

(4)

(d) A license of any class may not be issued or renewed by the division and a license of any class does not remain operative unless:

1. The applicant has submitted to the State Fire Marshal evidence of registration as a Florida corporation or evidence of compliance with s. 865.09.



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2. The State Fire Marshal or his or her designee has by inspection determined that the applicant possesses the equipment required for the class of license sought. The State Fire Marshal shall give an applicant a reasonable opportunity to correct any deficiencies discovered by inspection. To obtain such inspection, an applicant with facilities located outside this state must:

a. Provide a notarized statement from a professional engineer licensed by the applicant's state of domicile certifying that the applicant possesses the equipment required for the class of license sought and that all such equipment is operable; or

b. Allow the State Fire Marshal or her or his designee to inspect the facility. All costs associated with the State Fire Marshal's inspection must be paid by the applicant. The State Fire Marshal, in accordance with s. 120.54, may adopt rules to establish standards for the calculation and establishment of the amount of costs associated with any inspection conducted by the State Fire Marshal under this section. Such rules must include procedures for invoicing and receiving funds in advance of the inspection.

3. The applicant has submitted to the State Fire Marshal proof of insurance providing coverage for comprehensive general liability for bodily injury and property damage, products liability, completed operations, and contractual liability. The State Fire Marshal shall adopt rules providing for the amounts of such coverage, but such amounts may not be less than \$300,000 for Class A or Class D licenses, \$200,000 for Class B licenses, and \$100,000 for Class C licenses; and the total coverage for



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any class of license held in conjunction with a Class D license may not be less than \$300,000. The State Fire Marshal may, at any time after the issuance of a license or its renewal, require upon demand, and in no event more than 30 days after notice of such demand, the licensee to provide proof of insurance, on the insurer's form, containing confirmation of insurance coverage as required by this chapter. Failure, for any length of time, to provide proof of insurance coverage as required must result in the immediate suspension of the license until proof of proper insurance is provided to the State Fire Marshal. An insurer that provides such coverage shall notify the State Fire Marshal of any change in coverage or of any termination, cancellation, or nonrenewal of any coverage.

4. The applicant applies to the State Fire Marshal, provides proof of experience, and successfully completes a prescribed training course that includes both written and practical training offered at ~~by~~ the State Fire College and ~~or~~ ~~an equivalent course~~ approved by the State Fire Marshal as applicable to the class of license being sought. This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

5. The applicant has a current retestor identification number that is appropriate for the license for which the applicant is applying and that is listed with the United States



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Department of Transportation.

6. The applicant has passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing the activities authorized by the license and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination must be developed and administered by the State Fire Marshal, or his or her designee in accordance with policies and procedures of the State Fire Marshal. An applicant shall pay a nonrefundable examination fee of \$50 for each examination or reexamination scheduled. A reexamination may not be scheduled sooner than 30 days after any administration of an examination to an applicant. An applicant may not be permitted to take an examination for any level of license more than a total of four times during 1 year, regardless of the number of applications submitted. As a prerequisite to licensure of the applicant, he or she:

a. Must be at least 18 years of age.

b. Must have 4 years of proven experience as a fire equipment permittee at a level equal to or greater than the level of license applied for or have a combination of education and experience determined to be equivalent thereto by the State Fire Marshal. Having held a permit at the appropriate level for the required period constitutes the required experience.

c. Must not have been convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof or under the law of any other country. "Convicted" means a finding of guilt or the acceptance of a plea of guilty or nolo contendere in any federal



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or state court or a court in any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case. If an applicant has been convicted of any such felony, the applicant is excluded from licensure for a period of 4 years after expiration of sentence or final release by the Florida Commission on Offender Review unless the applicant, before the expiration of the 4-year period, has received a full pardon or has had her or his civil rights restored.

This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, hydrotesting, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

(g) A permit of any class may not be issued or renewed to a person by the division, and a permit of any class does not remain operative, unless the person has:

1. Submitted a nonrefundable examination fee in the amount of \$50.

2. Successfully completed a training course that includes both written and practical training offered at ~~by~~ the State Fire College and ~~or an equivalent course~~ approved by the State Fire Marshal as applicable to the class of license being sought.

3. Passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing the activities authorized by the permit and



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demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination must be developed and administered by the State Fire Marshal in accordance with the policies and procedures of the State Fire Marshal. An examination fee must be paid for each examination scheduled. A reexamination may not be scheduled sooner than 30 days after any administration of an examination to an applicant. An applicant may not be permitted to take an examination for any level of permit more than four times during 1 year, regardless of the number of applications submitted. As a prerequisite to taking the permit examination, the applicant must be at least 16 years of age.

(h) An applicant for a license or permit under this section who fails the examination may take it three more times during the 1-year period after he or she originally filed an application for the examination. If the applicant fails the examination within 1 year after the application date and he or she seeks to retake the examination, he or she must file a new application, pay the application and examination fees, and successfully complete a prescribed training course that includes both written and practical training offered at ~~by~~ the State Fire College and ~~or an equivalent course~~ approved by the State Fire Marshal as applicable to the class of license being sought. The applicant may not submit a new application within 6 months after the date of his or her fourth reexamination. An applicant who passes the examination but does not meet the remaining qualifications prescribed by law and rule within 1 year after the application date must file a new application, pay the application and examination fee, successfully complete a



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prescribed training course that includes both written and practical training offered at ~~approved by~~ the State Fire College ~~and or an equivalent course~~ approved by the State Fire Marshal as applicable to the class of license being sought, and pass the written examination.

Section 18. Subsection (1) of section 633.402, Florida Statutes, is amended to read:

633.402 Firefighters Employment, Standards, and Training Council; organization; meetings; quorum; compensation; seal; special powers; firefighter training.—

(1) There is created within the department a Firefighters Employment, Standards, and Training Council of 15 ~~14~~ members.

(a) The members shall be appointed as follows:

1. Two fire chiefs appointed by the Florida Fire Chiefs Association.

2. Two firefighters, who are not officers, appointed by the Florida Professional Firefighters Association.

3. Two firefighter officers, who are not fire chiefs, appointed by the State Fire Marshal.

4. One individual appointed by the Florida League of Cities.

5. One individual appointed by the Florida Association of Counties.

6. One individual appointed by the Florida Association of Special Districts.

7. One individual appointed by the Florida Fire Marshals' and Inspectors' Association.

8. One employee of the Florida Forest Service of the Department of Agriculture and Consumer Services appointed by the



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director of the Florida Forest Service.

9. One individual appointed by the State Fire Marshal.

10. One director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal.

11. One individual ~~The remaining member, who shall be~~ appointed by the State Fire Marshal, who may not be a member or representative of the firefighting profession or of any local government.

12. One individual from the Department of Health, appointed by the Surgeon General.

(b) To be eligible for appointment as a member under subparagraph (a)1., subparagraph (a)2., subparagraph (a)3., subparagraph (a)8., or subparagraph (a)10., a person must have had at least 4 years' experience in the firefighting profession. Members shall serve only as long as they continue to meet the criteria under which they were appointed, or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.

Section 19. Subsection (1) of section 633.416, Florida Statutes, is amended to read:

633.416 Firefighter employment and volunteer firefighter service; saving clause.—

(1) A fire service provider may not employ an individual to:

(a) Extinguish fires for the protection of life or property or to supervise individuals who perform such services unless the individual holds a current and valid Firefighter Certificate of Compliance. However, a person who is currently serving as a



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volunteer firefighter and holds a volunteer firefighter
certificate of completion with a fire service provider, who is
then employed as a regular or permanent firefighter by such fire
service provider, may function, for a period of 1 year under the
direct supervision of an individual holding a valid firefighter
certificate of compliance, in the same capacity in which he or
she acted as a volunteer firefighter, provided that he or she
has completed all training required by the volunteer
organization. Under no circumstance can this period extend
beyond 1 year either collectively or consecutively from the
start of employment to obtain a Firefighter Certificate of
Compliance; or

(b) Serve as the administrative and command head of a fire service provider for a period in excess of 1 year unless the individual holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance.

Section 20. Section 843.08, Florida Statutes, is amended to read:

843.08 False personation.—A person who falsely assumes or pretends to be a firefighter, a sheriff, an officer of the Florida Highway Patrol, an officer of the Fish and Wildlife Conservation Commission, an officer of the Department of Environmental Protection, ~~a fire or arson investigator of the Department of Financial Services,~~ an officer of the Department of Financial Services, any personnel or representative of the Division of Investigative and Forensic Services, an officer of the Department of Corrections, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide



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prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, a school guardian as described in s. 30.15(1)(k), a security officer licensed under chapter 493, any member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission, any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 21. Paragraph (f) is added to subsection (11) of section 943.045, Florida Statutes, to read:

943.045 Definitions; ss. 943.045-943.08.—The following words and phrases as used in ss. 943.045-943.08 shall have the following meanings:

(11) "Criminal justice agency" means:

(f) The investigations component of the Department of Financial Services which investigates the crimes of fraud and official misconduct in all public assistance given to residents



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of the state or provided to others by the state.

Section 22. Effective upon this act becoming a law, subsection (3) of section 40 of chapter 2019-140, Laws of Florida, is amended to read:

Section 40. (3) The task force shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives and present its findings to the appropriate legislative committees in each house of the Legislature by January 31, 2021 ~~within 180 days after the initial meeting of the task force.~~ The report must include:

(a) A general description of the costs and benefits of state and local government agencies using blockchain technology.

(b) Recommendations concerning the feasibility of implementing blockchain technology in the state and the best approach to finance the cost of implementation.

(c) Recommendations for specific implementations to be developed by relevant state agencies.

(d) Any draft legislation the task force deems appropriate to implement such blockchain technologies.

(e) Identification of one pilot project that may be implemented in the state.

(f) Any other information deemed relevant by the task force.

Section 23. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2020.

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



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And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to financial services; amending s.
20.121, F.S.; specifying powers and duties of the
Division of Public Assistance Fraud; creating s.
284.45, F.S.; prohibiting individuals working for
entities covered by the State Risk Management Trust
Fund from engaging in retaliatory conduct against
sexual harassment victims; defining the term "sexual
harassment victim"; specifying a criminal penalty for
the willful and knowing dissemination of a sexual
harassment victim's personal identifying information,
except under certain circumstances; specifying
protected personal identifying information; amending
s. 497.101, F.S.; revising provisions relating to
membership of the Board of Funeral, Cemetery, and
Consumer Services within the department; deleting a
requirement for the department to adopt certain rules;
creating s. 497.1411, F.S.; defining terms; providing
for permanent disqualification of applicants for
licensure under ch. 497, F.S., for certain offenses;
providing for disqualifying periods for applicants for
certain offenses; requiring the board to adopt rules;
providing for calculation of disqualifying periods;
providing conditions for licensure after completion of
a disqualifying period; specifying the effect of a
pardon or clemency; providing for exemptions from



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1055 disqualification in certain circumstances; providing
1056 procedures for consideration of applications for such
1057 exemptions; providing construction; amending s.
1058 497.142, F.S.; revising criminal history disclosure
1059 requirements for applicants seeking licensure under
1060 ch. 497, F.S.; amending s. 497.157, F.S.; prohibiting
1061 persons from acting as or advertising themselves as
1062 being funeral directors, embalmers, direct disposers,
1063 or preneed sales agents unless they are so licensed;
1064 prohibiting persons from engaging in certain
1065 activities requiring licensure without holding
1066 required licenses; revising the criminal penalty for
1067 unlicensed activity; amending s. 497.159, F.S.;
1068 conforming a provision to changes made by the act;
1069 amending s. 552.081, F.S.; revising the definition of
1070 the term "two-component explosives" for the purpose of
1071 regulation by the Division of State Fire Marshal;
1072 amending s. 553.7921, F.S.; authorizing a contractor
1073 repairing certain existing fire alarm systems to begin
1074 work after filing an application for a required permit
1075 but before receiving the permit; providing
1076 construction; amending s. 626.2815, F.S.; revising
1077 continuing education requirements for certain persons
1078 licensed to solicit, sell, or adjust insurance;
1079 amending s. 627.70132, F.S.; reducing the timeframe in
1080 which a notice of windstorm or hurricane claim must be
1081 given to a property insurer; creating s. 627.7154,
1082 F.S.; defining the term "water damage"; authorizing
1083 insurers offering homeowners' insurance policies or



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1084 endorsements to offer policies or endorsements with
1085 policy limits for water damage as low as a specified
1086 percentage; prohibiting such insurers from
1087 conditioning renewals upon the acceptance of certain
1088 policy limits; specifying premium discounts or credits
1089 that must be provided to policyholders who accept
1090 certain policy limits; requiring such insurers to
1091 provide a specified statement in policy documents;
1092 authorizing an insurer to condition the issuance or
1093 renewal of a homeowner's insurance policy or the
1094 provision of full water damage coverage under certain
1095 circumstances; authorizing an insurer to require a
1096 water intrusion inspection before binding full water
1097 damage coverage; amending s. 633.102, F.S.; revising
1098 the authority of certain fire protection system
1099 contractors to design and alter certain systems;
1100 amending s. 633.136, F.S.; replacing fire protection
1101 agencies in the Fire and Emergency Incident
1102 Information Reporting Program with fire service
1103 providers and defining the term; revising the
1104 composition of the Fire and Emergency Incident
1105 Information System Technical Advisory Panel; amending
1106 s. 633.202, F.S.; extending a deadline for certain
1107 buildings to comply with a minimum radio signal
1108 strength requirement under the Florida Fire Prevention
1109 Code; requiring such buildings to meet certain
1110 conditions by a specified date; extending the repeal
1111 date of exemptions to the Florida Fire Prevention Code
1112 which authorize doorstep refuse and recycling



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1113 collection containers to be in exit access corridors
1114 in certain apartment occupancies under certain
1115 circumstances; creating s. 633.217, F.S.; prohibiting
1116 certain acts to influence a firesafety inspector into
1117 violating certain laws; prohibiting a firesafety
1118 inspector from knowingly and willfully accepting an
1119 attempt to influence him or her into violating certain
1120 laws; amending s. 633.304, F.S.; revising requirements
1121 for training courses for licensees installing or
1122 maintaining certain fire suppression equipment;
1123 amending s. 633.402, F.S.; revising the composition of
1124 the Firefighters Employment, Standards, and Training
1125 Council; amending s. 633.416, F.S.; providing that
1126 certain persons serving as volunteer firefighters may
1127 serve as a regular or permanent firefighter for a
1128 limited period, subject to certain restrictions;
1129 amending s. 843.08, F.S.; prohibiting false
1130 personation of personnel or representatives of the
1131 Division of Investigative and Forensic Services;
1132 providing criminal penalties; amending s. 943.045,
1133 F.S.; revising the definition of the term "criminal
1134 justice agency" to include the investigations
1135 component of the department which investigates certain
1136 crimes; amending chapter 2019-140, L.O.F.; extending
1137 the deadline for the Florida Blockchain Task Force to
1138 submit its report to the Governor and the Legislature;
1139 providing effective dates.



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LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/03/2020	.	
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The Committee on Appropriations (Perry) recommended the following:

Senate Amendment to Amendment (489504) (with title amendment)

Between lines 20 and 21
insert:

Section 2. Section 284.30, Florida Statutes, is amended to read:

284.30 State Risk Management Trust Fund; coverages to be provided.—A state self-insurance fund, designated as the "State Risk Management Trust Fund," is created to be set up by the



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Department of Financial Services and administered with a program of risk management, which fund is to provide insurance, as authorized by s. 284.33, for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, benefits payable under s. 112.1816(2), and court-awarded attorney ~~attorney's~~ fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission. A party to a suit in any court, to be entitled to have his or her attorney ~~attorney's~~ fees paid by the state or any of its agencies, must serve a copy of the pleading claiming the fees on the Department of Financial Services; and thereafter the department shall be entitled to participate with the agency in the defense of the suit and any appeal thereof with respect to such fees.

Section 3. Section 284.31, Florida Statutes, is amended to read:

284.31 Scope and types of coverages; separate accounts.—The Insurance Risk Management Trust Fund shall, unless specifically excluded by the Department of Financial Services, cover all departments of the State of Florida and their employees, agents, and volunteers and shall provide separate accounts for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, benefits payable under s. 112.1816(2), and court-awarded attorney ~~attorney's~~ fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees



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Relations Commission. Unless specifically excluded by the Department of Financial Services, the Insurance Risk Management Trust Fund shall provide fleet automotive liability coverage to motor vehicles titled to the state, or to any department of the state, when such motor vehicles are used by community transportation coordinators performing, under contract to the appropriate department of the state, services for the transportation disadvantaged under part I of chapter 427. Such fleet automotive liability coverage shall be primary and shall be subject to the provisions of s. 768.28 and parts II and III of chapter 284, and applicable rules adopted thereunder, and the terms and conditions of the certificate of coverage issued by the Department of Financial Services.

Section 4. Section 284.385, Florida Statutes, is amended to read:

284.385 Reporting and handling of claims.—

(1) All departments covered by the State Risk Management Trust Fund under this part shall immediately report all known or potential claims to the Department of Financial Services for handling, except employment complaints which have not been filed with the Florida Human Relations Commission, Equal Employment Opportunity Commission, or any similar agency. When deemed necessary, the Department of Financial Services shall assign or reassign the claim to counsel. The assigned counsel shall report regularly to the Department of Financial Services or to the covered department on the status of any such claims or litigation as required by the Department of Financial Services. No such claim shall be compromised or settled for monetary compensation without the prior approval of the Department of



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Financial Services and prior notification to the covered department. All departments shall cooperate with the Department of Financial Services in its handling of claims. The Department of Financial Services and the Department of Management Services, with the cooperation of the state attorneys and the clerks of the courts, shall develop a system to coordinate the exchange of information concerning claims for and against the state, its agencies, and its subdivisions, to assist in collection of amounts due to them. The covered department shall have the responsibility for the settlement of any claim for injunctive or affirmative relief under 42 U.S.C. s. 1983 or similar federal or state statutes. The payment of a settlement or judgment for any claim covered and reported under this part shall be made only from the State Risk Management Trust Fund.

(2) Benefits provided under s. 112.1816(2) may not be paid from the fund until each request for any out-of-pocket deductible, copayment, or coinsurance costs and one-time cash payout has been validated and approved by the Department of Management Services.

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

And the title is amended as follows:

Delete line 1032

and insert:

Division of Public Assistance Fraud; amending s.
284.30, F.S.; requiring the State Risk Management
Trust Fund to provide insurance for certain
firefighter cancer-related benefits; amending s.
284.31, F.S.; requiring the Insurance Risk Management



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98 Trust Fund to provide a separate account for certain
99 firefighter cancer-related benefits; amending s.
100 284.385, F.S.; specifying a condition that must be met
101 before such benefits may be paid from the State Risk
102 Management Trust Fund; creating s.



831450

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/03/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment to Amendment (489504) (with title amendment)

Delete lines 423 - 501.

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

And the title is amended as follows:

Delete lines 1079 - 1097

and insert:

amending s. 633.102, F.S.; revising



443964

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/03/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Book) recommended the following:

Senate Amendment to Amendment (489504) (with title amendment)

Delete lines 653 - 654
and insert:

However, existing apartment buildings must have completed a minimum radio strength assessment ~~are required to apply for the appropriate permit~~ for the required communications

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



443964

11 And the title is amended as follows:
12 Delete line 1110
13 and insert:
14 conditions by a specified date; revising a condition
15 that existing apartment buildings must meet by a
16 specified date; extending the repeal



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/03/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Perry) recommended the following:

Senate Substitute for Amendment (489504) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (f) of subsection (2) of section 20.121, Florida Statutes, is amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall



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consist of the following divisions and office:

(f) The Division of Public Assistance Fraud, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division shall conduct investigations pursuant to s. 414.411 within or outside of this state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of this state has or may have been violated, it shall refer any records tending to show such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.

Section 2. Section 284.30, Florida Statutes, is amended to read:

284.30 State Risk Management Trust Fund; coverages to be provided.—A state self-insurance fund, designated as the "State Risk Management Trust Fund," is created to be set up by the Department of Financial Services and administered with a program of risk management, which fund is to provide insurance, as authorized by s. 284.33, for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, benefits payable under s. 112.1816(2), and court-awarded attorney ~~attorney's~~ fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission. A party to a suit in any court, to be entitled to have his or her attorney ~~attorney's~~ fees paid by the state or any of its agencies, must serve a copy of the pleading claiming the fees on the Department of Financial Services; and thereafter



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the department shall be entitled to participate with the agency in the defense of the suit and any appeal thereof with respect to such fees.

Section 3. Section 284.31, Florida Statutes, is amended to read:

284.31 Scope and types of coverages; separate accounts.—The Insurance Risk Management Trust Fund shall, unless specifically excluded by the Department of Financial Services, cover all departments of the State of Florida and their employees, agents, and volunteers and shall provide separate accounts for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, benefits payable under s. 112.1816(2), and court-awarded attorney ~~attorney's~~ fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission. Unless specifically excluded by the Department of Financial Services, the Insurance Risk Management Trust Fund shall provide fleet automotive liability coverage to motor vehicles titled to the state, or to any department of the state, when such motor vehicles are used by community transportation coordinators performing, under contract to the appropriate department of the state, services for the transportation disadvantaged under part I of chapter 427. Such fleet automotive liability coverage shall be primary and shall be subject to the provisions of s. 768.28 and parts II and III of chapter 284, and applicable rules adopted thereunder, and the terms and conditions of the certificate of coverage issued by the Department of Financial Services.



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69 Section 4. Section 284.385, Florida Statutes, is amended to
70 read:

71 284.385 Reporting and handling of claims.—

72 (1) All departments covered by the State Risk Management
73 Trust Fund under this part shall immediately report all known or
74 potential claims to the Department of Financial Services for
75 handling, except employment complaints which have not been filed
76 with the Florida Human Relations Commission, Equal Employment
77 Opportunity Commission, or any similar agency. When deemed
78 necessary, the Department of Financial Services shall assign or
79 reassign the claim to counsel. The assigned counsel shall report
80 regularly to the Department of Financial Services or to the
81 covered department on the status of any such claims or
82 litigation as required by the Department of Financial Services.
83 No such claim shall be compromised or settled for monetary
84 compensation without the prior approval of the Department of
85 Financial Services and prior notification to the covered
86 department. All departments shall cooperate with the Department
87 of Financial Services in its handling of claims. The Department
88 of Financial Services and the Department of Management Services,
89 with the cooperation of the state attorneys and the clerks of
90 the courts, shall develop a system to coordinate the exchange of
91 information concerning claims for and against the state, its
92 agencies, and its subdivisions, to assist in collection of
93 amounts due to them. The covered department shall have the
94 responsibility for the settlement of any claim for injunctive or
95 affirmative relief under 42 U.S.C. s. 1983 or similar federal or
96 state statutes. The payment of a settlement or judgment for any
97 claim covered and reported under this part shall be made only



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from the State Risk Management Trust Fund.

(2) Benefits provided under s. 112.1816(2) may not be paid from the fund until each request for any out-of-pocket deductible, copayment, or coinsurance costs and one-time cash payout has been validated and approved by the Department of Management Services.

Section 5. Section 284.45, Florida Statutes, is created to read:

284.45 Sexual harassment victims.—

(1) An individual working for an entity covered by the State Risk Management Trust Fund may not engage in retaliatory conduct of any kind against a sexual harassment victim. As used in this section, the term "sexual harassment victim" means an individual employed, or being considered for employment, with an entity participating in the State Risk Management Trust Fund, who becomes a victim of workplace sexual harassment through the course of employment, or while being considered for employment, with the entity.

(2) The willful and knowing dissemination of personal identifying information of a sexual harassment victim to any party other than a governmental entity in furtherance of its official duties or pursuant to a court order is a misdemeanor of the first degree, punishable as provided in s. 775.082. For purposes of this subsection, personal identifying information includes the name of the sexual harassment victim and his or her:

(a) Home address;

(b) Home phone number;

(c) Cellular phone number;



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127 (d) E-mail address;
128 (e) Social media account username or uniform resource
129 locator (URL); or
130 (f) Any other information that could reasonably be used to
131 identify an alleged sexual harassment victim.

132 Section 6. Subsections (1), (2), (3), (6), and (8) of
133 section 497.101, Florida Statutes, are amended to read:

134 497.101 Board of Funeral, Cemetery, and Consumer Services;
135 membership; appointment; terms.—

136 (1) The Board of Funeral, Cemetery, and Consumer Services
137 is created within the Department of Financial Services and shall
138 consist of 10 members, 9 of whom shall be appointed by the
139 Governor from nominations made by the Chief Financial Officer
140 and confirmed by the Senate. The Chief Financial Officer shall
141 nominate one to three persons for each of the nine vacancies on
142 the board, and the Governor shall fill each vacancy on the board
143 by appointing one of the ~~three~~ persons nominated by the Chief
144 Financial Officer to fill that vacancy. If the Governor objects
145 to each of the ~~three~~ nominations for a vacancy, she or he shall
146 inform the Chief Financial Officer in writing. Upon notification
147 of an objection by the Governor, the Chief Financial Officer
148 shall submit one to three additional nominations for that
149 vacancy until the vacancy is filled. One member must be the
150 State Health Officer or her or his designee.

151 (2) Two members of the board shall be funeral directors
152 licensed under part III of this chapter who are associated with
153 a funeral establishment. One member of the board shall be a
154 funeral director licensed under part III of this chapter who is
155 associated with a funeral establishment licensed under part III



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of this chapter that has a valid preneed license issued pursuant to this chapter and who owns or operates a cinerator facility approved under chapter 403 and licensed under part VI of this chapter. Two members of the board shall be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. Two ~~Three~~ members of the board shall be consumers who are residents of the state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the two consumer members shall be at least 60 years of age, ~~and one shall be licensed as a certified public accountant under chapter 473.~~ One member of the board shall be a consumer who is a resident of this state; is licensed as a certified public accountant under chapter 473; has never been licensed as a funeral director or embalmer; is not a principal or employee of any licensee licensed under this chapter; and does not otherwise have control, as defined in s. 497.005, over any licensee licensed under this chapter. One member of the board shall be a principal of a monument establishment licensed under this chapter as a monument builder. One member shall be the State Health Officer or her or his designee. There shall not be two or more board members who are principals or employees of the same company or partnership or group of companies or partnerships under common control.

(3) Board members shall be appointed for terms of 4 years, and the State Health Officer shall serve as long as that person holds that office. The designee of the State Health Officer



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shall serve at the pleasure of the Governor. ~~When the terms of the initial board members expire, the Chief Financial Officer shall stagger the terms of the successor members as follows: one funeral director, one cemetery representative, the monument builder, and one consumer member shall be appointed for terms of 2 years, and the remaining members shall be appointed for terms of 4 years. All subsequent terms shall be for 4 years.~~

(6) The headquarters and records of the board shall be in the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services in the City of Tallahassee. The board may be contacted through the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services in the City of Tallahassee. The Chief Financial Officer shall annually appoint from among the board members a chair and vice chair of the board. The board shall meet at least every 6 months, and more often as necessary. Special meetings of the board shall be convened upon the direction of the Chief Financial Officer. A quorum is necessary for the conduct of business by the board. Unless otherwise provided by law, a majority of the board members eligible to vote shall constitute a quorum for the purpose of conducting its business ~~six board members shall constitute a quorum for the conduct of the board's business.~~

~~(8) The department shall adopt rules establishing forms by which persons may apply for membership on the board and procedures for applying for such membership. Such forms shall require disclosure of the existence and nature of all current and past employments by or contracts with, and direct or indirect affiliations or interests in, any entity or business~~



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~~that at any time was licensed by the board or by the former
Board of Funeral and Cemetery Services or the former Board of
Funeral Directors and Embalmers or that is or was otherwise
involved in the death care industry, as specified by department
rule.~~

Section 7. Section 497.1411, Florida Statutes, is created
to read:

497.1411 Disqualification of applicants and licensees;
penalties against licensees; rulemaking.—

(1) For purposes of this section, the term:

(a) "Applicant" means an individual applying for licensure
or relicensure under this chapter, and an officer, a director, a
majority owner, a partner, a manager, or other person who
manages or controls an entity applying for licensure or
relicensure under this chapter.

(b) "Felony of the first degree" and "capital felony"
include all felonies designated as such in this state at the
time of the commission of the offense, as well as any offense in
another jurisdiction that is substantially similar to an offense
so designated in this state.

(c) "Financial services business" means any financial
activity regulated by the department, the Office of Insurance
Regulation, or the Office of Financial Regulation.

(2) An applicant who has been found guilty of or has
pleaded guilty or nolo contendere to any of the following
crimes, regardless of adjudication, is permanently barred from
licensure under this chapter:

(a) A felony of the first degree.

(b) A capital felony.



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(c) A felony money laundering offense.

(d) A felony embezzlement.

(3) An applicant who has been found guilty of or has pleaded guilty or nolo contendere to a crime not included in subsection (2), regardless of adjudication, is subject to:

(a) A 10-year disqualifying period for all felonies involving moral turpitude that are not specifically included in the permanent bar contained in subsection (2).

(b) A 5-year disqualifying period for all felonies to which neither the permanent bar in subsection (2) nor the 10-year disqualifying period in paragraph (a) applies.

(c) A 5-year disqualifying period for all misdemeanors directly related to the financial services business.

(4) The board shall adopt rules to administer this section. The rules must provide for additional disqualifying periods due to the commitment of multiple crimes and may include other factors reasonably related to the applicant's criminal history. The rules shall provide for mitigating and aggravating factors. However, mitigation may not result in a period of disqualification of less than 5 years and may not mitigate the disqualifying periods in paragraphs (3) (b) and (c).

(5) For purposes of this section, a disqualifying period begins upon the applicant's final release from supervision or upon completion of the applicant's criminal sentence. The department may not issue a license to an applicant unless all related fines, court costs and fees, and court-ordered restitution have been paid.

(6) After the disqualifying period has expired, the burden is on the applicant to demonstrate that he or she has been



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rehabilitated, does not pose a risk to the public, is fit and
trustworthy to engage in business regulated by this chapter, and
is otherwise qualified for licensure.

(7) Notwithstanding subsections (2) and (3), an applicant
who has been found guilty of, or has pleaded guilty or nolo
contendere to, a crime in subsection (2) or subsection (3) and
who has subsequently been granted a pardon or the restoration of
civil rights pursuant to chapter 940 and s. 8, Art. IV of the
State Constitution, or a pardon or the restoration of civil
rights under the laws of another jurisdiction with respect to a
conviction in that jurisdiction, is not barred or disqualified
from licensure under this chapter. However, such a pardon or
restoration of civil rights does not require the department to
award such license.

(8) (a) The board may grant an exemption from
disqualification to any person disqualified from licensure under
subsection (3) if:

1. The applicant has paid in full any fee, fine, fund,
lien, civil judgment, restitution, or cost of prosecution
imposed by the court as part of the judgment and sentence for
any disqualifying offense; and

2. At least 5 years have elapsed since the applicant
completed or has been lawfully released from confinement,
supervision, or nonmonetary condition imposed by the court for a
disqualifying offense.

(b) For the board to grant an exemption under this
subsection, the applicant must clearly and convincingly
demonstrate that he or she would not pose a risk to persons or
property if licensed under this chapter, evidence of which must



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include, but need not be limited to, facts and circumstances surrounding the disqualifying offense, the time that has elapsed since the offense, the nature of the offense and harm caused to the victim, the applicant's history before and after the offense, and any other evidence or circumstances indicating that the applicant will not present a danger if licensed or certified.

(c) The board has discretion whether to grant or deny an exemption under this subsection. The board's decision is subject to chapter 120.

(9) The disqualification periods provided in this section do not apply to the renewal of a license or to a new application for licensure if the applicant has an active license as of July 1, 2020, and the applicable criminal history was considered by the board on the prior approval of any active license held by the applicant. This subsection does not affect any criminal history disclosure requirement of this chapter.

Section 8. Subsection (9) and paragraph (c) of subsection (10) of section 497.142, Florida Statutes, are amended to read:
497.142 Licensing; fingerprinting and criminal background checks.—

(9) If any applicant under this chapter has been, ~~within the 10 years preceding the application under this chapter,~~ convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, any crime in any jurisdiction, the application shall not be deemed complete until such time as the applicant provides such certified true copies of the court records evidencing the conviction, finding, or plea as required by this section or, as the licensing authority may



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by rule require.

(10)(c) Crimes to be disclosed are:

1. Any felony ~~or misdemeanor~~, no matter when committed, ~~that was directly or indirectly related to or involving any aspect of the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation.~~

2. Any misdemeanor, no matter when committed, which was directly or indirectly related to the financial services business as defined in s. 497.1411 ~~Any other felony not already disclosed under subparagraph 1. that was committed within the 20 years immediately preceding the application under this chapter.~~

3. Any other misdemeanor not already disclosed under subparagraph 2. ~~subparagraph 1.~~ that was committed within the 5 years immediately preceding the application under this chapter.

Section 9. Present subsections (2) through (5) of section 497.157, Florida Statutes, are redesignated as subsections (4) through (7), respectively, new subsections (2) and (3) and subsection (8) are added to that section, and present subsection (3) of that section is amended, to read:

497.157 Unlicensed practice; remedies concerning violations by unlicensed persons.—

(2) A person may not be, act as, or advertise or hold himself or herself out to be a funeral director, embalmer, or direct disposer unless he or she is currently licensed by the department.

(3) A person may not be, act as, or advertise or hold



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359 himself or herself out to be a preneed sales agent unless he or
360 she is currently licensed by the department and appointed by a
361 preneed main licensee for which they are executing preneed
362 contracts.

363 (5)~~(3)~~ Where the department determines that an emergency
364 exists regarding any violation of this chapter by any unlicensed
365 person or entity, the department may issue and serve an
366 immediate final order upon such unlicensed person or entity, in
367 accordance with s. 120.569(2)(n). Such an immediate final order
368 may impose such prohibitions and requirements as are reasonably
369 necessary to protect the public health, safety, and welfare, and
370 shall be effective when served.

371 (a) For the purpose of enforcing such an immediate final
372 order, the department may file an emergency or other proceeding
373 in the circuit courts of the state seeking enforcement of the
374 immediate final order by injunctive or other order of the court.
375 The court shall issue its injunction or other order enforcing
376 the immediate final order pending administrative resolution of
377 the matter under subsection (4) ~~(2)~~, unless the court determines
378 that such action would work a manifest injustice under the
379 circumstances. Venue for judicial actions under this paragraph
380 shall be, at the election of the department, in the courts of
381 Leon County, or in a county where the respondent resides or has
382 a place of business.

383 (b) After serving an immediate final order to cease and
384 desist upon any person or entity, the department shall within 10
385 days issue and serve upon the same person or entity an
386 administrative complaint as set forth in subsection (4) ~~(2)~~,
387 except that, absent order of a court to the contrary, the



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immediate final order shall be effective throughout the pendency of proceedings under subsection (4) ~~(2)~~.

(8) Any person who is not licensed under this chapter and who engages in activity requiring licensure under this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 10. Subsection (6) of section 497.159, Florida Statutes, is amended to read:

497.159 Crimes.—

~~(6) Any person who is not licensed under this chapter who engages in activity requiring licensure under this chapter, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 11. Subsection (13) of section 552.081, Florida Statutes, is amended to read:

552.081 Definitions.—As used in this chapter:

(13) "Two-component explosives" means any two inert components which, when mixed, become capable of detonation by any detonator ~~a No. 6 blasting cap~~, and shall be classified as a Class "A" explosive when so mixed.

Section 12. Present subsection (2) of section 553.7921, Florida Statutes, is redesignated as subsection (3), a new subsection (2) is added to that section, and subsection (1) of that section is amended, to read:

553.7921 Fire alarm permit application to local enforcement agency.—

(1) A contractor must file a Uniform Fire Alarm Permit Application as provided in subsection (3) ~~(2)~~ with the local enforcement agency and must receive the fire alarm permit



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before:

~~(a) installing or replacing a fire alarm, if the local enforcement agency requires a plan review for the installation or replacement; or~~

~~(b) Repairing an existing alarm system that was previously permitted by the local enforcement agency if the local enforcement agency requires a fire alarm permit for the repair.~~

(2) If the local enforcement agency requires a fire alarm permit to repair an existing alarm system that was previously permitted by the local enforcement agency, a contractor may begin work after filing a Uniform Fire Alarm Permit Application as provided in subsection (3). A fire alarm repaired pursuant to this subsection may not be considered compliant until the required permit is issued and the local enforcement agency approves the repair.

Section 13. Effective January 1, 2021, subsection (3) of section 626.2815, Florida Statutes, is amended to read:

626.2815 Continuing education requirements.—

(3) Each licensee except a title insurance agent must complete a 4-hour ~~5-hour~~ update course every 2 years which is specific to the license held by the licensee. The course must be developed and offered by providers and approved by the department. The content of the course must address all lines of insurance for which examination and licensure are required and include the following subject areas: insurance law updates, ethics for insurance professionals, disciplinary trends and case studies, industry trends, premium discounts, determining suitability of products and services, and other similar insurance-related topics the department determines are relevant



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to legally and ethically carrying out the responsibilities of the license granted. A licensee who holds multiple insurance licenses must complete an update course that is specific to at least one of the licenses held. Except as otherwise specified, any remaining required hours of continuing education are elective and may consist of any continuing education course approved by the department under this section.

(a) Except as provided in paragraphs (b), (c), (d), (e), (i), and (j), each licensee must also complete 20 ~~19~~ hours of elective continuing education courses every 2 years.

(b) A licensee who has been licensed for 6 or more years must also complete a minimum of 16 ~~15~~ hours of elective continuing education every 2 years.

(c) A licensee who has been licensed for 25 years or more and is a CLU or a CPCU or has a Bachelor of Science degree in risk management or insurance with evidence of 18 or more semester hours in insurance-related courses must also complete a minimum of 6 ~~5~~ hours of elective continuing education courses every 2 years.

(d) An individual who holds a license as a customer representative and who is not a licensed life or health agent must also complete a minimum of 6 ~~5~~ hours of continuing education courses every 2 years.

(e) An individual subject to chapter 648 must complete the 4-hour ~~5-hour~~ update course and a minimum of 10 ~~9~~ hours of elective continuing education courses every 2 years.

(f) Elective continuing education courses for public adjusters must be specifically designed for public adjusters and approved by the department. Notwithstanding this subsection,



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public adjusters for workers' compensation insurance or health insurance are not required to take continuing education courses pursuant to this section.

(g) Excess hours accumulated during any 2-year compliance period may be carried forward to the next compliance period.

(h) An individual teaching an approved course of instruction or lecturing at any approved seminar and attending the entire course or seminar qualifies for the same number of classroom hours as would be granted to a person taking and successfully completing such course or seminar. Credit is limited to the number of hours actually taught unless a person attends the entire course or seminar. An individual who is an official of or employed by a governmental entity in this state and serves as a professor, instructor, or in another position or office, the duties and responsibilities of which are determined by the department to require monitoring and review of insurance laws or insurance regulations and practices, is exempt from this section.

(i) For compliance periods beginning on or after October 1, 2014, any person who holds a license as a title insurance agent must complete a minimum of 10 hours of continuing education credit every 2 years in title insurance and escrow management specific to this state and approved by the department, which shall include at least 3 hours of continuing education on the subject matter of ethics, rules, or compliance with state and federal regulations relating specifically to title insurance and closing services.

(j) For a licensee who is an active participant in an association, 2 hours of elective continuing education credit per



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calendar year may be approved by the department, if properly reported by the association.

Section 14. Section 627.70132, Florida Statutes, is amended to read:

627.70132 Notice of windstorm or hurricane claim.—A claim, supplemental claim, or reopened claim under an insurance policy that provides property insurance, as defined in s. 624.604, for loss or damage caused by the peril of windstorm or hurricane is barred unless notice of the claim, ~~supplemental claim, or reopened claim~~ was given to the insurer in accordance with the terms of the policy within 24 months ~~3 years~~ after the hurricane first made landfall or the windstorm caused the covered damage. For purposes of this section, the term "supplemental claim" or "reopened claim" means any additional claim for recovery from the insurer for losses from the same hurricane or windstorm which the insurer has previously adjusted pursuant to the initial claim. This section does not affect any applicable limitation on civil actions provided in s. 95.11 for claims, supplemental claims, or reopened claims timely filed under this section.

Section 15. Subsection (3) of section 633.102, Florida Statutes, is amended to read:

633.102 Definitions.—As used in this chapter, the term:

(3) (a) "Contractor I" means a contractor whose business includes the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service all types of fire protection systems, excluding preengineered systems.

(b) "Contractor II" means a contractor whose business is



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limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, standpipes, combination standpipes and sprinkler risers, all piping that is an integral part of the system beginning at the point of service as defined in this section, sprinkler tank heaters, air lines, thermal systems used in connection with sprinklers, and tanks and pumps connected thereto, excluding preengineered systems.

(c) "Contractor III" means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service carbon dioxide systems, foam extinguishing systems, dry chemical systems, and Halon and other chemical systems, excluding preengineered systems.

(d) "Contractor IV" means a contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one-family dwellings, detached two-family dwellings, and mobile homes, excluding preengineered systems and excluding single-family homes in cluster units, such as apartments, condominiums, and assisted living facilities or any building that is connected to other dwellings. A Contractor IV is limited to the scope of practice specified in NFPA 13D.

(e) "Contractor V" means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service the underground piping for a fire protection system using water as



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the extinguishing agent beginning at the point of service as defined in this act and ending no more than 1 foot above the finished floor.

The definitions in this subsection may not be construed to include engineers or architects and do not limit or prohibit a licensed fire protection engineer or architect with fire protection design experience from designing any type of fire protection system. A distinction is made between system design concepts prepared by the design professional and system layout as defined in this section and typically prepared by the contractor. However, a person certified as a Contractor I or Contractor II, ~~or Contractor IV~~ under this chapter may design new fire protection systems of 49 or fewer sprinklers; ~~and~~ may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation, addition, or deletion of ~~not more than~~ 49 or fewer sprinklers, notwithstanding the size of the existing fire sprinkler system; or may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation or deletion of 249 or fewer sprinklers, notwithstanding the size of the existing fire sprinkler system, if there is no change of occupancy, as defined in the Florida Building Code, of the affected areas and there is no change in the water demand as defined in National Fire Protection Association publication NFPA 13 "Standard for the Installation of Sprinkler Systems," and if the occupancy hazard classification as defined in NFPA 13 is reduced or remains the same as a result of the alteration. A person certified as a Contractor I, Contractor II, or Contractor IV may design or



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alter a fire protection system, the scope of which complies with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, as adopted by the State Fire Marshal, notwithstanding the number of fire sprinklers. Contractor-developed plans may not be required by any local permitting authority to be sealed by a registered professional engineer.

Section 16. Section 633.136, Florida Statutes, is amended to read:

633.136 Fire and Emergency Incident Information Reporting Program; duties; fire reports.—

(1)(a) The Fire and Emergency Incident Information Reporting Program is created within the division. The program shall:

1. Establish and maintain an electronic communication system capable of transmitting fire and emergency incident information to and between fire service providers ~~protection agencies~~.

2. Initiate a Fire and Emergency Incident Information Reporting System that shall be responsible for:

a. Receiving fire and emergency incident information from fire service providers ~~protection agencies~~.

b. Preparing and disseminating annual reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, fire service providers ~~protection agencies~~, and, upon request, the public. Each report shall include, but not be limited to, the information listed in the National Fire Incident Reporting System.

c. Upon request, providing other states and federal



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agencies with fire and emergency incident data of this state.

3. Adopt rules to effectively and efficiently implement, administer, manage, maintain, and use the Fire and Emergency Incident Information Reporting Program. The rules shall be considered minimum requirements and shall not preclude a fire service provider ~~protection agency~~ from implementing its own requirements which may not conflict with the rules of the division.

4. By rule, establish procedures and a format for each fire service provider ~~protection agency~~ to voluntarily monitor its records and submit reports to the program.

5. Maintain ~~Establish~~ an electronic information database that is accessible and searchable by fire service providers ~~protection agencies~~.

(b) The division shall consult with the Florida Forest Service of the Department of Agriculture and Consumer Services and the State Surgeon General of the Department of Health to coordinate data, ensure accuracy of the data, and limit duplication of efforts in data collection, analysis, and reporting.

(2) The Fire and Emergency Incident Information System Technical Advisory Panel is created within the division. The panel shall advise, review, and recommend to the State Fire Marshal with respect to the requirements of this section. The membership of the panel shall consist of the ~~following~~ 15 members:-

~~(a) The current 13 members of the Firefighters Employment, Standards, and Training Council as established in s. 633.402.~~

~~(b) One member from the Florida Forest Service of the~~



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~~Department of Agriculture and Consumer Services, appointed by
the director of the Florida Forest Service.~~

~~(c) One member from the Department of Health, appointed by
the State Surgeon General.~~

(3) As used in ~~For the purpose of~~ this section, the term
"fire service provider" has the same meaning as in s. 633.102
~~"fire protection agency" shall be defined by rule by the
division.~~

Section 17. Subsections (18) and (20) of section 633.202,
Florida Statutes, are amended to read:

633.202 Florida Fire Prevention Code.—

(18) The authority having jurisdiction shall determine the
minimum radio signal strength for fire department communications
in all new high-rise and existing high-rise buildings. Existing
buildings are not required to comply with minimum radio strength
for fire department communications and two-way radio system
enhancement communications as required by the Florida Fire
Prevention Code until January 1, 2023 ~~2022~~. However, by January
1, 2022 ~~December 31, 2019~~, an existing building that is not in
compliance with the requirements for minimum radio strength for
fire department communications must have completed a minimum
radio strength assessment ~~apply for an appropriate permit~~ for
the required installation with the local government agency
having jurisdiction and must demonstrate that the building will
become compliant by January 1, 2023 ~~2022~~. Existing apartment
buildings are not required to comply until January 1, 2025.
However, existing apartment buildings are required to apply for
the appropriate permit for the required communications
installation by December 31, 2022.



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(20) (a) In apartment occupancies with enclosed corridors served by interior or exterior exit stairs, doorstep refuse and recycling collection containers, which stand upright on their own and do not leak liquids when standing upright, must be allowed in exit access corridors when all of the following conditions exist:

1. The maximum doorstep refuse and recycling collection container size does not exceed 13 gallons.

2. Waste, which is in a doorstep refuse and recycling collection container, is not placed in the exit access corridors for single periods exceeding 5 hours.

3. Doorstep refuse and recycling collection containers do not occupy the exit access corridors for single periods exceeding 12 hours.

4. Doorstep refuse and recycling collection containers do not reduce the means of egress width below that required under NFPA Life Safety Code 101:31, as adopted under the Florida Fire Prevention Code.

5. Management staff have written policies and procedures in place and enforce them to ensure compliance with this paragraph, and, upon request, provide a copy of such policies and procedures to the authority having jurisdiction.

(b) In apartment occupancies with open-air corridors or balconies served by exterior exit stairs, doorstep refuse and recycling collection containers, which stand upright on their own and do not leak liquids when standing upright, must be allowed in exit access corridors when all of the following conditions exist:

1. The maximum doorstep refuse and recycling collection



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container size does not exceed 27 gallons.

2. Waste, which is in a doorstep refuse and recycling collection container, is not placed in the exit access corridors for single periods exceeding 5 hours.

3. Doorstep refuse and recycling collection containers do not reduce the means of egress width below that required under NFPA Life Safety Code 101:31, as adopted under the Florida Fire Prevention Code.

4. Management staff have written policies and procedures in place and enforce them to ensure compliance with this paragraph, and, upon request, provide a copy of such policies and procedures to the authority having jurisdiction.

(c) The authority having jurisdiction may approve alternative containers and storage arrangements that are demonstrated to provide an equivalent level of safety to that provided under paragraphs (a) and (b).

(d) The authority having jurisdiction shall allow apartment occupancies a phase-in period until December 31, 2020, to comply with this subsection.

(e) This subsection is repealed on January 1, 2024 ~~July 1, 2021~~.

Section 18. Section 633.217, Florida Statutes, is created to read:

633.217 Influencing a firesafety inspector; prohibited acts.—

(1) A person may not influence a firesafety inspector by:

(a) Threatening, coercing, tricking, or attempting to threaten, coerce, or trick the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any



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rule adopted by the State Fire Marshal, or any provision of this chapter.

(b) Offering any compensation to the firesafety inspector to induce a violation of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

(2) A firesafety inspector may not knowingly and willfully accept an attempt by a person to influence the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

Section 19. Paragraphs (d), (g), and (h) of subsection (4) of section 633.304, Florida Statutes, are amended to read:

633.304 Fire suppression equipment; license to install or maintain.—

(4)

(d) A license of any class may not be issued or renewed by the division and a license of any class does not remain operative unless:

1. The applicant has submitted to the State Fire Marshal evidence of registration as a Florida corporation or evidence of compliance with s. 865.09.

2. The State Fire Marshal or his or her designee has by inspection determined that the applicant possesses the equipment required for the class of license sought. The State Fire Marshal shall give an applicant a reasonable opportunity to correct any deficiencies discovered by inspection. To obtain such inspection, an applicant with facilities located outside this state must:



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a. Provide a notarized statement from a professional engineer licensed by the applicant's state of domicile certifying that the applicant possesses the equipment required for the class of license sought and that all such equipment is operable; or

b. Allow the State Fire Marshal or her or his designee to inspect the facility. All costs associated with the State Fire Marshal's inspection must be paid by the applicant. The State Fire Marshal, in accordance with s. 120.54, may adopt rules to establish standards for the calculation and establishment of the amount of costs associated with any inspection conducted by the State Fire Marshal under this section. Such rules must include procedures for invoicing and receiving funds in advance of the inspection.

3. The applicant has submitted to the State Fire Marshal proof of insurance providing coverage for comprehensive general liability for bodily injury and property damage, products liability, completed operations, and contractual liability. The State Fire Marshal shall adopt rules providing for the amounts of such coverage, but such amounts may not be less than \$300,000 for Class A or Class D licenses, \$200,000 for Class B licenses, and \$100,000 for Class C licenses; and the total coverage for any class of license held in conjunction with a Class D license may not be less than \$300,000. The State Fire Marshal may, at any time after the issuance of a license or its renewal, require upon demand, and in no event more than 30 days after notice of such demand, the licensee to provide proof of insurance, on the insurer's form, containing confirmation of insurance coverage as required by this chapter. Failure, for any length of time, to



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provide proof of insurance coverage as required must result in the immediate suspension of the license until proof of proper insurance is provided to the State Fire Marshal. An insurer that provides such coverage shall notify the State Fire Marshal of any change in coverage or of any termination, cancellation, or nonrenewal of any coverage.

4. The applicant applies to the State Fire Marshal, provides proof of experience, and successfully completes a prescribed training course that includes both written and practical training offered at ~~by~~ the State Fire College and ~~or~~ ~~an equivalent course~~ approved by the State Fire Marshal as applicable to the class of license being sought. This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

5. The applicant has a current retestor identification number that is appropriate for the license for which the applicant is applying and that is listed with the United States Department of Transportation.

6. The applicant has passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing the activities authorized by the license and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination must be developed and administered by the State



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Fire Marshal, or his or her designee in accordance with policies and procedures of the State Fire Marshal. An applicant shall pay a nonrefundable examination fee of \$50 for each examination or reexamination scheduled. A reexamination may not be scheduled sooner than 30 days after any administration of an examination to an applicant. An applicant may not be permitted to take an examination for any level of license more than a total of four times during 1 year, regardless of the number of applications submitted. As a prerequisite to licensure of the applicant, he or she:

a. Must be at least 18 years of age.

b. Must have 4 years of proven experience as a fire equipment permittee at a level equal to or greater than the level of license applied for or have a combination of education and experience determined to be equivalent thereto by the State Fire Marshal. Having held a permit at the appropriate level for the required period constitutes the required experience.

c. Must not have been convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof or under the law of any other country. "Convicted" means a finding of guilt or the acceptance of a plea of guilty or nolo contendere in any federal or state court or a court in any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case. If an applicant has been convicted of any such felony, the applicant is excluded from licensure for a period of 4 years after expiration of sentence or final release by the Florida Commission on Offender Review unless the applicant, before the expiration of the 4-year



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period, has received a full pardon or has had her or his civil rights restored.

This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, hydrotesting, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

(g) A permit of any class may not be issued or renewed to a person by the division, and a permit of any class does not remain operative, unless the person has:

1. Submitted a nonrefundable examination fee in the amount of \$50.

2. Successfully completed a training course that includes both written and practical training offered at ~~by~~ the State Fire College and ~~or an equivalent course~~ approved by the State Fire Marshal as applicable to the class of license being sought.

3. Passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing the activities authorized by the permit and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination must be developed and administered by the State Fire Marshal in accordance with the policies and procedures of the State Fire Marshal. An examination fee must be paid for each examination scheduled. A reexamination may not be scheduled sooner than 30 days after any administration of an examination to an applicant.



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An applicant may not be permitted to take an examination for any level of permit more than four times during 1 year, regardless of the number of applications submitted. As a prerequisite to taking the permit examination, the applicant must be at least 16 years of age.

(h) An applicant for a license or permit under this section who fails the examination may take it three more times during the 1-year period after he or she originally filed an application for the examination. If the applicant fails the examination within 1 year after the application date and he or she seeks to retake the examination, he or she must file a new application, pay the application and examination fees, and successfully complete a prescribed training course that includes both written and practical training offered at ~~by~~ the State Fire College and or an equivalent course approved by the State Fire Marshal as applicable to the class of license being sought. The applicant may not submit a new application within 6 months after the date of his or her fourth reexamination. An applicant who passes the examination but does not meet the remaining qualifications prescribed by law and rule within 1 year after the application date must file a new application, pay the application and examination fee, successfully complete a prescribed training course that includes both written and practical training offered at ~~approved by~~ the State Fire College and or an equivalent course approved by the State Fire Marshal as applicable to the class of license being sought, and pass the written examination.

Section 20. Subsection (1) of section 633.402, Florida Statutes, is amended to read:



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633.402 Firefighters Employment, Standards, and Training Council; organization; meetings; quorum; compensation; seal; special powers; firefighter training.—

(1) There is created within the department a Firefighters Employment, Standards, and Training Council of 15 ~~14~~ members.

(a) The members shall be appointed as follows:

1. Two fire chiefs appointed by the Florida Fire Chiefs Association.

2. Two firefighters, who are not officers, appointed by the Florida Professional Firefighters Association.

3. Two firefighter officers, who are not fire chiefs, appointed by the State Fire Marshal.

4. One individual appointed by the Florida League of Cities.

5. One individual appointed by the Florida Association of Counties.

6. One individual appointed by the Florida Association of Special Districts.

7. One individual appointed by the Florida Fire Marshals' and Inspectors' Association.

8. One employee of the Florida Forest Service of the Department of Agriculture and Consumer Services appointed by the director of the Florida Forest Service.

9. One individual appointed by the State Fire Marshal.

10. One director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal.

11. One individual ~~The remaining member, who shall be~~ appointed by the State Fire Marshal, who may not be a member or



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representative of the firefighting profession or of any local government.

12. One individual from the Department of Health, appointed by the Surgeon General.

(b) To be eligible for appointment as a member under subparagraph (a)1., subparagraph (a)2., subparagraph (a)3., subparagraph (a)8., or subparagraph (a)10., a person must have had at least 4 years' experience in the firefighting profession. Members shall serve only as long as they continue to meet the criteria under which they were appointed, or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.

Section 21. Subsection (1) of section 633.416, Florida Statutes, is amended to read:

633.416 Firefighter employment and volunteer firefighter service; saving clause.—

(1) A fire service provider may not employ an individual to:

(a) Extinguish fires for the protection of life or property or to supervise individuals who perform such services unless the individual holds a current and valid Firefighter Certificate of Compliance. However, a person who is currently serving as a volunteer firefighter and holds a volunteer firefighter certificate of completion with a fire service provider, who is then employed as a regular or permanent firefighter by such fire service provider, may function, for a period of 1 year under the direct supervision of an individual holding a valid firefighter certificate of compliance, in the same capacity in which he or she acted as a volunteer firefighter, provided that he or she



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has completed all training required by the volunteer organization. Under no circumstance can this period extend beyond 1 year either collectively or consecutively from the start of employment to obtain a Firefighter Certificate of Compliance; or

(b) Serve as the administrative and command head of a fire service provider for a period in excess of 1 year unless the individual holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance.

Section 22. Section 843.08, Florida Statutes, is amended to read:

843.08 False personation.—A person who falsely assumes or pretends to be a firefighter, a sheriff, an officer of the Florida Highway Patrol, an officer of the Fish and Wildlife Conservation Commission, an officer of the Department of Environmental Protection, ~~a fire or arson investigator of the Department of Financial Services,~~ an officer of the Department of Financial Services, any personnel or representative of the Division of Investigative and Forensic Services, an officer of the Department of Corrections, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, a school guardian as described in s. 30.15(1)(k), a security officer licensed under chapter 493, any member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission, any personnel or representative of the Department of Law



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Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 23. Paragraph (f) is added to subsection (11) of section 943.045, Florida Statutes, to read:

943.045 Definitions; ss. 943.045-943.08.—The following words and phrases as used in ss. 943.045-943.08 shall have the following meanings:

(11) "Criminal justice agency" means:

(f) The investigations component of the Department of Financial Services which investigates the crimes of fraud and official misconduct in all public assistance given to residents of the state or provided to others by the state.

Section 24. Effective upon this act becoming a law, subsection (3) of section 40 of chapter 2019-140, Laws of Florida, is amended to read:

Section 40. (3) The task force shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives and present its findings to the



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appropriate legislative committees in each house of the
Legislature by January 31, 2021 ~~within 180 days after the~~
~~initial meeting of the task force~~. The report must include:

(a) A general description of the costs and benefits of
state and local government agencies using blockchain technology.

(b) Recommendations concerning the feasibility of
implementing blockchain technology in the state and the best
approach to finance the cost of implementation.

(c) Recommendations for specific implementations to be
developed by relevant state agencies.

(d) Any draft legislation the task force deems appropriate
to implement such blockchain technologies.

(e) Identification of one pilot project that may be
implemented in the state.

(f) Any other information deemed relevant by the task
force.

Section 25. Except as otherwise expressly provided in this
act and except for this section, which shall take effect upon
this act becoming a law, this act shall take effect July 1,
2020.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to financial services; amending s.
20.121, F.S.; specifying powers and duties of the
Division of Public Assistance Fraud; amending s.



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1055 284.30, F.S.; requiring the State Risk Management
1056 Trust Fund to provide insurance for certain
1057 firefighter cancer-related benefits; amending s.
1058 284.31, F.S.; requiring the Insurance Risk Management
1059 Trust Fund to provide a separate account for certain
1060 firefighter cancer-related benefits; amending s.
1061 284.385, F.S.; specifying a condition that must be met
1062 before such benefits may be paid from the State Risk
1063 Management Trust Fund; creating s. 284.45, F.S.;
1064 prohibiting individuals working for entities covered
1065 by the State Risk Management Trust Fund from engaging
1066 in retaliatory conduct against sexual harassment
1067 victims; defining the term "sexual harassment victim";
1068 specifying a criminal penalty for the willful and
1069 knowing dissemination of a sexual harassment victim's
1070 personal identifying information, except under certain
1071 circumstances; specifying protected personal
1072 identifying information; amending s. 497.101, F.S.;
1073 revising provisions relating to membership of the
1074 Board of Funeral, Cemetery, and Consumer Services
1075 within the Department of Financial Services; deleting
1076 a requirement for the department to adopt certain
1077 rules; creating s. 497.1411, F.S.; defining terms;
1078 providing for permanent disqualification of applicants
1079 for licensure under ch. 497, F.S., for certain
1080 offenses; providing for disqualifying periods for
1081 applicants for certain offenses; requiring the board
1082 to adopt rules; providing for calculation of
1083 disqualifying periods; providing conditions for



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1084 licensure after completion of a disqualifying period;
1085 specifying the effect of a pardon or clemency;
1086 providing for exemptions from disqualification in
1087 certain circumstances; providing procedures for
1088 consideration of applications for such exemptions;
1089 providing construction; amending s. 497.142, F.S.;
1090 revising criminal history disclosure requirements for
1091 applicants seeking licensure under ch. 497, F.S.;
1092 amending s. 497.157, F.S.; prohibiting persons from
1093 acting as or advertising themselves as being funeral
1094 directors, embalmers, direct disposers, or preneed
1095 sales agents unless they are so licensed; prohibiting
1096 persons from engaging in certain activities requiring
1097 licensure without holding required licenses; revising
1098 the criminal penalty for unlicensed activity; amending
1099 s. 497.159, F.S.; conforming a provision to changes
1100 made by the act; amending s. 552.081, F.S.; revising
1101 the definition of the term "two-component explosives"
1102 for the purpose of regulation by the Division of State
1103 Fire Marshal; amending s. 553.7921, F.S.; authorizing
1104 a contractor repairing certain existing fire alarm
1105 systems to begin work after filing an application for
1106 a required permit but before receiving the permit;
1107 providing construction; amending s. 626.2815, F.S.;
1108 revising continuing education requirements for certain
1109 persons licensed to solicit, sell, or adjust
1110 insurance; amending s. 627.70132, F.S.; decreasing the
1111 timeframe in which a notice of windstorm or hurricane
1112 claim must be given to a property insurer; amending s.



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1113 633.102, F.S.; revising the authority of certain fire
1114 protection system contractors to design and alter
1115 certain systems; amending s. 633.136, F.S.; replacing
1116 fire protection agencies in the Fire and Emergency
1117 Incident Information Reporting Program with fire
1118 service providers and defining the term; revising the
1119 composition of the Fire and Emergency Incident
1120 Information System Technical Advisory Panel; amending
1121 s. 633.202, F.S.; extending a deadline for certain
1122 buildings to comply with a minimum radio signal
1123 strength requirement under the Florida Fire Prevention
1124 Code; requiring such buildings to meet certain
1125 conditions by a specified date; extending the repeal
1126 date of exemptions to the Florida Fire Prevention Code
1127 which authorize doorstep refuse and recycling
1128 collection containers to be in exit access corridors
1129 in certain apartment occupancies under certain
1130 circumstances; creating s. 633.217, F.S.; prohibiting
1131 certain acts to influence a firesafety inspector into
1132 violating certain laws; prohibiting a firesafety
1133 inspector from knowingly and willfully accepting an
1134 attempt to influence him or her into violating certain
1135 laws; amending s. 633.304, F.S.; revising requirements
1136 for training courses for licensees installing or
1137 maintaining certain fire suppression equipment;
1138 amending s. 633.402, F.S.; revising the composition of
1139 the Firefighters Employment, Standards, and Training
1140 Council; amending s. 633.416, F.S.; providing that
1141 certain persons serving as volunteer firefighters may



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1142 serve as a regular or permanent firefighter for a
1143 limited period, subject to certain restrictions;
1144 amending s. 843.08, F.S.; prohibiting false
1145 personation of personnel or representatives of the
1146 Division of Investigative and Forensic Services;
1147 providing criminal penalties; amending s. 943.045,
1148 F.S.; revising the definition of the term "criminal
1149 justice agency" to include the investigations
1150 component of the department which investigates certain
1151 crimes; amending chapter 2019-140, L.O.F.; extending
1152 the deadline for the Florida Blockchain Task Force to
1153 submit its report to the Governor and the Legislature;
1154 providing effective dates.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2020	.	
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	.	
	.	

The Committee on Appropriations (Perry) recommended the following:

Senate Substitute for Amendment (489504) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (f) of subsection (2) of section 20.121, Florida Statutes, is amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall



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consist of the following divisions and office:

(f) The Division of Public Assistance Fraud, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division shall conduct investigations pursuant to s. 414.411 within or outside of this state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of this state has or may have been violated, it shall refer any records tending to show such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.

Section 2. Section 284.30, Florida Statutes, is amended to read:

284.30 State Risk Management Trust Fund; coverages to be provided.—A state self-insurance fund, designated as the "State Risk Management Trust Fund," is created to be set up by the Department of Financial Services and administered with a program of risk management, which fund is to provide insurance, as authorized by s. 284.33, for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, benefits payable under s. 112.1816(2), and court-awarded attorney ~~attorney's~~ fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission. A party to a suit in any court, to be entitled to have his or her attorney ~~attorney's~~ fees paid by the state or any of its agencies, must serve a copy of the pleading claiming the fees on the Department of Financial Services; and thereafter



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the department shall be entitled to participate with the agency in the defense of the suit and any appeal thereof with respect to such fees.

Section 3. Section 284.31, Florida Statutes, is amended to read:

284.31 Scope and types of coverages; separate accounts.—The Insurance Risk Management Trust Fund shall, unless specifically excluded by the Department of Financial Services, cover all departments of the State of Florida and their employees, agents, and volunteers and shall provide separate accounts for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, benefits payable under s. 112.1816(2), and court-awarded attorney ~~attorney's~~ fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission. Unless specifically excluded by the Department of Financial Services, the Insurance Risk Management Trust Fund shall provide fleet automotive liability coverage to motor vehicles titled to the state, or to any department of the state, when such motor vehicles are used by community transportation coordinators performing, under contract to the appropriate department of the state, services for the transportation disadvantaged under part I of chapter 427. Such fleet automotive liability coverage shall be primary and shall be subject to the provisions of s. 768.28 and parts II and III of chapter 284, and applicable rules adopted thereunder, and the terms and conditions of the certificate of coverage issued by the Department of Financial Services.



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69 Section 4. Section 284.385, Florida Statutes, is amended to
70 read:

71 284.385 Reporting and handling of claims.—

72 (1) All departments covered by the State Risk Management
73 Trust Fund under this part shall immediately report all known or
74 potential claims to the Department of Financial Services for
75 handling, except employment complaints which have not been filed
76 with the Florida Human Relations Commission, Equal Employment
77 Opportunity Commission, or any similar agency. When deemed
78 necessary, the Department of Financial Services shall assign or
79 reassign the claim to counsel. The assigned counsel shall report
80 regularly to the Department of Financial Services or to the
81 covered department on the status of any such claims or
82 litigation as required by the Department of Financial Services.
83 No such claim shall be compromised or settled for monetary
84 compensation without the prior approval of the Department of
85 Financial Services and prior notification to the covered
86 department. All departments shall cooperate with the Department
87 of Financial Services in its handling of claims. The Department
88 of Financial Services and the Department of Management Services,
89 with the cooperation of the state attorneys and the clerks of
90 the courts, shall develop a system to coordinate the exchange of
91 information concerning claims for and against the state, its
92 agencies, and its subdivisions, to assist in collection of
93 amounts due to them. The covered department shall have the
94 responsibility for the settlement of any claim for injunctive or
95 affirmative relief under 42 U.S.C. s. 1983 or similar federal or
96 state statutes. The payment of a settlement or judgment for any
97 claim covered and reported under this part shall be made only



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from the State Risk Management Trust Fund.

(2) Benefits provided under s. 112.1816(2) may not be paid from the fund until each request for any out-of-pocket deductible, copayment, or coinsurance costs and one-time cash payout has been validated and approved by the Department of Management Services.

Section 5. Section 284.45, Florida Statutes, is created to read:

284.45 Sexual harassment victims.—

(1) An individual working for an entity covered by the State Risk Management Trust Fund may not engage in retaliatory conduct of any kind against a sexual harassment victim. As used in this section, the term "sexual harassment victim" means an individual employed, or being considered for employment, with an entity participating in the State Risk Management Trust Fund, who becomes a victim of workplace sexual harassment through the course of employment, or while being considered for employment, with the entity.

(2) The willful and knowing dissemination of personal identifying information of a sexual harassment victim to any party other than a governmental entity in furtherance of its official duties or pursuant to a court order is a misdemeanor of the first degree, punishable as provided in s. 775.082. For purposes of this subsection, personal identifying information includes the name of the sexual harassment victim and his or her:

(a) Home address;

(b) Home phone number;

(c) Cellular phone number;



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127 (d) E-mail address;
128 (e) Social media account username or uniform resource
129 locator (URL); or
130 (f) Any other information that could reasonably be used to
131 identify an alleged sexual harassment victim.

132 Section 6. Subsections (1), (2), (3), (6), and (8) of
133 section 497.101, Florida Statutes, are amended to read:

134 497.101 Board of Funeral, Cemetery, and Consumer Services;
135 membership; appointment; terms.—

136 (1) The Board of Funeral, Cemetery, and Consumer Services
137 is created within the Department of Financial Services and shall
138 consist of 10 members, 9 of whom shall be appointed by the
139 Governor from nominations made by the Chief Financial Officer
140 and confirmed by the Senate. The Chief Financial Officer shall
141 nominate one to three persons for each of the nine vacancies on
142 the board, and the Governor shall fill each vacancy on the board
143 by appointing one of the ~~three~~ persons nominated by the Chief
144 Financial Officer to fill that vacancy. If the Governor objects
145 to each of the ~~three~~ nominations for a vacancy, she or he shall
146 inform the Chief Financial Officer in writing. Upon notification
147 of an objection by the Governor, the Chief Financial Officer
148 shall submit one to three additional nominations for that
149 vacancy until the vacancy is filled. One member must be the
150 State Health Officer or her or his designee.

151 (2) Two members of the board shall be funeral directors
152 licensed under part III of this chapter who are associated with
153 a funeral establishment. One member of the board shall be a
154 funeral director licensed under part III of this chapter who is
155 associated with a funeral establishment licensed under part III



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of this chapter that has a valid preneed license issued pursuant to this chapter and who owns or operates a cinerator facility approved under chapter 403 and licensed under part VI of this chapter. Two members of the board shall be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. Two ~~Three~~ members of the board shall be consumers who are residents of the state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the two consumer members shall be at least 60 years of age, ~~and one shall be licensed as a certified public accountant under chapter 473.~~ One member of the board shall be a consumer who is a resident of this state; is licensed as a certified public accountant under chapter 473; has never been licensed as a funeral director or embalmer; is not a principal or employee of any licensee licensed under this chapter; and does not otherwise have control, as defined in s. 497.005, over any licensee licensed under this chapter. One member of the board shall be a principal of a monument establishment licensed under this chapter as a monument builder. One member shall be the State Health Officer or her or his designee. There shall not be two or more board members who are principals or employees of the same company or partnership or group of companies or partnerships under common control.

(3) Board members shall be appointed for terms of 4 years, and the State Health Officer shall serve as long as that person holds that office. The designee of the State Health Officer



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shall serve at the pleasure of the Governor. ~~When the terms of the initial board members expire, the Chief Financial Officer shall stagger the terms of the successor members as follows: one funeral director, one cemetery representative, the monument builder, and one consumer member shall be appointed for terms of 2 years, and the remaining members shall be appointed for terms of 4 years. All subsequent terms shall be for 4 years.~~

(6) The headquarters and records of the board shall be in the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services in the City of Tallahassee. The board may be contacted through the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services in the City of Tallahassee. The Chief Financial Officer shall annually appoint from among the board members a chair and vice chair of the board. The board shall meet at least every 6 months, and more often as necessary. Special meetings of the board shall be convened upon the direction of the Chief Financial Officer. A quorum is necessary for the conduct of business by the board. Unless otherwise provided by law, a majority of the board members eligible to vote shall constitute a quorum for the purpose of conducting its business ~~six board members shall constitute a quorum for the conduct of the board's business.~~

~~(8) The department shall adopt rules establishing forms by which persons may apply for membership on the board and procedures for applying for such membership. Such forms shall require disclosure of the existence and nature of all current and past employments by or contracts with, and direct or indirect affiliations or interests in, any entity or business~~



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~~that at any time was licensed by the board or by the former Board of Funeral and Cemetery Services or the former Board of Funeral Directors and Embalmers or that is or was otherwise involved in the death care industry, as specified by department rule.~~

Section 7. Section 497.1411, Florida Statutes, is created to read:

497.1411 Disqualification of applicants and licensees; penalties against licensees; rulemaking.—

(1) For purposes of this section, the term:

(a) "Applicant" means an individual applying for licensure or relicensure under this chapter, and an officer, a director, a majority owner, a partner, a manager, or other person who manages or controls an entity applying for licensure or relicensure under this chapter.

(b) "Felony of the first degree" and "capital felony" include all felonies designated as such in this state at the time of the commission of the offense, as well as any offense in another jurisdiction that is substantially similar to an offense so designated in this state.

(c) "Financial services business" means any financial activity regulated by the department, the Office of Insurance Regulation, or the Office of Financial Regulation.

(2) An applicant who has been found guilty of or has pleaded guilty or nolo contendere to any of the following crimes, regardless of adjudication, is permanently barred from licensure under this chapter:

(a) A felony of the first degree.

(b) A capital felony.



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(c) A felony money laundering offense.

(d) A felony embezzlement.

(3) An applicant who has been found guilty of or has pleaded guilty or nolo contendere to a crime not included in subsection (2), regardless of adjudication, is subject to:

(a) A 10-year disqualifying period for all felonies involving moral turpitude that are not specifically included in the permanent bar contained in subsection (2).

(b) A 5-year disqualifying period for all felonies to which neither the permanent bar in subsection (2) nor the 10-year disqualifying period in paragraph (a) applies.

(c) A 5-year disqualifying period for all misdemeanors directly related to the financial services business.

(4) The board shall adopt rules to administer this section. The rules must provide for additional disqualifying periods due to the commitment of multiple crimes and may include other factors reasonably related to the applicant's criminal history. The rules shall provide for mitigating and aggravating factors. However, mitigation may not result in a period of disqualification of less than 5 years and may not mitigate the disqualifying periods in paragraphs (3) (b) and (c).

(5) For purposes of this section, a disqualifying period begins upon the applicant's final release from supervision or upon completion of the applicant's criminal sentence. The department may not issue a license to an applicant unless all related fines, court costs and fees, and court-ordered restitution have been paid.

(6) After the disqualifying period has expired, the burden is on the applicant to demonstrate that he or she has been



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rehabilitated, does not pose a risk to the public, is fit and trustworthy to engage in business regulated by this chapter, and is otherwise qualified for licensure.

(7) Notwithstanding subsections (2) and (3), an applicant who has been found guilty of, or has pleaded guilty or nolo contendere to, a crime in subsection (2) or subsection (3) and who has subsequently been granted a pardon or the restoration of civil rights pursuant to chapter 940 and s. 8, Art. IV of the State Constitution, or a pardon or the restoration of civil rights under the laws of another jurisdiction with respect to a conviction in that jurisdiction, is not barred or disqualified from licensure under this chapter. However, such a pardon or restoration of civil rights does not require the department to award such license.

(8) (a) The board may grant an exemption from disqualification to any person disqualified from licensure under subsection (3) if:

1. The applicant has paid in full any fee, fine, fund, lien, civil judgment, restitution, or cost of prosecution imposed by the court as part of the judgment and sentence for any disqualifying offense; and

2. At least 5 years have elapsed since the applicant completed or has been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for a disqualifying offense.

(b) For the board to grant an exemption under this subsection, the applicant must clearly and convincingly demonstrate that he or she would not pose a risk to persons or property if licensed under this chapter, evidence of which must



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include, but need not be limited to, facts and circumstances surrounding the disqualifying offense, the time that has elapsed since the offense, the nature of the offense and harm caused to the victim, the applicant's history before and after the offense, and any other evidence or circumstances indicating that the applicant will not present a danger if licensed or certified.

(c) The board has discretion whether to grant or deny an exemption under this subsection. The board's decision is subject to chapter 120.

(9) The disqualification periods provided in this section do not apply to the renewal of a license or to a new application for licensure if the applicant has an active license as of July 1, 2020, and the applicable criminal history was considered by the board on the prior approval of any active license held by the applicant. This subsection does not affect any criminal history disclosure requirement of this chapter.

Section 8. Subsection (9) and paragraph (c) of subsection (10) of section 497.142, Florida Statutes, are amended to read:
497.142 Licensing; fingerprinting and criminal background checks.—

(9) If any applicant under this chapter has been, ~~within the 10 years preceding the application under this chapter,~~ convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, any crime in any jurisdiction, the application shall not be deemed complete until such time as the applicant provides such certified true copies of the court records evidencing the conviction, finding, or plea as required by this section or, as the licensing authority may



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by rule require.

(10)(c) Crimes to be disclosed are:

1. Any felony ~~or misdemeanor~~, no matter when committed, ~~that was directly or indirectly related to or involving any aspect of the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation.~~

2. Any misdemeanor, no matter when committed, which was directly or indirectly related to the financial services business as defined in s. 497.1411 ~~Any other felony not already disclosed under subparagraph 1. that was committed within the 20 years immediately preceding the application under this chapter.~~

3. Any other misdemeanor not already disclosed under subparagraph 2. ~~subparagraph 1.~~ that was committed within the 5 years immediately preceding the application under this chapter.

Section 9. Present subsections (2) through (5) of section 497.157, Florida Statutes, are redesignated as subsections (4) through (7), respectively, new subsections (2) and (3) and subsection (8) are added to that section, and present subsection (3) of that section is amended, to read:

497.157 Unlicensed practice; remedies concerning violations by unlicensed persons.—

(2) A person may not be, act as, or advertise or hold himself or herself out to be a funeral director, embalmer, or direct disposer unless he or she is currently licensed by the department.

(3) A person may not be, act as, or advertise or hold



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359 himself or herself out to be a preneed sales agent unless he or
360 she is currently licensed by the department and appointed by a
361 preneed main licensee for which they are executing preneed
362 contracts.

363 (5)~~(3)~~ Where the department determines that an emergency
364 exists regarding any violation of this chapter by any unlicensed
365 person or entity, the department may issue and serve an
366 immediate final order upon such unlicensed person or entity, in
367 accordance with s. 120.569(2)(n). Such an immediate final order
368 may impose such prohibitions and requirements as are reasonably
369 necessary to protect the public health, safety, and welfare, and
370 shall be effective when served.

371 (a) For the purpose of enforcing such an immediate final
372 order, the department may file an emergency or other proceeding
373 in the circuit courts of the state seeking enforcement of the
374 immediate final order by injunctive or other order of the court.
375 The court shall issue its injunction or other order enforcing
376 the immediate final order pending administrative resolution of
377 the matter under subsection (4) ~~(2)~~, unless the court determines
378 that such action would work a manifest injustice under the
379 circumstances. Venue for judicial actions under this paragraph
380 shall be, at the election of the department, in the courts of
381 Leon County, or in a county where the respondent resides or has
382 a place of business.

383 (b) After serving an immediate final order to cease and
384 desist upon any person or entity, the department shall within 10
385 days issue and serve upon the same person or entity an
386 administrative complaint as set forth in subsection (4) ~~(2)~~,
387 except that, absent order of a court to the contrary, the



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immediate final order shall be effective throughout the pendency of proceedings under subsection (4) ~~(2)~~.

(8) Any person who is not licensed under this chapter and who engages in activity requiring licensure under this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 10. Subsection (6) of section 497.159, Florida Statutes, is amended to read:

497.159 Crimes.—

~~(6) Any person who is not licensed under this chapter who engages in activity requiring licensure under this chapter, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 11. Subsection (13) of section 552.081, Florida Statutes, is amended to read:

552.081 Definitions.—As used in this chapter:

(13) "Two-component explosives" means any two inert components which, when mixed, become capable of detonation by any detonator ~~a No. 6 blasting cap~~, and shall be classified as a Class "A" explosive when so mixed.

Section 12. Present subsection (2) of section 553.7921, Florida Statutes, is redesignated as subsection (3), a new subsection (2) is added to that section, and subsection (1) of that section is amended, to read:

553.7921 Fire alarm permit application to local enforcement agency.—

(1) A contractor must file a Uniform Fire Alarm Permit Application as provided in subsection (3) ~~(2)~~ with the local enforcement agency and must receive the fire alarm permit



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before:

~~(a) installing or replacing a fire alarm, if the local enforcement agency requires a plan review for the installation or replacement; or~~

~~(b) Repairing an existing alarm system that was previously permitted by the local enforcement agency if the local enforcement agency requires a fire alarm permit for the repair.~~

(2) If the local enforcement agency requires a fire alarm permit to repair an existing alarm system that was previously permitted by the local enforcement agency, a contractor may begin work after filing a Uniform Fire Alarm Permit Application as provided in subsection (3). A fire alarm repaired pursuant to this subsection may not be considered compliant until the required permit is issued and the local enforcement agency approves the repair.

Section 13. Effective January 1, 2021, subsection (3) of section 626.2815, Florida Statutes, is amended to read:

626.2815 Continuing education requirements.—

(3) Each licensee except a title insurance agent must complete a 4-hour ~~5-hour~~ update course every 2 years which is specific to the license held by the licensee. The course must be developed and offered by providers and approved by the department. The content of the course must address all lines of insurance for which examination and licensure are required and include the following subject areas: insurance law updates, ethics for insurance professionals, disciplinary trends and case studies, industry trends, premium discounts, determining suitability of products and services, and other similar insurance-related topics the department determines are relevant



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to legally and ethically carrying out the responsibilities of the license granted. A licensee who holds multiple insurance licenses must complete an update course that is specific to at least one of the licenses held. Except as otherwise specified, any remaining required hours of continuing education are elective and may consist of any continuing education course approved by the department under this section.

(a) Except as provided in paragraphs (b), (c), (d), (e), (i), and (j), each licensee must also complete 20 ~~19~~ hours of elective continuing education courses every 2 years.

(b) A licensee who has been licensed for 6 or more years must also complete a minimum of 16 ~~15~~ hours of elective continuing education every 2 years.

(c) A licensee who has been licensed for 25 years or more and is a CLU or a CPCU or has a Bachelor of Science degree in risk management or insurance with evidence of 18 or more semester hours in insurance-related courses must also complete a minimum of 6 ~~5~~ hours of elective continuing education courses every 2 years.

(d) An individual who holds a license as a customer representative and who is not a licensed life or health agent must also complete a minimum of 6 ~~5~~ hours of continuing education courses every 2 years.

(e) An individual subject to chapter 648 must complete the 4-hour ~~5-hour~~ update course and a minimum of 10 ~~9~~ hours of elective continuing education courses every 2 years.

(f) Elective continuing education courses for public adjusters must be specifically designed for public adjusters and approved by the department. Notwithstanding this subsection,



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public adjusters for workers' compensation insurance or health insurance are not required to take continuing education courses pursuant to this section.

(g) Excess hours accumulated during any 2-year compliance period may be carried forward to the next compliance period.

(h) An individual teaching an approved course of instruction or lecturing at any approved seminar and attending the entire course or seminar qualifies for the same number of classroom hours as would be granted to a person taking and successfully completing such course or seminar. Credit is limited to the number of hours actually taught unless a person attends the entire course or seminar. An individual who is an official of or employed by a governmental entity in this state and serves as a professor, instructor, or in another position or office, the duties and responsibilities of which are determined by the department to require monitoring and review of insurance laws or insurance regulations and practices, is exempt from this section.

(i) For compliance periods beginning on or after October 1, 2014, any person who holds a license as a title insurance agent must complete a minimum of 10 hours of continuing education credit every 2 years in title insurance and escrow management specific to this state and approved by the department, which shall include at least 3 hours of continuing education on the subject matter of ethics, rules, or compliance with state and federal regulations relating specifically to title insurance and closing services.

(j) For a licensee who is an active participant in an association, 2 hours of elective continuing education credit per



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calendar year may be approved by the department, if properly reported by the association.

Section 14. Section 627.70132, Florida Statutes, is amended to read:

627.70132 Notice of windstorm or hurricane claim.—An initial claim under an insurance policy that provides property insurance, as defined in s. 624.604, for loss or damage caused by the peril of windstorm or hurricane is barred unless notice of the initial claim was given to the insurer in accordance with the terms of the policy within 24 months after the hurricane first made landfall or the windstorm caused the covered damage.

A ~~claim~~, supplemental claim, or reopened claim under an insurance policy that provides property insurance, as defined in s. 624.604, for loss or damage caused by the peril of windstorm or hurricane is barred unless notice of the ~~claim~~, supplemental claim, or reopened claim was given to the insurer in accordance with the terms of the policy within 3 years after the hurricane first made landfall or the windstorm caused the covered damage. For purposes of this section, the term "supplemental claim" or "reopened claim" means any additional claim for recovery from the insurer for losses from the same hurricane or windstorm which the insurer has previously adjusted pursuant to the initial claim. This section does not affect any applicable limitation on civil actions provided in s. 95.11 for claims, supplemental claims, or reopened claims timely filed under this section.

Section 15. Subsection (3) of section 633.102, Florida Statutes, is amended to read:

633.102 Definitions.—As used in this chapter, the term:



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(3) (a) "Contractor I" means a contractor whose business includes the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service all types of fire protection systems, excluding preengineered systems.

(b) "Contractor II" means a contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, standpipes, combination standpipes and sprinkler risers, all piping that is an integral part of the system beginning at the point of service as defined in this section, sprinkler tank heaters, air lines, thermal systems used in connection with sprinklers, and tanks and pumps connected thereto, excluding preengineered systems.

(c) "Contractor III" means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service carbon dioxide systems, foam extinguishing systems, dry chemical systems, and Halon and other chemical systems, excluding preengineered systems.

(d) "Contractor IV" means a contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one-family dwellings, detached two-family dwellings, and mobile homes, excluding preengineered systems and excluding single-family homes in cluster units, such as apartments, condominiums, and assisted living facilities or any building that is connected to



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other dwellings. A Contractor IV is limited to the scope of practice specified in NFPA 13D.

(e) "Contractor V" means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service the underground piping for a fire protection system using water as the extinguishing agent beginning at the point of service as defined in this act and ending no more than 1 foot above the finished floor.

The definitions in this subsection may not be construed to include engineers or architects and do not limit or prohibit a licensed fire protection engineer or architect with fire protection design experience from designing any type of fire protection system. A distinction is made between system design concepts prepared by the design professional and system layout as defined in this section and typically prepared by the contractor. However, a person certified as a Contractor I or Contractor II, ~~or Contractor IV~~ under this chapter may design new fire protection systems of 49 or fewer sprinklers; ~~and~~ may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation, addition, or deletion of ~~not more than~~ 49 or fewer sprinklers, notwithstanding the size of the existing fire sprinkler system; or may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation or deletion of 249 or fewer sprinklers, notwithstanding the size of the existing fire sprinkler system, if there is no change of occupancy, as defined in the Florida Building Code, of the affected areas and there is



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no change in the water demand as defined in National Fire Protection Association publication NFPA 13 "Standard for the Installation of Sprinkler Systems," and if the occupancy hazard classification as defined in NFPA 13 is reduced or remains the same as a result of the alteration. A person certified as a Contractor I, Contractor II, or Contractor IV may design or alter a fire protection system, the scope of which complies with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, as adopted by the State Fire Marshal, notwithstanding the number of fire sprinklers. Contractor-developed plans may not be required by any local permitting authority to be sealed by a registered professional engineer.

Section 16. Section 633.136, Florida Statutes, is amended to read:

633.136 Fire and Emergency Incident Information Reporting Program; duties; fire reports.—

(1)(a) The Fire and Emergency Incident Information Reporting Program is created within the division. The program shall:

1. Establish and maintain an electronic communication system capable of transmitting fire and emergency incident information to and between fire service providers ~~protection agencies~~.

2. Initiate a Fire and Emergency Incident Information Reporting System that shall be responsible for:

a. Receiving fire and emergency incident information from fire service providers ~~protection agencies~~.

b. Preparing and disseminating annual reports to the



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Governor, the President of the Senate, the Speaker of the House of Representatives, fire service providers ~~protection agencies~~, and, upon request, the public. Each report shall include, but not be limited to, the information listed in the National Fire Incident Reporting System.

c. Upon request, providing other states and federal agencies with fire and emergency incident data of this state.

3. Adopt rules to effectively and efficiently implement, administer, manage, maintain, and use the Fire and Emergency Incident Information Reporting Program. The rules shall be considered minimum requirements and shall not preclude a fire service provider ~~protection agency~~ from implementing its own requirements which may not conflict with the rules of the division.

4. By rule, establish procedures and a format for each fire service provider ~~protection agency~~ to voluntarily monitor its records and submit reports to the program.

5. Maintain ~~Establish~~ an electronic information database that is accessible and searchable by fire service providers ~~protection agencies~~.

(b) The division shall consult with the Florida Forest Service of the Department of Agriculture and Consumer Services and the State Surgeon General of the Department of Health to coordinate data, ensure accuracy of the data, and limit duplication of efforts in data collection, analysis, and reporting.

(2) The Fire and Emergency Incident Information System Technical Advisory Panel is created within the division. The panel shall advise, review, and recommend to the State Fire



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Marshal with respect to the requirements of this section. The membership of the panel shall consist of the ~~following~~ 15 members:

~~(a) The current 13 members of the Firefighters Employment, Standards, and Training Council as established in s. 633.402.~~

~~(b) One member from the Florida Forest Service of the Department of Agriculture and Consumer Services, appointed by the director of the Florida Forest Service.~~

~~(c) One member from the Department of Health, appointed by the State Surgeon General.~~

(3) As used in ~~For the purpose of~~ this section, the term "fire service provider" has the same meaning as in s. 633.102 ~~"fire protection agency" shall be defined by rule by the division.~~

Section 17. Subsections (18) and (20) of section 633.202, Florida Statutes, are amended to read:

633.202 Florida Fire Prevention Code.—

(18) The authority having jurisdiction shall determine the minimum radio signal strength for fire department communications in all new high-rise and existing high-rise buildings. Existing buildings are not required to comply with minimum radio strength for fire department communications and two-way radio system enhancement communications as required by the Florida Fire Prevention Code until January 1, 2023 ~~2022~~. However, by January 1, 2022 ~~December 31, 2019~~, an existing building that is not in compliance with the requirements for minimum radio strength for fire department communications must have completed a minimum radio strength assessment ~~apply for an appropriate permit~~ for the required installation with the local government agency



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having jurisdiction and must demonstrate that the building will become compliant by January 1, 2023 ~~2022~~. Existing apartment buildings are not required to comply until January 1, 2025. However, existing apartment buildings are required to apply for the appropriate permit for the required communications installation by December 31, 2022.

(20) (a) In apartment occupancies with enclosed corridors served by interior or exterior exit stairs, doorstep refuse and recycling collection containers, which stand upright on their own and do not leak liquids when standing upright, must be allowed in exit access corridors when all of the following conditions exist:

1. The maximum doorstep refuse and recycling collection container size does not exceed 13 gallons.

2. Waste, which is in a doorstep refuse and recycling collection container, is not placed in the exit access corridors for single periods exceeding 5 hours.

3. Doorstep refuse and recycling collection containers do not occupy the exit access corridors for single periods exceeding 12 hours.

4. Doorstep refuse and recycling collection containers do not reduce the means of egress width below that required under NFPA Life Safety Code 101:31, as adopted under the Florida Fire Prevention Code.

5. Management staff have written policies and procedures in place and enforce them to ensure compliance with this paragraph, and, upon request, provide a copy of such policies and procedures to the authority having jurisdiction.

(b) In apartment occupancies with open-air corridors or



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balconies served by exterior exit stairs, doorstep refuse and recycling collection containers, which stand upright on their own and do not leak liquids when standing upright, must be allowed in exit access corridors when all of the following conditions exist:

1. The maximum doorstep refuse and recycling collection container size does not exceed 27 gallons.

2. Waste, which is in a doorstep refuse and recycling collection container, is not placed in the exit access corridors for single periods exceeding 5 hours.

3. Doorstep refuse and recycling collection containers do not reduce the means of egress width below that required under NFPA Life Safety Code 101:31, as adopted under the Florida Fire Prevention Code.

4. Management staff have written policies and procedures in place and enforce them to ensure compliance with this paragraph, and, upon request, provide a copy of such policies and procedures to the authority having jurisdiction.

(c) The authority having jurisdiction may approve alternative containers and storage arrangements that are demonstrated to provide an equivalent level of safety to that provided under paragraphs (a) and (b).

(d) The authority having jurisdiction shall allow apartment occupancies a phase-in period until December 31, 2020, to comply with this subsection.

(e) This subsection is repealed on January 1, 2024 ~~July 1, 2021~~.

Section 18. Section 633.217, Florida Statutes, is created to read:



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633.217 Influencing a firesafety inspector; prohibited acts.—

(1) A person may not influence a firesafety inspector by:

(a) Threatening, coercing, tricking, or attempting to threaten, coerce, or trick the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

(b) Offering any compensation to the firesafety inspector to induce a violation of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

(2) A firesafety inspector may not knowingly and willfully accept an attempt by a person to influence the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

Section 19. Paragraphs (d), (g), and (h) of subsection (4) of section 633.304, Florida Statutes, are amended to read:

633.304 Fire suppression equipment; license to install or maintain.—

(4)

(d) A license of any class may not be issued or renewed by the division and a license of any class does not remain operative unless:

1. The applicant has submitted to the State Fire Marshal evidence of registration as a Florida corporation or evidence of compliance with s. 865.09.

2. The State Fire Marshal or his or her designee has by



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inspection determined that the applicant possesses the equipment required for the class of license sought. The State Fire Marshal shall give an applicant a reasonable opportunity to correct any deficiencies discovered by inspection. To obtain such inspection, an applicant with facilities located outside this state must:

a. Provide a notarized statement from a professional engineer licensed by the applicant's state of domicile certifying that the applicant possesses the equipment required for the class of license sought and that all such equipment is operable; or

b. Allow the State Fire Marshal or her or his designee to inspect the facility. All costs associated with the State Fire Marshal's inspection must be paid by the applicant. The State Fire Marshal, in accordance with s. 120.54, may adopt rules to establish standards for the calculation and establishment of the amount of costs associated with any inspection conducted by the State Fire Marshal under this section. Such rules must include procedures for invoicing and receiving funds in advance of the inspection.

3. The applicant has submitted to the State Fire Marshal proof of insurance providing coverage for comprehensive general liability for bodily injury and property damage, products liability, completed operations, and contractual liability. The State Fire Marshal shall adopt rules providing for the amounts of such coverage, but such amounts may not be less than \$300,000 for Class A or Class D licenses, \$200,000 for Class B licenses, and \$100,000 for Class C licenses; and the total coverage for any class of license held in conjunction with a Class D license



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may not be less than \$300,000. The State Fire Marshal may, at any time after the issuance of a license or its renewal, require upon demand, and in no event more than 30 days after notice of such demand, the licensee to provide proof of insurance, on the insurer's form, containing confirmation of insurance coverage as required by this chapter. Failure, for any length of time, to provide proof of insurance coverage as required must result in the immediate suspension of the license until proof of proper insurance is provided to the State Fire Marshal. An insurer that provides such coverage shall notify the State Fire Marshal of any change in coverage or of any termination, cancellation, or nonrenewal of any coverage.

4. The applicant applies to the State Fire Marshal, provides proof of experience, and successfully completes a prescribed training course that includes both written and practical training offered at ~~by~~ the State Fire College and ~~or~~ an equivalent course approved by the State Fire Marshal as applicable to the class of license being sought. This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

5. The applicant has a current retestor identification number that is appropriate for the license for which the applicant is applying and that is listed with the United States Department of Transportation.



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6. The applicant has passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing the activities authorized by the license and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination must be developed and administered by the State Fire Marshal, or his or her designee in accordance with policies and procedures of the State Fire Marshal. An applicant shall pay a nonrefundable examination fee of \$50 for each examination or reexamination scheduled. A reexamination may not be scheduled sooner than 30 days after any administration of an examination to an applicant. An applicant may not be permitted to take an examination for any level of license more than a total of four times during 1 year, regardless of the number of applications submitted. As a prerequisite to licensure of the applicant, he or she:

a. Must be at least 18 years of age.

b. Must have 4 years of proven experience as a fire equipment permittee at a level equal to or greater than the level of license applied for or have a combination of education and experience determined to be equivalent thereto by the State Fire Marshal. Having held a permit at the appropriate level for the required period constitutes the required experience.

c. Must not have been convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof or under the law of any other country. "Convicted" means a finding of guilt or the acceptance of a plea of guilty or nolo contendere in any federal or state court or a court in any other country, without regard



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to whether a judgment of conviction has been entered by the court having jurisdiction of the case. If an applicant has been convicted of any such felony, the applicant is excluded from licensure for a period of 4 years after expiration of sentence or final release by the Florida Commission on Offender Review unless the applicant, before the expiration of the 4-year period, has received a full pardon or has had her or his civil rights restored.

This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, hydrotesting, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

(g) A permit of any class may not be issued or renewed to a person by the division, and a permit of any class does not remain operative, unless the person has:

1. Submitted a nonrefundable examination fee in the amount of \$50.

2. Successfully completed a training course that includes both written and practical training offered at ~~by~~ the State Fire College and or an equivalent course approved by the State Fire Marshal as applicable to the class of license being sought.

3. Passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing the activities authorized by the permit and demonstrating his or her knowledge and ability to perform those



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tasks in a competent, lawful, and safe manner. Such examination must be developed and administered by the State Fire Marshal in accordance with the policies and procedures of the State Fire Marshal. An examination fee must be paid for each examination scheduled. A reexamination may not be scheduled sooner than 30 days after any administration of an examination to an applicant. An applicant may not be permitted to take an examination for any level of permit more than four times during 1 year, regardless of the number of applications submitted. As a prerequisite to taking the permit examination, the applicant must be at least 16 years of age.

(h) An applicant for a license or permit under this section who fails the examination may take it three more times during the 1-year period after he or she originally filed an application for the examination. If the applicant fails the examination within 1 year after the application date and he or she seeks to retake the examination, he or she must file a new application, pay the application and examination fees, and successfully complete a prescribed training course that includes both written and practical training offered at by the State Fire College and ~~or an equivalent course~~ approved by the State Fire Marshal as applicable to the class of license being sought. The applicant may not submit a new application within 6 months after the date of his or her fourth reexamination. An applicant who passes the examination but does not meet the remaining qualifications prescribed by law and rule within 1 year after the application date must file a new application, pay the application and examination fee, successfully complete a prescribed training course that includes both written and



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practical training offered at ~~approved by~~ the State Fire College
and or an equivalent course approved by the State Fire Marshal
as applicable to the class of license being sought, and pass the
written examination.

Section 20. Subsection (1) of section 633.402, Florida
Statutes, is amended to read:

633.402 Firefighters Employment, Standards, and Training
Council; organization; meetings; quorum; compensation; seal;
special powers; firefighter training.—

(1) There is created within the department a Firefighters
Employment, Standards, and Training Council of 15 ~~14~~ members.

(a) The members shall be appointed as follows:

1. Two fire chiefs appointed by the Florida Fire Chiefs
Association.

2. Two firefighters, who are not officers, appointed by the
Florida Professional Firefighters Association.

3. Two firefighter officers, who are not fire chiefs,
appointed by the State Fire Marshal.

4. One individual appointed by the Florida League of
Cities.

5. One individual appointed by the Florida Association of
Counties.

6. One individual appointed by the Florida Association of
Special Districts.

7. One individual appointed by the Florida Fire Marshals'
and Inspectors' Association.

8. One employee of the Florida Forest Service of the
Department of Agriculture and Consumer Services appointed by the
director of the Florida Forest Service.



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9. One individual appointed by the State Fire Marshal.

10. One director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal.

11. One individual ~~The remaining member, who shall be~~ appointed by the State Fire Marshal, who may not be a member or representative of the firefighting profession or of any local government.

12. One individual from the Department of Health, appointed by the Surgeon General.

(b) To be eligible for appointment as a member under subparagraph (a)1., subparagraph (a)2., subparagraph (a)3., subparagraph (a)8., or subparagraph (a)10., a person must have had at least 4 years' experience in the firefighting profession. Members shall serve only as long as they continue to meet the criteria under which they were appointed, or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.

Section 21. Subsection (1) of section 633.416, Florida Statutes, is amended to read:

633.416 Firefighter employment and volunteer firefighter service; saving clause.—

(1) A fire service provider may not employ an individual to:

(a) Extinguish fires for the protection of life or property or to supervise individuals who perform such services unless the individual holds a current and valid Firefighter Certificate of Compliance. However, a person who is currently serving as a volunteer firefighter and holds a volunteer firefighter



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certificate of completion with a fire service provider, who is
then employed as a regular or permanent firefighter by such fire
service provider, may function, for a period of 1 year under the
direct supervision of an individual holding a valid firefighter
certificate of compliance, in the same capacity in which he or
she acted as a volunteer firefighter, provided that he or she
has completed all training required by the volunteer
organization. Under no circumstance can this period extend
beyond 1 year either collectively or consecutively from the
start of employment to obtain a Firefighter Certificate of
Compliance; or

(b) Serve as the administrative and command head of a fire service provider for a period in excess of 1 year unless the individual holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance.

Section 22. Section 843.08, Florida Statutes, is amended to read:

843.08 False personation.—A person who falsely assumes or pretends to be a firefighter, a sheriff, an officer of the Florida Highway Patrol, an officer of the Fish and Wildlife Conservation Commission, an officer of the Department of Environmental Protection, ~~a fire or arson investigator of the Department of Financial Services,~~ an officer of the Department of Financial Services, any personnel or representative of the Division of Investigative and Forensic Services, an officer of the Department of Corrections, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police



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officer, a lottery special agent or lottery investigator, a beverage enforcement agent, a school guardian as described in s. 30.15(1)(k), a security officer licensed under chapter 493, any member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission, any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 23. Paragraph (f) is added to subsection (11) of section 943.045, Florida Statutes, to read:

943.045 Definitions; ss. 943.045-943.08.—The following words and phrases as used in ss. 943.045-943.08 shall have the following meanings:

(11) "Criminal justice agency" means:

(f) The investigations component of the Department of Financial Services which investigates the crimes of fraud and official misconduct in all public assistance given to residents of the state or provided to others by the state.



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Section 24. Effective upon this act becoming a law, subsection (3) of section 40 of chapter 2019-140, Laws of Florida, is amended to read:

Section 40. (3) The task force shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives and present its findings to the appropriate legislative committees in each house of the Legislature by January 31, 2021 ~~within 180 days after the initial meeting of the task force~~. The report must include:

(a) A general description of the costs and benefits of state and local government agencies using blockchain technology.

(b) Recommendations concerning the feasibility of implementing blockchain technology in the state and the best approach to finance the cost of implementation.

(c) Recommendations for specific implementations to be developed by relevant state agencies.

(d) Any draft legislation the task force deems appropriate to implement such blockchain technologies.

(e) Identification of one pilot project that may be implemented in the state.

(f) Any other information deemed relevant by the task force.

Section 25. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2020.

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

And the title is amended as follows:



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Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to financial services; amending s.
20.121, F.S.; specifying powers and duties of the
Division of Public Assistance Fraud; amending s.
284.30, F.S.; requiring the State Risk Management
Trust Fund to provide insurance for certain
firefighter cancer-related benefits; amending s.
284.31, F.S.; requiring the Insurance Risk Management
Trust Fund to provide a separate account for certain
firefighter cancer-related benefits; amending s.
284.385, F.S.; specifying a condition that must be met
before such benefits may be paid from the State Risk
Management Trust Fund; creating s. 284.45, F.S.;
prohibiting individuals working for entities covered
by the State Risk Management Trust Fund from engaging
in retaliatory conduct against sexual harassment
victims; defining the term "sexual harassment victim";
specifying a criminal penalty for the willful and
knowing dissemination of a sexual harassment victim's
personal identifying information, except under certain
circumstances; specifying protected personal
identifying information; amending s. 497.101, F.S.;
revising provisions relating to membership of the
Board of Funeral, Cemetery, and Consumer Services
within the Department of Financial Services; deleting
a requirement for the department to adopt certain
rules; creating s. 497.1411, F.S.; defining terms;



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1084 providing for permanent disqualification of applicants
1085 for licensure under ch. 497, F.S., for certain
1086 offenses; providing for disqualifying periods for
1087 applicants for certain offenses; requiring the board
1088 to adopt rules; providing for calculation of
1089 disqualifying periods; providing conditions for
1090 licensure after completion of a disqualifying period;
1091 specifying the effect of a pardon or clemency;
1092 providing for exemptions from disqualification in
1093 certain circumstances; providing procedures for
1094 consideration of applications for such exemptions;
1095 providing construction; amending s. 497.142, F.S.;
1096 revising criminal history disclosure requirements for
1097 applicants seeking licensure under ch. 497, F.S.;
1098 amending s. 497.157, F.S.; prohibiting persons from
1099 acting as or advertising themselves as being funeral
1100 directors, embalmers, direct disposers, or preneed
1101 sales agents unless they are so licensed; prohibiting
1102 persons from engaging in certain activities requiring
1103 licensure without holding required licenses; revising
1104 the criminal penalty for unlicensed activity; amending
1105 s. 497.159, F.S.; conforming a provision to changes
1106 made by the act; amending s. 552.081, F.S.; revising
1107 the definition of the term "two-component explosives"
1108 for the purpose of regulation by the Division of State
1109 Fire Marshal; amending s. 553.7921, F.S.; authorizing
1110 a contractor repairing certain existing fire alarm
1111 systems to begin work after filing an application for
1112 a required permit but before receiving the permit;



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1113 providing construction; amending s. 626.2815, F.S.;
1114 revising continuing education requirements for certain
1115 persons licensed to solicit, sell, or adjust
1116 insurance; amending s. 627.70132, F.S.; decreasing the
1117 timeframe in which a notice of an initial claim for
1118 loss or damage caused by the peril of windstorm or
1119 hurricane must be given to a property insurer;
1120 amending s. 633.102, F.S.; revising the authority of
1121 certain fire protection system contractors to design
1122 and alter certain systems; amending s. 633.136, F.S.;
1123 replacing fire protection agencies in the Fire and
1124 Emergency Incident Information Reporting Program with
1125 fire service providers and defining the term; revising
1126 the composition of the Fire and Emergency Incident
1127 Information System Technical Advisory Panel; amending
1128 s. 633.202, F.S.; extending a deadline for certain
1129 buildings to comply with a minimum radio signal
1130 strength requirement under the Florida Fire Prevention
1131 Code; requiring such buildings to meet certain
1132 conditions by a specified date; extending the repeal
1133 date of exemptions to the Florida Fire Prevention Code
1134 which authorize doorstep refuse and recycling
1135 collection containers to be in exit access corridors
1136 in certain apartment occupancies under certain
1137 circumstances; creating s. 633.217, F.S.; prohibiting
1138 certain acts to influence a firesafety inspector into
1139 violating certain laws; prohibiting a firesafety
1140 inspector from knowingly and willfully accepting an
1141 attempt to influence him or her into violating certain



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1142 laws; amending s. 633.304, F.S.; revising requirements
1143 for training courses for licensees installing or
1144 maintaining certain fire suppression equipment;
1145 amending s. 633.402, F.S.; revising the composition of
1146 the Firefighters Employment, Standards, and Training
1147 Council; amending s. 633.416, F.S.; providing that
1148 certain persons serving as volunteer firefighters may
1149 serve as a regular or permanent firefighter for a
1150 limited period, subject to certain restrictions;
1151 amending s. 843.08, F.S.; prohibiting false
1152 personation of personnel or representatives of the
1153 Division of Investigative and Forensic Services;
1154 providing criminal penalties; amending s. 943.045,
1155 F.S.; revising the definition of the term "criminal
1156 justice agency" to include the investigations
1157 component of the department which investigates certain
1158 crimes; amending chapter 2019-140, L.O.F.; extending
1159 the deadline for the Florida Blockchain Task Force to
1160 submit its report to the Governor and the Legislature;
1161 providing effective dates.



964622

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/04/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment to Substitute Amendment (810530) (with title amendment)

Delete lines 506 - 529.

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

And the title is amended as follows:

Delete lines 1116 - 1119

and insert:

insurance;



863800

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Book) recommended the following:

Senate Amendment to Substitute Amendment (810530) (with title amendment)

Delete lines 681 - 682
and insert:

However, existing apartment buildings must have completed a minimum radio strength assessment ~~are required to apply for the appropriate permit~~ for the required communications

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



863800

11 And the title is amended as follows:
12 Delete line 1132
13 and insert:
14 conditions by a specified date; revising a condition
15 that existing apartment buildings must meet by a
16 specified date; extending the repeal



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/26/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 429 - 1231

and insert:

Section 1. Subsection (13) of section 552.081, Florida Statutes, is amended to read:

552.081 Definitions.—As used in this chapter:

(13) "Two-component explosives" means any two inert components which, when mixed, become capable of detonation by any detonator ~~a No. 6 blasting cap~~, and shall be classified as a



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Class "A" explosive when so mixed.

Section 2. Present subsection (2) of section 553.7921, Florida Statutes, is redesignated as subsection (3), a new subsection (2) is added to that section, and subsection (1) of that section is amended, to read:

553.7921 Fire alarm permit application to local enforcement agency.—

(1) A contractor must file a Uniform Fire Alarm Permit Application as provided in subsection (3) ~~(2)~~ with the local enforcement agency and must receive the fire alarm permit before—

~~(a) installing or replacing a fire alarm, if the local enforcement agency requires a plan review for the installation or replacement; or~~

~~(b) Repairing an existing alarm system that was previously permitted by the local enforcement agency if the local enforcement agency requires a fire alarm permit for the repair.~~

(2) If the local enforcement agency requires a fire alarm permit to repair an existing alarm system that was previously permitted by the local enforcement agency, a contractor may begin work after filing a Uniform Fire Alarm Permit Application as provided in subsection (3). A fire alarm repaired pursuant to this subsection may not be considered compliant until the required permit is issued and the local enforcement agency approves the repair.

Section 3. Effective January 1, 2021, subsection (3) of section 626.2815, Florida Statutes, is amended to read:

626.2815 Continuing education requirements.—

(3) Each licensee except a title insurance agent must



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complete a 4-hour ~~5-hour~~ update course every 2 years which is specific to the license held by the licensee. The course must be developed and offered by providers and approved by the department. The content of the course must address all lines of insurance for which examination and licensure are required and include the following subject areas: insurance law updates, ethics for insurance professionals, disciplinary trends and case studies, industry trends, premium discounts, determining suitability of products and services, and other similar insurance-related topics the department determines are relevant to legally and ethically carrying out the responsibilities of the license granted. A licensee who holds multiple insurance licenses must complete an update course that is specific to at least one of the licenses held. Except as otherwise specified, any remaining required hours of continuing education are elective and may consist of any continuing education course approved by the department under this section.

(a) Except as provided in paragraphs (b), (c), (d), (e), (i), and (j), each licensee must also complete 20 ~~19~~ hours of elective continuing education courses every 2 years.

(b) A licensee who has been licensed for 6 or more years must also complete a minimum of 16 ~~15~~ hours of elective continuing education every 2 years.

(c) A licensee who has been licensed for 25 years or more and is a CLU or a CPCU or has a Bachelor of Science degree in risk management or insurance with evidence of 18 or more semester hours in insurance-related courses must also complete a minimum of 6 ~~5~~ hours of elective continuing education courses every 2 years.



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(d) An individual who holds a license as a customer representative and who is not a licensed life or health agent must also complete a minimum of 6 ~~5~~ hours of continuing education courses every 2 years.

(e) An individual subject to chapter 648 must complete the 4-hour ~~5-hour~~ update course and a minimum of 10 ~~9~~ hours of elective continuing education courses every 2 years.

(f) Elective continuing education courses for public adjusters must be specifically designed for public adjusters and approved by the department. Notwithstanding this subsection, public adjusters for workers' compensation insurance or health insurance are not required to take continuing education courses pursuant to this section.

(g) Excess hours accumulated during any 2-year compliance period may be carried forward to the next compliance period.

(h) An individual teaching an approved course of instruction or lecturing at any approved seminar and attending the entire course or seminar qualifies for the same number of classroom hours as would be granted to a person taking and successfully completing such course or seminar. Credit is limited to the number of hours actually taught unless a person attends the entire course or seminar. An individual who is an official of or employed by a governmental entity in this state and serves as a professor, instructor, or in another position or office, the duties and responsibilities of which are determined by the department to require monitoring and review of insurance laws or insurance regulations and practices, is exempt from this section.

(i) For compliance periods beginning on or after October 1,



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2014, any person who holds a license as a title insurance agent must complete a minimum of 10 hours of continuing education credit every 2 years in title insurance and escrow management specific to this state and approved by the department, which shall include at least 3 hours of continuing education on the subject matter of ethics, rules, or compliance with state and federal regulations relating specifically to title insurance and closing services.

(j) For a licensee who is an active participant in an association, 2 hours of elective continuing education credit per calendar year may be approved by the department, if properly reported by the association.

Section 4. Subsection (3) of section 633.102, Florida Statutes, is amended to read:

633.102 Definitions.—As used in this chapter, the term:

(3)(a) "Contractor I" means a contractor whose business includes the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service all types of fire protection systems, excluding preengineered systems.

(b) "Contractor II" means a contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, standpipes, combination standpipes and sprinkler risers, all piping that is an integral part of the system beginning at the point of service as defined in this section, sprinkler tank heaters, air lines, thermal systems used in connection with sprinklers, and tanks



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and pumps connected thereto, excluding preengineered systems.

(c) "Contractor III" means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service carbon dioxide systems, foam extinguishing systems, dry chemical systems, and Halon and other chemical systems, excluding preengineered systems.

(d) "Contractor IV" means a contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one-family dwellings, detached two-family dwellings, and mobile homes, excluding preengineered systems and excluding single-family homes in cluster units, such as apartments, condominiums, and assisted living facilities or any building that is connected to other dwellings. A Contractor IV is limited to the scope of practice specified in NFPA 13D.

(e) "Contractor V" means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service the underground piping for a fire protection system using water as the extinguishing agent beginning at the point of service as defined in this act and ending no more than 1 foot above the finished floor.

The definitions in this subsection may not be construed to include engineers or architects and do not limit or prohibit a licensed fire protection engineer or architect with fire protection design experience from designing any type of fire



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protection system. A distinction is made between system design concepts prepared by the design professional and system layout as defined in this section and typically prepared by the contractor. However, a person certified as a Contractor I or, Contractor II, ~~or Contractor IV~~ under this chapter may design new fire protection systems of 49 or fewer sprinklers; ~~and may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation, addition, or deletion of ~~not more than~~ 49 or fewer sprinklers, notwithstanding the size of the existing fire sprinkler system;~~ or may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation or deletion of 249 or fewer sprinklers, notwithstanding the size of the existing fire sprinkler system, if there is no change of occupancy, as defined in the Florida Building Code, of the affected areas and there is no change in the water demand as defined in National Fire Protection Association publication NFPA 13 "Standard for the Installation of Sprinkler Systems," and if the occupancy hazard classification as defined in NFPA 13 is reduced or remains the same as a result of the alteration. A person certified as a Contractor I, Contractor II, or Contractor IV may design or alter a fire protection system, the scope of which complies with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, as adopted by the State Fire Marshal, notwithstanding the number of fire sprinklers. Contractor-developed plans may not be required by any local permitting authority to be sealed by a registered professional engineer.

Section 5. Section 633.136, Florida Statutes, is amended to



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read:

633.136 Fire and Emergency Incident Information Reporting Program; duties; fire reports.—

(1)(a) The Fire and Emergency Incident Information Reporting Program is created within the division. The program shall:

1. Establish and maintain an electronic communication system capable of transmitting fire and emergency incident information to and between fire service providers ~~protection agencies~~.

2. Initiate a Fire and Emergency Incident Information Reporting System that shall be responsible for:

a. Receiving fire and emergency incident information from fire service providers ~~protection agencies~~.

b. Preparing and disseminating annual reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, fire service providers ~~protection agencies~~, and, upon request, the public. Each report shall include, but not be limited to, the information listed in the National Fire Incident Reporting System.

c. Upon request, providing other states and federal agencies with fire and emergency incident data of this state.

3. Adopt rules to effectively and efficiently implement, administer, manage, maintain, and use the Fire and Emergency Incident Information Reporting Program. The rules shall be considered minimum requirements and shall not preclude a fire service provider ~~protection agency~~ from implementing its own requirements which may not conflict with the rules of the division.



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4. By rule, establish procedures and a format for each fire service provider ~~protection agency~~ to voluntarily monitor its records and submit reports to the program.

5. Maintain ~~Establish~~ an electronic information database that is accessible and searchable by fire service providers ~~protection agencies~~.

(b) The division shall consult with the Florida Forest Service of the Department of Agriculture and Consumer Services and the State Surgeon General of the Department of Health to coordinate data, ensure accuracy of the data, and limit duplication of efforts in data collection, analysis, and reporting.

(2) The Fire and Emergency Incident Information System Technical Advisory Panel is created within the division. The panel shall advise, review, and recommend to the State Fire Marshal with respect to the requirements of this section. The membership of the panel shall consist of the ~~following~~ 15 members:

~~(a) The current 13 members of the Firefighters Employment, Standards, and Training Council as established in s. 633.402.~~

~~(b) One member from the Florida Forest Service of the Department of Agriculture and Consumer Services, appointed by the director of the Florida Forest Service.~~

~~(c) One member from the Department of Health, appointed by the State Surgeon General.~~

(3) As used in ~~For the purpose of~~ this section, the term "fire service provider" has the same meaning as in s. 633.102 ~~"fire protection agency" shall be defined by rule by the division.~~



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Section 6. Subsections (18) and (20) of section 633.202, Florida Statutes, are amended to read:

633.202 Florida Fire Prevention Code.—

(18) The authority having jurisdiction shall determine the minimum radio signal strength for fire department communications in all new high-rise and existing high-rise buildings. Existing buildings are not required to comply with minimum radio strength for fire department communications and two-way radio system enhancement communications as required by the Florida Fire Prevention Code until January 1, 2023 ~~2022~~. However, by January 1, 2022 ~~December 31, 2019~~, an existing building that is not in compliance with the requirements for minimum radio strength for fire department communications must have completed a minimum radio strength assessment ~~apply for an appropriate permit~~ for the required installation with the local government agency having jurisdiction and must demonstrate that the building will become compliant by January 1, 2023 ~~2022~~. Existing apartment buildings are not required to comply until January 1, 2025. However, existing apartment buildings are required to apply for the appropriate permit for the required communications installation by December 31, 2022.

(20) (a) In apartment occupancies with enclosed corridors served by interior or exterior exit stairs, doorstep refuse and recycling collection containers, which stand upright on their own and do not leak liquids when standing upright, must be allowed in exit access corridors when all of the following conditions exist:

1. The maximum doorstep refuse and recycling collection container size does not exceed 13 gallons.



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2. Waste, which is in a doorstep refuse and recycling collection container, is not placed in the exit access corridors for single periods exceeding 5 hours.

3. Doorstep refuse and recycling collection containers do not occupy the exit access corridors for single periods exceeding 12 hours.

4. Doorstep refuse and recycling collection containers do not reduce the means of egress width below that required under NFPA Life Safety Code 101:31, as adopted under the Florida Fire Prevention Code.

5. Management staff have written policies and procedures in place and enforce them to ensure compliance with this paragraph, and, upon request, provide a copy of such policies and procedures to the authority having jurisdiction.

(b) In apartment occupancies with open-air corridors or balconies served by exterior exit stairs, doorstep refuse and recycling collection containers, which stand upright on their own and do not leak liquids when standing upright, must be allowed in exit access corridors when all of the following conditions exist:

1. The maximum doorstep refuse and recycling collection container size does not exceed 27 gallons.

2. Waste, which is in a doorstep refuse and recycling collection container, is not placed in the exit access corridors for single periods exceeding 5 hours.

3. Doorstep refuse and recycling collection containers do not reduce the means of egress width below that required under NFPA Life Safety Code 101:31, as adopted under the Florida Fire Prevention Code.



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4. Management staff have written policies and procedures in place and enforce them to ensure compliance with this paragraph, and, upon request, provide a copy of such policies and procedures to the authority having jurisdiction.

(c) The authority having jurisdiction may approve alternative containers and storage arrangements that are demonstrated to provide an equivalent level of safety to that provided under paragraphs (a) and (b).

(d) The authority having jurisdiction shall allow apartment occupancies a phase-in period until December 31, 2020, to comply with this subsection.

(e) This subsection is repealed on January 1, 2024 ~~July 1, 2021~~.

Section 7. Section 633.217, Florida Statutes, is created to read:

633.217 Influencing a firesafety inspector; prohibited acts.—

(1) A person may not influence a firesafety inspector by:

(a) Threatening, coercing, tricking, or attempting to threaten, coerce, or trick the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

(b) Offering any compensation to the firesafety inspector to induce a violation of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

(2) A firesafety inspector may not knowingly and willfully accept an attempt by a person to influence the firesafety



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inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

Section 8. Paragraphs (d), (g), and (h) of subsection (4) of section 633.304, Florida Statutes, are amended to read:

633.304 Fire suppression equipment; license to install or maintain.—

(4)

(d) A license of any class may not be issued or renewed by the division and a license of any class does not remain operative unless:

1. The applicant has submitted to the State Fire Marshal evidence of registration as a Florida corporation or evidence of compliance with s. 865.09.

2. The State Fire Marshal or his or her designee has by inspection determined that the applicant possesses the equipment required for the class of license sought. The State Fire Marshal shall give an applicant a reasonable opportunity to correct any deficiencies discovered by inspection. To obtain such inspection, an applicant with facilities located outside this state must:

a. Provide a notarized statement from a professional engineer licensed by the applicant's state of domicile certifying that the applicant possesses the equipment required for the class of license sought and that all such equipment is operable; or

b. Allow the State Fire Marshal or her or his designee to inspect the facility. All costs associated with the State Fire Marshal's inspection must be paid by the applicant. The State



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Fire Marshal, in accordance with s. 120.54, may adopt rules to establish standards for the calculation and establishment of the amount of costs associated with any inspection conducted by the State Fire Marshal under this section. Such rules must include procedures for invoicing and receiving funds in advance of the inspection.

3. The applicant has submitted to the State Fire Marshal proof of insurance providing coverage for comprehensive general liability for bodily injury and property damage, products liability, completed operations, and contractual liability. The State Fire Marshal shall adopt rules providing for the amounts of such coverage, but such amounts may not be less than \$300,000 for Class A or Class D licenses, \$200,000 for Class B licenses, and \$100,000 for Class C licenses; and the total coverage for any class of license held in conjunction with a Class D license may not be less than \$300,000. The State Fire Marshal may, at any time after the issuance of a license or its renewal, require upon demand, and in no event more than 30 days after notice of such demand, the licensee to provide proof of insurance, on the insurer's form, containing confirmation of insurance coverage as required by this chapter. Failure, for any length of time, to provide proof of insurance coverage as required must result in the immediate suspension of the license until proof of proper insurance is provided to the State Fire Marshal. An insurer that provides such coverage shall notify the State Fire Marshal of any change in coverage or of any termination, cancellation, or nonrenewal of any coverage.

4. The applicant applies to the State Fire Marshal, provides proof of experience, and successfully completes a



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prescribed training course that includes both written and practical training offered at ~~by~~ the State Fire College and ~~or~~ ~~an equivalent course~~ approved by the State Fire Marshal as applicable to the class of license being sought. This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

5. The applicant has a current retestor identification number that is appropriate for the license for which the applicant is applying and that is listed with the United States Department of Transportation.

6. The applicant has passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing the activities authorized by the license and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination must be developed and administered by the State Fire Marshal, or his or her designee in accordance with policies and procedures of the State Fire Marshal. An applicant shall pay a nonrefundable examination fee of \$50 for each examination or reexamination scheduled. A reexamination may not be scheduled sooner than 30 days after any administration of an examination to an applicant. An applicant may not be permitted to take an examination for any level of license more than a total of four times during 1 year, regardless of the number of applications



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submitted. As a prerequisite to licensure of the applicant, he or she:

a. Must be at least 18 years of age.

b. Must have 4 years of proven experience as a fire equipment permittee at a level equal to or greater than the level of license applied for or have a combination of education and experience determined to be equivalent thereto by the State Fire Marshal. Having held a permit at the appropriate level for the required period constitutes the required experience.

c. Must not have been convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof or under the law of any other country. "Convicted" means a finding of guilt or the acceptance of a plea of guilty or nolo contendere in any federal or state court or a court in any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case. If an applicant has been convicted of any such felony, the applicant is excluded from licensure for a period of 4 years after expiration of sentence or final release by the Florida Commission on Offender Review unless the applicant, before the expiration of the 4-year period, has received a full pardon or has had her or his civil rights restored.

This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, hydrotesting, and



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maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

(g) A permit of any class may not be issued or renewed to a person by the division, and a permit of any class does not remain operative, unless the person has:

1. Submitted a nonrefundable examination fee in the amount of \$50.

2. Successfully completed a training course that includes both written and practical training offered at ~~by~~ the State Fire College and or an equivalent course approved by the State Fire Marshal as applicable to the class of license being sought.

3. Passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing the activities authorized by the permit and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination must be developed and administered by the State Fire Marshal in accordance with the policies and procedures of the State Fire Marshal. An examination fee must be paid for each examination scheduled. A reexamination may not be scheduled sooner than 30 days after any administration of an examination to an applicant. An applicant may not be permitted to take an examination for any level of permit more than four times during 1 year, regardless of the number of applications submitted. As a prerequisite to taking the permit examination, the applicant must be at least 16 years of age.

(h) An applicant for a license or permit under this section who fails the examination may take it three more times during the 1-year period after he or she originally filed an



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application for the examination. If the applicant fails the examination within 1 year after the application date and he or she seeks to retake the examination, he or she must file a new application, pay the application and examination fees, and successfully complete a prescribed training course that includes both written and practical training offered at ~~by~~ the State Fire College and ~~or an equivalent course~~ approved by the State Fire Marshal as applicable to the class of license being sought. The applicant may not submit a new application within 6 months after the date of his or her fourth reexamination. An applicant who passes the examination but does not meet the remaining qualifications prescribed by law and rule within 1 year after the application date must file a new application, pay the application and examination fee, successfully complete a prescribed training course that includes both written and practical training offered at ~~approved by~~ the State Fire College and ~~or an equivalent course~~ approved by the State Fire Marshal as applicable to the class of license being sought, and pass the written examination.

Section 9. Subsection (1) of section 633.402, Florida Statutes, is amended to read:

633.402 Firefighters Employment, Standards, and Training Council; organization; meetings; quorum; compensation; seal; special powers; firefighter training.—

(1) There is created within the department a Firefighters Employment, Standards, and Training Council of 15 ~~14~~ members.

(a) The members shall be appointed as follows:

1. Two fire chiefs appointed by the Florida Fire Chiefs Association.



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2. Two firefighters, who are not officers, appointed by the Florida Professional Firefighters Association.

3. Two firefighter officers, who are not fire chiefs, appointed by the State Fire Marshal.

4. One individual appointed by the Florida League of Cities.

5. One individual appointed by the Florida Association of Counties.

6. One individual appointed by the Florida Association of Special Districts.

7. One individual appointed by the Florida Fire Marshals' and Inspectors' Association.

8. One employee of the Florida Forest Service of the Department of Agriculture and Consumer Services appointed by the director of the Florida Forest Service.

9. One individual appointed by the State Fire Marshal.

10. One director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal.

11. One individual ~~The remaining member, who shall be~~ appointed by the State Fire Marshal, who may not be a member or representative of the firefighting profession or of any local government.

12. One individual from the Department of Health, appointed by the Surgeon General.

(b) To be eligible for appointment as a member under subparagraph (a)1., subparagraph (a)2., subparagraph (a)3., subparagraph (a)8., or subparagraph (a)10., a person must have had at least 4 years' experience in the firefighting profession.



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Members shall serve only as long as they continue to meet the criteria under which they were appointed, or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.

Section 10. Subsection (1) of section 633.416, Florida Statutes, is amended to read:

633.416 Firefighter employment and volunteer firefighter service; saving clause.—

(1) A fire service provider may not employ an individual to:

(a) Extinguish fires for the protection of life or property or to supervise individuals who perform such services unless the individual holds a current and valid Firefighter Certificate of Compliance. However, a person who is currently serving as a volunteer firefighter and holds a volunteer firefighter certificate of completion with a fire service provider, who is then employed as a regular or permanent firefighter by such fire service provider, may function, for a period of 1 year under the direct supervision of an individual holding a valid firefighter certificate of compliance, in the same capacity in which he or she acted as a volunteer firefighter, provided that he or she has completed all training required by the volunteer organization. Under no circumstance can this period extend beyond 1 year either collectively or consecutively from the start of employment to obtain a Firefighter Certificate of Compliance; or

(b) Serve as the administrative and command head of a fire service provider for a period in excess of 1 year unless the individual holds a current and valid Firefighter Certificate of



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Compliance or Special Certificate of Compliance.

Section 11. Section 843.08, Florida Statutes, is amended to read:

843.08 False personation.—A person who falsely assumes or pretends to be a firefighter, a sheriff, an officer of the Florida Highway Patrol, an officer of the Fish and Wildlife Conservation Commission, an officer of the Department of Environmental Protection, ~~a fire or arson investigator of the Department of Financial Services,~~ an officer of the Department of Financial Services, any personnel or representative of the Division of Investigative and Forensic Services, an officer of the Department of Corrections, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, a school guardian as described in s. 30.15(1)(k), a security officer licensed under chapter 493, any member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission, any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree,



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punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
If the commission of the felony results in the death or personal
injury of another human being, the person commits a felony of
the first degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084.

Section 12. Paragraph (f) is added to subsection (11) of
section 943.045, Florida Statutes, to read:

943.045 Definitions; ss. 943.045-943.08.—The following
words and phrases as used in ss. 943.045-943.08 shall have the
following meanings:

(11) "Criminal justice agency" means:

(f) The investigations component of the Department of
Financial Services which investigates the crimes of fraud and
official misconduct in all public assistance given to residents
of the state or provided to others by the state.

Section 13. Effective upon this act becoming a law,
subsection (3) of section 40 of chapter 2019-140, Laws of
Florida, is amended to read:

Section 14. (3) The task force shall submit a report to the
Governor,

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

And the title is amended as follows:

Delete lines 42 - 110

and insert:

amending s. 552.081, F.S.; revising the definition of
the term "two-component explosives" for the purpose of
regulation by the Division of State Fire Marshal;
amending s. 553.7921, F.S.; authorizing a contractor



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repairing certain existing fire alarm systems to begin work after filing an application for a required permit but before receiving the permit; providing construction; amending s. 626.2815, F.S.; revising continuing education requirements for certain persons licensed to solicit, sell, or adjust insurance; amending s. 633.102, F.S.; revising the authority of certain fire protection system contractors to design and alter certain systems; amending s. 633.136, F.S.; replacing fire protection agencies in the Fire and Emergency Incident Information Reporting Program with fire service providers and defining the term; revising the composition of the Fire and Emergency Incident Information System Technical Advisory Panel; amending s. 633.202, F.S.; extending a deadline for certain buildings to comply with a minimum radio signal strength requirement under the Florida Fire Prevention Code; requiring such buildings to meet certain conditions by a specified date; extending the repeal date of exemptions to the Florida Fire Prevention Code which authorize doorstep refuse and recycling collection containers to be in exit access corridors in certain apartment occupancies under certain circumstances; creating s. 633.217, F.S.; prohibiting certain acts to influence a firesafety inspector into violating certain laws; prohibiting a firesafety inspector from knowingly and willfully accepting an attempt to influence him or her into violating certain laws; amending s. 633.304, F.S.; revising requirements



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649 for training courses for licensees installing or
650 maintaining certain fire suppression equipment;
651 amending s. 633.402, F.S.; revising the composition of
652 the Firefighters Employment, Standards, and Training
653 Council; amending s. 633.416, F.S.; providing that
654 certain persons serving as volunteer firefighters may
655 serve as a regular or permanent firefighter for a
656 limited period, subject to certain restrictions;
657 amending s. 843.08, F.S.; prohibiting false
658 personation of personnel or representatives of the
659 Division of Investigative and Forensic Services;
660 providing criminal penalties; amending s. 943.045,
661 F.S.; revising the definition of the term "criminal
662 justice agency" to include the investigations
663 component of the department which investigates certain
664 crimes; amending chapter 2019-140, L.O.F.; extending
665 the deadline for the Florida Blockchain Task Force to



483952

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/26/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Delete lines 781 - 782
and insert:
However, existing apartment buildings must have completed a minimum radio strength assessment ~~are required to apply for the appropriate permit~~ for the required communications

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

And the title is amended as follows:



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11 Delete line 79
12 and insert:
13 conditions by a specified date; revising a condition
14 that existing apartment buildings must meet by a
15 specified date; extending the repeal



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

A bill to be entitled

An act relating to the Department of Financial
Services; amending s. 20.121, F.S.; specifying powers
and duties of the Division of Public Assistance Fraud;
creating s. 284.45, F.S.; prohibiting individuals
working for entities covered by the State Risk
Management Trust Fund from engaging in retaliatory
conduct against sexual harassment victims; defining
the term "sexual harassment victim"; specifying a
criminal penalty for the willful and knowing
dissemination of a sexual harassment victim's personal
identifying information, except under certain
circumstances; specifying protected personal
identifying information; amending s. 497.101, F.S.;
revising provisions relating to membership of the
Board of Funeral, Cemetery, and Consumer Services
within the department; deleting a requirement for the
department to adopt certain rules; creating s.
497.1411, F.S.; defining terms; providing for
permanent disqualification of applicants for licensure
under ch. 497, F.S., for certain offenses; providing
for disqualifying periods for applicants for certain
offenses; requiring the board to adopt rules;
providing for calculation of disqualifying periods;
providing conditions for licensure after completion of
a disqualifying period; specifying the effect of a



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pardon or clemency; providing for exemptions from
disqualification in certain circumstances; providing
procedures for consideration of applications for such
exemptions; providing construction; amending s.
497.142, F.S.; revising criminal history disclosure
requirements for applicants seeking licensure under
ch. 497, F.S.; amending s. 497.157, F.S.; prohibiting
persons from acting as or advertising themselves as
being funeral directors, embalmers, direct disposers,
or preneed sales agents unless they are so licensed;
prohibiting persons from engaging in certain
activities requiring licensure without holding
required licenses; revising the criminal penalty for
unlicensed activity; amending s. 497.159, F.S.;
conforming a provision to changes made by the act;
amending s. 497.459, F.S.; revising conditions under
which a preneed licensee must provide certain persons
a written notice of intent to distribute funds;
requiring preneed licensees to conduct a certain
analysis at specified intervals; requiring the preneed
licensee, rather than the trustee, to conduct a
certain diligent search and inquiry and mail the
notice under certain circumstances; revising the
timeframe for a failure to respond to the notice
before funds are distributed; revising requirements
for the distribution of funds; providing and revising
construction relating to certain liability and rights;
specifying requirements and procedures for fulfillment
or cancellation of the preneed contract; providing



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56 applicability; amending s. 552.081, F.S.; revising the
57 definition of the term "two-component explosives" for
58 the purpose of regulation by the Division of State
59 Fire Marshal; amending s. 553.7921, F.S.; authorizing
60 a contractor repairing certain existing fire alarm
61 systems to begin work after filing an application for
62 a required permit but before receiving the permit;
63 providing construction; amending s. 626.2815, F.S.;
64 revising continuing education requirements for certain
65 persons licensed to solicit, sell, or adjust
66 insurance; amending s. 633.102, F.S.; revising the
67 authority of certain fire protection system
68 contractors to design and alter certain systems;
69 amending s. 633.136, F.S.; replacing fire protection
70 agencies in the Fire and Emergency Incident
71 Information Reporting Program with fire service
72 providers and defining the term; revising the
73 composition of the Fire and Emergency Incident
74 Information System Technical Advisory Panel; amending
75 s. 633.202, F.S.; extending a deadline for certain
76 buildings to comply with a minimum radio signal
77 strength requirement under the Florida Fire Prevention
78 Code; requiring such buildings to meet certain
79 conditions by a specified date; extending the repeal
80 date of exemptions to the Florida Fire Prevention Code
81 which authorize doorstep refuse and recycling
82 collection containers to be in exit access corridors
83 in certain apartment occupancies under certain
84 circumstances; creating s. 633.217, F.S.; prohibiting



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85 certain acts to influence a firesafety inspector into
86 violating certain laws; prohibiting a firesafety
87 inspector from knowingly and willfully accepting an
88 attempt to influence him or her into violating certain
89 laws; amending s. 633.304, F.S.; revising requirements
90 for training courses for licensees installing or
91 maintaining certain fire suppression equipment;
92 amending s. 633.402, F.S.; revising the composition of
93 the Firefighters Employment, Standards, and Training
94 Council; amending s. 633.416, F.S.; providing that
95 certain persons serving as volunteer firefighters may
96 serve as a regular or permanent firefighter for a
97 limited period, subject to certain restrictions;
98 amending s. 843.08, F.S.; prohibiting false
99 personation of personnel or representatives of the
100 Division of Investigative and Forensic Services;
101 providing criminal penalties; amending s. 943.045,
102 F.S.; revising the definition of the term "criminal
103 justice agency" to include the investigations
104 component of the department which investigates certain
105 crimes; amending chapter 2019-140, L.O.F.; renaming
106 the Florida Blockchain Task Force as the Florida
107 Financial Technology and Blockchain Task Force; adding
108 duties to the task force relating to financial
109 technology; revising the master plan of the task
110 force; extending the deadline for the task force to
111 submit its report to the Governor and the Legislature;
112 providing effective dates.
113



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

Section 1. Paragraph (f) of subsection (2) of section 20.121, Florida Statutes, is amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions and office:

(f) The Division of Public Assistance Fraud, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division shall conduct investigations pursuant to s. 414.411 within or outside of this state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of this state has or may have been violated, it shall refer any records tending to show such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.

Section 2. Section 284.45, Florida Statutes, is created to read:

284.45 Sexual harassment victims.—

(1) An individual working for an entity covered by the State Risk Management Trust Fund may not engage in retaliatory conduct of any kind against a sexual harassment victim. As used in this section, the term "sexual harassment victim" means an individual employed, or being considered for employment, with an entity participating in the State Risk Management Trust Fund, who becomes a victim of workplace sexual harassment through the course of employment, or while being considered for employment,



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with the entity.

(2) The willful and knowing dissemination of personal identifying information of a sexual harassment victim to any party other than a governmental entity in furtherance of its official duties or pursuant to a court order is a misdemeanor of the first degree, punishable as provided in s. 775.082. For purposes of this subsection, personal identifying information includes the name of the sexual harassment victim and his or her:

(a) Home address;

(b) Home phone number;

(c) Cellular phone number;

(d) E-mail address;

(e) Social media account username or uniform resource locator (URL); or

(f) Any other information that could reasonably be used to identify an alleged sexual harassment victim.

Section 3. Subsections (1), (2), (3), (6), and (8) of section 497.101, Florida Statutes, are amended to read:

497.101 Board of Funeral, Cemetery, and Consumer Services; membership; appointment; terms.—

(1) The Board of Funeral, Cemetery, and Consumer Services is created within the Department of Financial Services and shall consist of 10 members, 9 of whom shall be appointed by the Governor from nominations made by the Chief Financial Officer and confirmed by the Senate. The Chief Financial Officer shall nominate one to three persons for each of the nine vacancies on the board, and the Governor shall fill each vacancy on the board by appointing one of the ~~three~~ persons nominated by the Chief



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Financial Officer to fill that vacancy. If the Governor objects to each of the ~~three~~ nominations for a vacancy, she or he shall inform the Chief Financial Officer in writing. Upon notification of an objection by the Governor, the Chief Financial Officer shall submit one to three additional nominations for that vacancy until the vacancy is filled. One member must be the State Health Officer or her or his designee.

(2) Two members of the board shall be funeral directors licensed under part III of this chapter who are associated with a funeral establishment. One member of the board shall be a funeral director licensed under part III of this chapter who is associated with a funeral establishment licensed under part III of this chapter that has a valid preneed license issued pursuant to this chapter and who owns or operates a cinerator facility approved under chapter 403 and licensed under part VI of this chapter. Two members of the board shall be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. ~~Two~~ Three members of the board shall be consumers who are residents of the state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the two consumer members shall be at least 60 years of age, ~~and one shall be licensed as a certified public accountant under chapter 473. One member of the board shall be a consumer who is a resident of this state; is licensed as a certified public accountant under chapter 473; has never been licensed as a funeral director or embalmer; is not a principal~~



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~~or employee of any licensee licensed under this chapter; and does not otherwise have control, as defined in s. 497.005, over any licensee licensed under this chapter.~~ One member of the board shall be a principal of a monument establishment licensed under this chapter as a monument builder. One member shall be the State Health Officer or her or his designee. There shall not be two or more board members who are principals or employees of the same company or partnership or group of companies or partnerships under common control.

(3) Board members shall be appointed for terms of 4 years, and the State Health Officer shall serve as long as that person holds that office. The designee of the State Health Officer shall serve at the pleasure of the Governor. ~~When the terms of the initial board members expire, the Chief Financial Officer shall stagger the terms of the successor members as follows: one funeral director, one cemetery representative, the monument builder, and one consumer member shall be appointed for terms of 2 years, and the remaining members shall be appointed for terms of 4 years. All subsequent terms shall be for 4 years.~~

(6) The headquarters and records of the board shall be in the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services in the City of Tallahassee. The board may be contacted through the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services in the City of Tallahassee. The Chief Financial Officer shall annually appoint from among the board members a chair and vice chair of the board. The board shall meet at least every 6 months, and more often as necessary. Special meetings of the board shall be convened upon the direction of the Chief



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230 Financial Officer. A quorum is necessary for the conduct of
231 business by the board. Unless otherwise provided by law, a
232 majority of the board members eligible to vote shall constitute
233 a quorum for the purpose of conducting its business ~~six board~~
234 ~~members shall constitute a quorum for the conduct of the board's~~
235 ~~business.~~

236 ~~(8) The department shall adopt rules establishing forms by~~
237 ~~which persons may apply for membership on the board and~~
238 ~~procedures for applying for such membership. Such forms shall~~
239 ~~require disclosure of the existence and nature of all current~~
240 ~~and past employments by or contracts with, and direct or~~
241 ~~indirect affiliations or interests in, any entity or business~~
242 ~~that at any time was licensed by the board or by the former~~
243 ~~Board of Funeral and Cemetery Services or the former Board of~~
244 ~~Funeral Directors and Embalmers or that is or was otherwise~~
245 ~~involved in the death care industry, as specified by department~~
246 ~~rule.~~

247 Section 4. Section 497.1411, Florida Statutes, is created
248 to read:

249 497.1411 Disqualification of applicants and licensees;
250 penalties against licensees; rulemaking.-

251 (1) For purposes of this section, the term:

252 (a) "Applicant" means an individual applying for licensure
253 or relicensure under this chapter, and an officer, a director, a
254 majority owner, a partner, a manager, or other person who
255 manages or controls an entity applying for licensure or
256 relicensure under this chapter.

257 (b) "Felony of the first degree" and "capital felony"
258 include all felonies designated as such in this state at the



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259 time of the commission of the offense, as well as any offense in
260 another jurisdiction that is substantially similar to an offense
261 so designated in this state.

262 (c) "Financial services business" means any financial
263 activity regulated by the department, the Office of Insurance
264 Regulation, or the Office of Financial Regulation.

265 (2) An applicant who has been found guilty of or has
266 pleaded guilty or nolo contendere to any of the following
267 crimes, regardless of adjudication, is permanently barred from
268 licensure under this chapter:

269 (a) A felony of the first degree.

270 (b) A capital felony.

271 (c) A felony money laundering offense.

272 (d) A felony embezzlement.

273 (3) An applicant who has been found guilty of or has
274 pleaded guilty or nolo contendere to a crime not included in
275 subsection (2), regardless of adjudication, is subject to:

276 (a) A 10-year disqualifying period for all felonies
277 involving moral turpitude that are not specifically included in
278 the permanent bar contained in subsection (2).

279 (b) A 5-year disqualifying period for all felonies to which
280 neither the permanent bar in subsection (2) nor the 10-year
281 disqualifying period in paragraph (a) applies.

282 (c) A 5-year disqualifying period for all misdemeanors
283 directly related to the financial services business.

284 (4) The board shall adopt rules to administer this section.
285 The rules must provide for additional disqualifying periods due
286 to the commitment of multiple crimes and may include other
287 factors reasonably related to the applicant's criminal history.



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288 The rules shall provide for mitigating and aggravating factors.
289 However, mitigation may not result in a period of
290 disqualification of less than 5 years and may not mitigate the
291 disqualifying periods in paragraphs (3)(b) and (c).

292 (5) For purposes of this section, a disqualifying period
293 begins upon the applicant's final release from supervision or
294 upon completion of the applicant's criminal sentence. The
295 department may not issue a license to an applicant unless all
296 related fines, court costs and fees, and court-ordered
297 restitution have been paid.

298 (6) After the disqualifying period has expired, the burden
299 is on the applicant to demonstrate that he or she has been
300 rehabilitated, does not pose a risk to the public, is fit and
301 trustworthy to engage in business regulated by this chapter, and
302 is otherwise qualified for licensure.

303 (7) Notwithstanding subsections (2) and (3), an applicant
304 who has been found guilty of, or has pleaded guilty or nolo
305 contendere to, a crime in subsection (2) or subsection (3) and
306 who has subsequently been granted a pardon or the restoration of
307 civil rights pursuant to chapter 940 and s. 8, Art. IV of the
308 State Constitution, or a pardon or the restoration of civil
309 rights under the laws of another jurisdiction with respect to a
310 conviction in that jurisdiction, is not barred or disqualified
311 from licensure under this chapter. However, such a pardon or
312 restoration of civil rights does not require the department to
313 award such license.

314 (8)(a) The board may grant an exemption from
315 disqualification to any person disqualified from licensure under
316 subsection (3) if:



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317 1. The applicant has paid in full any fee, fine, fund,
318 lien, civil judgment, restitution, or cost of prosecution
319 imposed by the court as part of the judgment and sentence for
320 any disqualifying offense; and

321 2. At least 5 years have elapsed since the applicant
322 completed or has been lawfully released from confinement,
323 supervision, or nonmonetary condition imposed by the court for a
324 disqualifying offense.

325 (b) For the board to grant an exemption under this
326 subsection, the applicant must clearly and convincingly
327 demonstrate that he or she would not pose a risk to persons or
328 property if licensed under this chapter, evidence of which must
329 include, but need not be limited to, facts and circumstances
330 surrounding the disqualifying offense, the time that has elapsed
331 since the offense, the nature of the offense and harm caused to
332 the victim, the applicant's history before and after the
333 offense, and any other evidence or circumstances indicating that
334 the applicant will not present a danger if licensed or
335 certified.

336 (c) The board has discretion whether to grant or deny an
337 exemption under this subsection. The board's decision is subject
338 to chapter 120.

339 (9) The disqualification periods provided in this section
340 do not apply to the renewal of a license or to a new application
341 for licensure if the applicant has an active license as of July
342 1, 2020, and the applicable criminal history was considered by
343 the board on the prior approval of any active license held by
344 the applicant. This subsection does not affect any criminal
345 history disclosure requirement of this chapter.



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346 Section 5. Subsection (9) and paragraph (c) of subsection
347 (10) of section 497.142, Florida Statutes, are amended to read:
348 497.142 Licensing; fingerprinting and criminal background
349 checks.—

350 (9) If any applicant under this chapter has been, ~~within~~
351 ~~the 10 years preceding the application under this chapter,~~
352 convicted or found guilty of, or entered a plea of nolo
353 contendere to, regardless of adjudication, any crime in any
354 jurisdiction, the application shall not be deemed complete until
355 such time as the applicant provides such certified true copies
356 of the court records evidencing the conviction, finding, or plea
357 as required by this section ~~or,~~ as the licensing authority may
358 by rule require.

359 (10) (c) Crimes to be disclosed are:

360 1. Any felony ~~or misdemeanor,~~ no matter when committed,
361 ~~that was directly or indirectly related to or involving any~~
362 ~~aspect of the practice or business of funeral directing,~~
363 ~~embalming, direct disposition, cremation, funeral or cemetery~~
364 ~~preneed sales, funeral establishment operations, cemetery~~
365 ~~operations, or cemetery monument or marker sales or~~
366 ~~installation.~~

367 2. Any misdemeanor, no matter when committed, which was
368 directly or indirectly related to the financial services
369 business as defined in s. 497.1411 ~~Any other felony not already~~
370 ~~disclosed under subparagraph 1. that was committed within the 20~~
371 ~~years immediately preceding the application under this chapter.~~

372 3. Any other misdemeanor not already disclosed under
373 subparagraph 2. ~~subparagraph 1.~~ that was committed within the 5
374 years immediately preceding the application under this chapter.



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375 Section 6. Present subsections (2) through (5) of section
376 497.157, Florida Statutes, are redesignated as subsections (4)
377 through (7), respectively, new subsections (2) and (3) and
378 subsection (8) are added to that section, and present subsection
379 (3) of that section is amended, to read:

380 497.157 Unlicensed practice; remedies concerning violations
381 by unlicensed persons.—

382 (2) A person may not be, act as, or advertise or hold
383 himself or herself out to be a funeral director, embalmer, or
384 direct disposer unless he or she is currently licensed by the
385 department.

386 (3) A person may not be, act as, or advertise or hold
387 himself or herself out to be a preneed sales agent unless he or
388 she is currently licensed by the department and appointed by a
389 preneed main licensee for which they are executing preneed
390 contracts.

391 (5) (3) Where the department determines that an emergency
392 exists regarding any violation of this chapter by any unlicensed
393 person or entity, the department may issue and serve an
394 immediate final order upon such unlicensed person or entity, in
395 accordance with s. 120.569(2)(n). Such an immediate final order
396 may impose such prohibitions and requirements as are reasonably
397 necessary to protect the public health, safety, and welfare, and
398 shall be effective when served.

399 (a) For the purpose of enforcing such an immediate final
400 order, the department may file an emergency or other proceeding
401 in the circuit courts of the state seeking enforcement of the
402 immediate final order by injunctive or other order of the court.
403 The court shall issue its injunction or other order enforcing



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404 the immediate final order pending administrative resolution of
405 the matter under subsection (4) ~~(2)~~, unless the court determines
406 that such action would work a manifest injustice under the
407 circumstances. Venue for judicial actions under this paragraph
408 shall be, at the election of the department, in the courts of
409 Leon County, or in a county where the respondent resides or has
410 a place of business.

411 (b) After serving an immediate final order to cease and
412 desist upon any person or entity, the department shall within 10
413 days issue and serve upon the same person or entity an
414 administrative complaint as set forth in subsection (4) ~~(2)~~,
415 except that, absent order of a court to the contrary, the
416 immediate final order shall be effective throughout the pendency
417 of proceedings under subsection (4) ~~(2)~~.

418 (8) Any person who is not licensed under this chapter and
419 who engages in activity requiring licensure under this chapter
420 commits a felony of the third degree, punishable as provided in
421 s. 775.082, s. 775.083, or s. 775.084.

422 Section 7. Subsection (6) of section 497.159, Florida
423 Statutes, is amended to read:

424 497.159 Crimes.—

425 ~~(6) Any person who is not licensed under this chapter who~~
426 ~~engages in activity requiring licensure under this chapter,~~
427 ~~commits a misdemeanor of the second degree, punishable as~~
428 ~~provided in s. 775.082 or s. 775.083.~~

429 Section 8. Subsection (7) of section 497.459, Florida
430 Statutes, is amended to read:

431 497.459 Cancellation of, or default on, preneed contracts;
432 required notice.—



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433 (7) NOTICE TO PURCHASER OR LEGALLY AUTHORIZED PERSON.—

434 (a) To ensure the performance of unfulfilled preneed
435 contracts, upon the occurrence of the earlier earliest of either
436 ~~any~~ of the following events, a preneed licensee shall provide to
437 the purchaser or to the beneficiary's legally authorized person
438 written notice of the preneed licensee's intent to distribute
439 funds as described herein in accordance with the terms of the
440 preneed contract, if any such terms exist ~~obligation of the~~
441 ~~preneed licensee remains to be fulfilled under the contract:~~

442 1. Fifty years after the date of execution of the preneed
443 contract by the purchaser.

444 2. The beneficiary of the preneed contract attains the age
445 of 105 years of age or older.

446 ~~3. The social security number of the beneficiary of the~~
447 ~~preneed contract, as shown on the contract, is contained within~~
448 ~~the United States Social Security Administration Death Master~~
449 ~~File.~~

450
451 By July 1, 2021, and at least every 3 years thereafter, a
452 preneed licensee shall conduct an analysis of each of its
453 preneed contracts to determine if subparagraph 1. or
454 subparagraph 2. applies.

455 (b)1. The notice in paragraph (a) must be provided by
456 certified mail, registered mail, or permitted delivery service,
457 return receipt requested, to the last known mailing address of
458 the purchaser or the beneficiary's legally authorized person,
459 whichever is applicable, as provided to the preneed licensee. If
460 the notice is returned as undeliverable within 30 calendar days
461 after the preneed licensee sent the notice, the preneed licensee



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462 ~~trustee~~ shall perform a diligent search and inquiry to obtain a
463 different address for the purchaser or the beneficiary's legally
464 authorized person, whichever is applicable. For purposes of this
465 subparagraph, any address known and used by the purchaser or the
466 beneficiary's legally authorized person, whichever is
467 applicable, for sending regular mailings or other communications
468 from the purchaser or the beneficiary's legally authorized
469 person, whichever is applicable, to the preneed licensee or any
470 address produced through a current address service or searchable
471 database shall be included with other addresses produced from
472 the diligent search and inquiry, if any. If the preneed
473 licensee's ~~trustee's~~ diligent search and inquiry produces an
474 address different from the notice address, the preneed licensee
475 ~~trustee~~ shall mail a copy of the notice by certified mail,
476 registered mail, or permitted delivery service, return receipt
477 requested, to any and all addresses produced as a result of the
478 diligent search and inquiry.

479 2. If the purchaser or the beneficiary's legally authorized
480 person, whichever is applicable, fails to respond to such notice
481 within 3 years ~~120 days~~ after delivery of the last mailed notice
482 under subparagraph 1., the funds held in trust must be
483 distributed within 60 days after the end of the 3-year period
484 and in accordance with any applicable provision of chapter 717,
485 as follows:

486 a. The principal deposited into trust must be remitted to
487 the Unclaimed Property Trust Fund.

488 b. Any additional funds in trust must be remitted to the
489 preneed licensee.

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491 Upon the occurrence of the distribution from trust, the preneed
492 licensee is absolved of all liability associated with the
493 preneed contract for which funds were distributed, including any
494 obligation to refund any monies paid by a purchaser of a preneed
495 contract. The names of the purchaser and the beneficiary of any
496 preneed contract for which funds were distributed must be
497 provided to the Division of Unclaimed Property at the time such
498 funds are remitted to the Unclaimed Property Trust Fund.

499 (c) A purchaser or a beneficiary that receive the notice
500 required under this subsection retains all rights to fulfillment
501 or cancellation of the preneed contract during the time between
502 the issuance of the notice and the distribution described in
503 subparagraph (b)2. Legally authorized persons, in the priority
504 set forth in this chapter, of the purchaser or beneficiary may
505 obtain fulfillment or cancellation of the preneed contract. Such
506 fulfillment may include identifying a new beneficiary on the
507 preneed contract. A preneed licensee shall provide fulfillment
508 or cancellation of the preneed contract upon the attestation of
509 any one legally authorized person that he or she is not aware of
510 an objection to the requested action by any person in his or her
511 priority class or a higher priority class. If the legally
512 authorized person chooses to identify a new beneficiary on the
513 preneed contract, the preneed contract is deemed effective as of
514 the date of the identification of the new beneficiary in
515 accordance with the terms of the preneed contract, the trust
516 agreement, and any applicable provisions of chapter 717.

517 ~~(e) This subsection does not affect a purchaser's rights to~~
518 ~~cancel the preneed contract and receive a refund or a preneed~~
519 ~~licensee's obligations to refund established by this chapter.~~



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520 (d) This section does not apply to any interment
521 merchandise or services associated with such interment rights.

522 (e) The licensing authority shall have authority to adopt
523 rules for the review and approval of notice forms used by
524 preneed licensees to provide notice under this subsection.

525 Section 9. Subsection (13) of section 552.081, Florida
526 Statutes, is amended to read:

527 552.081 Definitions.—As used in this chapter:

528 (13) “Two-component explosives” means any two inert
529 components which, when mixed, become capable of detonation by
530 any detonator ~~a No. 6 blasting cap~~, and shall be classified as a
531 Class “A” explosive when so mixed.

532 Section 10. Present subsection (2) of section 553.7921,
533 Florida Statutes, is redesignated as subsection (3), a new
534 subsection (2) is added to that section, and subsection (1) of
535 that section is amended, to read:

536 553.7921 Fire alarm permit application to local enforcement
537 agency.—

538 (1) A contractor must file a Uniform Fire Alarm Permit
539 Application as provided in subsection (3) ~~(2)~~ with the local
540 enforcement agency and must receive the fire alarm permit
541 before:

542 ~~(a) installing or replacing a fire alarm,~~ if the local
543 enforcement agency requires a plan review for the installation
544 or replacement; ~~or~~

545 ~~(b) Repairing an existing alarm system that was previously~~
546 ~~permitted by the local enforcement agency if the local~~
547 ~~enforcement agency requires a fire alarm permit for the repair.~~

548 (2) If the local enforcement agency requires a fire alarm



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549 permit to repair an existing alarm system that was previously
550 permitted by the local enforcement agency, a contractor may
551 begin work after filing a Uniform Fire Alarm Permit Application
552 as provided in subsection (3). A fire alarm repaired pursuant to
553 this subsection may not be considered compliant until the
554 required permit is issued and the local enforcement agency
555 approves the repair.

556 Section 11. Effective January 1, 2021, subsection (3) of
557 section 626.2815, Florida Statutes, is amended to read:

558 626.2815 Continuing education requirements.—

559 (3) Each licensee except a title insurance agent must
560 complete a 4-hour ~~5-hour~~ update course every 2 years which is
561 specific to the license held by the licensee. The course must be
562 developed and offered by providers and approved by the
563 department. The content of the course must address all lines of
564 insurance for which examination and licensure are required and
565 include the following subject areas: insurance law updates,
566 ethics for insurance professionals, disciplinary trends and case
567 studies, industry trends, premium discounts, determining
568 suitability of products and services, and other similar
569 insurance-related topics the department determines are relevant
570 to legally and ethically carrying out the responsibilities of
571 the license granted. A licensee who holds multiple insurance
572 licenses must complete an update course that is specific to at
573 least one of the licenses held. Except as otherwise specified,
574 any remaining required hours of continuing education are
575 elective and may consist of any continuing education course
576 approved by the department under this section.

577 (a) Except as provided in paragraphs (b), (c), (d), (e),



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578 (i), and (j), each licensee must also complete 20 ~~19~~ hours of
579 elective continuing education courses every 2 years.

580 (b) A licensee who has been licensed for 6 or more years
581 must also complete a minimum of 16 ~~15~~ hours of elective
582 continuing education every 2 years.

583 (c) A licensee who has been licensed for 25 years or more
584 and is a CLU or a CPCU or has a Bachelor of Science degree in
585 risk management or insurance with evidence of 18 or more
586 semester hours in insurance-related courses must also complete a
587 minimum of 6 ~~5~~ hours of elective continuing education courses
588 every 2 years.

589 (d) An individual who holds a license as a customer
590 representative and who is not a licensed life or health agent
591 must also complete a minimum of 6 ~~5~~ hours of continuing
592 education courses every 2 years.

593 (e) An individual subject to chapter 648 must complete the
594 4-hour ~~5-hour~~ update course and a minimum of 10 ~~9~~ hours of
595 elective continuing education courses every 2 years.

596 (f) Elective continuing education courses for public
597 adjusters must be specifically designed for public adjusters and
598 approved by the department. Notwithstanding this subsection,
599 public adjusters for workers' compensation insurance or health
600 insurance are not required to take continuing education courses
601 pursuant to this section.

602 (g) Excess hours accumulated during any 2-year compliance
603 period may be carried forward to the next compliance period.

604 (h) An individual teaching an approved course of
605 instruction or lecturing at any approved seminar and attending
606 the entire course or seminar qualifies for the same number of



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607 classroom hours as would be granted to a person taking and
608 successfully completing such course or seminar. Credit is
609 limited to the number of hours actually taught unless a person
610 attends the entire course or seminar. An individual who is an
611 official of or employed by a governmental entity in this state
612 and serves as a professor, instructor, or in another position or
613 office, the duties and responsibilities of which are determined
614 by the department to require monitoring and review of insurance
615 laws or insurance regulations and practices, is exempt from this
616 section.

617 (i) For compliance periods beginning on or after October 1,
618 2014, any person who holds a license as a title insurance agent
619 must complete a minimum of 10 hours of continuing education
620 credit every 2 years in title insurance and escrow management
621 specific to this state and approved by the department, which
622 shall include at least 3 hours of continuing education on the
623 subject matter of ethics, rules, or compliance with state and
624 federal regulations relating specifically to title insurance and
625 closing services.

626 (j) For a licensee who is an active participant in an
627 association, 2 hours of elective continuing education credit per
628 calendar year may be approved by the department, if properly
629 reported by the association.

630 Section 12. Subsection (3) of section 633.102, Florida
631 Statutes, is amended to read:

632 633.102 Definitions.—As used in this chapter, the term:

633 (3) (a) "Contractor I" means a contractor whose business
634 includes the execution of contracts requiring the ability to lay
635 out, fabricate, install, inspect, alter, repair, and service all



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636 types of fire protection systems, excluding preengineered
637 systems.

638 (b) "Contractor II" means a contractor whose business is
639 limited to the execution of contracts requiring the ability to
640 lay out, fabricate, install, inspect, alter, repair, and service
641 water sprinkler systems, water spray systems, foam-water
642 sprinkler systems, foam-water spray systems, standpipes,
643 combination standpipes and sprinkler risers, all piping that is
644 an integral part of the system beginning at the point of service
645 as defined in this section, sprinkler tank heaters, air lines,
646 thermal systems used in connection with sprinklers, and tanks
647 and pumps connected thereto, excluding preengineered systems.

648 (c) "Contractor III" means a contractor whose business is
649 limited to the execution of contracts requiring the ability to
650 fabricate, install, inspect, alter, repair, and service carbon
651 dioxide systems, foam extinguishing systems, dry chemical
652 systems, and Halon and other chemical systems, excluding
653 preengineered systems.

654 (d) "Contractor IV" means a contractor whose business is
655 limited to the execution of contracts requiring the ability to
656 lay out, fabricate, install, inspect, alter, repair, and service
657 automatic fire sprinkler systems for detached one-family
658 dwellings, detached two-family dwellings, and mobile homes,
659 excluding preengineered systems and excluding single-family
660 homes in cluster units, such as apartments, condominiums, and
661 assisted living facilities or any building that is connected to
662 other dwellings. A Contractor IV is limited to the scope of
663 practice specified in NFPA 13D.

664 (e) "Contractor V" means a contractor whose business is



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665 limited to the execution of contracts requiring the ability to
666 fabricate, install, inspect, alter, repair, and service the
667 underground piping for a fire protection system using water as
668 the extinguishing agent beginning at the point of service as
669 defined in this act and ending no more than 1 foot above the
670 finished floor.

671
672 The definitions in this subsection may not be construed to
673 include engineers or architects and do not limit or prohibit a
674 licensed fire protection engineer or architect with fire
675 protection design experience from designing any type of fire
676 protection system. A distinction is made between system design
677 concepts prepared by the design professional and system layout
678 as defined in this section and typically prepared by the
679 contractor. However, a person certified as a Contractor I ~~or~~
680 Contractor II, ~~or Contractor IV~~ under this chapter may design
681 new fire protection systems of 49 or fewer sprinklers; ~~and~~ may
682 design the alteration of an existing fire sprinkler system if
683 the alteration consists of the relocation, addition, or deletion
684 of not more than 49 or fewer sprinklers, notwithstanding the
685 size of the existing fire sprinkler system; or may design the
686 alteration of an existing fire sprinkler system if the
687 alteration consists of the relocation or deletion of 249 or
688 fewer sprinklers, notwithstanding the size of the existing fire
689 sprinkler system, if there is no change of occupancy, as defined
690 in the Florida Building Code, of the affected areas and there is
691 no change in the water demand as defined in National Fire
692 Protection Association publication NFPA 13 "Standard for the
693 Installation of Sprinkler Systems," and if the occupancy hazard



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694 classification as defined in NFPA 13 is reduced or remains the
695 same as a result of the alteration. A person certified as a
696 Contractor I, Contractor II, or Contractor IV may design or
697 alter a fire protection system, the scope of which complies with
698 NFPA 13D, Standard for the Installation of Sprinkler Systems in
699 One- and Two-Family Dwellings and Manufactured Homes, as adopted
700 by the State Fire Marshal, notwithstanding the number of fire
701 sprinklers. Contractor-developed plans may not be required by
702 any local permitting authority to be sealed by a registered
703 professional engineer.

704 Section 13. Section 633.136, Florida Statutes, is amended
705 to read:

706 633.136 Fire and Emergency Incident Information Reporting
707 Program; duties; fire reports.—

708 (1) (a) The Fire and Emergency Incident Information
709 Reporting Program is created within the division. The program
710 shall:

711 1. Establish and maintain an electronic communication
712 system capable of transmitting fire and emergency incident
713 information to and between fire service providers ~~protection~~
714 ~~agencies~~.

715 2. Initiate a Fire and Emergency Incident Information
716 Reporting System that shall be responsible for:

717 a. Receiving fire and emergency incident information from
718 fire service providers ~~protection agencies~~.

719 b. Preparing and disseminating annual reports to the
720 Governor, the President of the Senate, the Speaker of the House
721 of Representatives, fire service providers ~~protection agencies~~,
722 and, upon request, the public. Each report shall include, but



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723 not be limited to, the information listed in the National Fire
724 Incident Reporting System.

725 c. Upon request, providing other states and federal
726 agencies with fire and emergency incident data of this state.

727 3. Adopt rules to effectively and efficiently implement,
728 administer, manage, maintain, and use the Fire and Emergency
729 Incident Information Reporting Program. The rules shall be
730 considered minimum requirements and shall not preclude a fire
731 service provider ~~protection agency~~ from implementing its own
732 requirements which may not conflict with the rules of the
733 division.

734 4. By rule, establish procedures and a format for each fire
735 service provider ~~protection agency~~ to voluntarily monitor its
736 records and submit reports to the program.

737 5. ~~Establish~~ Maintain an electronic information database
738 that is accessible and searchable by fire service providers
739 ~~protection agencies~~.

740 (b) The division shall consult with the Florida Forest
741 Service of the Department of Agriculture and Consumer Services
742 and the State Surgeon General of the Department of Health to
743 coordinate data, ensure accuracy of the data, and limit
744 duplication of efforts in data collection, analysis, and
745 reporting.

746 (2) The Fire and Emergency Incident Information System
747 Technical Advisory Panel is created within the division. The
748 panel shall advise, review, and recommend to the State Fire
749 Marshal with respect to the requirements of this section. The
750 membership of the panel shall consist of the ~~following~~ 15
751 members:



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752 ~~(a) The current 13 members~~ of the Firefighters Employment,
753 Standards, and Training Council as established in s. 633.402.

754 ~~(b) One member from the Florida Forest Service of the~~
755 ~~Department of Agriculture and Consumer Services, appointed by~~
756 ~~the director of the Florida Forest Service.~~

757 ~~(c) One member from the Department of Health, appointed by~~
758 ~~the State Surgeon General.~~

759 (3) ~~As used in For the purpose of~~ this section, the term
760 "fire service provider" has the same meaning as in s. 633.102
761 "fire protection agency" shall be defined by rule by the
762 division.

763 Section 14. Subsections (18) and (20) of section 633.202,
764 Florida Statutes, are amended to read:

765 633.202 Florida Fire Prevention Code.—

766 (18) The authority having jurisdiction shall determine the
767 minimum radio signal strength for fire department communications
768 in all new high-rise and existing high-rise buildings. Existing
769 buildings are not required to comply with minimum radio strength
770 for fire department communications and two-way radio system
771 enhancement communications as required by the Florida Fire
772 Prevention Code until January 1, 2023 ~~2022~~. However, by January
773 1, 2022 ~~December 31, 2019~~, an existing building that is not in
774 compliance with the requirements for minimum radio strength for
775 fire department communications must have completed a minimum
776 radio strength assessment ~~apply for an appropriate permit~~ for
777 the required installation with the local government agency
778 having jurisdiction and must demonstrate that the building will
779 become compliant by January 1, 2023 ~~2022~~. Existing apartment
780 buildings are not required to comply until January 1, 2025.



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781 However, existing apartment buildings are required to apply for
782 the appropriate permit for the required communications
783 installation by December 31, 2022.

784 (20) (a) In apartment occupancies with enclosed corridors
785 served by interior or exterior exit stairs, doorstep refuse and
786 recycling collection containers, which stand upright on their
787 own and do not leak liquids when standing upright, must be
788 allowed in exit access corridors when all of the following
789 conditions exist:

790 1. The maximum doorstep refuse and recycling collection
791 container size does not exceed 13 gallons.

792 2. Waste, which is in a doorstep refuse and recycling
793 collection container, is not placed in the exit access corridors
794 for single periods exceeding 5 hours.

795 3. Doorstep refuse and recycling collection containers do
796 not occupy the exit access corridors for single periods
797 exceeding 12 hours.

798 4. Doorstep refuse and recycling collection containers do
799 not reduce the means of egress width below that required under
800 NFPA Life Safety Code 101:31, as adopted under the Florida Fire
801 Prevention Code.

802 5. Management staff have written policies and procedures in
803 place and enforce them to ensure compliance with this paragraph,
804 and, upon request, provide a copy of such policies and
805 procedures to the authority having jurisdiction.

806 (b) In apartment occupancies with open-air corridors or
807 balconies served by exterior exit stairs, doorstep refuse and
808 recycling collection containers, which stand upright on their
809 own and do not leak liquids when standing upright, must be



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810 allowed in exit access corridors when all of the following
811 conditions exist:

812 1. The maximum doorstep refuse and recycling collection
813 container size does not exceed 27 gallons.

814 2. Waste, which is in a doorstep refuse and recycling
815 collection container, is not placed in the exit access corridors
816 for single periods exceeding 5 hours.

817 3. Doorstep refuse and recycling collection containers do
818 not reduce the means of egress width below that required under
819 NFPA Life Safety Code 101:31, as adopted under the Florida Fire
820 Prevention Code.

821 4. Management staff have written policies and procedures in
822 place and enforce them to ensure compliance with this paragraph,
823 and, upon request, provide a copy of such policies and
824 procedures to the authority having jurisdiction.

825 (c) The authority having jurisdiction may approve
826 alternative containers and storage arrangements that are
827 demonstrated to provide an equivalent level of safety to that
828 provided under paragraphs (a) and (b).

829 (d) The authority having jurisdiction shall allow apartment
830 occupancies a phase-in period until December 31, 2020, to comply
831 with this subsection.

832 (e) This subsection is repealed on January 1, 2024 ~~July 1,~~
833 ~~2021.~~

834 Section 15. Section 633.217, Florida Statutes, is created
835 to read:

836 633.217 Influencing a firesafety inspector; prohibited
837 acts.—

838 (1) A person may not influence a firesafety inspector by:



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839 (a) Threatening, coercing, tricking, or attempting to
840 threaten, coerce, or trick the firesafety inspector into
841 violating any provision of the Florida Fire Prevention Code, any
842 rule adopted by the State Fire Marshal, or any provision of this
843 chapter.

844 (b) Offering any compensation to the firesafety inspector
845 to induce a violation of the Florida Fire Prevention Code, any
846 rule adopted by the State Fire Marshal, or any provision of this
847 chapter.

848 (2) A firesafety inspector may not knowingly and willfully
849 accept an attempt by a person to influence the firesafety
850 inspector into violating any provision of the Florida Fire
851 Prevention Code, any rule adopted by the State Fire Marshal, or
852 any provision of this chapter.

853 Section 16. Paragraphs (d), (g), and (h) of subsection (4)
854 of section 633.304, Florida Statutes, are amended to read:

855 633.304 Fire suppression equipment; license to install or
856 maintain.—

857 (4)

858 (d) A license of any class may not be issued or renewed by
859 the division and a license of any class does not remain
860 operative unless:

861 1. The applicant has submitted to the State Fire Marshal
862 evidence of registration as a Florida corporation or evidence of
863 compliance with s. 865.09.

864 2. The State Fire Marshal or his or her designee has by
865 inspection determined that the applicant possesses the equipment
866 required for the class of license sought. The State Fire Marshal
867 shall give an applicant a reasonable opportunity to correct any



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868 deficiencies discovered by inspection. To obtain such
869 inspection, an applicant with facilities located outside this
870 state must:

871 a. Provide a notarized statement from a professional
872 engineer licensed by the applicant's state of domicile
873 certifying that the applicant possesses the equipment required
874 for the class of license sought and that all such equipment is
875 operable; or

876 b. Allow the State Fire Marshal or her or his designee to
877 inspect the facility. All costs associated with the State Fire
878 Marshal's inspection must be paid by the applicant. The State
879 Fire Marshal, in accordance with s. 120.54, may adopt rules to
880 establish standards for the calculation and establishment of the
881 amount of costs associated with any inspection conducted by the
882 State Fire Marshal under this section. Such rules must include
883 procedures for invoicing and receiving funds in advance of the
884 inspection.

885 3. The applicant has submitted to the State Fire Marshal
886 proof of insurance providing coverage for comprehensive general
887 liability for bodily injury and property damage, products
888 liability, completed operations, and contractual liability. The
889 State Fire Marshal shall adopt rules providing for the amounts
890 of such coverage, but such amounts may not be less than \$300,000
891 for Class A or Class D licenses, \$200,000 for Class B licenses,
892 and \$100,000 for Class C licenses; and the total coverage for
893 any class of license held in conjunction with a Class D license
894 may not be less than \$300,000. The State Fire Marshal may, at
895 any time after the issuance of a license or its renewal, require
896 upon demand, and in no event more than 30 days after notice of



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897 such demand, the licensee to provide proof of insurance, on the
898 insurer's form, containing confirmation of insurance coverage as
899 required by this chapter. Failure, for any length of time, to
900 provide proof of insurance coverage as required must result in
901 the immediate suspension of the license until proof of proper
902 insurance is provided to the State Fire Marshal. An insurer that
903 provides such coverage shall notify the State Fire Marshal of
904 any change in coverage or of any termination, cancellation, or
905 nonrenewal of any coverage.

906 4. The applicant applies to the State Fire Marshal,
907 provides proof of experience, and successfully completes a
908 prescribed training course that includes both written and
909 practical training offered at by the State Fire College and ~~or~~
910 ~~an equivalent course~~ approved by the State Fire Marshal as
911 applicable to the class of license being sought. This
912 subparagraph does not apply to any holder of or applicant for a
913 permit under paragraph (g) or to a business organization or a
914 governmental entity seeking initial licensure or renewal of an
915 existing license solely for the purpose of inspecting,
916 servicing, repairing, marking, recharging, and maintaining fire
917 extinguishers used and located on the premises of and owned by
918 such organization or entity.

919 5. The applicant has a current retestor identification
920 number that is appropriate for the license for which the
921 applicant is applying and that is listed with the United States
922 Department of Transportation.

923 6. The applicant has passed, with a grade of at least 70
924 percent, a written examination testing his or her knowledge of
925 the rules and statutes governing the activities authorized by



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926 the license and demonstrating his or her knowledge and ability
927 to perform those tasks in a competent, lawful, and safe manner.
928 Such examination must be developed and administered by the State
929 Fire Marshal, or his or her designee in accordance with policies
930 and procedures of the State Fire Marshal. An applicant shall pay
931 a nonrefundable examination fee of \$50 for each examination or
932 reexamination scheduled. A reexamination may not be scheduled
933 sooner than 30 days after any administration of an examination
934 to an applicant. An applicant may not be permitted to take an
935 examination for any level of license more than a total of four
936 times during 1 year, regardless of the number of applications
937 submitted. As a prerequisite to licensure of the applicant, he
938 or she:

939 a. Must be at least 18 years of age.

940 b. Must have 4 years of proven experience as a fire
941 equipment permittee at a level equal to or greater than the
942 level of license applied for or have a combination of education
943 and experience determined to be equivalent thereto by the State
944 Fire Marshal. Having held a permit at the appropriate level for
945 the required period constitutes the required experience.

946 c. Must not have been convicted of a felony or a crime
947 punishable by imprisonment of 1 year or more under the law of
948 the United States or of any state thereof or under the law of
949 any other country. "Convicted" means a finding of guilt or the
950 acceptance of a plea of guilty or nolo contendere in any federal
951 or state court or a court in any other country, without regard
952 to whether a judgment of conviction has been entered by the
953 court having jurisdiction of the case. If an applicant has been
954 convicted of any such felony, the applicant is excluded from



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955 licensure for a period of 4 years after expiration of sentence
956 or final release by the Florida Commission on Offender Review
957 unless the applicant, before the expiration of the 4-year
958 period, has received a full pardon or has had her or his civil
959 rights restored.

960
961 This subparagraph does not apply to any holder of or applicant
962 for a permit under paragraph (g) or to a business organization
963 or a governmental entity seeking initial licensure or renewal of
964 an existing license solely for the purpose of inspecting,
965 servicing, repairing, marking, recharging, hydrotesting, and
966 maintaining fire extinguishers used and located on the premises
967 of and owned by such organization or entity.

968 (g) A permit of any class may not be issued or renewed to a
969 person by the division, and a permit of any class does not
970 remain operative, unless the person has:

971 1. Submitted a nonrefundable examination fee in the amount
972 of \$50.

973 2. Successfully completed a training course that includes
974 both written and practical training offered at ~~by~~ the State Fire
975 College and ~~or an equivalent course~~ approved by the State Fire
976 Marshal as applicable to the class of license being sought.

977 3. Passed, with a grade of at least 70 percent, a written
978 examination testing his or her knowledge of the rules and
979 statutes governing the activities authorized by the permit and
980 demonstrating his or her knowledge and ability to perform those
981 tasks in a competent, lawful, and safe manner. Such examination
982 must be developed and administered by the State Fire Marshal in
983 accordance with the policies and procedures of the State Fire



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984 Marshal. An examination fee must be paid for each examination
985 scheduled. A reexamination may not be scheduled sooner than 30
986 days after any administration of an examination to an applicant.
987 An applicant may not be permitted to take an examination for any
988 level of permit more than four times during 1 year, regardless
989 of the number of applications submitted. As a prerequisite to
990 taking the permit examination, the applicant must be at least 16
991 years of age.

992 (h) An applicant for a license or permit under this section
993 who fails the examination may take it three more times during
994 the 1-year period after he or she originally filed an
995 application for the examination. If the applicant fails the
996 examination within 1 year after the application date and he or
997 she seeks to retake the examination, he or she must file a new
998 application, pay the application and examination fees, and
999 successfully complete a prescribed training course that includes
1000 both written and practical training offered at ~~by the State Fire~~
1001 ~~College and or an equivalent course~~ approved by the State Fire
1002 Marshal as applicable to the class of license being sought. The
1003 applicant may not submit a new application within 6 months after
1004 the date of his or her fourth reexamination. An applicant who
1005 passes the examination but does not meet the remaining
1006 qualifications prescribed by law and rule within 1 year after
1007 the application date must file a new application, pay the
1008 application and examination fee, successfully complete a
1009 prescribed training course that includes both written and
1010 practical training offered at ~~approved by the State Fire College~~
1011 ~~and or an equivalent course~~ approved by the State Fire Marshal
1012 as applicable to the class of license being sought, and pass the



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1013 written examination.

1014 Section 17. Subsection (1) of section 633.402, Florida
1015 Statutes, is amended to read:

1016 633.402 Firefighters Employment, Standards, and Training
1017 Council; organization; meetings; quorum; compensation; seal;
1018 special powers; firefighter training.-

1019 (1) There is created within the department a Firefighters
1020 Employment, Standards, and Training Council of 15 44 members.

1021 (a) The members shall be appointed as follows:

1022 1. Two fire chiefs appointed by the Florida Fire Chiefs
1023 Association.

1024 2. Two firefighters, who are not officers, appointed by the
1025 Florida Professional Firefighters Association.

1026 3. Two firefighter officers, who are not fire chiefs,
1027 appointed by the State Fire Marshal.

1028 4. One individual appointed by the Florida League of
1029 Cities.

1030 5. One individual appointed by the Florida Association of
1031 Counties.

1032 6. One individual appointed by the Florida Association of
1033 Special Districts.

1034 7. One individual appointed by the Florida Fire Marshals'
1035 and Inspectors' Association.

1036 8. One employee of the Florida Forest Service of the
1037 Department of Agriculture and Consumer Services appointed by the
1038 director of the Florida Forest Service.

1039 9. One individual appointed by the State Fire Marshal.

1040 10. One director or instructor of a state-certified
1041 firefighting training facility appointed by the State Fire



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Marshal.

11. ~~One individual The remaining member, who shall be~~
appointed by the State Fire Marshal, who may not be a member or
representative of the firefighting profession or of any local
government.

12. One individual from the Department of Health, appointed
by the Surgeon General.

(b) To be eligible for appointment as a member under
subparagraph (a)1., subparagraph (a)2., subparagraph (a)3.,
subparagraph (a)8., or subparagraph (a)10., a person must have
had at least 4 years' experience in the firefighting profession.
Members shall serve only as long as they continue to meet the
criteria under which they were appointed, or unless a member has
failed to appear at three consecutive and properly noticed
meetings unless excused by the chair.

Section 18. Subsection (1) of section 633.416, Florida
Statutes, is amended to read:

633.416 Firefighter employment and volunteer firefighter
service; saving clause.—

(1) A fire service provider may not employ an individual
to:

(a) Extinguish fires for the protection of life or property
or to supervise individuals who perform such services unless the
individual holds a current and valid Firefighter Certificate of
Compliance. However, a person who is currently serving as a
volunteer firefighter and holds a volunteer firefighter
certificate of completion with a fire service provider, who is
then employed as a regular or permanent firefighter by such fire
service provider, may function, for a period of 1 year under the



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direct supervision of an individual holding a valid firefighter
certificate of compliance, in the same capacity in which he or
she acted as a volunteer firefighter, provided that he or she
has completed all training required by the volunteer
organization. Under no circumstance can this period extend
beyond 1 year either collectively or consecutively from the
start of employment to obtain a Firefighter Certificate of
Compliance; or

(b) Serve as the administrative and command head of a fire
service provider for a period in excess of 1 year unless the
individual holds a current and valid Firefighter Certificate of
Compliance or Special Certificate of Compliance.

Section 19. Section 843.08, Florida Statutes, is amended to
read:

843.08 False personation.—A person who falsely assumes or
pretends to be a firefighter, a sheriff, an officer of the
Florida Highway Patrol, an officer of the Fish and Wildlife
Conservation Commission, an officer of the Department of
Environmental Protection, ~~a fire or arson investigator of the
Department of Financial Services,~~ an officer of the Department
of Financial Services, any personnel or representative of the
Division of Investigative and Forensic Services, an officer of
the Department of Corrections, a correctional probation officer,
a deputy sheriff, a state attorney or an assistant state
attorney, a statewide prosecutor or an assistant statewide
prosecutor, a state attorney investigator, a coroner, a police
officer, a lottery special agent or lottery investigator, a
beverage enforcement agent, a school guardian as described in s.
30.15(1)(k), a security officer licensed under chapter 493, any



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1100 member of the Florida Commission on Offender Review or any
1101 administrative aide or supervisor employed by the commission,
1102 any personnel or representative of the Department of Law
1103 Enforcement, or a federal law enforcement officer as defined in
1104 s. 901.1505, and takes upon himself or herself to act as such,
1105 or to require any other person to aid or assist him or her in a
1106 matter pertaining to the duty of any such officer, commits a
1107 felony of the third degree, punishable as provided in s.
1108 775.082, s. 775.083, or s. 775.084. However, a person who
1109 falsely personates any such officer during the course of the
1110 commission of a felony commits a felony of the second degree,
1111 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1112 If the commission of the felony results in the death or personal
1113 injury of another human being, the person commits a felony of
1114 the first degree, punishable as provided in s. 775.082, s.
1115 775.083, or s. 775.084.

1116 Section 20. Paragraph (f) is added to subsection (11) of
1117 section 943.045, Florida Statutes, to read:

1118 943.045 Definitions; ss. 943.045-943.08.—The following
1119 words and phrases as used in ss. 943.045-943.08 shall have the
1120 following meanings:

1121 (11) "Criminal justice agency" means:

1122 (f) The investigations component of the Department of
1123 Financial Services which investigates the crimes of fraud and
1124 official misconduct in all public assistance given to residents
1125 of the state or provided to others by the state.

1126 Section 21. Effective upon this act becoming a law,
1127 paragraph (e) of subsection (1) and subsections (2) and (3) of
1128 section 40 of chapter 2019-140, Laws of Florida, are amended to



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1129 read:

1130 Section 40. (1) The Legislature finds that:

1131 (e) It is in the public interest to establish a Florida
1132 Financial Technology and Blockchain Task Force comprised of
1133 government and industry representatives to study the ways in
1134 which state, county, and municipal governments can benefit from
1135 a transition to a blockchain-based system for recordkeeping,
1136 security, and service delivery and to develop and submit
1137 recommendations to the Governor and the Legislature concerning
1138 the potential for implementation of blockchain-based systems
1139 that promote government efficiencies, better services for
1140 citizens, economic development, and safer cyber-secure
1141 interaction between government and the public.

1142 (2) The Florida Financial Technology and Blockchain Task
1143 Force, a task force as defined in s. 20.03, Florida Statutes, is
1144 established within the Department of Financial Services to
1145 explore and develop a master plan for fostering the expansion of
1146 financial technology and the blockchain industry in the state,
1147 to recommend policies and state investments to help make this
1148 state a leader in financial and blockchain technologies
1149 technology, and to issue a report to the Governor and the
1150 Legislature. The task force shall study if and how state,
1151 county, and municipal governments can benefit from a transition
1152 to a blockchain-based system for recordkeeping, data security,
1153 financial transactions, and service delivery and identify ways
1154 to improve government interaction with businesses and the
1155 public. The task force shall also consider financial technology
1156 innovations related to money transmitters and payment instrument
1157 sellers, as defined in s. 560.103, Florida Statutes, including



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1158 mediums of exchange which are in electronic or digital form, and
1159 identify new products and services that could lead to business
1160 growth in this state.

1161 (a) The master plan shall:

1162 1. Identify the economic growth and development
1163 opportunities presented by financial and blockchain technologies
1164 technology.

1165 2. Assess the existing blockchain industry in the state.

1166 3. Identify innovative and successful blockchain
1167 applications currently used by industry and other governments to
1168 determine viability for state applications.

1169 4. Review workforce needs and academic programs required to
1170 build blockchain technology expertise across all relevant
1171 industries.

1172 5. Make recommendations to the Governor and the Legislature
1173 that will promote innovation and economic growth by reducing
1174 barriers to and expediting the expansion of the state's
1175 financial technology and blockchain industries industry.

1176 (b) The task force shall consist of 13 members. Membership
1177 shall be as follows:

1178 1. Three agency heads or executive directors of cabinet
1179 agencies, or their designees, appointed by the Governor.

1180 2. Four members of the public or private sector with
1181 knowledge and experience in blockchain technology, appointed by
1182 the Governor.

1183 3. Three members from the public or private sector with
1184 knowledge and experience in blockchain technology, appointed by
1185 the Chief Financial Officer.

1186 4. One member from the private sector with knowledge and



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1187 experience in blockchain technology, appointed by the President
1188 of the Senate.

1189 5. One member from the private sector with knowledge and
1190 experience in blockchain technology, appointed by the Speaker of
1191 the House of Representatives.

1192 6. One certified public accountant licensed pursuant to
1193 chapter 473 with knowledge and experience in blockchain
1194 technology, appointed by the Governor.

1195
1196 Members of the task force shall reflect the ethnic diversity of
1197 the state.

1198 (c) Within 90 days after the effective date of this act, a
1199 majority of the members of the task force must be appointed and
1200 the task force shall hold its first meeting. The task force
1201 shall elect one of its members to serve as chair. Members of the
1202 task force shall serve for the duration of the existence of the
1203 task force. Any vacancy that occurs shall be filled in the same
1204 manner as the original appointment. Task force members shall
1205 serve without compensation, and are not entitled to
1206 reimbursement for per diem or travel expenses.

1207 (d) The task force shall study blockchain technology,
1208 including, but not limited to, the following:

1209 1. Opportunities and risks associated with using blockchain
1210 and distributed ledger technology for state and local
1211 governments.

1212 2. Different types of blockchains, both public and private,
1213 and different consensus algorithms.

1214 3. Projects and cases currently under development in other
1215 states and local governments, and how these cases could be



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applied in this state.

4. Ways the Legislature can modify general law to support secure paperless recordkeeping, increase cybersecurity, improve interactions with citizens, and encourage blockchain innovation for businesses in the state.

5. Identifying potential economic incentives for companies investing in blockchain technologies in collaboration with the state.

6. Recommending projects for potential blockchain solutions, including, but not limited to, use cases for state agencies that would improve services for citizens or businesses.

7. Identifying the technical skills necessary to develop blockchain technology and ensuring that instruction in such skills is available at secondary and postsecondary educational institutions in this state.

(3) The task force shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives and present its findings to the appropriate legislative committees in each house of the Legislature by January 31, 2021 ~~within 180 days after the initial meeting of the task force~~. The report must include:

(a) A general description of the costs and benefits of state and local government agencies using blockchain technology.

(b) Recommendations concerning the feasibility of implementing blockchain technology in the state and the best approach to finance the cost of implementation.

(c) Recommendations for specific implementations to be developed by relevant state agencies.

(d) Any draft legislation the task force deems appropriate



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to implement such blockchain technologies.

(e) Identification of one pilot project that may be implemented in the state.

(f) Any other information deemed relevant by the task force.

Section 22. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1404

INTRODUCER: Banking and Insurance Committee and Senator Perry

SUBJECT: Department of Financial Services

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Palecki</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2. <u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Fav/CS
3. <u>Sanders</u>	<u>Kynoch</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1404 amends sections of Florida Statutes governing the following Department of Financial Services (DFS) Divisions: Investigative and Forensic Services; Public Assistance Fraud; Funeral, Cemetery, and Consumer Services; and State Fire Marshal. The bill:

- Designates the Division of Public Assistance Fraud a criminal justice agency;
- Amends the composition requirements of the Board of Funeral, Cemetery, and Consumer Services; clarifies member requirements; amends the definition of “quorum” to enable ease of business; removes term staggering requirements; and clarifies rulemaking responsibilities;
- Clarifies and provides grounds for disqualification of death care licensure applicants based on criminal history;
- Increases criminal penalties associated with unlicensed funeral activity;
- Updates the definition of “two-component explosive” to reflect changes in the marketplace;
- Allows contractors to begin repairs on a previously permitted fire alarm prior to receiving a permit to do so, yet maintains that such repair will not be compliant until permitted and approved;
- Prohibits influencing a firesafety inspector to violate applicable law through threats, coercion, trickery, or compensation, and prohibits a firesafety inspector from knowingly and willingly accepting such an attempt;
- Allows fire service providers to hire volunteer firefighters, and allow them to continue to function in a volunteer firefighter capacity for the first year of employment while they obtain career firefighter certifications; and

- Expands the applicability of criminal penalties for impersonation of investigators and personnel of the DFS.

The bill does not impact state revenues or expenditures.

The effective date is July 1, 2020.

II. Present Situation:

The Department of Financial Services (DFS) is statutorily responsible for:

- Carrying out the state's accounting and auditing functions; including preparing the state's Comprehensive Annual Financial Report, monitoring state contracts, and making payment for state expenditures;
- Implementing state fire prevention and control measures, including the investigation of arson and other suspicious fires; training and certification of firefighter candidates; and regulation of explosive storage and use;
- Operating the state's risk management program and securing insurance and reinsurance for covered state liabilities;
- Managing the state Treasury and directing safekeeping and the investment of all state funds;
- Managing the deferred compensation program for state employees;
- Investigating fraud, including insurance fraud, public assistance fraud, and false claims against the state;
- Regulating cemeteries and funeral homes;
- Licensing and oversight of insurance agents and agencies;
- Ensuring that Florida employers provide workers' compensation coverage for their employees in a cost effective manner;
- Assisting consumers in the resolution of issues pertaining to insurance and funeral services; and
- Collecting and returning unclaimed property belonging to Florida residents.¹

The DFS is composed of the following divisions:

- Accounting and Auditing;
- Administration;
- Consumer Services;
- Funeral, Cemetery and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property; and

¹ Florida Department of Financial Services, *Statement of Agency Organization and Operation*, <https://www.myfloridacfo.com/sitepages/required/agencyorg.aspx> (last visited January 30, 2020).

- Workers' Compensation.²

Division of Public Assistance Fraud

The Division of Public Assistance Fraud (PAF) is responsible for enforcing state laws regarding program eligibility and proper use of public assistance benefits. PAF is responsible for investigating allegations of fraud related to the Cash Assistance/Temporary Assistance for Needy Families (TANF) program, the Supplemental Nutritional Assistance Program (SNAP); Medicaid recipients; disaster assistance/emergency benefits; the School Readiness and Voluntary Pre-Kindergarten programs; and Social Security Disability benefits.³

PAF has operated as a criminal justice agency since its inception in 1972. However, when the Division of Investigative and Forensic Services (DIFS) was created in 2016, under ch. 20, F.S., PAF was not designated as a criminal justice agency⁴, thereby limiting access to information within criminal records systems. Under Florida law, a criminal justice agency is defined, in part, as any governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.^{5,6} PAF currently operates, in part, as a criminal justice agency. However, current statute does not appropriately reflect this designation.

Funeral, Cemetery, and Consumer Services

Composition and Business of Board of Funeral, Cemetery, and Consumer Services

Section 20.121(4), F.S., creates the Board of Funeral, Cemetery, and Consumer Services (Board) within the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services. The board acts as the licensing authority for the purposes of certain matters related to examinations and other substantive requirements for licensure within the death care industry under ch. 497, F.S., including facility requirements.⁷

² Florida Department of Financial Services, *Divisions and Offices* <https://www.myfloridacfo.com/> (last visited January 30, 2019)

³ Division of Public Assistance, <https://myfloridacfo.com/Division/PAF/> (last visited January 16, 2020).

⁴ Department of Financial Services, *Legislative Bill Analysis of SB 1404* (January 14, 2020) (on file with Senate Banking and Insurance Committee).

⁵ Section 943.045(11)(e), F.S. *See also*: s. 943.045(2), F.S.; the term “administration of criminal justice” means “performing functions of detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders by governmental agencies. The administration of criminal justice includes criminal identification activities and the collection, processing, storage, and dissemination of criminal justice information by governmental agencies.”

⁶ Section 943.045(11)(a)-(e), F.S., defines a criminal justice agency as a court, the Department of Law Enforcement, the Department of Juvenile Justice, the protective investigations component of the Department of Children and Families, which investigates the crime of crimes of abuse and neglect, and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule court and that allocates a substantial part of its annual budget to the administration of criminal justice.

⁷ *See* s. 497.103(1)(a)-(cc), F.S. Licenses available to natural persons include: embalmer apprentice and intern; funeral directors and intern; funeral director and embalmer, direct disposer, monument establishment sales agent, and preneed sales agent. Section 497.141(12)(a), F.S. Licenses available to natural persons, corporations, limited liability companies, and partnerships include: funeral establishment, centralized embalming facility, refrigeration facility, direct disposal establishment, monument establishment, cinerator facility, removal service, preneed sales business under s. 497.453, F.S., and cemetery. Section 497.141(12)(b)-(c), F.S.

Currently, the board must have 10 members; one member must be the State Health Officer, or their designee, and the remaining nine members must be nominated by the Chief Financial Officer (CFO), appointed by the Governor, and confirmed by the Senate.⁸ The composition of the board must be as follows:

- The State Health Officer.
- Two funeral directors who are:
 - Licensed under part III of ch. 497, F.S., as funeral directors, and
 - Associated with a funeral establishment;
- One funeral director who is:
 - Licensed under part III of ch. 497, F.S.,
 - Associated with a funeral establishment licensed under part III of ch. 497, F.S., that has a valid preneed license issued pursuant to ch. 497, F.S., and
 - Operates a incinerator facility that is approved under ch. 403, F.S., and licensed under part IV of ch. 497, F.S.;
- Two persons whose primary occupation is associated with a licensed cemetery;
- Three consumers who:
 - Are residents of Florida;
 - Have never been licensed funeral directors or embalmers;
 - Are not connected with a cemetery or licensed cemetery company;
 - Are not connected to the death care industry or the practice of embalming, funeral directing, or direct disposition;
 - At least one of which is at least 60 years of age; and
 - At least one of which is a licensed certified public accountant; and
- One principal of a monument establishment licensed under ch. 497, F.S., as a monument builder.

Members must not be principals or employees of the same company or partnership, or group of companies or partnerships under common control.⁹ The DFS reports that the CFO often does not receive a sufficient amount of applications to fill member positions.¹⁰ For example, the position that must be filled by a certified public accountant has remained vacant since September 2017.¹¹

Board members are appointed for four-year terms, except for the State Health Officer, who serves as long as they hold office.¹² The CFO is authorized to stagger the terms of members after the terms of the initial members expire.¹³ The terms have already been staggered at the initiation of the board.¹⁴

⁸ Section 497.101(1), F.S.

⁹ Section 497.101(2), F.S.

¹⁰ See *Supra* note 4.

¹¹ *Id.*

¹² Section 497.101(3), F.S.

¹³ *Id.*

¹⁴ See *Supra* note 4.

A quorum is necessary to conduct the business of the board. A quorum consists of six members of the board.¹⁵ The DFS indicates that it can be difficult to obtain this number due to board vacancies, absenteeism, and necessary recusal.¹⁶

The DFS is required to adopt rules regarding application forms and procedures for appointment to the board.¹⁷

Disqualification of Licensure Applicants

Section 497.142(10), F.S., requires all licensure and licensure renewal applicants to disclose criminal history. The following crimes must be disclosed:

- Any felony or misdemeanor, no matter when committed, that was directly or indirectly related to or involving any aspect of the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation;
- Any other felony committed within 20 years preceding the application; and
- Any other misdemeanor committed within five years preceding the application.

Unlicensed Practice

Chapter 497, F.S., requires individuals to maintain a license for specified death care industry practices. The DFS is authorized to issue administrative complaints against entities believed to be in violation of licensure requirements.¹⁸ Section 497.159, F.S., provides for criminal penalties; unlicensed activity is a second degree misdemeanor, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.¹⁹

Explosives

Chapter 552, F.S., sets forth the requirements to lawfully engage in the business of a manufacturer-distributor, or to acquire, sell, possess, store, or engage in the use of explosives in this state. The chapter's current definition of a two-component explosive requires the use of a "No. 6 blasting cap" for detonation.²⁰ No. 6 blasting caps went out of production several years ago and current blasting caps no longer use the same rating system.²¹

Fire Alarm Permits

Contractors are required to file a Uniform Fire Alarm Permit Application with a local law enforcement agency, and must receive the permit before installing, replacing, or repairing an existing fire alarm that was previously permitted by the local enforcement agency, if the local enforcement agency requires a permit for the repair.²²

¹⁵ Section 497.101(6), F.S.

¹⁶ See *Supra* note 4.

¹⁷ *Id.*, s. 497.103(2)(c), F.S.

¹⁸ Section 497.157(2), F.S.

¹⁹ Section 497.159(6), F.S.

²⁰ Section 552.081(13), F.S.

²¹ See *Supra* note 4.

²² Section 553.7921(1)(b), F.S.

Firesafety Inspectors

Section 633.216, F.S., requires each county, municipality, and special district that has firesafety enforcement responsibilities to employ or contract with a firesafety inspector. Subject to certain exceptions²³, the firesafety inspector is responsible for conducting all firesafety inspections required by law.²⁴ These firesafety inspections include the inspection of buildings and facilities, on a recurring or regular basis, on behalf of the state or any county, municipality, or special district with fire safety responsibilities.²⁵ The Florida Fire Prevention Code²⁶ governs design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules. These local enforcing authorities may adopt more stringent firesafety standards, subject to certain requirements in s. 633.208, F.S., but may not enact firesafety ordinances which conflict with ch. 633, F.S., or any other state law.²⁷

The Chief Financial Officer is designated as the “State Fire Marshal.”²⁸ In any county, municipality, or special district that does not employ or appoint a firesafety inspector, the State Fire Marshal assumes the duties of the local county, municipality, or independent special fire control district with respect to firesafety inspections of educational property.²⁹

A person who violates any provision of ch. 633, F.S., Fire Prevention and Control, any order or rules of the State Fire Marshal, or any order to cease and desist or to correct conditions commits a misdemeanor of the second degree.³⁰

It is illegal to impersonate the State Fire Marshal or a firesafety inspector. A person who impersonates either official commits a felony of the third degree, and if the impersonation occurs during the commission of a separate felony, a person commits a felony of the first degree.³¹ Section 468.629, F.S., makes it illegal for a person to influence a building code enforcement official by coercion or compensation.³² Any person who commits such acts commits a misdemeanor of the first degree, and, if the person was previously convicted of such act, a felony of the third degree.³³

²³ For example, this requirement does not apply to farm outbuildings or licensed plumbing contractor installed standpipe systems and certain connected items. Section 633.226, F.S.

²⁴ Section 633.216(1), F.S.

²⁵ Section 633.102(12), F.S.

²⁶ Chapter 69A-60, F.A.C. The Florida Fire Prevention Code is adopted by the State Fire Marshal, and contains and incorporates by reference all firesafety laws and rules. s. 633.202(1), F.S.

²⁷ See Rule 69A-60.002, F.A.C.; s. 633.214(4), F.S.

²⁸ Section 633.104(1), F.S.

²⁹ Section 633.104(7), F.S.

³⁰ Section 633.124(1), F.S.

³¹ Section 633.122, F.S.

³² Section 468.629(1)(f) and (g), F.S.

³³ Section 468.629(2), F.S.

Volunteer Firefighter Employment

The National Fire Prevention Association estimates that there were approximately 1,056,200 local firefighters in the United States as of 2017.³⁴ Of the total number of firefighters, 35 percent were career firefighters, and 65 percent were volunteer firefighters.³⁵ Florida has 528 fire departments.³⁶ At least 315 Florida fire departments utilize volunteers to sustain operations.³⁷ Approximately 12 million Florida residents depend on volunteer firefighters to protect their communities.³⁸ The Firefighter Assistance Grant Program, created in 2016 to improve the emergency response capability of fire departments reliant on volunteer firefighters, provides grant money to such fire departments to provide volunteer firefighter training and procure equipment. In 2018, 29 fire departments were awarded such grants.³⁹

Florida fire service providers are currently prohibited from employing an individual to extinguish fires or to supervise those who do unless the individual holds a current and valid Firefighter Certificate of Compliance.⁴⁰ Thus, fire service providers are currently prohibited from employing volunteer firefighters, who hold a Volunteer Firefighter Certificate of Completion.⁴¹ Volunteer firefighters can enter immediately dangerous to life and health (IDLH) environments. However, if employed by the same department prior to achieving a Firefighter Certificate of Compliance they would not be allowed to enter the IDLH environments they were authorized to enter the day before beginning career employment.⁴²

False Personation

Pursuant to s. 843.08, F.S., any person who falsely assumes or pretends to be an officer of a specified type commits a felony of the third degree, a felony of the second degree when committed with another felony, and a felony in the first degree if the felony is the cause of death or personal injury of another individual.⁴³ A person who impersonates an officer of the DFS is subject to these criminal penalties.⁴⁴ However, there is no criminal penalty for impersonating an investigator or personnel of the DFS. The DFS employs personnel who are not officers but have access to active criminal cases and conduct criminal investigations.⁴⁵

³⁴ National Fire Prevention Association, U.S. Fire Department Profile, <https://www.nfpa.org/News-and-Research/Data-research-and-tools/Emergency-Responders/US-fire-department-profile> (last visited January 16, 2020).

³⁵ *Id.*

³⁶ National Fire Prevention Association, *Number of U.S. Fire Departments by State*, <https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/Emergency-responders/osNumberOfFireDeptInUS.ashx?la=en> (last visited January 16, 2020).

³⁷ Division of State Fire Marshal, *Florida Volunteer Firefighter Information*, <https://myfloridacfo.com/Division/SFM/VOLFF/default.htm> (last visited January 16, 2020).

³⁸ *Id.*

³⁹ Division of State Fire Marshal, *FY2018 Florida Firefighter Assistance Grant Award Outcomes*, https://myfloridacfo.com/Division/SFM/VOLFF/FY2018_GrantOutcomes.pdf (last visited January 16, 2020).

⁴⁰ Section 633.416(1)(a), F.S.

⁴¹ Section 633.408, F.S.

⁴² *See Supra* note 4.

⁴³ Section 843.08, F.S., contains a list specifying which types of officers it is unlawful to impersonate. This list includes, but is not limited to, firefighters, sheriffs, officers of agencies, and school guardians.

⁴⁴ Section 843.08, F.S.

⁴⁵ *See Supra* note 4.

III. Effect of Proposed Changes:

Division of Public Assistance Fraud (Sections 1 and 10)

Section 1 amends s. 20.121(2)(f), F.S., to designate the Division of Public Assistance Fraud (PAF) as a criminal justice agency for the purposes of ss. 943.045-943.08, F.S. The designation allows the PAF to continue having access to criminal justice information contained in Florida Crime Information Center (FCIC) and National Crime Center Information Center (NCIC) systems of criminal records when conducting criminal investigations and other law enforcement support functions.⁴⁶

Section 10 amends s. 943.045, F.S., to include the PAF in the definition of “criminal justice agency.”

Funeral, Cemetery, and Consumer Services

Composition and Business of Board of Funeral, Cemetery, and Consumer Services (Board)

Section 2 amends s. 497.101, F.S., to reduce the minimum number of nominations the Chief Financial Officer (CFO) must make for nine board member positions from three nominations to one. The bill also reduces from three to two the number of positions on the Board that must be filled by consumers who are residents of Florida; have never been licensed funeral directors or embalmers; are not connected with a cemetery or licensed cemetery company nor connected to the death care industry or the practice of embalming, funeral directing, or direct disposition. The Board must also now have a consumer member who is: a resident; a licensed certified public accountant who has never been licensed as a funeral director or embalmer; not a principal or employee of any ch. 497, F.S., licensee; and not otherwise in control (as defined in s. 497.005, F.S.) over any ch. 497, F.S., licensee. This change requires the appointment of a licensed CPA who has some knowledge of and association with, but not a controlling interest in, licensees in the death care industry.

The definition of a “quorum” for the purposes of conducting Board business is amended to constitute a simple majority of eligible members instead of six members.

The section eliminates unnecessary statutory provisions regarding the staggered terms of board members, which have already been established. The statutory change will also eliminate the Department of Financial Services’ (DFS) rulemaking responsibilities concerning the application process, which the DFS asserts is unnecessary, as the Governor makes the appointments.⁴⁷

Disqualification of Licensure Applicants

Section 3 of the bill creates s. 497.1411, F.S., to provide and clarify grounds for disqualification of licensure applicants based on criminal history. Subsection (1) provides definitions of “applicant,” “felony of the first degree,” “capital felony,” and “financial services business.” Subsection (2) provides an enumerated list of crimes which, if an applicant is found guilty of or pleads nolo contendere to, regardless of adjudication, permanently bars the applicant from

⁴⁶ *Id.*

⁴⁷ *Id.*

licensure under ch. 497, F.S. These crimes are a first degree felony, a capital felony, a felony money laundering offense, or a felony embezzlement.

Subsection (3) provides the following disqualifying periods for other specified crimes:

- A 10-year disqualifying period for all felonies involving moral turpitude not subject to a permanent bar on licensure; and
- A five-year disqualifying period for all other felonies and for all misdemeanors directly related to the financial services business, defined as any financial activity regulated by the DFS, the Office of Insurance Regulation, or the Office of Financial Regulation.

These specifications are intended to provide clarity beyond the current statutory scheme, which provides no guidelines to determine whether a specific crime is considered “directly or indirectly related to or involving any aspect of the practice or business” of death care industry functions. The DFS suggests that the lack of clarity and guidance in current statute has led to inconsistencies in recommendations and Board rulings on applications.⁴⁸

Subsection (4) requires the DFS to adopt rules to administer the section. The rules must provide for additional disqualifying periods due to the commitment of multiple crimes and may include other factors reasonably related to the applicant’s criminal history. The rules must also provide mitigating and aggravating factors, except that mitigation may not result in a disqualification period of less than five years.

Subsection (5) specifies that a disqualifying period begins upon an applicant’s final release from supervision or upon completion of the applicant’s criminal sentence. The subsection further prohibits the DFS from issuing a license unless all related fines, court costs and fees, and court-ordered restitutions have been paid. Subsection (6) places the burden of proof for rehabilitation on the applicant.

Subsection (7) allows the DFS to award a license, despite a conviction, upon a grant of a pardon or restoration of civil rights. Subsection (8) authorizes the Board to grant an exemption from a criminal record related disqualification, and provides standards for mitigating factors. Chapter 120, F.S., provides administrative remedies available to applicants for whom the Board has granted or denied an exemption.

Unlicensed Practice

Section 4 of the bill amends s. 497.157, F.S., to increase penalties for unlicensed activity from a misdemeanor to a felony of the third degree. Section 4 also expands unlicensed activity to include acting, advertising, or otherwise holding oneself out to be a funeral director, embalmer, direct disposer, or preneed sales agent, unless currently licensed or appointed as such.

Explosives

Section 5 updates the definition of “two-component explosives” in s. 552.081, F.S., by removing the requirement of a “No. 6 cap,” which is no longer manufactured.

⁴⁸ *Id.*

Fire Alarm Permits

Section 6 amends s. 553.7921, F.S., to authorize contractors to begin repairs on existing permitted fire alarms upon filing a Uniform Fire Alarm Permit Application but prior to receiving the permit for the repair. Fire alarms repaired under such circumstances are not considered compliant until the permit is issued and the local law enforcement agency approves the repair.

Influencing a Firesafety Inspector

Section 7 creates s. 633.217, F.S., to prohibit influencing or attempting to influence a firesafety inspector by threatening, coercing, tricking, or offering compensation for the purpose of inducing the firesafety inspector to violate any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S. Subsection (2) prohibits a firesafety inspector from knowingly and willingly accepting an attempt by a person to influence them into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S. Section 633.124(1), F.S., provides that any person who violates any provision of ch. 633, F.S., commits a misdemeanor of the second degree. Violations of s. 633.217, F.S., relating to influencing a firesafety inspector carry the criminal penalty of a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.

Volunteer Firefighter Employment

Section 8 amends s. 633.416, F.S., to authorize fire service providers to employ volunteer firefighters and allow them to act in volunteer firefighter capacity for up to one year under the direct supervision of an individual holding a valid firefighter certificate of compliance while they obtain career firefighter certifications. This will increase the availability of firefighters capable of entering immediately dangerous to life and health (IDLH) environments and protecting their communities. The DFS anticipates that this change will improve rural and small agency recruitment and retention efforts by facilitating the hiring of local candidates who are more inclined to remain in the area instead of hiring candidates from other parts of the state who are inclined to return to their home communities once gaining some experience.⁴⁹

False Personation

Section 9 of the bill amends s. 843.08, F.S., to expand the applicability of criminal penalties associated with false personation to include false impersonation of the DFS investigators and personnel.

Section 11 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁴⁹ *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.121, 497.101, 497.157, 552.081, 553.7921, 633.416, 843.08, and 943.045.

This bill creates section 497.1411 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 Banking and Insurance on January 21, 2020:

Creates s. 633.217, F.S., prohibiting the act of threatening, coercing, tricking, or attempting to threaten, coerce, or trick, or bribe a firesafety inspector for the purpose of influencing or inducing the firesafety officer to violate any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any other provision of ch. 633, F.S., which governs Fire Prevention and Control.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Perry

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1 A bill to be entitled
 2 An act relating to the Department of Financial
 3 Services; amending s. 20.121, F.S.; specifying powers
 4 and duties of the Division of Public Assistance Fraud;
 5 amending s. 497.101, F.S.; revising provisions
 6 relating to membership of the Board of Funeral,
 7 Cemetery, and Consumer Services; deleting a
 8 requirement for the department to adopt certain rules;
 9 creating s. 497.1411, F.S.; defining terms; providing
 10 for permanent disqualification of applicants for
 11 licensure under ch. 497, F.S., for certain offenses;
 12 providing for disqualifying periods for applicants for
 13 certain offenses; requiring the department to adopt
 14 rules; providing for calculation of disqualifying
 15 periods; providing conditions for licensure after
 16 completion of a disqualifying period; providing for
 17 the effect of a pardon or clemency; providing for
 18 exemptions from disqualification in certain
 19 circumstances; providing procedures for consideration
 20 of applications for such exemptions; providing
 21 construction; amending s. 497.157, F.S.; prohibiting
 22 persons from acting as or advertising themselves as
 23 being funeral directors, embalmers, direct disposers,
 24 or preneed sales agents unless they are so licensed;
 25 prohibiting persons from engaging in certain
 26 activities requiring licensure without holding
 27 required licenses; providing criminal penalties;
 28 amending s. 552.081, F.S.; revising the definition of
 29 the term "two-component explosives" for the purpose of

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30 regulation by the Division of State Fire Marshal;
 31 amending s. 553.7921, F.S.; authorizing a contractor
 32 repairing certain existing fire alarm systems to begin
 33 work after filing an application for a required permit
 34 but before receiving the permit; providing
 35 construction; creating s. 633.217, F.S.; prohibiting
 36 certain acts to influence a firesafety inspector into
 37 violating certain laws; prohibiting a firesafety
 38 inspector from knowingly and willfully accepting an
 39 attempt to influence him or her into violating certain
 40 laws; amending s. 633.416, F.S.; providing that
 41 certain persons serving as volunteer firefighters may
 42 serve as a regular or permanent firefighter for a
 43 limited period, subject to certain restrictions;
 44 amending s. 843.08, F.S.; prohibiting false
 45 personation of personnel or representatives of the
 46 Division of Investigative and Forensic Services;
 47 providing criminal penalties; amending s. 943.045,
 48 F.S.; revising the definition of the term "criminal
 49 justice agency" to include the investigations
 50 component of the department which investigates certain
 51 crimes; providing an effective date.

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

54
 55 Section 1. Paragraph (f) of subsection (2) of section
 56 20.121, Florida Statutes, is amended to read:
 57 20.121 Department of Financial Services.—There is created a
 58 Department of Financial Services.

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(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions and office:

(f) The Division of Public Assistance Fraud, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division shall conduct investigations pursuant to s. 414.411 within or outside of this state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of this state has or may have been violated, it shall refer any records tending to show such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.

Section 2. Subsections (1), (2), (3), (6), and (8) of section 497.101, Florida Statutes, are amended to read:

497.101 Board of Funeral, Cemetery, and Consumer Services; membership; appointment; terms.—

(1) The Board of Funeral, Cemetery, and Consumer Services is created within the Department of Financial Services and shall consist of 10 members, 9 of whom shall be appointed by the Governor from nominations made by the Chief Financial Officer and confirmed by the Senate. The Chief Financial Officer shall nominate one to three persons for each of the nine vacancies on the board, and the Governor shall fill each vacancy on the board by appointing one of the ~~three~~ persons nominated by the Chief Financial Officer to fill that vacancy. If the Governor objects to each of the ~~three~~ nominations for a vacancy, she or he shall inform the Chief Financial Officer in writing. Upon notification of an objection by the Governor, the Chief Financial Officer shall submit one to three additional nominations for that

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vacancy until the vacancy is filled. One member must be the State Health Officer or her or his designee.

(2) Two members of the board shall be funeral directors licensed under part III of this chapter who are associated with a funeral establishment. One member of the board shall be a funeral director licensed under part III of this chapter who is associated with a funeral establishment licensed under part III of this chapter that has a valid preneed license issued pursuant to this chapter and who owns or operates a cinerator facility approved under chapter 403 and licensed under part VI of this chapter. Two members of the board shall be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. ~~Two~~ Three members of the board shall be consumers who are residents of the state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the two consumer members shall be at least 60 years of age, ~~and one shall be licensed as a certified public accountant under chapter 473. One member of the board shall be a consumer who is a resident of this state; is licensed as a certified public accountant under chapter 473; has never been licensed as a funeral director or embalmer; is not a principal or employee of any licensee licensed under this chapter; and does not otherwise have control, as defined in s. 497.005, over any licensee licensed under this chapter.~~ One member of the board shall be a principal of a monument establishment licensed under this chapter as a monument builder. One member shall be

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the State Health Officer or her or his designee. There shall not be two or more board members who are principals or employees of the same company or partnership or group of companies or partnerships under common control.

(3) Board members shall be appointed for terms of 4 years, and the State Health Officer shall serve as long as that person holds that office. The designee of the State Health Officer shall serve at the pleasure of the Governor. ~~When the terms of the initial board members expire, the Chief Financial Officer shall stagger the terms of the successor members as follows: one funeral director, one cemetery representative, the monument builder, and one consumer member shall be appointed for terms of 2 years, and the remaining members shall be appointed for terms of 4 years. All subsequent terms shall be for 4 years.~~

(6) The headquarters and records of the board shall be in the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services in the City of Tallahassee. The board may be contacted through the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services in the City of Tallahassee. The Chief Financial Officer shall annually appoint from among the board members a chair and vice chair of the board. The board shall meet at least every 6 months, and more often as necessary. Special meetings of the board shall be convened upon the direction of the Chief Financial Officer. A quorum is necessary for the conduct of business by the board. Unless otherwise provided by law, a majority of the board members eligible to vote shall constitute a quorum for the purpose of conducting its business ~~six board members shall constitute a quorum for the conduct of the board's~~

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business.

~~(8) The department shall adopt rules establishing forms by which persons may apply for membership on the board and procedures for applying for such membership. Such forms shall require disclosure of the existence and nature of all current and past employments by or contracts with, and direct or indirect affiliations or interests in, any entity or business that at any time was licensed by the board or by the former Board of Funeral and Cemetery Services or the former Board of Funeral Directors and Embalmers or that is or was otherwise involved in the death care industry, as specified by department rule.~~

Section 3. Section 497.1411, Florida Statutes, is created to read:

497.1411 Disqualification of applicants and licensees; penalties against licensees; rulemaking.-

(1) For purposes of this section, the term:

(a) "Applicant" means an individual applying for licensure or relicensure under this chapter, and an officer, a director, a majority owner, a partner, a manager, or other person who manages or controls an entity applying for licensure or relicensure under this chapter.

(b) "Felony of the first degree" and "capital felony" include all felonies designated as such in this state at the time of the commission of the offense, as well as any offense in another jurisdiction that is substantially similar to an offense so designated in this state.

(c) "Financial services business" means any financial activity regulated by the department, the Office of Insurance

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Regulation, or the Office of Financial Regulation.

(2) An applicant who has been found guilty of or has pleaded guilty or nolo contendere to any of the following crimes, regardless of adjudication, is permanently barred from licensure under this chapter:

(a) A felony of the first degree.

(b) A capital felony.

(c) A felony money laundering offense.

(d) A felony embezzlement.

(3) An applicant who has been found guilty of or has pleaded guilty or nolo contendere to a crime not included in subsection (2), regardless of adjudication, is subject to:

(a) A 10-year disqualifying period for all felonies involving moral turpitude that are not specifically included in the permanent bar contained in subsection (2).

(b) A 5-year disqualifying period for all felonies to which neither the permanent bar in subsection (2) nor the 10-year disqualifying period in paragraph (a) applies.

(c) A 5-year disqualifying period for all misdemeanors directly related to the financial services business.

(4) The department shall adopt rules to administer this section. The rules must provide for additional disqualifying periods due to the commitment of multiple crimes and may include other factors reasonably related to the applicant's criminal history. The rules shall provide for mitigating and aggravating factors. However, mitigation may not result in a period of disqualification of less than 5 years and may not mitigate the disqualifying periods in paragraphs (3)(b) and (c).

(5) For purposes of this section, a disqualifying period

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begins upon the applicant's final release from supervision or upon completion of the applicant's criminal sentence. The department may not issue a license to an applicant unless all related fines, court costs and fees, and court-ordered restitution have been paid.

(6) After the disqualifying period has expired, the burden is on the applicant to demonstrate that he or she has been rehabilitated, does not pose a risk to the public, is fit and trustworthy to engage in business regulated by this chapter, and is otherwise qualified for licensure.

(7) Notwithstanding subsections (2) and (3), upon a grant of a pardon or the restoration of civil rights pursuant to chapter 940 and s. 8, Art. IV of the State Constitution with respect to a finding of guilt or a plea under subsection (2) or subsection (3), or such pardon or the restoration of civil rights under the laws of another jurisdiction with respect to a conviction in that jurisdiction, such finding or plea no longer bars or disqualifies the applicant from licensure under this chapter; however, such a pardon or restoration of civil rights does not require the department to award such license.

(8)(a) The Board of Funeral, Cemetery, and Consumer Services may grant an exemption from disqualification to any person disqualified from licensure under this section because of a criminal record if:

1. The applicant has paid in full any fee, fine, fund, lien, civil judgment, restitution, or cost of prosecution imposed by the court as part of the judgment and sentence for any disqualifying offense; and

2. At least 5 years have elapsed since the applicant

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completed or has been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for a disqualifying offense.

(b) For the board to grant an exemption under this subsection, the applicant must clearly and convincingly demonstrate that he or she would not pose a risk to persons or property if licensed under this chapter, evidence of which must include, but need not be limited to, facts and circumstances surrounding the disqualifying offense, the time that has elapsed since the offense, the nature of the offense and harm caused to the victim, the applicant's history before and after the offense, and any other evidence or circumstances indicating that the applicant will not present a danger if licensed or certified.

(c) The board has discretion whether to grant or deny an exemption under this subsection. The board's decision is subject to chapter 120, except that a formal proceeding under s. 120.57(1) is available only if there are disputed issues of material fact that the department relied upon in reaching its decision.

Section 4. Present subsections (2) through (5) of section 497.157, Florida Statutes, are redesignated as subsections (4) through (7), respectively, new subsections (2) and (3) and subsection (8) are added to that section, and present subsection (3) of that section is amended, to read:

497.157 Unlicensed practice; remedies concerning violations by unlicensed persons.—

(2) A person may not be, act as, or advertise or hold himself or herself out to be a funeral director, embalmer, or

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direct disposer unless he or she is currently licensed by the department.

(3) A person may not be, act as, or advertise or hold himself or herself out to be a preneed sales agent unless he or she is currently licensed by the department and appointed by a preneed main licensee for which they are executing preneed contracts.

~~(5)(3)~~ Where the department determines that an emergency exists regarding any violation of this chapter by any unlicensed person or entity, the department may issue and serve an immediate final order upon such unlicensed person or entity, in accordance with s. 120.569(2)(n). Such an immediate final order may impose such prohibitions and requirements as are reasonably necessary to protect the public health, safety, and welfare, and shall be effective when served.

(a) For the purpose of enforcing such an immediate final order, the department may file an emergency or other proceeding in the circuit courts of the state seeking enforcement of the immediate final order by injunctive or other order of the court. The court shall issue its injunction or other order enforcing the immediate final order pending administrative resolution of the matter under subsection ~~(4)~~ ~~(2)~~, unless the court determines that such action would work a manifest injustice under the circumstances. Venue for judicial actions under this paragraph shall be, at the election of the department, in the courts of Leon County, or in a county where the respondent resides or has a place of business.

(b) After serving an immediate final order to cease and desist upon any person or entity, the department shall within 10

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days issue and serve upon the same person or entity an administrative complaint as set forth in subsection (4) ~~(2)~~, except that, absent order of a court to the contrary, the immediate final order shall be effective throughout the pendency of proceedings under subsection (4) ~~(2)~~.

(8) Any person who is not licensed under this chapter and who engages in activity requiring licensure under this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. Subsection (13) of section 552.081, Florida Statutes, is amended to read:

552.081 Definitions.—As used in this chapter:

(13) "Two-component explosives" means any two inert components which, when mixed, become capable of detonation by any detonator ~~a No. 6 blasting cap~~, and shall be classified as a Class "A" explosive when so mixed.

Section 6. Present subsection (2) of section 553.7921, Florida Statutes, is redesignated as subsection (3), a new subsection (2) is added to that section, and subsection (1) of that section is amended, to read:

553.7921 Fire alarm permit application to local enforcement agency.—

(1) A contractor must file a Uniform Fire Alarm Permit Application as provided in subsection (3) ~~(2)~~ with the local enforcement agency and must receive the fire alarm permit before+

~~(a)~~ installing or replacing a fire alarm, if the local enforcement agency requires a plan review for the installation or replacement; ~~or~~

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~~(b) Repairing an existing alarm system that was previously permitted by the local enforcement agency if the local enforcement agency requires a fire alarm permit for the repair.~~

(2) If the local enforcement agency requires a fire alarm permit to repair an existing alarm system that was previously permitted by the local enforcement agency, a contractor may begin work after filing a Uniform Fire Alarm Permit Application as provided in subsection (3). A fire alarm repaired pursuant to this subsection may not be considered compliant until the required permit is issued and the local enforcement agency approves the repair.

Section 7. Section 633.217, Florida Statutes, is created to read:

633.217 Influencing a firesafety inspector; prohibited acts.—

(1) A person may not influence a firesafety inspector by:

(a) Threatening, coercing, tricking, or attempting to threaten, coerce, or trick, the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

(b) Offering any compensation to the firesafety inspector to induce a violation of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

(2) A firesafety inspector may not knowingly and willfully accept an attempt by a person to influence the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or

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any provision of this chapter.

Section 8. Subsection (1) of section 633.416, Florida Statutes, is amended to read:

633.416 Firefighter employment and volunteer firefighter service; saving clause.—

(1) A fire service provider may not employ an individual to:

(a) Extinguish fires for the protection of life or property or to supervise individuals who perform such services unless the individual holds a current and valid Firefighter Certificate of Compliance. However, a person who is currently serving as a volunteer firefighter and holds a volunteer firefighter certificate of completion with a fire service provider, who is then employed as a regular or permanent firefighter by such fire service provider, may function, for a period of 1 year under the direct supervision of an individual holding a valid firefighter certificate of compliance, in the same capacity in which he or she acted as a volunteer firefighter, provided that he or she has completed all training required by the volunteer organization. Under no circumstance can this period extend beyond 1 year either collectively or consecutively from the start of employment to obtain a Firefighter Certificate of Compliance; or

(b) Serve as the administrative and command head of a fire service provider for a period in excess of 1 year unless the individual holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance.

Section 9. Section 843.08, Florida Statutes, is amended to read:

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

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843.08 False personation.—A person who falsely assumes or pretends to be a firefighter, a sheriff, an officer of the Florida Highway Patrol, an officer of the Fish and Wildlife Conservation Commission, an officer of the Department of Environmental Protection, ~~a fire or arson investigator of the Department of Financial Services,~~ an officer of the Department of Financial Services, any personnel or representative of the Division of Investigative and Forensic Services, an officer of the Department of Corrections, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, a school guardian as described in s. 30.15(1)(k), a security officer licensed under chapter 493, any member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission, any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of

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

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the first degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084.

Section 10. Paragraph (f) is added to subsection (11) of
section 943.045, Florida Statutes, to read:

943.045 Definitions; ss. 943.045-943.08.—The following
words and phrases as used in ss. 943.045-943.08 shall have the
following meanings:

(11) "Criminal justice agency" means:

(f) The investigations component of the Department of
Financial Services which investigates the crimes of fraud and
official misconduct in all public assistance given to residents
of the state or provided to others by the state.

Section 11. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 24, 2020

I respectfully request that **Senate Bill #1404**, relating to Department of Financial Services, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style with a long, sweeping underline.

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

FEB 27, 2020

Meeting Date

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

SB 1404

Bill Number (if applicable)

443964 - BOOK

Amendment Barcode (if applicable)

Topic DEPARTMENT OF FINANCIAL SERVICES

Name Chief Ray Colburn

Job Title Executive Director

Address 5289 PALM DR

Street

Melbourne BEACH, FL

City

State

32951

Zip

Phone 407-468-6622

Email ray@ffca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA Fire Chiefs' Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

1404

Bill Number (if applicable)

443964

Amendment Barcode (if applicable)

Topic Radio strength assessments

Name Kelly Mallette

Job Title _____

Address 104 West Jefferson Street

Street

Tallahassee, FL 32301

City

State

Zip

Phone (850)224-3427

Email kelly@rlbookpa.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Apartment Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2020

Meeting Date

CS/SB 1404

Bill Number (if applicable)

83/450

Amendment Barcode (if applicable)

Topic DFS Agency Bill (Sections 11+12)

Name Reggie Garcia

Job Title _____

Address P.O. Box 11069

Street

Tallahassee, Fla. 32302

City

State

Zip

Phone 933-7150

Email reggiegarciafars@icloud.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing the Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-20

Meeting Date

1404

Bill Number (if applicable)

831450

Amendment Barcode (if applicable)

Topic Insurance

Name Steve Geller

Job Title Attorney

Address 110 E Broward Blvd 17th Floor

Phone 954-315-3926

Street

Ft Lauderdale, FL

City

State

Zip

Email Steve@gellerlawfirm.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Ass'n of Public Insurance Adjusters & Martin Law Group

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2-27-20

Meeting Date

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

1404

Bill Number (if applicable)

W89504

Amendment Barcode (if applicable)

Topic Insurance

Name Steve Geller

Job Title Attorney

Address 110 E. Broward Blvd. Ste. 1700

Street

Ft. Lauderdale, FL 33026

City

State

Zip

Phone 954-315-3926

Email SteveGellerLawFirm.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FAPA + Merlin Law Group

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27

Meeting Date

1404

Bill Number (if applicable)

Topic Department of Financial Services

Amendment Barcode (if applicable)

Name Meredith Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address PL 11, The Capitol
Street

Phone (850) 413-2890

Tallahassee FL 32399
City State Zip

Email meredith.stanfield@myflorida.cfo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Department of Financial Services

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

FEB 27, 2020

Meeting Date

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

SB 1404

Bill Number (if applicable)

Topic DEPARTMENT OF FINANCIAL SERVICES

Amendment Barcode (if applicable)

Name Chief Ray Colburn

Job Title Executive Director

Address 5289 PALM Dr

Phone 407-468-6622

Street

MELBOURNE BEACH, FL

32951

Email ray@ffca.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA FIRE CHIEFS' ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

1464

Bill Number (if applicable)

Topic DFS Package

Amendment Barcode (if applicable)

Name Edward Briggs

Job Title Dir of Gov't Affairs & Community Relations

Address 235 W. Braden Blvd.

Phone 850-938-5892

Street

Braden

City

FL

State

33511

Zip

Email Edward.A.Briggs@fla.gov

Speaking: ☐ For ☐ Against ☐ Information

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

Representing American Fire Sprinkler Association - FL Chapter

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1450 (594336)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Environment and Natural Resources Committee; and Senator Gruters

SUBJECT: Environmental Enforcement

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Fav/CS
2.	Dale	Jameson	ACJ	Recommend: Fav/CS
3.	Dale	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1450 makes numerous changes to the penalties for violating Florida's environmental laws. The bill increases required or maximum environmental penalties in various sections of the Florida Statutes. Most of the changes increase a penalty by 50 percent.

The bill changes the duration that several penalties may run, so that each day during any portion of which certain violations occur constitutes a separate offense. For civil penalties imposed under chapter 403, Florida Statutes., the bill provides that, if the violation is an unauthorized discharge of domestic wastewater, each day the cause of the violation is not addressed constitutes a separate offense until the violation is resolved by order or judgement.

The bill would have an indeterminate positive impact on the various revenue streams impacted by the bill. See Section V.

The bill is effective July 1, 2020.

II. Present Situation:

Environmental Violations

The Department of Environmental Protection (DEP) is Florida's lead agency for environmental management and stewardship, implementing many programs to protect the state's air, water, and land.¹ In accordance with the state's numerous environmental laws, the DEP's responsibilities include the compliance and enforcement process.² Violations of Florida's environmental laws can result in damages and administrative, civil, and/or criminal penalties.

Damages

In environmental enforcement, damages should compensate the state for the value of the loss to natural resources caused by the violation.³ The DEP may institute a civil action in court or an administrative proceeding in the Division of Administrative Hearings (DOAH) to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.⁴ Damages can cover the cost of remediating the damage done to the environment, and/or costs incurred by the state in responding to the damage, such as tracing the source, controlling and abating the source, and restoring the environmental resources to their former condition.⁵

Penalties

In addition to damages, a violator can be liable for penalties. Penalties differ from damages in that they are designed to punish the wrongdoer rather than to address the harm caused by the violation.⁶ In environmental enforcement, penalties should create incentives to bring immediate compliance and curb future violations.⁷

Administrative penalties can be levied directly by the agency or in a proceeding in DOAH.⁸ The formal administrative enforcement process is typically initiated by serving a notice of violation, and is finalized through entry of a consent order or final order.⁹ In most administrative proceedings, the DEP has the final decision.¹⁰ An administrative law judge has the final decision for administrative proceedings involving the Environmental Litigation Reform Act, codified in s. 403.121, F.S., which is the primary statute addressing the DEP's administrative penalties.¹¹ Compared to the judicial process, the administrative process is generally considered less

¹ DEP, *About DEP*, <https://floridadep.gov/about-dep> (last visited February 10, 2020); s. 20.255, F.S.

² See DEP, *Enforcement Manual, Chapter One: DEP Regulatory Enforcement Organization* (2017), available at <https://floridadep.gov/sites/default/files/Chapter%201%20October%202017.pdf> (Last visited February 10, 2020).

³ DEP, *Enforcement Manual, Chapter 6: Judicial Process and Remedies, Collections, and Bankruptcies*, 89 (2014), available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (Last visited February 10, 2020).

⁴ See s. 403.121, F.S.

⁵ See ss. 403.121 and 403.141, F.S.

⁶ See BLACK'S LAW DICTIONARY 1247 (9th ed. 2009).

⁷ DEP, *Enforcement Manual, Chapter 6: Judicial Process and Remedies, Collections, and Bankruptcies*, 89 (2014), available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (Last visited February 10, 2020).

⁸ See ch. 120, F.S. The administrative process is formalized in the Administrative Procedure Act.

⁹ DEP, *Enforcement Manual, Chapter Five: The Administrative Process and Remedies*, 58 (2014), available at https://floridadep.gov/sites/default/files/chapter5_0.pdf (Last visited February 10, 2020).

¹⁰ *Id.*

¹¹ *Id.* at 58-59, 66-70; Ch. 2001-258, Laws of Fla.

expensive, faster and less time consuming, and more conducive to negotiated settlement.¹² However, if the DEP is seeking immediate injunctive relief, which compels a party to act or stop acting, an order must be obtained from a court.¹³

The DEP must proceed administratively in cases in which the DEP seeks administrative penalties that do not exceed \$10,000 per assessment.¹⁴ The DEP is prohibited from imposing administrative penalties in excess of \$10,000 in a notice of violation.¹⁵ The DEP may not have more than one notice of violation pending against a party unless the violations occurred at a different site or the violations were discovered by the DEP subsequent to the filing of a previous notice of violation.¹⁶

Civil penalties are noncriminal fines that are generally levied by a court, and which agencies may be authorized to impose.¹⁷ The DEP may pursue two forms of action in state court: a petition to enforce an order previously entered through the administrative process, or a complaint for violations of statutes or rules.¹⁸ Under both forms, the DEP may seek injunctive relief, civil penalties, damages, and costs and expenses.¹⁹ For judicially imposed civil penalties, the DEP is authorized to recover up to \$10,000 per offense, with each day during any portion of which a violation occurs constituting a separate offense.²⁰

A court or an administrative law judge may receive evidence in mitigation, which may result in the decrease or elimination of penalties.²¹

Criminal penalties can include jail/prison time, a criminal fine, or both. Florida law imposes criminal penalties for certain violations of environmental law.²² Punishments for such violations may vary based on standards of intent, such as willful, reckless indifference, or gross careless disregard.²³

This present situation describes the DEP's general authority to levy penalties, largely pursuant to ch. 403, F.S. the DEP derives enforcement authority from several different chapters of Florida law based on subject matter, so the DEP has additional enforcement authority for programs not covered in ch. 403, F.S. Additionally, the Department of Legal Affairs, any political subdivision or municipality of the state, or a citizen of the state may maintain an action for injunctive relief

¹² DEP, *Enforcement Manual, Chapter Five: The Administrative Process and Remedies*, 59 (2014).

¹³ *Id.* at 59-60.

¹⁴ Section 403.121(2)(b), F.S.; DEP, *Enforcement Manual, Chapter Five: The Administrative Process and Remedies*, 66-67 (2014). This requirement does not apply to underground injection, hazardous waste, or asbestos programs.

¹⁵ Section 403.121(2)(b), F.S.

¹⁶ *Id.*

¹⁷ The Environmental Litigation Reform Act allows DEP to seek civil penalties of up to \$10,000 through the administrative process for most environmental violations. The Act may not be used if penalties exceed \$10,000.

¹⁸ DEP, *Enforcement Manual, Chapter Six: Judicial Process and Remedies, Collections, and Bankruptcies*, 86 (2014), available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (Last visited February 10, 2020).

¹⁹ *Id.*

²⁰ Section 403.121(1)(b), F.S.

²¹ Section 403.121, F.S.

²² Section 403.161, F.S.

²³ *Id.*

against the government entity charged with enforcing environmental laws or the violator of the laws.²⁴

Dredge and Fill Permitting Program

In 2018, the Legislature authorized the DEP to assume responsibility for the federal dredge and fill permitting program under the Clean Water Act, to regulate the discharge of dredged or fill material into Florida's navigable waters.²⁵ Currently, in Florida, the program is jointly implemented by the United States Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (USACE).²⁶ Assumption of the dredge and fill permitting program requires EPA approval. The DEP may adopt any federal requirements, criteria, or regulations necessary to obtain assumption.²⁷ Prior to assuming the program, the DEP must submit various materials to the EPA, including a complete program description, a memorandum of understanding between the state and EPA, a memorandum of understanding between the state and USACE, copies of all applicable statutes and regulations, and more.²⁸ The DEP is still in the process of developing the elements of the program for submission to the EPA.

Regarding enforcement authority, federal regulations require the state to have authority to carry out certain enforcement actions. For example, to assume the program, the DEP must have authority to seek criminal fines of at least \$5,000 per violation against any person who:

- Knowingly makes false statements or representation in any document required under the Clean Water Act, federal regulations, or the state program; or
- Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under a permit.²⁹

The approved maximum criminal fine must be assessable for each violation and, if the violation is continuous, must be assessable in that maximum amount for each day of violation.³⁰ The burden of proof and degree of knowledge or intent required under state law for establishing violations may not be greater than the burden of proof or degree of knowledge or intent EPA must bear when it brings an action under the Clean Water Act.³¹

Florida law provides that it is a violation of part IV of ch. 373, F.S., and ch. 403, F.S., to:

- Knowingly make any false statement or representation in documents required by state law; or
- Falsify, tamper with, or knowingly render inaccurate any monitoring device or method required by state law, rule, or permit.³²

²⁴ Section 403.412, F.S.

²⁵ Chapter 2018-88, Laws of Fla.; s. 373.4146, F.S.; 33 U.S.C. s. 1344(g).

²⁶ 33 U.S.C. s. 1344(a) and (b).

²⁷ Section 373.4146(2) and (5), F.S.

²⁸ 40 C.F.R. ss. 233.10-233.16.

²⁹ 40 C.F.R. s. 233.41(a)(3)(iii).

³⁰ 40 C.F.R. s. 233.41(b)(1).

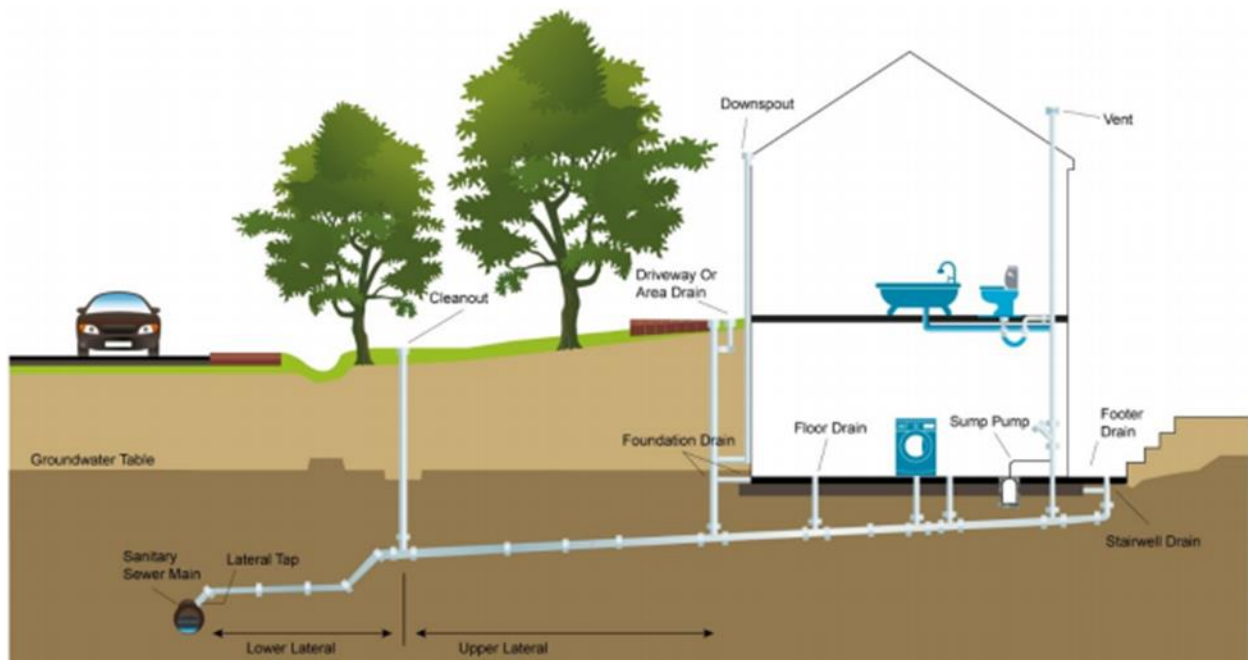
³¹ 40 C.F.R. s. 233.41(b)(2).

³² Sections 373.430(1)(c) and (5) and 403.161(1)(c) and (5), F.S.

The criminal penalties for these violations are fines of up to \$10,000, 6 months in jail, or both.³³ However, the penalty provisions in Florida law apply to “[a]ny person who willfully” commits the violations.³⁴ This application of the “willfully” standard of intent in the state penalties is inconsistent with the requirements in the federal regulations, which do not contain such a standard.

Sanitary Sewer Laterals

A sanitary sewer lateral is the portion of the sewer network connecting individual and private properties to the public sewer system.³⁵ The diagram below shows an example of a sanitary sewer lateral configuration.³⁶



Sanitary sewer laterals are often in poor condition and defects can occur due to aging systems, structural failure, lack of maintenance, or poor construction and design practices.³⁷ Problems in sanitary sewer laterals can have a significant impact on the performance of the sewer system and treatment plan. Private laterals are estimated to contribute to about 40 percent of a system’s infiltration and inflow to sanitary sewers.³⁸ Cracked or broken laterals can allow groundwater

³³ Sections 373.403(5) and 403.161(5), F.S.

³⁴ *Id.*

³⁵ U.S. Environmental Protection Agency, *Private Sewer Laterals* (June 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf>.

³⁶ Water Environment Federation, *Sanitary Sewer Rehabilitation*, 2 (2016), available at <https://www.wef.org/globalassets/assets-wef/direct-download-library/public/03---resources/wsec-2017-fs-009---csc---sewer-rehabilitation---final---9.27.17.pdf>.

³⁷ *Id.* at 1-2.

³⁸ U.S. Environmental Protection Agency, *Private Sewer Laterals*, 2 (June 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf>.

and infiltrating rainwater to enter into the sewer system which, at high levels, can cause problems at the treatment facility or overload the sewers and cause sanitary sewer overflows.³⁹

The Florida Building Code requires that every building in which plumbing fixtures are installed and premises having drainage piping be connected to a publicly owned or investor-owned sewage system, when available, or an approved onsite sewage treatment and disposal system in accordance with the standards for Onsite Sewage Treatment and Disposal Systems found in Chapter 64E-6, Florida Administrative Code.⁴⁰ A building that has plumbing fixtures installed and is intended for human habitation, occupancy, or use on premises abutting on a street, alley, or easement in which there is a public sewer is required to have a separate connection with the sewer.⁴¹

State law is silent on who is responsible for maintaining or replacing defective sanitary sewer laterals. However, certain municipalities, such as Orlando and Tarpon Springs, require that property owners be responsible for the maintenance, operation, or repair of sanitary sewer laterals in their city ordinances.⁴²

Most homeowners lack knowledge and awareness of potential structural issues with their sanitary sewer laterals.⁴³ Sanitary sewer lateral maintenance issues are the leading cause of backups and overflows into municipality-owned collection systems.⁴⁴ Some municipalities have enacted policies to address the matter. For example, the City of Gulfport has implemented rebate or replacement incentives to their citizens. The City of Gulfport's rebate program offers citizens 50 percent of the costs of the replacement up to \$3,500.⁴⁵ The City of St. Petersburg is also looking into a rebate program within a potential city ordinance addressing sanitary sewer laterals in response to the 2015-2016 sewage crisis that released up to one billion gallons of sewage, 200 million gallons of which ended up in Tampa Bay.⁴⁶

Required Disclosures for a Contract for Sale in Florida

Florida law requires sellers to disclose certain information as part of a sale to a prospective buyer before closing, including:

- A sinkhole claim;⁴⁷
- The potential for coastal erosion;⁴⁸

³⁹ *Id.* at 4.

⁴⁰ Ch. 7, s. 701.2 Florida Building Code – Plumbing, 6th edition (Jul. 2017).

⁴¹ Ch. 7, s. 701.3, Florida Building Code – Plumbing, 6th edition (Jul. 2017).

⁴² Ch. 30.02, s. 4.2(k), City of Orlando Code of Ordinances; Chapter 20, article IX, s. 20-110(d), City of Tarpon Springs Code of Ordinances.

⁴³ See U.S. Environmental Protection Agency, *Private Sewer Laterals* (June 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf>.

⁴⁴ U.S. Environmental Protection Agency, *Do You Know the Condition of Your Sewer System* (Oct. 2013) available at <https://www3.epa.gov/region1/sso/pdfs/EPAConditionFactSheetOct2013.pdf>.

⁴⁵ City of Gulfport, *Private Sewer Lateral Replacement Rebate Program* (Apr. 2018), <https://mygulfport.us/lateralrebate/> (last visited Feb. 19, 2020).

⁴⁶ The Tampa Bay Times, *St. Petersburg to Homeowners: Fix Your Broken Sewer Pipes* (Oct. 2019), <https://www.tampabay.com/news/st-petersburg/2019/10/08/st-petersburg-to-homeowners-fix-your-broken-sewer-pipes/> (last visited Oct. 8, 2019).

⁴⁷ Section 627.7073(2)(c), F.S.

⁴⁸ Section 161.57(2), F.S.

- Mandatory membership in a homeowner’s association;⁴⁹
- Radon gas having been found in buildings in Florida;⁵⁰
- That the buyer should not rely on the seller’s current property taxes;⁵¹ and
- Whether subsurface rights have been or will be severed or retained.⁵²

The Florida Statutes do not expressly require sellers of real property to disclose sewer lateral defects, although Florida tort law requires sellers to disclose to buyers known latent material defects that materially affect the property value.⁵³ Notably, sellers must only disclose defects actually known, but not those constructively known, i.e. those that could have been discovered through reasonable inspection.⁵⁴

In Florida, sellers can use the “Seller’s Property Disclosure Form”⁵⁵ created by the Florida Association of Realtors, but there is no statutory obligation requiring that the form be completed. Also, a seller is not required to retain a home inspector to discover problems that the seller may not be aware of.

III. Effect of Proposed Changes:

Sections 1 through 21 amend sections of the Florida Statutes containing various penalties for violations of environmental laws. In general, the bill increases the required or maximum penalties in the provisions listed below. In most cases, the penalties are increased by 50 percent.

Several places in existing law impose a penalty for each offense, with each day during any portion of which a violation occurs constituting a separate offense. The bill adds this standard to certain sections, as shown below.

The table below summarizes existing penalties and the penalties as revised by the bill. All penalties are levied by the Department of Environmental Protection (DEP) unless otherwise specified.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
161.054 (1), F.S.	Violating statutes, rules or orders regarding coastal construction or activities	An administrative fine for each offense of up to \$10,000.	An administrative fine for each offense of up to \$15,000.

⁴⁹ Section 720.401(1), F.S.

⁵⁰ Section 404.056(5), F.S.

⁵¹ Section 689.261, F.S.

⁵² Section 689.29, F.S.

⁵³ *Johnson v. Davis*, 480 So. 2d 625, 629 (Fla. 1985).

⁵⁴ *See id.*; *see also Jensen v. Bailey*, 76 So. 3d 980, 983-984 (Fla. 2d DCA 2011).

⁵⁵ Florida Realtors, *Seller’s Property Disclosure- Residential* (2016), available at <http://www.unlimitedmls.com/forms/Property-Disclosure-Form.pdf> (last visited Sept. 13, 2019).

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
258.397 (7), F.S.	Violating a statute or rules regarding Biscayne Bay Aquatic Preserve	Authorizes the Department of Legal Affairs to bring an action for civil penalties of \$5,000 per day.	Authorizes the Department of Legal Affairs to bring an action for civil penalties of \$7,500 per day. Each day during any portion of which a violation occurs constitutes a separate offense.
258.46, F.S.	Violating the Florida Aquatic Preserve Act or related rules	A civil penalty of not less than \$500 per day and not more than \$5,000 per day of a violation.	A civil penalty of not less than \$750 per day and not more than \$7,500 per day of a violation. Each day during any portion of which a violation occurs constitutes a separate offense.
373.129 (5), F.S.	Violating ch. 373, F.S., relating to water resources	Authorizes the DEP, any water management district, any local board, or certain local governments ⁵⁶ to recover a civil penalty for each offense, in an amount not to exceed \$10,000 per offense.	Authorizes the DEP, any water management district, any local board, or certain local governments to recover a civil penalty for each offense, in an amount not to exceed \$15,000 per offense.
373.209 (3)(b), F.S.	Violating a statute regarding artesian wells	A civil penalty of \$100 per day for each day of a violation and each act of a violation.	A civil penalty of \$150 per day for each day of a violation and each act of a violation.
373.430 (4) and (5), F.S.	Violating statutes regarding surface waters by causing pollution due to reckless indifference or gross careless disregard	A fine of not more than \$5,000 or 60 days in jail, or both, for each offense: causing certain pollution. A fine of not more than \$10,000, 6 months in jail, or both for willfully committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or	A fine of not more than \$10,000 or 60 days in jail, or both, for each offense: causing certain pollution; failing to obtain any permit; or violating or failing to comply with any rule, regulation, order, or permit. A fine of not more than \$10,000, 6 months in jail, or both for committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or

⁵⁶ Section 373.103(8), F.S. Under certain circumstances, the DEP may authorize a water management district to delegate to a local government by rule or agreement the power and duty to administer and enforce any of the statutes, rules, or regulations relating to stormwater permitting or surface water management which the district is authorized or required to administer.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		rendering inaccurate required monitoring devices or methods.	rendering inaccurate required monitoring devices or methods.
376.065 (5)(a) and (e), F.S.	Violating a statute regarding terminal facility certifications	A civil penalty of \$500 for any violation of the section or a certification. A civil penalty of \$500 imposed by a county court if commission of the infraction is proved.	A civil penalty of \$750 for any violation of the section or a certification. A civil penalty of \$750 imposed by a county court if commission of the infraction is proved.
376.071 (2)(a) and (e), F.S.	Violations regarding discharge contingency plans for vessels	A civil penalty of \$5,000 for each infraction. A civil penalty of \$5,000 imposed by a county court if commission of the infraction is proved.	A civil penalty of \$7,500 for each infraction. A civil penalty of \$7,500 imposed by a county court if commission of the infraction is proved.
376.16 (1), F.S.	Violating the Pollutant Discharge Prevention and Control Act or the DEP rules or orders	A civil penalty of up to \$50,000 per violation per day.	A civil penalty of up to \$75,000 per violation per day.
376.16 (2), (3), (7), and (8), F.S.	Violating the Pollutant Discharge Prevention and Control Act or the DEP rules or orders	In addition to the penalty in subsection (1), for persons responsible for two or more discharges within a 12-month period at the same facility, the statute provides the following penalties: <ul style="list-style-type: none"> Gasoline/diesel over 5 gallons - a civil penalty of \$500 for the second discharge and \$1,000 for each subsequent discharge within a 12-month period. Other pollutants - a civil penalty of \$2,500 for the second discharge and \$5,000 for each subsequent discharge within a 12-month period. For persons responsible for two or more discharges within a 12-month period at the same facility,	In addition to the penalty in subsection (1), for persons responsible for two or more discharges within a 12-month period at the same facility, the statute provides the following penalties: <ul style="list-style-type: none"> Gasoline/diesel over 5 gallons - a civil penalty of \$750 for the second discharge and \$1,500 for each subsequent discharge within a 12-month period. Other pollutants - a civil penalty of \$3,750 for the second discharge and \$7,500 for each subsequent discharge within a 12-month period. For persons responsible for two or more discharges within a 12-month period at the same facility,

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>the statute provides the following penalties:</p> <ul style="list-style-type: none"> • Gasoline/diesel equal to or less than 5 gallons - a civil penalty of \$50 for each discharge subsequent to the first. • Other pollutants equal to or less than 5 gallons - a civil penalty of \$100 for each discharge subsequent to the first. <p>Authorizes the county court to impose the following civil penalties if the commission of an infraction is proved: up to \$500 for the second discharge of gasoline/diesel and up to \$1,000 for each subsequent discharge of gasoline/diesel within a 12-month period; up to \$5,000 for the second discharge of other pollutants and up to \$10,000 for each subsequent discharge within a 12-month period.</p>	<p>the statute provides the following penalties:</p> <ul style="list-style-type: none"> • Gasoline/diesel equal to or less than 5 gallons - a civil penalty of \$75 for each discharge subsequent to the first; • Other pollutants equal to or less than 5 gallons - a civil penalty of \$150 for each discharge subsequent to the first. <p>Authorizes the county court to impose the following civil penalties if the commission of an infraction is proved: up to \$750 for the second discharge of gasoline/diesel and up to \$1,500 for each subsequent discharge of gasoline/diesel within a 12-month period; up to \$7,500 for the second discharge of other pollutants and up to \$15,000 for each subsequent discharge within a 12-month period.</p>
376.25 (6)(a), F.S.	Violating a statute regarding gambling vessels	A civil penalty of not more than \$50,000 for each violation.	<p>A civil penalty of not more than \$75,000 for each violation.</p> <p>Each day during any portion of which a violation occurs constitutes a separate offense.</p>
377.37 (1)(a), F.S.	Violating statutory provisions, rules, orders or permits regarding oil and gas resources	A civil penalty of not more than \$10,000 for each offense.	A civil penalty of not more than \$15,000 for each offense.
378.211 (2), F.S.	Violating statutes, rules, or orders regarding land reclamation	A civil penalty of \$100 per violation of a minor or technical nature; \$1,000 per major violation by an operator on which a penalty has not been imposed during the 5	A civil penalty of \$150 per violation of a minor or technical nature; \$1,500 per major violation by an operator on which a penalty has not been imposed during the 5

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		previous years; and \$5,000 per major violation not otherwise covered.	previous years; and \$7,500 per major violation not otherwise covered.
403.086 (2), F.S.	Violating orders regarding sanitary sewage disposal	A civil penalty of \$500 for each 24-hour day or fraction thereof that the failure is allowed to continue.	A civil penalty of \$750 for each 24-hour day or fraction thereof that the failure is allowed to continue.
403.121 (1)(b), F.S.	Violating ch. 403, F.S., regarding environmental control	For judicial remedies - authorizes the DEP to judicially pursue and recover a civil penalty of not more than \$10,000 per offense.	For judicial remedies - authorizes the DEP to judicially pursue and recover a civil penalty of not more than \$15,000 per offense.
403.121 (2)(b) and (g) F.S.	Violating ch. 403, F.S., regarding environmental control	<p>For administrative remedies - (except for violations involving hazardous wastes, asbestos, or underground injection) the DEP must proceed administratively when seeking administrative penalties not exceeding \$10,000 per assessment.</p> <p>The DEP may not impose penalties in excess of \$10,000 in a notice of violation.</p> <p>The DEP retains the authority to judicially pursue penalties in excess of \$10,000 for violations not included in the penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$10,000.</p> <p>Any case filed in state court because it is alleged to exceed a total of \$10,000 in penalties may be settled in the court action for less than \$10,000.</p>	<p>For administrative remedies - (except for violations involving hazardous wastes, asbestos, or underground injection) the DEP must proceed administratively when seeking administrative penalties not exceeding \$50,000 per assessment.</p> <p>The DEP may not impose penalties in excess of \$50,000 in a notice of violation.</p> <p>The DEP retains the authority to judicially pursue penalties in excess of \$50,000 for violations not included in the penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$50,000.</p> <p>Any case filed in state court because it is alleged to exceed a total of \$50,000 in penalties may be settled in the court action for less than \$50,000.</p>
403.121	Administrative penalty schedule: violations regarding	\$2,000 for a Maximum Containment Level violation; plus \$1,000 for a primary, inorganic, organic, or radiological Maximum Contaminant Level or fecal	\$3,000 for a Maximum Containment Level violation; plus \$1,500 for a primary, inorganic, organic, or radiological Maximum Contaminant Level or fecal

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
(3)(a), F.S. ⁵⁷	drinking water contamination	coliform bacteria violation; plus \$1,000 if the violation occurs at a community water system; plus \$1,000 if any Maximum Contaminant Level is exceeded by more than 100 percent. \$3,000 for failure to obtain a clearance letter before placing an ineligible drinking water system into service.	coliform bacteria violation; plus \$1,500 if the violation occurs at a community water system; plus \$1,500 if any Maximum Contaminant Level is exceeded by more than 100 percent. \$4,500 for failure to obtain a clearance letter before placing an ineligible drinking water system into service.
403.121 (3)(b), F.S.	Administrative penalty schedule: violations regarding wastewater	\$1,000 for failure to obtain a required wastewater permit (other than a permit for surface water discharge). \$2,000 for an unlawful discharge or exceedance resulting in a domestic or industrial wastewater violation (not involving a surface water or groundwater quality violation). \$5,000 for an unlawful discharge or exceedance resulting in a surface water or groundwater quality violation.	\$1,500 for failure to obtain a required wastewater permit (other than a permit for surface water discharge). \$3,000 for an unlawful discharge or exceedance resulting in a domestic or industrial wastewater violation (not involving a surface water or groundwater quality violation). \$7,500 for an unlawful discharge or exceedance resulting in a surface water or groundwater quality violation. Each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense.
403.121 (3)(c), F.S.	Administrative penalty schedule: violations regarding dredge and fill or stormwater	\$1,000 for an unlawful dredging, filling, or construction of a stormwater management system; plus \$2,000 if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida water, a conservation easement, or a Class I or Class II surface water; plus \$1,000 if the area dredged or	\$1,500 for an unlawful dredging, filling, or construction of a stormwater management system; plus \$3,000 if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida water, a conservation easement, or a Class I or Class II surface water; plus \$1,500 if the area dredged or

⁵⁷ Section 403.121(3), F.S. The administrative penalties in subsection (3) do not apply to hazardous waste, asbestos, or underground injection.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>filled is greater than .25 acres but less than or equal to .5 acres; plus \$1,000 if the area dredged or filled is greater than .5 acres but less than or equal to 1 acre.</p> <p>\$3,000 for failure to complete required mitigation, record a required conservation easement, or for a water quality violation resulting from dredging and filling activities, stormwater construction activities or failure of a stormwater treatment facility.</p> <p>\$2,000 (stormwater systems serving less than 5 acres) for failure to properly or timely construct a stormwater management system.</p> <p>\$5,000 per violation, in addition to the above penalties, for conducting unlawful dredging or filling.</p>	<p>filled is greater than .25 acres but less than or equal to .5 acres; plus \$1,500 if the area dredged or filled is greater than .5 acres but less than or equal to 1 acre.</p> <p>\$4,500 for failure to complete required mitigation, record a required conservation easement, or for a water quality violation resulting from dredging and filling activities, stormwater construction activities or failure of a stormwater treatment facility.</p> <p>\$3,000 (stormwater systems serving less than 5 acres) for failure to properly or timely construct a stormwater management system.</p> <p>\$7,500 per violation, in addition to the above penalties, for conducting unlawful dredging or filling.</p>
403.121 (3)(d), F.S.	Administrative penalty schedule: violations regarding mangrove trimming	\$5,000 per violation for conducting mangrove trimming or alterations without a permit.	\$7,500 per violation for conducting mangrove trimming or alterations without a permit.
403.121 (3)(e), F.S.	Administrative penalty schedule: violations regarding solid waste	\$2,000 for unlawful disposal or storage of solid waste; plus \$1,000 for Class I or III or construction and demolition debris in excess of 20 cubic yards; plus \$1,000 if the waste is disposed of or stored in a waterbody or within 500 feet of a potable water well; plus \$1,000 if the waste contains certain amounts of PCB, untreated biomedical waste, friable	\$3,000 for unlawful disposal or storage of solid waste; plus \$1,000 for Class I or III or construction and demolition debris in excess of 20 cubic yards; plus \$1,500 if the waste is disposed of or stored in a waterbody or within 500 feet of a potable water well; plus \$1,500 if the waste contains certain amounts of PCB, untreated biomedical waste, friable

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>asbestos, used oil, or lead acid batteries.</p> <p>\$3,000 for failure to maintain leachate control, unauthorized burning, failure to have a trained spotter on duty, or failure to provide access control for three consecutive inspections.</p> <p>\$2,000 for failure to construct or maintain a required stormwater management system.</p>	<p>asbestos, used oil, or lead acid batteries.</p> <p>\$4,500 for failure to maintain leachate control, unauthorized burning, failure to have a trained spotter on duty, or failure to provide access control for three consecutive inspections.</p> <p>\$3,000 for failure to construct or maintain a required stormwater management system.</p>
403.121 (3)(f), F.S.	Administrative penalty schedule: violations regarding air emissions	\$1,000 for an unlawful air emission or exceedance; plus \$1,000 if the emission results in an air quality violation; plus \$3,000 for emissions from the major source of the violating pollutant; plus \$1,000 if over 150% of the allowable level.	\$1,500 for an unlawful air emission or exceedance; plus \$4,500 for emissions from the major source of the violating pollutant; plus \$1,500 if over 150% of the allowable level.
403.121 (3)(g), F.S.	Administrative penalty schedule: violations regarding storage tank system and petroleum contamination	<p>\$5,000 for failure to empty a damaged storage system as necessary to ensure a release does not occur until repairs are completed, when a release has occurred, failure to timely recover free product, or failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued.</p> <p>\$3,000 for failure to timely upgrade a storage tank system.</p> <p>\$2,000 for failure to conduct or maintain required release detection, failure to timely investigate a suspected release, depositing motor fuel into an unregistered storage tank system, failure to timely assess or</p>	<p>\$7,500 for failure to empty a damaged storage system as necessary to ensure a release does not occur until repairs are completed, when a release has occurred, failure to timely recover free product, or failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued.</p> <p>\$4,500 for failure to timely upgrade a storage tank system.</p> <p>\$3,000 for failure to conduct or maintain required release detection, failure to timely investigate a suspected release, depositing motor fuel into an unregistered storage tank system, failure to timely assess or</p>

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>remediate petroleum contamination, or failure to properly install a storage tank system.</p> <p>\$1,000 for failure to properly operate, maintain, or close a storage tank system.</p>	<p>remediate petroleum contamination, or failure to properly install a storage tank system.</p> <p>\$1,500 for failure to properly operate, maintain, or close a storage tank system.</p>
403.121 (4), F.S.	Violating ch. 403, F.S., regarding environmental control	<p>In administrative proceedings, in addition to penalties assessed under subsection (3):</p> <ul style="list-style-type: none"> • \$5,000 for failure to satisfy financial responsibility requirements or for oil and gas pollution violations. • \$4,000 for failure to install, maintain, or use a required pollution control system or device. • \$3,000 for failure to obtain a required permit before construction or modification. • \$2,000 for failure to conduct required monitoring or testing, conduct required release detection, or construct in compliance with a permit. • \$1,000 for failure to maintain required staff to respond to emergencies, failure to conduct required training, failure to prepare, maintain, or update required contingency plans, failure to adequately respond to emergencies to bring an emergency situation under control, or failure to submit required notification to the DEP. • \$500 for failure to prepare, submit, maintain, or use required reports or documentation. 	<p>In administrative proceedings, in addition to penalties assessed under subsection (3):</p> <ul style="list-style-type: none"> • \$7,500 for failure to satisfy financial responsibility requirements or for oil and gas pollution violations. • \$6,000 for failure to install, maintain, or use a required pollution control system or device. • \$4,500 for failure to obtain a required permit before construction or modification. • \$3,000 for failure to conduct required monitoring or testing, conduct required release detection, or construct in compliance with a permit. • \$1,500 for failure to maintain required staff to respond to emergencies, failure to conduct required training, failure to prepare, maintain, or update required contingency plans, failure to adequately respond to emergencies to bring an emergency situation under control, or failure to submit required notification to the DEP. • \$750 for failure to prepare, submit, maintain, or use required reports or documentation.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
403.121 (5), (7), (8), and (9), F.S.	Violating ch. 403, F.S., regarding environmental control	<p>A penalty of \$500 for failure to comply with any other department regulatory statute or rule.</p> <p>A violator's history of noncompliance for any previous violation found in an executed consent order finding violation, or resulting in a final order or judgment involving the imposition of \$2,000 or more must be taken into consideration in a manner specified in statute.</p> <p>The total administrative penalty, including direct economic benefit gained by the violator that is added to the scheduled administrative penalty, may not exceed \$10,000.</p> <p>The administrative penalties for a particular violation that are assessed against any one violator may not exceed \$5,000, unless there is a history of noncompliance, the economic benefit exceeds \$5,000, or there are multiday violations. Total administrative penalties may not exceed \$10,000 per assessment for all violations attributable to a specific person in a notice of violation.</p>	<p>A penalty of \$1,000 for failure to comply with any other department regulatory statute or rule.</p> <p>A violator's history of noncompliance for any previous violation found in an executed consent order finding violation, or resulting in a final order or judgment involving the imposition of \$3,000 or more must be taken into consideration in a manner specified in statute.</p> <p>The total administrative penalty, including direct economic benefit gained by the violator that is added to the scheduled administrative penalty, may not exceed \$15,000.</p> <p>The administrative penalties for a particular violation that are assessed against any one violator may not exceed \$7,500, unless there is a history of noncompliance, the economic benefit exceeds \$7,500, or there are multiday violations. Total administrative penalties may not exceed \$50,000 per assessment for all violations attributable to a specific person in a notice of violation.</p>
403.141 (1), F.S.	Violating ch. 403, F.S., regarding environmental control, by committing prohibited acts	A civil penalty for each offense in an amount not to exceed \$10,000.	<p>A civil penalty for each offense in an amount not to exceed \$15,000.</p> <p>If a violation is an unauthorized discharge of domestic wastewater, each day the cause of the violation is not addressed constitutes a separate offense until the violation is resolved by order or judgement.</p>

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
403.161 (4), F.S.	Violating ch. 403, F.S., regarding environmental control, by committing prohibited acts specified in the statute	A violation causing pollution due to reckless indifference or gross careless disregard is punishable by a fine of not more than \$5,000, 60 days in jail, or both, for each offense.	A violation causing pollution; failure to obtain a permit required under Ch. 403, F.S., or rules; or violating any rule, order, permit or certification adopted or issued by the DEP due to reckless indifference or gross careless disregard is punishable by a fine of not more than \$10,000, 60 days in jail, or both, for each offense.
403.161 (5), F.S.	Violating ch. 403, F.S., regarding environmental control, by willfully causing pollution	A fine of not more than \$10,000, 6 months in jail, or both for willfully committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods.	A fine of not more than \$10,000, 6 months in jail, or both for committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods.
403.413 (6)(a), F.S.	Dumping litter	A civil penalty of \$100 for dumping litter (not for commercial purposes) not exceeding 15 pounds or 27 cubic feet.	A civil penalty of \$150 for dumping litter (not for commercial purposes) not exceeding 15 pounds or 27 cubic feet.
403.7234 (5), F.S.	Violations involving small quantity generators	A fine of between \$50 and \$100 per day for a maximum of 100 days for a noncompliant small quantity generator.	A fine of between \$75 and \$150 per day for a maximum of 100 days for a noncompliant small quantity generator.
403.726 (3), F.S.	Violations regarding hazardous waste creating an imminent hazard	Authorizes the DEP to institute action to abate an imminent hazard and may recover a civil penalty of not more than \$25,000 for each day of continued violation.	Authorizes the DEP to institute action to abate an imminent hazard and may recover a civil penalty of not more than \$37,500 for each day of continued violation.
403.727 (3)(a), F.S.	Violations regarding hazardous waste	A civil penalty of not more than \$50,000 for each day of continued violation.	A civil penalty of not more than \$75,000 for each day of continued violation.
403.93345 (8)(a)-(c) and (g), F.S.	Civil penalty schedule: violating the Florida Coral Reef Protection Act	Damage to a coral reef less than or equal to 1 square meter: \$150; additional \$150 with aggravating circumstances; additional \$150 if occurring within a state park or aquatic preserve.	Damage to a coral reef less than or equal to 1 square meter: \$225; additional \$225 with aggravating circumstances; additional \$225 if occurring within a state park or aquatic preserve.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>Damage to a coral reef of more than 1 square meter but less than or equal to 10 square meters: \$300 per square meter; additional \$300 per square meter with aggravating circumstances; additional \$300 per square meter if occurring within a state park or aquatic preserve.</p> <p>Damage exceeding an area of 10 square meters: \$1,000 per square meter; additional \$1,000 per square meter with aggravating circumstances; additional \$1,000 per square meter if occurring within a state park or aquatic preserve.</p> <p>The total penalties levied may not exceed \$250,000 per occurrence.</p>	<p>Damage to a coral reef of more than 1 square meter but less than or equal to 10 square meters: \$450 per square meter; additional \$450 per square meter with aggravating circumstances; additional \$450 per square meter if occurring within a state park or aquatic preserve.</p> <p>Damage exceeding an area of 10 square meters: \$1,500 per square meter; additional \$1,500 per square meter with aggravating circumstances; additional \$1,500 per square meter if occurring within a state park or aquatic preserve.</p> <p>The total penalties levied may not exceed \$375,000 per occurrence.</p>

Section 22 creates s. 125.569, F.S., titled “Sanitary sewer lateral inspection program.”

The bill defines the term “sanitary sewer lateral,” as used in s. 125.569, F.S., to mean “a privately owned pipeline connecting a property to the main sewer line which is maintained and repaired by the property owner.”

The bill encourages counties, by July 1, 2022, to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the county’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. At a minimum, the program may do all of the following:

- Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of the county.
- Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral.
- Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. For each property, the database must include, but is not limited to, the address of the property, the names of any persons the county notified concerning the faulty sanitary sewer lateral, and the date and method of such notification.

Section 23 creates s. 166.0481, F.S., titled “Sanitary sewer lateral inspection program.”

The bill defines the term “sanitary sewer lateral,” as used in s. 166.0481, F.S., to mean “a privately owned pipeline connecting a property to the main sewer line which is maintained and repaired by the property owner.”

The bill encourages municipalities, by July 1, 2022, to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the municipality’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. At a minimum, the program may do all of the following:

- Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of the municipality.
- Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral.
- Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. For each property, the database must include, but is not limited to, the address of the property, the names of any persons the municipality notified concerning the faulty sanitary sewer lateral, and the date and method of such notification.

Section 24 creates s. 689.301, F.S., titled “Disclosure of known defects in sanitary sewer laterals to prospective purchaser.”

The bill defines the term “sanitary sewer lateral,” as used in s. 689.301, F.S., to mean “the privately owned pipeline connecting a property to the main sewer line.”

The bill requires a seller of real property, before executing a contract for sale, to disclose to a prospective purchaser any defects in the property’s sanitary sewer lateral which are known to the seller.

Sections 25 through 29 reenact ss. 823.11(5); 403.077(5); 403.131(2); 403.4154(3)(d); 403.860(5); 403.708(10); 403.7191(7); 403.811; 403.7255(2); and 403.7186(8), F.S. This reenactment is done for the purpose of incorporating certain amendments made by the bill, as the reenacted provisions reference sections of law that are amended by the bill.

Section 30 states that the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill increases numerous penalties for violations of environmental laws. In some instances, the bill also expands the potential time period when each passing day may constitute a separate offense. Overall, the bill increases the penalties that the private sector must pay for violations of environmental laws.

C. Government Sector Impact:

The bill increases the amounts of numerous penalties. Such penalties may apply to government entities, such as local governments. The bill may cause government entities to be responsible for increased costs when they are required to pay such penalties.

The bill increases the amounts of numerous penalties. If imposed, the funds from such penalties would increase revenue to the state. Therefore, the bill may have a positive, indeterminate impact on the government sector.

The bill may have an indeterminate negative fiscal impact on local governments that own and operate wastewater treatment facilities because the bill increases a number of penalties associated with the violation of environmental laws, including permit violations for wastewater treatment facilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 161.054, 258.397, 258.46, 373.129, 373.209, 373.430, 376.065, 376.071, 376.16, 376.25, 377.37, 378.211, 403.086, 403.121, 403.141, 403.161, 403.413, 403.7234, 403.726, 403.727, and 403.93345.

This bill creates the following sections of the Florida Statutes: 125.569, 166.0481, and 689.301.

This bill reenacts the following sections of the Florida Statutes: 403.077, 403.131, 403.4154, 403.708, 403.7186, 403.7191, 403.7255, 403.811, 403.86, and 823.11.

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

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

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on February 18, 2020:

The committee substitute:

- Removes the following language, or substantially similar language, from anywhere it appears in the bill: “[u]ntil a violation is resolved by order or judgement, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.”
- Returns what constitutes a separate offense to the existing “[e]ach during any portion of which such violation occurs constitutes a separate offense” in several sections, including those on the following topics: coastal construction and activities, water resources, regulation of oil and gas resources, phosphate land reclamation, hazardous waste, criminal penalties for discharges of pollutants, and civil and criminal penalties in ch. 403, F.S.
- Adds the standard “[e]ach day during any portion of which such violation occurs constitutes a separate offense” to sections on the following topics: Biscayne Bay Aquatic Preserve, aquatic preserves, and gambling vessels.
- Adds to the administrative penalties in s. 403.121, F.S., that each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense.
- Adds to civil penalties in s. 403.141, F.S., that each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense until the violation is resolved by order or judgement.

CS by Environment and Natural Resources on January 27, 2020:

- Removes the “willfully” standard of intent from applying to criminal penalties in two sections of Florida’s environmental statutes. The penalties apply to violations of knowingly falsifying documents or tampering with required monitoring. The DEP’s authority to seek criminal fines for such falsification or tampering is required by the federal regulations for state assumption of the 404 dredge and fill program. Applying a “willfully” standard to the penalties is not consistent with the federal regulations, so the bill removes the standard.

- Revises the title of the bill to more accurately describe the contents of the bill.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
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The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 564 - 725
and insert:
department shall assess a penalty of \$2,000 ~~\$1,000~~. For a
domestic or industrial wastewater violation not involving a
surface water or groundwater quality violation, the department
shall assess a penalty of \$4,000 ~~\$2,000~~ for an unpermitted or
unauthorized discharge or effluent-limitation exceedance. For an
unpermitted or unauthorized discharge or effluent-limitation



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11 exceedance that resulted in a surface water or groundwater
12 quality violation, the department shall assess a penalty of
13 \$10,000 ~~\$5,000~~. Each day the cause of an unauthorized discharge
14 of domestic wastewater is not addressed constitutes a separate
15 offense.

16 (c) For a dredge and fill or stormwater violation, the
17 department shall assess a penalty of \$1,500 ~~\$1,000~~ for
18 unpermitted or unauthorized dredging or filling or unauthorized
19 construction of a stormwater management system against the
20 person or persons responsible for the illegal dredging or
21 filling, or unauthorized construction of a stormwater management
22 system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in
23 an aquatic preserve, an Outstanding Florida Water, a
24 conservation easement, or a Class I or Class II surface water,
25 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than
26 one-quarter acre but less than or equal to one-half acre, and
27 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than
28 one-half acre but less than or equal to one acre. The
29 administrative penalty schedule does ~~shall~~ not apply to a dredge
30 and fill violation if the area dredged or filled exceeds one
31 acre. The department retains the authority to seek the judicial
32 imposition of civil penalties for all dredge and fill violations
33 involving more than one acre. The department shall assess a
34 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required
35 mitigation, failure to record a required conservation easement,
36 or for a water quality violation resulting from dredging or
37 filling activities, stormwater construction activities or
38 failure of a stormwater treatment facility. For stormwater
39 management systems serving less than 5 acres, the department



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shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does ~~shall~~ not make that person an agent of the owner or tenant.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does ~~shall~~ not make that person an agent of the owner or tenant.

(e) For solid waste violations, the department shall assess a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or unauthorized disposal or storage of solid waste; plus \$1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~ if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater



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than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; or failure to provide access control for three consecutive inspections. The department shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, ~~plus \$1,000 if the emission results in an air quality violation,~~ plus \$4,500 ~~\$3,000~~ if the emission was from a major source and the source was major for the pollutant in violation; plus \$1,500 ~~\$1,000~~ if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of \$7,500 ~~\$5,000~~ for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely upgrade a storage tank system. The department shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain



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required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly operate, maintain, or close a storage tank system.

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), \$7,500 ~~\$5,000~~.

(b) For failure to install, maintain, or use a required pollution control system or device, \$6,000 ~~\$4,000~~.

(c) For failure to obtain a required permit before construction or modification, \$4,500 ~~\$3,000~~.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, \$3,000 ~~\$2,000~~.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, \$1,500 ~~\$1,000~~.

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required



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reports or other required documentation, \$750 ~~\$500~~.

(5) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of \$1,000 ~~\$500~~.

(6) For each additional day during which a violation occurs, the administrative penalties in subsections ~~subsection~~ (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment after the effective date of this law involving the imposition of \$3,000 ~~\$2,000~~ or more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years prior to the filing of the notice of violation will result in a 25-percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years prior to the filing of the notice of violation will result in a 50-percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years prior to the filing of the notice of violation will result in a 100-percent per day increase in the scheduled administrative penalty.

(8) The direct economic benefit gained by the violator from



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the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, shall be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, may ~~shall~~ not exceed \$15,000 ~~\$10,000~~.

(9) The administrative penalties assessed for any particular violation may ~~shall~~ not exceed \$10,000 ~~\$5,000~~ against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds \$10,000 ~~\$5,000~~, or there are

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

And the title is amended as follows:

Delete line 2

and insert:

An act relating to environmental accountability;
amending



879998

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/28/2020	.	
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The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 926 - 964
and insert:
not limited to, the address of the property, the manner in which
the property owner was notified concerning the faulty sanitary
sewer lateral, and the date and method of such notification. Any
such notice to a property owner must include methods for
sanitary sewer lateral repairs and for the removal of the
property from the database.



879998

Section 23. Section 166.0481, Florida Statutes, is created to read:

166.0481 Sanitary sewer lateral inspection program.—

(1) As used in this section, the term "sanitary sewer lateral" means a privately owned pipeline connecting a property to the main sewer line which is maintained and repaired by the property owner.

(2) By July 1, 2022, municipalities are encouraged to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the municipality's jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. At a minimum, the program may do all of the following:

(a) Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of the municipality.

(b) Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral.

(c) Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. For each property, the database must include, but is not limited to, the address of the property, the manner in which the property owner was notified concerning the faulty sanitary sewer lateral, and the date and method of such notification. Any such notice to a property owner must include methods for sanitary sewer lateral repairs and for the removal of the



879998

40 property from the database.

41

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

43 And the title is amended as follows:

44 Delete lines 47 - 50

45 and insert:

46 parameters for such a program;



594336

576-03905-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to environmental enforcement; amending s. 161.054, F.S.; revising administrative penalties for violations of certain provisions relating to beach and shore construction and activities; making technical changes; amending ss. 258.397, 258.46, and 376.25, F.S.; revising civil penalties for violations of certain provisions relating to the Biscayne Bay Aquatic Preserve, aquatic preserves, and the Clean Ocean Act, respectively; providing that each day that certain violations occur constitutes a separate offense; making technical changes; amending ss. 373.129, 373.209, 376.065, 376.071, 376.16, 377.37, 378.211, 403.086, 403.413, 403.7234, and 403.93345, F.S.; revising civil penalties for violations of certain provisions relating to water resources, artesian wells, terminal facilities, discharge contingency plans for vessels, the Pollutant Discharge Prevention and Control Act, regulation of oil and gas resources, the Phosphate Land Reclamation Act, sewage disposal facilities, dumping litter, small quantity generators, and coral reef protection, respectively; making technical changes; amending ss. 373.430 and 403.161, F.S.; revising criminal penalties for violations of certain provisions relating to pollution and the environment; making technical changes; amending s. 403.121, F.S.; revising civil and



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576-03905-20

administrative penalties for violations of certain provisions relating to pollution and the environment; providing that each day that certain violations occur constitutes a separate offense; increasing the amount of penalties that can be assessed administratively; making technical changes; amending s. 403.141, F.S.; revising civil penalties for violations of certain provisions relating to pollution and the environment; providing that each day that the cause of unauthorized discharges of domestic wastewater is not addressed constitutes a separate offense until the violation is resolved by order or judgment; amending ss. 403.726 and 403.727, F.S.; revising civil penalties for violations of certain provisions relating to hazardous waste; making technical changes; creating ss. 125.569 and 166.0481, F.S.; defining the term "sanitary sewer lateral"; encouraging counties and municipalities, respectively, to establish a sanitary sewer lateral inspection program by a specified date; providing parameters for such a program; creating s. 689.301, F.S.; requiring a seller of real property to disclose any known defects in the property's sanitary sewer lateral; defining the term "sanitary sewer lateral"; reenacting s. 823.11(5), F.S., to incorporate the amendment made to s. 376.16, F.S., in a reference thereto; reenacting ss. 403.077(5), 403.131(2), 403.4154(3)(d), and 403.860(5), F.S., to incorporate the amendment made to s. 403.121, F.S., in references thereto; reenacting ss. 403.708(10), 403.7191(7), and



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57 403.811, F.S., to incorporate the amendment made to s.
58 403.141, F.S., in references thereto; reenacting s.
59 403.7255(2), F.S., to incorporate the amendment made
60 to s. 403.161, F.S., in a reference thereto;
61 reenacting s. 403.7186(8), F.S., to incorporate the
62 amendments made to ss. 403.141 and 403.161, F.S., in
63 references thereto; providing an effective date.
64

65 Be It Enacted by the Legislature of the State of Florida:
66

67 Section 1. Subsection (1) of section 161.054, Florida
68 Statutes, is amended to read:

69 161.054 Administrative fines; liability for damage; liens.—

70 (1) In addition to the penalties provided for in ss.
71 161.052, 161.053, and 161.121, any person, firm, corporation, or
72 governmental agency, or agent thereof, refusing to comply with
73 or willfully violating ~~any of the provisions of~~ s. 161.041, s.
74 161.052, or s. 161.053, or any rule or order prescribed by the
75 department thereunder, shall incur a fine for each offense in an
76 amount up to ~~\$15,000~~ ~~\$10,000~~ to be fixed, imposed, and collected
77 by the department. Each day during any portion of which such
78 violation occurs constitutes a separate offense.

79 Section 2. Subsection (7) of section 258.397, Florida
80 Statutes, is amended to read:

81 258.397 Biscayne Bay Aquatic Preserve.—

82 (7) ENFORCEMENT.—~~The provisions of~~ This section may be
83 enforced in accordance with ~~the provisions of~~ s. 403.412. In
84 addition, the Department of Legal Affairs may ~~is authorized to~~
85 bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day



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576-03905-20

86 against any person, natural or corporate, who violates ~~the~~
87 ~~provisions of~~ this section or any rule or regulation issued
88 hereunder. Each day during any portion of which such violation
89 occurs constitutes a separate offense. Enforcement of applicable
90 state regulations shall be supplemented by the Miami-Dade County
91 Department of Environmental Resources Management through the
92 creation of a full-time enforcement presence along the Miami
93 River.

94 Section 3. Section 258.46, Florida Statutes, is amended to
95 read:

96 258.46 Enforcement; violations; penalty.—~~The provisions of~~
97 This act may be enforced by the Board of Trustees of the
98 Internal Improvement Trust Fund or in accordance with ~~the~~
99 ~~provisions of~~ s. 403.412. However, any violation by any person,
100 natural or corporate, of ~~the provisions of~~ this act or any rule
101 or regulation issued hereunder is shall be further punishable by
102 a civil penalty of not less than \$750 ~~\$500~~ per day or more than
103 \$7,500 ~~\$5,000~~ per day of such violation. Each day during any
104 portion of which such violation occurs constitutes a separate
105 offense.

106 Section 4. Subsections (5) and (7) of section 373.129,
107 Florida Statutes, are amended to read:

108 373.129 Maintenance of actions.—The department, the
109 governing board of any water management district, any local
110 board, or a local government to which authority has been
111 delegated pursuant to s. 373.103(8), is authorized to commence
112 and maintain proper and necessary actions and proceedings in any
113 court of competent jurisdiction for any of the following
114 purposes:



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115 (5) To recover a civil penalty for each offense in an
116 amount not to exceed ~~\$15,000~~ ~~\$10,000~~ per offense. Each date
117 during which such violation occurs constitutes a separate
118 offense.

119 (a) A civil penalty recovered by a water management
120 district pursuant to this subsection shall be retained and used
121 exclusively by the water management district that collected the
122 money. A civil penalty recovered by the department pursuant to
123 this subsection must be deposited into the Water Quality
124 Assurance Trust Fund established under s. 376.307.

125 (b) A local government that is delegated authority pursuant
126 to s. 373.103(8) may deposit a civil penalty recovered pursuant
127 to this subsection into a local water pollution control program
128 trust fund, notwithstanding ~~the provisions of~~ paragraph (a).
129 However, civil penalties that are deposited in a local water
130 pollution control program trust fund and that are recovered for
131 violations of state water quality standards may be used only to
132 restore water quality in the area that was the subject of the
133 action, and civil penalties that are deposited in a local water
134 pollution control program trust fund and that are recovered for
135 violation of requirements relating to water quantity may be used
136 only to purchase lands and make capital improvements associated
137 with surface water management, or other purposes consistent with
138 the requirements of this chapter for the management and storage
139 of surface water.

140 (7) ~~To enforce the provisions of~~ part IV of this chapter in
141 the same manner and to the same extent as provided in ss.
142 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

143 Section 5. Subsection (3) of section 373.209, Florida



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144 Statutes, is amended to read:

145 373.209 Artesian wells; penalties for violation.—

146 (3) Any person who violates ~~any provision of~~ this section
147 ~~is shall be~~ subject to either:

148 (a) The remedial measures provided for in s. 373.436; or

149 (b) A civil penalty of ~~\$150~~ ~~\$100~~ a day for each and every
150 day of such violation and for each and every act of violation.
151 The civil penalty may be recovered by the water management board
152 of the water management district in which the well is located or
153 by the department in a suit in a court of competent jurisdiction
154 in the county where the defendant resides, in the county of
155 residence of any defendant if there is more than one defendant,
156 or in the county where the violation took place. The place of
157 suit shall be selected by the board or department, and the suit,
158 by direction of the board or department, shall be instituted and
159 conducted in the name of the board or department by appropriate
160 counsel. The payment of any such damages does not impair or
161 abridge any cause of action which any person may have against
162 the person violating ~~any provision of~~ this section.

163 Section 6. Subsections (2) through (5) of section 373.430,
164 Florida Statutes, are amended to read:

165 373.430 Prohibitions, violation, penalty, intent.—

166 (2) ~~A person who~~ ~~whoever~~ commits a violation specified in
167 subsection (1) is liable for any damage caused and for civil
168 penalties as provided in s. 373.129.

169 (3) ~~A~~ ~~Any~~ person who willfully commits a violation
170 specified in paragraph (1)(a) ~~commits is guilty of~~ a felony of
171 the third degree, punishable as provided in ss. 775.082(3)(e)
172 and 775.083(1)(g), by a fine of not more than \$50,000 or by



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imprisonment for 5 years, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.

(4) ~~A~~ Any person who commits a violation specified in paragraph (1)(a) or paragraph (1)(b) due to reckless indifference or gross careless disregard ~~commits is guilty of~~ a misdemeanor of the second degree, punishable as provided in ss. 775.082(4)(b) and 775.083(1)(g), by a fine of not more than \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

(5) ~~A~~ Any person who willfully commits a violation specified in paragraph (1)(b) or who commits a violation specified in paragraph (1)(c) ~~commits is guilty of~~ a misdemeanor of the first degree, punishable as provided in ss. 775.082(4)(a) and 775.083(1)(g), by a fine of not more than \$10,000 or by 6 months in jail, or by both, for each offense.

Section 7. Paragraphs (a) and (e) of subsection (5) of section 376.065, Florida Statutes, are amended to read:

376.065 Operation of terminal facility without discharge prevention and response certificate prohibited; penalty.—

(5)(a) A person who violates this section or the terms and requirements of such certification commits a noncriminal infraction. The civil penalty for any such infraction shall be \$750 ~~\$500~~, except as otherwise provided in this section.

(e) A person who elects to appear before the county court or who is required to so appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of the infraction is proved, the court shall impose a civil penalty of \$750 ~~\$500~~.



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Section 8. Paragraphs (a) and (e) of subsection (2) of section 376.071, Florida Statutes, are amended to read:

376.071 Discharge contingency plan for vessels.—

(2)(a) A master of a vessel that violates subsection (1) commits a noncriminal infraction and shall be cited for such infraction. The civil penalty for such an infraction shall be \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.

(e) A person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of the infraction is proved, the court shall impose a civil penalty of \$7,500 ~~\$5,000~~.

Section 9. Section 376.16, Florida Statutes, is amended to read:

376.16 Enforcement and penalties.—

(1) It is unlawful for any person to violate ~~any provision of~~ ss. 376.011-376.21 or any rule or order of the department made pursuant to this act. ~~A violation is shall be~~ punishable by a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day to be assessed by the department. Each day during any portion of which the violation occurs constitutes a separate offense. The penalty provisions of this subsection ~~do shall~~ not apply to any discharge promptly reported and removed by a person responsible, in accordance with the rules and orders of the department, or to any discharge of pollutants equal to or less than 5 gallons.

(2) In addition to the penalty provisions which may apply under subsection (1), a person responsible for two or more discharges of any pollutant reported pursuant to s. 376.12



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231 within a 12-month period at the same facility commits a
232 noncriminal infraction and shall be cited by the department for
233 such infraction.

234 (a) For discharges of gasoline or diesel over 5 gallons,
235 the civil penalty for the second discharge shall be \$750 ~~\$500~~
236 and the civil penalty for each subsequent discharge within a 12-
237 month period shall be \$1,500 ~~\$1,000~~, except as otherwise
238 provided in this section.

239 (b) For discharges of any pollutant other than gasoline or
240 diesel, the civil penalty for a second discharge shall be \$3,750
241 ~~\$2,500~~ and the civil penalty for each subsequent discharge
242 within a 12-month period shall be \$7,500 ~~\$5,000~~, except as
243 otherwise provided in this section.

244 (3) A person responsible for two or more discharges of any
245 pollutant reported pursuant to s. 376.12 within a 12-month
246 period at the same facility commits a noncriminal infraction and
247 shall be cited by the department for such infraction.

248 (a) For discharges of gasoline or diesel equal to or less
249 than 5 gallons, the civil penalty shall be \$75 ~~\$50~~ for each
250 discharge subsequent to the first.

251 (b) For discharges of pollutants other than gasoline or
252 diesel equal to or less than 5 gallons, the civil penalty shall
253 be \$150 ~~\$100~~ for each discharge subsequent to the first.

254 (4) A person charged with a noncriminal infraction pursuant
255 to subsection (2) or subsection (3) may:

256 (a) Pay the civil penalty;

257 (b) Post a bond equal to the amount of the applicable civil
258 penalty; or

259 (c) Sign and accept a citation indicating a promise to



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260 appear before the county court.

261
262 The department employee authorized to issue these citations may
263 indicate on the citation the time and location of the scheduled
264 hearing and shall indicate the applicable civil penalty.

265 (5) Any person who willfully refuses to post bond or accept
266 and sign a citation commits a misdemeanor of the second degree,
267 punishable as provided in s. 775.082 or s. 775.083.

268 (6) After compliance with paragraph (4)(b) or paragraph
269 (4)(c), any person charged with a noncriminal infraction under
270 subsection (2) or subsection (3) may:

271 (a) Pay the civil penalty, either by mail or in person,
272 within 30 days after the date of receiving the citation; or

273 (b) If the person has posted bond, forfeit the bond by not
274 appearing at the designated time and location.

275
276 A person cited for an infraction under this section who pays the
277 civil penalty or forfeits the bond has admitted the infraction
278 and waives the right to a hearing on the issue of commission of
279 the infraction. Such admission may not be used as evidence in
280 any other proceeding.

281 (7) Any person who elects to appear before the county court
282 or who is required to appear waives the limitations of the civil
283 penalties specified in subsection (2). The court, after a
284 hearing, shall make a determination as to whether an infraction
285 has been committed. If the commission of an infraction is
286 proved, the court may impose a civil penalty up to, but not
287 exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or
288 diesel and a civil penalty up to, but not exceeding, \$1,500



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289 ~~\$1,000~~ for each subsequent discharge of gasoline or diesel
290 within a 12-month period.

291 (8) Any person who elects to appear before the county court
292 or who is required to appear waives the limitations of the civil
293 penalties specified in subsection (2) or subsection (3). The
294 court, after a hearing, shall make a determination as to whether
295 an infraction has been committed. If the commission of an
296 infraction is proved, the court may impose a civil penalty up
297 to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of
298 pollutants other than gasoline or diesel and a civil penalty up
299 to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent
300 discharge of pollutants other than gasoline or diesel within a
301 12-month period.

302 (9) At a hearing under this section, the commission of a
303 charged offense must be proved by the greater weight of the
304 evidence.

305 (10) A person who is found by a hearing official to have
306 committed an infraction may appeal that finding to the circuit
307 court.

308 (11) Any person who has not posted bond and who neither
309 pays the applicable civil penalty, as specified in subsection
310 (2) or subsection (3) within 30 days of receipt of the citation
311 nor appears before the court commits a misdemeanor of the second
312 degree, punishable as provided in s. 775.082 or s. 775.083.

313 (12) Any person who makes or causes to be made a false
314 statement that which the person does not believe to be true in
315 response to requirements of ~~the provisions of~~ ss. 376.011-376.21
316 commits a felony of the second degree, punishable as provided in
317 s. 775.082, s. 775.083, or s. 775.084.



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318 Section 10. Paragraph (a) of subsection (6) of section
319 376.25, Florida Statutes, is amended to read:

320 376.25 Gambling vessels; registration; required and
321 prohibited releases.—

322 (6) PENALTIES.—

323 (a) A person who violates this section is subject to a
324 civil penalty of not more than \$75,000 ~~\$50,000~~ for each
325 violation. Each day during any portion of which such violation
326 occurs constitutes a separate offense.

327 Section 11. Paragraph (a) of subsection (1) of section
328 377.37, Florida Statutes, is amended to read:

329 377.37 Penalties.—

330 (1) (a) Any person who violates ~~any provision of~~ this law or
331 any rule, regulation, or order of the division made under this
332 chapter or who violates the terms of any permit to drill for or
333 produce oil, gas, or other petroleum products referred to in s.
334 377.242(1) or to store gas in a natural gas storage facility, or
335 any lessee, permitholder, or operator of equipment or facilities
336 used in the exploration for, drilling for, or production of oil,
337 gas, or other petroleum products, or storage of gas in a natural
338 gas storage facility, who refuses inspection by the division as
339 provided in this chapter, is liable to the state for any damage
340 caused to the air, waters, or property, including animal, plant,
341 or aquatic life, of the state and for reasonable costs and
342 expenses of the state in tracing the source of the discharge, in
343 controlling and abating the source and the pollutants, and in
344 restoring the air, waters, and property, including animal,
345 plant, and aquatic life, of the state. Furthermore, such person,
346 lessee, permitholder, or operator is subject to the judicial



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347 imposition of a civil penalty in an amount of not more than
348 ~~\$15,000~~ ~~\$10,000~~ for each offense. However, the court may receive
349 evidence in mitigation. Each day during any portion of which
350 such violation occurs constitutes a separate offense. This
351 section does not ~~Nothing herein shall~~ give the department the
352 right to bring an action on behalf of any private person.

353 Section 12. Subsection (2) of section 378.211, Florida
354 Statutes, is amended to read:

355 378.211 Violations; damages; penalties.—

356 (2) The department may institute a civil action in a court
357 of competent jurisdiction to impose and recover a civil penalty
358 for violation of this part or of any rule adopted or order
359 issued pursuant to this part. The penalty may ~~shall~~ not exceed
360 the following amounts, and the court shall consider evidence in
361 mitigation:

362 (a) For violations of a minor or technical nature, \$150
363 ~~\$100~~ per violation.

364 (b) For major violations by an operator on which a penalty
365 has not been imposed under this paragraph during the previous 5
366 years, \$1,500 ~~\$1,000~~ per violation.

367 (c) For major violations not covered by paragraph (b),
368 \$7,500 ~~\$5,000~~ per violation.

369
370 Subject to ~~the provisions of~~ subsection (4), each day or any
371 portion thereof in which the violation continues shall
372 constitute a separate violation.

373 Section 13. Subsection (2) of section 403.086, Florida
374 Statutes, is amended to read:

375 403.086 Sewage disposal facilities; advanced and secondary



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376 waste treatment.—

377 (2) Any facilities for sanitary sewage disposal shall
378 provide for secondary waste treatment and, in addition thereto,
379 advanced waste treatment as deemed necessary and ordered by the
380 Department of Environmental Protection. Failure to conform shall
381 be punishable by a civil penalty of \$750 ~~\$500~~ for each 24-hour
382 day or fraction thereof that such failure is allowed to continue
383 thereafter.

384 Section 14. Section 403.121, Florida Statutes, is amended
385 to read:

386 403.121 Enforcement; procedure; remedies.—The department
387 shall have the following judicial and administrative remedies
388 available to it for violations of this chapter, as specified in
389 s. 403.161(1).

390 (1) Judicial remedies:

391 (a) The department may institute a civil action in a court
392 of competent jurisdiction to establish liability and to recover
393 damages for any injury to the air, waters, or property,
394 including animal, plant, and aquatic life, of the state caused
395 by any violation.

396 (b) The department may institute a civil action in a court
397 of competent jurisdiction to impose and to recover a civil
398 penalty for each violation in an amount of not more than \$15,000
399 ~~\$10,000~~ per offense. However, the court may receive evidence in
400 mitigation. Each day during any portion of which such violation
401 occurs constitutes a separate offense.

402 (c) Except as provided in paragraph (2)(c), it is ~~shall~~ not
403 ~~be~~ a defense to, or ground for dismissal of, these judicial
404 remedies for damages and civil penalties that the department has



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405 failed to exhaust its administrative remedies, has failed to
406 serve a notice of violation, or has failed to hold an
407 administrative hearing prior to the institution of a civil
408 action.

409 (2) Administrative remedies:

410 (a) The department may institute an administrative
411 proceeding to establish liability and to recover damages for any
412 injury to the air, waters, or property, including animal, plant,
413 or aquatic life, of the state caused by any violation. The
414 department may order that the violator pay a specified sum as
415 damages to the state. Judgment for the amount of damages
416 determined by the department may be entered in any court having
417 jurisdiction thereof and may be enforced as any other judgment.

418 (b) If the department has reason to believe a violation has
419 occurred, it may institute an administrative proceeding to order
420 the prevention, abatement, or control of the conditions creating
421 the violation or other appropriate corrective action. Except for
422 violations involving hazardous wastes, asbestos, or underground
423 injection, the department shall proceed administratively in all
424 cases in which the department seeks administrative penalties
425 that do not exceed \$50,000 ~~\$10,000~~ per assessment as calculated
426 in accordance with subsections (3), (4), (5), (6), and (7).
427 Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty
428 assessed pursuant to subsection (3), subsection (4), or
429 subsection (5) against a public water system serving a
430 population of more than 10,000 shall be not less than \$1,000 per
431 day per violation. The department ~~may shall~~ not impose
432 administrative penalties in excess of \$50,000 ~~\$10,000~~ in a
433 notice of violation. The department ~~may shall~~ not have more than



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434 one notice of violation seeking administrative penalties pending
435 against the same party at the same time unless the violations
436 occurred at a different site or the violations were discovered
437 by the department subsequent to the filing of a previous notice
438 of violation.

439 (c) An administrative proceeding shall be instituted by the
440 department's serving of a written notice of violation upon the
441 alleged violator by certified mail. If the department is unable
442 to effect service by certified mail, the notice of violation may
443 be hand delivered or personally served in accordance with
444 chapter 48. The notice shall specify the ~~provision of the law,~~
445 rule, regulation, permit, certification, or order of the
446 department alleged to be violated and the facts alleged to
447 constitute a violation thereof. An order for corrective action,
448 penalty assessment, or damages may be included with the notice.
449 When the department is seeking to impose an administrative
450 penalty for any violation by issuing a notice of violation, any
451 corrective action needed to correct the violation or damages
452 caused by the violation must be pursued in the notice of
453 violation or they are waived. However, ~~an no order is not shall~~
454 ~~become~~ effective until after service and an administrative
455 hearing, if requested within 20 days after service. Failure to
456 request an administrative hearing within this time period
457 ~~constitutes shall constitute~~ a waiver thereof, unless the
458 respondent files a written notice with the department within
459 this time period opting out of the administrative process
460 initiated by the department to impose administrative penalties.
461 Any respondent choosing to opt out of the administrative process
462 initiated by the department in an action that seeks the



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463 imposition of administrative penalties must file a written
464 notice with the department within 20 days after service of the
465 notice of violation opting out of the administrative process. A
466 respondent's decision to opt out of the administrative process
467 does not preclude the department from initiating a state court
468 action seeking injunctive relief, damages, and the judicial
469 imposition of civil penalties.

470 (d) If a person timely files a petition challenging a
471 notice of violation, that person will thereafter be referred to
472 as the respondent. The hearing requested by the respondent shall
473 be held within 180 days after the department has referred the
474 initial petition to the Division of Administrative Hearings
475 unless the parties agree to a later date. The department has the
476 burden of proving with the preponderance of the evidence that
477 the respondent is responsible for the violation. ~~No~~
478 Administrative penalties should not be imposed unless the
479 department satisfies that burden. Following the close of the
480 hearing, the administrative law judge shall issue a final order
481 on all matters, including the imposition of an administrative
482 penalty. When the department seeks to enforce that portion of a
483 final order imposing administrative penalties pursuant to s.
484 120.69, the respondent may ~~shall~~ not assert as a defense the
485 inappropriateness of the administrative remedy. The department
486 retains its final-order authority in all administrative actions
487 that do not request the imposition of administrative penalties.

488 (e) After filing a petition requesting a formal hearing in
489 response to a notice of violation in which the department
490 imposes an administrative penalty, a respondent may request that
491 a private mediator be appointed to mediate the dispute by



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492 contacting the Florida Conflict Resolution Consortium within 10
493 days after receipt of the initial order from the administrative
494 law judge. The Florida Conflict Resolution Consortium shall pay
495 all of the costs of the mediator and for up to 8 hours of the
496 mediator's time per case at \$150 per hour. Upon notice from the
497 respondent, the Florida Conflict Resolution Consortium shall
498 provide to the respondent a panel of possible mediators from the
499 area in which the hearing on the petition would be heard. The
500 respondent shall select the mediator and notify the Florida
501 Conflict Resolution Consortium of the selection within 15 days
502 of receipt of the proposed panel of mediators. The Florida
503 Conflict Resolution Consortium shall provide all of the
504 administrative support for the mediation process. The mediation
505 must be completed at least 15 days before the final hearing date
506 set by the administrative law judge.

507 (f) In any administrative proceeding brought by the
508 department, the prevailing party shall recover all costs as
509 provided in ss. 57.041 and 57.071. The costs must be included in
510 the final order. The respondent is the prevailing party when an
511 order is entered awarding no penalties to the department and
512 such order has not been reversed on appeal or the time for
513 seeking judicial review has expired. The respondent is ~~shall be~~
514 entitled to an award of attorney's fees if the administrative
515 law judge determines that the notice of violation issued by the
516 department seeking the imposition of administrative penalties
517 was not substantially justified as defined in s. 57.111(3)(e).
518 An ~~No~~ award of attorney's fees as provided by this subsection
519 may not ~~shall~~ exceed \$15,000.

520 (g) Nothing herein shall be construed as preventing any



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521 other legal or administrative action in accordance with law.
522 Nothing in this subsection shall limit the department's
523 authority provided in ss. 403.131, 403.141, and this section to
524 judicially pursue injunctive relief. When the department
525 exercises its authority to judicially pursue injunctive relief,
526 penalties in any amount up to the statutory maximum sought by
527 the department must be pursued as part of the state court action
528 and not by initiating a separate administrative proceeding. The
529 department retains the authority to judicially pursue penalties
530 in excess of \$50,000 ~~\$10,000~~ for violations not specifically
531 included in the administrative penalty schedule, or for multiple
532 or multiday violations alleged to exceed a total of \$50,000
533 ~~\$10,000~~. The department also retains the authority provided in
534 ss. 403.131, 403.141, and this section to judicially pursue
535 injunctive relief and damages, if a notice of violation seeking
536 the imposition of administrative penalties has not been issued.
537 The department has the authority to enter into a settlement,
538 either before or after initiating a notice of violation, and the
539 settlement may include a penalty amount different from the
540 administrative penalty schedule. Any case filed in state court
541 because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in
542 penalties may be settled in the court action for less than
543 \$50,000 ~~\$10,000~~.

544 (h) Chapter 120 ~~applies shall apply~~ to any administrative
545 action taken by the department or any delegated program pursuing
546 administrative penalties in accordance with this section.

547 (3) Except for violations involving hazardous wastes,
548 asbestos, or underground injection, administrative penalties
549 must be calculated according to the following schedule:



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550 (a) For a drinking water contamination violation, the
551 department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum
552 Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the
553 violation is for a primary inorganic, organic, or radiological
554 Maximum Contaminant Level or it is a fecal coliform bacteria
555 violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a
556 community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum
557 Contaminant Level is exceeded by more than 100 percent. For
558 failure to obtain a clearance letter prior to placing a drinking
559 water system into service when the system would not have been
560 eligible for clearance, the department shall assess a penalty of
561 \$4,500 ~~\$3,000~~.

562 (b) For failure to obtain a required wastewater permit,
563 other than a permit required for surface water discharge, the
564 department shall assess a penalty of \$1,500 ~~\$1,000~~. For a
565 domestic or industrial wastewater violation not involving a
566 surface water or groundwater quality violation, the department
567 shall assess a penalty of \$3,000 ~~\$2,000~~ for an unpermitted or
568 unauthorized discharge or effluent-limitation exceedance. For an
569 unpermitted or unauthorized discharge or effluent-limitation
570 exceedance that resulted in a surface water or groundwater
571 quality violation, the department shall assess a penalty of
572 \$7,500 ~~\$5,000~~. Each day the cause of an unauthorized discharge
573 of domestic wastewater is not addressed constitutes a separate
574 offense.

575 (c) For a dredge and fill or stormwater violation, the
576 department shall assess a penalty of \$1,500 ~~\$1,000~~ for
577 unpermitted or unauthorized dredging or filling or unauthorized
578 construction of a stormwater management system against the



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579 person or persons responsible for the illegal dredging or
580 filling, or unauthorized construction of a stormwater management
581 system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in
582 an aquatic preserve, an Outstanding Florida Water, a
583 conservation easement, or a Class I or Class II surface water,
584 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than
585 one-quarter acre but less than or equal to one-half acre, and
586 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than
587 one-half acre but less than or equal to one acre. The
588 administrative penalty schedule does ~~shall~~ not apply to a dredge
589 and fill violation if the area dredged or filled exceeds one
590 acre. The department retains the authority to seek the judicial
591 imposition of civil penalties for all dredge and fill violations
592 involving more than one acre. The department shall assess a
593 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required
594 mitigation, failure to record a required conservation easement,
595 or for a water quality violation resulting from dredging or
596 filling activities, stormwater construction activities or
597 failure of a stormwater treatment facility. For stormwater
598 management systems serving less than 5 acres, the department
599 shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to
600 properly or timely construct a stormwater management system. In
601 addition to the penalties authorized in this subsection, the
602 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation
603 against the contractor or agent of the owner or tenant that
604 conducts unpermitted or unauthorized dredging or filling. For
605 purposes of this paragraph, the preparation or signing of a
606 permit application by a person currently licensed under chapter
607 471 to practice as a professional engineer does ~~shall~~ not make



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608 that person an agent of the owner or tenant.
609 (d) For mangrove trimming or alteration violations, the
610 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation
611 against the contractor or agent of the owner or tenant that
612 conducts mangrove trimming or alteration without a permit as
613 required by s. 403.9328. For purposes of this paragraph, the
614 preparation or signing of a permit application by a person
615 currently licensed under chapter 471 to practice as a
616 professional engineer does ~~shall~~ not make that person an agent
617 of the owner or tenant.
618 (e) For solid waste violations, the department shall assess
619 a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or unauthorized
620 disposal or storage of solid waste; plus \$1,000 if the solid
621 waste is Class I or Class III (excluding yard trash) or if the
622 solid waste is construction and demolition debris in excess of
623 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is disposed of
624 or stored in any natural or artificial body of water or within
625 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~ if the
626 waste contains PCB at a concentration of 50 parts per million or
627 greater; untreated biomedical waste; friable asbestos greater
628 than 1 cubic meter which is not wetted, bagged, and covered;
629 used oil greater than 25 gallons; or 10 or more lead acid
630 batteries. The department shall assess a penalty of \$4,500
631 ~~\$3,000~~ for failure to properly maintain leachate control;
632 unauthorized burning; failure to have a trained spotter on duty
633 at the working face when accepting waste; or failure to provide
634 access control for three consecutive inspections. The department
635 shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct
636 or maintain a required stormwater management system.



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637 (f) For an air emission violation, the department shall
638 assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or
639 unauthorized air emission or an air-emission-permit exceedance,
640 ~~plus \$1,000 if the emission results in an air quality violation,~~
641 plus \$4,500 ~~\$3,000~~ if the emission was from a major source and
642 the source was major for the pollutant in violation; plus \$1,500
643 ~~\$1,000~~ if the emission was more than 150 percent of the
644 allowable level.

645 (g) For storage tank system and petroleum contamination
646 violations, the department shall assess a penalty of \$7,500
647 ~~\$5,000~~ for failure to empty a damaged storage system as
648 necessary to ensure that a release does not occur until repairs
649 to the storage system are completed; when a release has occurred
650 from that storage tank system; for failure to timely recover
651 free product; or for failure to conduct remediation or
652 monitoring activities until a no-further-action or site-
653 rehabilitation completion order has been issued. The department
654 shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely
655 upgrade a storage tank system. The department shall assess a
656 penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain
657 required release detection; failure to timely investigate a
658 suspected release from a storage system; depositing motor fuel
659 into an unregistered storage tank system; failure to timely
660 assess or remediate petroleum contamination; or failure to
661 properly install a storage tank system. The department shall
662 assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly
663 operate, maintain, or close a storage tank system.

664 (4) In an administrative proceeding, in addition to the
665 penalties that may be assessed under subsection (3), the



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666 department shall assess administrative penalties according to
667 the following schedule:

668 (a) For failure to satisfy financial responsibility
669 requirements or for violation of s. 377.371(1), \$7,500 ~~\$5,000~~.

670 (b) For failure to install, maintain, or use a required
671 pollution control system or device, \$6,000 ~~\$4,000~~.

672 (c) For failure to obtain a required permit before
673 construction or modification, \$4,500 ~~\$3,000~~.

674 (d) For failure to conduct required monitoring or testing;
675 failure to conduct required release detection; or failure to
676 construct in compliance with a permit, \$3,000 ~~\$2,000~~.

677 (e) For failure to maintain required staff to respond to
678 emergencies; failure to conduct required training; failure to
679 prepare, maintain, or update required contingency plans; failure
680 to adequately respond to emergencies to bring an emergency
681 situation under control; or failure to submit required
682 notification to the department, \$1,500 ~~\$1,000~~.

683 (f) Except as provided in subsection (2) with respect to
684 public water systems serving a population of more than 10,000,
685 for failure to prepare, submit, maintain, or use required
686 reports or other required documentation, \$750 ~~\$500~~.

687 (5) Except as provided in subsection (2) with respect to
688 public water systems serving a population of more than 10,000,
689 for failure to comply with any other departmental regulatory
690 statute or rule requirement not otherwise identified in this
691 section, the department may assess a penalty of \$1,000 ~~\$500~~.

692 (6) For each additional day during which a violation
693 occurs, the administrative penalties in subsections ~~subsection~~
694 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day



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695 per violation.

696 (7) The history of noncompliance of the violator for any
697 previous violation resulting in an executed consent order, but
698 not including a consent order entered into without a finding of
699 violation, or resulting in a final order or judgment after the
700 effective date of this law involving the imposition of \$3,000
701 ~~\$2,000~~ or more in penalties shall be taken into consideration in
702 the following manner:

703 (a) One previous such violation within 5 years prior to the
704 filing of the notice of violation will result in a 25-percent
705 per day increase in the scheduled administrative penalty.

706 (b) Two previous such violations within 5 years prior to
707 the filing of the notice of violation will result in a 50-
708 percent per day increase in the scheduled administrative
709 penalty.

710 (c) Three or more previous such violations within 5 years
711 prior to the filing of the notice of violation will result in a
712 100-percent per day increase in the scheduled administrative
713 penalty.

714 (8) The direct economic benefit gained by the violator from
715 the violation, where consideration of economic benefit is
716 provided by Florida law or required by federal law as part of a
717 federally delegated or approved program, shall be added to the
718 scheduled administrative penalty. The total administrative
719 penalty, including any economic benefit added to the scheduled
720 administrative penalty, may shall not exceed \$15,000 ~~\$10,000~~.

721 (9) The administrative penalties assessed for any
722 particular violation may shall not exceed \$7,500 ~~\$5,000~~ against
723 any one violator, unless the violator has a history of



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724 noncompliance, the economic benefit of the violation as
725 described in subsection (8) exceeds \$7,500 ~~\$5,000~~, or there are
726 multiday violations. The total administrative penalties may
727 ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all
728 violations attributable to a specific person in the notice of
729 violation.

730 (10) The administrative law judge may receive evidence in
731 mitigation. The penalties identified in subsections ~~subsection~~
732 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be reduced up to 50
733 percent by the administrative law judge for mitigating
734 circumstances, including good faith efforts to comply prior to
735 or after discovery of the violations by the department. Upon an
736 affirmative finding that the violation was caused by
737 circumstances beyond the reasonable control of the respondent
738 and could not have been prevented by respondent's due diligence,
739 the administrative law judge may further reduce the penalty.

740 (11) Penalties collected pursuant to this section shall be
741 deposited into the Water Quality Assurance Trust Fund or other
742 trust fund designated by statute and shall be used to fund the
743 restoration of ecosystems, or polluted areas of the state, as
744 defined by the department, to their condition before pollution
745 occurred. The Florida Conflict Resolution Consortium may use a
746 portion of the fund to administer the mediation process provided
747 in paragraph (2)(e) and to contract with private mediators for
748 administrative penalty cases.

749 (12) The purpose of the administrative penalty schedule and
750 process is to provide a more predictable and efficient manner
751 for individuals and businesses to resolve relatively minor
752 environmental disputes. Subsections (3)-(7) may ~~Subsection (3),~~



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753 ~~subsection (4), subsection (5), subsection (6), or subsection~~
754 ~~(7) shall~~ not be construed as limiting a state court in the
755 assessment of damages. The administrative penalty schedule does
756 not apply to the judicial imposition of civil penalties in state
757 court as provided in this section.

758 Section 15. Subsection (1) of section 403.141, Florida
759 Statutes, is amended to read:

760 403.141 Civil liability; joint and several liability.—

761 (1) A person who ~~whoever~~ commits a violation specified in
762 s. 403.161(1) is liable to the state for any damage caused to
763 the air, waters, or property, including animal, plant, or
764 aquatic life, of the state and for reasonable costs and expenses
765 of the state in tracing the source of the discharge, in
766 controlling and abating the source and the pollutants, and in
767 restoring the air, waters, and property, including animal,
768 plant, and aquatic life, of the state to their former condition,
769 and furthermore is subject to the judicial imposition of a civil
770 penalty for each offense in an amount of not more than \$15,000
771 ~~\$10,000~~ per offense. However, the court may receive evidence in
772 mitigation. Each day during any portion of which such violation
773 occurs constitutes a separate offense. If a violation is an
774 unauthotized discharge of domestic wastewater, each day the
775 cause of the violation is not addressed constitutes a separate
776 offense until the violation is resolved by order or judgment.
777 Nothing herein ~~gives shall give~~ the department the right to
778 bring an action on behalf of any private person.

779 Section 16. Subsections (2) through (5) of section 403.161,
780 Florida Statutes, are amended to read:

781 403.161 Prohibitions, violation, penalty, intent.—



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782 (2) A person who ~~whoever~~ commits a violation specified in
783 subsection (1) is liable to the state for any damage caused and
784 for civil penalties as provided in s. 403.141.

785 (3) A ~~Any~~ person who willfully commits a violation
786 specified in paragraph (1)(a) commits is guilty of a felony of
787 the third degree, punishable as provided in ss. 775.082(3)(e)
788 and 775.083(1)(g) by a fine of not more than \$50,000 or by
789 imprisonment for 5 years, or by both, for each offense. Each day
790 during any portion of which such violation occurs constitutes a
791 separate offense.

792 (4) A ~~Any~~ person who commits a violation specified in
793 paragraph (1)(a) or paragraph (1)(b) due to reckless
794 indifference or gross careless disregard commits is guilty of a
795 misdemeanor of the second degree, punishable as provided in ss.
796 775.082(4)(b) and 775.083(1)(g) by a fine of not more than
797 \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each
798 offense.

799 (5) A ~~Any~~ person who willfully commits a violation
800 specified in paragraph (1)(b) or who commits a violation
801 specified in paragraph (1)(c) commits is guilty of a misdemeanor
802 of the first degree punishable as provided in ss. 775.082(4)(a)
803 and 775.083(1)(g) by a fine of not more than \$10,000 or by 6
804 months in jail, or by both for each offense.

805 Section 17. Paragraph (a) of subsection (6) of section
806 403.413, Florida Statutes, is amended to read:

807 403.413 Florida Litter Law.—

808 (6) PENALTIES; ENFORCEMENT.—

809 (a) Any person who dumps litter in violation of subsection
810 (4) in an amount not exceeding 15 pounds in weight or 27 cubic



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811 feet in volume and not for commercial purposes ~~commits is guilty~~
812 ~~of~~ a noncriminal infraction, punishable by a civil penalty of
813 ~~\$150 \$100~~, from which \$50 shall be deposited into the Solid
814 Waste Management Trust Fund to be used for the solid waste
815 management grant program pursuant to s. 403.7095. In addition,
816 the court may require the violator to pick up litter or perform
817 other labor commensurate with the offense committed.

818 Section 18. Subsection (5) of section 403.7234, Florida
819 Statutes, is amended to read:

820 403.7234 Small quantity generator notification and
821 verification program.—

822 (5) Any small quantity generator who does not comply with
823 the requirements of subsection (4) and who has received a
824 notification and survey in person or through one certified
825 letter from the county is subject to a fine of between ~~\$75 \$50~~
826 and ~~\$150 \$100~~ per day for a maximum of 100 days. The county may
827 collect such fines and deposit them in its general revenue fund.
828 Fines collected by the county shall be used to carry out the
829 notification and verification procedure established in this
830 section. If there are excess funds after the notification and
831 verification procedures have been completed, such funds shall be
832 used for hazardous and solid waste management purposes only.

833 Section 19. Subsection (3) of section 403.726, Florida
834 Statutes, is amended to read:

835 403.726 Abatement of imminent hazard caused by hazardous
836 substance.—

837 (3) An imminent hazard exists if any hazardous substance
838 creates an immediate and substantial danger to human health,
839 safety, or welfare or to the environment. The department may



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840 institute action in its own name, using the procedures and
841 remedies of s. 403.121 or s. 403.131, to abate an imminent
842 hazard. However, the department is authorized to recover a civil
843 penalty of not more than ~~\$37,500 \$25,000~~ for each day of
844 continued violation. Whenever serious harm to human health,
845 safety, and welfare; the environment; or private or public
846 property may occur prior to completion of an administrative
847 hearing or other formal proceeding that ~~which~~ might be initiated
848 to abate the risk of serious harm, the department may obtain, ex
849 parte, an injunction without paying filing and service fees
850 prior to the filing and service of process.

851 Section 20. Paragraph (a) of subsection (3) of section
852 403.727, Florida Statutes, is amended to read:

853 403.727 Violations; defenses, penalties, and remedies.—

854 (3) Violations of the provisions of this act are punishable
855 as follows:

856 (a) Any person who violates ~~the provisions of~~ this act, the
857 rules or orders of the department, or the conditions of a permit
858 is liable to the state for any damages specified in s. 403.141
859 and for a civil penalty of not more than ~~\$75,000 \$50,000~~ for
860 each day of continued violation, except as otherwise provided
861 herein. The department may revoke any permit issued to the
862 violator. In any action by the department against a small
863 hazardous waste generator for the improper disposal of hazardous
864 wastes, a rebuttable presumption of improper disposal shall be
865 created if the generator was notified pursuant to s. 403.7234;
866 the generator shall then have the burden of proving that the
867 disposal was proper. If the generator was not so notified, the
868 burden of proving improper disposal shall be placed upon the



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869 department.

870 Section 21. Subsection (8) of section 403.93345, Florida
871 Statutes, is amended to read:

872 403.93345 Coral reef protection.—

873 (8) In addition to the compensation described in subsection
874 (5), the department may assess, per occurrence, civil penalties
875 according to the following schedule:

876 (a) For any anchoring of a vessel on a coral reef or for
877 any other damage to a coral reef totaling less than or equal to
878 an area of 1 square meter, \$225 ~~\$150~~, provided that a
879 responsible party who has anchored a recreational vessel as
880 defined in s. 327.02 which is lawfully registered or exempt from
881 registration pursuant to chapter 328 is issued, at least once, a
882 warning letter in lieu of penalty; with aggravating
883 circumstances, an additional \$225 ~~\$150~~; occurring within a state
884 park or aquatic preserve, an additional \$225 ~~\$150~~.

885 (b) For damage totaling more than an area of 1 square meter
886 but less than or equal to an area of 10 square meters, \$450 ~~\$300~~
887 per square meter; with aggravating circumstances, an additional
888 \$450 ~~\$300~~ per square meter; occurring within a state park or
889 aquatic preserve, an additional \$450 ~~\$300~~ per square meter.

890 (c) For damage exceeding an area of 10 square meters,
891 \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances,
892 an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a
893 state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per
894 square meter.

895 (d) For a second violation, the total penalty may be
896 doubled.

897 (e) For a third violation, the total penalty may be



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898 tripled.

899 (f) For any violation after a third violation, the total
900 penalty may be quadrupled.

901 (g) The total of penalties levied may not exceed \$375,000
902 ~~\$250,000~~ per occurrence.

903 Section 22. Section 125.569, Florida Statutes, is created
904 to read:

905 125.569 Sanitary sewer lateral inspection program.—

906 (1) As used in this section, the term "sanitary sewer
907 lateral" means a privately owned pipeline connecting a property
908 to the main sewer line which is maintained and repaired by the
909 property owner.

910 (2) By July 1, 2022, counties are encouraged to establish
911 an evaluation and rehabilitation program for sanitary sewer
912 laterals on residential and commercial properties within the
913 county's jurisdiction to identify and reduce extraneous flow
914 from leaking sanitary sewer laterals. At a minimum, the program
915 may do all of the following:

916 (a) Establish a system to identify defective, damaged, or
917 deteriorated sanitary sewer laterals on residential and
918 commercial properties within the jurisdiction of the county.

919 (b) Consider economical methods for a property owner to
920 repair or replace a defective, damaged, or deteriorated sanitary
921 sewer lateral.

922 (c) Establish and maintain a publicly accessible database
923 to store information concerning properties where a defective,
924 damaged, or deteriorated sanitary sewer lateral has been
925 identified. For each property, the database must include, but is
926 not limited to, the address of the property, the names of any



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persons the county notified concerning the faulty sanitary sewer lateral, and the date and method of such notification.

Section 23. Section 166.0481, Florida Statutes, is created to read:

166.0481 Sanitary sewer lateral inspection program.-

(1) As used in this section, the term "sanitary sewer lateral" means a privately owned pipeline connecting a property to the main sewer line which is maintained and repaired by the property owner.

(2) By July 1, 2022, municipalities are encouraged to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the municipality's jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. At a minimum, the program may do all of the following:

(a) Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of the municipality.

(b) Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral.

(c) Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. For each property, the database must include, but is not limited to, the address of the property, the names of any persons the municipality notified concerning the faulty sanitary sewer lateral, and the date and method of such notification.



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Section 24. Section 689.301, Florida Statutes, is created to read:

689.301 Disclosure of known defects in sanitary sewer laterals to prospective purchaser.-Before executing a contract for sale, a seller of real property shall disclose to a prospective purchaser any defects in the property's sanitary sewer lateral which are known to the seller. As used in this section, the term "sanitary sewer lateral" means the privately owned pipeline connecting a property to the main sewer line.

Section 25. Subsection (5) of s. 823.11, Florida Statutes, is reenacted for the purpose of incorporating the amendment made by this act to s. 376.16, Florida Statutes, in a reference thereto.

Section 26. Subsection (5) of s. 403.077, subsection (2) of s. 403.131, paragraph (d) of subsection (3) of s. 403.4154, and subsection (5) of s. 403.860, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 403.121, Florida Statutes, in references thereto.

Section 27. Subsection (10) of s. 403.708, subsection (7) of s. 403.7191, and s. 403.811, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 403.141, Florida Statutes, in references thereto.

Section 28. Subsection (2) of s. 403.7255, Florida Statutes, is reenacted for the purpose of incorporating the amendment made by this act to s. 403.161, Florida Statutes, in a reference thereto.

Section 29. Subsection (8) of s. 403.7186, Florida Statutes, is reenacted for the purpose of incorporating the amendments made by this act to ss. 403.141 and 403.161, Florida



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985 Statutes, in references thereto.

986 Section 30. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1450

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Environment and Natural Resources Committee; and Senator Gruters

SUBJECT: Environmental Accountability

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Fav/CS
2.	Dale	Jameson	ACJ	Recommend: Fav/CS
3.	Dale	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1450 makes numerous changes to the penalties for violating Florida's environmental laws. The bill increases required or maximum environmental penalties in various sections of the Florida Statutes. Most of the changes increase a penalty by 50 percent.

The bill changes the duration that several penalties may run, so that each day during any portion of which certain violations occur constitutes a separate offense. For administrative penalties imposed under chapter 403, Florida Statutes, the bill provides that each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense. For civil penalties imposed under chapter 403, Florida Statutes, the bill provides that, if the violation is an unauthorized discharge of domestic wastewater, each day the cause of the violation is not addressed constitutes a separate offense until the violation is resolved by order or judgement.

The bill authorizes municipalities and counties to voluntarily establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties to identify and reduce extraneous flow from leaking sanitary sewer laterals. The bill also requires a seller of real property to disclose to a prospective purchaser, before executing a contract for sale, any known defects in the property's sanitary sewer lateral.

The bill would have an indeterminate positive impact on the various revenue streams impacted by the bill. See Section V.

The bill is effective July 1, 2020.

II. Present Situation:

Environmental Violations

The Department of Environmental Protection (DEP) is Florida's lead agency for environmental management and stewardship, implementing many programs to protect the state's air, water, and land.¹ In accordance with the state's numerous environmental laws, the DEP's responsibilities include the compliance and enforcement process.² Violations of Florida's environmental laws can result in damages and administrative, civil, and/or criminal penalties.

Damages

In environmental enforcement, damages should compensate the state for the value of the loss to natural resources caused by the violation.³ The DEP may institute a civil action in court or an administrative proceeding in the Division of Administrative Hearings (DOAH) to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.⁴ Damages can cover the cost of remediating the damage done to the environment, and/or costs incurred by the state in responding to the damage, such as tracing the source, controlling and abating the source, and restoring the environmental resources to their former condition.⁵

Penalties

In addition to damages, a violator can be liable for penalties. Penalties differ from damages in that they are designed to punish the wrongdoer rather than to address the harm caused by the violation.⁶ In environmental enforcement, penalties should create incentives to bring immediate compliance and curb future violations.⁷

Administrative penalties can be levied directly by the agency or in a proceeding in DOAH.⁸ The formal administrative enforcement process is typically initiated by serving a notice of violation, and is finalized through entry of a consent order or final order.⁹ In most administrative

¹ DEP, *About DEP*, <https://floridadep.gov/about-dep> (last visited February 10, 2020); s. 20.255, F.S.

² See DEP, *Enforcement Manual, Chapter One: DEP Regulatory Enforcement Organization* (2017), available at <https://floridadep.gov/sites/default/files/Chapter%201%20October%202017.pdf> (Last visited February 10, 2020).

³ DEP, *Enforcement Manual, Chapter 6: Judicial Process and Remedies, Collections, and Bankruptcies*, 89 (2014), available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (Last visited February 10, 2020).

⁴ See s. 403.121, F.S.

⁵ See ss. 403.121 and 403.141, F.S.

⁶ See BLACK'S LAW DICTIONARY 1247 (9th ed. 2009).

⁷ DEP, *Enforcement Manual, Chapter 6: Judicial Process and Remedies, Collections, and Bankruptcies*, 89 (2014), available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (Last visited February 10, 2020).

⁸ See ch. 120, F.S. The administrative process is formalized in the Administrative Procedure Act.

⁹ DEP, *Enforcement Manual, Chapter Five: The Administrative Process and Remedies*, 58 (2014), available at https://floridadep.gov/sites/default/files/chapter5_0.pdf (Last visited February 10, 2020).

proceedings, the DEP has the final decision.¹⁰ An administrative law judge has the final decision for administrative proceedings involving the Environmental Litigation Reform Act, codified in s. 403.121, F.S., which is the primary statute addressing the DEP's administrative penalties.¹¹ Compared to the judicial process, the administrative process is generally considered less expensive, faster and less time consuming, and more conducive to negotiated settlement.¹² However, if the DEP is seeking immediate injunctive relief, which compels a party to act or stop acting, an order must be obtained from a court.¹³

The DEP must proceed administratively in cases in which the DEP seeks administrative penalties that do not exceed \$10,000 per assessment.¹⁴ The DEP is prohibited from imposing administrative penalties in excess of \$10,000 in a notice of violation.¹⁵ The DEP may not have more than one notice of violation pending against a party unless the violations occurred at a different site or the violations were discovered by the DEP subsequent to the filing of a previous notice of violation.¹⁶

Civil penalties are noncriminal fines that are generally levied by a court, and which agencies may be authorized to impose.¹⁷ The DEP may pursue two forms of action in state court: a petition to enforce an order previously entered through the administrative process, or a complaint for violations of statutes or rules.¹⁸ Under both forms, the DEP may seek injunctive relief, civil penalties, damages, and costs and expenses.¹⁹ For judicially imposed civil penalties, the DEP is authorized to recover up to \$10,000 per offense, with each day during any portion of which a violation occurs constituting a separate offense.²⁰

A court or an administrative law judge may receive evidence in mitigation, which may result in the decrease or elimination of penalties.²¹

Criminal penalties can include jail/prison time, a criminal fine, or both. Florida law imposes criminal penalties for certain violations of environmental law.²² Punishments for such violations may vary based on standards of intent, such as willful, reckless indifference, or gross careless disregard.²³

¹⁰ *Id.*

¹¹ *Id.* at 58-59, 66-70; Ch. 2001-258, Laws of Fla.

¹² DEP, *Enforcement Manual, Chapter Five: The Administrative Process and Remedies*, 59 (2014).

¹³ *Id.* at 59-60.

¹⁴ Section 403.121(2)(b), F.S.; DEP, *Enforcement Manual, Chapter Five: The Administrative Process and Remedies*, 66-67 (2014). This requirement does not apply to underground injection, hazardous waste, or asbestos programs.

¹⁵ Section 403.121(2)(b), F.S.

¹⁶ *Id.*

¹⁷ The Environmental Litigation Reform Act allows DEP to seek civil penalties of up to \$10,000 through the administrative process for most environmental violations. The Act may not be used if penalties exceed \$10,000.

¹⁸ DEP, *Enforcement Manual, Chapter Six: Judicial Process and Remedies, Collections, and Bankruptcies*, 86 (2014), available at <https://floridadep.gov/sites/default/files/chapter6.pdf> (Last visited February 10, 2020).

¹⁹ *Id.*

²⁰ Section 403.121(1)(b), F.S.

²¹ Section 403.121, F.S.

²² Section 403.161, F.S.

²³ *Id.*

This present situation describes the DEP's general authority to levy penalties, largely pursuant to ch. 403, F.S. the DEP derives enforcement authority from several different chapters of Florida law based on subject matter, so the DEP has additional enforcement authority for programs not covered in ch. 403, F.S. Additionally, the Department of Legal Affairs, any political subdivision or municipality of the state, or a citizen of the state may maintain an action for injunctive relief against the government entity charged with enforcing environmental laws or the violator of the laws.²⁴

Dredge and Fill Permitting Program

In 2018, the Legislature authorized the DEP to assume responsibility for the federal dredge and fill permitting program under the Clean Water Act, to regulate the discharge of dredged or fill material into Florida's navigable waters.²⁵ Currently, in Florida, the program is jointly implemented by the United States Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (USACE).²⁶ Assumption of the dredge and fill permitting program requires EPA approval. The DEP may adopt any federal requirements, criteria, or regulations necessary to obtain assumption.²⁷ Prior to assuming the program, the DEP must submit various materials to the EPA, including a complete program description, a memorandum of understanding between the state and EPA, a memorandum of understanding between the state and USACE, copies of all applicable statutes and regulations, and more.²⁸ The DEP is still in the process of developing the elements of the program for submission to the EPA.

Regarding enforcement authority, federal regulations require the state to have authority to carry out certain enforcement actions. For example, to assume the program, the DEP must have authority to seek criminal fines of at least \$5,000 per violation against any person who:

- Knowingly makes false statements or representation in any document required under the Clean Water Act, federal regulations, or the state program; or
- Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under a permit.²⁹

The approved maximum criminal fine must be assessable for each violation and, if the violation is continuous, must be assessable in that maximum amount for each day of violation.³⁰ The burden of proof and degree of knowledge or intent required under state law for establishing violations may not be greater than the burden of proof or degree of knowledge or intent EPA must bear when it brings an action under the Clean Water Act.³¹

Florida law provides that it is a violation of part IV of ch. 373, F.S., and ch. 403, F.S., to:

- Knowingly make any false statement or representation in documents required by state law; or

²⁴ Section 403.412, F.S.

²⁵ Chapter 2018-88, Laws of Fla.; s. 373.4146, F.S.; 33 U.S.C. s. 1344(g).

²⁶ 33 U.S.C. s. 1344(a) and (b).

²⁷ Section 373.4146(2) and (5), F.S.

²⁸ 40 C.F.R. ss. 233.10-233.16.

²⁹ 40 C.F.R. s. 233.41(a)(3)(iii).

³⁰ 40 C.F.R. s. 233.41(b)(1).

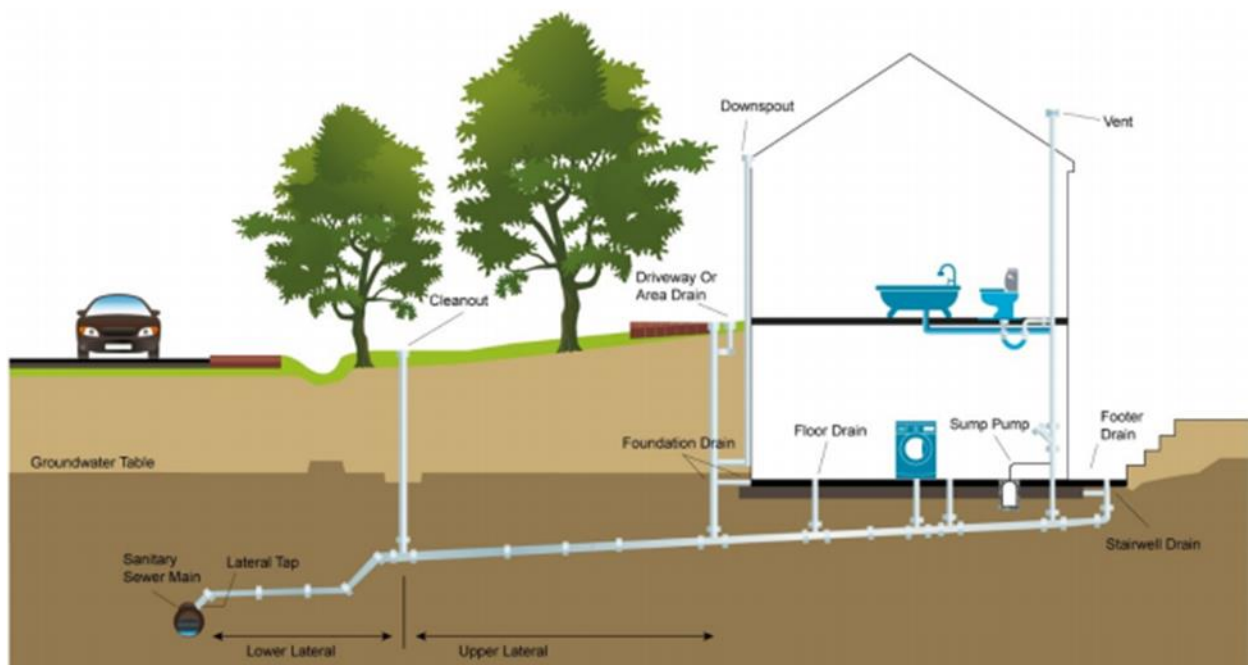
³¹ 40 C.F.R. s. 233.41(b)(2).

- Falsify, tamper with, or knowingly render inaccurate any monitoring device or method required by state law, rule, or permit.³²

The criminal penalties for these violations are fines of up to \$10,000, 6 months in jail, or both.³³ However, the penalty provisions in Florida law apply to “[a]ny person who willfully” commits the violations.³⁴ This application of the “willfully” standard of intent in the state penalties is inconsistent with the requirements in the federal regulations, which do not contain such a standard.

Sanitary Sewer Laterals

A sanitary sewer lateral is the portion of the sewer network connecting individual and private properties to the public sewer system.³⁵ The diagram below shows an example of a sanitary sewer lateral configuration.³⁶



Sanitary sewer laterals are often in poor condition and defects can occur due to aging systems, structural failure, lack of maintenance, or poor construction and design practices.³⁷ Problems in sanitary sewer laterals can have a significant impact on the performance of the sewer system and

³² Sections 373.430(1)(c) and (5) and 403.161(1)(c) and (5), F.S.

³³ Sections 373.403(5) and 403.161(5), F.S.

³⁴ *Id.*

³⁵ U.S. Environmental Protection Agency, *Private Sewer Laterals* (June 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf>.

³⁶ Water Environment Federation, *Sanitary Sewer Rehabilitation*, 2 (2016), available at <https://www.wef.org/globalassets/assets-wef/direct-download-library/public/03---resources/wsec-2017-fs-009---csc---sewer-rehabilitation---final---9.27.17.pdf>.

³⁷ *Id.* at 1-2.

treatment plan. Private laterals are estimated to contribute to about 40 percent of a system's infiltration and inflow to sanitary sewers.³⁸ Cracked or broken laterals can allow groundwater and infiltrating rainwater to enter into the sewer system, which, at high levels, can cause problems at the treatment facility or overload the sewers and cause sanitary sewer overflows.³⁹

The Florida Building Code requires that every building in which plumbing fixtures are installed and premises having drainage piping be connected to a publicly owned or investor-owned sewage system, when available, or an approved onsite sewage treatment and disposal system in accordance with the standards for Onsite Sewage Treatment and Disposal Systems found in Chapter 64E-6, Florida Administrative Code.⁴⁰ A building that has plumbing fixtures installed and is intended for human habitation, occupancy, or use on premises abutting on a street, alley, or easement in which there is a public sewer is required to have a separate connection with the sewer.⁴¹

State law is silent on who is responsible for maintaining or replacing defective sanitary sewer laterals. However, certain municipalities, such as Orlando and Tarpon Springs, require that property owners be responsible for the maintenance, operation, or repair of sanitary sewer laterals in their city ordinances.⁴²

Most homeowners lack knowledge and awareness of potential structural issues with their sanitary sewer laterals.⁴³ Sanitary sewer lateral maintenance issues are the leading cause of backups and overflows into municipality-owned collection systems.⁴⁴ Some municipalities have enacted policies to address the matter. For example, the City of Gulfport has implemented rebate or replacement incentives to their citizens. The City of Gulfport's rebate program offers citizens 50 percent of the costs of the replacement up to \$3,500.⁴⁵ The City of St. Petersburg is also looking into a rebate program within a potential city ordinance addressing sanitary sewer laterals in response to the 2015-2016 sewage crisis that released up to one billion gallons of sewage, 200 million gallons of which ended up in Tampa Bay.⁴⁶

³⁸ U.S. Environmental Protection Agency, *Private Sewer Laterals*, 2 (June 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf>.

³⁹ *Id.* at 4.

⁴⁰ Ch. 7, s. 701.2 Florida Building Code – Plumbing, 6th edition (Jul. 2017).

⁴¹ Ch. 7, s. 701.3, Florida Building Code – Plumbing, 6th edition (Jul. 2017).

⁴² Ch. 30.02, s. 4.2(k), City of Orlando Code of Ordinances; Chapter 20, article IX, s. 20-110(d), City of Tarpon Springs Code of Ordinances.

⁴³ See U.S. Environmental Protection Agency, *Private Sewer Laterals* (June 2014), available at <https://www3.epa.gov/region1/sso/pdfs/PrivateSewerLaterals.pdf>.

⁴⁴ U.S. Environmental Protection Agency, *Do You Know the Condition of Your Sewer System* (Oct. 2013) available at <https://www3.epa.gov/region1/sso/pdfs/EPAConditionFactSheetOct2013.pdf>.

⁴⁵ City of Gulfport, *Private Sewer Lateral Replacement Rebate Program* (Apr. 2018), <https://mygulfport.us/lateralrebate/> (last visited Feb. 19, 2020).

⁴⁶ The Tampa Bay Times, *St. Petersburg to Homeowners: Fix Your Broken Sewer Pipes* (Oct. 2019), <https://www.tampabay.com/news/st-petersburg/2019/10/08/st-petersburg-to-homeowners-fix-your-broken-sewer-pipes/> (last visited Oct. 8, 2019).

Required Disclosures for a Contract for Sale in Florida

Florida law requires sellers to disclose certain information as part of a sale to a prospective buyer before closing, including:

- A sinkhole claim;⁴⁷
- The potential for coastal erosion;⁴⁸
- Mandatory membership in a homeowner's association;⁴⁹
- Radon gas having been found in buildings in Florida;⁵⁰
- That the buyer should not rely on the seller's current property taxes;⁵¹ and
- Whether subsurface rights have been or will be severed or retained.⁵²

The Florida Statutes do not expressly require sellers of real property to disclose sewer lateral defects, although Florida tort law requires sellers to disclose to buyers known latent material defects that materially affect the property value.⁵³ Notably, sellers must only disclose defects actually known, but not those constructively known, i.e. those that could have been discovered through reasonable inspection.⁵⁴

In Florida, sellers can use the "Seller's Property Disclosure Form"⁵⁵ created by the Florida Association of Realtors, but there is no statutory obligation requiring that the form be completed. In addition, a seller is not required to retain a home inspector to discover problems that the seller may not be aware of.

III. Effect of Proposed Changes:

Sections 1 through 21 amend sections of the Florida Statutes containing various penalties for violations of environmental laws. In general, the bill increases the required or maximum penalties in the provisions listed below. In most cases, the penalties are increased by 50 percent.

Several places in existing law impose a penalty for each offense, with each day during any portion of which a violation occurs constituting a separate offense. The bill adds this standard to certain sections, as shown below.

The table below summarizes existing penalties and the penalties as revised by the bill. All penalties are levied by the Department of Environmental Protection (DEP) unless otherwise specified.

⁴⁷ Section 627.7073(2)(c), F.S.

⁴⁸ Section 161.57(2), F.S.

⁴⁹ Section 720.401(1), F.S.

⁵⁰ Section 404.056(5), F.S.

⁵¹ Section 689.261, F.S.

⁵² Section 689.29, F.S.

⁵³ *Johnson v. Davis*, 480 So. 2d 625, 629 (Fla. 1985).

⁵⁴ *See id.*; *see also Jensen v. Bailey*, 76 So. 3d 980, 983-984 (Fla. 2d DCA 2011).

⁵⁵ Florida Realtors, *Seller's Property Disclosure- Residential* (2016), available at <http://www.unlimitedmls.com/forms/Property-Disclosure-Form.pdf> (last visited Sept. 13, 2019).

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
161.054 (1), F.S.	Violating statutes, rules or orders regarding coastal construction or activities	An administrative fine for each offense of up to \$10,000.	An administrative fine for each offense of up to \$15,000.
258.397 (7), F.S.	Violating a statute or rules regarding Biscayne Bay Aquatic Preserve	Authorizes the Department of Legal Affairs to bring an action for civil penalties of \$5,000 per day.	Authorizes the Department of Legal Affairs to bring an action for civil penalties of \$7,500 per day. Each day during any portion of which a violation occurs constitutes a separate offense.
258.46, F.S.	Violating the Florida Aquatic Preserve Act or related rules	A civil penalty of not less than \$500 per day and not more than \$5,000 per day of a violation.	A civil penalty of not less than \$750 per day and not more than \$7,500 per day of a violation. Each day during any portion of which a violation occurs constitutes a separate offense.
373.129 (5), F.S.	Violating ch. 373, F.S., relating to water resources	Authorizes the DEP, any water management district, any local board, or certain local governments ⁵⁶ to recover a civil penalty for each offense, in an amount not to exceed \$10,000 per offense.	Authorizes the DEP, any water management district, any local board, or certain local governments to recover a civil penalty for each offense, in an amount not to exceed \$15,000 per offense.
373.209 (3)(b), F.S.	Violating a statute regarding artesian wells	A civil penalty of \$100 per day for each day of a violation and each act of a violation.	A civil penalty of \$150 per day for each day of a violation and each act of a violation.
373.430 (4) and (5), F.S.	Violating statutes regarding surface waters by causing pollution due to reckless indifference or	A fine of not more than \$5,000 or 60 days in jail, or both, for each offense: causing certain pollution.	A fine of not more than \$10,000 or 60 days in jail, or both, for each offense: causing certain pollution; failing to obtain any permit; or violating or failing to comply with any rule, regulation, order, or permit.

⁵⁶ Section 373.103(8), F.S. Under certain circumstances, the DEP may authorize a water management district to delegate to a local government, by rule or agreement, the power and duty to administer and enforce any of the statutes, rules, or regulations relating to stormwater permitting or surface water management that the district is authorized or required to administer.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
	gross careless disregard	A fine of not more than \$10,000, 6 months in jail, or both for willfully committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods.	A fine of not more than \$10,000, 6 months in jail, or both for committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods.
376.065 (5)(a) and (e), F.S.	Violating a statute regarding terminal facility certifications	<p>A civil penalty of \$500 for any violation of the section or a certification.</p> <p>A civil penalty of \$500 imposed by a county court if commission of the infraction is proved.</p>	<p>A civil penalty of \$750 for any violation of the section or a certification.</p> <p>A civil penalty of \$750 imposed by a county court if commission of the infraction is proved.</p>
376.071 (2)(a) and (e), F.S.	Violations regarding discharge contingency plans for vessels	<p>A civil penalty of \$5,000 for each infraction.</p> <p>A civil penalty of \$5,000 imposed by a county court if commission of the infraction is proved.</p>	<p>A civil penalty of \$7,500 for each infraction.</p> <p>A civil penalty of \$7,500 imposed by a county court if commission of the infraction is proved.</p>
376.16 (1), F.S.	Violating the Pollutant Discharge Prevention and Control Act or the DEP rules or orders	A civil penalty of up to \$50,000 per violation per day.	A civil penalty of up to \$75,000 per violation per day.
376.16 (2), (3), (7), and (8), F.S.	Violating the Pollutant Discharge Prevention and Control Act or the DEP rules or orders	<p>In addition to the penalty in subsection (1), for persons responsible for two or more discharges within a 12-month period at the same facility, the statute provides the following penalties:</p> <ul style="list-style-type: none"> • Gasoline/diesel over 5 gallons - a civil penalty of \$500 for the second discharge and \$1,000 for each subsequent discharge within a 12-month period. • Other pollutants - a civil penalty of \$2,500 for the second discharge and \$5,000 for each 	<p>In addition to the penalty in subsection (1), for persons responsible for two or more discharges within a 12-month period at the same facility, the statute provides the following penalties:</p> <ul style="list-style-type: none"> • Gasoline/diesel over 5 gallons - a civil penalty of \$750 for the second discharge and \$1,500 for each subsequent discharge within a 12-month period. • Other pollutants - a civil penalty of \$3,750 for the second discharge and \$7,500 for each

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>subsequent discharge within a 12-month period.</p> <p>For persons responsible for two or more discharges within a 12-month period at the same facility, the statute provides the following penalties:</p> <ul style="list-style-type: none"> • Gasoline/diesel equal to or less than 5 gallons - a civil penalty of \$50 for each discharge subsequent to the first. • Other pollutants equal to or less than 5 gallons - a civil penalty of \$100 for each discharge subsequent to the first. <p>Authorizes the county court to impose the following civil penalties if the commission of an infraction is proved: up to \$500 for the second discharge of gasoline/diesel and up to \$1,000 for each subsequent discharge of gasoline/diesel within a 12-month period; up to \$5,000 for the second discharge of other pollutants and up to \$10,000 for each subsequent discharge within a 12-month period.</p>	<p>subsequent discharge within a 12-month period.</p> <p>For persons responsible for two or more discharges within a 12-month period at the same facility, the statute provides the following penalties:</p> <ul style="list-style-type: none"> • Gasoline/diesel equal to or less than 5 gallons - a civil penalty of \$75 for each discharge subsequent to the first; • Other pollutants equal to or less than 5 gallons - a civil penalty of \$150 for each discharge subsequent to the first. <p>Authorizes the county court to impose the following civil penalties if the commission of an infraction is proved: up to \$750 for the second discharge of gasoline/diesel and up to \$1,500 for each subsequent discharge of gasoline/diesel within a 12-month period; up to \$7,500 for the second discharge of other pollutants and up to \$15,000 for each subsequent discharge within a 12-month period.</p>
376.25 (6)(a), F.S.	Violating a statute regarding gambling vessels	A civil penalty of not more than \$50,000 for each violation.	<p>A civil penalty of not more than \$75,000 for each violation.</p> <p>Each day during any portion of which a violation occurs constitutes a separate offense.</p>
377.37 (1)(a), F.S.	Violating statutory provisions, rules, orders or permits regarding oil and gas resources	A civil penalty of not more than \$10,000 for each offense.	A civil penalty of not more than \$15,000 for each offense.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
378.211 (2), F.S.	Violating statutes, rules, or orders regarding land reclamation	A civil penalty of \$100 per violation of a minor or technical nature; \$1,000 per major violation by an operator on which a penalty has not been imposed during the 5 previous years; and \$5,000 per major violation not otherwise covered.	A civil penalty of \$150 per violation of a minor or technical nature; \$1,500 per major violation by an operator on which a penalty has not been imposed during the 5 previous years; and \$7,500 per major violation not otherwise covered.
403.086 (2), F.S.	Violating orders regarding sanitary sewage disposal	A civil penalty of \$500 for each 24-hour day or fraction thereof that the failure is allowed to continue.	A civil penalty of \$750 for each 24-hour day or fraction thereof that the failure is allowed to continue.
403.121 (1)(b), F.S.	Violating ch. 403, F.S., regarding environmental control	For judicial remedies - authorizes the DEP to judicially pursue and recover a civil penalty of not more than \$10,000 per offense.	For judicial remedies - authorizes the DEP to judicially pursue and recover a civil penalty of not more than \$15,000 per offense.
403.121 (2)(b) and (g) F.S.	Violating ch. 403, F.S., regarding environmental control	<p>For administrative remedies - (except for violations involving hazardous wastes, asbestos, or underground injection) the DEP must proceed administratively when seeking administrative penalties not exceeding \$10,000 per assessment.</p> <p>The DEP may not impose penalties in excess of \$10,000 in a notice of violation.</p> <p>The DEP retains the authority to judicially pursue penalties in excess of \$10,000 for violations not included in the penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$10,000.</p> <p>Any case filed in state court because it is alleged to exceed a total of \$10,000 in penalties may be settled in the court action for less than \$10,000.</p>	<p>For administrative remedies - (except for violations involving hazardous wastes, asbestos, or underground injection) the DEP must proceed administratively when seeking administrative penalties not exceeding \$50,000 per assessment.</p> <p>The DEP may not impose penalties in excess of \$50,000 in a notice of violation.</p> <p>The DEP retains the authority to judicially pursue penalties in excess of \$50,000 for violations not included in the penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$50,000.</p> <p>Any case filed in state court because it is alleged to exceed a total of \$50,000 in penalties may be settled in the court action for less than \$50,000.</p>

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
403.121 (3)(a), F.S. ⁵⁷	Administrative penalty schedule: violations regarding drinking water contamination	<p>\$2,000 for a Maximum Containment Level violation; plus \$1,000 for a primary, inorganic, organic, or radiological Maximum Contaminant Level or fecal coliform bacteria violation; plus \$1,000 if the violation occurs at a community water system; plus \$1,000 if any Maximum Contaminant Level is exceeded by more than 100 percent.</p> <p>\$3,000 for failure to obtain a clearance letter before placing an ineligible drinking water system into service.</p>	<p>\$3,000 for a Maximum Containment Level violation; plus \$1,500 for a primary, inorganic, organic, or radiological Maximum Contaminant Level or fecal coliform bacteria violation; plus \$1,500 if the violation occurs at a community water system; plus \$1,500 if any Maximum Contaminant Level is exceeded by more than 100 percent.</p> <p>\$4,500 for failure to obtain a clearance letter before placing an ineligible drinking water system into service.</p>
403.121 (3)(b), F.S.	Administrative penalty schedule: violations regarding wastewater	<p>\$1,000 for failure to obtain a required wastewater permit (other than a permit for surface water discharge).</p> <p>\$2,000 for an unlawful discharge or exceedance resulting in a domestic or industrial wastewater violation (not involving a surface water or groundwater quality violation).</p> <p>\$5,000 for an unlawful discharge or exceedance resulting in a surface water or groundwater quality violation.</p>	<p>\$2,000 for failure to obtain a required wastewater permit (other than a permit for surface water discharge).</p> <p>\$4,000 for an unlawful discharge or exceedance resulting in a domestic or industrial wastewater violation (not involving a surface water or groundwater quality violation).</p> <p>\$10,000 for an unlawful discharge or exceedance resulting in a surface water or groundwater quality violation.</p> <p>Each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense.</p>
403.121 (3)(c), F.S.	Administrative penalty schedule:	\$1,000 for an unlawful dredging, filling, or construction of a stormwater management system; plus \$2,000 if the dredging or	\$1,500 for an unlawful dredging, filling, or construction of a stormwater management system; plus \$3,000 if the dredging or

⁵⁷ Section 403.121(3), F.S. The administrative penalties in subsection (3) do not apply to hazardous waste, asbestos, or underground injection.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
	violations regarding dredge and fill or stormwater	<p>filling occurs in an aquatic preserve, an Outstanding Florida water, a conservation easement, or a Class I or Class II surface water; plus \$1,000 if the area dredged or filled is greater than .25 acres but less than or equal to .5 acres; plus \$1,000 if the area dredged or filled is greater than .5 acres but less than or equal to 1 acre.</p> <p>\$3,000 for failure to complete required mitigation, record a required conservation easement, or for a water quality violation resulting from dredging and filling activities, stormwater construction activities or failure of a stormwater treatment facility.</p> <p>\$2,000 (stormwater systems serving less than 5 acres) for failure to properly or timely construct a stormwater management system.</p> <p>\$5,000 per violation, in addition to the above penalties, for conducting unlawful dredging or filling.</p>	<p>filling occurs in an aquatic preserve, an Outstanding Florida water, a conservation easement, or a Class I or Class II surface water; plus \$1,500 if the area dredged or filled is greater than .25 acres but less than or equal to .5 acres; plus \$1,500 if the area dredged or filled is greater than .5 acres but less than or equal to 1 acre.</p> <p>\$4,500 for failure to complete required mitigation, record a required conservation easement, or for a water quality violation resulting from dredging and filling activities, stormwater construction activities or failure of a stormwater treatment facility.</p> <p>\$3,000 (stormwater systems serving less than 5 acres) for failure to properly or timely construct a stormwater management system.</p> <p>\$7,500 per violation, in addition to the above penalties, for conducting unlawful dredging or filling.</p>
403.121 (3)(d), F.S.	Administrative penalty schedule: violations regarding mangrove trimming	\$5,000 per violation for conducting mangrove trimming or alterations without a permit.	\$7,500 per violation for conducting mangrove trimming or alterations without a permit.
403.121 (3)(e), F.S.	Administrative penalty schedule: violations regarding solid waste	\$2,000 for unlawful disposal or storage of solid waste; plus \$1,000 for Class I or III or construction and demolition debris in excess of 20 cubic yards; plus \$1,000 if the waste is disposed of or stored in a waterbody or within 500 feet of a	\$3,000 for unlawful disposal or storage of solid waste; plus \$1,000 for Class I or III or construction and demolition debris in excess of 20 cubic yards; plus \$1,500 if the waste is disposed of or stored in a waterbody or within 500 feet of a

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>potable water well; plus \$1,000 if the waste contains certain amounts of PCB, untreated biomedical waste, friable asbestos, used oil, or lead acid batteries.</p> <p>\$3,000 for failure to maintain leachate control, unauthorized burning, failure to have a trained spotter on duty, or failure to provide access control for three consecutive inspections.</p> <p>\$2,000 for failure to construct or maintain a required stormwater management system.</p>	<p>potable water well; plus \$1,500 if the waste contains certain amounts of PCB, untreated biomedical waste, friable asbestos, used oil, or lead acid batteries.</p> <p>\$4,500 for failure to maintain leachate control, unauthorized burning, failure to have a trained spotter on duty, or failure to provide access control for three consecutive inspections.</p> <p>\$3,000 for failure to construct or maintain a required stormwater management system.</p>
403.121 (3)(f), F.S.	Administrative penalty schedule: violations regarding air emissions	\$1,000 for an unlawful air emission or exceedance; plus \$1,000 if the emission results in an air quality violation; plus \$3,000 for emissions from the major source of the violating pollutant; plus \$1,000 if over 150% of the allowable level.	\$1,500 for an unlawful air emission or exceedance; plus \$4,500 for emissions from the major source of the violating pollutant; plus \$1,500 if over 150% of the allowable level.
403.121 (3)(g), F.S.	Administrative penalty schedule: violations regarding storage tank system and petroleum contamination	<p>\$5,000 for failure to empty a damaged storage system as necessary to ensure a release does not occur until repairs are completed, when a release has occurred, failure to timely recover free product, or failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued.</p> <p>\$3,000 for failure to timely upgrade a storage tank system.</p> <p>\$2,000 for failure to conduct or maintain required release detection, failure to timely</p>	<p>\$7,500 for failure to empty a damaged storage system as necessary to ensure a release does not occur until repairs are completed, when a release has occurred, failure to timely recover free product, or failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued.</p> <p>\$4,500 for failure to timely upgrade a storage tank system.</p> <p>\$3,000 for failure to conduct or maintain required release detection, failure to timely</p>

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<p>investigate a suspected release, depositing motor fuel into an unregistered storage tank system, failure to timely assess or remediate petroleum contamination, or failure to properly install a storage tank system.</p> <p>\$1,000 for failure to properly operate, maintain, or close a storage tank system.</p>	<p>investigate a suspected release, depositing motor fuel into an unregistered storage tank system, failure to timely assess or remediate petroleum contamination, or failure to properly install a storage tank system.</p> <p>\$1,500 for failure to properly operate, maintain, or close a storage tank system.</p>
403.121 (4), F.S.	Violating ch. 403, F.S., regarding environmental control	<p>In administrative proceedings, in addition to penalties assessed under subsection (3):</p> <ul style="list-style-type: none"> • \$5,000 for failure to satisfy financial responsibility requirements or for oil and gas pollution violations. • \$4,000 for failure to install, maintain, or use a required pollution control system or device. • \$3,000 for failure to obtain a required permit before construction or modification. • \$2,000 for failure to conduct required monitoring or testing, conduct required release detection, or construct in compliance with a permit. • \$1,000 for failure to maintain required staff to respond to emergencies, failure to conduct required training, failure to prepare, maintain, or update required contingency plans, failure to adequately respond to emergencies to bring an emergency situation under control, or failure to submit required notification to the DEP. 	<p>In administrative proceedings, in addition to penalties assessed under subsection (3):</p> <ul style="list-style-type: none"> • \$7,500 for failure to satisfy financial responsibility requirements or for oil and gas pollution violations. • \$6,000 for failure to install, maintain, or use a required pollution control system or device. • \$4,500 for failure to obtain a required permit before construction or modification. • \$3,000 for failure to conduct required monitoring or testing, conduct required release detection, or construct in compliance with a permit. • \$1,500 for failure to maintain required staff to respond to emergencies, failure to conduct required training, failure to prepare, maintain, or update required contingency plans, failure to adequately respond to emergencies to bring an emergency situation under control, or failure to submit required notification to the DEP.

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
		<ul style="list-style-type: none"> • \$500 for failure to prepare, submit, maintain, or use required reports or documentation. 	<ul style="list-style-type: none"> • \$750 for failure to prepare, submit, maintain, or use required reports or documentation.
403.121 (5), (7), (8), and (9), F.S.	Violating ch. 403, F.S., regarding environmental control	<p>A penalty of \$500 for failure to comply with any other department regulatory statute or rule.</p> <p>A violator's history of noncompliance for any previous violation found in an executed consent order finding violation, or resulting in a final order or judgment involving the imposition of \$2,000 or more must be taken into consideration in a manner specified in statute.</p> <p>The total administrative penalty, including direct economic benefit gained by the violator that is added to the scheduled administrative penalty, may not exceed \$10,000.</p> <p>The administrative penalties for a particular violation that are assessed against any one violator may not exceed \$5,000, unless there is a history of noncompliance, the economic benefit exceeds \$5,000, or there are multiday violations. Total administrative penalties may not exceed \$10,000 per assessment for all violations attributable to a specific person in a notice of violation.</p>	<p>A penalty of \$1,000 for failure to comply with any other department regulatory statute or rule.</p> <p>A violator's history of noncompliance for any previous violation found in an executed consent order finding violation, or resulting in a final order or judgment involving the imposition of \$3,000 or more must be taken into consideration in a manner specified in statute.</p> <p>The total administrative penalty, including direct economic benefit gained by the violator that is added to the scheduled administrative penalty, may not exceed \$15,000.</p> <p>The administrative penalties for a particular violation that are assessed against any one violator may not exceed \$10,000, unless there is a history of noncompliance, the economic benefit exceeds \$10,000, or there are multiday violations. Total administrative penalties may not exceed \$50,000 per assessment for all violations attributable to a specific person in a notice of violation.</p>
403.141 (1), F.S.	Violating ch. 403, F.S., regarding environmental control, by committing prohibited acts	A civil penalty for each offense in an amount not to exceed \$10,000.	<p>A civil penalty for each offense in an amount not to exceed \$15,000.</p> <p>If a violation is an unauthorized discharge of domestic wastewater, each day the cause of the violation is not addressed constitutes a</p>

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
			separate offense until the violation is resolved by order or judgement.
403.161 (4), F.S.	Violating ch. 403, F.S., regarding environmental control, by committing prohibited acts specified in the statute	A violation causing pollution due to reckless indifference or gross careless disregard is punishable by a fine of not more than \$5,000, 60 days in jail, or both, for each offense.	A violation causing pollution; failure to obtain a permit required under Ch. 403, F.S., or rules; or violating any rule, order, permit or certification adopted or issued by the DEP due to reckless indifference or gross careless disregard is punishable by a fine of not more than \$10,000, 60 days in jail, or both, for each offense.
403.161 (5), F.S.	Violating ch. 403, F.S., regarding environmental control, by willfully causing pollution	A fine of not more than \$10,000, 6 months in jail, or both for willfully committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods.	A fine of not more than \$10,000, 6 months in jail, or both for committing the following violation: knowingly falsifying required documentation or falsifying, tampering with, or rendering inaccurate required monitoring devices or methods.
403.413 (6)(a), F.S.	Dumping litter	A civil penalty of \$100 for dumping litter (not for commercial purposes) not exceeding 15 pounds or 27 cubic feet.	A civil penalty of \$150 for dumping litter (not for commercial purposes) not exceeding 15 pounds or 27 cubic feet.
403.7234 (5), F.S.	Violations involving small quantity generators	A fine of between \$50 and \$100 per day for a maximum of 100 days for a noncompliant small quantity generator.	A fine of between \$75 and \$150 per day for a maximum of 100 days for a noncompliant small quantity generator.
403.726 (3), F.S.	Violations regarding hazardous waste creating an imminent hazard	Authorizes the DEP to institute action to abate an imminent hazard and may recover a civil penalty of not more than \$25,000 for each day of continued violation.	Authorizes the DEP to institute action to abate an imminent hazard and may recover a civil penalty of not more than \$37,500 for each day of continued violation.
403.727 (3)(a), F.S.	Violations regarding hazardous waste	A civil penalty of not more than \$50,000 for each day of continued violation.	A civil penalty of not more than \$75,000 for each day of continued violation.
403.93345 (8)(a)-(c) and (g), F.S.	Civil penalty schedule: violating the Florida Coral	Damage to a coral reef less than or equal to 1 square meter: \$150; additional \$150 with aggravating circumstances; additional \$150 if occurring	Damage to a coral reef less than or equal to 1 square meter: \$225; additional \$225 with aggravating circumstances; additional \$225 if occurring

Florida Statutes	Violations	Existing Penalties	Changes in PCS/CS/SB 1450
	Reef Protection Act	<p>within a state park or aquatic preserve.</p> <p>Damage to a coral reef of more than 1 square meter but less than or equal to 10 square meters: \$300 per square meter; additional \$300 per square meter with aggravating circumstances; additional \$300 per square meter if occurring within a state park or aquatic preserve.</p> <p>Damage exceeding an area of 10 square meters: \$1,000 per square meter; additional \$1,000 per square meter with aggravating circumstances; additional \$1,000 per square meter if occurring within a state park or aquatic preserve.</p> <p>The total penalties levied may not exceed \$250,000 per occurrence.</p>	<p>within a state park or aquatic preserve.</p> <p>Damage to a coral reef of more than 1 square meter but less than or equal to 10 square meters: \$450 per square meter; additional \$450 per square meter with aggravating circumstances; additional \$450 per square meter if occurring within a state park or aquatic preserve.</p> <p>Damage exceeding an area of 10 square meters: \$1,500 per square meter; additional \$1,500 per square meter with aggravating circumstances; additional \$1,500 per square meter if occurring within a state park or aquatic preserve.</p> <p>The total penalties levied may not exceed \$375,000 per occurrence.</p>

Section 22 creates s. 125.569, F.S., titled “Sanitary sewer lateral inspection program.”

The bill defines the term “sanitary sewer lateral,” as used in s. 125.569, F.S., to mean “a privately owned pipeline connecting a property to the main sewer line which is maintained and repaired by the property owner.”

The bill encourages counties, by July 1, 2022, to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the county’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. At a minimum, the program may do all of the following:

- Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of the county.
- Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral.
- Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. For each property, the database must include, but is not limited to, the address of the property, the names of any persons the county notified concerning the faulty sanitary sewer lateral, and the date and method of such notification.

Section 23 creates s. 166.0481, F.S., titled “Sanitary sewer lateral inspection program.”

The bill defines the term “sanitary sewer lateral,” as used in s. 166.0481, F.S., to mean “a privately owned pipeline connecting a property to the main sewer line which is maintained and repaired by the property owner.”

The bill encourages municipalities, by July 1, 2022, to establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties within the municipality’s jurisdiction to identify and reduce extraneous flow from leaking sanitary sewer laterals. At a minimum, the program may do all of the following:

- Establish a system to identify defective, damaged, or deteriorated sanitary sewer laterals on residential and commercial properties within the jurisdiction of the municipality.
- Consider economical methods for a property owner to repair or replace a defective, damaged, or deteriorated sanitary sewer lateral.
- Establish and maintain a publicly accessible database to store information concerning properties where a defective, damaged, or deteriorated sanitary sewer lateral has been identified. For each property, the database must include, but is not limited to, the address of the property, the names of any persons the municipality notified concerning the faulty sanitary sewer lateral, and the date and method of such notification.

Section 24 creates s. 689.301, F.S., titled “Disclosure of known defects in sanitary sewer laterals to prospective purchaser.”

The bill defines the term “sanitary sewer lateral,” as used in s. 689.301, F.S., to mean “the privately owned pipeline connecting a property to the main sewer line.”

The bill requires a seller of real property, before executing a contract for sale, to disclose to a prospective purchaser any defects in the property’s sanitary sewer lateral which are known to the seller.

Sections 25 through 29 reenact ss. 823.11(5); 403.077(5); 403.131(2); 403.4154(3)(d); 403.860(5); 403.708(10); 403.7191(7); 403.811; 403.7255(2); and 403.7186(8), F.S. This reenactment is done for the purpose of incorporating certain amendments made by the bill, as the reenacted provisions reference sections of law that are amended by the bill.

Section 30 states that the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill increases numerous penalties for violations of environmental laws. In some instances, the bill also expands the potential time period when each passing day may constitute a separate offense. Overall, the bill increases the penalties that the private sector must pay for violations of environmental laws.

C. Government Sector Impact:

The bill increases the amounts of numerous penalties. Such penalties may apply to government entities, such as local governments. The bill may cause government entities to be responsible for increased costs when they are required to pay such penalties.

The bill increases the amounts of numerous penalties. If imposed, the funds from such penalties would increase revenue to the state. Therefore, the bill may have a positive, indeterminate impact on the government sector.

The bill may have an indeterminate negative fiscal impact on local governments that own and operate wastewater treatment facilities because the bill increases a number of penalties associated with the violation of environmental laws, including permit violations for wastewater treatment facilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 161.054, 258.397, 258.46, 373.129, 373.209, 373.430, 376.065, 376.071, 376.16, 376.25, 377.37, 378.211, 403.086, 403.121, 403.141, 403.161, 403.413, 403.7234, 403.726, 403.727, and 403.93345.

This bill creates the following sections of the Florida Statutes: 125.569, 166.0481, and 689.301.

This bill reenacts the following sections of the Florida Statutes: 403.077, 403.131, 403.4154, 403.708, 403.7186, 403.7191, 403.7255, 403.811, 403.86, and 823.11.

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

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute:

- Removes the following language, or substantially similar language, from anywhere it appears in the bill: “[u]ntil a violation is resolved by order or judgement, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.”
- Returns what constitutes a separate offense to the existing “[e]ach during any portion of which such violation occurs constitutes a separate offense” in several sections, including those on the following topics: coastal construction and activities, water resources, regulation of oil and gas resources, phosphate land reclamation, hazardous waste, criminal penalties for discharges of pollutants, and civil and criminal penalties in ch. 403, F.S.
- Adds the standard “[e]ach day during any portion of which such violation occurs constitutes a separate offense” to sections on the following topics: Biscayne Bay Aquatic Preserve, aquatic preserves, and gambling vessels.
- Adds to the administrative penalties in s. 403.121, F.S., that each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense.
- Adds to the civil penalties in s. 403.141, F.S., that each day the cause of an unauthorized discharge of domestic wastewater is not addressed constitutes a separate offense until the violation is resolved by order or judgement.
- Amends the relating to clause in the title of the bill to an act relating to environmental accountability.
- Authorizes municipalities and counties to voluntarily establish an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties to identify and reduce extraneous flow from leaking sanitary sewer laterals.
- Provides requirements for the programs for sanitary sewer laterals.
- Requires a seller of real property to disclose to a prospective purchaser, before executing a contract for sale, any known defects in the property’s sanitary sewer lateral.

- Revises the increases to five administrative penalties in s. 403.121 F.S., so that the penalties are doubled instead of increased by 50 percent.

CS by Environment and Natural Resources on January 27, 2020:

- Removes the “willfully” standard of intent from applying to criminal penalties in two sections of Florida’s environmental statutes. The penalties apply to violations of knowingly falsifying documents or tampering with required monitoring. The DEP’s authority to seek criminal fines for such falsification or tampering is required by the federal regulations for state assumption of the 404 dredge and fill program. Applying a “willfully” standard to the penalties is not consistent with the federal regulations, so the bill removes the standard.
- Revises the title of the bill to more accurately describe the contents of the bill.

B. Amendments:

None.

By the Committee on Environment and Natural Resources; and
Senator Gruters

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1 A bill to be entitled
2 An act relating to environmental enforcement; amending
3 s. 161.054, F.S.; revising administrative penalties
4 for violations of certain provisions relating to beach
5 and shore construction and activities; providing that
6 each day that certain violations occur or are not
7 remediated constitutes a separate offense until such
8 violations are resolved by order or judgment; making
9 technical changes; amending ss. 258.397, 258.46,
10 373.129, 376.16, 376.25, 377.37, 378.211, and 403.141,
11 F.S.; revising civil penalties for violations of
12 certain provisions relating to the Biscayne Bay
13 Aquatic Preserve, aquatic preserves, water resources,
14 the Pollutant Discharge Prevention and Control Act,
15 the Clean Ocean Act, regulation of oil and gas
16 resources, the Phosphate Land Reclamation Act, and
17 other provisions relating to pollution and the
18 environment, respectively; providing that each day
19 that certain violations occur or are not remediated
20 constitutes a separate offense until such violations
21 are resolved by order or judgment; making technical
22 changes; amending ss. 373.209, 376.065, 376.071,
23 403.086, 403.413, 403.7234, and 403.93345, F.S.;
24 revising civil penalties for violations of certain
25 provisions relating to artesian wells, terminal
26 facilities, discharge contingency plans for vessels,
27 sewage disposal facilities, dumping litter, small
28 quantity generators, and coral reef protection,
29 respectively; making technical changes; amending ss.

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30 373.430 and 403.161, F.S.; revising criminal penalties
31 for violations of certain provisions relating to
32 pollution and the environment; providing that each day
33 that certain violations occur or are not remediated
34 constitutes a separate offense until such violations
35 are resolved by order or judgment; making technical
36 changes; amending s. 403.121, F.S.; revising civil and
37 administrative penalties for violations of certain
38 provisions relating to pollution and the environment;
39 providing that each day that certain violations occur
40 or are not remediated constitutes a separate offense
41 until such violations are resolved by order or
42 judgment; increasing the amount of penalties that can
43 be assessed administratively; making technical
44 changes; amending ss. 403.726 and 403.727, F.S.;
45 revising civil penalties for violations of certain
46 provisions relating to hazardous waste for each day
47 that certain violations occur and are not resolved by
48 order or judgment; making technical changes;
49 reenacting s. 823.11(5), F.S., to incorporate the
50 amendment made to s. 376.16, F.S., in a reference
51 thereto; reenacting ss. 403.077(5), 403.131(2),
52 403.4154(3) (d), and 403.860(5), F.S., to incorporate
53 the amendment made to s. 403.121, F.S., in a reference
54 thereto; reenacting ss. 403.708(10), 403.7191(7), and
55 403.811, F.S., to incorporate the amendment made to s.
56 403.141, F.S., in a reference thereto; reenacting s.
57 403.7255(2), F.S., to incorporate the amendment made
58 to s. 403.161, F.S., in a reference thereto;

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reenacting s. 403.7186(8), F.S., to incorporate the amendment made to ss. 403.141 and 403.161, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (1) of section 161.054, Florida Statutes, is amended to read:

161.054 Administrative fines; liability for damage; liens.—

(1) In addition to the penalties provided for in ss. 161.052, 161.053, and 161.121, any person, firm, corporation, or governmental agency, or agent thereof, refusing to comply with or willfully violating ~~any of the provisions of s. 161.041, s. 161.052, or s. 161.053, or any rule or order prescribed by the department thereunder, shall incur a fine for each offense in an amount up to \$15,000 \$10,000 to be fixed, imposed, and collected by the department. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.~~

Section 2. Subsection (7) of section 258.397, Florida Statutes, is amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(7) ENFORCEMENT.—~~The provisions of~~ This section may be enforced in accordance with ~~the provisions of~~ s. 403.412. In addition, the Department of Legal Affairs ~~may is authorized to~~ bring an action for civil penalties of \$7,500 \$5,000 per day against any person, natural or corporate, who violates ~~the provisions of~~ this section or any rule or regulation issued hereunder. Until a violation is resolved by order or judgment,

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each day during any portion of which such violation occurs or is not remediated constitutes a separate offense. Enforcement of applicable state regulations shall be supplemented by the Miami-Dade County Department of Environmental Resources Management through the creation of a full-time enforcement presence along the Miami River.

Section 3. Section 258.46, Florida Statutes, is amended to read:

258.46 Enforcement; violations; penalty.—~~The provisions of~~ This act may be enforced by the Board of Trustees of the Internal Improvement Trust Fund or in accordance with ~~the provisions of~~ s. 403.412. However, any violation by any person, natural or corporate, of ~~the provisions of~~ this act or any rule or regulation issued hereunder is shall be further punishable by a civil penalty of not less than \$750 \$500 per day or more than \$7,500 \$5,000 per day of such violation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

Section 4. Subsections (5) and (7) of section 373.129, Florida Statutes, are amended to read:

373.129 Maintenance of actions.—The department, the governing board of any water management district, any local board, or a local government to which authority has been delegated pursuant to s. 373.103(8), is authorized to commence and maintain proper and necessary actions and proceedings in any court of competent jurisdiction for any of the following purposes:

(5) To recover a civil penalty for each offense in an

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amount not to exceed \$15,000 ~~\$10,000~~ per offense. Until a violation is resolved by order or judgment, each date during any portion of which such violation occurs or is not remediated constitutes a separate offense.

(a) A civil penalty recovered by a water management district pursuant to this subsection shall be retained and used exclusively by the water management district that collected the money. A civil penalty recovered by the department pursuant to this subsection must be deposited into the Water Quality Assurance Trust Fund established under s. 376.307.

(b) A local government that is delegated authority pursuant to s. 373.103(8) may deposit a civil penalty recovered pursuant to this subsection into a local water pollution control program trust fund, notwithstanding ~~the provisions of~~ paragraph (a). However, civil penalties that are deposited in a local water pollution control program trust fund and that are recovered for violations of state water quality standards may be used only to restore water quality in the area that was the subject of the action, and civil penalties that are deposited in a local water pollution control program trust fund and that are recovered for violation of requirements relating to water quantity may be used only to purchase lands and make capital improvements associated with surface water management, or other purposes consistent with the requirements of this chapter for the management and storage of surface water.

(7) ~~To enforce the provisions of~~ part IV of this chapter in the same manner and to the same extent as provided in ss. 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

Section 5. Subsection (3) of section 373.209, Florida

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Statutes, is amended to read:

373.209 Artesian wells; penalties for violation.—

(3) Any person who violates ~~any provision of~~ this section ~~is shall be~~ subject to either:

(a) The remedial measures provided for in s. 373.436; or

(b) A civil penalty of \$150 ~~\$100~~ a day for each and every day of such violation and for each and every act of violation. The civil penalty may be recovered by the water management board of the water management district in which the well is located or by the department in a suit in a court of competent jurisdiction in the county where the defendant resides, in the county of residence of any defendant if there is more than one defendant, or in the county where the violation took place. The place of suit shall be selected by the board or department, and the suit, by direction of the board or department, shall be instituted and conducted in the name of the board or department by appropriate counsel. The payment of any such damages does not impair or abridge any cause of action which any person may have against the person violating ~~any provision of~~ this section.

Section 6. Subsections (2) through (5) of section 373.430, Florida Statutes, are amended to read:

373.430 Prohibitions, violation, penalty, intent.—

(2) A person who ~~Whoever~~ commits a violation specified in subsection (1) is liable for any damage caused and for civil penalties as provided in s. 373.129.

(3) A ~~Any~~ person who willfully commits a violation specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of the third degree, punishable as provided in ss. 775.082(3)(e) and 775.083(1)(g), by a fine of not more than \$50,000 or by

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imprisonment for 5 years, or by both, for each offense. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

(4) A ~~Any~~ person who commits a violation specified in paragraph (1) (a) or paragraph (1) (b) due to reckless indifference or gross careless disregard commits is guilty of a misdemeanor of the second degree, punishable as provided in ss. 775.082(4) (b) and 775.083(1) (g), by a fine of not more than \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

(5) A ~~Any~~ person who willfully commits a violation specified in paragraph (1) (b) or who commits a violation specified in paragraph (1) (c) commits is guilty of a misdemeanor of the first degree, punishable as provided in ss. 775.082(4) (a) and 775.083(1) (g), by a fine of not more than \$10,000 or by 6 months in jail, or by both, for each offense.

Section 7. Paragraphs (a) and (e) of subsection (5) of section 376.065, Florida Statutes, are amended to read:

376.065 Operation of terminal facility without discharge prevention and response certificate prohibited; penalty.—

(5) (a) A person who violates this section or the terms and requirements of such certification commits a noncriminal infraction. The civil penalty for any such infraction shall be \$750 ~~\$500~~, except as otherwise provided in this section.

(e) A person who elects to appear before the county court or who is required to so appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of the infraction is

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proved, the court shall impose a civil penalty of \$750 ~~\$500~~.

Section 8. Paragraphs (a) and (e) of subsection (2) of section 376.071, Florida Statutes, are amended to read:

376.071 Discharge contingency plan for vessels.—

(2) (a) A master of a vessel that violates subsection (1) commits a noncriminal infraction and shall be cited for such infraction. The civil penalty for such an infraction shall be \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.

(e) A person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalty specified in paragraph (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of the infraction is proved, the court shall impose a civil penalty of \$7,500 ~~\$5,000~~.

Section 9. Section 376.16, Florida Statutes, is amended to read:

376.16 Enforcement and penalties.—

(1) It is unlawful for any person to violate ~~any provision of~~ ss. 376.011-376.21 or any rule or order of the department made pursuant to this act. A violation is ~~shall be~~ punishable by a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day to be assessed by the department. Until a violation is resolved by order or judgment, each day during any portion of which the violation occurs or is not remediated constitutes a separate offense. The penalty provisions of this subsection do ~~shall~~ not apply to any discharge promptly reported and removed by a person responsible, in accordance with the rules and orders of the department, or to any discharge of pollutants equal to or less than 5 gallons.

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(2) In addition to the penalty provisions which may apply under subsection (1), a person responsible for two or more discharges of any pollutant reported pursuant to s. 376.12 within a 12-month period at the same facility commits a noncriminal infraction and shall be cited by the department for such infraction.

(a) For discharges of gasoline or diesel over 5 gallons, the civil penalty for the second discharge shall be \$750 ~~\$500~~ and the civil penalty for each subsequent discharge within a 12-month period shall be \$1,500 ~~\$1,000~~, except as otherwise provided in this section.

(b) For discharges of any pollutant other than gasoline or diesel, the civil penalty for a second discharge shall be \$3,750 ~~\$2,500~~ and the civil penalty for each subsequent discharge within a 12-month period shall be \$7,500 ~~\$5,000~~, except as otherwise provided in this section.

(3) A person responsible for two or more discharges of any pollutant reported pursuant to s. 376.12 within a 12-month period at the same facility commits a noncriminal infraction and shall be cited by the department for such infraction.

(a) For discharges of gasoline or diesel equal to or less than 5 gallons, the civil penalty shall be \$75 ~~\$50~~ for each discharge subsequent to the first.

(b) For discharges of pollutants other than gasoline or diesel equal to or less than 5 gallons, the civil penalty shall be \$150 ~~\$100~~ for each discharge subsequent to the first.

(4) A person charged with a noncriminal infraction pursuant to subsection (2) or subsection (3) may:

(a) Pay the civil penalty;

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(b) Post a bond equal to the amount of the applicable civil penalty; or

(c) Sign and accept a citation indicating a promise to appear before the county court.

The department employee authorized to issue these citations may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(5) Any person who willfully refuses to post bond or accept and sign a citation commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) After compliance with paragraph (4)(b) or paragraph (4)(c), any person charged with a noncriminal infraction under subsection (2) or subsection (3) may:

(a) Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or

(b) If the person has posted bond, forfeit the bond by not appearing at the designated time and location.

A person cited for an infraction under this section who pays the civil penalty or forfeits the bond has admitted the infraction and waives the right to a hearing on the issue of commission of the infraction. Such admission may not be used as evidence in any other proceeding.

(7) Any person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalties specified in subsection (2). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction is

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proved, the court may impose a civil penalty up to, but not exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or diesel and a civil penalty up to, but not exceeding, \$1,500 ~~\$1,000~~ for each subsequent discharge of gasoline or diesel within a 12-month period.

(8) Any person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalties specified in subsection (2) or subsection (3). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction is proved, the court may impose a civil penalty up to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of pollutants other than gasoline or diesel and a civil penalty up to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent discharge of pollutants other than gasoline or diesel within a 12-month period.

(9) At a hearing under this section, the commission of a charged offense must be proved by the greater weight of the evidence.

(10) A person who is found by a hearing official to have committed an infraction may appeal that finding to the circuit court.

(11) Any person who has not posted bond and who neither pays the applicable civil penalty, as specified in subsection (2) or subsection (3) within 30 days of receipt of the citation nor appears before the court commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(12) Any person who makes or causes to be made a false statement that ~~which~~ the person does not believe to be true in

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response to requirements of ~~the provisions of~~ ss. 376.011-376.21 commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 10. Paragraph (a) of subsection (6) of section 376.25, Florida Statutes, is amended to read:

376.25 Gambling vessels; registration; required and prohibited releases.—

(6) PENALTIES.—

(a) A person who violates this section is subject to a civil penalty of not more than \$75,000 ~~\$50,000~~ for each violation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

Section 11. Paragraph (a) of subsection (1) of section 377.37, Florida Statutes, is amended to read:

377.37 Penalties.—

(1) (a) Any person who violates ~~any provision of~~ this law or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1) or to store gas in a natural gas storage facility, or any lessee, permitholder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products, or storage of gas in a natural gas storage facility, who refuses inspection by the division as provided in this chapter, is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in

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controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state. Furthermore, such person, lessee, permitholder, or operator is subject to the judicial imposition of a civil penalty in an amount of not more than \$15,000 ~~\$10,000~~ for each offense. However, the court may receive evidence in mitigation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense. This section does not ~~Nothing herein shall~~ give the department the right to bring an action on behalf of any private person.

Section 12. Subsection (2) of section 378.211, Florida Statutes, is amended to read:

378.211 Violations; damages; penalties.—

(2) The department may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for violation of this part or of any rule adopted or order issued pursuant to this part. The penalty may ~~shall~~ not exceed the following amounts, and the court shall consider evidence in mitigation:

(a) For violations of a minor or technical nature, \$150 ~~\$100~~ per violation.

(b) For major violations by an operator on which a penalty has not been imposed under this paragraph during the previous 5 years, \$1,500 ~~\$1,000~~ per violation.

(c) For major violations not covered by paragraph (b), \$7,500 ~~\$5,000~~ per violation.

Subject to ~~the provisions of~~ subsection (4), until a violation

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is resolved by order or judgment, each day or any portion thereof in which the violation continues or is not remediated shall constitute a separate violation.

Section 13. Subsection (2) of section 403.086, Florida Statutes, is amended to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(2) Any facilities for sanitary sewage disposal shall provide for secondary waste treatment and, in addition thereto, advanced waste treatment as deemed necessary and ordered by the Department of Environmental Protection. Failure to conform shall be punishable by a civil penalty of \$750 ~~\$500~~ for each 24-hour day or fraction thereof that such failure is allowed to continue thereafter.

Section 14. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(1) Judicial remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than \$15,000

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407 ~~\$10,000~~ per offense. However, the court may receive evidence in
 408 mitigation. Until a violation is resolved by order or judgment,
 409 each day during any portion of which such violation occurs or is
 410 not remediated constitutes a separate offense.

411 (c) Except as provided in paragraph (2)(c), it ~~is shall~~ not
 412 ~~be~~ a defense to, or ground for dismissal of, these judicial
 413 remedies for damages and civil penalties that the department has
 414 failed to exhaust its administrative remedies, has failed to
 415 serve a notice of violation, or has failed to hold an
 416 administrative hearing prior to the institution of a civil
 417 action.

418 (2) Administrative remedies:

419 (a) The department may institute an administrative
 420 proceeding to establish liability and to recover damages for any
 421 injury to the air, waters, or property, including animal, plant,
 422 or aquatic life, of the state caused by any violation. The
 423 department may order that the violator pay a specified sum as
 424 damages to the state. Judgment for the amount of damages
 425 determined by the department may be entered in any court having
 426 jurisdiction thereof and may be enforced as any other judgment.

427 (b) If the department has reason to believe a violation has
 428 occurred, it may institute an administrative proceeding to order
 429 the prevention, abatement, or control of the conditions creating
 430 the violation or other appropriate corrective action. Except for
 431 violations involving hazardous wastes, asbestos, or underground
 432 injection, the department shall proceed administratively in all
 433 cases in which the department seeks administrative penalties
 434 that do not exceed \$50,000 ~~\$10,000~~ per assessment as calculated
 435 in accordance with subsections (3), (4), (5), (6), and (7).

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436 Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty
 437 assessed pursuant to subsection (3), subsection (4), or
 438 subsection (5) against a public water system serving a
 439 population of more than 10,000 shall be not less than \$1,000 per
 440 day per violation. The department ~~may shall~~ not impose
 441 administrative penalties in excess of \$50,000 ~~\$10,000~~ in a
 442 notice of violation. The department ~~may shall~~ not have more than
 443 one notice of violation seeking administrative penalties pending
 444 against the same party at the same time unless the violations
 445 occurred at a different site or the violations were discovered
 446 by the department subsequent to the filing of a previous notice
 447 of violation.

448 (c) An administrative proceeding shall be instituted by the
 449 department's serving of a written notice of violation upon the
 450 alleged violator by certified mail. If the department is unable
 451 to effect service by certified mail, the notice of violation may
 452 be hand delivered or personally served in accordance with
 453 chapter 48. The notice shall specify the ~~provision of the law,~~
 454 rule, regulation, permit, certification, or order of the
 455 department alleged to be violated and the facts alleged to
 456 constitute a violation thereof. An order for corrective action,
 457 penalty assessment, or damages may be included with the notice.
 458 When the department is seeking to impose an administrative
 459 penalty for any violation by issuing a notice of violation, any
 460 corrective action needed to correct the violation or damages
 461 caused by the violation must be pursued in the notice of
 462 violation or they are waived. However, ~~an no order is not shall~~
 463 ~~become~~ effective until after service and an administrative
 464 hearing, if requested within 20 days after service. Failure to

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request an administrative hearing within this time period
~~constitutes shall constitute~~ a waiver thereof, unless the
 respondent files a written notice with the department within
 this time period opting out of the administrative process
 initiated by the department to impose administrative penalties.
 Any respondent choosing to opt out of the administrative process
 initiated by the department in an action that seeks the
 imposition of administrative penalties must file a written
 notice with the department within 20 days after service of the
 notice of violation opting out of the administrative process. A
 respondent's decision to opt out of the administrative process
 does not preclude the department from initiating a state court
 action seeking injunctive relief, damages, and the judicial
 imposition of civil penalties.

(d) If a person timely files a petition challenging a
 notice of violation, that person will thereafter be referred to
 as the respondent. The hearing requested by the respondent shall
 be held within 180 days after the department has referred the
 initial petition to the Division of Administrative Hearings
 unless the parties agree to a later date. The department has the
 burden of proving with the preponderance of the evidence that
 the respondent is responsible for the violation. ~~No~~
 Administrative penalties should not be imposed unless the
 department satisfies that burden. Following the close of the
 hearing, the administrative law judge shall issue a final order
 on all matters, including the imposition of an administrative
 penalty. When the department seeks to enforce that portion of a
 final order imposing administrative penalties pursuant to s.
 120.69, the respondent may ~~shall~~ not assert as a defense the

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inappropriateness of the administrative remedy. The department
 retains its final-order authority in all administrative actions
 that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in
 response to a notice of violation in which the department
 imposes an administrative penalty, a respondent may request that
 a private mediator be appointed to mediate the dispute by
 contacting the Florida Conflict Resolution Consortium within 10
 days after receipt of the initial order from the administrative
 law judge. The Florida Conflict Resolution Consortium shall pay
 all of the costs of the mediator and for up to 8 hours of the
 mediator's time per case at \$150 per hour. Upon notice from the
 respondent, the Florida Conflict Resolution Consortium shall
 provide to the respondent a panel of possible mediators from the
 area in which the hearing on the petition would be heard. The
 respondent shall select the mediator and notify the Florida
 Conflict Resolution Consortium of the selection within 15 days
 of receipt of the proposed panel of mediators. The Florida
 Conflict Resolution Consortium shall provide all of the
 administrative support for the mediation process. The mediation
 must be completed at least 15 days before the final hearing date
 set by the administrative law judge.

(f) In any administrative proceeding brought by the
 department, the prevailing party shall recover all costs as
 provided in ss. 57.041 and 57.071. The costs must be included in
 the final order. The respondent is the prevailing party when an
 order is entered awarding no penalties to the department and
 such order has not been reversed on appeal or the time for
 seeking judicial review has expired. The respondent is ~~shall be~~

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entitled to an award of attorney's fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). ~~An~~ ~~no~~ award of attorney's fees as provided by this subsection ~~may not shall~~ exceed \$15,000.

(g) Nothing herein shall be construed as preventing any other legal or administrative action in accordance with law. Nothing in this subsection shall limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of \$50,000 ~~\$10,000~~ for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of \$50,000 ~~\$10,000~~. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in penalties may be settled in the court action for less than

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\$50,000 ~~\$10,000~~.

(h) Chapter 120 ~~applies shall apply~~ to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(a) For a drinking water contamination violation, the department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum Contaminant Level is exceeded by more than 100 percent. For failure to obtain a clearance letter prior to placing a drinking water system into service when the system would not have been eligible for clearance, the department shall assess a penalty of \$4,500 ~~\$3,000~~.

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of \$1,500 ~~\$1,000~~. For a domestic or industrial wastewater violation not involving a surface water or groundwater quality violation, the department shall assess a penalty of \$3,000 ~~\$2,000~~ for an unpermitted or unauthorized discharge or effluent-limitation exceedance. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of

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581 \$7,500 ~~\$5,000~~.

582 (c) For a dredge and fill or stormwater violation, the
 583 department shall assess a penalty of \$1,500 ~~\$1,000~~ for
 584 unpermitted or unauthorized dredging or filling or unauthorized
 585 construction of a stormwater management system against the
 586 person or persons responsible for the illegal dredging or
 587 filling, or unauthorized construction of a stormwater management
 588 system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in
 589 an aquatic preserve, an Outstanding Florida Water, a
 590 conservation easement, or a Class I or Class II surface water,
 591 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than
 592 one-quarter acre but less than or equal to one-half acre, and
 593 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than
 594 one-half acre but less than or equal to one acre. The
 595 administrative penalty schedule does ~~shall~~ not apply to a dredge
 596 and fill violation if the area dredged or filled exceeds one
 597 acre. The department retains the authority to seek the judicial
 598 imposition of civil penalties for all dredge and fill violations
 599 involving more than one acre. The department shall assess a
 600 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required
 601 mitigation, failure to record a required conservation easement,
 602 or for a water quality violation resulting from dredging or
 603 filling activities, stormwater construction activities or
 604 failure of a stormwater treatment facility. For stormwater
 605 management systems serving less than 5 acres, the department
 606 shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to
 607 properly or timely construct a stormwater management system. In
 608 addition to the penalties authorized in this subsection, the
 609 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation

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610 against the contractor or agent of the owner or tenant that
 611 conducts unpermitted or unauthorized dredging or filling. For
 612 purposes of this paragraph, the preparation or signing of a
 613 permit application by a person currently licensed under chapter
 614 471 to practice as a professional engineer does ~~shall~~ not make
 615 that person an agent of the owner or tenant.

616 (d) For mangrove trimming or alteration violations, the
 617 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation
 618 against the contractor or agent of the owner or tenant that
 619 conducts mangrove trimming or alteration without a permit as
 620 required by s. 403.9328. For purposes of this paragraph, the
 621 preparation or signing of a permit application by a person
 622 currently licensed under chapter 471 to practice as a
 623 professional engineer does ~~shall~~ not make that person an agent
 624 of the owner or tenant.

625 (e) For solid waste violations, the department shall assess
 626 a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or unauthorized
 627 disposal or storage of solid waste; plus \$1,000 if the solid
 628 waste is Class I or Class III (excluding yard trash) or if the
 629 solid waste is construction and demolition debris in excess of
 630 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is disposed of
 631 or stored in any natural or artificial body of water or within
 632 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~ if the
 633 waste contains PCB at a concentration of 50 parts per million or
 634 greater; untreated biomedical waste; friable asbestos greater
 635 than 1 cubic meter which is not wetted, bagged, and covered;
 636 used oil greater than 25 gallons; or 10 or more lead acid
 637 batteries. The department shall assess a penalty of \$4,500
 638 ~~\$3,000~~ for failure to properly maintain leachate control;

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unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; or failure to provide access control for three consecutive inspections. The department shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, ~~plus \$1,000 if the emission results in an air quality violation,~~ plus \$4,500 ~~\$3,000~~ if the emission was from a major source and the source was major for the pollutant in violation; plus \$1,500 ~~\$1,000~~ if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of \$7,500 ~~\$5,000~~ for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely upgrade a storage tank system. The department shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to

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properly install a storage tank system. The department shall assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly operate, maintain, or close a storage tank system.

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), \$7,500 ~~\$5,000~~.

(b) For failure to install, maintain, or use a required pollution control system or device, \$6,000 ~~\$4,000~~.

(c) For failure to obtain a required permit before construction or modification, \$4,500 ~~\$3,000~~.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, \$3,000 ~~\$2,000~~.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, \$1,500 ~~\$1,000~~.

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required reports or other required documentation, \$750 ~~\$500~~.

(5) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to comply with any other departmental regulatory

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statute or rule requirement not otherwise identified in this section, the department may assess a penalty of \$1,000 ~~\$500~~.

(6) For each additional day during which a violation occurs, the administrative penalties in ~~subsections~~ subsection (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment after the effective date of this law involving the imposition of \$3,000 ~~\$2,000~~ or more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years prior to the filing of the notice of violation will result in a 25-percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years prior to the filing of the notice of violation will result in a 50-percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years prior to the filing of the notice of violation will result in a 100-percent per day increase in the scheduled administrative penalty.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, shall be added to the scheduled administrative penalty. The total administrative

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penalty, including any economic benefit added to the scheduled administrative penalty, may ~~shall~~ not exceed \$15,000 ~~\$10,000~~.

(9) The administrative penalties assessed for any particular violation may ~~shall~~ not exceed \$7,500 ~~\$5,000~~ against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds \$7,500 ~~\$5,000~~, or there are multiday violations. The total administrative penalties may ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in ~~subsections~~ subsection (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply prior to or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section shall be deposited into the Water Quality Assurance Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2)(e) and to contract with private mediators for

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administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. ~~Subsections (3)-(7) may Subsection (3), subsection (4), subsection (5), subsection (6), or subsection (7) shall~~ not be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 15. Subsection (1) of section 403.141, Florida Statutes, is amended to read:

403.141 Civil liability; joint and several liability.-

(1) A person who ~~Whoever~~ commits a violation specified in s. 403.161(1) is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state to their former condition, and furthermore is subject to the judicial imposition of a civil penalty for each offense in an amount of not more than \$15,000 ~~\$10,000~~ per offense. However, the court may receive evidence in mitigation. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense. Nothing herein ~~gives shall give~~ the department the right to bring an action on behalf of any private person.

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Section 16. Subsections (2) through (5) of section 403.161, Florida Statutes, are amended to read:

403.161 Prohibitions, violation, penalty, intent.-

(2) A person who ~~Whoever~~ commits a violation specified in subsection (1) is liable to the state for any damage caused and for civil penalties as provided in s. 403.141.

(3) A ~~Any~~ person who willfully commits a violation specified in paragraph (1) (a) commits is guilty of a felony of the third degree, punishable as provided in ss. 775.082(3) (e) and 775.083(1) (g) by a fine of not more than \$50,000 or by imprisonment for 5 years, or by both, for each offense. Until a violation is resolved by order or judgment, each day during any portion of which such violation occurs or is not remediated constitutes a separate offense.

(4) A ~~Any~~ person who commits a violation specified in paragraph (1) (a) or paragraph (1) (b) due to reckless indifference or gross careless disregard commits is guilty of a misdemeanor of the second degree, punishable as provided in ss. 775.082(4) (b) and 775.083(1) (g) by a fine of not more than \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each offense.

(5) A ~~Any~~ person who willfully commits a violation specified in paragraph (1) (b) or who commits a violation specified in paragraph (1) (c) commits is guilty of a misdemeanor of the first degree punishable as provided in ss. 775.082(4) (a) and 775.083(1) (g) by a fine of not more than \$10,000 or by 6 months in jail, or by both for each offense.

Section 17. Paragraph (a) of subsection (6) of section 403.413, Florida Statutes, is amended to read:

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813 403.413 Florida Litter Law.—

814 (6) PENALTIES; ENFORCEMENT.—

815 (a) Any person who dumps litter in violation of subsection
816 (4) in an amount not exceeding 15 pounds in weight or 27 cubic
817 feet in volume and not for commercial purposes ~~commits is guilty~~
818 ~~of~~ a noncriminal infraction, punishable by a civil penalty of
819 \$150 ~~\$100~~, from which \$50 shall be deposited into the Solid
820 Waste Management Trust Fund to be used for the solid waste
821 management grant program pursuant to s. 403.7095. In addition,
822 the court may require the violator to pick up litter or perform
823 other labor commensurate with the offense committed.

824 Section 18. Subsection (5) of section 403.7234, Florida
825 Statutes, is amended to read:

826 403.7234 Small quantity generator notification and
827 verification program.—

828 (5) Any small quantity generator who does not comply with
829 the requirements of subsection (4) and who has received a
830 notification and survey in person or through one certified
831 letter from the county is subject to a fine of between \$75 ~~\$50~~
832 and \$150 ~~\$100~~ per day for a maximum of 100 days. The county may
833 collect such fines and deposit them in its general revenue fund.
834 Fines collected by the county shall be used to carry out the
835 notification and verification procedure established in this
836 section. If there are excess funds after the notification and
837 verification procedures have been completed, such funds shall be
838 used for hazardous and solid waste management purposes only.

839 Section 19. Subsection (3) of section 403.726, Florida
840 Statutes, is amended to read:

841 403.726 Abatement of imminent hazard caused by hazardous

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842 substance.—

843 (3) An imminent hazard exists if any hazardous substance
844 creates an immediate and substantial danger to human health,
845 safety, or welfare or to the environment. The department may
846 institute action in its own name, using the procedures and
847 remedies of s. 403.121 or s. 403.131, to abate an imminent
848 hazard. However, the department is authorized to recover a civil
849 penalty of not more than \$37,500 ~~\$25,000~~ for each day until a ~~of~~
850 ~~continued~~ violation is resolved by order or judgment. Whenever
851 serious harm to human health, safety, and welfare; the
852 environment; or private or public property may occur prior to
853 completion of an administrative hearing or other formal
854 proceeding that which might be initiated to abate the risk of
855 serious harm, the department may obtain, ex parte, an injunction
856 without paying filing and service fees prior to the filing and
857 service of process.

858 Section 20. Paragraph (a) of subsection (3) of section
859 403.727, Florida Statutes, is amended to read:

860 403.727 Violations; defenses, penalties, and remedies.—

861 (3) Violations of the provisions of this act are punishable
862 as follows:

863 (a) Any person who violates ~~the provisions of~~ this act, the
864 rules or orders of the department, or the conditions of a permit
865 is liable to the state for any damages specified in s. 403.141
866 and for a civil penalty of not more than \$75,000 ~~\$50,000~~ for
867 each day of continued violation or until a violation is resolved
868 by order or judgment, except as otherwise provided herein. The
869 department may revoke any permit issued to the violator. In any
870 action by the department against a small hazardous waste

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generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to s. 403.7234; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

Section 21. Subsection (8) of section 403.93345, Florida Statutes, is amended to read:

403.93345 Coral reef protection.—

(8) In addition to the compensation described in subsection (5), the department may assess, per occurrence, civil penalties according to the following schedule:

(a) For any anchoring of a vessel on a coral reef or for any other damage to a coral reef totaling less than or equal to an area of 1 square meter, \$225 ~~\$150~~, provided that a responsible party who has anchored a recreational vessel as defined in s. 327.02 which is lawfully registered or exempt from registration pursuant to chapter 328 is issued, at least once, a warning letter in lieu of penalty; with aggravating circumstances, an additional \$225 ~~\$150~~; occurring within a state park or aquatic preserve, an additional \$225 ~~\$150~~.

(b) For damage totaling more than an area of 1 square meter but less than or equal to an area of 10 square meters, \$450 ~~\$300~~ per square meter; with aggravating circumstances, an additional \$450 ~~\$300~~ per square meter; occurring within a state park or aquatic preserve, an additional \$450 ~~\$300~~ per square meter.

(c) For damage exceeding an area of 10 square meters, \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances,

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an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per square meter.

(d) For a second violation, the total penalty may be doubled.

(e) For a third violation, the total penalty may be tripled.

(f) For any violation after a third violation, the total penalty may be quadrupled.

(g) The total of penalties levied may not exceed \$375,000 ~~\$250,000~~ per occurrence.

Section 22. Subsection (5) of s. 823.11, Florida Statutes, is reenacted for the purpose of incorporating the amendment made by this act to s. 376.16, Florida Statutes, in a reference thereto.

Section 23. Subsection (5) of s. 403.077, subsection (2) of s. 403.131, paragraph (d) of subsection (3) of s. 403.4154, and subsection (5) of s. 403.860, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 403.121, Florida Statutes, in references thereto.

Section 24. Subsection (10) of s. 403.708, subsection (7) of s. 403.7191, and s. 403.811, Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 403.141, Florida Statutes, in references thereto.

Section 25. Subsection (2) of s. 403.7255, Florida Statutes, is reenacted for the purpose of incorporating the amendment made by this act to s. 403.161, Florida Statutes, in a reference thereto.

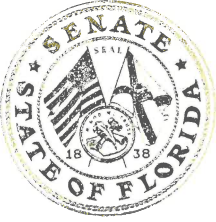
Section 26. Subsection (8) of s. 403.7186, Florida

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929 Statutes, is reenacted for the purpose of incorporating the
930 amendments made by this act to ss. 403.141 and 403.161, Florida
931 Statutes, in references thereto.

932 Section 27. This act shall take effect July 1, 2020.



February 19, 2020

The Honorable Rob Bradley, Chair
Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley:

I am writing to request that Senate Bill 1450, Environmental Enforcement to be placed on the agenda of the next Appropriations Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

cc: Cynthia Sauls Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

SENATE APPROPRIATIONS
RECEIVED
2020 FEB 24 PM 1:14
SENT TO: CHAIRMAN
STAFF DIR. STAFF

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27
Meeting Date

1450
Bill Number (if applicable)

Topic SB 1450

Amendment Barcode (if applicable)

Name Alex Bickley

Job Title Director of Legislative Affairs

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL DEP

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

02/27/2020

Meeting Date

1450

Bill Number (if applicable)

N/A

Amendment Barcode (if applicable)

Topic SB 1450 - Environmental Enforcement

Name John Schrader

Job Title Deputy Legislative Affairs Director

Address 3900 Commonwealth Boulevard

Street

Tallahassee

City

FL

State

32399

Zip

Phone (850) 245-2144

Email John.Schrader@FloridaDEP.gov

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Department of Environmental Protection

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1552 (481528)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senator Flores

SUBJECT: Law Enforcement Activities

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	Fav/CS
2.	Dale	Jameson	ACJ	Recommend: Fav/CS
3.	Dale	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1552 amends section 683.231, Florida Statutes, which authorizes the Florida Department of Law Enforcement (FDLE) to establish a citizen support organization (CSO) to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day. The bill expands the CSO's authority to authorize the CSO to provide financial support to law enforcement agencies for missing and unidentified persons investigations and specialized training to support the resolution of such investigations through the issuance of grants.

The CSO is authorized to create a grant program for these purposes and raise and accept funds from any public or private source. The CSO may also establish criteria and set specific time periods for the acceptance of applications from local and state law enforcement agencies and for the selection process for awards. These criteria must be publicly available on the CSO's website.

The CSO may not award grants if the president of the CSO or the staff of the FDLE reasonably believe that the CSO has not yet met its obligations for funding Florida Missing Children's Day. The total amount of grants awarded may not exceed funds available to the CSO. The CSO must determine the assignment and use of grants awarded with oversight by the FDLE.

The bill also amends section 775.21, Florida Statutes (sexual predator registration), section 943.0435, Florida Statutes (sexual offender registration), and section 943.0311, Florida Statutes (FDLE chief of domestic security), to:

- Specify that the FDLE’s secure online system includes updates to all vehicles owned by sexual predators and sexual offenders (registrants) and authorize registrants to report such updates to the FDLE through this system;
- Clarify a registration requirement relating to the in-person reporting of a change of residence to another state or jurisdiction by changing “within 48 hours before the date” the registrant intends to leave Florida to “at least 48 hours before the date” of intended travel;
- Provide that any travel not known by the registrant 48 hours before the date of intended travel must be reported as soon as possible before departure;
- Amend a registration requirement relating to international travel to require that a registrant residing in Florida report all international travel, regardless of how long they are leaving the United States;
- Specifically require reporting of airport departures and cruise ship departures;
- Provide a process for a petition for relief of registration for sexual offenders required to register based solely upon a requirement to register in another state or jurisdiction, and whose registration is considered confidential from public disclosure in that state or jurisdiction; and
- Provide that the FDLE will develop a statewide strategy for targeted violence prevention (STVP).

The bill has a fiscal impact. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Florida Missing Children’s Day

Section 683.23, F.S., provides that the second Monday in September of each year is designated as “‘Florida Missing Children’s Day’ in remembrance of Florida’s past and present missing children and in recognition of our state’s continued efforts to protect the safety of children through prevention, education, and community involvement”¹ “Each year parents, children, law enforcement officers and citizens convene on the steps of the Old Capitol Building in Tallahassee to remember Florida’s missing children who are still missing and those who will never come home again. The Governor, Lieutenant Governor, and the [FDLE] Commissioner are invited as speakers.”²

FDLE’s CSO: Florida Missing Children’s Day Foundation, Inc.

CSOs are statutorily-created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public

¹ Section 683.23, F.S.

² *Florida Missing Children’s Day*, Florida Department of Law Enforcement, available at <http://www.fdle.state.fl.us/mcic/fmcd.aspx> (last visited on Feb. 6, 2020).

causes. The functions and purpose of a CSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO was created to support.

In 2008, the Legislature created s. 683.231, F.S., which authorizes the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day.³ In 2008, the Florida Missing Children's Day Foundation, Inc., was established to provide such assistance, funding, and promotional support.⁴ In 2018, the Legislature reenacted statutory authority (s. 683.23, F.S.) for the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day.⁵

Section 683.231(1), F.S., authorizes the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day. For purposes of s. 683.231, F.S., "citizen support organization" means an organization that is:

- A Florida corporation not for profit incorporated under ch. 617, F.S., and approved by the Department of State; and
- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, either real or personal; and make expenditures to or for the direct or indirect benefit of the FDLE in furtherance of Florida Missing Children's Day.⁶

Section 683.231(3), F.S., provides that the CSO is not a registered lobbyist within the meaning of s. 11.045, F.S.⁷

Section 683.231(4), F.S., authorizes the CSO to collect and expend funds to be used for awards; public awareness and awards ceremonies, workshops, and other meetings, including distribution materials for public education and awareness; travel; Internet and web-hosting services; administrative costs, including personnel costs; costs of audits; and costs of rental facilities.

Section 683.231(5), F.S., provides that the activities of the CSO must be determined by the FDLE to be consistent with the goals and mission of the FDLE and in the best interests of the state and approved in writing by the FDLE to operate for the direct or indirect benefit of the FDLE. The approval must be given in a letter of agreement from the FDLE.

Section 683.231(6)(a), F.S., authorizes the FDLE to fix and collect charges for the rental of facilities and properties managed by the FDLE and to permit, without charge, appropriate use of administrative services, property, and facilities of the FDLE by the CSO, subject to s. 683.231, F.S. The use must be directly in keeping with the approved purposes of the CSO and may not be made at times or places that would unreasonably interfere with opportunities for the public to use such facilities for established purposes. Any money received from rentals of facilities and

³ Section 683.231(1), F.S.

⁴ *Florida Missing Children's Day Foundation (FMCDF)*, Florida Department of Law Enforcement, available at <http://www.fdle.state.fl.us/MCICSearch/FMCDFoundation.asp> (last visited on Feb. 6, 2020).

⁵ Ch. 2018-54, L.O.F.

⁶ Section 683.231(2), F.S.

⁷ Section 11.045, F.S., sets forth registration requirements for lobbyists who lobby the Legislature.

properties managed by the FDLE may be held in the Operating Trust Fund of the FDLE or in a separate depository account in the name of the CSO and subject to the provisions of the letter of agreement with the FDLE. The letter of agreement must provide that any funds held in the separate depository account in the name of the CSO must revert to the FDLE if the CSO is no longer approved by the department to operate in the best interests of the state.

Section 683.231(6)(c), F.S., prohibits the FDLE from permitting the use of any administrative services, property, or facilities of the state by a CSO that does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin.

Section 683.231(7), F.S., requires the CSO to provide for an independent annual financial audit in accordance with s. 215.981, F.S. Copies of the audit must be provided to the FDLE, the Office of Policy and Budget in the Executive Office of the Governor, and the Florida Cabinet.

Florida's Sexual Predator and Sexual Offender Registration Laws

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.⁸ These laws also provide for public and community notification of certain information about sexual predators and sexual offenders. Relevant to the bill, this information includes vehicle information and information regarding travel outside Florida. The laws span several different chapters and numerous statutes,⁹ and are implemented through the combined efforts of FDLE, all Florida sheriffs, the Department of Corrections, the Department of Juvenile Justice, the Department of Highway Safety and Motor Vehicles, and the Department of Children and Families.

A person is designated as a sexual predator by a court if the person:

- Has been convicted of a current qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;¹⁰
- Has been convicted of a current qualifying sex offense¹¹ committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.¹²

A person is classified as a sexual offender if the person:

⁸ Sections 775.21 and 943.0435, F.S.

⁹ Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

¹⁰ Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.), and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

¹¹ Examples of qualifying sex offenses include luring or enticing a child by an adult with a prior sexual conviction (s. 787.025(2)(c), F.S.), human trafficking for commercial sexual activity (s. 787.06(3)(b), (d), (f), or (g), F.S.), sexual battery (s. 794.011, excluding s. 794.011(10), F.S.), unlawful sexual activity with a minor (s. 794.05, F.S.), and lewd or lascivious battery, molestation, conduct, or exhibition (s. 800.04, F.S.). Section 775.21(4)(a), F.S.

¹² Section 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

- Has been convicted of a qualifying sex offense¹³ and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the person was 14 years of age or older.¹⁴

The FDLE, through its agency website, provides a searchable database that contains information about sexual predators and sexual offenders, including residence information.¹⁵ Further, local law enforcement agencies may also provide access to this information, such as providing a link to the state public registry webpage.

Registrant Reporting of Vehicle Information

Sexual predators and sexual offenders must report in-person to the sheriff's office within 48 hours after any change in vehicles owned.¹⁶ According to the FDLE, there are currently 55,987 vehicles registered to the 31,627 non-incarcerated registrants residing in Florida. The FDLE reports: "While vehicle information is incredibly important to law enforcement, the mandate to have every change to this information reported in-person to the sheriff's office has created a significant impact to these local sheriff's offices. Since 2007, registrants have had the ability to electronically report and update other specific supplemental registration information such as email addresses, Internet identifiers, and phone numbers through a secure online system."¹⁷

Registrant Reporting of Travel Information

Sexual predators and sexual offenders must report a change of residence to another state or jurisdiction within 48 hours before the date of intended travel. If the intended residence of 5 days or more is outside of the United States, it must be reported at least 21 days before the date of intended travel.¹⁸

¹³ Examples of qualifying sex offenses include luring or enticing a child by an adult with a prior sexual conviction (s. 787.025(2)(c), F.S.), human trafficking for commercial sexual activity (s. 787.06(3)(b), (d), (f), or (g), F.S.), sexual battery (s. 794.011, excluding s. 794.011(10), F.S.), unlawful sexual activity with a minor (s. 794.05, F.S.), and lewd or lascivious battery, molestation, conduct, or exhibition (s. 800.04, F.S.). Section 943.0435(1)(h), F.S.

¹⁴ Sections 943.0435(1)(h) and 985.4815(1)(h), F.S. Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the Department of Corrections' supervision, also define the term "sexual offender."

¹⁵ The FDLE is the central repository for registration information. The department also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. *About Us*, Florida Department of Law Enforcement, available at <http://offender.fdle.state.fl.us/offender/About.jsp> (last visited on Feb. 6, 2020). The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at an institute of higher education. *Sexual Offenders and Predators Search*, Florida Department of Law Enforcement, available at <http://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on Feb. 6, 2020).

¹⁶ Sections 775.21(6)(a)1.d. and 943.0435(2)(b)3., F.S.

¹⁷ Analysis of SB 1552 (July 1, 2020), Florida Department of Law Enforcement. This analysis is on file with the Senate Committee on Criminal Justice.

¹⁸ Sections 775.21(6)(i) and 943.0435(7), F.S.

Relief from Registration Requirements for Persons Required to Register in another State or Jurisdiction

According to the FDLE “[c]urrent law has no mechanism for relief of registration for individuals required to register based solely upon a requirement to register in another state for an offense that is not similar to a conviction offense requiring registration in Florida, and whose registration is considered confidential from public disclosure in that state.”¹⁹

Behavioral Threat Assessment and Management

Governor Ron DeSantis requested the FDLE to conduct a detailed review of Florida’s readiness to prevent and mitigate targeted threats and incidents of violence. The Governor specifically requested that Florida develop a broader and more comprehensive threat assessment strategy, and appropriate training, to be used by local law enforcement agencies.²⁰

FDLE defines Behavioral Threat Assessment and Management (BTAM) as a structured group process used to evaluate the risk posed by an individual, typically as a response to an actual or perceived threat or concerning behavior.²¹ The primary purpose of a threat assessment is to identify individuals on a pathway to violence by collecting, corroborating and analyzing probative information from all sources, including published academic and operational research to contextualize and understand the patterned thinking and behavior of an identifiable person of concern²² and make a determination as to whether or not the individual poses a threat of violence to a target. If an inquiry indicates that there is a risk of violence in a specific situation, authorities conducting the threat assessment collaborate with others to develop, implement, and monitor a strategic, individualized plan to directly or indirectly intervene in an identified person of concern’s pattern of life through coordinated, operational activities designed to:

- Stabilize and support, to the extent possible, an identified person of concern’s current situation;
- Influence, control, or incapacitate an identified person of concern’s threat-enhancing thinking and behavior;
- Harden and protect any identifiable targets; and
- Mitigate concern to prevent targeted violence.²³

III. Effect of Proposed Changes:

CSO Grant Authority

The bill amends s. 683.231, F.S., which authorizes the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children’s Day. The bill expands CSO grant authority to authorize the CSO to provide financial

¹⁹ See footnote 17.

²⁰ Press Release, Executive Office of the Governor, Governor Ron DeSantis Directs FDLE to Prioritize Threat Assessment Strategy (February 13, 2019), available at <https://www.flgov.com/2019/02/13/governor-ron-desantis-directs-fdle-to-prioritize-threat-assessment-strategy/> (last visited February 25, 2020).

²¹ Email from the Department of Law Enforcement, FDLE Response, (January 4, 2020). On file with the Senate Committee on Infrastructure and Security.

²² Vossekuil, Fein, and Berglund, Threat Assessment, 2015.

²³ Calhoun and Weston, Contemporary, 2003; Amman et al., Making Prevention, 2017.

support to law enforcement agencies for missing and unidentified persons investigations and specialized training to support the resolution of such investigations through the issuance of grants.

The CSO may create a grant program for these purposes and raise and accept funds from any public or private source. The CSO may also establish criteria and set specific time periods for the acceptance of applications from local and state law enforcement agencies and for the selection process for awards. These criteria must be publicly available on the CSO's website.

The CSO may not award grants if the president of the CSO or the staff of the FDLE reasonably believe that the CSO has not yet met its obligations for funding Florida Missing Children's Day. The total amount of grants awarded may not exceed funds available to the CSO. The CSO must determine the assignment and use of grants awarded with oversight by the FDLE.

Registrant Reporting of Vehicle Information

The bill amends ss. 775.21 and s. 943.0435, F.S., to specify that the FDLE's secure online system includes updates to all vehicles owned by registrants and authorizes registrants to report such updates to the FDLE through this system. According to the FDLE, this change will facilitate "faster access to this critical information and [reduce] the impact on sheriff's offices. Sexual offenders and sexual predators will still have the option to report this information in-person to the sheriff's office."²⁴

Registrant Reporting of Travel Information

The bill also amends ss. 775.21 and 943.0435, F.S., to:

- Clarify a registration requirement relating to in-person reporting of a change of residence to another state or jurisdiction by changing "within 48 hours before the date" the sexual offender or sexual predator intends to leave Florida to "at least 48 hours before the date" of intended travel.
- Provide that any travel not known by the offender or predator 48 hours before the date of intended travel must be reported as soon as possible before departure.
- Amend a registration requirement relating to international travel to require that a sexual offender or sexual predator residing in Florida report all international travel, regardless of how long they are leaving the United States.
- Specifically require reporting of airport returns and cruise ship returns.

Relief from Registration Requirements for Persons Required to Register in another State or Jurisdiction

The bill also amends s. 943.0435, F.S., to provide for a removal of Florida sexual offender registration requirements for a person who:

- Establishes or maintains a residence in Florida and who has not been designated as a sexual predator by a Florida court but who has been designated as a sexual predator, as a sexually

²⁴ Analysis of SB 1552 (July 1, 2020), Florida Department of Law Enforcement. This analysis is on file with the Senate Committee on Criminal Justice.

violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender; and

- Petitions for removal of Florida sexual offender registration requirements and asserts in that petition that his or her designation as a sexual predator or sexually violent predator or any other sexual offender designation in the state or jurisdiction in which the designation was made is confidential from public disclosure or that such designation, if not imposed by a court, is considered confidential from public disclosure by operation of law or court order in the state or jurisdiction in which the designation was made, provided that such person does not meet the criteria under Florida law for registration as a sexual offender.

The person must file the petition for relief in the circuit court in the jurisdiction in which the person resides or, for a person who no longer resides in Florida, the court in the jurisdiction in which the person last resided in Florida.

A petition for relief must document the person's conviction and include a copy of the order issued by the court in the state or jurisdiction which made the designation confidential from public disclosure. If there was no such court designation, the person must demonstrate to the Florida circuit court that the designation has been made confidential by operation of law in the state or jurisdiction in which the designation was made.

The state attorney and the FDLE must be given notice at least 21 days before the date of the hearing on the petition and may present evidence in opposition to the requested relief or may otherwise demonstrate why it should be denied.

If relief is granted by the Florida circuit court and the offender provides to the FDLE a certified copy of the court's order removing the requirement to register in Florida, the person is no longer required to register as a sexual offender in Florida and the FDLE must remove the person's information from the public registry of sexual offenders and sexual predators maintained by the department.

Statewide Strategy for Targeted Violence Prevention

The bill specifies that the duties of the Chief of Domestic Security for the FDLE include:

- Oversight of the development of a statewide strategy for targeted violence prevention;
- Development of a comprehensive threat assessment strategy and appropriate training to be used by state and local law enforcement agencies; and
- Coordination with state and local law enforcement agencies in the development of the statewide strategy and its implementation.

The statewide strategy for targeted violence prevention is required to be evaluated periodically, as determined by the FDLE, and after any event of targeted violence, to incorporate changes needed to address deficiencies and improve effectiveness.

In addition, the bill states that any statewide strategy for targeted violence prevention may not abrogate or diminish any person's right to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches as provided in the United States and Florida Constitutions, and in the laws of Florida and the Federal Government, including, but not limited to, s. 933.04, F.S.

Effective Date

The bill takes effect July 1, 2020.

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

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Art. VII, s. 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:**The Florida Sexual Predators Act**

According to the FDLE, the changes proposed by the bill related to sexual predators will require the department to:

- Update sexual offender/predator registration forms and e-forms, the Florida Sexual Offender/Predator Public Registry website and the CJNet website and training materials; and
- Coordinate and send notifications of these changes to criminal justice partners via e-mail and sexual offenders/predators via physical mail.²⁵

The FDLE states that within the last five years, the total cost to send physical letters to all sexual offenders and predators with an active Florida address to notify them of updates in registration requirements as a result of legislation has ranged from approximately \$12,000 to \$19,000.²⁶ The FDLE further states that costs of implementing the requirements of the bill related to sexual predators will be absorbed by the department.²⁷

By allowing changes to registrant vehicle information to be reported online to the FDLE as an alternative to in-person reporting of this information to a sheriff office, sheriff offices may experience a reduction in costs associated with this reporting requirement.

Statewide Strategy for Targeted Violence Prevention

According to the FDLE, the funding requested in the “Statewide Behavioral Threat Assessment Management Strategy” issue in the Governor’s Recommended Budget for Fiscal Year 2020-2021 would be required to implement these requirements. This issue recommends \$4,700,776 in General Revenue funding and 20 new FTE.²⁸ Currently, SB 2500, Senate General Appropriations Bill for Fiscal Year 2020-2021, includes \$1,000,000 recurring General Revenue funds for this purpose.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 683.231, 775.21, 943.0311, and 943.0435.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Email on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice received February 25, 2020.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on February 25, 2020:**

The committee substitute increases the duties of the Chief of Domestic Security within FDLE to include:

- Oversight of the development of a statewide strategy for targeted violence prevention;
- Development of a comprehensive threat assessment strategy and appropriate training to be used by state and local law enforcement agencies; and
- Coordination with state and local law enforcement agencies in the development of the statewide strategy and its implementation.

Any statewide strategy for targeted violence prevention is required to be evaluated periodically, as determined by the FDLE, and after any event of targeted violence, to incorporate changes needed to address deficiencies and improve effectiveness.

In addition, the amendment states that any statewide strategy for targeted violence prevention may not abrogate or diminish any person's right to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches as provided in the United States and Florida Constitutions, and in the laws of Florida and the Federal Government, including, but not limited to, s. 933.04, F.S

CS by Criminal Justice on February 11, 2020:

The committee substitute:

- Makes technical corrections for proper placement of language relating to reporting changes in vehicle information.
- Clarifies the process for a petition for relief of registration for sexual offenders required to register based solely upon a requirement to register in another state or jurisdiction, and whose registration is considered confidential from public disclosure in that state or jurisdiction.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to law enforcement activities;
amending s. 683.231, F.S.; authorizing a citizen
support organization for Florida Missing Children's
Day to provide grants to law enforcement agencies for
specified purposes; redefining the term "citizen
support organization"; providing requirements for such
grants and for the citizen support organization;
amending ss. 775.21 and 943.0435, F.S.; authorizing
sexual predators and sexual offenders to report online
certain information to the Department of Law
Enforcement; revising reporting requirements for
sexual predators and sexual offenders; making
technical changes; providing for consideration for
removal of the requirement to register as a sexual
offender under certain circumstances; amending s.
943.0311, F.S.; requiring the Chief of Domestic
Security to oversee the development of a statewide
strategy for targeted violence prevention; requiring
the chief to coordinate with state and local law
enforcement agencies in the development of the
statewide strategy and in its implementation;
requiring periodic evaluation of the statewide
strategy; providing construction; providing an
effective date.

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



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Section 1. Subsection (7) of section 683.231, Florida
Statutes, is renumbered as subsection (10), subsection (1),
paragraph (b) of subsection (2), and subsection (4) are amended,
and a new subsection (7) and subsections (8) and (9) are added
to that section, to read:

683.231 Citizen support organization for Florida Missing
Children's Day.—

(1) The Department of Law Enforcement may establish a
citizen support organization to provide assistance, funding, and
promotional support for activities authorized for Florida
Missing Children's Day under s. 683.23 and to provide financial
support to law enforcement agencies for missing and unidentified
persons investigations and specialized training to support the
resolution of such investigations through the issuance of
grants.

(2) As used in this section, the term "citizen support
organization" means an organization that is:

(b) Organized and operated to conduct programs and
activities; raise funds; request and receive grants, gifts, and
bequests of money; acquire, receive, hold, invest, and
administer, in its own name, securities, funds, objects of
value, or other property, either real or personal; and make
expenditures to or for the direct or indirect benefit of the
department in furtherance of Florida Missing Children's Day and
missing and unidentified persons investigations and specialized
training to support the resolution of such investigations.

(4) The citizen support organization is specifically
authorized to collect and expend funds to be used for awards;



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public awareness and awards ceremonies, workshops, and other meetings, including distribution materials for public education and awareness; grants to assist missing and unidentified persons investigations and specialized training to support the resolution of such investigations; travel; Internet and web-hosting services; administrative costs, including personnel costs; costs of audits; and costs of facilities rental.

(7) The citizen support organization is authorized to create a grant program to provide financial support to law enforcement agencies for missing and unidentified persons investigations and specialized training to support the resolution of such investigations through the issuance of grants. The citizen support organization may raise and accept funds from any public or private source. The citizen support organization may establish criteria and set specific time periods for the acceptance of applications from local and state law enforcement agencies and for the selection process for awards. The citizen support organization shall make such criteria publicly available on its website.

(8) The citizen support organization may not award grants if the president of the citizen support organization or the staff of the department reasonably believe that the citizen support organization has not yet met its obligations for funding Florida Missing Children's Day. The total amount of grants awarded may not exceed funds available to the citizen support organization.

(9) The citizen support organization shall manage the assignment and use of grants awarded. The department shall oversee these activities consistent with subsection (5).



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Section 2. Paragraphs (a), (g), and (i) of subsection (6) of section 775.21, Florida Statutes, are amended to read:

775.21 The Florida Sexual Predators Act.—

(6) REGISTRATION.—

(a) A sexual predator shall register with the department through the sheriff's office by providing the following information to the department:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; photograph; address of legal residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; date and place of each conviction; fingerprints; palm prints; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about



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any professional licenses he or she has.

a. Any change that occurs after the sexual predator registers in person at the sheriff's office as provided in this subparagraph in any of the following information related to the sexual predator must be reported as provided in paragraphs (g), (i), and (j): permanent, temporary, or transient residence; name; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home and cellular telephone numbers; employment information; and status at an institution of higher education.

b. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

c. If the sexual predator is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each



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institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status. The sheriff, the Department of Corrections, or the Department of Juvenile Justice shall promptly notify each institution of higher education of the sexual predator's presence and any change in the sexual predator's enrollment, volunteer, or employment status.

d. A sexual predator shall report to the department through the department's online system or in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(g)1. Each time a sexual predator's driver license or identification card is subject to renewal, and, without regard to the status of the predator's driver license or identification card, within 48 hours after any change of the predator's residence or change in the predator's name by reason of marriage or other legal process, the predator shall report in person to a driver license office and is subject to the requirements specified in paragraph (f). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement



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for purposes of public notification of sexual predators as provided in this section. A sexual predator who is unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles as provided in paragraph (f) and this paragraph shall also report any change of the predator's residence or change in the predator's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the predator resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles. The reporting requirements under this subparagraph do not negate the requirement for a sexual predator to obtain a Florida driver license or identification card as required by this section.

2.a. A sexual predator who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual predator shall specify the date upon which he or she intends to or did vacate such residence. The sexual predator shall provide or update all of the registration information required under paragraph (a). The sexual predator shall provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

b. A sexual predator shall report in person at the sheriff's office in the county in which he or she is located



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within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff's office in the county in which he or she is located while maintaining a transient residence. The sexual predator must provide the addresses and locations where he or she maintains a transient residence. Each sheriff's office shall establish procedures for reporting transient residence information and provide notice to transient registrants to report transient residence information as required in this sub-subparagraph. Reporting to the sheriff's office as required by this sub-subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this sub-subparagraph. The sheriff's office shall, within 2 business days, electronically submit and update all information provided by the sexual predator to the department.

3. A sexual predator who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the predator indicated he or she would or did vacate such residence, report in person to the sheriff's office to which he or she reported pursuant to subparagraph 2. for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under subparagraph 2. but fails to make a report as required under this subparagraph commits a felony of the second



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231 degree, punishable as provided in s. 775.082, s. 775.083, or s.
232 775.084.

233 4. The failure of a sexual predator who maintains a
234 transient residence to report in person to the sheriff's office
235 every 30 days as required by sub-subparagraph 2.b. is punishable
236 as provided in subsection (10).

237 5.a. A sexual predator shall register all electronic mail
238 addresses and Internet identifiers, and each Internet
239 identifier's corresponding website homepage or application
240 software name, with the department through the department's
241 online system or in person at the sheriff's office within 48
242 hours after using such electronic mail addresses and Internet
243 identifiers. If the sexual predator is in the custody or
244 control, or under the supervision, of the Department of
245 Corrections, he or she must report all electronic mail addresses
246 and Internet identifiers, and each Internet identifier's
247 corresponding website homepage or application software name, to
248 the Department of Corrections before using such electronic mail
249 addresses or Internet identifiers. If the sexual predator is in
250 the custody or control, or under the supervision, of the
251 Department of Juvenile Justice, he or she must report all
252 electronic mail addresses and Internet identifiers, and each
253 Internet identifier's corresponding website homepage or
254 application software name, to the Department of Juvenile Justice
255 before using such electronic mail addresses or Internet
256 identifiers.

257 b. A sexual predator shall register all changes to vehicles
258 owned, all changes to home telephone numbers and cellular
259 telephone numbers, including added and deleted numbers, all



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260 changes to employment information, and all changes in status
261 related to enrollment, volunteering, or employment at
262 institutions of higher education, through the department's
263 online system; in person at the sheriff's office; in person at
264 the Department of Corrections if the sexual predator is in the
265 custody or control, or under the supervision, of the Department
266 of Corrections; or in person at the Department of Juvenile
267 Justice if the sexual predator is in the custody or control, or
268 under the supervision, of the Department of Juvenile Justice.
269 All changes required to be reported in this sub-subparagraph
270 shall be reported within 48 hours after the change.

271 c. The department shall establish an online system through
272 which sexual predators may securely access, submit, and update
273 all vehicles owned; electronic mail addresses; Internet
274 identifiers and each Internet identifier's corresponding website
275 homepage or application software name; home telephone numbers
276 and cellular telephone numbers; employment information; and
277 institution of higher education information.

278 (i) A sexual predator who intends to establish a permanent,
279 temporary, or transient residence in another state or
280 jurisdiction other than the State of Florida or intends to
281 travel outside of the United States shall report in person to
282 the sheriff of the county of current residence at least within
283 48 hours before the date he or she intends to leave this state
284 to establish residence in another state or jurisdiction or at
285 least 21 days before the date he or she intends to travel ~~if the~~
286 ~~intended residence of 5 days or more is~~ outside of the United
287 States. Any travel that is not known by the sexual predator 48
288 hours before he or she intends to establish a residence in



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289 another state or jurisdiction or 21 days before the departure
290 date for travel outside of the United States must be reported to
291 the sheriff's office as soon as possible before departure. The
292 sexual predator shall provide to the sheriff the address,
293 municipality, county, state, and country of intended residence.
294 For international travel, the sexual predator shall also provide
295 travel information, including, but not limited to, expected
296 departure and return dates, flight numbers ~~number~~, airports
297 ~~airport~~ of departure and return, cruise ports ~~port~~ of departure
298 and return, or any other means of intended travel. The sheriff
299 shall promptly provide to the department the information
300 received from the sexual predator. The department shall notify
301 the statewide law enforcement agency, or a comparable agency, in
302 the intended state, jurisdiction, or country of residence or the
303 intended country of travel of the sexual predator's intended
304 residence or intended travel. The failure of a sexual predator
305 to provide his or her intended place of residence or intended
306 travel is punishable as provided in subsection (10).

307 Section 3. Paragraph (b) of subsection (2), paragraph (e)
308 of subsection (4), subsection (7), and paragraph (b) of
309 subsection (11) of section 943.0435, Florida Statutes, are
310 amended, and paragraph (c) is added to subsection (11) of that
311 section, to read:

312 943.0435 Sexual offenders required to register with the
313 department; penalty.—

314 (2) Upon initial registration, a sexual offender shall:

315 (b) Provide his or her name; date of birth; social security
316 number; race; sex; height; weight; hair and eye color; tattoos
317 or other identifying marks; fingerprints; palm prints;



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318 photograph; employment information; address of permanent or
319 legal residence or address of any current temporary residence,
320 within the state or out of state, including a rural route
321 address and a post office box; if no permanent or temporary
322 address, any transient residence within the state, address,
323 location or description, and dates of any current or known
324 future temporary residence within the state or out of state; the
325 make, model, color, vehicle identification number (VIN), and
326 license tag number of all vehicles owned; home telephone numbers
327 and cellular telephone numbers; electronic mail addresses;
328 Internet identifiers and each Internet identifier's
329 corresponding website homepage or application software name;
330 date and place of each conviction; and a brief description of
331 the crime or crimes committed by the offender. A post office box
332 may not be provided in lieu of a physical residential address.
333 The sexual offender shall also produce his or her passport, if
334 he or she has a passport, and, if he or she is an alien, shall
335 produce or provide information about documents establishing his
336 or her immigration status. The sexual offender shall also
337 provide information about any professional licenses he or she
338 has.

339 1. If the sexual offender's place of residence is a motor
340 vehicle, trailer, mobile home, or manufactured home, as defined
341 in chapter 320, the sexual offender shall also provide to the
342 department through the sheriff's office written notice of the
343 vehicle identification number; the license tag number; the
344 registration number; and a description, including color scheme,
345 of the motor vehicle, trailer, mobile home, or manufactured
346 home. If the sexual offender's place of residence is a vessel,



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347 live-aboard vessel, or houseboat, as defined in chapter 327, the
348 sexual offender shall also provide to the department written
349 notice of the hull identification number; the manufacturer's
350 serial number; the name of the vessel, live-aboard vessel, or
351 houseboat; the registration number; and a description, including
352 color scheme, of the vessel, live-aboard vessel, or houseboat.

353 2. If the sexual offender is enrolled or employed, whether
354 for compensation or as a volunteer, at an institution of higher
355 education in this state, the sexual offender shall also provide
356 to the department the name, address, and county of each
357 institution, including each campus attended, and the sexual
358 offender's enrollment, volunteer, or employment status. The
359 sheriff, the Department of Corrections, or the Department of
360 Juvenile Justice shall promptly notify each institution of
361 higher education of the sexual offender's presence and any
362 change in the sexual offender's enrollment, volunteer, or
363 employment status.

364 3. A sexual offender shall report to the department through
365 the department's online system or in person to the sheriff's
366 office within 48 hours after any change in vehicles owned to
367 report those vehicle information changes.

368
369 When a sexual offender reports at the sheriff's office, the
370 sheriff shall take a photograph, a set of fingerprints, and palm
371 prints of the offender and forward the photographs, palm prints,
372 and fingerprints to the department, along with the information
373 provided by the sexual offender. The sheriff shall promptly
374 provide to the department the information received from the
375 sexual offender.



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376 (4)
377 (e)1. A sexual offender shall register all electronic mail
378 addresses and Internet identifiers, and each Internet
379 identifier's corresponding website homepage or application
380 software name, with the department through the department's
381 online system or in person at the sheriff's office within 48
382 hours after using such electronic mail addresses and Internet
383 identifiers. If the sexual offender is in the custody or
384 control, or under the supervision, of the Department of
385 Corrections, he or she must report all electronic mail addresses
386 and Internet identifiers, and each Internet identifier's
387 corresponding website homepage or application software name, to
388 the Department of Corrections before using such electronic mail
389 addresses or Internet identifiers. If the sexual offender is in
390 the custody or control, or under the supervision, of the
391 Department of Juvenile Justice, he or she must report all
392 electronic mail addresses and Internet identifiers, and each
393 Internet identifier's corresponding website homepage or
394 application software name, to the Department of Juvenile Justice
395 before using such electronic mail addresses or Internet
396 identifiers.

397 2. A sexual offender shall register all changes to vehicles
398 owned, all changes to home telephone numbers and cellular
399 telephone numbers, including added and deleted numbers, all
400 changes to employment information, and all changes in status
401 related to enrollment, volunteering, or employment at
402 institutions of higher education, through the department's
403 online system; in person at the sheriff's office; in person at
404 the Department of Corrections if the sexual offender is in the



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custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes required to be reported under this subparagraph must be reported within 48 hours after the change.

3. The department shall establish an online system through which sexual offenders may securely access, submit, and update all changes in status to vehicles owned; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and institution of higher education information.

(7) A sexual offender who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida or intends to travel outside of the United States shall report in person to the sheriff of the county of current residence at least within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel if the intended residence of 5 days or more is outside of the United States. Any travel that is not known by the sexual offender 48 hours before he or she intends to establish a residence in another state or jurisdiction or 21 days before the departure date for travel outside of the United States must be reported in person to the sheriff's office as soon as possible before departure. The sexual offender shall provide to the sheriff the



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address, municipality, county, state, and country of intended residence. For international travel, the sexual offender shall also provide travel information, including, but not limited to, expected departure and return dates, flight ~~numbers~~ number, ~~airports~~ airport of departure and return, cruise ~~ports~~ port of departure and return, or any other means of intended travel. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence or the intended country of travel of the sexual offender's intended residence or intended travel. The failure of a sexual offender to provide his or her intended place of residence or intended travel is punishable as provided in subsection (9).

(11) Except as provided in s. 943.04354, a sexual offender shall maintain registration with the department for the duration of his or her life unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender shall be considered for removal of the requirement to register as a sexual offender only if the person:

(b) ~~Maintains As defined in sub-subparagraph (1)(h)1.b. must maintain~~ registration with the department as described in sub-subparagraph (1)(h)1.b. for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator ~~or, as a sexually violent predator, or any other by another~~ sexual



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offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, ~~and~~ provided that such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(c)1. Is required to register as a sexual offender solely under the requirements of sub-subparagraph (1)(h)1.b. and files a petition in the circuit court in the jurisdiction in which the person resides or, for a person who no longer resides in this state, the court in the jurisdiction in which the person last resided in this state. The petition must assert that his or her designation as a sexual predator or sexually violent predator or any other sexual offender designation in the state or jurisdiction in which the designation was made is confidential from public disclosure or that such designation, if not imposed by a court, is considered confidential from public disclosure by operation of law or court order in the state or jurisdiction in which the designation was made, provided that such person does not meet the criteria for registration as a sexual offender under the laws of this state.

2. If the person meets the criteria in subparagraph 1., the court may grant the petition and remove the requirement to register as a sexual offender.

3. A petition under this paragraph must document the person's conviction and include a copy of the order issued by the court in the state or jurisdiction which made the



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designation confidential from public disclosure. If such relief was not granted by court order, the person must demonstrate to the court that his or her registration requirement has been made confidential by operation of law in the state or jurisdiction requiring registration. The state attorney and the department must be given notice at least 21 days before the date of the hearing on the petition and may present evidence in opposition to the requested relief or may otherwise demonstrate why it should be denied.

4. If a person provides to the department a certified copy of the circuit court's order granting the person removal of the requirement to register as a sexual offender in this state in accordance with this sub-paragraph, the registration requirement does not apply to the person and the department must remove all information about the person from the public registry of sexual offenders and sexual predators maintained by the department.

Section 4. Present subsection (7) of section 943.0311, Florida Statutes, is redesignated as subsection (10), and a new subsection (7) and subsections (8) and (9) are added to that section, to read:

943.0311 Chief of Domestic Security; duties of the department with respect to domestic security.—

(7) The chief shall oversee the development of a statewide strategy for targeted violence prevention to develop a comprehensive threat assessment strategy and appropriate training to be used by state and local law enforcement agencies. The chief shall coordinate with state and local law enforcement agencies in the development of the statewide strategy and its implementation.



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521 (8) Any statewide strategy for targeted violence prevention
522 shall be evaluated periodically, as determined by the
523 department, and after any event of targeted violence, to
524 incorporate changes needed to address deficiencies and improve
525 effectiveness.

526 (9) Subsections (7) and (8) may not be construed to
527 abrogate or diminish any person's right to be secure in their
528 persons, houses, papers, and effects against unreasonable
529 seizures and searches as provided in the United States and
530 Florida Constitutions, and in the laws of this state and the
531 Federal Government, including, but not limited to, s. 933.04.

532 Section 5. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1552

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senator Flores

SUBJECT: Law Enforcement Activities

DATE: February 28, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	Fav/CS
2.	Dale	Jameson	ACJ	Recommend: Fav/CS
3.	Dale	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1552 amends section 683.231, Florida Statutes, which authorizes the Florida Department of Law Enforcement (FDLE) to establish a citizen support organization (CSO) to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day. The bill expands the CSO's authority to authorize the CSO to provide financial support to law enforcement agencies for missing and unidentified persons investigations and specialized training to support the resolution of such investigations through the issuance of grants.

The CSO is authorized to create a grant program for these purposes and raise and accept funds from any public or private source. The CSO may also establish criteria and set specific time periods for the acceptance of applications from local and state law enforcement agencies and for the selection process for awards. These criteria must be publicly available on the CSO's website.

The CSO may not award grants if the president of the CSO or the staff of the FDLE reasonably believe that the CSO has not yet met its obligations for funding Florida Missing Children's Day. The total amount of grants awarded may not exceed funds available to the CSO. The CSO must determine the assignment and use of grants awarded with oversight by the FDLE.

The bill also amends section 775.21, Florida Statutes (sexual predator registration), section 943.0435, Florida Statutes (sexual offender registration), and section 943.0311, Florida Statutes (FDLE chief of domestic security), to:

- Specify that the FDLE’s secure online system includes updates to all vehicles owned by sexual predators and sexual offenders (registrants) and authorize registrants to report such updates to the FDLE through this system;
- Clarify a registration requirement relating to the in-person reporting of a change of residence to another state or jurisdiction by changing “within 48 hours before the date” the registrant intends to leave Florida to “at least 48 hours before the date” of intended travel;
- Provide that any travel not known by the registrant 48 hours before the date of intended travel must be reported as soon as possible before departure;
- Amend a registration requirement relating to international travel to require that a registrant residing in Florida report all international travel, regardless of how long they are leaving the United States;
- Specifically require reporting of airport departures and cruise ship departures;
- Provide a process for a petition for relief of registration for sexual offenders required to register based solely upon a requirement to register in another state or jurisdiction, and whose registration is considered confidential from public disclosure in that state or jurisdiction; and
- Provide that the FDLE will develop a statewide strategy for targeted violence prevention (STVP).

The bill has a fiscal impact. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Florida Missing Children’s Day

Section 683.23, F.S., provides that the second Monday in September of each year is designated as “‘Florida Missing Children’s Day’ in remembrance of Florida’s past and present missing children and in recognition of our state’s continued efforts to protect the safety of children through prevention, education, and community involvement”¹ “Each year parents, children, law enforcement officers and citizens convene on the steps of the Old Capitol Building in Tallahassee to remember Florida’s missing children who are still missing and those who will never come home again. The Governor, Lieutenant Governor, and the [FDLE] Commissioner are invited as speakers.”²

FDLE’s CSO: Florida Missing Children’s Day Foundation, Inc.

CSOs are statutorily-created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public

¹ Section 683.23, F.S.

² *Florida Missing Children’s Day*, Florida Department of Law Enforcement, available at <http://www.fdle.state.fl.us/mcic/fmcd.aspx> (last visited on Feb. 6, 2020).

causes. The functions and purpose of a CSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO was created to support.

In 2008, the Legislature created s. 683.231, F.S., which authorizes the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day.³ In 2008, the Florida Missing Children's Day Foundation, Inc., was established to provide such assistance, funding, and promotional support.⁴ In 2018, the Legislature reenacted statutory authority (s. 683.23, F.S.) for the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day.⁵

Section 683.231(1), F.S., authorizes the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day. For purposes of s. 683.231, F.S., "citizen support organization" means an organization that is:

- A Florida corporation not for profit incorporated under ch. 617, F.S., and approved by the Department of State; and
- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, either real or personal; and make expenditures to or for the direct or indirect benefit of the FDLE in furtherance of Florida Missing Children's Day.⁶

Section 683.231(3), F.S., provides that the CSO is not a registered lobbyist within the meaning of s. 11.045, F.S.⁷

Section 683.231(4), F.S., authorizes the CSO to collect and expend funds to be used for awards; public awareness and awards ceremonies, workshops, and other meetings, including distribution materials for public education and awareness; travel; Internet and web-hosting services; administrative costs, including personnel costs; costs of audits; and costs of rental facilities.

Section 683.231(5), F.S., provides that the activities of the CSO must be determined by the FDLE to be consistent with the goals and mission of the FDLE and in the best interests of the state and approved in writing by the FDLE to operate for the direct or indirect benefit of the FDLE. The approval must be given in a letter of agreement from the FDLE.

Section 683.231(6)(a), F.S., authorizes the FDLE to fix and collect charges for the rental of facilities and properties managed by the FDLE and to permit, without charge, appropriate use of administrative services, property, and facilities of the FDLE by the CSO, subject to s. 683.231, F.S. The use must be directly in keeping with the approved purposes of the CSO and may not be made at times or places that would unreasonably interfere with opportunities for the public to use such facilities for established purposes. Any money received from rentals of facilities and

³ Section 683.231(1), F.S.

⁴ *Florida Missing Children's Day Foundation (FMCDF)*, Florida Department of Law Enforcement, available at <http://www.fdle.state.fl.us/MCICSearch/FMCDFoundation.asp> (last visited on Feb. 6, 2020).

⁵ Ch. 2018-54, L.O.F.

⁶ Section 683.231(2), F.S.

⁷ Section 11.045, F.S., sets forth registration requirements for lobbyists who lobby the Legislature.

properties managed by the FDLE may be held in the Operating Trust Fund of the FDLE or in a separate depository account in the name of the CSO and subject to the provisions of the letter of agreement with the FDLE. The letter of agreement must provide that any funds held in the separate depository account in the name of the CSO must revert to the FDLE if the CSO is no longer approved by the department to operate in the best interests of the state.

Section 683.231(6)(c), F.S., prohibits the FDLE from permitting the use of any administrative services, property, or facilities of the state by a CSO that does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin.

Section 683.231(7), F.S., requires the CSO to provide for an independent annual financial audit in accordance with s. 215.981, F.S. Copies of the audit must be provided to the FDLE, the Office of Policy and Budget in the Executive Office of the Governor, and the Florida Cabinet.

Florida's Sexual Predator and Sexual Offender Registration Laws

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.⁸ These laws also provide for public and community notification of certain information about sexual predators and sexual offenders. Relevant to the bill, this information includes vehicle information and information regarding travel outside Florida. The laws span several different chapters and numerous statutes,⁹ and are implemented through the combined efforts of FDLE, all Florida sheriffs, the Department of Corrections, the Department of Juvenile Justice, the Department of Highway Safety and Motor Vehicles, and the Department of Children and Families.

A person is designated as a sexual predator by a court if the person:

- Has been convicted of a current qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;¹⁰
- Has been convicted of a current qualifying sex offense¹¹ committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.¹²

A person is classified as a sexual offender if the person:

⁸ Sections 775.21 and 943.0435, F.S.

⁹ Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

¹⁰ Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.), and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

¹¹ Examples of qualifying sex offenses include luring or enticing a child by an adult with a prior sexual conviction (s. 787.025(2)(c), F.S.), human trafficking for commercial sexual activity (s. 787.06(3)(b), (d), (f), or (g), F.S.), sexual battery (s. 794.011, excluding s. 794.011(10), F.S.), unlawful sexual activity with a minor (s. 794.05, F.S.), and lewd or lascivious battery, molestation, conduct, or exhibition (s. 800.04, F.S.). Section 775.21(4)(a), F.S.

¹² Section 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

- Has been convicted of a qualifying sex offense¹³ and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the person was 14 years of age or older.¹⁴

The FDLE, through its agency website, provides a searchable database that contains information about sexual predators and sexual offenders, including residence information.¹⁵ Further, local law enforcement agencies may also provide access to this information, such as providing a link to the state public registry webpage.

Registrant Reporting of Vehicle Information

Sexual predators and sexual offenders must report in-person to the sheriff's office within 48 hours after any change in vehicles owned.¹⁶ According to the FDLE, there are currently 55,987 vehicles registered to the 31,627 non-incarcerated registrants residing in Florida. The FDLE reports: "While vehicle information is incredibly important to law enforcement, the mandate to have every change to this information reported in-person to the sheriff's office has created a significant impact to these local sheriff's offices. Since 2007, registrants have had the ability to electronically report and update other specific supplemental registration information such as email addresses, Internet identifiers, and phone numbers through a secure online system."¹⁷

Registrant Reporting of Travel Information

Sexual predators and sexual offenders must report a change of residence to another state or jurisdiction within 48 hours before the date of intended travel. If the intended residence of 5 days or more is outside of the United States, it must be reported at least 21 days before the date of intended travel.¹⁸

¹³ Examples of qualifying sex offenses include luring or enticing a child by an adult with a prior sexual conviction (s. 787.025(2)(c), F.S.), human trafficking for commercial sexual activity (s. 787.06(3)(b), (d), (f), or (g), F.S.), sexual battery (s. 794.011, excluding s. 794.011(10), F.S.), unlawful sexual activity with a minor (s. 794.05, F.S.), and lewd or lascivious battery, molestation, conduct, or exhibition (s. 800.04, F.S.). Section 943.0435(1)(h), F.S.

¹⁴ Sections 943.0435(1)(h) and 985.4815(1)(h), F.S. Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the Department of Corrections' supervision, also define the term "sexual offender."

¹⁵ The FDLE is the central repository for registration information. The department also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. *About Us*, Florida Department of Law Enforcement, available at <http://offender.fdle.state.fl.us/offender/About.jsp> (last visited on Feb. 6, 2020). The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at an institute of higher education. *Sexual Offenders and Predators Search*, Florida Department of Law Enforcement, available at <http://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on Feb. 6, 2020).

¹⁶ Sections 775.21(6)(a)1.d. and 943.0435(2)(b)3., F.S.

¹⁷ Analysis of SB 1552 (July 1, 2020), Florida Department of Law Enforcement. This analysis is on file with the Senate Committee on Criminal Justice.

¹⁸ Sections 775.21(6)(i) and 943.0435(7), F.S.

Relief from Registration Requirements for Persons Required to Register in another State or Jurisdiction

According to the FDLE “[c]urrent law has no mechanism for relief of registration for individuals required to register based solely upon a requirement to register in another state for an offense that is not similar to a conviction offense requiring registration in Florida, and whose registration is considered confidential from public disclosure in that state.”¹⁹

Behavioral Threat Assessment and Management

Governor Ron DeSantis requested the FDLE to conduct a detailed review of Florida’s readiness to prevent and mitigate targeted threats and incidents of violence. The Governor specifically requested that Florida develop a broader and more comprehensive threat assessment strategy, and appropriate training, to be used by local law enforcement agencies.²⁰

FDLE defines Behavioral Threat Assessment and Management (BTAM) as a structured group process used to evaluate the risk posed by an individual, typically as a response to an actual or perceived threat or concerning behavior.²¹ The primary purpose of a threat assessment is to identify individuals on a pathway to violence by collecting, corroborating and analyzing probative information from all sources, including published academic and operational research to contextualize and understand the patterned thinking and behavior of an identifiable person of concern²² and make a determination as to whether or not the individual poses a threat of violence to a target. If an inquiry indicates that there is a risk of violence in a specific situation, authorities conducting the threat assessment collaborate with others to develop, implement, and monitor a strategic, individualized plan to directly or indirectly intervene in an identified person of concern’s pattern of life through coordinated, operational activities designed to:

- Stabilize and support, to the extent possible, an identified person of concern’s current situation;
- Influence, control, or incapacitate an identified person of concern’s threat-enhancing thinking and behavior;
- Harden and protect any identifiable targets; and
- Mitigate concern to prevent targeted violence.²³

III. Effect of Proposed Changes:

CSO Grant Authority

The bill amends s. 683.231, F.S., which authorizes the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children’s Day. The bill expands CSO grant authority to authorize the CSO to provide financial

¹⁹ See footnote 17.

²⁰ Press Release, Executive Office of the Governor, Governor Ron DeSantis Directs FDLE to Prioritize Threat Assessment Strategy (February 13, 2019), available at <https://www.flgov.com/2019/02/13/governor-ron-desantis-directs-fdle-to-prioritize-threat-assessment-strategy/> (last visited February 25, 2020).

²¹ Email from the Department of Law Enforcement, FDLE Response, (January 4, 2020). On file with the Senate Committee on Infrastructure and Security.

²² Vossekuil, Fein, and Berglund, Threat Assessment, 2015.

²³ Calhoun and Weston, Contemporary, 2003; Amman et al., Making Prevention, 2017.

support to law enforcement agencies for missing and unidentified persons investigations and specialized training to support the resolution of such investigations through the issuance of grants.

The CSO may create a grant program for these purposes and raise and accept funds from any public or private source. The CSO may also establish criteria and set specific time periods for the acceptance of applications from local and state law enforcement agencies and for the selection process for awards. These criteria must be publicly available on the CSO's website.

The CSO may not award grants if the president of the CSO or the staff of the FDLE reasonably believe that the CSO has not yet met its obligations for funding Florida Missing Children's Day. The total amount of grants awarded may not exceed funds available to the CSO. The CSO must determine the assignment and use of grants awarded with oversight by the FDLE.

Registrant Reporting of Vehicle Information

The bill amends ss. 775.21 and s. 943.0435, F.S., to specify that the FDLE's secure online system includes updates to all vehicles owned by registrants and authorizes registrants to report such updates to the FDLE through this system. According to the FDLE, this change will facilitate "faster access to this critical information and [reduce] the impact on sheriff's offices. Sexual offenders and sexual predators will still have the option to report this information in-person to the sheriff's office."²⁴

Registrant Reporting of Travel Information

The bill also amends ss. 775.21 and 943.0435, F.S., to:

- Clarify a registration requirement relating to in-person reporting of a change of residence to another state or jurisdiction by changing "within 48 hours before the date" the sexual offender or sexual predator intends to leave Florida to "at least 48 hours before the date" of intended travel.
- Provide that any travel not known by the offender or predator 48 hours before the date of intended travel must be reported as soon as possible before departure.
- Amend a registration requirement relating to international travel to require that a sexual offender or sexual predator residing in Florida report all international travel, regardless of how long they are leaving the United States.
- Specifically require reporting of airport returns and cruise ship returns.

Relief from Registration Requirements for Persons Required to Register in another State or Jurisdiction

The bill also amends s. 943.0435, F.S., to provide for a removal of Florida sexual offender registration requirements for a person who:

- Establishes or maintains a residence in Florida and who has not been designated as a sexual predator by a Florida court but who has been designated as a sexual predator, as a sexually

²⁴ Analysis of SB 1552 (July 1, 2020), Florida Department of Law Enforcement. This analysis is on file with the Senate Committee on Criminal Justice.

violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender; and

- Petitions for removal of Florida sexual offender registration requirements and asserts in that petition that his or her designation as a sexual predator or sexually violent predator or any other sexual offender designation in the state or jurisdiction in which the designation was made is confidential from public disclosure or that such designation, if not imposed by a court, is considered confidential from public disclosure by operation of law or court order in the state or jurisdiction in which the designation was made, provided that such person does not meet the criteria under Florida law for registration as a sexual offender.

The person must file the petition for relief in the circuit court in the jurisdiction in which the person resides or, for a person who no longer resides in Florida, the court in the jurisdiction in which the person last resided in Florida.

A petition for relief must document the person's conviction and include a copy of the order issued by the court in the state or jurisdiction which made the designation confidential from public disclosure. If there was no such court designation, the person must demonstrate to the Florida circuit court that the designation has been made confidential by operation of law in the state or jurisdiction in which the designation was made.

The state attorney and the FDLE must be given notice at least 21 days before the date of the hearing on the petition and may present evidence in opposition to the requested relief or may otherwise demonstrate why it should be denied.

If relief is granted by the Florida circuit court and the offender provides to the FDLE a certified copy of the court's order removing the requirement to register in Florida, the person is no longer required to register as a sexual offender in Florida and the FDLE must remove the person's information from the public registry of sexual offenders and sexual predators maintained by the department.

Statewide Strategy for Targeted Violence Prevention

The bill specifies that the duties of the Chief of Domestic Security for the FDLE include:

- Oversight of the development of a statewide strategy for targeted violence prevention;
- Development of a comprehensive threat assessment strategy and appropriate training to be used by state and local law enforcement agencies; and
- Coordination with state and local law enforcement agencies in the development of the statewide strategy and its implementation.

The statewide strategy for targeted violence prevention is required to be evaluated periodically, as determined by the FDLE, and after any event of targeted violence, to incorporate changes needed to address deficiencies and improve effectiveness.

In addition, the bill states that any statewide strategy for targeted violence prevention may not abrogate or diminish any person's right to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches as provided in the United States and Florida Constitutions, and in the laws of Florida and the Federal Government, including, but not limited to, s. 933.04, F.S.

Effective Date

The bill takes effect July 1, 2020.

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

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Art. VII, s. 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:**The Florida Sexual Predators Act**

According to the FDLE, the changes proposed by the bill related to sexual predators will require the department to:

- Update sexual offender/predator registration forms and e-forms, the Florida Sexual Offender/Predator Public Registry website and the CJNet website and training materials; and
- Coordinate and send notifications of these changes to criminal justice partners via e-mail and sexual offenders/predators via physical mail.²⁵

The FDLE states that within the last five years, the total cost to send physical letters to all sexual offenders and predators with an active Florida address to notify them of updates in registration requirements as a result of legislation has ranged from approximately \$12,000 to \$19,000.²⁶ The FDLE further states that costs of implementing the requirements of the bill related to sexual predators will be absorbed by the department.²⁷

By allowing changes to registrant vehicle information to be reported online to the FDLE as an alternative to in-person reporting of this information to a sheriff office, sheriff offices may experience a reduction in costs associated with this reporting requirement.

Statewide Strategy for Targeted Violence Prevention

According to the FDLE, the funding requested in the “Statewide Behavioral Threat Assessment Management Strategy” issue in the Governor’s Recommended Budget for Fiscal Year 2020-2021 would be required to implement these requirements. This issue recommends \$4,700,776 in General Revenue funding and 20 new FTE.²⁸ Currently, SB 2500, Senate General Appropriations Bill for Fiscal Year 2020-2021, includes \$1,000,000 recurring General Revenue funds for this purpose.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 683.231, 775.21, 943.0311, and 943.0435.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Email on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice received February 25, 2020.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Appropriations on February 27, 2020:**

The committee substitute increases the duties of the Chief of Domestic Security within FDLE to include:

- Oversight of the development of a statewide strategy for targeted violence prevention;
- Development of a comprehensive threat assessment strategy and appropriate training to be used by state and local law enforcement agencies; and
- Coordination with state and local law enforcement agencies in the development of the statewide strategy and its implementation.

Any statewide strategy for targeted violence prevention is required to be evaluated periodically, as determined by the FDLE, and after any event of targeted violence, to incorporate changes needed to address deficiencies and improve effectiveness.

In addition, the amendment states that any statewide strategy for targeted violence prevention may not abrogate or diminish any person's right to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches as provided in the United States and Florida Constitutions, and in the laws of Florida and the Federal Government, including, but not limited to, s. 933.04, F.S

CS by Criminal Justice on February 11, 2020:

The committee substitute:

- Makes technical corrections for proper placement of language relating to reporting changes in vehicle information.
- Clarifies the process for a petition for relief of registration for sexual offenders required to register based solely upon a requirement to register in another state or jurisdiction, and whose registration is considered confidential from public disclosure in that state or jurisdiction.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Flores

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A bill to be entitled

An act relating to law enforcement activities; amending s. 683.231, F.S.; authorizing a citizen support organization for Florida Missing Children's Day to provide grants to law enforcement agencies for specified purposes; redefining the term "citizen support organization"; providing requirements for such grants and for the citizen support organization; amending ss. 775.21 and 943.0435, F.S.; authorizing sexual predators and sexual offenders to report online certain information to the Department of Law Enforcement; revising reporting requirements for sexual predators and sexual offenders; making technical changes; providing for consideration for removal of the requirement to register as a sexual offender under certain circumstances; providing an effective date.

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

Section 1. Subsection (7) of section 683.231, Florida Statutes, is renumbered as subsection (10), subsection (1), paragraph (b) of subsection (2), and subsection (4) are amended, and a new subsection (7) and subsections (8) and (9) are added to that section, to read:

683.231 Citizen support organization for Florida Missing Children's Day.—

(1) The Department of Law Enforcement may establish a citizen support organization to provide assistance, funding, and

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promotional support for activities authorized for Florida Missing Children's Day under s. 683.23 and to provide financial support to law enforcement agencies for missing and unidentified persons investigations and specialized training to support the resolution of such investigations through the issuance of grants.

(2) As used in this section, the term "citizen support organization" means an organization that is:

(b) Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, either real or personal; and make expenditures to or for the direct or indirect benefit of the department in furtherance of Florida Missing Children's Day and missing and unidentified persons investigations and specialized training to support the resolution of such investigations.

(4) The citizen support organization is specifically authorized to collect and expend funds to be used for awards; public awareness and awards ceremonies, workshops, and other meetings, including distribution materials for public education and awareness; grants to assist missing and unidentified persons investigations and specialized training to support the resolution of such investigations; travel; Internet and web-hosting services; administrative costs, including personnel costs; costs of audits; and costs of facilities rental.

(7) The citizen support organization is authorized to create a grant program to provide financial support to law enforcement agencies for missing and unidentified persons

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59 investigations and specialized training to support the
 60 resolution of such investigations through the issuance of
 61 grants. The citizen support organization may raise and accept
 62 funds from any public or private source. The citizen support
 63 organization may establish criteria and set specific time
 64 periods for the acceptance of applications from local and state
 65 law enforcement agencies and for the selection process for
 66 awards. The citizen support organization shall make such
 67 criteria publicly available on its website.

68 (8) The citizen support organization may not award grants
 69 if the president of the citizen support organization or the
 70 staff of the department reasonably believe that the citizen
 71 support organization has not yet met its obligations for funding
 72 Florida Missing Children's Day. The total amount of grants
 73 awarded may not exceed funds available to the citizen support
 74 organization.

75 (9) The citizen support organization shall manage the
 76 assignment and use of grants awarded. The department shall
 77 oversee these activities consistent with subsection (5).

78 Section 2. Paragraphs (a), (g), and (i) of subsection (6)
 79 of section 775.21, Florida Statutes, are amended to read:

80 775.21 The Florida Sexual Predators Act.—

81 (6) REGISTRATION.—

82 (a) A sexual predator shall register with the department
 83 through the sheriff's office by providing the following
 84 information to the department:

85 1. Name; social security number; age; race; sex; date of
 86 birth; height; weight; tattoos or other identifying marks; hair
 87 and eye color; photograph; address of legal residence and

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88 address of any current temporary residence, within the state or
 89 out of state, including a rural route address and a post office
 90 box; if no permanent or temporary address, any transient
 91 residence within the state; address, location or description,
 92 and dates of any current or known future temporary residence
 93 within the state or out of state; electronic mail addresses;
 94 Internet identifiers and each Internet identifier's
 95 corresponding website homepage or application software name;
 96 home telephone numbers and cellular telephone numbers;
 97 employment information; the make, model, color, vehicle
 98 identification number (VIN), and license tag number of all
 99 vehicles owned; date and place of each conviction; fingerprints;
 100 palm prints; and a brief description of the crime or crimes
 101 committed by the offender. A post office box may not be provided
 102 in lieu of a physical residential address. The sexual predator
 103 shall produce his or her passport, if he or she has a passport,
 104 and, if he or she is an alien, shall produce or provide
 105 information about documents establishing his or her immigration
 106 status. The sexual predator shall also provide information about
 107 any professional licenses he or she has.

108 a. Any change that occurs after the sexual predator
 109 registers in person at the sheriff's office as provided in this
 110 subparagraph in any of the following information related to the
 111 sexual predator must be reported as provided in paragraphs (g),
 112 (i), and (j): permanent, temporary, or transient residence;
 113 name; electronic mail addresses; Internet identifiers and each
 114 Internet identifier's corresponding website homepage or
 115 application software name; home and cellular telephone numbers;
 116 employment information; and status at an institution of higher

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education.

b. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

c. If the sexual predator is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status. The sheriff, the Department of Corrections, or the Department of Juvenile Justice shall promptly notify each institution of higher education of the sexual predator's presence and any change in the sexual predator's enrollment, volunteer, or employment status.

d. A sexual predator shall report to the department through the department's online system or in person to the sheriff's office within 48 hours after any change in vehicles owned to

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report those vehicle information changes.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(g)1. Each time a sexual predator's driver license or identification card is subject to renewal, and, without regard to the status of the predator's driver license or identification card, within 48 hours after any change of the predator's residence or change in the predator's name by reason of marriage or other legal process, the predator shall report in person to a driver license office and is subject to the requirements specified in paragraph (f). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section. A sexual predator who is unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles as provided in paragraph (f) and this paragraph shall also report any change of the predator's residence or change in the predator's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the predator resides or is located and provide confirmation that he or she reported such information to the Department of Highway

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175 Safety and Motor Vehicles. The reporting requirements under this
 176 subparagraph do not negate the requirement for a sexual predator
 177 to obtain a Florida driver license or identification card as
 178 required by this section.

179 2.a. A sexual predator who vacates a permanent, temporary,
 180 or transient residence and fails to establish or maintain
 181 another permanent, temporary, or transient residence shall,
 182 within 48 hours after vacating the permanent, temporary, or
 183 transient residence, report in person to the sheriff's office of
 184 the county in which he or she is located. The sexual predator
 185 shall specify the date upon which he or she intends to or did
 186 vacate such residence. The sexual predator shall provide or
 187 update all of the registration information required under
 188 paragraph (a). The sexual predator shall provide an address for
 189 the residence or other place that he or she is or will be
 190 located during the time in which he or she fails to establish or
 191 maintain a permanent or temporary residence.

192 b. A sexual predator shall report in person at the
 193 sheriff's office in the county in which he or she is located
 194 within 48 hours after establishing a transient residence and
 195 thereafter must report in person every 30 days to the sheriff's
 196 office in the county in which he or she is located while
 197 maintaining a transient residence. The sexual predator must
 198 provide the addresses and locations where he or she maintains a
 199 transient residence. Each sheriff's office shall establish
 200 procedures for reporting transient residence information and
 201 provide notice to transient registrants to report transient
 202 residence information as required in this sub-subparagraph.
 203 Reporting to the sheriff's office as required by this sub-

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204 subparagraph does not exempt registrants from any reregistration
 205 requirement. The sheriff may coordinate and enter into
 206 agreements with police departments and other governmental
 207 entities to facilitate additional reporting sites for transient
 208 residence registration required in this sub-subparagraph. The
 209 sheriff's office shall, within 2 business days, electronically
 210 submit and update all information provided by the sexual
 211 predator to the department.

212 3. A sexual predator who remains at a permanent, temporary,
 213 or transient residence after reporting his or her intent to
 214 vacate such residence shall, within 48 hours after the date upon
 215 which the predator indicated he or she would or did vacate such
 216 residence, report in person to the sheriff's office to which he
 217 or she reported pursuant to subparagraph 2. for the purpose of
 218 reporting his or her address at such residence. When the sheriff
 219 receives the report, the sheriff shall promptly convey the
 220 information to the department. An offender who makes a report as
 221 required under subparagraph 2. but fails to make a report as
 222 required under this subparagraph commits a felony of the second
 223 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 224 775.084.

225 4. The failure of a sexual predator who maintains a
 226 transient residence to report in person to the sheriff's office
 227 every 30 days as required by sub-subparagraph 2.b. is punishable
 228 as provided in subsection (10).

229 5.a. A sexual predator shall register all electronic mail
 230 addresses and Internet identifiers, and each Internet
 231 identifier's corresponding website homepage or application
 232 software name, with the department through the department's

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online system or in person at the sheriff's office within 48 hours after using such electronic mail addresses and Internet identifiers. If the sexual predator is in the custody or control, or under the supervision, of the Department of Corrections, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Corrections before using such electronic mail addresses or Internet identifiers. If the sexual predator is in the custody or control, or under the supervision, of the Department of Juvenile Justice, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Juvenile Justice before using such electronic mail addresses or Internet identifiers.

b. A sexual predator shall register all changes to vehicles owned, all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education, through the department's online system; in person at the sheriff's office; in person at the Department of Corrections if the sexual predator is in the custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual predator is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes required to be reported in this sub-subparagraph

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shall be reported within 48 hours after the change.

c. The department shall establish an online system through which sexual predators may securely access, submit, and update all ~~vehicles owned~~; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and institution of higher education information.

(i) A sexual predator who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida or intends to travel outside of the United States shall report in person to the sheriff of the county of current residence at least within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel ~~if the intended residence of 5 days or more is~~ outside of the United States. Any travel that is not known by the sexual predator 48 hours before he or she intends to establish a residence in another state or jurisdiction or 21 days before the departure date for travel outside of the United States must be reported to the sheriff's office as soon as possible before departure. The sexual predator shall provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual predator shall also provide travel information, including, but not limited to, expected departure and return dates, flight ~~numbers number~~, airports ~~airport~~ of departure and return, cruise ~~ports port~~ of departure and return, or any other means of intended travel. The sheriff

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shall promptly provide to the department the information received from the sexual predator. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence or the intended country of travel of the sexual predator's intended residence or intended travel. The failure of a sexual predator to provide his or her intended place of residence or intended travel is punishable as provided in subsection (10).

Section 3. Paragraph (b) of subsection (2), paragraph (e) of subsection (4), subsection (7), and paragraph (b) of subsection (11) of section 943.0435, Florida Statutes, are amended, and paragraph (c) is added to subsection (11) of that section, to read:

943.0435 Sexual offenders required to register with the department; penalty.—

(2) Upon initial registration, a sexual offender shall:

(b) Provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; fingerprints; palm prints; photograph; employment information; address of permanent or legal residence or address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state, address, location or description, and dates of any current or known future temporary residence within the state or out of state; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; home telephone numbers and cellular telephone numbers; electronic mail addresses;

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Internet identifiers and each Internet identifier's corresponding website homepage or application software name; date and place of each conviction; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each

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institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status. The sheriff, the Department of Corrections, or the Department of Juvenile Justice shall promptly notify each institution of higher education of the sexual offender's presence and any change in the sexual offender's enrollment, volunteer, or employment status.

3. A sexual offender shall report to the department through the department's online system or in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph, a set of fingerprints, and palm prints of the offender and forward the photographs, palm prints, and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly provide to the department the information received from the sexual offender.

(4)

(e)1. A sexual offender shall register all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, with the department through the department's online system or in person at the sheriff's office within 48 hours after using such electronic mail addresses and Internet identifiers. If the sexual offender is in the custody or control, or under the supervision, of the Department of Corrections, he or she must report all electronic mail addresses

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and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Corrections before using such electronic mail addresses or Internet identifiers. If the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Juvenile Justice before using such electronic mail addresses or Internet identifiers.

2. A sexual offender shall register all changes to vehicles owned, all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education, through the department's online system; in person at the sheriff's office; in person at the Department of Corrections if the sexual offender is in the custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes required to be reported under this subparagraph must be reported within 48 hours after the change.

3. The department shall establish an online system through which sexual offenders may securely access, submit, and update all changes in status to vehicles owned; electronic mail addresses; Internet identifiers and each Internet identifier's

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corresponding website homepage or application software name;
home telephone numbers and cellular telephone numbers;
employment information; and institution of higher education
information.

(7) A sexual offender who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida or intends to travel outside of the United States shall report in person to the sheriff of the county of current residence at least within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel ~~if the intended residence of 5 days or more is~~ outside of the United States. Any travel that is not known by the sexual offender 48 hours before he or she intends to establish a residence in another state or jurisdiction or 21 days before the departure date for travel outside of the United States must be reported in person to the sheriff's office as soon as possible before departure. The sexual offender shall provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual offender shall also provide travel information, including, but not limited to, expected departure and return dates, flight ~~numbers number,~~ airports airport of departure and return, cruise ~~ports port~~ of departure and return, or any other means of intended travel. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence or the

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intended country of travel of the sexual offender's intended residence or intended travel. The failure of a sexual offender to provide his or her intended place of residence or intended travel is punishable as provided in subsection (9).

(11) Except as provided in s. 943.04354, a sexual offender shall maintain registration with the department for the duration of his or her life unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender shall be considered for removal of the requirement to register as a sexual offender only if the person:

(b) ~~Maintains As defined in sub-subparagraph (1)(h)1.b.~~ must maintain registration with the department as described in sub-subparagraph (1)(h)1.b. for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator ~~or, as~~ a sexually violent predator, or any other ~~by another~~ sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, ~~and~~ provided that such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(c)1. Is required to register as a sexual offender solely under the requirements of sub-subparagraph (1)(h)1.b. and files

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a petition in the circuit court in the jurisdiction in which the person resides or, for a person who no longer resides in this state, the court in the jurisdiction in which the person last resided in this state. The petition must assert that his or her designation as a sexual predator or sexually violent predator or any other sexual offender designation in the state or jurisdiction in which the designation was made is confidential from public disclosure or that such designation, if not imposed by a court, is considered confidential from public disclosure by operation of law or court order in the state or jurisdiction in which the designation was made, provided that such person does not meet the criteria for registration as a sexual offender under the laws of this state.

2. If the person meets the criteria in subparagraph 1., the court may grant the petition and remove the requirement to register as a sexual offender.

3. A petition under this paragraph must document the person's conviction and include a copy of the order issued by the court in the state or jurisdiction which made the designation confidential from public disclosure. If such relief was not granted by court order, the person must demonstrate to the court that his or her registration requirement has been made confidential by operation of law in the state or jurisdiction requiring registration. The state attorney and the department must be given notice at least 21 days before the date of the hearing on the petition and may present evidence in opposition to the requested relief or may otherwise demonstrate why it should be denied.

4. If a person provides to the department a certified copy

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of the circuit court's order granting the person removal of the requirement to register as a sexual offender in this state in accordance with this sub-paragraph, the registration requirement does not apply to the person and the department must remove all information about the person from the public registry of sexual offenders and sexual predators maintained by the department.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2.27.20

Meeting Date

1552

Bill Number (if applicable)

Topic LAW ENFORCEMENT ACTIVITIES

Amendment Barcode (if applicable)

Name RON DRAA

Job Title DIRECTOR OF EXTERNAL AFFAIRS

Address 8331 PHILLIPS ROAD

Phone 850.410.7020

Street

TALLAHASSEE

FL

32308

Email ronaldraa@flde.state.fl.us

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FDLE

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1556

INTRODUCER: Appropriations Committee; Banking and Insurance Committee; and Senator Bean

SUBJECT: Nondiscrimination in Organ Transplants

DATE: March 2, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Rossitto-Van Winkle	Brown	HP	Favorable
2. Palecki	Knudson	BI	Fav/CS
3. Gerbrandt	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1556 prohibits insurers, and health maintenance organizations that provide transplant coverage, from denying coverage solely on the basis of an individual's disability.

The bill prohibits specified entities from denying, refusing to allocate, or lowering an individual's priority for organ transplant medical services solely based on an individual having a developmental or intellectual disability. The bill prohibits discrimination regarding access to anatomical gifts and organ transplants by:

- Defining certain terms and entities;
- Specifying when certain entities may consider an individual's disability and when they may not;
- Requiring certain entities to take steps to ensure that an individual with a disability is not denied services, with exceptions;
- Requiring certain entities to make reasonable modifications to transplant policies, practices, and procedures to accommodate individuals with a disability, with an exception;
- Prohibiting certain entities from denying transplant services due to an individual's lack of auxiliary aids and services, with an exception;
- Providing injunctive relief or other equitable relief for a qualified individual who are affected by violations of a covered entity.

The bill does not authorize transplants that are not medically necessary.

The bill does not have a fiscal impact on state revenues or expenditures.

The bill takes effect on July 1, 2020.

II. Present Situation:

Tissue Donation and Organ Transplantation

Organ and tissue donation and transplantation is the process of surgically removing an organ or tissue from one person (the donor) and transplanting it into another person (the recipient). Transplantation may be necessary because the recipient's organ or tissue has failed or has been damaged by disease or injury. Transplantable organs include the kidneys, liver, heart, lungs, pancreas, and intestine.¹ Transplantable tissue includes:

- Skin, which can be used as a temporary dressing for burns, serious abrasions, and other exposed areas;
- Heart valves used to replace defective valves;
- Tendons used to repair torn ligaments in knees or other joints;
- Veins used in cardiac bypass surgery;
- Corneas used to restore sight; and
- Bone used in orthopedic surgery to facilitate healing of fractures or to prevent amputation.²

The Organ Procurement and Transplantation Network (OPTN)

The National Organ Transplant Act (NOTA) established the Organ Procurement and Transplantation Network (OPTN) in 1984.³ In 2000, The U.S. Department of Health and Human Services (HHS) implemented a final rule establishing a regulatory framework for the structure and operations of the OPTN.⁴ HHS implemented the final rule that established the regulatory framework for the structure and operations of the OPTN.⁵

The OPTN policies are rules that govern the operation of all member transplant hospitals, organ procurement organizations (OPOs) and histocompatibility labs in the U.S.⁶ Currently, every transplant hospital program, OPO, and transplant histocompatibility laboratory in the U.S. is an OPTN member. Membership means that an institution meets OPTN requirements and that it plays an active role in forming the policies that govern the transplant community.⁷ The OPTN

¹ Donate Life Florida, *Frequently Asked Questions*, <https://www.donateliflorida.org/categories/donation/> (last visited February 8, 2018).

² *Id.*

³ 42 U.S.C. 274.

⁴ U.S. Department of Health & Human Services, Health Resources & Services Administration, Organ Procurement and Transplantation Network, *About the OPTN*, <https://optn.transplant.hrsa.gov/governance/about-the-optn/> (last visited Feb. 8, 2020).

⁵ *Id.*

⁶ U.S. Department of Health & Human Services, Health Resources & Services Administration, Organ Procurement and Transplantation Network, *Policies*, <https://optn.transplant.hrsa.gov/governance/policies/> (last visited Feb. 8, 2020).

⁷ U.S. Department of Health & Human Services, Health Resources & Services Administration, Organ Procurement and Transplantation Network, *Members*, <https://optn.transplant.hrsa.gov/members/> (last visited Feb. 8, 2020).

regulates how donor organs are matched and allocated to patients on the waiting list.⁸ On average, 95 transplants take place each day in the U.S.⁹

Oversight and Implementation of Florida’s Organ Donation and Transplantation System

The organ donation and transplantation system consists of an extensive network of federal, state, and local entities, as well as individual organ donors, recipients, and individuals on organ transplant waitlists. The process of organ donation relies on coordination among these entities to match organs from donors to individuals on organ transplant waitlists. The Legislature’s Office of Program Policy Analysis and Government Accountability’s (OPPAGA) January 22, 2020, research memo, *Reviewing Florida Organ Donation and Transplantation System*, lists the participants in Florida’s organ transplantation system as follows:¹⁰

Entity	Level	Role Within the Organ Donation and Transplantation System
U.S. Department of Health and Human Services	Federal	Oversees the two federal agencies responsible for organ procurement and transplantation regulation
Federal Centers for Medicare & Medicaid Services (CMS)	Federal	Monitors procurement and transplant program success and quality
Health Resources and Services Administration (HRSA)	Federal	Oversees the Organ Procurement and Transplantation Network and contractors (United Network for Organ Sharing and Scientific Registry of Transplant Recipients)

⁸ U.S. Department of Health & Human Services, Health Resources & Services Administration, U.S. Government Information on Organ Donation and Transplantation, *The Organ Transplant Process*, <https://organdonor.gov/about/process/transplant-process.html> (last visited Feb. 8, 2020).

⁹ U.S. Department of Health & Human Services, Health Resources & Services Administration, U.S. Government Information on Organ Donation and Transplantation, *Organ Donation and Transplantation Can Save Lives*, <https://optn.transplant.hrsa.gov/> (last visited Feb. 8, 2020).

¹⁰ Office of Program Policy Analysis and Government Accountability, Research Memo, *OPPAGA Review of Florida’s Organ Donation and Transplant System*, (Jan. 22, 2020) (on file with the Senate Committee on Health Policy).

Scientific Registry of Transplant Recipients	Private/ Nonprofit	Provides statistical and other analytic support to OPTN for the formulation and evaluation of organ allocation
Organ Procurement and Transplantation Network (OPTN)	Private/ Nonprofit	Maintains a national registry for organ matching and carries out numerous other responsibilities relating to organ procurement and transplantation
United Network for Organ Sharing (UNOS)	Private/ Nonprofit	Operates OPTN under contract with HRSA
Agency for Health Care Administration	State	Contracts with Donate Life Florida for online donor registration and education system; coordinates with DHSMV to obtain donor registry funding; certifies and monitors organ procurement organizations for compliance and collects fees
Donate Life Florida	Private/ Nonprofit	Contracts with AHCA to operate a statewide online donor registry and to provide donor education
Department of Highway Safety and Motor Vehicles	State	Coordinates with county tax collector offices where donor education and registration occur when issuing driver licenses and identification cards; encourages and registers organ donors when issuing identification cards and driver licenses; provides donor educational materials; collects voluntary financial contributions to donor registry
County Tax Collector Offices	Local	Encourage and register organ donors when issuing identification cards and driver licenses; may provide donor educational materials; collect voluntary financial contributions to donor registry
Organ Procurement Organizations (Certified by CMS)	Regional within the State	Follow policies set by CMS and OPTN; primarily responsible for procuring organs and matching donor organs to patients on waitlists and coordinating with hospital transplant centers for transport of matched organs
Transplant Centers	Local/Private/ Nonprofit	Evaluate patients to determine eligibility to be placed on waitlists and suitability of and procuring organs at donor hospitals after being contacted by an OPO; perform transplant surgeries and conduct pre- and post-transplant care
Entity	Level	Role Within the Organ Donation and Transplantation System
Donor Hospitals	Local/ Private/ Nonprofit	Responsible for timely notification of OPO in their region of death or imminent death of a patient who is a viable organ donor ²⁰

Organ Allocation

More than 120,000 people in the U.S. are waiting to receive an organ transplant. There are not enough donated organs to transplant everyone in need, so a balance of the following is sought:

- Justice (fair consideration of candidates' circumstances and medical needs); and
- Medical utility (trying to increase the number of transplants performed and the length of time patients and organs survive).¹²

Factors in Organ Allocation

Many factors are used to match organs with patients in need such as, proximity to donor, waiting time, immune system compatibility, survival benefit. Some factors are the same for all organs, but the system must accommodate some unique differences for each organ. Before an organ is allocated, all transplant candidates on the waiting list that are incompatible with the donor are automatically screened out from any potential match. Then the system determines the order in which the compatible candidates will receive offers, according to national policies.¹³

Each organ has different criteria for allocation, but federal policy dictates that wealth, social status, citizenship, residency, political influence, national origin, ethnicity, sex, or religion are never factors.¹⁴ Blood type and other medical factors weigh into the allocation of every donated organ, and other factors are unique to each organ-type.

Wait Times for Organ Transplants

The shortage of organs causes most patients to wait for a transplant. Some patients are more ill than others when they are put on the transplant waiting list. Some patients get sick more quickly than other patients or respond differently to treatments. Patients may have medical conditions that make it more difficult to find a good match.¹⁵

How long a patient waits depends on many factors. These can include:

- Blood type;
- Tissue type;
- Height and weight of transplant candidate;
- Size of donated organ;
- Medical urgency;
- Time on the waiting list;
- The distance between the donor's hospital and the potential donor organ;
- How many donors there are in the local area over a period of time; and

¹² U.S. Department of Health and Human Services, Health Resources & Services Administration, Organ Procurement and Transplantation Network, *How Organ Allocation Works* <https://optn.transplant.hrsa.gov/learn/about-transplantation/how-organ-allocation-works/> (last visited Feb. 8, 2020).

¹³ *Id.*

¹⁴ U.S. Department of Health and Human Services, Health Resources & Services Administration, Organ Procurement and Transplantation Network, *Policies, 5.4 Organ Offers* (Jan. 9, 2020), p. 92, https://optn.transplant.hrsa.gov/media/1200/optn_policies.pdf (last visited Feb. 14, 2020).

¹⁵ U.S. Department of Health & Human Services, Health Resources & Services Administration, Organ Procurement and Transplantation Network Transplant Process, *Wait Times* <https://optn.transplant.hrsa.gov/learn/about-transplantation/transplant-process/> (last visited Feb. 8, 2020).

- The transplant center's criteria for accepting organ offers.¹⁶

The Donor Matching System

The OPTN has policies regulating how donor organs are matched and allocated to patients on the waiting list. There are some common factors in how organs are matched, such as blood type and how severe the patient's illness is. However, depending on the organ, some factors become more important than others, so there is a different policy for each organ.¹⁷ The OPTN operates the national database of all patients in the U.S. waiting for a transplant. OPTN's computer system matches the donor's organs to potential recipients.¹⁸

For each organ that becomes available, the computer system generates a list of potential recipients ranked according to objective criteria (i.e. blood type, tissue type, size of the organ, medical urgency of the patient, time on the waiting list, and distance between donor and recipient). After printing the list of potential recipients, the procurement coordinator contacts the transplant surgeon caring for the top-ranked patient (i.e. patient whose organ characteristics best match the donor organ and whose time on the waiting list, urgency status, and distance from the donor organ adhere to allocation policy) to offer the organ. Depending on various factors, such as the donor's medical history and the current health of the potential recipient, the transplant surgeon determines if the organ is suitable for the patient. If the organ is turned down, the next listed individual's transplant center is contacted, and so on, until the organ is placed.

Organ Transplants and Florida Medicaid

Florida Medicaid coverage for organ transplants is restricted to those transplants currently accepted as therapeutic modalities and do not include experimental procedures. For children under 21, Florida Medicaid covers kidney, liver, cornea, heart, lung, pancreas, intestines, bone marrow, and multivisceral transplants that are medically necessary and appropriate.¹⁹

Discrimination in Access to Anatomical Gifts and Organ Transplants

On September 25, 2019, the National Council on Disability (NCD)²⁰ submitted a report to the President and Congress entitled, *Organ Transplant Discrimination against People with Disabilities*.²¹ The report found, among other things, that people with disabilities are frequently denied access to organ transplants based on a transplant center's written and unwritten policies

¹⁶ *Id.*

¹⁷ U.S. Department of Health & Human Services, Health Resources & Services Administration, Organ Procurement and Transplantation Network, *Donor Matching System* <https://optn.transplant.hrsa.gov/learn/about-transplantation/donor-matching-system/> (last visited Feb. 8, 2020).

¹⁸ *Id.*

¹⁹ Agency for Health Care Administration, *Florida Standards for the Coverage of Organ Transplant Services*, (effective April 1, 2015), p. 1, https://ahca.myflorida.com/medicaid/organ_transplant/pdfs/state_plan_standards_for_coverage_updated_2015.pdf (last visited Feb. 8, 2020).

²⁰ The NCD is an independent federal agency charged with advising the President, Congress, and other federal agencies on disability policy to advance the goals of the federal Americans with Disabilities Act (ADA): equal opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities

²¹ National Council on Disability, Bioethics and Disability Series, *Organ Transplant Discrimination against People with Disabilities*, https://ncd.gov/sites/default/files/NCD_Organ_Transplant_508.pdf (last visited Feb. 8, 2020).

excluding people with disabilities as candidates for a transplant, and even refusing to evaluate a particular person's medical suitability for an organ transplant because of the person's disability. The report stated that:²²

People with disabilities have been denied organ transplants as a result of unfounded assumptions about their quality of life and misconceptions about their ability to comply with post-operative care. Although the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibit discrimination on the basis of disability, organ transplant centers and medical professionals are often unaware that this prohibition applies to the organ transplant process.

According to the NCD, the primary forms of disability discrimination occurring at organ transplant centers are:²³

- Refusal to evaluate a person with a disability as a candidate for transplant; and
- Refusal to place a person with a disability on the national organ transplant waiting list.

The Americans with Disabilities Act and The Rehabilitation Act of 1973

The Americans with Disabilities Act (ADA)²⁴ and section 504 of the Rehabilitation Act of 1973²⁵ prohibit discrimination on the basis of disability. The Rehabilitation Act specifically prohibits discrimination against otherwise qualified individuals on the basis of disability in:

- Programs and activities receiving financial assistance from HHS;²⁶ and
- Programs or activities conducted by HHS.²⁷

The ADA defines “disability” as:²⁸

- A physical or mental impairment²⁹ that substantially limits one or more of the major life activities;³⁰
- A record of such an impairment; or
- Being regarded as having such an impairment.

The ADA and Section 504 of the Rehabilitation Act also require reasonable modifications of policies, practices, and procedures when necessary to ensure that people with disabilities can access services on a nondiscriminatory basis.³¹

²² National Council on Disabilities, Letter to UNOS, OPTN, HRSA Regarding Organ Transplants (Sept. 25, 2019), <https://ncd.gov/publications/2019/ncd-letter-unos-optn-hrsa-regarding-organ-transplants> (last visited Feb. 14, 2020).

²³ *Id.*

²⁴ 42 U.S.C. ch. 126.

²⁵ 29 U.S.C. s. 701.

²⁶ 45 C.F.R. Part 84.

²⁷ 45 C.F.R. Part 85.

²⁸ 28 C.F.R. Part 35.104.

²⁹ The ADA specifies the meaning of the phrase “physical or mental impairment” to mean any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting certain body systems and any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities.

³⁰ The ADA specifies the meaning of the phrase “major life activities” to include functions such as caring for oneself; performing manual tasks; walking; seeing; hearing; speaking; breathing; learning; and working.

³¹ 42 U.S.C. ch. 126.

ADA Enforcement

An individual who believes that he or she has been subjected to discrimination on the basis of his or her disability, by a public entity, may file a complaint with the Department of Justice (DOJ).³² The DOJ will investigate, and if discrimination on the basis of disability is found will issue a non-compliance letter of findings to the Assistant Attorney General and initiate negotiations with the public entity to secure compliance by voluntary means.³³ If the public entity declines to enter into voluntary compliance negotiations, or if negotiations are unsuccessful, the case is referred to the Attorney General with a recommendation for appropriate action.³⁴ If the complainant prevails, he or she may be awarded a reasonable attorney's fee, including litigation expenses and costs.³⁵

Cause of Action under the Florida Civil Rights Act of 1992

The general purposes of the Florida Civil Rights Act of 1992 (Act) is:

- To secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, pregnancy, national origin, age, *handicap*, or marital status and thereby to protect their interest in personal dignity;
- To make available to the state their full productive capacities;
- To secure the state against domestic strife and unrest;
- To preserve the public safety, health, and general welfare; and
- To promote the interests, rights, and privileges of individuals within the state.³⁶

The Act creates both a state and individual cause of action for any violation of a Florida statute making unlawful discrimination because of race, color, religion, gender, pregnancy, national origin, age, *handicap*, or marital status in the areas of education, employment, housing, or public accommodations for relief and damages under s. 760.11(5), F.S., unless greater damages are expressly provided for.³⁷ [emphasis added]

Section 760.22(7), F.S., as created by the Florida Fair Housing Act defines “handicap” to mean:

- A person has a physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment; or
- A person has a developmental disability, as that term is defined in s. 393.063, F.S., which manifests itself before the age of 18 and constitutes a substantial handicap that can reasonably be expected to continue indefinitely, including:
 - A disorder or syndrome that is attributable to intellectual disability;
 - Cerebral palsy;
 - Autism;
 - Spina bifida;
 - Down syndrome;

³² 28 C.F.R. Part 35.170.

³³ 28 C.F.R. Part 35.173.

³⁴ 28 C.F.R. Part 35.174.

³⁵ 28 C.F.R. Part 35.175.

³⁶ Section 760.01, F.S.

³⁷ Section 760.07, F.S.

- Phelan-McDermid syndrome; or
- Prader-Willi syndrome.³⁸

Section 393.063(24), F.S., defines “intellectual disability” as a significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which manifests before age 18 and can be expected to continue indefinitely.

III. Effect of Proposed Changes:

Requirements for Covered Entities

Section 1 creates s. 765.523, F.S., to prohibit specified covered entities from denying, refusing to allocate, or lowering an individual’s priority for organ transplant medical services, solely on the basis of an individual’s disability.

The bill defines the following terms:

- “Auxiliary aids and services” means effective methods of making aurally delivered materials available to individuals with hearing impairments; effective methods of making visually delivered materials available to individuals with visual impairments; and supported decisionmaking services;
- “Covered entity” means a licensed health care practitioner; a hospital, skilled nursing facility, hospice, or intermediate care facility for the developmentally disabled; or any other entity responsible for potential recipients of an anatomical gift;
- “Disability” means a developmental disability or intellectual disability as those terms are defined in s. 393.063, F.S.;
- “Organ transplant” means the transplantation or transfusion of a part of a human body into the body of another individual for the purpose of treating or curing a medical condition; and
- “Qualified individual” means an individual who has a disability and meets the clinical eligibility requirements for the receipt of an anatomical gift or an organ transplant.

The bill prohibits a covered entity from doing any of the following, solely on the basis of an individual’s disability:

- Consider a qualified individual ineligible for a transplant;
- Deny medical or other organ transplant services, including:
 - Evaluations;
 - Surgery;
 - Counseling; and
 - Post-transplant treatment and services;
- Refuse to refer the individual to an organ procurement organization or specialist for evaluation for an organ transplant;
- Refuse to place a qualified individual on an organ transplant waiting list;
- Place a qualified individual at a lower priority on an organ transplant waiting list; or
- Consider the individual’s inability to independently comply with the post-transplant medical requirements if the individual has the necessary support system to assist him or her with such compliance.

³⁸ Section 393.063(12), F.S.

The bill requires covered entities to make reasonable modifications to its policies, practices, or procedures, when necessary, to allow an individual with a disability access to services, unless it can demonstrate that making the modifications would fundamentally alter the nature of the services. The modifications must include communication with people responsible for supporting the patient with post-transplant care and consideration of support networks available to the patient.

The bill requires a covered entity to take additional steps to ensure that an individual with a disability is not denied services due to the absence of auxiliary aids and services, unless it can demonstrate that taking the steps would fundamentally alter the nature of the services being offered, or result in an undue burden on the covered entity.

The bill provides that a covered entity may consider an individual's disability, following an evaluation, if a physician finds the person's disability to be medically significant to the provision of the organ transplant or anatomical gift, but only to the extent that the covered entity is making treatment or coverage recommendations or decisions for the individual.

If a person has the necessary support system to assist him or her in complying with post-transplant medical requirements, a covered entity may not consider the individual's inability to independently comply with the post-transplant medical requirements to be medically significant.

The bill allows a person with a disability to file a civil action for injunctive or other equitable relief for violations of a covered entity.

Section 2, 3, 4, and 5 prohibit insurers (including small group health insurance policies), and health maintenance organizations that provide transplant coverage from denying coverage solely on the basis of an individual's disability.

The bill has an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 765.523, 627.64197, 627.65736, and 641.31075.

This bill substantially amends section 627.6699 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute:

- Provides a definition of the term “disability” relating to coverage for organ transplants under ss. 627.64197 (individual health insurance policies), 627.65736 (group health insurance policies), 627.6699 (small employer group policies), and 641.31075 (HMO contracts), F.S.
- Clarifies that health insurers and HMOs that provide major medical coverage and coverage for organ transplants (rather than health insurers, HMOs and non-profits that provide coverage for organ transplants on an expense-incurred basis) may not deny coverage solely based on a person having a disability.

- Prohibits a health benefit plan covering small employers that provides organ transplant coverage from denying coverage solely based on a person having a disability.

CS by Banking and Insurance on February 11, 2020:

- The CS amends the following definitions:
 - Replaces the reference to the Health Insurance Portability and Accountability Act (HIPAA) with a reference to “federal [laws]” within the definition of “auxiliary aids and services.”
 - Removes residential facilities licensed under ch. 393, F.S., and institutional medical units in correctional facilities from the definition of “covered entity.”
 - Narrows the definition of “disability” to include only the conditions contemplated by the terms “developmental disability” and “intellectual disability” as defined in s. 393.063, F.S.
 - Relocates the description of reasonable modifications to policies from the definition of “qualified individual” to subsection (4), which requires covered entities to make reasonable modifications.
- The CS expands the types of support networks to be considered to include any “community-based services coverage.”
- The CS amends titles to eliminate references to nondiscrimination.

B. Amendments:

None.



760806

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
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	.	
	.	

The Committee on Appropriations (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 141 - 173

and insert:

insurance policy that provides major medical coverage and coverage for organ transplants and that is delivered, issued, or renewed on or after July 1, 2020, in this state by an insurer may not deny coverage for an organ transplant solely on the basis of an insured's disability. This section may not be construed to require such insurer to provide coverage for an



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organ transplant that is not medically necessary. For purposes of this section, the terms "disability" and "organ transplant" have the same meaning as in s. 765.523.

Section 3. Section 627.65736, Florida Statutes, is created to read:

627.65736 Coverage for organ transplants.—A group health insurance policy that provides major medical coverage and coverage for organ transplants and that is delivered, issued, or renewed on or after July 1, 2020, in this state by an insurer may not deny coverage for an organ transplant solely on the basis of an insured's disability. This section may not be construed to require such insurer to provide coverage for an organ transplant that is not medically necessary. For purposes of this section, the terms "disability" and "organ transplant" have the same meaning as in s. 765.523.

Section 4. Paragraph (g) is added to subsection (5) of section 627.6699, Florida Statutes, to read:

627.6699 Employee Health Care Access Act.—

(5) AVAILABILITY OF COVERAGE.—

(g) A health benefit plan covering small employers which is delivered, issued, or renewed on or after July 1, 2020, must comply with s. 627.65736.

Section 5. Section 641.31075, Florida Statutes, is created to read:

641.31075 Coverage for organ transplants.—A health maintenance contract that provides major medical coverage and coverage for organ transplants and that is delivered, issued, or renewed on or after July 1, 2020, in this state by a health maintenance organization may not deny coverage for an organ



760806

transplant solely on the basis of a subscriber's disability.
This section may not be construed to require such health
maintenance organization to provide coverage for an organ
transplant that is not medically necessary. For purposes of this
section, the terms "disability" and "organ transplant" have the
same meaning as in

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

And the title is amended as follows:

 Delete lines 20 - 24

and insert:

 health maintenance organizations, respectively, that
 provide major medical coverage and coverage for organ
 transplants from denying coverage for organ
 transplants solely on the basis of an individual's
 disability under certain circumstances; providing
 construction; defining the terms "disability" and
 "organ transplant"; amending s. 627.6699, F.S.;
 requiring health benefit plans covering small
 employers to comply with certain provisions; providing
 an effective date.

By the Committee on Banking and Insurance; and Senator Bean

597-03516-20

20201556c1

A bill to be entitled

An act relating to nondiscrimination in organ transplants; creating s. 765.523, F.S.; defining terms; prohibiting certain entities from making certain determinations or engaging in certain actions related to organ transplants solely on the basis of an individual's disability; specifying an instance where certain entities may consider an individual's disability, with an exception; requiring certain entities to make reasonable modifications in their policies, practices, and procedures under certain circumstances, with an exception; providing criteria for such modifications; requiring certain entities to take certain necessary steps to ensure an individual with a disability is not denied services, with exceptions; providing a cause of action for injunctive and other relief; providing construction; creating ss. 627.64197, 627.65736, and 641.31075, F.S.; prohibiting insurers, nonprofit health care service plans, and health maintenance organizations that provide coverage for organ transplants from denying coverage solely on the basis of an individual's disability under certain circumstances; providing construction; defining the term "organ transplant"; providing an effective date.

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

Section 1. Section 765.523, Florida Statutes, is created to read:

Page 1 of 7

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

597-03516-20

20201556c1

765.523 Discrimination in access to anatomical gifts and organ transplants prohibited.—

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

(a) "Auxiliary aids and services" means:

1. Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

2. Qualified readers, recorded texts, texts in an accessible electronic format, or other effective methods of making visually delivered materials available to individuals with visual impairments.

3. Supported decisionmaking services, including any of the following:

a. The use of a support person to assist an individual in making medical decisions, communicating information to the individual, or ascertaining his or her wishes.

b. The provision of information to a person designated by the individual, consistent with federal and state laws governing the disclosure of health information.

c. Measures used to ensure that the individual's guardian or legal representative, if any, is included in decisions involving the individual's health care and that medical decisions are in accordance with the individual's own expressed interests.

d. Any other aid or service that is used to provide information in a format that is readily understandable and accessible to individuals with cognitive, neurological, developmental, or intellectual disabilities.

(b) "Covered entity" means any of the following:

Page 2 of 7

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

597-03516-20

20201556c1

59 1. A licensed health care practitioner as defined in s.
60 456.001.

61 2. A health care facility as defined in s. 408.07.

62 3. Any other entity responsible for potential recipients of
63 an anatomical gift or organ transplant.

64 (c) "Disability" has the same meaning as "developmental
65 disability" and "intellectual disability" as those terms are
66 defined in s. 393.063.

67 (d) "Organ transplant" means the transplantation or
68 transfusion of a part of a human body into the body of another
69 individual for the purpose of treating or curing a medical
70 condition.

71 (e) "Qualified individual" means an individual who has a
72 disability and meets the clinical eligibility requirements for
73 the receipt of an anatomical gift or an organ transplant,
74 regardless of:

75 1. The support networks available to the individual;
76 2. The provision of auxiliary aids and services; or
77 3. Reasonable modifications to the policies, practices, or
78 procedures of a covered entity pursuant to subsection (4).

79 (2) A covered entity may not do any of the following solely
80 on the basis of an individual's disability:

81 (a) Consider a qualified individual ineligible to receive
82 an anatomical gift or organ transplant.

83 (b) Deny medical or other services related to an organ
84 transplant, including evaluation, surgery, counseling, and
85 posttransplant treatment and services.

86 (c) Refuse to refer the individual to an organ procurement
87 organization or a related specialist for the purpose of

597-03516-20

20201556c1

88 evaluation or receipt of an organ transplant.

89 (d) Refuse to place a qualified individual on an organ
90 transplant waiting list.

91 (e) Place a qualified individual at a lower priority
92 position on an organ transplant waiting list than the position
93 at which the qualified individual would have been placed if not
94 for the disability.

95 (3) (a) A covered entity may take an individual's disability
96 into account if, following an individualized evaluation of him
97 or her, a physician finds the individual's disability to be
98 medically significant to the provision of the anatomical gift or
99 organ transplant, but only to the extent that the covered entity
100 is making treatment or coverage recommendations or decisions for
101 the individual.

102 (b) If an individual has the necessary support system to
103 assist him or her in complying with posttransplant medical
104 requirements, a covered entity may not consider the individual's
105 inability to independently comply with the posttransplant
106 medical requirements to be medically significant for the
107 purposes of paragraph (a).

108 (4) A covered entity shall make reasonable modifications to
109 policies, practices, or procedures when the modifications are
110 necessary to allow an individual with a disability access to
111 services, including transplant-related counseling, information,
112 coverage, or treatment, unless the covered entity can
113 demonstrate that making the modifications would fundamentally
114 alter the nature of the services. Such modifications shall
115 include, but not be limited to, communication with the persons
116 responsible for supporting the individual with his or her

597-03516-20 20201556c1

postsurgical and posttransplant care, including medication. Such modifications shall also consider the support networks available to the individual, including, but not limited to, family, friends, and home and community-based services coverage when determining whether the individual is able to comply with posttransplant medical requirements.

(5) A covered entity shall take such steps as may be necessary to ensure that an individual with a disability is not denied services, including transplant-related counseling, information, coverage, or treatment, due to the absence of auxiliary aids and services, unless the covered entity can demonstrate that taking the steps would fundamentally alter the nature of the services being offered or would result in an undue burden on the covered entity.

(6) If a covered entity violates this section, the qualified individual who is affected by the violation may bring an action in the appropriate circuit court for injunctive or other equitable relief.

(7) This section may not be construed to require a covered entity to make a referral or recommendation for or perform a medically inappropriate organ transplant.

Section 2. Section 627.64197, Florida Statutes, is created to read:

627.64197 Coverage for organ transplants.—A health insurance policy issued, delivered, or renewed on or after July 1, 2020, in this state by an insurer which provides coverage for organ transplants on an expense-incurred basis may not deny coverage for an organ transplant solely on the basis of an insured's disability. This section may not be construed to

597-03516-20 20201556c1

require such insurer to provide coverage for an organ transplant that is not medically necessary. For purposes of this section, the term "organ transplant" has the same meaning as in s. 765.523.

Section 3. Section 627.65736, Florida Statutes, is created to read:

627.65736 Coverage for organ transplants.—A group health insurance policy delivered, issued, or renewed on or after July 1, 2020, in this state by an insurer or nonprofit health care services plan which provides coverage for organ transplants on an expense-incurred basis may not deny coverage for an organ transplant solely on the basis of an insured's disability. This section may not be construed to require such insurer or nonprofit health care service plan to provide coverage for an organ transplant that is not medically necessary. For purposes of this section, the term "organ transplant" has the same meaning as in s. 765.523.

Section 4. Section 641.31075, Florida Statutes, is created to read:

641.31075 Coverage for organ transplants.—A health maintenance contract issued or renewed on or after July 1, 2020, in this state by a health maintenance organization which provides coverage for organ transplants may not deny coverage for an organ transplant solely on the basis of a subscriber's disability. This section may not be construed to require such health maintenance organization to provide coverage for an organ transplant that is not medically necessary. For purposes of this section, the term "organ transplant" has the same meaning as in s. 765.523.

597-03516-20

20201556c1

175

Section 5. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 13, 2020

I respectfully request that **Senate Bill # 1556**, relating to Nondiscrimination in Organ Transplants, be placed on the:

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

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

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

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

02/27/2020

Meeting Date

1556

Bill Number (if applicable)

Topic Now disc Organ transplants

Amendment Barcode (if applicable)

Name Dixie Sanson

Job Title Lobbyist

Address PO Box 98

Phone 321-543-7195

Street

Cocoa,

City

FL

State

32923-0098

Zip

Email dixiesanson

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The Acc of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1628 (231978)

INTRODUCER: Appropriations Committee; (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senators Book, Hooper, Rader, and others

SUBJECT: Holocaust Education

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dew	Sikes	ED	Fav/CS
2.	Underhill	Elwell	AED	Recommend: Fav/CS
3.	Underhill	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1628 expands the required instruction associated with the history of the Holocaust. Specifically, the bill:

- Adds the policy against anti-Semitism to the required instruction on the history of the Holocaust.
- Requires each school district to annually certify and provide evidence to the Department of Education (DOE) that instructional requirements on the history of the Holocaust are met.
- Authorizes the DOE to use the State of Florida Resource Manuals on Holocaust Education or develop, as deemed appropriate, alternative or additional grade-appropriate curricula, training for instructional personnel, and classroom resources.
- Designates the second week in November as Holocaust Education Week.
- Requires the Commissioner of Education's Task Force on Holocaust Education to annually rank each school district on the efficacy of their Holocaust curriculum and instruction.

The bill does not have an impact on state revenues or expenditures. However, DOE may incur minimal costs associated with preparing grade-appropriate curricula, training and resources. In addition, the DOE may incur minimal costs associated with verifying that each district has met the requirements of the bill. Such costs can be absorbed by the DOE within existing resources.

The bill takes effect July 1, 2020.

II. Present Situation:

Required Instruction in Florida

Florida law specifies required standards and instruction for public school students. Instructional staff of public schools, subject to the rules of the State Board of Education and the district school board, are required by law to teach prescribed courses of study, including the following historical subject matter:¹

- The history and content of the Declaration of Independence, including national sovereignty, natural law, self-evident truth, equality of all persons, limited government, popular sovereignty, and inalienable rights of life, liberty, and property, and how they form the philosophical foundation of our government.
- The history of the United States, including the period of discovery, early colonies, the War for Independence, the Civil War, the expansion of the United States to its present boundaries, the world wars, and the civil rights movement to the present.
- The history of the Holocaust (1933-1945), the systematic, planned annihilation of European Jews and other groups by Nazi Germany, a watershed event in the history of humanity, to be taught in a manner that leads to an investigation of human behavior, an understanding of the ramifications of prejudice, racism, and stereotyping, and an examination of what it means to be a responsible and respectful person, for the purposes of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions.
- The history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society.

The History of the Holocaust

Florida Law was amended in 1994 to require instruction on the history of the Holocaust.² Florida school districts must report to the Commissioner of Education (commissioner), annually by July 1, details on the specific courses delivered for each grade level, as well as the materials and resources used, to deliver instruction for all required instruction, including the history of the Holocaust.³

The social studies standards for grades 9-12 World History⁴ and American History⁵ include standards on teaching about the Holocaust. These standards require students to be able to:

¹ Section 1003.42(2), F.S.

² Florida Department of Education, *Commission of Education's Task Force on Holocaust Education*, <http://www.fldoe.org/holocausteducation> (last visited Jan. 29, 2020). See s. 1003.42(2)(g), F.S.

³ Rule 6A-1.094124, F.A.C.

⁴ CPALMS, Standards, Social Studies, World History, SS.912.W.7.8, available at <https://www.cpalms.org/Public/PreviewStandard/Preview/3497> (last visited Jan. 29, 2020).

⁵ CPALMS, Standards, Social Studies, American History, SS.912.A.6.7, available at <https://www.cpalms.org/Public/PreviewStandard/Preview/3371> (last visited Jan. 30, 2020); CPALMS, Standards, Social Studies, American History, SS.912.A.6.3, available at <https://www.cpalms.org/Public/PreviewStandard/Preview/3367> (last visited Jan. 30, 2020).

- Explain the causes, events, and effects of the Holocaust (1933-1945) including its roots in the long tradition of anti-Semitism, nineteenth century ideas about race and nation, and Nazi dehumanization of the Jews and other victims.⁶
- Analyze the impact of the Holocaust during World War II on Jews as well as other groups.⁷

Commissioner's Task Force on Holocaust Education

The commissioner created the Commissioner's Task Force on Holocaust Education (task force) in 1994 with the core mission of promoting Holocaust education in Florida. The task force serves as an advisory group to the commissioner and coordinates Holocaust education activities in Florida school districts throughout the state on the commissioner's behalf.

The task force continues to pursue efforts to help teachers, school administrators, and other educators identify effective instructional strategies and materials for integrating Holocaust education in classrooms kindergarten through grade 12,⁸ including State of Florida Resource Manuals on Holocaust Education.

Discrimination Policy

The Florida Educational Equity Act prohibits discrimination against students and employees in the Florida K-20 public education system on the basis of criteria including race, ethnicity, national origin, and religion.⁹ Public K-20 educational institutions in Florida are required by law to treat discrimination by students or employees or resulting from institutional policies motivated by anti-Semitic intent in an identical manner to discrimination motivated by race.¹⁰

Examples of anti-Semitism include:¹¹

- Calling for, aiding, or justifying the killing or harming of Jews, often in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as a collective, especially, but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, the State of Israel, or even for acts committed by non-Jews.
- Accusing Jews as a people or the State of Israel of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or the alleged priorities of Jews worldwide, than to the interest of their own nations.

⁶ CPALMS, *supra* note 4.

⁷ Another related standard requires students to be able to describe the attempts to promote international justice through the Nuremberg Trials. CPALMS, *supra* note 5.

⁸ See Florida Department of Education, *supra* note 2.

⁹ Section 1000.05(1)-(2), F.S.

¹⁰ "Anti-Semitism" is defined as including a certain perception of the Jewish people, which may be expressed as hatred toward Jewish people, rhetorical and physical manifestation of anti-Semitism directed toward a person, his or her property, or toward Jewish community institutions or religious facilities. Section 1000.05(7), F.S.

¹¹ Section 1000.05(7)(a), F.S.

Examples of anti-Semitism related to Israel include:¹²

- Demonizing Israel by using the symbols and images associated with classic anti-Semitism to characterize Israel or Israelis, drawing comparisons of contemporary Israeli policy to that of the Nazis, or blaming Israel for all inter-religious or political tensions.
- Applying a double standard to Israel by requiring behavior of Israel that is not expected or demanded of any other democratic nation or focusing peace or human rights investigations only on Israel.
- Delegitimizing Israel by denying the Jewish people their right to self-determination and denying Israel the right to exist.

III. Effect of Proposed Changes:

The bill expands the required instruction associated with the history of the Holocaust. Specifically, the bill:

- Adds the policy against anti-Semitism to the required instruction on the history of the Holocaust.
- Requires each school district to annually certify and provide evidence to the DOE that instructional requirements on the history of the Holocaust are met.
- Authorizes the DOE to use the State of Florida Resource Manuals on Holocaust Education or develop, as deemed appropriate, alternative or additional grade-appropriate curricula.
- Designates the second week in November as Holocaust Education Week.
- Requires the Commissioner of Education's Task Force on Holocaust Education to annually rank each school district on the efficacy of their Holocaust curriculum and instruction.

In addition, the bill removes charter schools from the requirement to annually certify and provide evidence to the DOE, in a manner prescribed by the DOE, that the requirements on teaching and providing evidence of teaching the history of the Holocaust are met.

The requirements of the bill may assist school districts in providing required instruction on the history of the Holocaust and improve the quality of such instruction statewide.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹² Section 1000.05(7)(b), F.S.

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 DOE may incur minimal costs associated developing grade-appropriate curricula, training, and resources. In addition, the DOE may incur minimal costs associated with verifying that each district has met the requirements of the bill. However, such costs can be absorbed by the DOE within existing resources.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1003.42 of the Florida Statutes.

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

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

Recommended CS by Appropriation Subcommittee on Education on February 18, 2020:

The committee substitute makes the following changes to the bill:

- Replaces the requirement that the Department of Education (DOE) prepare and offer curriculum standards and the authorization for the DOE to work with the Florida

¹³ Email from Elizabeth Moya, Director of Legislative Affairs, Florida Department of Education (February 12, 2020) (on file with the Appropriations Subcommittee on Education).

Holocaust Museum and other state or nationally recognized Holocaust educational organizations with options to:

- Use the State of Florida Resource Manuals on Holocaust Education or develop such alternative or additional curricula as deemed appropriate by the DOE; and
- Work with the Commissioner of Education's Task Force on Holocaust Education to develop grade-appropriate curricula, training for instructional personnel, and classroom resources for the required instruction on the history of the Holocaust.
- Removes the requirement for charter schools to annually certify and provide evidence to the DOE, in a manner prescribed by the DOE, that the requirements on instruction in the history of the Holocaust are met.
- Designates the second week in November as Holocaust Education Week.
- Requires the Commissioner of Education's Task Force on Holocaust Education to annually rank each school district on their efficacy of their Holocaust curriculum and instruction.

CS by Education on February 10, 2020:

The committee substitute amends the required instruction associated with the history of the Holocaust to:

- Include the policy against anti-Semitism described in s. 1000.05(7).
- Require each school district and charter school to annually certify and provide evidence to the Department of Education (DOE), in a manner prescribed by the DOE, that the requirements of instruction on the history of the Holocaust are met.
- Require the DOE to prepare and offer curriculum standards for instruction on the history of the Holocaust.
- Authorize the DOE to work with state or nationally recognized Holocaust educational organizations in addition to the Florida Holocaust Museum to develop:
 - Grade-appropriate curricula;
 - Training for instructional personnel; and
 - Classroom resources for required instruction on the history of the Holocaust.

B. Amendments:

None.



360128

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
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The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Delete lines 37 - 56
and insert:
democratic values and institutions, including the policy
against, definition, and historical and current examples of
anti-Semitism, as described in s. 1000.05(7), and the prevention
of anti-Semitism. Each school district must annually certify and
provide evidence to the department, in a manner prescribed by
the department, that the requirements of this paragraph are met.



360128

The department shall prepare and offer standards and curriculum for the instruction required by this paragraph and may seek input from the Commissioner of Education's Task Force on Holocaust Education or from any state or nationally recognized Holocaust educational organization. The department may contract with the Commissioner of Education's Task Force on Holocaust Education and other entities, including the Holocaust Education Resource Council, Florida State University's Holocaust Institute for Educators, the Holocaust Memorial Resource and Education Center of Florida, the Holocaust Education and Documentation Center, Inc., Florida Atlantic University's Center for Holocaust and Human Rights Education, the University of Miami's Holocaust Teacher Institute, the Holocaust Museum and Janet G. and Harvey D. Cohen Education Center, the University of Florida Center for Jewish Studies, the Northeast Florida Center for Holocaust and Human Rights Education, and the Florida Holocaust Museum or other state or nationally recognized Holocaust educational organizations, to develop training for instructional personnel and grade-appropriate classroom resources to support the developed curriculum. The second week in November of each year must be recognized in the public K-20 education system as Holocaust Education Week, in commemoration of the anniversary of Kristallnacht, widely recognized as a precipitating event that led to the Holocaust.

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

And the title is amended as follows:

Delete lines 8 - 14

and insert:



360128

40 the department to work with a certain task force and
41 other entities for specified purposes; recognizing the
42 second week in November as Holocaust Education Week;
43 providing an effective date.



231978

576-03874-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to Holocaust education; amending s. 1003.42, F.S.; including the study of a specified policy against anti-Semitism in specified instruction; requiring each school district to annually certify and provide evidence to the department that certain instructional requirements have been met; authorizing the department to work with a certain task force for specified purposes; designating the second week in November as Holocaust Education Week; requiring the Department of Education to rank school districts based on the efficacy of their Holocaust curriculum and instruction; requiring the department to publish those rankings; providing an effective date.

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

Section 1. Paragraph (g) of subsection (2) of section 1003.42, Florida Statutes, is amended to read:

1003.42 Required instruction.—

(2) Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historical accuracy, following the prescribed courses of study, and employing approved methods of instruction, the following:



231978

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(g) The history of the Holocaust (1933-1945), the systematic, planned annihilation of European Jews and other groups by Nazi Germany, a watershed event in the history of humanity, to be taught in a manner that leads to an investigation of human behavior, an understanding of the ramifications of prejudice, racism, and stereotyping, and an examination of what it means to be a responsible and respectful person, for the purposes of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions, including the policy against anti-Semitism, as described in s. 1000.05(7). Each school district must annually certify and provide evidence to the department, in a manner prescribed by the department, that the requirements of this paragraph are met. The department may use the State of Florida Resource Manuals on Holocaust Education or may develop such alternative or additional curricula as deemed appropriate by the department. The department may work with the Commissioner of Education's Task Force on Holocaust Education to develop grade-appropriate curricula, training for instructional personnel, and classroom resources for the instruction required by this paragraph. The second week in November shall be designated as Holocaust Education Week, in recognition that November is the anniversary of Kristallnacht, widely recognized as a precipitating event that led to the Holocaust. The Commissioner of Education's Task Force on Holocaust Education shall rank yearly all school districts based on the efficacy of their Holocaust curriculum and instruction. The rankings shall be published yearly by the Department of Education and made available to the public.



231978

576-03874-20

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The State Board of Education is encouraged to adopt standards and pursue assessment of the requirements of this subsection. A character development program that incorporates the values of the recipients of the Congressional Medal of Honor and that is offered as part of a social studies, English Language Arts, or other schoolwide character building and veteran awareness initiative meets the requirements of paragraphs (s) and (t).

Section 2. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1628

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senators Book, Hooper, Rader, and others

SUBJECT: Holocaust Education

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dew	Sikes	ED	Fav/CS
2.	Underhill	Elwell	AED	Recommend: Fav/CS
3.	Underhill	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1628 expands the required instruction associated with the history of the Holocaust. Specifically, the bill:

- Adds the policy against anti-Semitism to the required instruction on the history of the Holocaust.
- Requires each school district to annually certify and provide evidence to the Department of Education (DOE) that instructional requirements on the history of the Holocaust are met.
- Authorizes the DOE to prepare and offer standards and curriculum for the required instruction on the history of the Holocaust.
- Authorizes the DOE to contract with the Commissioner of Education's Task Force on Holocaust Education and other entities to develop training for instructional personnel and grade-appropriate classroom resources to support the developed curriculum.
- Designates the second week in November as Holocaust Education Week.

The bill does not have an impact on state revenues or expenditures. However, the DOE may incur minimal costs associated with preparing grade-appropriate curricula, training and resources. In addition, the DOE may incur minimal costs associated with verifying that each district has met the requirements of the bill. Such costs can be absorbed by the DOE within existing resources.

The bill takes effect July 1, 2020.

II. Present Situation:

Required Instruction in Florida

Florida law specifies required standards and instruction for public school students. Instructional staff of public schools, subject to the rules of the State Board of Education and the district school board, are required by law to teach prescribed courses of study, including the following historical subject matter:¹

- The history and content of the Declaration of Independence, including national sovereignty, natural law, self-evident truth, equality of all persons, limited government, popular sovereignty, and inalienable rights of life, liberty, and property, and how they form the philosophical foundation of our government.
- The history of the United States, including the period of discovery, early colonies, the War for Independence, the Civil War, the expansion of the United States to its present boundaries, the world wars, and the civil rights movement to the present.
- The history of the Holocaust (1933-1945), the systematic, planned annihilation of European Jews and other groups by Nazi Germany, a watershed event in the history of humanity, to be taught in a manner that leads to an investigation of human behavior, an understanding of the ramifications of prejudice, racism, and stereotyping, and an examination of what it means to be a responsible and respectful person, for the purposes of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions.
- The history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society.

The History of the Holocaust

Florida Law was amended in 1994 to require instruction on the history of the Holocaust.² Florida school districts must report to the Commissioner of Education (commissioner), annually by July 1, details on the specific courses delivered for each grade level, as well as the materials and resources used, to deliver instruction for all required instruction, including the history of the Holocaust.³

The social studies standards for grades 9-12 World History⁴ and American History⁵ include standards on teaching about the Holocaust. These standards require students to be able to:

¹ Section 1003.42(2), F.S.

² Florida Department of Education, *Commission of Education's Task Force on Holocaust Education*, <http://www.fldoe.org/holocausteducation> (last visited Jan. 29, 2020). See s. 1003.42(2)(g), F.S.

³ Rule 6A-1.094124, F.A.C.

⁴ CPALMS, Standards, Social Studies, World History, SS.912.W.7.8, available at <https://www.cpalms.org/Public/PreviewStandard/Preview/3497> (last visited Jan. 29, 2020).

⁵ CPALMS, Standards, Social Studies, American History, SS.912.A.6.7, available at <https://www.cpalms.org/Public/PreviewStandard/Preview/3371> (last visited Jan. 30, 2020); CPALMS, Standards, Social Studies, American History, SS.912.A.6.3, available at <https://www.cpalms.org/Public/PreviewStandard/Preview/3367> (last visited Jan. 30, 2020).

- Explain the causes, events, and effects of the Holocaust (1933-1945) including its roots in the long tradition of anti-Semitism, nineteenth century ideas about race and nation, and Nazi dehumanization of the Jews and other victims.⁶
- Analyze the impact of the Holocaust during World War II on Jews as well as other groups.⁷

Commissioner's Task Force on Holocaust Education

The commissioner created the Commissioner's Task Force on Holocaust Education (task force) in 1994 with the core mission of promoting Holocaust education in Florida. The task force serves as an advisory group to the commissioner and coordinates Holocaust education activities in Florida school districts throughout the state on the commissioner's behalf.

The task force continues to pursue efforts to help teachers, school administrators, and other educators identify effective instructional strategies and materials for integrating Holocaust education in classrooms kindergarten through grade 12,⁸ including State of Florida Resource Manuals on Holocaust Education.

Discrimination Policy

The Florida Educational Equity Act prohibits discrimination against students and employees in the Florida K-20 public education system on the basis of criteria including race, ethnicity, national origin, and religion.⁹ Public K-20 educational institutions in Florida are required by law to treat discrimination by students or employees or resulting from institutional policies motivated by anti-Semitic intent in an identical manner to discrimination motivated by race.¹⁰

Examples of anti-Semitism include:¹¹

- Calling for, aiding, or justifying the killing or harming of Jews, often in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as a collective, especially, but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, the State of Israel, or even for acts committed by non-Jews.
- Accusing Jews as a people or the State of Israel of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or the alleged priorities of Jews worldwide, than to the interest of their own nations.

⁶ CPALMS, *supra* note 4.

⁷ Another related standard requires students to be able to describe the attempts to promote international justice through the Nuremberg Trials. CPALMS, *supra* note 5.

⁸ See Florida Department of Education, *supra* note 2.

⁹ Section 1000.05(1)-(2), F.S.

¹⁰ "Anti-Semitism" is defined as including a certain perception of the Jewish people, which may be expressed as hatred toward Jewish people, rhetorical and physical manifestation of anti-Semitism directed toward a person, his or her property, or toward Jewish community institutions or religious facilities. Section 1000.05(7), F.S.

¹¹ Section 1000.05(7)(a), F.S.

Examples of anti-Semitism related to Israel include:¹²

- Demonizing Israel by using the symbols and images associated with classic anti-Semitism to characterize Israel or Israelis, drawing comparisons of contemporary Israeli policy to that of the Nazis, or blaming Israel for all inter-religious or political tensions.
- Applying a double standard to Israel by requiring behavior of Israel that is not expected or demanded of any other democratic nation or focusing peace or human rights investigations only on Israel.
- Delegitimizing Israel by denying the Jewish people their right to self-determination and denying Israel the right to exist.

III. Effect of Proposed Changes:

The bill expands the required instruction associated with the history of the Holocaust. Specifically, the bill:

- Adds the policy against anti-Semitism to the required instruction on the history of the Holocaust.
- Requires each school district to annually certify and provide evidence to the DOE that instructional requirements on the history of the Holocaust are met.
- Authorizes the DOE to prepare and offer standards and curriculum for the required instruction on the history of the Holocaust.
- Designates the second week in November as Holocaust Education Week.
- Authorizes the DOE to contract with the Commissioner of Education's Task Force on Holocaust Education and other entities to develop training for instructional personnel and grade-appropriate classroom resources to support the developed curriculum.

The bill expands the list of entities the DOE may contract with in developing training for instructional personnel and grade-appropriate classroom resources to include, in addition to other state or nationally recognized Holocaust educational organizations:

- The Holocaust Education Resource Council;
- Florida State University's Holocaust Institute for Educators;
- The Holocaust Memorial Resource and Education Center of Florida;
- The Holocaust Education and Documentation Center, Inc.;
- Florida Atlantic University's Center for Holocaust and Human Rights Education;
- The University of Miami's Holocaust Teacher Institute;
- The Holocaust Museum and Janet G. and Harvey D. Cohen Education Center;
- The University of Florida Center for Jewish Studies;
- The Northeast Florida Center for Holocaust and Human Rights Education; and
- The Florida Holocaust Museum.

The requirements of the bill may assist school districts in providing required instruction on the history of the Holocaust and improve the quality of such instruction statewide.

The bill takes effect July 1, 2020.

¹² Section 1000.05(7)(b), F.S.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOE may incur minimal costs associated with developing grade-appropriate curricula, training, and resources. In addition, the DOE may incur minimal costs associated with verifying that each district has met the requirements of the bill. However, such costs can be absorbed by the DOE within existing resources.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹³ Email from Elizabeth Moya, Director of Legislative Affairs, Florida Department of Education (Feb. 12, 2020) (on file with the Appropriations Subcommittee on Education).

VIII. Statutes Affected:

This bill substantially amends section 1003.42 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on February 27, 2020:

The committee substitute makes the following changes to the bill:

- Specifies that the policy against anti-Semitism includes the definition of anti-Semitism and historical and current examples, and the prevention of anti-Semitism.
- Requires that the Department of Education (DOE) prepare and offer curriculum standards.
- Expands the list of entities the DOE may contract with in developing training for instructional personnel and grade-appropriate classroom resources to support the developed curriculum to include:
 - The Holocaust Education Resource Council;
 - Florida State University's Holocaust Institute for Educators;
 - The Holocaust Memorial Resource and Education Center of Florida;
 - The Holocaust Education and Documentation Center, Inc.;
 - Florida Atlantic University's Center for Holocaust and Human Rights Education;
 - The University of Miami's Holocaust Teacher Institute;
 - The Holocaust Museum and Janet G. and Harvey D. Cohen Education Center;
 - The University of Florida Center for Jewish Studies;
 - The Northeast Florida Center for Holocaust and Human Rights Education; and
 - The Florida Holocaust Museum; or
 - Other state or nationally recognized Holocaust educational organizations.
- Removes the requirement that the Commissioner of Education's Task Force on Holocaust Education annually rank all school districts on the efficacy of each school district's Holocaust curriculum and instruction.

CS by Education on February 10, 2020:

The committee substitute amends the required instruction associated with the history of the Holocaust to:

- Include the policy against anti-Semitism described in s. 1000.05(7).
- Require each school district and charter school to annually certify and provide evidence to the Department of Education (DOE), in a manner prescribed by the DOE, that the requirements of instruction on the history of the Holocaust are met.
- Require the DOE to prepare and offer curriculum standards for instruction on the history of the Holocaust.
- Authorize the DOE to work with state or nationally recognized Holocaust educational organizations in addition to the Florida Holocaust Museum to develop:
 - Grade-appropriate curricula;
 - Training for instructional personnel; and
 - Classroom resources for required instruction on the history of the Holocaust.

B. Amendments:

None.

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

By the Committee on Education; and Senators Book, Hooper, Rader, Berman, and Cruz

581-03382-20

20201628c1

A bill to be entitled

An act relating to Holocaust education; amending s. 1003.42, F.S.; including the study of a specified policy against anti-Semitism in specified instruction; providing school district, charter school, and Department of Education requirements relating to such instruction; authorizing the department to work with certain Holocaust educational organizations for specified purposes relating to the required instruction; providing an effective date.

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

Section 1. Paragraph (g) of subsection (2) of section 1003.42, Florida Statutes, is amended to read:

1003.42 Required instruction.—

(2) Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historical accuracy, following the prescribed courses of study, and employing approved methods of instruction, the following:

(g) The history of the Holocaust (1933-1945), the systematic, planned annihilation of European Jews and other groups by Nazi Germany, a watershed event in the history of humanity, to be taught in a manner that leads to an investigation of human behavior, an understanding of the ramifications of prejudice, racism, and stereotyping, and an

Page 1 of 2

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

581-03382-20

20201628c1

examination of what it means to be a responsible and respectful person, for the purposes of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions, including the policy against anti-Semitism, as described in s. 1000.05(7). Each school district and charter school must annually certify and provide evidence to the department, in a manner prescribed by the department, that the requirements of this paragraph are met. The department shall prepare and offer curriculum standards for the instruction required by this paragraph and may work with the Florida Holocaust Museum and other state or nationally recognized Holocaust educational organizations to develop grade-appropriate curricula, training for instructional personnel, and classroom resources for the instruction required by this paragraph.

The State Board of Education is encouraged to adopt standards and pursue assessment of the requirements of this subsection. A character development program that incorporates the values of the recipients of the Congressional Medal of Honor and that is offered as part of a social studies, English Language Arts, or other schoolwide character building and veteran awareness initiative meets the requirements of paragraphs (s) and (t).

Section 2. This act shall take effect July 1, 2020.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Children, Families, and Elder Affairs, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health and Human
Services
Health Policy
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR LAUREN BOOK

32nd District

February 19, 2020

Chair Rob Bradley
Committee on Appropriations
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Bradley:

I respectfully request that **CS/SB 1628—Holocaust Education** be placed on the agenda for the next Committee on Appropriations meeting, if received.

Should you have any questions or concerns, please feel free to contact my office or me. Thank you in advance for your consideration.

Thank you,

A handwritten signature in cursive script that reads "Lauren Book".

Senator Lauren Book
Senate District 32

Cc: Cynthia Sauls Kynoch, Staff Director
Alicia Weiss, Administrative Assistant

REPLY TO:

- ☐ 967 Nob Hill Road, Plantation, Florida 33324 (954) 424-6674
- ☐ 202 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2.27.20

Meeting Date

1628

Bill Number (if applicable)

Topic

Holocaust

Amendment Barcode (if applicable)

Name

Magda Bader

Job Title

Holocaust Survivor

Address

Aventura FL

Phone

-

Street

Email

Rosi.Haghdadec.org

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Survivors of the Holocaust

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2-27-20

Meeting Date

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

1628

Bill Number (if applicable)

Topic Holocaust

Amendment Barcode (if applicable)

Name Rositta Nenigberg

Job Title President, Holocaust ~~History~~ Documentation and Education Ctr

Address 520 Holiday Drive

Phone 305-778-5335

Street

Hallandale Beach 33009

City

State

Zip

Email Rositta@hdec.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Holocaust Documentation Education Center

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-20

Meeting Date

1628

Bill Number (if applicable)

310128

Amendment Barcode (if applicable)

Topic _____

Name Mark Anderson

Job Title Lobbyist

Address 110 S Monroe St
Street

Phone 813-205-0658

Tallahassee
City

FL
State

32301
Zip

Email Mark@consultanderson.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing The Florida Holocaust Museum

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-20

Meeting Date

1628

Bill Number (if applicable)

360128

Amendment Barcode (if applicable)

Topic Holocaust

Name Steve Geller

Job Title Past Chairman of Board, Holocaust Ed. Center

Address 110 E. Broward Blvd. 17th Floor

Street

FT. Lauderdale, FL 33301

City

State

Zip

Phone 954-315-3926

Email Steve@GellaLawFirm.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Holocaust Documentation & Education Center

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

02-27-2020

Meeting Date

SB1628

Bill Number (if applicable)

Topic Holocaust Education

Amendment Barcode (if applicable)

Name Amy Datz

Job Title Activist

Address _____

Street

Tallahassee, FL

City

State

Zip

Phone (850) 322-7599

Email amalie.datz@mac.com

Speaking: ☒ For ☐ Against ☒ Information

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

Representing Self.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-20

Meeting Date

1628

Bill Number (if applicable)

Topic Death Camps

Amendment Barcode (if applicable)

Name Greg Pound

Job Title Saving Families

Address 9166 Sunrise

Phone _____

Street

Largo

City

FL.

State

33773

Zip

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Saving Families

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1742

INTRODUCER: Appropriations Committee and Senators Mayfield and Bean

SUBJECT: Home Medical Equipment Providers

DATE: March 2, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Looke	Brown	HP	Favorable
2. McKnight	Kidd	AHS	Recommend: Favorable
3. McKnight	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1742 amends section 400.93, Florida Statutes, to exempt physicians licensed under chapter 458 and 459, Florida Statutes, and chiropractic physicians licensed under chapter 460, Florida Statutes, from the requirement to be licensed as a home medical equipment provider, in order to sell or rent electrostimulation medical equipment and supplies to their own patients in the course of their practice.

The bill may have an insignificant fiscal impact on the Agency for Health Care Administration.

The bill takes effect on July 1, 2020.

II. Present Situation:

Home Medical Equipment Providers

Part VII of ch. 400, F.S., requires the Agency for Health Care Administration (AHCA) to license and regulate any person or entity that holds itself out to the public as performing any of the following functions:

- Providing home medical equipment¹ and services;²
- Accepting physician orders for home medical equipment and services; or
- Providing home medical equipment that typically requires home medical services.³

The following are exempt from the licensure requirement for home medical equipment providers:⁴

- Providers operated by the Department of Health (DOH) or the federal government;
- Nursing homes;
- Assisted living facilities;
- Home health agencies;
- Hospices;
- Intermediate care facilities;
- Transitional living facilities;
- Hospitals;
- Ambulatory surgical centers;
- Manufacturers and wholesale distributors when not sell directly to the consumer;
- Licensed health care practitioners who utilize home medical equipment in the course of their practice but do not sell or rent home medical equipment to their patients; and
- Pharmacies.

Currently, there are 1,167 licensed home medical equipment providers, including those providers that are located out of the state but hold a Florida license.⁵

Any person or entity applying for a license as a home medical equipment provider must provide the AHCA with:

- A report of the medical equipment that will be provided, indicating whether it will be provided directly or by contract;
- A report of the services that will be provided, indicating whether the services will be provided directly or by contract;
- A list of the persons and entities with whom they contract;
- Documentation of accreditation, or an application for accreditation, from an organization recognized by the AHCA;⁶
- Proof of liability insurance; and

¹ Defined in s. 400.925, F.S., as any product as defined by the federal Food and Drug Administration's Drugs, Devices and Cosmetics Act, any products reimbursed under the Medicare Part B Durable Medical Equipment benefits, or any products reimbursed under the Florida Medicaid durable medical equipment program. Home medical equipment includes oxygen and related respiratory equipment; manual, motorized, or customized wheelchairs and related seating and positioning, but does not include prosthetics or orthotics or any splints, braces, or aids custom fabricated by a licensed health care practitioner; motorized scooters; personal transfer systems; and specialty beds, for use by a person with a medical need.

² Defined in s. 400.925, F.S., as equipment management and consumer instruction, including selection, delivery, set-up, and maintenance of equipment, and other related services for the use of home medical equipment in the consumer's regular or temporary place of residence.

³ Section 400.93(1) and (2), F.S.

⁴ Section 400.93(5), F.S.

⁵ See AHCA, Florida Health Finder, *Home Health Care in Florida*, (printed list of home medical equipment providers on file with the Senate Committee on Health Policy).

⁶ Accreditation must be achieved and maintained to maintain licensure.

- A \$300 application fee and a \$400 inspection fee, unless exempt from inspection.⁷

As a requirement of licensure, home medical equipment providers must comply with a number of minimum standards including, but not limited to:

- Offering and providing home medical equipment and services, as necessary, to consumers who purchase or rent any equipment that requires such services;
- Providing at least one category of equipment directly from their own inventory;
- Responding to orders for other equipment from either their own inventory or from the inventory of other contracted companies;
- Maintaining trained personnel to coordinate orders and scheduling of equipment and service deliveries;
- Ensuring that their delivery personnel are appropriately trained;
- Ensuring that patients are aware of their service hours and emergency service procedures;
- Answering any questions or complaints a consumer has about an item or the use of an item;
- Maintaining and repairing, either directly or through contract, items rented to consumers;
- Maintaining a safe premises;
- Preparing and maintaining a comprehensive emergency management plan that must be updated annually and provide for continuing home medical equipment services for life-supporting or life-sustaining equipment during an emergency;
- Maintaining a prioritized list of patients who need continued services during an emergency;⁸
- Complying with the AHCA rules on minimum qualifications for personnel, including ensuring that all personnel have the necessary training and background screening;⁹ and
- Maintaining a record for each patient that includes the equipment and services the provider has provided and which must contain:
 - Any physician's order or certificate of medical necessity;
 - Signed and dated delivery slips;
 - Notes reflecting all services, maintenance performed, and equipment exchanges;
 - The date on which rental equipment was retrieved; and,
 - Any other appropriate information.¹⁰

Licensed home medical equipment providers are subject to periodic inspections, including biennial licensure inspections, inspections directed by the federal Centers for Medicare and Medicaid Services, and licensure complaint investigations. A home medical equipment provider may submit a survey or inspection by an accrediting organization in lieu of a licensure inspection if the provider's accreditation is not provisional and the AHCA receives a report from the accrediting organization. A copy of a valid medical oxygen retail establishment permit issued by the DOH may also be submitted in lieu of a licensure inspection.¹¹

⁷ Section 400.931, F.S.

⁸ Section 400.934, F.S.

⁹ AHCA, Rule 59A-25.004, F.A.C. All home medical equipment provider personnel are also subject to a level 2 background screening per s. 400.953, F.S.

¹⁰ Section 400.94, F.S.

¹¹ Section 400.933, F.S.

Electrostimulation Medical Equipment

Devices that provide electrical stimulation can be used medically to treat a number of symptoms and conditions. Electrical stimulators can provide direct, alternating, pulsed, and pulsed waveforms of energy to the human body through electrodes that may be indwelling, implanted in the skin, or used on the surface of the skin.¹² Such devices may be used to exercise muscles, demonstrate a muscular response to stimulation of a nerve, relieve pain, relieve incontinence, and provide test measurements.¹³

Functional electrical stimulation (FES), also known as therapeutic electrical stimulation (TES), is used to prevent or reverse muscular atrophy and bone loss by stimulating paralyzed limbs. FES is designed to be used as a part of a self-administered, home-based rehabilitation program for the treatment of upper limb paralysis. An FES system consists of a custom-fitted device and control unit that allows the user to adjust the stimulation intensity and a training mode that can be gradually increased to avoid muscle fatigue.¹⁴

A second type of electrical stimulation is Transcutaneous Electrical Nerve Stimulation, or TENS. TENS is the application of electrical current through electrodes placed on the skin for pain control. It has been used to treat a variety of painful conditions, but there is “much controversy over which conditions to treat with TENS and the adequate parameters to use.”¹⁵ Despite this controversy, there is some clinical evidence that TENS is able to relieve certain types of pain and “experimental pain studies and clinical trials are beginning to refine parameters of stimulation to obtain the best pain relief.”¹⁶ For example, studies have shown that TENS increases the pressure and heat pain thresholds in people who are healthy and reduces mechanical and heat hyperalgesia in arthritic animals.¹⁷

Other types of electrical stimulation include interferential therapy (IFT) and neuromuscular electrical stimulation (NMES). IFT uses two alternating currents simultaneously applied to the affected area through electrodes and which is proposed to relieve musculoskeletal pain and increase healing in soft tissue injuries and bone fractures. NMES involves the application of electrical currents through the skin to cause muscle contractions and is used to promote the restoration of nerve supply, prevent or slow atrophy, relax muscle spasms, and to promote voluntary control of muscles in patients who have lost muscle function.¹⁸

¹² United Healthcare Medical Policy, *Electrical Stimulation for the Treatment of Pain and Muscle Rehabilitation*, p. 4, (January 1, 2020) <https://www.uhcprovider.com/content/dam/provider/docs/public/policies/comm-medical-drug/electrical-stimulation-treatment-pain-muscle-rehabilitation.pdf> (last visited Jan. 23, 2020).

¹³ *Id.*

¹⁴ *Supra* note 12.

¹⁵ Effectiveness of Transcutaneous Electrical Nerve Stimulation for Treatment of Hyperalgesia and Pain, *Curr Rheumatol Rep. Dec 2008; 10(6): 492–499* <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2746624/> (last visited Jan. 23, 2020).

¹⁶ *Id.*

¹⁷ Effects of Transcutaneous Electrical Nerve Stimulation on Pain, Pain Sensitivity, and Function in People with Knee Osteoarthritis: A Randomized Controlled Trial, *Physical Therapy 2012 Jul; 92(7): 898–910*. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3386514/>, (last visited Jan. 23, 2020).

¹⁸ *Supra* note 12.

III. Effect of Proposed Changes:

The bill amends s. 400.93, F.S., to exempt physicians licensed under chs. 458 and 459, F.S., and chiropractic physicians licensed under ch. 460, F.S., from the requirement to be licensed as a home medical equipment provider in order to sell or rent electrostimulation medical equipment and supplies to their own patients in the course of their practice.

The bill has an effective date of July 1, 2020.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

Physicians exempted under CS/SB 1742 may see a positive fiscal impact due to no longer having to pay licensure and inspection fees or meet the licensure requirements of part VII of ch. 400, F.S.

C. Government Sector Impact:

The AHCA may experience a negative, but likely insignificant, fiscal impact due to fewer licensed home medical equipment providers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 400.93 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 Appropriations on February 27, 2020:

The committee substitute makes a technical change to specify the exemption applies to physicians licensed under ch. 458, ch. 459, or ch. 460 (rather than physicians licensed under ch. 458 or ch. 459 and chiropractic physicians licensed under ch. 460).

B. Amendments:

None.



808052

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Mayfield) recommended the following:

Senate Amendment

Delete lines 21 - 22
and insert:

(1) Physicians licensed under chapter 458, chapter 459, or
chapter 460 for the

By Senator Mayfield

17-01545-20

20201742__

A bill to be entitled

An act relating to home medical equipment providers;
amending s. 400.93, F.S.; exempting allopathic,
osteopathic, and chiropractic physicians who sell or
rent electrostimulation medical equipment and supplies
in the course of their practice from certain licensure
requirements; providing an effective date.

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

Section 1. Paragraph (1) is added to subsection (5) of
section 400.93, Florida Statutes, to read:

400.93 Licensure required; exemptions; unlawful acts;
penalties.—

(5) The following are exempt from home medical equipment
provider licensure, unless they have a separate company,
corporation, or division that is in the business of providing
home medical equipment and services for sale or rent to
consumers at their regular or temporary place of residence
pursuant to the provisions of this part:

(1) Physicians licensed under chapter 458 or chapter 459
and chiropractic physicians licensed under chapter 460 for the
sale or rental of electrostimulation medical equipment and
electrostimulation medical equipment supplies to their patients
in the course of their practice.

Section 2. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Agriculture,
Environment, and General Government, *Chair*
Children, Families, and Elder Affairs, *Vice Chair*
Appropriations
Environment and Natural Resources
Health Policy

SENATOR DEBBIE MAYFIELD

17th District

February 18, 2020

The Honorable Rob Bradley
Chairman, Appropriations Committee
414 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

RE: SB 1742

Dear Chairman Bradley,

I am respectfully requesting Senate Bill 1742, a bill relating to Home Medical Equipment Providers, be placed on the agenda for your Committee on Appropriations.

I appreciate your consideration of this bill and I look forward to working with you and the Appropriations Committee. If there are any questions or concerns, please do not hesitate to call my office at 850-487-5017

Thank you,



Senator Debbie Mayfield
District 17

Cc; Cynthia Sauls Kynoch, Jamie Deloach, Ross McSwain, John Shettle and Alicia Weiss

REPLY TO:

- ☐ 900 East Strawbridge Avenue, Melbourne, Florida 32901 (321) 409-2025 FAX: (888) 263-3815
- ☐ 1801 27th Street, Vero Beach, Florida 32960 (772) 226-1970
- ☐ 322 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

27 FEB 2020

Meeting Date

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

SB 1742

Bill Number (if applicable)

Topic TENS Unit Dispensing HME's

Amendment Barcode (if applicable)

Name JACK HEBERT

Job Title GOV'T AFFAIRS DIR.

Address 2655 ULMERTON RD #276

Phone 727-560-3323

Street

CLEARWATER FL 33762

City

State

Zip

Email JACK@FCACHIRO.ORG

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA CHIROPRACTIC ASSN.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 1784 (776336)

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

SUBJECT: Vocational Rehabilitation Services

DATE: February 26, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Sikes	ED	Favorable
2.	Underhill	Elwell	AED	Recommend: Fav/CS
3.	Underhill	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1784 aligns Florida law with federal requirements for state vocational rehabilitation programs to provide preemployment transition services for eligible individuals with a disability who are between 14 and 21 years of age. Specifically, the bill:

- Clarifies that vocational rehabilitation services include preemployment transition services.
- Expands requirements for the Division of Vocational Rehabilitation (VR) to cooperate with other agencies in coordinating preemployment transition plan services for eligible students.
- Modifies the requirements of the assessment performed by the Florida Rehabilitation Council to include an analysis of the alignment of preemployment transitions services with labor market demands.
- Enhances the required annual performance report provided by the VR by requiring the report to include the timeframes for handling cases, the uses of matching federal funds, and preemployment transition services data.
- Modifies the membership of the Florida Rehabilitation Council and expands the Council's scope of review.
- Modifies provisions related to The Able Trust, including clarifying that administrative costs are based on actual expenditures in any fiscal year, adds the Director of VR, or his or her designee, as an ex officio member of the board, and revises board member terms.

The bill has no impact on state revenues or expenditures. See Section V.

The bill takes effect on July 1, 2020.

II. Present Situation:

According to the 2018 U.S. Census Bureau American Community Survey, approximately 2.7 million individuals with a disability live in Florida, representing over 13 percent of the state's population.¹ Ten percent of the state's working age population, ages 18-64, is composed of individuals with a disability.² Individuals with a disability have an unemployment rate of twice the state average and may be eligible for vocational rehabilitation services.³

Vocational rehabilitation is a federal-state program that helps people who have a physical or mental disability get or keep a job.⁴ The Rehabilitation Services Administration (RSA) within the U.S. Department of Education oversees and administers the program and provides funds to state agencies for these services.⁵ In Fiscal Year 2019, the vocational rehabilitation program in Florida received 78.7 percent of its funding, or \$161,156,579, through a grant from the RSA. The remaining 21.3 percent of the costs, or \$43,616,711, were funded by other state appropriations.⁶

The Florida Division of Vocational Rehabilitation

The Division of Vocational Rehabilitation (VR) within the Department of Education (DOE) administers the vocational rehabilitation program in Florida. The VR provides services to help individuals with a disability find, advance in, or retain employment, and provides services to youth and students with a disability to aid in the transition from high school to a meaningful career path.⁷ In the 2018-2019 fiscal year, VR served 48,439 individuals, including 26,086 customers who were between the ages of 14 through 21.⁸

An individual with a disability⁹ is presumed eligible for vocational rehabilitation services if the person requires rehabilitation services to prepare for, enter, engage in, or retain gainful employment.¹⁰ After determining eligibility, the VR must complete an assessment to determine

¹ U.S. Census Bureau, *Florida 2018: ACS 5-Year Estimates Data*, available at <https://data.census.gov/cedsci/table?q=&d=ACS%205-Year%20Estimates%20Data%20Profiles&table=DP02&tid=ACSDP5Y2018.DP02&y=2018&g=0400000US12&lastDisplayedRow=104> (last visited Jan. 28, 2020).

² U.S. Census Bureau, *supra* note 1.

³ Florida Department of Education, Division of Vocational Rehabilitation, *2018-2019 Annual Report* (2019), available at <http://www.rehabworks.org/rehab/AnnualReport19.pdf>, at 6.

⁴ Florida Division of Vocational Rehabilitation, *Frequently Asked Questions*, <http://www.rehabworks.org/faq.shtml> (last visited Jan. 28, 2020).

⁵ U.S. Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, *RSA's mission*, <https://rsa.ed.gov/> (last visited Jan. 28, 2020).

⁶ Florida Department of Education, Division of Vocational Rehabilitation, *2018-2019 Annual Report* (2019), available at <http://www.rehabworks.org/rehab/AnnualReport19.pdf>, at 8.

⁷ *Id.* at 6.

⁸ *Id.* at 10.

⁹ Disability means "a physical or mental impairment that constitutes or results in a substantial impediment to employment." Section 413.20(7), F.S.

¹⁰ Section 413.30(1), F.S.

rehabilitation needs and ensure that an individualized plan for employment (IPE)¹¹ is prepared.¹² The IPE must be designed to achieve the specific employment outcome of the individual and may include services such as vocational evaluation and planning, career counseling and guidance, job-site assessment and accommodations, job placement, job coaching, and on-the-job training.¹³

The VR is only required to provide services to the extent they are funded by the Legislature. All individuals eligible for services are placed in categories on a prioritized waiting list based on the significance of their disability.¹⁴ Categories include:

- Category 1, comprised of individuals with the most significant disabilities;
- Category 2, comprised of individuals with a significant disability; and
- Category 3, comprised of individuals with a disability.

In the 2018-2019 fiscal year, the VR served 26,744 individuals in category 1, and, as of June 30, 2019, had a waiting list of 300 individuals in category 3.¹⁵

The RSA issued a 2017 monitoring report on the Florida Division of Vocational Rehabilitation. The report identified findings and observations related to: non-compliance with eligibility and employment plan development within the required federal time frames; match requirements; a lower percentage of youth with disabilities exiting with employment compared to similar agencies; and the lack of a state educational agreement that meets the requirements prescribed in law.¹⁶

The Florida Rehabilitation Council

The Florida Rehabilitation Council (Council) is responsible for assisting the VR in the planning and development of statewide rehabilitation programs and services, recommending improvements to such programs and services, and performing other statutory directives as required.¹⁷ Members of the Council are appointed by the Governor and must include current or former applicants for, or recipients of, vocational rehabilitation services.¹⁸

¹¹ An individualized plan for employment includes a “comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services.” Section 413.20(3), F.S.

¹² See Section 413.30(4)-(5), F.S.

¹³ Florida Department of Education, Division of Vocational Rehabilitation, *Frequently Asked Questions*, <http://www.rehabworks.org/faq.shtml> (last visited Jan. 28, 2020).

¹⁴ Section 413.731, F.S.

¹⁵ Florida Department of Education, Division of Vocational Rehabilitation, *2018-2019 Annual Report* (2019), at 10, available at <http://www.rehabworks.org/rehab/AnnualReport19.pdf?id=1>.

¹⁶ U.S. Department of Education, Office of Special Education and Rehabilitative Services Rehabilitation Services Administration, *Fiscal Year 2017 Monitoring Report on the Florida Division of Vocational Rehabilitation-Vocational Rehabilitation and Support Employment Programs* (April 12, 2018), available at <https://www2.ed.gov/rschstat/eval/rehab/107-reports/fy2017-fl-g.pdf>.

¹⁷ Section 413.405, F.S.

¹⁸ Section 413.405(1), F.S.

The Council must also consult with the board of directors of CareerSource Florida, Inc.,¹⁹ in carrying out its functions, including the duty to conduct a review and analysis of:²⁰

- The functions performed by state agencies and other public and private entities responsible for providing services for individual who have a disability.
- Vocational rehabilitation services.
- The employment outcomes achieved by eligible individuals receiving vocational rehabilitation services, including the availability of health or other employment benefits in connection with those employment outcomes.

The Able Trust

To encourage public and private support to enhance vocational rehabilitation and employment of Florida's disabled population, the Legislature established the Florida Endowment Foundation for Vocational Rehabilitation, also known as The Able Trust, as a direct support organization for the Division of Vocational Rehabilitation.²¹ A board of directors, appointed by the Governor, oversees the operations of The Able Trust and ensures that funds are provided for programs or initiatives that engage in the research, promotion, or aid of job training and counseling for Florida's disabled citizens.²²

In June 2019, the Florida Department of Education's Office of Inspector General (OIG) conducted an audit of the Able Trust's administrative costs. The OIG found that The Able Trust misinterpreted the statute related to administrative costs, which could lead to inaccurate reporting of costs and noncompliance. The OIG recommended that The Able Trust enhance its procedures to ensure administrative costs are only paid from private resources and up to the prescribed percentage of the interest and earning on the endowment principal pursuant to s.413.615(9)(j), F.S. The OIG also recommended that the statutory language should be changed from "calendar year" to "fiscal year" and from "estimated expenditures" to "actual expenditures," to align the language in the statute with The Able Trust's operations.²³

Preemployment Transition Services

Eligibility for Preemployment Transition Services

The Workforce Innovation and Opportunity Act of 2014 (WIOA)²⁴ aims to increase opportunities for individuals facing barriers to employment and focus on the connection between education and career preparation.²⁵ The WIOA requires that state vocational rehabilitation

¹⁹ CareerSource Florida, Inc., is the principal workforce policy organization for the state. Section 445.004, F.S.

²⁰ Section 413.405(9), F.S.

²¹ Section 413.615(5), F.S.; *see also* The Able Trust, *Our Mission*, <http://www.abletrust.org/about-us> (last visited Jan. 9, 2020).

²² Section 413.615(4)(8)(10), F.S.

²³ Florida Department of Education, Office of Inspector General, *The Florida Endowment for Vocational Rehabilitation, Inc., dba The Able Trust- Administrative Costs, Report # A-1819DOE-021* (June 2019), available at <http://www.fldoe.org/core/fileparse.php/7514/urlt/FEVR-ABLETRUST.PDF>.

²⁴ Pub. L. No. 113-128, 128 Stat. 1425 (July 22, 2014).

²⁵ *See* U.S. Department of Labor, Employment & Training Administration, *WIOA Overview*, <https://www.doleta.gov/wioa/about/overview/> (last visited Jan. 9, 2020).

agencies set aside at least 15 percent of their federal funds to provide preemployment transition services to eligible individuals with a disability who:²⁶

- Are between 14 and 21 years of age; and
- Have a current individual education plan (IEP); or
- Have or are eligible for an accommodation plan pursuant to s. 504 of the Rehabilitation Act of 1973.

Since the passage of the WIOA, Florida statutes have not been updated to reflect the changes required by WIOA for the division to provide pre-employment transition services (Pre-ETS); however, the State Board of Education has promulgated rules to assist the division with the provision of such services.

Section 504 of the Rehabilitation Act of 1973²⁷ prohibits any program or activity that receives federal financial assistance from discriminating against an otherwise qualified individual solely by reason of his or her disability. State and local agencies that administer federally funded programs or activities may devise an accommodation plan for someone with a disability to allow the disabled person's participation in the program.²⁸

All students who are between the ages of three to 21 and have a disability have the right to a free, appropriate public education.²⁹ The IEP is the primary vehicle for communicating the school district's commitment to addressing the unique educational needs of a student with a disability.³⁰ To ensure quality planning for a successful transition of a student with a disability to postsecondary education and career opportunities, an IEP team begins the process of identifying the need for transition services before the student with a disability attains the age of 14 years. When the student attains the age of 16, the IEP must include an annually updated statement addressing the intent for the student to pursue a standard high school diploma and other appropriate measurable long-term postsecondary education and career goals.³¹

Required Preemployment Transition Services

Under the WIOA, the VR must provide five preemployment transition services, including:³²

- Job Exploration Counseling – exploring career path options suited to a student's skills, abilities and interests.
- Work-Based Learning Experiences – providing hands-on training for employability skills.
- Counseling on Post-Secondary Education – providing information about continuing education options.

²⁶ Workforce Innovation Technical Assistance Center, *Preemployment Transition Services*, <http://www.wintac.org/topic-areas/pre-employment-transition-services> (last visited Jan. 28, 2020).

²⁷ Pub. L. No. 93-112, s. 504, 83 Stat. 355, 361 (1973), as amended and codified in 29 U.S.C. s. 794.

²⁸ See *Alexander v. Choate*, 469 U.S. 287 (1985).

²⁹ Section 1003.5716, F.S.

³⁰ Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 9.

³¹ Section 1003.5716(2), F.S.

³² Florida Department of Education, Division of Vocational Rehabilitation, Presentation to the House Higher Education & Career Readiness Subcommittee (Oct. 24, 2019), at 20, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3016&Session=2020&DocumentType=Meeting%20Packets&FileName=hec%2010-24-19.pdf>.

- Workplace Readiness Training – a focus on employability and related skills that prepare individuals with a disability to work.
- Instruction in Self-Advocacy – instruction in effective communication of one’s own needs and planning for one’s future.

Student Transition Activities Record (STAR)

The VR may also cooperate with other agencies in the provision of vocational rehabilitation services.³³ The VR may attend IEP meetings for students, work with local workforce development boards to develop work opportunities, and work with schools to coordinate and provide preemployment transition services.³⁴

The VR operates a web-based platform known as the Student Transition Activities Record (STAR) to facilitate the delivery of preemployment transition services. The STAR program is designed to help VR staff and school districts work together in the provision of preemployment transition services. The STAR program provides a platform for school personnel to make referrals to the VR for preemployment transition services for students who do not wish to apply to or participate in the vocational rehabilitation eligibility process.³⁵

In the 2018-2019 fiscal year, the VR provided preemployment transition services to 15,402 students with a disability.³⁶ In June 2019, the VR was providing vocational rehabilitation services to 21,248 youth and students between the ages of 14 to 21 years, including 11,779 who were receiving preemployment transition services.³⁷

Annual Performance Report

The VR submits an annual performance report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, which includes:³⁸

- Caseload data.
- Service use data.
- Financial data.
- Outcome data. Employment data must be provided separately for supported employment.

³³ Section 413.731, F.S.

³⁴ Workforce Innovation Technical Assistance Center, *supra* note 26.

³⁵ Florida Department of Education, Division of Vocational Rehabilitation, *STAR Program*, http://www.rehabworks.org/stw_star.shtml (last visited Jan. 28, 2020).

³⁶ Email from Elizabeth Moya, Director of Legislative Affairs, Florida Department of Education, (Jan. 29, 2020) (on file with the Senate Committee on Education).

³⁷ Florida Department of Education, Division of Vocational Rehabilitation, Presentation to the House Higher Education & Career Readiness Subcommittee (Oct. 24, 2019), at 25, *available at* <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3016&Session=2020&DocumentType=Meeting%20Packets&FileName=hec%2010-24-19.pdf>.

³⁸ Section 413.207(4), F.S.

III. Effect of Proposed Changes:

The bill aligns Florida law with federal requirements for state vocational rehabilitation programs to provide preemployment transition services for eligible individuals with a disability who are between 14 and 21 years of age. Specifically, the bill:

- Clarifies that vocational rehabilitation services include preemployment transition services.
- Expands requirements for the Division of Vocational Rehabilitation (VR) to cooperate with other agencies in coordinating preemployment transition plan services for eligible students.
- Modifies the requirements of the assessment performed by the Florida Rehabilitation Council to include an analysis of the alignment of preemployment transitions services with labor market demands.
- Enhances the required annual performance report provided by the VR by requiring the report to include the timeframes for handling cases, the uses of matching federal funds, and preemployment transition services data.

Preemployment Transition Services

The bill clarifies that the VR must provide preemployment transition services in accordance with the duty to provide vocational rehabilitation services. The bill modifies s. 413.20, F.S., to define “preemployment transition services” as the services of job exploration counseling, work-based learning experiences, counseling on postsecondary education, workplace readiness training, and instruction in self-advocacy as required by the Workforce Innovation and Opportunity Act of 2014, which may be provided to students with a disability who are eligible or potentially eligible for vocational rehabilitation services.

Eligibility for Preemployment Transition Services

The bill modifies s. 413.30, F.S., to expand the presumption that an individual will benefit from vocational rehabilitation services to include preemployment transition services, and the bill requires the VR to evaluate eligibility for preemployment transition services. The required initial assessment and individualized plan for employment must also assess the need for preemployment transition services, and must be prepared within 90 days after the date of determining eligibility, unless unforeseen circumstances prevent it, and the eligible individual agrees that an extension of time is warranted.

The bill creates s. 413.301, F.S., to provide eligibility for preemployment transition services for an individual with a disability who is between 14 and 21 years of age; who is eligible or potentially eligible for vocational rehabilitation services in a secondary, postsecondary, or other recognized education program; and who has:

- A current individual education plan developed by a local school board in accordance with rules of the State Board of Education; or
- A 504 accommodation plan issued under s. 504 of the Rehabilitation Act of 1973.

These provisions align Florida law with federal eligibility requirements for providing preemployment transition services.

Coordination of Services

The bill modifies s. 413.41, F.S., to require the VR to enter into a formal interagency agreement with the state education agency to provide for the transition of students with a disability, including preemployment transition services and other vocational rehabilitation services. The VR must also enter into formal interagency agreements with all local educational agencies that are consistent with the state-level agreement and:

- Address the timely referral of eligible students with a disability for preemployment transition services, including through electronic referrals.
- Include preemployment transition coordination activities, such as attending individual education plan (IEP) meetings for students with a disability or attending person-centered planning meetings for students with a disability receiving Medicaid.

The bill also modifies s. 413.23, F.S., to specify that the authority for the VR to cooperate with other departments, agencies, and public and private institutions includes the authority to:

- Cooperate to provide preemployment transition services.
- Contract with other entities to provide vocational rehabilitation or preemployment transition services.

In order to ensure that eligible students receive timely services, the bill requires the VR to contract with other providers to provide preemployment transition services if the VR is unable to provide the services within 90 days of recognizing the need for services.

Individualized Education Plan

The bill modifies s. 1003.5716, F.S., to add that the required statement of appropriate measurable long-term postsecondary education and career goals in a transition plan for a student with an IEP must also include preemployment transition services needed to assist the student in reaching those goals.

The additional coordination of services required by the bill may assist agencies in ensuring students receive appropriate preemployment transition services as needed.

The Florida Rehabilitation Council

The bill modifies s. 413.405, F.S., to clarify that the requirement for the Florida Rehabilitation Council (Council) to include members who were former or current applicants for, or recipients of, vocational rehabilitation services includes preemployment transition services.

The bill also adds requirements to the Council's review and analysis of vocational rehabilitation services. In addition to existing requirements, the review and analysis must address:

- How employment outcomes under the vocational rehabilitation program align with labor market demands in the state; and, for youth with a disability, the availability of career pathways, including work-based learning experiences and customized employment.
- Preemployment transition services:
 - Provided or paid for from funds made available under the act or through other public or private sources.

- Provided by state agencies and other public and private entities responsible for providing preemployment transition services to students who have a disability.

The Able Trust

To respond to the DOE's Office of Inspector General's audit findings on The Able Trust and compliance with administrative costs, the bill modifies s. 413.615, F.S., to clarify that the administrative costs are based on actual expenditures in any fiscal year, instead of estimated expenditures in any calendar year.

The bill repeals authority to pay administrative costs from interest and earnings on endowment principal for fiscal years that have already occurred.

The bill adds the DOE's Director of VR, or his or her designee, as an ex officio member of The Able Trust board and revises board member terms to two 3-year terms or until resignation or removal for cause. The bill provides that a board member may continue to serve until a successor is appointed.

Annual Performance Report

The bill modifies s. 413.207, F.S., to add requirements to the performance report that the VR must annually submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The caseload data required in the report must include the timeframes in which eligibility is determined, plans are developed, and services are provided. The bill adds that the report must also include:

- Matching fund data, including the sources and amounts of matching funds received by the VR and the extent to which the state is meeting its cost-sharing requirements.
- Transition services data, including preemployment transition services, for students and youth with a disability by service type, including expenditure data on a statewide and service area basis, employment outcomes achieved by youth served, and postsecondary enrollment rates.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures. In Fiscal Year 2019-2020, the Division of Vocational Rehabilitation received an increase of \$12.3 million in recurring federal budget authority to meet the federal requirements for Pre-Employment Transition Services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 413.20, 413.207, 413.23, 413.30, 413.405, 413.41, 413.615, and 1003.5716.

The bill creates section 413.301 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS by Appropriations Subcommittee on Education on February 13, 2020:

The committee substitute makes the following changes to the bill:

- Incorporates counseling on comprehensive transition programs into the definition of preemployment transition services included in the bill.
- Removes the extended evaluation required to be conducted under existing law by the Division of Vocational Rehabilitation for an individual who cannot take advantage of trial work experiences.

- Removes the requirement of the bill that would have specifically required districts and public agencies to use the Student Transition Activities Record Program and instead generally requires local education agencies to use an electronic system to make referrals for preemployment transition services.

The committee substitute adds to the bill modifications to the Florida Endowment for Vocational Rehabilitation which:

- Clarify that administrative costs are based on actual expenditures in any fiscal year, instead of estimated expenditures in any calendar year.
- Repeal authority to pay administrative costs from interest and earnings on endowment principal for fiscal years that have already occurred.
- Add the DOE's Director of Vocational Rehabilitation, or his or her designee, as an ex officio member of The Able Trust board.
- Revise ABLE Trust board member terms to two 3-year terms or until resignation or removal for cause. The amendment provides that a board member may continue to serve until a successor is appointed.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to vocational rehabilitation services; amending s. 413.20, F.S.; defining the term "preemployment transition services"; amending s. 413.207, F.S.; revising information that the Division of Vocational Rehabilitation must include in its annual performance report to the Governor and the Legislature; amending s. 413.23, F.S.; requiring the division to provide preemployment transition services to potentially eligible persons; amending s. 413.30, F.S.; removing provisions relating to trial work evaluation requirements; requiring the division to assess the service needs of eligible individuals within a specified period; providing for an extension of time for the division's assessment under certain circumstances; creating s. 413.301, F.S.; requiring preemployment transition services to be provided to certain individuals with disabilities under certain conditions; requiring that the division provide such services within a reasonable period of time under certain circumstances; requiring the division to work with qualified providers to provide such services under certain circumstances; amending s. 413.405, F.S.; revising the composition of the Florida Rehabilitation Council; revising the responsibilities of the council to conform to changes made by the act; amending s. 413.41, F.S.; requiring the division to



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enter into a formal interagency agreement with the state education agency for certain purposes; requiring that such agreement meet specified requirements; requiring the division to work with local educational agencies to provide specified services and arrange for timely referrals; amending s. 413.615, F.S.; revising definitions and legislative intent; revising provisions relating to revenue for the endowment fund of the Florida Endowment for Vocational Rehabilitation; revising provisions relating to the board of directors of the Florida Endowment Foundation; revising provisions relating to administrative costs of the foundation; amending s. 1003.5716, F.S.; requiring that a student's individual education plan contain a statement regarding preemployment transition services; providing an effective date.

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

Section 1. Present subsections (20) through (27) of section 413.20, Florida Statutes, are redesignated as subsections (21) through (28), respectively, and a new subsection (20) is added to that section, to read:

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

(20) "Preemployment transition services" means the services of job exploration counseling, work-based learning experiences, counseling on comprehensive transition or postsecondary education programs, workplace readiness training, and



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57 instruction in self-advocacy as required by the Workforce
58 Innovation and Opportunity Act of 2014, which may be provided to
59 students with disabilities who are eligible or potentially
60 eligible for vocational rehabilitation services.

61 Section 2. Present paragraph (d) of subsection (4) of
62 section 413.207, Florida Statutes, is redesignated as paragraph
63 (e), a new paragraph (d) and paragraph (f) are added to that
64 subsection, and paragraph (a) of that subsection is amended, to
65 read:

66 413.207 Division of Vocational Rehabilitation; quality
67 assurance; performance improvement plan.—

68 (4) By December 1 of each year, the division shall submit a
69 performance report to the Governor, the President of the Senate,
70 and the Speaker of the House of Representatives which includes
71 the following information for each of the 5 most recent fiscal
72 years:

73 (a) Caseload data, by service type and service area,
74 including the number of individuals who apply for services and
75 the timeframes in which eligibility is determined, plans are
76 developed, and services are provided who receive services, by
77 service type, reported statewide and by service area.

78 (d) Matching fund data, including the sources and amounts
79 of matching funds received by the division and the extent to
80 which the state is meeting its cost-sharing requirements.

81 (f) Transition services data, including preemployment
82 transition services, for students and youth with disabilities by
83 service type, including expenditure data on a statewide and
84 service area basis, employment outcomes achieved by youth
85 served, and postsecondary enrollment rates.



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86 Section 3. Section 413.23, Florida Statutes, is amended to
87 read:

88 413.23 Administration.—The division shall provide
89 vocational rehabilitation services to persons who have
90 disabilities determined to be eligible therefor and
91 preemployment transition services to persons potentially
92 eligible for such services and, in carrying out the purposes of
93 this part, is authorized, among other things:

94 (1) To cooperate with other departments, agencies, public
95 and private ~~and~~ institutions, ~~both public and private, and~~
96 providers in providing for the vocational rehabilitation and
97 preemployment transition services of persons who have
98 disabilities, in studying the problems involved therein, and in
99 establishing, developing, and providing, in conformity with the
100 purposes of this part, such programs, facilities, and services
101 as may be necessary or desirable;

102 (2) To enter into reciprocal agreements with other states
103 to provide for the vocational rehabilitation of residents of the
104 states concerned;

105 (3) To conduct research and compile statistics relating to
106 the vocational rehabilitation of persons who have disabilities;

107 (4) To prepare a federally required state plan for
108 vocational rehabilitation, as required by the act. The state
109 plan must contain all of the elements required by s. 101 of the
110 act, including an assessment of the needs of persons who have
111 disabilities and how those needs may be most effectively met.
112 The division is authorized to make amendments to the state plan
113 considered necessary to maintain compliance with the act and to
114 implement such changes in order to qualify for and maintain



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federal funding. After completion of the state plan or making amendments to the state plan, the division must distribute copies of the state plan to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the United States Secretary of Education.

Section 4. Subsections (3) and (5) of section 413.30, Florida Statutes, are amended to read:

413.30 Eligibility for vocational rehabilitation services.-

(3) An individual is presumed to benefit in terms of an employment outcome from vocational rehabilitation services under this part unless the division can demonstrate by clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome. Before making such a determination, the division must consider the individual's abilities, capabilities, and capacity to perform in a work situation through the use of trial work experiences. Trial work experiences include supported employment, on-the-job training, or other work experiences using realistic work settings. ~~Under limited circumstances, if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted, the division shall conduct an extended evaluation, not to exceed 18 months. The evaluation must determine the eligibility of the individual and the nature and scope of needed vocational rehabilitation services. The extended evaluation must be reviewed once every 90 days to determine whether the individual is eligible for vocational rehabilitation services.~~

(5) When the division determines that an individual is eligible for vocational rehabilitation services, the division



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must complete an assessment for determining eligibility and vocational rehabilitation needs and ensure that an individualized plan for employment is prepared within a reasonable period of time, not to exceed 90 days after the date of eligibility determination, unless unforeseen circumstances beyond the control of the division prevent the division from completing the assessment and individualized plan for employment within the 90-day timeframe and the division and the individual agree that an extension of time is warranted.

(a) Each individualized plan for employment must be jointly developed, agreed upon, and signed by the vocational rehabilitation counselor or coordinator and the eligible individual or, in an appropriate case, a parent, family member, guardian, advocate, or authorized representative, of the individual.

(b) The division must ensure that each individualized plan for employment is designed to achieve the specific employment outcome of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual, and otherwise meets the content requirements for an individualized plan for employment as set out in federal law or regulation.

(c) Each individualized plan for employment shall be reviewed annually, at which time the individual, or the individual's parent, guardian, advocate, or authorized representative, shall be afforded an opportunity to review the plan and jointly redevelop and agree to its terms. Each plan shall be revised as needed.

Section 5. Section 413.301, Florida Statutes, is created to



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read:

413.301 Preemployment transition services.—

(1) Preemployment transition services shall be provided to an individual with disabilities who is between 14 and 21 years of age; who is potentially eligible for vocational rehabilitation services in a secondary, postsecondary, or other recognized education program; and who:

(a) Has a current individual education plan developed by a local school board in accordance with rules of the State Board of Education; or

(b) Meets the definition of an individual with a disability for the purposes of s.504 of the Rehabilitation Act of 1973.

(2) When the division receives documentation that an individual meets the conditions described in subsection (1), the division must provide preemployment transition services within a reasonable period of time, not to exceed 90 days after the date that it receives an individual's consent or, for a minor, a parent's or legal guardian's consent, to receive services, unless unforeseen circumstances beyond the control of the division prevent the division from providing services within the 90-day timeframe and the division and the individual or, for a minor, a parent or legal guardian agree that an extension of time is warranted.

(3) If the division is unable to provide preemployment transition services within the timeframe required in subsection (2), the division must, upon the request of the individual, or for a minor, a parent or legal guardian, work with other qualified providers to provide such services.

Section 6. Paragraph (h) of subsection (1) and paragraph



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(d) of subsection (9) of section 413.405, Florida Statutes, are amended to read:

413.405 Florida Rehabilitation Council.—There is created the Florida Rehabilitation Council to assist the division in the planning and development of statewide rehabilitation programs and services, to recommend improvements to such programs and services, and to perform the functions listed in this section.

(1) The council shall be composed of:

(h) Current or former applicants for, or recipients of, vocational rehabilitation services, including preemployment transition services.

(9) In addition to the other functions specified in this section, the council shall, after consulting with the board of directors of CareerSource Florida, Inc.:

(d) To the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with:

1. The functions performed by state agencies and other public and private entities responsible for performing functions for individuals who have disabilities.

2. Vocational rehabilitation services:

a. Provided or paid for from funds made available under the act or through other public or private sources.

b. Provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals who have disabilities.

3. Preemployment transition services:

a. Provided or paid for from funds made available under the act or through other public or private sources.

b. Provided by state agencies and other public and private



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231 entities responsible for providing preemployment transition
232 services to students who have disabilities.

233 4.3- The employment outcomes achieved by eligible
234 individuals receiving services under this part, including the
235 availability of health or other employment benefits in
236 connection with those employment outcomes; alignment with labor
237 market demands in the state; and for youth who have
238 disabilities, the availability of career pathways, including
239 work-based learning experiences and customized employment.

240 Section 7. Section 413.41, Florida Statutes, is amended to
241 read:

242 413.41 Cooperation by division with state agencies.—

243 (1) The division is hereby authorized to cooperate with
244 other agencies of state government or with any nonprofit,
245 charitable corporations or foundations concerned with the
246 problems of persons who have disabilities. The division may
247 provide disability evaluation, work capacity appraisal, and
248 appraisal of vocational rehabilitation potential of persons who
249 have disabilities for other public agencies pursuant to
250 agreements made with such agencies. The division may charge the
251 agencies contracting for these services the actual cost thereof.

252 (2)(a) The division shall enter into a formal interagency
253 agreement with the state education agency that provides for the
254 transition of students who have disabilities, including
255 preemployment transition services and other vocational
256 rehabilitation services as required by s. 101(a)(11)(D) of the
257 Rehabilitation Act of 1973, as amended. The formal interagency
258 agreement shall comply with the requirements of 34 C.F.R. s.
259 361.22(b).



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260 (b) The division shall work with all local educational
261 agencies to provide vocational rehabilitation services,
262 including preemployment transition services, to students with
263 disabilities. Such services may also include any preemployment
264 transition coordination activities, such as attending individual
265 education plan meetings for students with disabilities or
266 attending person-centered planning meetings for students with
267 disabilities who are receiving services under Title XIX of the
268 Social Security Act. The division and local educational agencies
269 must arrange for the timely referral of students for services,
270 including electronic referral as prescribed by the division.

271 Section 8. Subsections (2) through (6) and (8) and
272 paragraphs (h) and (j) of subsection (9) of section 413.615,
273 Florida Statutes, are amended to read:

274 413.615 Florida Endowment for Vocational Rehabilitation.—

275 (2) DEFINITIONS.—For the purposes of this section:

276 (a) “Board” means the board of directors of the Florida
277 Endowment Foundation for the Division of Vocational
278 Rehabilitation within the Department of Education.

279 (b) “Endowment fund” means an account established within
280 the Florida Endowment Foundation for the Division of Vocational
281 Rehabilitation within the Department of Education to provide a
282 continuing and growing source of revenue for vocational
283 rehabilitation efforts.

284 (c) “Foundation” means the Florida Endowment Foundation for
285 the Division of Vocational Rehabilitation within the Department
286 of Education.

287 (d) “Operating account” means an account established under
288 paragraph (4)(c) ~~(4)(d)~~ to carry out the purposes provided in



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289 subsection (10).

290 (3) LEGISLATIVE INTENT.—The Legislature recognizes that it
291 is in the best interest of the citizens of this state that
292 citizens with disabilities be afforded a fair opportunity to
293 become self-supporting, productive members of society. However,
294 there is a critical need for significant additional funding to
295 achieve this goal. Accordingly, the Legislature further finds
296 and declares that:

297 (a) With skilled evaluation procedures and proper
298 rehabilitative treatment, plus employment, training, and
299 supportive services consistent with the needs of the individual,
300 persons who are disabled can assume the activities of daily
301 living and join their communities with dignity and independence.

302 (b) The purpose of this section is to broaden the
303 participation and funding potential for further significant
304 support for the vocational rehabilitation of Florida citizens
305 who are disabled.

306 (c) It is appropriate to encourage individual and corporate
307 support and involvement, as well as state support and
308 involvement, to promote employment opportunities for disabled
309 citizens.

310 (4) REVENUE FOR THE ENDOWMENT FUND.—

311 (a) The endowment fund of the Florida Endowment for the
312 Division of Vocational Rehabilitation within the Department of
313 Education is created as a long-term, stable, and growing source
314 of revenue to be administered, in accordance with rules
315 promulgated by the division, by the foundation as a direct-
316 support organization of the Division of Vocational
317 Rehabilitation within the Department of Education.



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318 (b) The principal of the endowment fund shall derive from
319 any legislative appropriations which may be made to the
320 endowment, and such bequests, gifts, grants, and donations as
321 may be solicited for such purpose by the foundation from public
322 or private sources.

323 ~~(c) All remaining liquid balances of funds held for~~
324 ~~investment and reinvestment by the State Board of Administration~~
325 ~~for the endowment fund on the effective date of this act shall~~
326 ~~be transmitted to the foundation within 60 days for use as~~
327 ~~provided in subsection (10).~~

328 ~~(c)(d)~~ The board of directors of the foundation shall
329 establish the operating account and shall deposit therein the
330 moneys transmitted ~~pursuant to paragraph (c)~~. Moneys in the
331 operating account shall be available to carry out the purposes
332 of subsection (10).

333 ~~(d)(e)~~ Funds received from state sources shall be accounted
334 for separately from bequests, gifts, grants, and donations which
335 may be solicited for such purposes by the foundation from public
336 or private sources. Earnings on funds received from state
337 sources and funds received from public or private sources shall
338 be accounted for separately.

339 (5) THE FLORIDA ENDOWMENT FOUNDATION FOR VOCATIONAL
340 REHABILITATION.—The Florida Endowment Foundation for Vocational
341 Rehabilitation is hereby created as a direct-support
342 organization of the Division of Vocational Rehabilitation within
343 the Department of Education, to encourage public and private
344 support to enhance vocational rehabilitation and employment of
345 citizens who are disabled. As a direct-support organization, the
346 foundation shall operate under contract with the division and



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shall:

(a) Be a Florida corporation not for profit incorporated under the provisions of chapter 617 and approved by the Department of State.

(b) Be organized and operated exclusively to raise funds; to submit requests and receive grants from the Federal Government, the state, private foundations, and individuals; to receive, hold, and administer property; and to make expenditures to or for the benefit of the rehabilitation programs approved by the board of directors of the foundation.

(c) Be approved by the division to be operating for the benefit and best interest of the state.

(6) DIRECT-SUPPORT ORGANIZATION CONTRACT.—The contract between the foundation and the division shall provide for:

(a) Approval of the articles of incorporation of the foundation by the division.

(b) Governance of the foundation by a board of directors appointed by the Governor.

(c) Submission of an annual budget of the foundation for approval by the division. The division may not approve an annual budget that does not comply with paragraph (9)(j).

(d) ~~Approval Certification~~ by the division, after an annual financial and performance review, that the foundation is operating in compliance with the terms of the contract and the rules of the division, and in a manner consistent with the goals of the Legislature in providing assistance to disabled citizens.

(e) The release and conditions of the expenditure of any state revenues.

(f) The orderly cessation of operations and reversion to



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the state of funds held in trust by the foundation if the contract is terminated, the foundation is dissolved, or this section is repealed.

(g) The fiscal year of the foundation, to begin on July 1 and end on June 30 of each year.

(8) BOARD OF DIRECTORS.—The foundation shall be administered by a board of directors, as follows:

(a) Membership.—The board of directors shall consist of the director of the Division of Vocational Rehabilitation within the Department of Education, or his or her designee, who shall serve as an ex officio member, and nine other members who have an interest in service to persons with disabilities and who:

1. Have skills in foundation work or other fundraising activities, financial consulting, or investment banking or other related experience; or

2. Have experience in policymaking or management-level positions or have otherwise distinguished themselves in the field of business, industry, or rehabilitation.

Disabled individuals who meet the above criteria shall be given special consideration for appointment.

(b) Appointment.—The board members shall be appointed by the Governor.

(c) Terms.—Board members shall serve for two 3-year terms or until resignation or removal for cause. A board member may continue to serve until a successor is appointed.

(d) Filling of vacancies.—In the event of a vacancy on the board caused by other than the expiration of a term, a new member shall be appointed.



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405 (e) *Removal for cause.*—Each member is accountable to the
406 Governor for the proper performance of the duties of office. The
407 Governor may remove any member from office for malfeasance,
408 misfeasance, neglect of duty, incompetence, or permanent
409 inability to perform official duties or for pleading nolo
410 contendere to, or being found guilty of, a crime.

411 (9) ORGANIZATION, POWERS, AND DUTIES.—Within the limits
412 prescribed in this section or by rule of the division:

413 (h) The board shall establish an operating account as
414 provided in paragraph (4) (c) ~~(4) (d)~~.

415 (j) Administrative costs shall be kept to the minimum
416 amount necessary for the efficient and effective administration
417 of the foundation and are limited to 15 percent of total actual
418 ~~estimated~~ expenditures in any fiscal calendar year.
419 Administrative costs include ~~payment of travel and per diem~~
420 ~~expenses of board members, officer salaries, chief executive~~
421 ~~officer program management, audits, salaries or other costs for~~
422 nonofficers and contractors providing services that are not
423 directly related to the mission of the foundation as described
424 in subsection (5), costs of promoting the purposes of the
425 foundation, all travel and per diem expenses of board members,
426 officers' salaries, chief executive officer program management,
427 and other allowable costs. Administrative costs may be paid from
428 the following sources:

429 ~~1. Interest and earnings on the endowment principal for the~~
430 ~~2017-2018 fiscal year.~~

431 ~~2. Private sources and up to 75 percent of interest and~~
432 ~~earnings on the endowment principal for the 2018-2019 fiscal~~
433 ~~year.~~



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434 ~~3. Private sources and up to 50 percent of interest and~~
435 ~~earnings on the endowment principal for the 2019-2020 fiscal~~
436 ~~year.~~

437 ~~1.4.~~ Private sources and up to 25 percent of interest and
438 earnings on the endowment principal for the 2020-2021 fiscal
439 year.

440 ~~2.5.~~ Solely private sources for the 2021-2022 fiscal year
441 and thereafter.

442 Section 9. Paragraph (c) of subsection (2) of section
443 1003.5716, Florida Statutes, is amended to read:

444 1003.5716 Transition to postsecondary education and career
445 opportunities.—All students with disabilities who are 3 years of
446 age to 21 years of age have the right to a free, appropriate
447 public education. As used in this section, the term "IEP" means
448 individual education plan.

449 (2) Beginning not later than the first IEP to be in effect
450 when the student attains the age of 16, or younger if determined
451 appropriate by the parent and the IEP team, the IEP must include
452 the following statements that must be updated annually:

453 (c) A statement of appropriate measurable long-term
454 postsecondary education and career goals based upon age-
455 appropriate transition assessments related to training,
456 education, employment, and, if appropriate, independent living
457 skills and the transition services, including preemployment
458 transition services and courses of study needed to assist the
459 student in reaching those goals.

460 Section 10. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1784

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

SUBJECT: Vocational Rehabilitation Services

DATE: February 28, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Sikes	ED	Favorable
2.	Underhill	Elwell	AED	Recommend: Fav/CS
3.	Underhill	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1784 aligns Florida law with federal requirements for state vocational rehabilitation programs to provide preemployment transition services for eligible individuals with a disability who are between 14 and 21 years of age. Specifically, the bill:

- Clarifies that vocational rehabilitation services include preemployment transition services.
- Expands requirements for the Division of Vocational Rehabilitation (VR) to cooperate with other agencies in coordinating preemployment transition plan services for eligible students.
- Modifies the requirements of the assessment performed by the Florida Rehabilitation Council to include an analysis of the alignment of preemployment transitions services with labor market demands.
- Enhances the required annual performance report provided by the VR by requiring the report to include the timeframes for handling cases, the uses of matching federal funds, and preemployment transition services data.
- Modifies the membership of the Florida Rehabilitation Council and expands the Council's scope of review.
- Modifies provisions related to The Able Trust, including clarifying that administrative costs are based on actual expenditures in any fiscal year, adds the Director of VR, or his or her designee, as an ex officio member of the board, and revises board member terms.

The bill has no impact on state revenues or expenditures. See Section V.

The bill takes effect on July 1, 2020.

II. Present Situation:

According to the 2018 U.S. Census Bureau American Community Survey, approximately 2.7 million individuals with a disability live in Florida, representing over 13 percent of the state's population.¹ Ten percent of the state's working age population, ages 18-64, is composed of individuals with a disability.² Individuals with a disability have an unemployment rate of twice the state average and may be eligible for vocational rehabilitation services.³

Vocational rehabilitation is a federal-state program that helps people who have a physical or mental disability get or keep a job.⁴ The Rehabilitation Services Administration (RSA) within the U.S. Department of Education oversees and administers the program and provides funds to state agencies for these services.⁵ In Fiscal Year 2019, the vocational rehabilitation program in Florida received 78.7 percent of its funding, or \$161,156,579, through a grant from the RSA. The remaining 21.3 percent of the costs, or \$43,616,711, were funded by other state appropriations.⁶

The Florida Division of Vocational Rehabilitation

The Division of Vocational Rehabilitation (VR) within the Department of Education (DOE) administers the vocational rehabilitation program in Florida. The VR provides services to help individuals with a disability find, advance in, or retain employment, and provides services to youth and students with a disability to aid in the transition from high school to a meaningful career path.⁷ In the 2018-2019 fiscal year, VR served 48,439 individuals, including 26,086 customers who were between the ages of 14 through 21.⁸

An individual with a disability⁹ is presumed eligible for vocational rehabilitation services if the person requires rehabilitation services to prepare for, enter, engage in, or retain gainful employment.¹⁰ After determining eligibility, the VR must complete an assessment to determine

¹ U.S. Census Bureau, *Florida 2018: ACS 5-Year Estimates Data*, available at <https://data.census.gov/cedsci/table?q=&d=ACS%205-Year%20Estimates%20Data%20Profiles&table=DP02&tid=ACSDP5Y2018.DP02&y=2018&g=0400000US12&lastDisplayedRow=104> (last visited Jan. 28, 2020).

² U.S. Census Bureau, *supra* note 1.

³ Florida Department of Education, Division of Vocational Rehabilitation, *2018-2019 Annual Report* (2019), available at <http://www.rehabworks.org/rehab/AnnualReport19.pdf>, at 6.

⁴ Florida Division of Vocational Rehabilitation, *Frequently Asked Questions*, <http://www.rehabworks.org/faq.shtml> (last visited Jan. 28, 2020).

⁵ U.S. Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services Administration, *RSA's mission*, <https://rsa.ed.gov/> (last visited Jan. 28, 2020).

⁶ Florida Department of Education, Division of Vocational Rehabilitation, *2018-2019 Annual Report* (2019), available at <http://www.rehabworks.org/rehab/AnnualReport19.pdf>, at 8.

⁷ *Id.* at 6.

⁸ *Id.* at 10.

⁹ Disability means "a physical or mental impairment that constitutes or results in a substantial impediment to employment." Section 413.20(7), F.S.

¹⁰ Section 413.30(1), F.S.

rehabilitation needs and ensure that an individualized plan for employment (IPE)¹¹ is prepared.¹² The IPE must be designed to achieve the specific employment outcome of the individual and may include services such as vocational evaluation and planning, career counseling and guidance, job-site assessment and accommodations, job placement, job coaching, and on-the-job training.¹³

The VR is only required to provide services to the extent they are funded by the Legislature. All individuals eligible for services are placed in categories on a prioritized waiting list based on the significance of their disability.¹⁴ Categories include:

- Category 1, comprised of individuals with the most significant disabilities;
- Category 2, comprised of individuals with a significant disability; and
- Category 3, comprised of individuals with a disability.

In the 2018-2019 fiscal year, the VR served 26,744 individuals in category 1, and, as of June 30, 2019, had a waiting list of 300 individuals in category 3.¹⁵

The RSA issued a 2017 monitoring report on the Florida Division of Vocational Rehabilitation. The report identified findings and observations related to: non-compliance with eligibility and employment plan development within the required federal time frames; match requirements; a lower percentage of youth with disabilities exiting with employment compared to similar agencies; and the lack of a state educational agreement that meets the requirements prescribed in law.¹⁶

The Florida Rehabilitation Council

The Florida Rehabilitation Council (Council) is responsible for assisting the VR in the planning and development of statewide rehabilitation programs and services, recommending improvements to such programs and services, and performing other statutory directives as required.¹⁷ Members of the Council are appointed by the Governor and must include current or former applicants for, or recipients of, vocational rehabilitation services.¹⁸

¹¹ An individualized plan for employment includes a “comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services.” Section 413.20(3), F.S.

¹² See Section 413.30(4)-(5), F.S.

¹³ Florida Department of Education, Division of Vocational Rehabilitation, *Frequently Asked Questions*, <http://www.rehabworks.org/faq.shtml> (last visited Jan. 28, 2020).

¹⁴ Section 413.731, F.S.

¹⁵ Florida Department of Education, Division of Vocational Rehabilitation, *2018-2019 Annual Report* (2019), at 10, available at <http://www.rehabworks.org/rehab/AnnualReport19.pdf?id=1>.

¹⁶ U.S. Department of Education, Office of Special Education and Rehabilitative Services Rehabilitation Services Administration, *Fiscal Year 2017 Monitoring Report on the Florida Division of Vocational Rehabilitation-Vocational Rehabilitation and Support Employment Programs* (April 12, 2018), available at <https://www2.ed.gov/rschstat/eval/rehab/107-reports/fy2017-fl-g.pdf>.

¹⁷ Section 413.405, F.S.

¹⁸ Section 413.405(1), F.S.

The Council must also consult with the board of directors of CareerSource Florida, Inc.,¹⁹ in carrying out its functions, including the duty to conduct a review and analysis of:²⁰

- The functions performed by state agencies and other public and private entities responsible for providing services for individual who have a disability.
- Vocational rehabilitation services.
- The employment outcomes achieved by eligible individuals receiving vocational rehabilitation services, including the availability of health or other employment benefits in connection with those employment outcomes.

The Able Trust

To encourage public and private support to enhance vocational rehabilitation and employment of Florida's disabled population, the Legislature established the Florida Endowment Foundation for Vocational Rehabilitation, also known as The Able Trust, as a direct support organization for the Division of Vocational Rehabilitation.²¹ A board of directors, appointed by the Governor, oversees the operations of The Able Trust and ensures that funds are provided for programs or initiatives that engage in the research, promotion, or aid of job training and counseling for Florida's disabled citizens.²²

In June 2019, the Florida Department of Education's Office of Inspector General (OIG) conducted an audit of the Able Trust's administrative costs. The OIG found that The Able Trust misinterpreted the statute related to administrative costs, which could lead to inaccurate reporting of costs and noncompliance. The OIG recommended that The Able Trust enhance its procedures to ensure administrative costs are only paid from private resources and up to the prescribed percentage of the interest and earning on the endowment principal pursuant to s.413.615(9)(j), F.S. The OIG also recommended that the statutory language should be changed from "calendar year" to "fiscal year" and from "estimated expenditures" to "actual expenditures," to align the language in the statute with The Able Trust's operations.²³

Preemployment Transition Services

Eligibility for Preemployment Transition Services

The Workforce Innovation and Opportunity Act of 2014 (WIOA)²⁴ aims to increase opportunities for individuals facing barriers to employment and focus on the connection between education and career preparation.²⁵ The WIOA requires that state vocational rehabilitation

¹⁹ CareerSource Florida, Inc., is the principal workforce policy organization for the state. Section 445.004, F.S.

²⁰ Section 413.405(9), F.S.

²¹ Section 413.615(5), F.S.; *see also* The Able Trust, *Our Mission*, <http://www.abletrust.org/about-us> (last visited Jan. 9, 2020).

²² Section 413.615(4)(8)(10), F.S.

²³ Florida Department of Education, Office of Inspector General, *The Florida Endowment for Vocational Rehabilitation, Inc., dba The Able Trust- Administrative Costs, Report # A-1819DOE-021* (June 2019), available at <http://www.fldoe.org/core/fileparse.php/7514/urlt/FEVR-ABLETRUST.PDF>.

²⁴ Pub. L. No. 113-128, 128 Stat. 1425 (July 22, 2014).

²⁵ *See* U.S. Department of Labor, Employment & Training Administration, *WIOA Overview*, <https://www.doleta.gov/wioa/about/overview/> (last visited Jan. 9, 2020).

agencies set aside at least 15 percent of their federal funds to provide preemployment transition services to eligible individuals with a disability who:²⁶

- Are between 14 and 21 years of age; and
- Have a current individual education plan (IEP); or
- Have or are eligible for an accommodation plan pursuant to s. 504 of the Rehabilitation Act of 1973.

Since the passage of the WIOA, Florida statutes have not been updated to reflect the changes required by WIOA for the division to provide pre-employment transition services (Pre-ETS); however, the State Board of Education has promulgated rules to assist the division with the provision of such services.

Section 504 of the Rehabilitation Act of 1973²⁷ prohibits any program or activity that receives federal financial assistance from discriminating against an otherwise qualified individual solely by reason of his or her disability. State and local agencies that administer federally funded programs or activities may devise an accommodation plan for someone with a disability to allow the disabled person's participation in the program.²⁸

All students who are between the ages of three to 21 and have a disability have the right to a free, appropriate public education.²⁹ The IEP is the primary vehicle for communicating the school district's commitment to addressing the unique educational needs of a student with a disability.³⁰ To ensure quality planning for a successful transition of a student with a disability to postsecondary education and career opportunities, an IEP team begins the process of identifying the need for transition services before the student with a disability attains the age of 14 years. When the student attains the age of 16, the IEP must include an annually updated statement addressing the intent for the student to pursue a standard high school diploma and other appropriate measurable long-term postsecondary education and career goals.³¹

Required Preemployment Transition Services

Under the WIOA, the VR must provide five preemployment transition services, including:³²

- Job Exploration Counseling – exploring career path options suited to a student's skills, abilities and interests.
- Work-Based Learning Experiences – providing hands-on training for employability skills.
- Counseling on Post-Secondary Education – providing information about continuing education options.

²⁶ Workforce Innovation Technical Assistance Center, *Preemployment Transition Services*, <http://www.wintac.org/topic-areas/pre-employment-transition-services> (last visited Jan. 28, 2020).

²⁷ Pub. L. No. 93-112, s. 504, 83 Stat. 355, 361 (1973), as amended and codified in 29 U.S.C. s. 794.

²⁸ See *Alexander v. Choate*, 469 U.S. 287 (1985).

²⁹ Section 1003.5716, F.S.

³⁰ Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 9.

³¹ Section 1003.5716(2), F.S.

³² Florida Department of Education, Division of Vocational Rehabilitation, Presentation to the House Higher Education & Career Readiness Subcommittee (Oct. 24, 2019), at 20, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3016&Session=2020&DocumentType=Meeting%20Packets&FileName=hec%2010-24-19.pdf>.

- Workplace Readiness Training – a focus on employability and related skills that prepare individuals with a disability to work.
- Instruction in Self-Advocacy – instruction in effective communication of one’s own needs and planning for one’s future.

Student Transition Activities Record (STAR)

The VR may also cooperate with other agencies in the provision of vocational rehabilitation services.³³ The VR may attend IEP meetings for students, work with local workforce development boards to develop work opportunities, and work with schools to coordinate and provide preemployment transition services.³⁴

The VR operates a web-based platform known as the Student Transition Activities Record (STAR) to facilitate the delivery of preemployment transition services. The STAR program is designed to help VR staff and school districts work together in the provision of preemployment transition services. The STAR program provides a platform for school personnel to make referrals to the VR for preemployment transition services for students who do not wish to apply to or participate in the vocational rehabilitation eligibility process.³⁵

In the 2018-2019 fiscal year, the VR provided preemployment transition services to 15,402 students with a disability.³⁶ In June 2019, the VR was providing vocational rehabilitation services to 21,248 youth and students between the ages of 14 to 21 years, including 11,779 who were receiving preemployment transition services.³⁷

Annual Performance Report

The VR submits an annual performance report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, which includes:³⁸

- Caseload data.
- Service use data.
- Financial data.
- Outcome data. Employment data must be provided separately for supported employment.

³³ Section 413.731, F.S.

³⁴ Workforce Innovation Technical Assistance Center, *supra* note 26.

³⁵ Florida Department of Education, Division of Vocational Rehabilitation, *STAR Program*, http://www.rehabworks.org/stw_star.shtml (last visited Jan. 28, 2020).

³⁶ Email from Elizabeth Moya, Director of Legislative Affairs, Florida Department of Education, (Jan. 29, 2020) (on file with the Senate Committee on Education).

³⁷ Florida Department of Education, Division of Vocational Rehabilitation, Presentation to the House Higher Education & Career Readiness Subcommittee (Oct. 24, 2019), at 25, *available at* <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3016&Session=2020&DocumentType=Meeting%20Packets&FileName=hec%2010-24-19.pdf>.

³⁸ Section 413.207(4), F.S.

III. Effect of Proposed Changes:

The bill aligns Florida law with federal requirements for state vocational rehabilitation programs to provide preemployment transition services for eligible individuals with a disability who are between 14 and 21 years of age. Specifically, the bill:

- Clarifies that vocational rehabilitation services include preemployment transition services.
- Expands requirements for the Division of Vocational Rehabilitation (VR) to cooperate with other agencies in coordinating preemployment transition plan services for eligible students.
- Modifies the requirements of the assessment performed by the Florida Rehabilitation Council to include an analysis of the alignment of preemployment transitions services with labor market demands.
- Enhances the required annual performance report provided by the VR by requiring the report to include the timeframes for handling cases, the uses of matching federal funds, and preemployment transition services data.

Preemployment Transition Services

The bill clarifies that the VR must provide preemployment transition services in accordance with the duty to provide vocational rehabilitation services. The bill modifies s. 413.20, F.S., to define “preemployment transition services” as the services of job exploration counseling, work-based learning experiences, counseling on postsecondary education, workplace readiness training, and instruction in self-advocacy as required by the Workforce Innovation and Opportunity Act of 2014, which may be provided to students with a disability who are eligible or potentially eligible for vocational rehabilitation services.

Eligibility for Preemployment Transition Services

The bill modifies s. 413.30, F.S., to expand the presumption that an individual will benefit from vocational rehabilitation services to include preemployment transition services, and the bill requires the VR to evaluate eligibility for preemployment transition services. The required initial assessment and individualized plan for employment must also assess the need for preemployment transition services, and must be prepared within 90 days after the date of determining eligibility, unless unforeseen circumstances prevent it, and the eligible individual agrees that an extension of time is warranted.

The bill creates s. 413.301, F.S., to provide eligibility for preemployment transition services for an individual with a disability who is between 14 and 21 years of age; who is eligible or potentially eligible for vocational rehabilitation services in a secondary, postsecondary, or other recognized education program; and who has:

- A current individual education plan developed by a local school board in accordance with rules of the State Board of Education; or
- A 504 accommodation plan issued under s. 504 of the Rehabilitation Act of 1973.

These provisions align Florida law with federal eligibility requirements for providing preemployment transition services.

Coordination of Services

The bill modifies s. 413.41, F.S., to require the VR to enter into a formal interagency agreement with the state education agency to provide for the transition of students with a disability, including preemployment transition services and other vocational rehabilitation services. The VR must also enter into formal interagency agreements with all local educational agencies that are consistent with the state-level agreement and:

- Address the timely referral of eligible students with a disability for preemployment transition services, including through electronic referrals.
- Include preemployment transition coordination activities, such as attending individual education plan (IEP) meetings for students with a disability or attending person-centered planning meetings for students with a disability receiving Medicaid.

The bill also modifies s. 413.23, F.S., to specify that the authority for the VR to cooperate with other departments, agencies, and public and private institutions includes the authority to:

- Cooperate to provide preemployment transition services.
- Contract with other entities to provide vocational rehabilitation or preemployment transition services.

In order to ensure that eligible students receive timely services, the bill requires the VR to contract with other providers to provide preemployment transition services if the VR is unable to provide the services within 90 days of recognizing the need for services.

Individualized Education Plan

The bill modifies s. 1003.5716, F.S., to add that the required statement of appropriate measurable long-term postsecondary education and career goals in a transition plan for a student with an IEP must also include preemployment transition services needed to assist the student in reaching those goals.

The additional coordination of services required by the bill may assist agencies in ensuring students receive appropriate preemployment transition services as needed.

The Florida Rehabilitation Council

The bill modifies s. 413.405, F.S., to clarify that the requirement for the Florida Rehabilitation Council (Council) to include members who were former or current applicants for, or recipients of, vocational rehabilitation services includes preemployment transition services.

The bill also adds requirements to the Council's review and analysis of vocational rehabilitation services. In addition to existing requirements, the review and analysis must address:

- How employment outcomes under the vocational rehabilitation program align with labor market demands in the state; and, for youth with a disability, the availability of career pathways, including work-based learning experiences and customized employment.
- Preemployment transition services:
 - Provided or paid for from funds made available under the act or through other public or private sources.

- Provided by state agencies and other public and private entities responsible for providing preemployment transition services to students who have a disability.

The Able Trust

To respond to the DOE's Office of Inspector General's audit findings on The Able Trust and compliance with administrative costs, the bill modifies s. 413.615, F.S., to clarify that the administrative costs are based on actual expenditures in any fiscal year, instead of estimated expenditures in any calendar year.

The bill repeals authority to pay administrative costs from interest and earnings on endowment principal for fiscal years that have already occurred.

The bill adds the DOE's Director of VR, or his or her designee, as an ex officio member of The Able Trust board and revises board member terms to two 3-year terms or until resignation or removal for cause. The bill provides that a board member may continue to serve until a successor is appointed.

Annual Performance Report

The bill modifies s. 413.207, F.S., to add requirements to the performance report that the VR must annually submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The caseload data required in the report must include the timeframes in which eligibility is determined, plans are developed, and services are provided. The bill adds that the report must also include:

- Matching fund data, including the sources and amounts of matching funds received by the VR and the extent to which the state is meeting its cost-sharing requirements.
- Transition services data, including preemployment transition services, for students and youth with a disability by service type, including expenditure data on a statewide and service area basis, employment outcomes achieved by youth served, and postsecondary enrollment rates.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures. In Fiscal Year 2019-2020, the Division of Vocational Rehabilitation received an increase of \$12.3 million in recurring federal budget authority to meet the federal requirements for Pre-Employment Transition Services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 413.20, 413.207, 413.23, 413.30, 413.405, 413.41, 413.615, and 1003.5716.

The bill creates section 413.301 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 Appropriations on February 27, 2020:

The committee substitute makes the following changes to the bill:

- Incorporates counseling on comprehensive transition programs into the definition of preemployment transition services included in the bill.
- Removes the extended evaluation required to be conducted under existing law by the Division of Vocational Rehabilitation for an individual who cannot take advantage of trial work experiences.

- Removes the requirement of the bill that would have specifically required districts and public agencies to use the Student Transition Activities Record Program and instead generally requires local education agencies to use an electronic system to make referrals for preemployment transition services.

The committee substitute adds to the bill modifications to the Florida Endowment for Vocational Rehabilitation, which:

- Clarify that administrative costs are based on actual expenditures in any fiscal year, instead of estimated expenditures in any calendar year.
- Repeal authority to pay administrative costs from interest and earnings on endowment principal for fiscal years that have already occurred.
- Add the DOE's Director of Vocational Rehabilitation, or his or her designee, as an ex officio member of The Able Trust board.
- Revise ABLE Trust board member terms to two 3-year terms or until resignation or removal for cause. The amendment provides that a board member may continue to serve until a successor is appointed.

B. Amendments:

None.

By Senator Gainer

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1 A bill to be entitled
 2 An act relating to vocational rehabilitation services;
 3 amending s. 413.20, F.S.; revising and providing
 4 definitions; amending s. 413.207, F.S.; revising
 5 information that the Division of Vocational
 6 Rehabilitation must include in its annual performance
 7 report to the Governor and the Legislature; amending
 8 s. 413.23, F.S.; requiring the division to provide
 9 preemployment transition services to certain eligible
 10 persons with disabilities; requiring the division to
 11 cooperate with contracted providers to provide such
 12 services; amending s. 413.30, F.S.; providing
 13 eligibility requirements for the provision of
 14 preemployment transition services; requiring the
 15 division to assess the service needs of eligible
 16 individuals within a specified period; providing for
 17 an extension of such assessment under certain
 18 circumstances; amending s. 413.405, F.S.; revising the
 19 composition of the Florida Rehabilitation Council;
 20 revising the responsibilities of the Florida
 21 Rehabilitation Council to conform to changes made by
 22 the act; amending s. 413.41, F.S.; requiring the
 23 division to enter into formal interagency agreements
 24 with certain entities for certain purposes; requiring
 25 that such agreements meet specified requirements;
 26 amending s. 413.731, F.S.; requiring the division to
 27 contract with other providers to provide preemployment
 28 transition services under certain circumstances;
 29 amending s. 413.74, F.S.; requiring school districts

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30 and public agencies to use the Student Transition
 31 Activities Record program for the referral of certain
 32 students with disabilities; amending s. 1003.5716,
 33 F.S.; requiring that a student's individual education
 34 plan contain a statement regarding preemployment
 35 transition services; providing an effective date.
 36
 37 Be It Enacted by the Legislature of the State of Florida:
 38
 39 Section 1. Present subsections (20) through (27) of section
 40 413.20, Florida Statutes, are redesignated as subsections (21)
 41 through (28), respectively, a new subsection (20) is added to
 42 that section, and subsection (3) of that section is amended, to
 43 read:
 44 413.20 Definitions.—As used in this part, the term:
 45 (3) "Assessment for determining eligibility and vocational
 46 rehabilitation needs" means a review of existing data to
 47 determine whether an individual is eligible for vocational
 48 rehabilitation services, including preemployment transition
 49 services, and to assign the priority, and, to the extent
 50 additional data is necessary to make such determination and
 51 assignment, a preliminary assessment of such data, including the
 52 provision of goods and services during such assessment. If
 53 additional data is necessary, the division must make a
 54 comprehensive assessment of the unique strengths, resources,
 55 priorities, concerns, abilities, capabilities, interests, and
 56 informed choice, including the need for supported employment, of
 57 an eligible individual to make a determination of the goals,
 58 objectives, nature, and scope of vocational rehabilitation

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59 services to be included in the individualized plan for
60 employment.

61 (20) "Preemployment transition services" means the services
62 of job exploration counseling, work-based learning experiences,
63 counseling on postsecondary education, workplace readiness
64 training, and instruction in self-advocacy as required by the
65 Workforce Innovation and Opportunity Act of 2014, which may be
66 provided to students with disabilities who are eligible or
67 potentially eligible for vocational rehabilitation services.

68 Section 2. Present paragraph (d) of subsection (4) of
69 section 413.207, Florida Statutes, is redesignated as paragraph
70 (e), new paragraph (d) and paragraph (f) are added to that
71 subsection, and paragraph (a) of that subsection is amended, to
72 read:

73 413.207 Division of Vocational Rehabilitation; quality
74 assurance; performance improvement plan.—

75 (4) By December 1 of each year, the division shall submit a
76 performance report to the Governor, the President of the Senate,
77 and the Speaker of the House of Representatives which includes
78 the following information for each of the 5 most recent fiscal
79 years:

80 (a) Caseload data, by service type and service area,
81 including the number of individuals who apply for services and
82 the timeframes in which eligibility is determined, plans are
83 developed, and services are provided ~~who receive services, by~~
84 ~~service type, reported statewide and by service area.~~

85 (d) Matching fund data, including the sources and amounts
86 of matching funds received by the division and the extent to
87 which the state is meeting its cost-sharing requirements.

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88 (f) Transition services data, including preemployment
89 transition services, for students and youth with disabilities by
90 service type, including expenditure data on a statewide and
91 service area basis, employment outcomes achieved by youth
92 served, and postsecondary enrollment rates.

93 Section 3. Section 413.23, Florida Statutes, is amended to
94 read:

95 413.23 Administration.—The division shall provide
96 vocational rehabilitation services, including preemployment
97 transition services, to persons who have disabilities determined
98 to be eligible therefor and, in carrying out the purposes of
99 this part, is authorized, among other things:

100 (1) To cooperate with other departments, agencies, public
101 and private ~~and institutions, both public and private, and~~
102 contracted providers in providing for the vocational
103 rehabilitation and preemployment transition services of persons
104 who have disabilities, in studying the problems involved
105 therein, and in establishing, developing, and providing, in
106 conformity with the purposes of this part, such programs,
107 facilities, and services as may be necessary or desirable;

108 (2) To enter into reciprocal agreements with other states
109 to provide for the vocational rehabilitation of residents of the
110 states concerned;

111 (3) To conduct research and compile statistics relating to
112 the vocational rehabilitation of persons who have disabilities;

113 (4) To prepare a federally required state plan for
114 vocational rehabilitation, as required by the act. The state
115 plan must contain all of the elements required by s. 101 of the
116 act, including an assessment of the needs of persons who have

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disabilities and how those needs may be most effectively met. The division is authorized to make amendments to the state plan considered necessary to maintain compliance with the act and to implement such changes in order to qualify for and maintain federal funding. After completion of the state plan or making amendments to the state plan, the division must distribute copies of the state plan to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the United States Secretary of Education.

Section 4. Present subsections (2) through (8) of section 413.30, Florida Statutes, are redesignated as subsections (3) through (9), respectively, a new subsection (2) is added to that section, and present subsections (3) and (5) of that section are amended, to read:

413.30 Eligibility for vocational rehabilitation services.-

(2) Preemployment transition services shall be provided to an individual with disabilities who is between 14 and 21 years of age; who is eligible or potentially eligible for vocational rehabilitation services in a secondary, postsecondary, or other recognized education program; and who has:

(a) A current individual education plan developed by a local school board in accordance with rules of the State Board of Education; or

(b) A 504 accommodation plan issued under s. 504 of the Rehabilitation Act of 1973.

(4)(3) An individual is presumed to benefit in terms of an employment outcome from vocational rehabilitation services or preemployment transition services under this part unless the division can demonstrate by clear and convincing evidence that

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the individual is incapable of benefiting from vocational rehabilitation services or preemployment transition services in terms of an employment outcome. Before making such a determination, the division must consider the individual's abilities, capabilities, and capacity to perform in a work situation through the use of trial work experiences. Trial work experiences include supported employment, on-the-job training, or other work experiences using realistic work settings. Under limited circumstances, if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted, the division shall conduct an extended evaluation, not to exceed 18 months. The evaluation must determine the eligibility of the individual and the nature and scope of needed vocational rehabilitation services or preemployment transition services. The extended evaluation must be reviewed once every 90 days to determine whether the individual is eligible for vocational rehabilitation services or preemployment transition services.

(6)(5) When the division determines that an individual is eligible for vocational rehabilitation services or preemployment transition services, the division must complete an assessment for determining ~~eligibility~~ and vocational rehabilitation or preemployment transition needs and ensure that an individualized plan for employment is prepared within a reasonable period of time, not to exceed 90 days after the date of eligibility determination, unless unforeseen circumstances beyond the control of the division prevent the division from completing the assessment and individualized plan for employment within the 90-day timeframe and the division and the individual agree that an

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175 extension of time is warranted.

176 (a) Each individualized plan for employment must be jointly
177 developed, agreed upon, and signed by the vocational
178 rehabilitation counselor or coordinator and the eligible
179 individual or, in an appropriate case, a parent, family member,
180 guardian, advocate, or authorized representative, of the
181 individual.

182 (b) The division must ensure that each individualized plan
183 for employment is designed to achieve the specific employment
184 outcome of the individual, consistent with the unique strengths,
185 resources, priorities, concerns, abilities, and capabilities of
186 the individual, and otherwise meets the content requirements for
187 an individualized plan for employment as set out in federal law
188 or regulation.

189 (c) Each individualized plan for employment shall be
190 reviewed annually, at which time the individual, or the
191 individual's parent, guardian, advocate, or authorized
192 representative, shall be afforded an opportunity to review the
193 plan and jointly redevelop and agree to its terms. Each plan
194 shall be revised as needed.

195 Section 5. Paragraph (h) of subsection (1) and paragraph
196 (d) of subsection (9) of section 413.405, Florida Statutes, are
197 amended to read:

198 413.405 Florida Rehabilitation Council.—There is created
199 the Florida Rehabilitation Council to assist the division in the
200 planning and development of statewide rehabilitation programs
201 and services, to recommend improvements to such programs and
202 services, and to perform the functions listed in this section.

203 (1) The council shall be composed of:

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204 (h) Current or former applicants for, or recipients of,
205 vocational rehabilitation services, including preemployment
206 transition services.

207 (9) In addition to the other functions specified in this
208 section, the council shall, after consulting with the board of
209 directors of CareerSource Florida, Inc.:

210 (d) To the extent feasible, conduct a review and analysis
211 of the effectiveness of, and consumer satisfaction with:

212 1. The functions performed by state agencies and other
213 public and private entities responsible for performing functions
214 for individuals who have disabilities.

215 2. Vocational rehabilitation services:

216 a. Provided or paid for from funds made available under the
217 act or through other public or private sources.

218 b. Provided by state agencies and other public and private
219 entities responsible for providing vocational rehabilitation
220 services to individuals who have disabilities.

221 3. Preemployment transition services:

222 a. Provided or paid for from funds made available under the
223 act or through other public or private sources.

224 b. Provided by state agencies and other public and private
225 entities responsible for providing preemployment transition
226 services to students who have disabilities.

227 ~~4.3-~~ The employment outcomes achieved by eligible
228 individuals receiving services under this part, including the
229 availability of health or other employment benefits in
230 connection with those employment outcomes; alignment with labor
231 market demands in the state; and, for youth with disabilities,
232 the availability of career pathways, including work-based

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233 learning experiences and customized employment.

234 Section 6. Section 413.41, Florida Statutes, is amended to
235 read:

236 413.41 Cooperation by division with state agencies.—

237 (1) The division is hereby authorized to cooperate with
238 other agencies of state government or with any nonprofit,
239 charitable corporations or foundations concerned with the
240 problems of persons who have disabilities. The division may
241 provide disability evaluation, work capacity appraisal, and
242 appraisal of vocational rehabilitation potential of persons who
243 have disabilities for other public agencies pursuant to
244 agreements made with such agencies. The division may charge the
245 agencies contracting for these services the actual cost thereof.

246 (2) (a) The division shall enter into a formal interagency
247 agreement with the state education agency that provides for the
248 transition of students with disabilities, including
249 preemployment transition services and other vocational
250 rehabilitation services as required by s. 101(a)(11)(D) of the
251 Rehabilitation Act of 1973, as amended. The formal interagency
252 agreement shall comply with the requirements of 34 C.F.R. s.
253 361.22(b).

254 (b) The division shall enter into formal interagency
255 agreements with all local educational agencies which are
256 consistent with the state level agreement and address the
257 requirements for providing vocational rehabilitation services,
258 including referral of students with disabilities through the
259 Student Transition Activities Record program who may be eligible
260 for preemployment transition services. The agreements must also
261 include any preemployment transition coordination activities,

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262 such as attending individual education plan meetings for
263 students with disabilities or attending person-centered planning
264 meetings for students with disabilities who are receiving
265 services under title XIX of the Social Security Act.

266 Section 7. Present subsection (4) of section 413.731,
267 Florida Statutes, is redesignated as subsection (5), and a new
268 subsection (4) is added to that section, to read:

269 413.731 Legislative funding; contracting for services.—

270 (4) If the division is unable to provide preemployment
271 transition services for students with disabilities within 90
272 days after the date of determining service needs, the division
273 must contract with other providers to provide such services.

274 Section 8. Subsection (3) is added to section 413.74,
275 Florida Statutes, to read:

276 413.74 Other agencies; cooperation and referral.—

277 (3) School districts and public agencies shall use the
278 Student Transition Activities Record program to refer students
279 with disabilities who are potentially eligible for preemployment
280 transition services to the division.

281 Section 9. Paragraph (c) of subsection (2) of section
282 1003.5716, Florida Statutes, is amended to read:

283 1003.5716 Transition to postsecondary education and career
284 opportunities.—All students with disabilities who are 3 years of
285 age to 21 years of age have the right to a free, appropriate
286 public education. As used in this section, the term "IEP" means
287 individual education plan.

288 (2) Beginning not later than the first IEP to be in effect
289 when the student attains the age of 16, or younger if determined
290 appropriate by the parent and the IEP team, the IEP must include

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291 the following statements that must be updated annually:

292 (c) A statement of appropriate measurable long-term
293 postsecondary education and career goals based upon age-
294 appropriate transition assessments related to training,
295 education, employment, and, if appropriate, independent living
296 skills and the transition services, including preemployment
297 transition services and courses of study needed to assist the
298 student in reaching those goals.

299 Section 10. This act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Chair*
Agriculture, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal
and Civil Justice
Military and Veterans Affairs and Space

SENATOR GEORGE B. GAINER

2nd District

February 13, 2020

Re: SB 1784

Dear Chair Bradley,

I am respectfully requesting Senate Bill 1784, related to Vocational Rehabilitation Services, be placed on the agenda for the next meeting of the Appropriations Committee.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in blue ink that reads "George B. Gainer". The signature is fluid and cursive, with the first name "George" being the most prominent.

Senator George Gainer
District 2

Cc. Cynthia Kynoch, Jamie DeLoach, Ross McSwain, John Shettle, Alicia Weiss, Taylor Ferguson, Mary Lee

REPLY TO:

- ☐ 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- ☐ 302 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002
- ☐ Northwest Florida State College, 100 East College Boulevard, Building 330, Rooms 105 and 112, Niceville, Florida 32578 (850) 747-5454

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 7012 (195908)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); and Children, Families, and Elder Affairs Committee

SUBJECT: Mental Health

DATE: February 19, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Delia</u>	<u>Hendon</u>		CF Submitted as Committee Bill
1.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	Recommend: Fav/CS
2.	<u>Sneed</u>	<u>Kynoch</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7012 implements several measures related to suicide prevention. Specifically, the bill:

- Broadens the scope and duties of the Statewide Office of Suicide Prevention in the Department of Children and Families (DCF);
- Creates the First Responders Suicide Deterrence Task Force within the Statewide Office of Suicide Prevention to assist in the reduction of suicide rates of first responders;
- Broadens the scope and duties of the Suicide Prevention Coordinating Council and adds five new members to the Council;
- Adds new training and staffing requirements for instructional personnel at public and charter schools;
- Adds new continuing education requirements related to suicide prevention for various health care practitioners;
- Requires certain health insurance plans to comply with federal regulations relating to mental health and substance use disorder coverage to ensure that Floridians that are privately insured have adequate insurance coverage to help prevent suicides;
- Requires Baker Act receiving facilities to provide suicide prevention information resources to minors being released from a facility;
- Provides civil immunity to persons who help or attempt to help others at imminent risk of suicide; and

- Requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a report that looks at other states' suicide prevention programs.

The bill is expected to have a significant fiscal impact on state government. The Office of Suicide Prevention in the DCF will need additional staff to meet workload and information sharing requirements. The Department of Transportation, which is required to develop a plan to implement evidence-based suicide deterrent design elements in infrastructure projects, may incur additional project costs. Additionally, the bill has an indeterminate fiscal impact on local school districts and charter schools due to the bill's provisions relating to in-service suicide prevention training requirements.

The bill takes effect July 1, 2020.

II. Present Situation:

Suicide is a major public health issue and a leading cause of death nationally,¹ with complex causes such as mental health and substance use disorders, painful losses, exposure to violence, and social isolation.² Suicide rates increased in nearly every state from 1999 through 2016.³ In 2017, suicide was the second leading cause of death nationwide for persons aged 10–14, 15–19, and 20–24.⁴ After stable trends from 2000 to 2007, suicide rates for persons aged 10–24 increased 56 percent from 2007 (6.8 per 100,000 persons) to 2017 (10.6 per 100,000 persons).⁵

While suicide is often characterized as a response to a single event or set of circumstances, suicide is the result of complex interactions among neurobiological, genetic, psychological, social, cultural, and environmental risk and protective factors.⁶ The factors that contribute to any particular suicide are diverse; therefore, efforts related to suicide prevention must incorporate multiple approaches.⁷

In Florida, the rate of suicides increased by 10.6 percent from 1996 to 2016.⁸ According to the 2017 Florida Morbidity Statistics Report, the total number of deaths due to suicide in Florida was 3,187 in 2017, a slight increase from 3,122 in 2016.⁹ Suicide was the eighth leading cause of death in Florida, and the suicide rate per 100,000 population was 15.5.¹⁰ This is a slight increase

¹ Heron M. *Deaths: Leading Causes for 2017*. National Vital Statistics Reports; Vol. 68 No 6. Hyattsville, MD: National Center for Health Statistics. 2019.

² Substance Abuse and Mental Health Service Administration, *Suicide Prevention*, available at: <https://www.samhsa.gov/suicide-prevention> (last visited November 7, 2019) and Centers for Disease Control and Prevention, *Suicides Rising Across the U.S.* (June 7, 2018), available at:

<https://www.cdc.gov/vitalsigns/suicide/index.html> (last visited November 6, 2019).

⁴ *Supra* note 1.

⁵ Heron M., Curtin, S., *Death Rates Due to Suicide and Homicide Among Persons Aged 10-24: United States, 2007-2017*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention National Center for Health Statistics, available at: <https://www.cdc.gov/nchs/data/databriefs/db352-h.pdf> (last visited November 6, 2019).

⁶ *Supra* note 1.

⁷ *Id.*

⁸ *Supra* note 2.

⁹ Florida Department of Health, *2017 Florida Morbidity Statistics Report*, 2017, available at: <http://www.floridahealth.gov/diseases-and-conditions/disease-reporting-and-management/disease-reporting-and-surveillance/data-and-publications/documents/2017-annual-morbidity-statistics-report.pdf> (last visited November 8, 2019).

¹⁰ *Id.*

from 2016 (15.4).¹¹ Suicide was the second leading cause of death for individuals within the 25-34 age group in 2017, similar to the national ranking of 2016, and the third leading cause of death for individuals within 15-24 age group. Suicide was the fourth leading cause of death for individuals within the 5-14, 35-44, and 45-54 age groups.¹²

Statewide Office for Suicide Prevention

The Statewide Office of Suicide Prevention (Statewide Office), which is housed within the Department of Children and Families (DCF),¹³ must coordinate education and training curricula in suicide prevention efforts for law enforcement personnel, first responders to emergency calls, health care providers, school employees, and others who may have contact with persons at risk of suicide.¹⁴

The Statewide Office is allowed to seek and accept grants or funds from federal, state, or local sources to support the operation and defray the authorized expenses of the Statewide Office and the Suicide Prevention Coordinating Council.¹⁵

Suicide Prevention Coordinating Council

The Suicide Prevention Coordinating Council (Council) is located within the DCF and develops strategies for preventing suicide and advises the Statewide Office regarding the development of a statewide plan for suicide prevention. A report on the plan is prepared and presented annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives.¹⁶

The Council is currently comprised of 27 voting members and 1 nonvoting member. Thirteen of the members are appointed by the director of the Statewide Office, four are appointed by the Governor, and ten are state agency directors or their designees.¹⁷

Suicide among First Responders

First responders include law enforcement personnel, firefighters, and emergency medical services workers. In comparison to the general population, first responders are at heightened risk for depression, post-traumatic stress disorder (PTSD), and suicide. Further, police and firefighters are more likely to commit suicide than to die in the line of duty.¹⁸ Many first responders previously served in the military, which likely exposed them to trauma prior to

¹¹ *Id.*

¹² *Id.*

¹³ Chapter 2011-51, Laws of Fla.; Section 14.2019, F.S.

¹⁴ Section 14.2019, F.S.

¹⁵ *Id.*

¹⁶ Section 14.20195, F.S.

¹⁷ *Id.*

¹⁸ Miriam Heyman, Jeff Dill, and Robert Douglas, *The Ruderman White Paper on Mental Health and Suicide of First Responders* (April 2018), pg. 7-12; available at https://issuu.com/rudermanfoundation/docs/first_responder_white_paper_final_ac270d530f8bfb. PTSD rates amongst first responders, in contrast to the 6.8 percent reported for the general population, significantly increase to 14.6 percent to 22 percent for firefighters, and 35 percent for police officers.

becoming a first responder.¹⁹ Suicide amongst first responders is considered to be grossly underreported. For example, in a study conducted by the Firefighter Behavioral Health Alliance (FBHA), researchers estimate that only about 40 percent of firefighter suicides are reported.²⁰

The Law Enforcement Mental Health and Wellness Act of 2017

Signed into law January 2018, the Law Enforcement Mental Health and Wellness Act of 2017 calls for the U.S. Department of Justice to review and report to Congress on mental health practices and services in the U.S. Departments of Defense and Veterans Affairs that could be adopted by law enforcement agencies to support first responders.²¹ The law additionally directs the Department of Justice to make recommendations on:

- Effectiveness of crisis lines for law enforcement officers;
- Efficacy of yearly mental health checks for law enforcement officers;
- Expanded peer mentoring programs; and
- Ensuring privacy for participants of these programs.²²

The report, provided to Congress on March 2019, includes the following recommendations to enhance mental health and reduce suicide rates:

- Support the development of resources for community-based clinicians who interact with law enforcement and their families;
- Support placement of mental health professionals in law enforcement agencies;
- Encourage programs that permit retired law enforcement officers to access departmental peer support programs after separating employment;
- Support the development of model policies and implementation guidelines for agencies to make substantial efforts to reduce suicide;
- Support the creation of a Law Enforcement Suicide Event report surveillance system;
- Evaluate the efficacy of crisis lines;
- Support the expansion of peer support programs; and
- Bolster privacy protections for officers seeking support from peer crisis lines and other support programs.²³

First-Episode Psychosis

The term “psychosis” is used to describe a condition that affects the mind and generally involves some loss of contact with reality. Psychosis can include hallucinations (seeing, hearing, smelling, tasting, or feeling something that is not real), paranoia, delusions (believing something that is not

¹⁹ *Id.* at 9.

²⁰ *Id.*

²¹ U.S. Department of Justice, *Community Oriented Policing Services (COPS), Law Enforcement Mental Health and Wellness Services (LEMHWA) Program Resources*; available at <https://cops.usdoj.gov/lemhwareources> (last visited Feb. 5, 2020).

²² Public Law 115-113 (115th Congress).

²³ Spence, Deborah L., Melissa Fox, Gilbert C. Moore, Sarah Estill, and Nazmia E.A.

Comrie, *Community Oriented Policing Services (COPS), U.S. Dept. of Justice, Law Enforcement Mental Health and Wellness Act, Report to Congress* (March 2019); available at <https://cops.usdoj.gov/RIC/Publications/cops-p370-pub.pdf>

real even when presented with facts), or disordered thoughts and speech.²⁴ Psychosis may be caused by medications or alcohol or drug abuse but can also be a symptom of mental illness or a physical condition.²⁵

Psychosis affects people from all walks of life. Approximately three out of 100 people will experience psychosis at some time in their lives, often beginning when a person is in their late teens to mid-twenties.²⁶ Researchers are still learning about how and why psychosis develops, but it is generally thought to be triggered by a combination of genetic predisposition and life stressors during critical stages of brain development.²⁷ Risk factors that may contribute to the development of psychosis include stressors such as physical illness, substance use, and psychological or physical trauma.²⁸

Early psychosis, known as “first-episode psychosis,” is the most important time to connect an individual with treatment.²⁹ Studies have shown that it is common for a person to experience psychotic symptoms for more than a year before ever receiving treatment.³⁰ Reducing the duration of untreated psychosis is critical to improving a person’s chance of recovery. The most effective treatment for early psychosis is coordinated specialty care, which uses a team-based approach with shared decision-making that focuses on working with individuals to reach their recovery goals.³¹

Programs that provide coordinated specialty care are often called first-episode psychosis (FEP) programs. Studies show that young people who engage in FEP programs have greater improvement in their symptoms, stay in treatment longer, are more likely to stay in school or working, and are more connected socially than those who receive standard mental care.³²

Veterans and Mental Health

Mental Health among Veterans

According to the National Center for Post-Traumatic Stress Disorder, between 11 and 20 percent of veterans who served in Operations Iraqi Freedom and Enduring Freedom have Post-Traumatic Stress Disorder (PTSD) in a given year.³³ Additionally, 12 percent of Gulf War Veterans and 15

²⁴ National Institute of Mental Health, *Fact Sheet: First Episode Psychosis*, available at:

<https://www.nimh.nih.gov/health/topics/schizophrenia/raise/fact-sheet-first-episode-psychosis.shtml> (last visited November 7, 2019).

²⁵ *Id.*

²⁶ *Id.*

²⁷ National Alliance on Mental Illness, *What is Early and First-Episode Psychosis?* (July 2016), available at:

<https://www.nami.org/NAMI/media/NAMI-Media/Images/FactSheets/What-is-Early-and-First-Episode-Psychosis.pdf> (last visited November 7, 2019).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Supra* note 18.

³¹ *Supra* note 21.

³² *First Episode Psychosis Programs: A Guide to State Expansion*, National Alliance on Mental Illness, p. 4, (Feb. 2017), available at: <https://www.nami.org/getattachment/Extranet/Advocacy/FEP-State-Advocacy-Toolkit/FEP-State-Advocacy-Guide.pdf> (last visited November 7, 2019).

³³ National Center for PTSD, *How Common is PTSD? PTSD and the Military*, available at https://www.ptsd.va.gov/understand/common/common_veterans.asp (last visited November 6, 2019).

percent of Vietnam Veterans have PTSD, and up to 30 percent of Vietnam Veterans will have PTSD in their lifetime.³⁴ Statistics on depression in veterans vary, but it is estimated that between 2 and 10 percent of servicemembers return from active military operations with major depression.³⁵

The 2019 National Veteran Suicide Prevention Annual Report published by the United States Department of Veterans Affairs (USDVA) details veteran deaths from suicide from 2005 to 2017.³⁶ During that time span, veteran suicides increased from 5,787 in 2005 to 6,139 in 2017.³⁷ The annual number of veteran suicide deaths has exceeded 6,000 every year since 2008,³⁸ and the annual number of veteran suicide deaths increased by 129 from 2016 to 2017.³⁹

Federal Mental Health Parity Laws

Commercial Plans

Prior to 1996, health insurance coverage for mental illness was generally not as comprehensive as coverage for medical and surgical benefits. In response, the Mental Health Parity Act⁴⁰ (MHPA) was enacted in 1996, which requires parity of medical and surgical benefits with mental health benefits for annual and aggregate lifetime limits of large group plans.

In 2008, Congress passed the Mental Health Parity and Addiction Equity Act⁴¹ (MHPAEA), which generally applies to large group health plans.⁴² The MHPAEA expanded parity of coverage to include treatment of substance use disorders, financial requirements, treatment limitations, and in- and out-of-network coverage if a plan provided coverage for mental illness.⁴³ Like the MHPA, the MHPAEA does not require large group plans to provide benefits for mental health or substance use disorders. The MHPAEA contains a cost exemption, which allows a group health plan to receive a waiver, exempting them from some of the key requirements, if the plan demonstrates that costs increased at least 1 percent because of compliance.⁴⁴

³⁴ *Id.*

³⁵ RAND Center for Military Health Policy Research, *Invisible Wounds of War: Psychological and Cognitive Injuries, Their Consequences, and Services to Assist Recovery*, at 54 (Terri Tanielian and Lisa H. Jaycox, Eds.) (2008), available at http://www.rand.org/pubs/monographs/2008/RAND_MG720.pdf (last visited November 6, 2019).

³⁶ U.S. Department of Veterans Affairs, *2019 National Veteran Suicide Prevention Annual Report*, 2019, available at https://www.mentalhealth.va.gov/docs/data-sheets/2019/2019_National_Veteran_Suicide_Prevention_Annual_Report_508.pdf (last visited November 6, 2019).

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Pub. L. No. 104-204.

⁴¹ Pub. L. No. 110-343.

⁴² See final regulations available at <http://www.gpo.gov/fdsys/pkg/FR-2013-11-13/pdf/2013-27086.pdf> (last viewed November 7, 2019).

⁴³ 45 CFR ss. 146 and 160.

⁴⁴ Plans and issuers that make changes to comply with MHPAEA and incur an increased cost of at least 2 percent in the first year that MHPAEA applies to the plan or coverage or at least 1 percent in any subsequent plan year may claim an exemption from MHPAEA based on their increased cost. If such a cost is incurred, the plan or coverage is exempt from MHPAEA requirements for the plan or policy year following the year the cost was incurred. The plan sponsors or issuers must notify the plan beneficiaries that MHPAEA does not apply to their coverage. These exemptions last 1 year. After that, the plan or

In 2010, the Patient Protection and Affordable Care Act⁴⁵ (PPACA) amended the MHPAEA to apply the provisions to individual health insurance coverage. The PPACA mandates that qualified health insurance must provide coverage of 10 essential health benefits,⁴⁶ including coverage for mental health and substance use disorders for individual and small group qualified health plans. The final rule, implementing these provisions, generally requires health insurers offering health insurance coverage in the individual and small group markets to comply with the requirements of the MHPAEA regulations in order to satisfy the essential health benefit requirement.⁴⁷

The Office of Insurance Regulation

The Florida Office of Insurance Regulation (OIR) licenses and regulates insurers, health maintenance organizations (HMOs), and other risk-bearing entities.⁴⁸ The Agency for Health Care Administration (AHCA) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from AHCA.⁴⁹ As part of the certification process used by the agency, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.⁵⁰

The OIR reviews health insurance policies and contracts for compliance with MHPAEA. The OIR communicates any violations of MHPAEA to the insurer or HMO. If the insurer or HMO fails to correct the issue, the OIR would refer the issue to the appropriate federal regulator as a possible violation of federal law.

Coverage for Mental and Nervous Disorders

Section 627.668, F.S., requires insurers and HMOs offering group coverage to make available optional coverage for mental and nervous disorders for an appropriate additional premium that would include benefits delineated in this section.

Coverage for Substance Abuse

Section 627.669, F.S., requires insurers and HMOs offering group coverage to make available optional coverage for substance abuse that would include benefits listed in the section.

Continuing Education Requirements for Health Care Practitioners

Compliance with continuing education (CE) requirements is a condition of renewal of licensure for health care practitioners. Boards, or the Department of Health (DOH) when there is no board, require each licensee to demonstrate competency by completing CEs during each licensure cycle.

coverage is required to comply again; however, if the plan or coverage incurs an increased cost of at least 1 percent in that plan or policy year, the plan or coverage could claim the exemption for the following plan or policy year.

⁴⁵ Pub. L. No. 111-148, as amended by Pub. L. No. 111-152.

⁴⁶ 45 CFR s. 156.115.

⁴⁷ See 45 CFR 147.150 and 156.115 (78 FR 12834, Feb. 25, 2013).

⁴⁸ Section 20.121(3)(a), F.S.

⁴⁹ Section 641.21(1), F.S.

⁵⁰ Section 641.495, F.S.

The number of required CE hours varies by profession. The requirements for CEs may be found in ch. 456, F.S., professional practice acts, administrative rules, or a combination of these references. Failure to comply with CE requirements may result in disciplinary action against the licensee, in accordance with the disciplinary guidelines established by the applicable board, or the DOH if there is no board.

The DOH or boards, when applicable, monitor health care practitioner's compliance with the CE requirements in a manner required by statute. The statutes vary as to the required method to use. For example, the DOH or a board, when applicable, may have to randomly select a licensee to request the submission of CE documentation,⁵¹ require a licensee to submit sworn affidavit or statement attesting that he or she has completed the required CE hours,⁵² or perform an audit. Licensees are responsible for maintaining documentation of the CE courses completed.

The Good Samaritan Act

The "Good Samaritan Act," codified in s. 768.13, F.S., provides immunity from civil liability for damages to any person who:

- Gratuitously and in good faith renders emergency care or treatment either in direct response to declared state emergencies or at the scene of an emergency situation, without objection of the injured victim, if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.⁵³
- Participates in emergency response activities of a community emergency response team if that person acts prudently and within the scope of his or her training.⁵⁴
- Gratuitously and in good faith renders emergency care or treatment to an injured animal at the scene of an emergency if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.⁵⁵

The Good Samaritan Act, however, does not specifically address immunity from liability for individuals who attempt to render aid to others at risk of dying or attempting to die by suicide. Several states have implemented such measures in their Good Samaritan statutes in order to shield those who make a good faith effort to render aid from civil liability.⁵⁶

Suicide Prevention Certified Schools

Section 1012.583, F.S., requires the Department of Education (DOE), in consultation with the Statewide Office for Suicide Prevention and suicide prevention experts, to develop a list of approved youth suicide awareness and prevention training materials and suicide screening instruments that may be used for training in youth suicide awareness, suicide prevention and suicide screening for school instructional personnel. The approved list of materials:⁵⁷

⁵¹ See s. 457.107, F.S.

⁵² See ss. 458.347(4)(e), 466.0135(6), 466.014, and 466.032(5), F.S.

⁵³ Section 768.13(2)(a), F.S.

⁵⁴ Section 768.13(2)(d), F.S.

⁵⁵ Section 768.13(3), F.S.

⁵⁶ Schiff, Damien, *Samaritans: Good, Bad and Ugly: A Comparative Law Analysis*, 11 Roger Williams Univ. L. Rev. 95 (2005).

⁵⁷ Section 1012.583(1), F.S.

- Must identify available standardized suicide screening instruments appropriate for use with a school-age population and which have validity and reliability and include information about obtaining instruction in the administration and use of such instruments.
- Must include training on how to identify appropriate mental health services and how to refer youth and their families to those services;
- May include materials currently being used by a school district if such materials meet any criteria established by the department; and
- May include programs that instructional personnel can complete through a self-review of approved youth suicide awareness and prevention materials.

A school is considered a “Suicide Prevention Certified School” if it:

- Has at least two school-based staff members certified or otherwise deemed competent in the use of a DOE-approved suicide screening instrument; and
- Chooses to incorporate 2 hours of the DOE-approved training materials and requires all of its instructional personnel to participate in the training.

Currently, neither public school instructional personnel nor charter school instructional personnel are required to participate in suicide prevention training, or be certified or deemed competent in the use of a suicide risk screening instrument. Additionally, neither public schools nor charter schools are required to use a suicide risk screening instrument to evaluate a student’s suicide risk prior to initiating or requesting to initiate the Baker Act.

III. Effect of Proposed Changes:

Section 1 amends s. 14.2019, F.S., adding veterans and service members to the list of stakeholders that comprise the network of community-based programs intended to improve suicide prevention initiatives. The bill also requires the Statewide Office to coordinate education and training curricula in suicide prevention efforts for veterans and service members. The bill requires the Statewide Office to act as a clearinghouse for information and resources related to suicide prevention by disseminating evidence-based practices and by collecting and analyzing data on trends in suicide by various population demographics. The bill requires the Statewide Office to advise the Florida Department of Transportation (DOT) on the implementation of evidence-based suicide deterrents when designing new infrastructure projects.

The bill establishes the First Responders Suicide Deterrence Task Force within and supported by the Statewide Office for Suicide Prevention. The purpose of the task force is to make recommendations on how to reduce the incidence of suicide among current and retired first responders. The task force is made up of representatives of the Florida Professional Firefighters, the Florida Police Benevolent Association, the Florida Fraternal Order of Police, the Florida Sheriffs Association, the Florida Police Chiefs Association, and the Florida Fire Chiefs’ Association.

The bill also requires the task force to identify or develop training programs and materials to better enable first responders to cope with life and work stress and foster an organizational culture that supports first responders. The bill identifies a supportive organizational culture as one that:

- Promotes mutual support and solidarity among first responders;

- Trains agency supervisors and managers to identify suicidal risk among first responders;
- Improves the use of existing resources by first responders; and
- Educates first responders on suicide awareness and resources for help.

The bill requires the task force to identify public and private resources to implement the training programs and materials. The task force must report its findings and recommendations to the Governor and Legislature each July 1, beginning in 2021. Consistent with s. 20.03, F.S., the task force expires after 3 years.

Section 2 amends s. 14.20195, F.S., directing the Suicide Prevention Coordinating Council (Council) to make findings and recommendations regarding suicide prevention specifically related to the implementation of evidence-based mental health awareness and assistance training programs and gatekeeper training throughout the state. The bill requires the Council to work with the DCF to advise the public on the locations and availability of local behavioral health providers.

The bill also adds five new voting members to the Council and requires that 18, rather than 13, members be appointed by the director of the Statewide Office. The bill amends the list of organizations appointed by the Statewide Office to include:

- The Florida Behavioral Health Association (the bill eliminates the individual memberships of the Florida Alcohol and Drug Abuse Association and the Florida Council for Community Mental Health because these organizations have merged to form the Florida Behavioral Health Association);
- The Florida Medical Association;
- The Florida Osteopathic Medical Association;
- The Florida Psychiatric Society;
- The Florida Psychological Association;
- Veterans Florida; and
- The Florida Association of Managing Entities.

Section 3 amends s. 334.044, F.S., requiring the DOT to work with the Statewide Office in developing a plan to consider evidence-based suicide deterrents on all newly planned infrastructure projects throughout the state.

Section 4 amends s. 394.455, F.S., defining first episode psychosis (FEP) programs as evidence-based programs that use intensive case management, individual or group therapy, supported employment, family education and supports, and appropriate psychotropic medication to treat individuals 14 to 30 years of age who are experiencing early indications of serious mental illness, especially first-episode psychosis.

Section 5 amends s. 394.4573, F.S., establishing FEP programs as an essential element of a coordinated system of care and requires the DCF to conduct an assessment of the availability of and access to FEP programs in the state, including any gaps in availability or access that may exist. This assessment must be included in the DCF's annual report to the Governor and Legislature on the assessment of behavioral health services in the state. The bill also adds FEP programs to the elements of a coordinated system of care.

Section 6 amends s. 394.463, F.S., requiring facilities who hold and release Baker Act patients who are minors to provide information regarding the availability of mobile response teams, suicide prevention resources, social supports, and local self-help groups to the patient's guardian upon release.

Section 7 creates s. 456.0342, F.S., adding suicide prevention to the continuing education (CE) requirements for allopathic physicians, osteopath physicians, and nurses, effective January 1, 2022. Such licensees must complete two hours of CE courses on suicide risk assessment, treatment, and management. The bill requires the respective licensing board for each of the three professions to include the hours required for completion in the total hours of continuing education required by law.

Section 8 amends s. 627.6675, F.S., requiring health insurers to offer benefits specified in the newly created s. 627.4193, F.S., rather than the benefits specified in s. 627.668 (optional coverage for mental and nervous disorders) and s. 627.669 (optional coverage for substance use impaired persons). The effective date of this section is January 1, 2021.

Section 9 transfers and amends s. 627.668, F.S., and renumbers it as s. 627.4193, F.S., requiring insurers that issue, deliver, or provide comprehensive major medical individual or group coverage to comply with the Mental Health Parity and Addiction Equity Act (MHPAEA) and provide the benefits or level of benefits needed for the medically necessary care and treatment of mental and nervous disorders, including substance use disorders. The bill also requires both individual and group policies to be provided in a manner no more restrictive than medical and surgical benefits, while nonquantitative treatment limitations cannot be applied more stringently than applicable restrictions in federal law.

The bill requires insurers to submit annual affidavits attesting to compliance with the MHPAEA, and requires the OIR to implement and enforce applicable provisions of the MHPAEA and federal guidance/regulations relating to the MHPAEA. The bill provides rulemaking authority to the Financial Services Commission for implementation. The effective date of this section is January 1, 2021.

Section 10 repeals s. 627.669, F.S., relating to optional insurance coverage requirements for substance abuse impaired persons. The effective date of this section is January 1, 2021.

Section 11 amends s. 627.6699, F.S., making health benefit plans that provide coverage to employees of a small employer subject to the newly created s. 627.4193, F.S., to ensure compliance with the MHPAEA. The effective date of this section is January 1, 2021.

Section 12 amends s. 641.26, F.S., requiring HMOs that issue or deliver comprehensive major medical coverage to submit annual affidavits to the OIR attesting to compliance with the newly created s. 627.4193, F.S., to ensure compliance with the MHPAEA, and provides rulemaking authority for OIR to implement the requirement. The effective date of this section is January 1, 2021.

Section 13 amends s. 641.31, F.S., requiring all health maintenance contracts that provide comprehensive medical coverage to comply with the provisions of the newly created s. 627.4193, F.S., and provides rulemaking authority for the OIR to implement the requirement. The effective date of this section is January 1, 2021.

Section 14 creates s. 786.1516, F.S., defining ‘emergency care’ to mean assistance or advice offered to avoid or attempt to mitigate a suicide emergency. The bill defines a ‘suicide emergency’ as an occurrence that reasonably indicates one is at risk of dying of or attempting suicide. The bill provides civil immunity for persons who provide emergency care at or near the scene of a suicide emergency.

Section 15 amends s. 1002.33, F.S., requiring all charter schools to incorporate 2 hours of suicide prevention training for all instructional personnel by October 1, 2020. The bill also requires all charter schools to have at least 2 school-based staff members certified or otherwise competent in the use of an approved suicide screening instrument and have a policy in place to utilize the instrument to gauge a student’s suicide risk before initiating a Baker Act or requesting the initiation of a Baker Act. The bill requires each charter school to report their compliance with these provisions to the DOE.

Section 16 amends s. 1012.583, F.S., putting in place the same requirements for public schools as those detailed in Section 15 for charter schools. The bill also eliminates the ‘Suicide Prevention Certified School’ designation in statute.

Section 17 amends s. 394.495, F.S., to correct cross-references related to child and adolescent mental health systems of care.

Section 18 amends s. 394.496, F.S., to correct cross-references related to service planning.

Section 19 amends s. 394.9085, F.S., to correct a cross-reference related to behavioral provider liability.

Section 20 amends s. 409.972, F.S., to correct a cross-reference related to mandatory and voluntary enrollment in Medicaid.

Section 21 amends s. 464.012, F.S., to correct a cross-reference related to licensure of advanced registered nurse practitioners, fees, and controlled substance prescribing.

Section 22 amends s. 744.2007, F.S., to correct a cross-reference related to powers and duties of public guardians.

Section 23 requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to perform a review of suicide prevention programs in other states and make recommendations on their applicability to Florida. The bill also requires the OPPAGA to submit a report containing the findings and recommendations to the President of the Senate and the Speaker of the House of Representatives by January 1, 2021.

Section 24 provides an effective date for the bill of July 1, 2020.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

PCS/SB 7012 would require large employer group health policies and HMO contracts to provide coverage for mental health and substance use disorders as that coverage would no longer be at the option of the employer. Additionally, certain health care practitioners may be impacted by the bill's continuing education requirement.

Charter schools may be impacted by having to train and/or hire new personnel to meet the suicide prevention training and staffing requirements under the bill. These impacts are indeterminate.

C. Government Sector Impact:

According to the DCF, two additional full-time equivalent (FTE) staff positions are needed for the Statewide Office of Suicide Prevention for \$155,386 in recurring costs and \$8,896 in nonrecurring costs. In addition, there will be additional recurring contract costs of \$262,650 to maintain the Network of Care website that provides information on locations and availability of local health care providers.

The bill has an indeterminate fiscal impact on the Department of Transportation to develop a plan relating to evidence-based suicide deterrents in certain locations.

The bill has an indeterminate fiscal impact on public schools and charter schools due to the bill's provisions relating to in-service suicide prevention training requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 14.2019, 14.20195, 334.044, 394.455, 394.4573, 394.463, 394.495, 394.496, 394.9085, 409.972, 464.012, 627.6675, 627.6699, 641.26, 641.31, 744.2007, 1002.33, and 1012.583.

This bill creates the following sections of the Florida Statutes: 456.0342, 627.4193, and 786.1516.

This bill repeals the following sections of the Florida Statutes: 627.668 and 627.669.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on February 13, 2020:

The committee substitute:

- Creates the First Responders Suicide Deterrence Task Force within the Statewide Office of Suicide Prevention for the purpose of providing recommendations on reducing suicide rates amongst active and retired first responders.
- Requires the task force to identify or develop training programs, materials, and resources to better enable first responders to cope with life and work stress and foster a supportive organizational culture.
- Provides for the membership of the task force.
- Requires the task force to report findings and recommendations on preventing suicide to the Governor and Legislature each July 1, from 2021 through 2023.
- Provides for the expiration of the task force in 3 years.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Delete lines 267 - 721
and insert:

Section 4. Present subsections (10) through (48) of section 394.455, Florida Statutes, are redesignated as subsections (11) through (49), respectively, a new subsection (10) is added to that section, and present subsection (28) of that section is amended, to read:

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



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11 (10) "Coordinated specialty care program" means an
12 evidence-based program for individuals who are experiencing the
13 early indications of serious mental illness, especially symptoms
14 of a first psychotic episode, and which includes, but is not
15 limited to, intensive case management, individual or group
16 therapy, supported employment, family education and supports,
17 and the provision of appropriate psychotropic medication as
18 needed.

19 ~~(29)~~~~(28)~~ "Mental illness" means an impairment of the mental
20 or emotional processes that exercise conscious control of one's
21 actions or of the ability to perceive or understand reality,
22 which impairment substantially interferes with the person's
23 ability to meet the ordinary demands of living. For the purposes
24 of this part, the term does not include a developmental
25 disability as defined in chapter 393, intoxication, or
26 conditions manifested only by dementia, traumatic brain injury,
27 antisocial behavior, or substance abuse.

28 Section 5. Section 394.4573, Florida Statutes, is amended
29 to read:

30 394.4573 Coordinated system of care; annual assessment;
31 essential elements; measures of performance; system improvement
32 grants; reports.—On or before December 1 of each year, the
33 department shall submit to the Governor, the President of the
34 Senate, and the Speaker of the House of Representatives an
35 assessment of the behavioral health services in this state. The
36 assessment shall consider, at a minimum, the extent to which
37 designated receiving systems function as no-wrong-door models,
38 the availability of treatment and recovery services that use
39 recovery-oriented and peer-involved approaches, the availability



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of less-restrictive services, and the use of evidence-informed practices. The assessment must also consider the availability of and access to coordinated specialty care programs and identify any gaps in the availability of and access to such programs in the state. The department's assessment shall consider, at a minimum, the needs assessments conducted by the managing entities pursuant to s. 394.9082(5). Beginning in 2017, the department shall compile and include in the report all plans submitted by managing entities pursuant to s. 394.9082(8) and the department's evaluation of each plan.

(1) As used in this section:

(a) "Care coordination" means the implementation of deliberate and planned organizational relationships and service procedures that improve the effectiveness and efficiency of the behavioral health system by engaging in purposeful interactions with individuals who are not yet effectively connected with services to ensure service linkage. Examples of care coordination activities include development of referral agreements, shared protocols, and information exchange procedures. The purpose of care coordination is to enhance the delivery of treatment services and recovery supports and to improve outcomes among priority populations.

(b) "Case management" means those direct services provided to a client in order to assess his or her needs, plan or arrange services, coordinate service providers, link the service system to a client, monitor service delivery, and evaluate patient outcomes to ensure the client is receiving the appropriate services.

(c) "Coordinated system of care" means the full array of



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behavioral and related services in a region or community offered by all service providers, whether participating under contract with the managing entity or by another method of community partnership or mutual agreement.

(d) "No-wrong-door model" means a model for the delivery of acute care services to persons who have mental health or substance use disorders, or both, which optimizes access to care, regardless of the entry point to the behavioral health care system.

(2) The essential elements of a coordinated system of care include:

(a) Community interventions, such as prevention, primary care for behavioral health needs, therapeutic and supportive services, crisis response services, and diversion programs.

(b) A designated receiving system that consists of one or more facilities serving a defined geographic area and responsible for assessment and evaluation, both voluntary and involuntary, and treatment or triage of patients who have a mental health or substance use disorder, or co-occurring disorders.

1. A county or several counties shall plan the designated receiving system using a process that includes the managing entity and is open to participation by individuals with behavioral health needs and their families, service providers, law enforcement agencies, and other parties. The county or counties, in collaboration with the managing entity, shall document the designated receiving system through written memoranda of agreement or other binding arrangements. The county or counties and the managing entity shall complete the plan and



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implement the designated receiving system by July 1, 2017, and the county or counties and the managing entity shall review and update, as necessary, the designated receiving system at least once every 3 years.

2. To the extent permitted by available resources, the designated receiving system shall function as a no-wrong-door model. The designated receiving system may be organized in any manner which functions as a no-wrong-door model that responds to individual needs and integrates services among various providers. Such models include, but are not limited to:

a. A central receiving system that consists of a designated central receiving facility that serves as a single entry point for persons with mental health or substance use disorders, or co-occurring disorders. The central receiving facility shall be capable of assessment, evaluation, and triage or treatment or stabilization of persons with mental health or substance use disorders, or co-occurring disorders.

b. A coordinated receiving system that consists of multiple entry points that are linked by shared data systems, formal referral agreements, and cooperative arrangements for care coordination and case management. Each entry point shall be a designated receiving facility and shall, within existing resources, provide or arrange for necessary services following an initial assessment and evaluation.

c. A tiered receiving system that consists of multiple entry points, some of which offer only specialized or limited services. Each service provider shall be classified according to its capabilities as either a designated receiving facility or another type of service provider, such as a triage center, a



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licensed detoxification facility, or an access center. All participating service providers shall, within existing resources, be linked by methods to share data, formal referral agreements, and cooperative arrangements for care coordination and case management.

An accurate inventory of the participating service providers which specifies the capabilities and limitations of each provider and its ability to accept patients under the designated receiving system agreements and the transportation plan developed pursuant to this section shall be maintained and made available at all times to all first responders in the service area.

(c) Transportation in accordance with a plan developed under s. 394.462.

(d) Crisis services, including mobile response teams, crisis stabilization units, addiction receiving facilities, and detoxification facilities.

(e) Case management. Each case manager or person directly supervising a case manager who provides Medicaid-funded targeted case management services shall hold a valid certification from a department-approved credentialing entity as defined in s. 397.311(10) by July 1, 2017, and, thereafter, within 6 months after hire.

(f) Care coordination that involves coordination with other local systems and entities, public and private, which are involved with the individual, such as primary care, child welfare, behavioral health care, and criminal and juvenile justice organizations.



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(g) Outpatient services.

(h) Residential services.

(i) Hospital inpatient care.

(j) Aftercare and other postdischarge services.

(k) Medication-assisted treatment and medication management.

(l) Recovery support, including, but not limited to, support for competitive employment, educational attainment, independent living skills development, family support and education, wellness management and self-care, and assistance in obtaining housing that meets the individual's needs. Such housing may include mental health residential treatment facilities, limited mental health assisted living facilities, adult family care homes, and supportive housing. Housing provided using state funds must provide a safe and decent environment free from abuse and neglect.

(m) Care plans shall assign specific responsibility for initial and ongoing evaluation of the supervision and support needs of the individual and the identification of housing that meets such needs. For purposes of this paragraph, the term "supervision" means oversight of and assistance with compliance with the clinical aspects of an individual's care plan.

(n) Coordinated specialty care programs.

(3) SYSTEM IMPROVEMENT GRANTS.—Subject to a specific appropriation by the Legislature, the department may award system improvement grants to managing entities based on a detailed plan to enhance services in accordance with the no-wrong-door model as defined in subsection (1) and to address specific needs identified in the assessment prepared by the



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department pursuant to this section. Such a grant must be awarded through a performance-based contract that links payments to the documented and measurable achievement of system improvements.

Section 6. Subsection (3) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(3) NOTICE OF RELEASE.—Notice of the release shall be given to the patient's guardian or representative, to any person who executed a certificate admitting the patient to the receiving facility, and to any court which ordered the patient's evaluation. If the patient is a minor, information regarding the availability of a local mobile response service, suicide prevention resources, social supports, and local self-help groups must also be provided to the patient's guardian or representative along with the notice of the release.

Section 7. Paragraph (b) of subsection (1) of section 394.658, Florida Statutes, is amended to read:

394.658 Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program requirements.—

(1) The Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee, in collaboration with the Department of Children and Families, the Department of Corrections, the Department of Juvenile Justice, the Department of Elderly Affairs, and the Office of the State Courts Administrator, shall establish criteria to be used to review submitted applications and to select the county that will be awarded a 1-year planning grant or a 3-year implementation or expansion grant. A planning, implementation, or expansion grant



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may not be awarded unless the application of the county meets the established criteria.

(b) The application criteria for a 3-year implementation or expansion grant shall require information from a county that demonstrates its completion of a well-established collaboration plan that includes public-private partnership models and the application of evidence-based practices. The implementation or expansion grants may support programs and diversion initiatives that include, but need not be limited to:

1. Mental health courts;
2. Diversion programs;
3. Alternative prosecution and sentencing programs;
4. Crisis intervention teams;
5. Treatment accountability services;
6. Specialized training for criminal justice, juvenile justice, and treatment services professionals;
7. Service delivery of collateral services such as housing, transitional housing, and supported employment; ~~and~~
8. Reentry services to create or expand mental health and substance abuse services and supports for affected persons; and
9. Coordinated specialty care programs.

Section 8. Present subsections (3) through (24) of section 394.67, Florida Statutes, are redesignated as subsections (4) through (25), respectively, a new subsection (3) is added to that section, and present subsection (3) is amended, to read:

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

(3) "Coordinated specialty care program" means an evidence-based program for individuals who are experiencing the early indications of serious mental illness, especially symptoms of a



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first psychotic episode, and which includes, but is not limited to, intensive case management, individual or group therapy, supported employment, family education and supports, and the provision of appropriate psychotropic medication as needed.

(4)~~(3)~~ "Crisis services" means short-term evaluation, stabilization, and brief intervention services provided to a person who is experiencing an acute mental or emotional crisis, as defined in subsection (18) ~~(17)~~, or an acute substance abuse crisis, as defined in subsection (19) ~~(18)~~, to prevent further deterioration of the person's mental health. Crisis services are provided in settings such as a crisis stabilization unit, an inpatient unit, a short-term residential treatment program, a detoxification facility, or an addictions receiving facility; at the site of the crisis by a mobile crisis response team; or at a hospital on an outpatient basis.

Section 9. Paragraph (a) of subsection (26) of section 397.311, Florida Statutes, is amended to read:

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

(26) Licensed service components include a comprehensive continuum of accessible and quality substance abuse prevention, intervention, and clinical treatment services, including the following services:

(a) "Clinical treatment" means a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle. As defined by rule, "clinical treatment services" include, but are not limited to, the following licensable service components:



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1. "Addictions receiving facility" is a secure, acute care facility that provides, at a minimum, detoxification and stabilization services; is operated 24 hours per day, 7 days per week; and is designated by the department to serve individuals found to be substance use impaired as described in s. 397.675 who meet the placement criteria for this component.

2. "Day or night treatment" is a service provided in a nonresidential environment, with a structured schedule of treatment and rehabilitative services.

3. "Day or night treatment with community housing" means a program intended for individuals who can benefit from living independently in peer community housing while participating in treatment services for a minimum of 5 hours a day for a minimum of 25 hours per week.

4. "Detoxification" is a service involving subacute care that is provided on an inpatient or an outpatient basis to assist individuals to withdraw from the physiological and psychological effects of substance abuse and who meet the placement criteria for this component.

5. "Intensive inpatient treatment" includes a planned regimen of evaluation, observation, medical monitoring, and clinical protocols delivered through an interdisciplinary team approach provided 24 hours per day, 7 days per week, in a highly structured, live-in environment.

6. "Intensive outpatient treatment" is a service that provides individual or group counseling in a more structured environment, is of higher intensity and duration than outpatient treatment, and is provided to individuals who meet the placement criteria for this component.



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301 7. "Medication-assisted treatment for opioid use disorders
302 ~~opiate addiction~~" is a service that uses methadone or other
303 medication as authorized by state and federal law, in
304 combination with medical, rehabilitative, supportive, and
305 counseling services in the treatment of individuals who are
306 dependent on opioid drugs.

307 8. "Outpatient treatment" is a service that provides
308 individual, group, or family counseling by appointment during
309 scheduled operating hours for individuals who meet the placement
310 criteria for this component.

311 9. "Residential treatment" is a service provided in a
312 structured live-in environment within a nonhospital setting on a
313 24-hours-per-day, 7-days-per-week basis, and is intended for
314 individuals who meet the placement criteria for this component.

315 Section 10. Subsection (16) of section 397.321, Florida
316 Statutes, is amended to read:

317 397.321 Duties of the department.—The department shall:

318 ~~(16) Develop a certification process by rule for community~~
319 ~~substance abuse prevention coalitions.~~

320 Section 11. Section 397.4012, Florida Statutes, is amended
321 to read:

322 397.4012 Exemptions from licensure.—The following are
323 exempt from the licensing provisions of this chapter:

324 (1) A hospital or hospital-based component licensed under
325 chapter 395.

326 (2) A nursing home facility as defined in s. 400.021.

327 (3) A substance abuse education program established
328 pursuant to s. 1003.42.

329 (4) A facility or institution operated by the Federal



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Government.

(5) A physician or physician assistant licensed under chapter 458 or chapter 459.

(6) A psychologist licensed under chapter 490.

(7) A social worker, marriage and family therapist, or mental health counselor licensed under chapter 491.

(8) A legally cognizable church or nonprofit religious organization or denomination providing substance abuse services, including prevention services, which are solely religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization or denomination providing any of the licensed service components itemized under s. 397.311(26) is not exempt from substance abuse licensure but retains its exemption with respect to all services which are solely religious, spiritual, or ecclesiastical in nature.

(9) Facilities licensed under chapter 393 which, in addition to providing services to persons with developmental disabilities, also provide services to persons developmentally at risk as a consequence of exposure to alcohol or other legal or illegal drugs while in utero.

(10) DUI education and screening services provided pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291. Persons or entities providing treatment services must be licensed under this chapter unless exempted from licensing as provided in this section.

(11) A facility licensed under s. 394.875 as a crisis stabilization unit.

The exemptions from licensure in subsections (3), (4), (8), (9),



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and (10) this section do not apply to any service provider that receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated under ~~pursuant to~~ s. 397.4014. Furthermore, this chapter may not be construed to limit the practice of a physician or physician assistant licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, a psychotherapist licensed under chapter 491, or an advanced practice registered nurse licensed under part I of chapter 464, who provides substance abuse treatment, so long as the physician, physician assistant, psychologist, psychotherapist, or advanced practice registered nurse does not represent to the public that he or she is a licensed service provider and does not provide services to individuals under ~~pursuant to~~ part V of this chapter. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 12. Section 456.0342, Florida Statutes, is created to read:

456.0342 Required instruction on suicide prevention.—The requirements of this section apply to each person licensed or certified under chapter 458, chapter 459, or part I of chapter 464.

(1) By January 1, 2022, each licensed or certified practitioner shall complete a board-approved 2-hour continuing education course on suicide prevention. The course must address suicide risk assessment, treatment, and management.

(2) Each licensing board that requires a licensee or



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certificateholder to complete a course pursuant to this section
must include the hours required for completion in the total
hours of continuing education required by law for such
profession.

Section 13. Section 786.1516, Florida Statutes, is created
to read:

786.1516 Immunity for providing assistance in a suicide
emergency.—

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

(a) "Emergency care" means assistance or advice offered to
avoid, mitigate, or attempt to mitigate the effects of a suicide
emergency.

(b) "Suicide emergency" means an occurrence that reasonably
indicates an individual is at risk of dying or attempting to die
by suicide.

(2) A person who provides emergency care at or near the
scene of a suicide emergency, gratuitously and in good faith, is
not liable for any civil damages or penalties as a result of any
act or omission by the person providing the emergency care
unless the person is grossly negligent or caused the suicide
emergency.

Section 14. Subsection (14) of section 916.106, Florida
Statutes, is amended to read:

916.106 Definitions.—For the purposes of this chapter, the
term:

(14) "Mental illness" means an impairment of the emotional
processes that exercise conscious control of one's actions, or
of the ability to perceive or understand reality, which
impairment substantially interferes with the defendant's ability



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to meet the ordinary demands of living. For the purposes of this chapter, the term does not apply to defendants who have only an intellectual disability or autism or a defendant with traumatic brain injury or dementia who lacks a co-occurring mental illness, and does not include intoxication or conditions manifested only by antisocial behavior or substance abuse impairment.

Section 15. Subsection (2) of section 916.13, Florida Statutes, is amended to read:

916.13 Involuntary commitment of defendant adjudicated incompetent.—

(2) A defendant who has been charged with a felony, ~~and who~~ has been adjudicated incompetent to proceed due to mental illness, and ~~who~~ meets the criteria for involuntary commitment under this chapter, may be committed to the department, and the department shall retain and treat the defendant. Within 2 business days after receipt of a commitment order and other required documents as stipulated in rule, the department must request from the jail any and all medical information pertaining to the defendant. Within 3 business days after receipt of such a request, the jail shall provide such information to the department.

(a) Within 6 months after the date of admission and at the end of any period of extended commitment, or at any time the administrator or his or her designee determines that the defendant has regained competency to proceed or no longer meets the criteria for continued commitment, the administrator or designee shall file a report with the court pursuant to the applicable Florida Rules of Criminal Procedure.



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(b) A competency hearing must ~~shall~~ be held within 30 days after the court receives notification that the defendant is competent to proceed or no longer meets the criteria for continued commitment. The defendant must be transported to the committing court's jurisdiction for the hearing. If the defendant is receiving psychotropic medication at a mental health facility at the time he or she is discharged and transferred to the jail, the administering of such medication must continue unless the jail physician documents the need to change or discontinue it. The jail and department physicians shall collaborate to ensure that medication changes do not adversely affect the defendant's mental health status or his or her ability to continue with court proceedings; however, the final authority regarding the administering of medication to an inmate in jail rests with the jail physician.

Section 16. Subsections (3) and (5) of section 916.15, Florida Statutes, are amended to read:

916.15 Involuntary commitment of defendant adjudicated not guilty by reason of insanity.—

(3) Every defendant acquitted of criminal charges by reason of insanity and found to meet the criteria for involuntary commitment may be committed and treated in accordance with ~~the provisions of~~ this section and the applicable Florida Rules of Criminal Procedure. The department shall admit a defendant so adjudicated to an appropriate facility or program for treatment and shall retain and treat such defendant. No later than 6 months after the date of admission, prior to the end of any period of extended commitment, or at any time that the administrator or his or her designee determines ~~shall have~~



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determined that the defendant no longer meets the criteria for continued commitment placement, the administrator or designee shall file a report with the court pursuant to the applicable Florida Rules of Criminal Procedure. Within 2 business days after receipt of a commitment order and other required documents as stipulated in rule, the department must request from the jail any and all medical information pertaining to the defendant. Within 3 business days after receipt of such a request, the jail shall provide such information to the department.

(5) The commitment hearing shall be held within 30 days after the court receives notification that the defendant no longer meets the criteria for continued commitment. The defendant must be transported to the committing court's jurisdiction for the hearing. If the defendant is receiving psychotropic medication at a mental health facility at the time he or she is discharged and transferred to the jail, the administering of such medication must continue unless the jail physician documents the need to change or discontinue it. The jail and department physicians shall collaborate to ensure that medication changes do not adversely affect the defendant's mental health status or his or her ability to continue with court proceedings; however, the final authority regarding the administering of medication to an inmate in jail rests with the jail physician.

Section 17. Present subsection (28) of section 1002.33, Florida Statutes, is redesignated as subsection (29), and a new subsection (28) is added to that section, to read:

1002.33 Charter schools.—

(28) CONTINUING EDUCATION AND INSERVICE TRAINING FOR YOUTH



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SUICIDE AWARENESS AND PREVENTION.—

(a) By October 1, 2020, every charter school must:

1. Incorporate 2 hours of training offered pursuant to s. 1012.583. The training must be included in the existing continuing education or inservice training requirements for instructional personnel and may not add to the total hours currently required by the department. Every charter school must require all instructional personnel to participate.

2. Have at least two school-based staff members certified or otherwise deemed competent in the use of a suicide screening instrument approved under s. 1012.583(1) and have a policy to use such suicide risk screening instrument to evaluate a student's suicide risk before requesting the initiation of, or initiating, an involuntary examination due to concerns about that student's suicide risk.

(b) Every charter school must report its compliance with this subsection to the department.

Section 18. Subsections (2) and (3) of section 1012.583, Florida Statutes, are amended to read:

1012.583 Continuing education and inservice training for youth suicide awareness and prevention.—

(2) By October 1, 2020, every public school must ~~A school shall be considered a "Suicide Prevention Certified School" if it:~~

(a) Incorporate ~~incorporates~~ 2 hours of training offered pursuant to this section. The training must be included in the existing continuing education or inservice training requirements for instructional personnel and may not add to the total hours currently required by the department. Every public school A



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~~school that chooses to participate in the training~~ must require all instructional personnel to participate.

(b) Have ~~Has~~ at least two school-based staff members certified or otherwise deemed competent in the use of a suicide screening instrument approved under subsection (1) and have ~~has~~ a policy to use such suicide risk screening instrument to evaluate a student's suicide risk before requesting the initiation of, or initiating, an involuntary examination due to concerns about that student's suicide risk.

(3) Every public school ~~A school that meets the criteria in subsection (2)~~ must report its compliance with this section to the department. ~~The department shall keep an updated record of all Suicide Prevention Certified Schools and shall post the list of these schools on the department's website. Each school shall also post on its own website whether it is a Suicide Prevention Certified School, and each school district shall post on its district website a list of the Suicide Prevention Certified Schools in that district.~~

Section 19. Paragraph (a) of subsection (3) of section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(3) (a) 1. Except as otherwise provided in subparagraph (b) 1. or paragraph (e), before the department provides psychotropic medications to a child in its custody, the prescribing physician or a psychiatric nurse, as defined in s. 394.455, shall attempt to obtain express and informed consent, as defined in s. 394.455(16) ~~s. 394.455(15)~~ and as described in s. 394.459(3) (a),



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from the child's parent or legal guardian. The department must take steps necessary to facilitate the inclusion of the parent in the child's consultation with the physician or psychiatric nurse, as defined in s. 394.455. However, if the parental rights of the parent have been terminated, the parent's location or identity is unknown or cannot reasonably be ascertained, or the parent declines to give express and informed consent, the department may, after consultation with the prescribing physician or psychiatric nurse, as defined in s. 394.455, seek court authorization to provide the psychotropic medications to the child. Unless parental rights have been terminated and if it is possible to do so, the department shall continue to involve the parent in the decisionmaking process regarding the provision of psychotropic medications. If, at any time, a parent whose parental rights have not been terminated provides express and informed consent to the provision of a psychotropic medication, the requirements of this section that the department seek court authorization do not apply to that medication until such time as the parent no longer consents.

2. Any time the department seeks a medical evaluation to determine the need to initiate or continue a psychotropic medication for a child, the department must provide to the evaluating physician or psychiatric nurse, as defined in s. 394.455, all pertinent medical information known to the department concerning that child.

Section 20. Subsection (3) of section 394.495, Florida Statutes, are amended to read:

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



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(3) Assessments must be performed by:

(a) A professional as defined in s. 394.455(5), (7), (33)
~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

(b) A professional licensed under chapter 491; or

(c) A person who is under the direct supervision of a
qualified professional as defined in s. 394.455(5), (7), (33)
~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under
chapter 491.

Section 21. Subsection (5) of section 394.496, Florida
Statutes, is amended to read:

394.496 Service planning.—

(5) A professional as defined in s. 394.455(5), (7), (33)
~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under
chapter 491 must be included among those persons developing the
services plan.

Section 22. Paragraph (a) of subsection (1) of section
394.674, Florida Statutes, is amended to read:

394.674 Eligibility for publicly funded substance abuse and
mental health services; fee collection requirements.—

(1) To be eligible to receive substance abuse and mental
health services funded by the department, an individual must be
a member of at least one of the department's priority
populations approved by the Legislature. The priority
populations include:

(a) For adult mental health services:

1. Adults who have severe and persistent mental illness, as
designated by the department using criteria that include
severity of diagnosis, duration of the mental illness, ability
to independently perform activities of daily living, and receipt



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of disability income for a psychiatric condition. Included within this group are:

- a. Older adults in crisis.
- b. Older adults who are at risk of being placed in a more restrictive environment because of their mental illness.
- c. Persons deemed incompetent to proceed or not guilty by reason of insanity under chapter 916.
- d. Other persons involved in the criminal justice system.
- e. Persons diagnosed as having co-occurring mental illness and substance abuse disorders.

2. Persons who are experiencing an acute mental or emotional crisis as defined in s. 394.67(18) ~~s. 394.67(17)~~.

Section 23. Subsection (3) of section 394.74, Florida Statutes, is amended to read:

394.74 Contracts for provision of local substance abuse and mental health programs.—

(3) Contracts shall include, but are not limited to:

(a) A provision that, within the limits of available resources, substance abuse and mental health crisis services, as defined in s. 394.67(4) ~~s. 394.67(3)~~, shall be available to any individual residing or employed within the service area, regardless of ability to pay for such services, current or past health condition, or any other factor;

(b) A provision that such services be available with priority of attention being given to individuals who exhibit symptoms of chronic or acute substance abuse or mental illness and who are unable to pay the cost of receiving such services;

(c) A provision that every reasonable effort to collect appropriate reimbursement for the cost of providing substance



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abuse and mental health services to persons able to pay for services, including first-party payments and third-party payments, shall be made by facilities providing services pursuant to this act;

(d) A program description and line-item operating budget by program service component for substance abuse and mental health services, provided the entire proposed operating budget for the service provider will be displayed;

(e) A provision that client demographic, service, and outcome information required for the department's Mental Health and Substance Abuse Data System be submitted to the department by a date specified in the contract. The department may not pay the provider unless the required information has been submitted by the specified date; and

(f) A requirement that the contractor must conform to department rules and the priorities established thereunder.

Section 24. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "detoxification services," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss.

397.311(26)(a)3. ~~ss. 397.311(26)(a)4.~~, 397.311(26)(a)1., and 394.455(40) ~~394.455(39)~~,

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

And the title is amended as follows:

Delete lines 2 - 75

and insert:



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An act relating to mental health and substance abuse;
amending s. 14.2019, F.S.; providing additional duties
for the Statewide Office for Suicide Prevention;
establishing the First Responders Suicide Deterrence
Task Force adjunct to the office; specifying the task
force's purpose; providing for the composition and the
duties of the task force; requiring the task force to
submit reports to the Governor and the Legislature on
an annual basis; providing for future repeal; amending
s. 14.20195, F.S.; providing additional duties for the
Suicide Prevention Coordinating Council; revising the
composition of the council; amending s. 334.044, F.S.;
requiring the Department of Transportation to work
with the office in developing a plan relating to
evidence-based suicide deterrents in certain
locations; amending s. 394.455, F.S.; defining the
term "coordinated specialty care program"; revising
the definition of the term "mental illness"; amending
s. 394.4573, F.S.; revising the requirements for the
annual state behavioral health services assessment;
revising the essential elements of a coordinated
system of care; amending s. 394.463, F.S.; requiring
that certain information be provided to the guardian
or representative of a minor patient released from
involuntary examination; amending s. 394.658, F.S.;
revising the application criteria for the Criminal
Justice, Mental Health, and Substance Abuse
Reinvestment Grant Program to include support for
coordinated specialty care programs; amending s.



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394.67, F.S.; defining the term "coordinated specialty care program"; amending s. 397.311, F.S.; redefining the term "medication-assisted treatment opiate addiction" as "medication-assisted treatment for opioid use disorders"; amending s. 397.321, F.S.; deleting a provision requiring the Department of Children and Families to develop a certification process by rule for community substance abuse prevention coalitions; amending s. 397.4012, F.S.; revising applicability for certain licensure exemptions; creating s. 456.0342, F.S.; providing applicability; requiring specified persons to complete certain suicide prevention education courses by a specified date; requiring certain boards to include the hours for such courses in the total hours of continuing education required for the profession; creating s. 786.1516, F.S.; defining the terms "emergency care" and "suicide emergency"; providing that persons providing certain emergency care are not liable for civil damages or penalties under certain circumstances; amending s. 916.106, F.S.; revising the definition of the term "mental illness"; amending ss. 916.13 and 916.15, F.S.; requiring the department to request a defendant's medical information from a jail within a certain timeframe after receiving a commitment order and other required documentation; requiring the jail to provide such information within a certain timeframe; requiring the continued administration of psychotropic medication to a



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defendant if he or she is receiving such medication at a mental health facility at the time that he or she is discharged and transferred to the jail; providing an exception; requiring the jail and department physicians to collaborate on a defendant's medication changes for certain purposes; specifying that the jail physician has the final authority regarding the administering of medication to an inmate; amending ss. 1002.33 and 1012.583, F.S.; requiring charter schools and public schools, respectively, to incorporate certain training on suicide prevention in continuing education and inservice training requirements; providing that such schools must require all instructional personnel to participate in the training; requiring such schools to have a specified minimum number of staff members who are certified or deemed competent in the use of suicide screening instruments; requiring such schools to have a policy for such instruments; requiring such schools to report certain compliance to the Department of Education; conforming provisions to changes made by the act; amending ss. 39.407, 394.495, 394.496, 394.674, 394.74, 394.9085,



314786

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/27/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Between lines 452 and 453
insert:

Section 7. Present subsection (5) of section 397.401, Florida Statutes, is redesignated as subsection (6), and a new subsection (5) is added to that section, to read:

397.401 License required; penalty; injunction; rules
waivers.—

(5) A service provider that has continually maintained an



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active Residential Level 5 license since January 1, 2012, and
that houses patients within 500 feet of a licensed facility
treating patients in compliance with this chapter, may maintain
such license.

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

And the title is amended as follows:

Delete line 25

and insert:

involuntary examination; amending s. 397.401, F.S.;
authorizing certain service providers to maintain a
Residential Level 5 license; creating s. 456.0342,
F.S.;



401064

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Book) recommended the following:

Senate Amendment (with title amendment)

Between lines 757 and 758
insert:

Section 24. For the 2020-2021 fiscal year, the sums of \$418,036 in recurring funds and \$8,896 in nonrecurring funds are appropriated from the General Revenue Fund to the Department of Children and Families, and two full-time equivalent positions with associated salary rate of 90,384 are authorized, for the purpose of implementing the requirements of this act.



401064

11
12 ===== T I T L E A M E N D M E N T =====
13 And the title is amended as follows:
14 Delete line 83
15 and insert:
16 specified date; providing an appropriation;
17 authorizing positions; providing effective dates.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to mental health; amending s. 14.2019, F.S.; providing additional duties for the Statewide Office for Suicide Prevention; establishing the First Responders Suicide Deterrence Task Force adjunct to the office; specifying the task force's purpose; providing for the composition and the duties of the task force; requiring the task force to submit reports to the Governor and the Legislature on an annual basis; providing for future repeal; amending s. 14.20195, F.S.; providing additional duties for the Suicide Prevention Coordinating Council; revising the composition of the council; amending s. 334.044, F.S.; requiring the Department of Transportation to work with the office in developing a plan relating to evidence-based suicide deterrents in certain locations; amending s. 394.455, F.S.; defining the term "first episode psychosis program"; amending s. 394.4573, F.S.; revising the requirements for the annual state behavioral health services assessment; revising the essential elements of a coordinated system of care; amending s. 394.463, F.S.; requiring that certain information be provided to the guardian or representative of a minor patient released from involuntary examination; creating s. 456.0342, F.S.; providing applicability; requiring specified persons to complete certain suicide prevention education



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courses by a specified date; requiring certain boards to include the hours for such courses in the total hours of continuing education required for the profession; amending s. 627.6675, F.S.; conforming a provision to changes made by the act; transferring, renumbering, and amending s. 627.668, F.S.; requiring certain entities issuing, delivering, or issuing for delivery certain health insurance policies to comply with specified federal provisions that prohibit the imposition of less favorable benefit limitations on mental health and substance use disorder benefits than on medical and surgical benefits; deleting provisions relating to optional coverage for mental and nervous disorders by such entities; revising the standard for defining substance use disorders; requiring such entities to submit an annual affidavit attesting to compliance with federal law; requiring the office to implement and enforce certain federal laws in a specified manner; authorizing the Financial Services Commission to adopt rules; repealing s. 627.669, F.S., relating to optional coverage required for substance abuse impaired persons; amending s. 627.6699, F.S.; providing applicability; amending s. 641.26, F.S.; requiring certain entities to submit an annual affidavit to the Office of Insurance Regulation attesting to compliance with certain requirements; authorizing the office to adopt rules; amending s. 641.31, F.S.; requiring that certain health maintenance contracts comply with certain



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57 requirements; authorizing the commission to adopt
58 rules; creating s. 786.1516, F.S.; defining the terms
59 "emergency care" and "suicide emergency"; providing
60 that persons providing certain emergency care are not
61 liable for civil damages or penalties under certain
62 circumstances; amending ss. 1002.33 and 1012.583,
63 F.S.; requiring charter schools and public schools,
64 respectively, to incorporate certain training on
65 suicide prevention in continuing education and
66 inservice training requirements; providing that such
67 schools must require all instructional personnel to
68 participate in the training; requiring such schools to
69 have a specified minimum number of staff members who
70 are certified or deemed competent in the use of
71 suicide screening instruments; requiring such schools
72 to have a policy for such instruments; requiring such
73 schools to report certain compliance to the Department
74 of Education; conforming provisions to changes made by
75 the act; amending ss. 394.495, 394.496, 394.9085,
76 409.972, 464.012, and 744.2007, F.S.; conforming
77 cross-references; requiring the Office of Program
78 Policy Analysis and Government Accountability to
79 perform a review of certain programs and efforts
80 relating to suicide prevention programs in other
81 states and make certain recommendations; requiring the
82 office to submit a report to the Legislature by a
83 specified date; providing effective dates.

84
85 Be It Enacted by the Legislature of the State of Florida:



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86
87 Section 1. Paragraphs (a) and (d) of subsection (2) of
88 section 14.2019, Florida Statutes, are amended, paragraphs (e)
89 and (f) are added to that subsection, and subsection (5) is
90 added to that section, to read:
91 14.2019 Statewide Office for Suicide Prevention.—
92 (2) The statewide office shall, within available resources:
93 (a) Develop a network of community-based programs to
94 improve suicide prevention initiatives. The network shall
95 identify and work to eliminate barriers to providing suicide
96 prevention services to individuals who are at risk of suicide.
97 The network shall consist of stakeholders advocating suicide
98 prevention, including, but not limited to, not-for-profit
99 suicide prevention organizations, faith-based suicide prevention
100 organizations, law enforcement agencies, first responders to
101 emergency calls, veterans, servicemembers, suicide prevention
102 community coalitions, schools and universities, mental health
103 agencies, substance abuse treatment agencies, health care
104 providers, and school personnel.
105 (d) Coordinate education and training curricula in suicide
106 prevention efforts for law enforcement personnel, first
107 responders to emergency calls, veterans, servicemembers, health
108 care providers, school employees, and other persons who may have
109 contact with persons at risk of suicide.
110 (e) Act as a clearinghouse for information and resources
111 related to suicide prevention by:
112 1. Disseminating and sharing evidence-based best practices
113 relating to suicide prevention;
114 2. Collecting and analyzing data on trends in suicide and



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suicide attempts annually by county, age, gender, profession, and other demographics as designated by the statewide office.

(f) Advise the Department of Transportation on the implementation of evidence-based suicide deterrents in the design elements and features of infrastructure projects throughout the state.

(5) The First Responders Suicide Deterrence Task Force, a task force as defined in s. 20.03(8), is created adjunct to the Statewide Office for Suicide Prevention.

(a) The purpose of the task force is to make recommendations on how to reduce the incidence of suicide and attempted suicide among employed or retired first responders in this state.

(b) The task force is composed of a representative of the statewide office and a representative of each of the following first responder organizations, nominated by the organization and appointed by the Secretary of Children and Families:

1. The Florida Professional Firefighters.
2. The Florida Police Benevolent Association.
3. The Florida Fraternal Order of Police: State Lodge.
4. The Florida Sheriffs Association.
5. The Florida Police Chiefs Association.
6. The Florida Fire Chiefs' Association.

(c) The task force shall elect a chair from among its membership. Except as otherwise provided, the task force shall operate in a manner consistent with s. 20.052.

(d) The task force shall identify or make recommendations on developing training programs and materials that would better enable first responders to cope with personal life stressors and



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stress related to their profession and foster an organizational culture that:

1. Promotes mutual support and solidarity among active and retired first responders;

2. Trains agency supervisors and managers to identify suicidal risk among active and retired first responders;

3. Improves the use and awareness of existing resources among active and retired first responders; and

4. Educates active and retired first responders on suicide awareness and help-seeking.

(e) The task force shall identify state and federal public resources, funding and grants, first responder association resources, and private resources to implement identified training programs and materials.

(f) The task force shall report on its findings and recommendations for training programs and materials to deter suicide among active and retired first responders to the Governor, the President of the Senate, and the Speaker of the House of Representatives by each July 1, beginning in 2021, and through 2023.

(g) This subsection is repealed July 1, 2023.

Section 2. Paragraph (c) of subsection (1) and subsection (2) of section 14.20195, Florida Statutes, are amended, and paragraph (d) is added to subsection (1) of that section, to read:

14.20195 Suicide Prevention Coordinating Council; creation; membership; duties.—There is created within the Statewide Office for Suicide Prevention a Suicide Prevention Coordinating Council. The council shall develop strategies for preventing



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suicide.

(1) SCOPE OF ACTIVITY.—The Suicide Prevention Coordinating Council is a coordinating council as defined in s. 20.03 and shall:

(c) Make findings and recommendations regarding suicide prevention programs and activities, including, but not limited to, the implementation of evidence-based mental health awareness and assistance training programs and gatekeeper training in municipalities throughout the state. The council shall prepare an annual report and present it to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, each year. The annual report must describe the status of existing and planned initiatives identified in the statewide plan for suicide prevention and any recommendations arising therefrom.

(d) In conjunction with the Department of Children and Families, advise members of the public on the locations and availability of local behavioral health providers.

(2) MEMBERSHIP.—The Suicide Prevention Coordinating Council shall consist of 32 ~~27~~ voting members and one nonvoting member.

(a) Eighteen ~~Thirteen~~ members shall be appointed by the director of the Statewide Office for Suicide Prevention and shall represent the following organizations:

1. The Florida Association of School Psychologists.
2. The Florida Sheriffs Association.
3. The Suicide Prevention Action Network USA.
4. The Florida Initiative of Suicide Prevention.
5. The Florida Suicide Prevention Coalition.
6. The American Foundation of Suicide Prevention.



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7. The Florida School Board Association.

8. The National Council for Suicide Prevention.

9. The state chapter of AARP.

10. ~~The Florida Behavioral Health Association The Florida Alcohol and Drug Abuse Association.~~

11. ~~The Florida Council for Community Mental Health.~~

~~12.~~ The Florida Counseling Association.

~~12.13.~~ NAMI Florida.

13. The Florida Medical Association.

14. The Florida Osteopathic Medical Association.

15. The Florida Psychiatric Society.

16. The Florida Psychological Association.

17. Veterans Florida.

18. The Florida Association of Managing Entities.

(b) The following state officials or their designees shall serve on the coordinating council:

1. The Secretary of Elderly Affairs.

2. The State Surgeon General.

3. The Commissioner of Education.

4. The Secretary of Health Care Administration.

5. The Secretary of Juvenile Justice.

6. The Secretary of Corrections.

7. The executive director of the Department of Law Enforcement.

8. The executive director of the Department of Veterans' Affairs.

9. The Secretary of Children and Families.

10. The executive director of the Department of Economic Opportunity.



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231 (c) The Governor shall appoint four additional members to
232 the coordinating council. The appointees must have expertise
233 that is critical to the prevention of suicide or represent an
234 organization that is not already represented on the coordinating
235 council.

236 (d) For the members appointed by the director of the
237 Statewide Office for Suicide Prevention, seven members shall be
238 appointed to initial terms of 3 years, and seven members shall
239 be appointed to initial terms of 4 years. For the members
240 appointed by the Governor, two members shall be appointed to
241 initial terms of 4 years, and two members shall be appointed to
242 initial terms of 3 years. Thereafter, such members shall be
243 appointed to terms of 4 years. Any vacancy on the coordinating
244 council shall be filled in the same manner as the original
245 appointment, and any member who is appointed to fill a vacancy
246 occurring because of death, resignation, or ineligibility for
247 membership shall serve only for the unexpired term of the
248 member's predecessor. A member is eligible for reappointment.

249 (e) The director of the Statewide Office for Suicide
250 Prevention shall be a nonvoting member of the coordinating
251 council and shall act as chair.

252 (f) Members of the coordinating council shall serve without
253 compensation. Any member of the coordinating council who is a
254 public employee is entitled to reimbursement for per diem and
255 travel expenses as provided in s. 112.061.

256 Section 3. Present paragraph (c) of subsection (10) of
257 section 334.044, Florida Statutes, is redesignated as paragraph
258 (d), and a new paragraph (c) is added to that subsection, to
259 read:



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260 334.044 Powers and duties of the department.—The department
261 shall have the following general powers and duties:

262 (10)

263 (c) The department shall work with the Statewide Office for
264 Suicide Prevention in developing a plan to consider the
265 implementation of evidence-based suicide deterrents on all new
266 infrastructure projects.

267 Section 4. Present subsections (17) through (48) of section
268 394.455, Florida Statutes, are redesignated as subsections (18)
269 through (49), respectively, and a new subsection (17) is added
270 to that section, to read:

271 394.455 Definitions.—As used in this part, the term:

272 (17) "First episode psychosis program" means an evidence-
273 based program for individuals between 14 and 30 years of age who
274 are experiencing early indications of serious mental illness,
275 especially a first episode of psychotic symptoms. The program
276 includes, but is not limited to, intensive case management,
277 individual or group therapy, supported employment, family
278 education and supports, and appropriate psychotropic medication,
279 as indicated.

280 Section 5. Section 394.4573, Florida Statutes, is amended
281 to read:

282 394.4573 Coordinated system of care; annual assessment;
283 essential elements; measures of performance; system improvement
284 grants; reports.—On or before December 1 of each year, the
285 department shall submit to the Governor, the President of the
286 Senate, and the Speaker of the House of Representatives an
287 assessment of the behavioral health services in this state. The
288 assessment shall consider, at a minimum, the extent to which



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289 designated receiving systems function as no-wrong-door models,
290 the availability of treatment and recovery services that use
291 recovery-oriented and peer-involved approaches, the availability
292 of less-restrictive services, and the use of evidence-informed
293 practices. The assessment must also describe the availability of
294 and access to first episode psychosis programs, and any gaps in
295 the availability and access of such programs, in all areas of
296 the state. The department's assessment shall consider, at a
297 minimum, the needs assessments conducted by the managing
298 entities pursuant to s. 394.9082(5). Beginning in 2017, the
299 department shall compile and include in the report all plans
300 submitted by managing entities pursuant to s. 394.9082(8) and
301 the department's evaluation of each plan.

302 (1) As used in this section:

303 (a) "Care coordination" means the implementation of
304 deliberate and planned organizational relationships and service
305 procedures that improve the effectiveness and efficiency of the
306 behavioral health system by engaging in purposeful interactions
307 with individuals who are not yet effectively connected with
308 services to ensure service linkage. Examples of care
309 coordination activities include development of referral
310 agreements, shared protocols, and information exchange
311 procedures. The purpose of care coordination is to enhance the
312 delivery of treatment services and recovery supports and to
313 improve outcomes among priority populations.

314 (b) "Case management" means those direct services provided
315 to a client in order to assess his or her needs, plan or arrange
316 services, coordinate service providers, link the service system
317 to a client, monitor service delivery, and evaluate patient



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318 outcomes to ensure the client is receiving the appropriate
319 services.

320 (c) "Coordinated system of care" means the full array of
321 behavioral and related services in a region or community offered
322 by all service providers, whether participating under contract
323 with the managing entity or by another method of community
324 partnership or mutual agreement.

325 (d) "No-wrong-door model" means a model for the delivery of
326 acute care services to persons who have mental health or
327 substance use disorders, or both, which optimizes access to
328 care, regardless of the entry point to the behavioral health
329 care system.

330 (2) The essential elements of a coordinated system of care
331 include:

332 (a) Community interventions, such as prevention, primary
333 care for behavioral health needs, therapeutic and supportive
334 services, crisis response services, and diversion programs.

335 (b) A designated receiving system that consists of one or
336 more facilities serving a defined geographic area and
337 responsible for assessment and evaluation, both voluntary and
338 involuntary, and treatment or triage of patients who have a
339 mental health or substance use disorder, or co-occurring
340 disorders.

341 1. A county or several counties shall plan the designated
342 receiving system using a process that includes the managing
343 entity and is open to participation by individuals with
344 behavioral health needs and their families, service providers,
345 law enforcement agencies, and other parties. The county or
346 counties, in collaboration with the managing entity, shall



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document the designated receiving system through written memoranda of agreement or other binding arrangements. The county or counties and the managing entity shall complete the plan and implement the designated receiving system by July 1, 2017, and the county or counties and the managing entity shall review and update, as necessary, the designated receiving system at least once every 3 years.

2. To the extent permitted by available resources, the designated receiving system shall function as a no-wrong-door model. The designated receiving system may be organized in any manner which functions as a no-wrong-door model that responds to individual needs and integrates services among various providers. Such models include, but are not limited to:

a. A central receiving system that consists of a designated central receiving facility that serves as a single entry point for persons with mental health or substance use disorders, or co-occurring disorders. The central receiving facility shall be capable of assessment, evaluation, and triage or treatment or stabilization of persons with mental health or substance use disorders, or co-occurring disorders.

b. A coordinated receiving system that consists of multiple entry points that are linked by shared data systems, formal referral agreements, and cooperative arrangements for care coordination and case management. Each entry point shall be a designated receiving facility and shall, within existing resources, provide or arrange for necessary services following an initial assessment and evaluation.

c. A tiered receiving system that consists of multiple entry points, some of which offer only specialized or limited



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services. Each service provider shall be classified according to its capabilities as either a designated receiving facility or another type of service provider, such as a triage center, a licensed detoxification facility, or an access center. All participating service providers shall, within existing resources, be linked by methods to share data, formal referral agreements, and cooperative arrangements for care coordination and case management.

An accurate inventory of the participating service providers which specifies the capabilities and limitations of each provider and its ability to accept patients under the designated receiving system agreements and the transportation plan developed pursuant to this section shall be maintained and made available at all times to all first responders in the service area.

(c) Transportation in accordance with a plan developed under s. 394.462.

(d) Crisis services, including mobile response teams, crisis stabilization units, addiction receiving facilities, and detoxification facilities.

(e) Case management. Each case manager or person directly supervising a case manager who provides Medicaid-funded targeted case management services shall hold a valid certification from a department-approved credentialing entity as defined in s. 397.311(10) by July 1, 2017, and, thereafter, within 6 months after hire.

(f) Care coordination that involves coordination with other local systems and entities, public and private, which are



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involved with the individual, such as primary care, child welfare, behavioral health care, and criminal and juvenile justice organizations.

(g) Outpatient services.

(h) Residential services.

(i) Hospital inpatient care.

(j) Aftercare and other postdischarge services.

(k) Medication-assisted treatment and medication management.

(l) Recovery support, including, but not limited to, support for competitive employment, educational attainment, independent living skills development, family support and education, wellness management and self-care, and assistance in obtaining housing that meets the individual's needs. Such housing may include mental health residential treatment facilities, limited mental health assisted living facilities, adult family care homes, and supportive housing. Housing provided using state funds must provide a safe and decent environment free from abuse and neglect.

(m) Care plans shall assign specific responsibility for initial and ongoing evaluation of the supervision and support needs of the individual and the identification of housing that meets such needs. For purposes of this paragraph, the term "supervision" means oversight of and assistance with compliance with the clinical aspects of an individual's care plan.

(n) First episode psychosis programs.

(3) SYSTEM IMPROVEMENT GRANTS.—Subject to a specific appropriation by the Legislature, the department may award system improvement grants to managing entities based on a



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detailed plan to enhance services in accordance with the no-wrong-door model as defined in subsection (1) and to address specific needs identified in the assessment prepared by the department pursuant to this section. Such a grant must be awarded through a performance-based contract that links payments to the documented and measurable achievement of system improvements.

Section 6. Subsection (3) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(3) NOTICE OF RELEASE.—Notice of the release shall be given to the patient's guardian or representative, to any person who executed a certificate admitting the patient to the receiving facility, and to any court which ordered the patient's evaluation. If the patient is a minor, information regarding the availability of a local mobile response service, suicide prevention resources, social supports, and local self-help groups must also be provided to the patient's guardian or representative along with the notice of the release.

Section 7. Section 456.0342, Florida Statutes, is created to read:

456.0342 Required instruction on suicide prevention.—The requirements of this section apply to each person licensed or certified under chapter 458, chapter 459, or part I of chapter 464.

(1) By January 1, 2022, each licensed or certified practitioner shall complete a board-approved 2-hour continuing education course on suicide prevention. The course must address suicide risk assessment, treatment, and management.



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463 (2) Each licensing board that requires a licensee or
464 certificate holder to complete a course pursuant to this section
465 must include the hours required for completion in the total
466 hours of continuing education required by law for such
467 profession.

468 Section 8. Effective January 1, 2021, paragraph (b) of
469 subsection (8) of section 627.6675, Florida Statutes, is amended
470 to read:

471 627.6675 Conversion on termination of eligibility.—Subject
472 to all of the provisions of this section, a group policy
473 delivered or issued for delivery in this state by an insurer or
474 nonprofit health care services plan that provides, on an
475 expense-incurred basis, hospital, surgical, or major medical
476 expense insurance, or any combination of these coverages, shall
477 provide that an employee or member whose insurance under the
478 group policy has been terminated for any reason, including
479 discontinuance of the group policy in its entirety or with
480 respect to an insured class, and who has been continuously
481 insured under the group policy, and under any group policy
482 providing similar benefits that the terminated group policy
483 replaced, for at least 3 months immediately prior to
484 termination, shall be entitled to have issued to him or her by
485 the insurer a policy or certificate of health insurance,
486 referred to in this section as a “converted policy.” A group
487 insurer may meet the requirements of this section by contracting
488 with another insurer, authorized in this state, to issue an
489 individual converted policy, which policy has been approved by
490 the office under s. 627.410. An employee or member shall not be
491 entitled to a converted policy if termination of his or her



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492 insurance under the group policy occurred because he or she
493 failed to pay any required contribution, or because any
494 discontinued group coverage was replaced by similar group
495 coverage within 31 days after discontinuance.

496 (8) BENEFITS OFFERED.—

497 (b) An insurer shall offer the benefits specified in s.
498 627.4193 s. 627.668 and the benefits specified in s. 627.669 if
499 those benefits were provided in the group plan.

500 Section 9. Effective January 1, 2021, section 627.668,
501 Florida Statutes, is transferred, renumbered as section
502 627.4193, Florida Statutes, and amended to read:

503 627.4193 627.668 Requirements for mental health and
504 substance use disorder benefits; reporting requirements ~~Optional~~
505 ~~coverage for mental and nervous disorders required; exception.—~~

506 (1) Every insurer issuing, delivering, or issuing for
507 delivery comprehensive major medical individual or, health
508 ~~maintenance organization, and nonprofit hospital and medical~~
509 ~~service plan corporation transacting group health insurance~~
510 ~~policies or providing prepaid health care in this state must~~
511 comply with the federal Paul Wellstone and Pete Domenici Mental
512 Health Parity and Addiction Equity Act of 2008 (MHPAEA) and any
513 regulations relating to MHPAEA, including, but not limited to,
514 45 C.F.R. s. 146.136, 45 C.F.R. s. 147.160, and 45 C.F.R. s.
515 156.115(a) (3); and must provide ~~shall make available to the~~
516 ~~policyholder as part of the application, for an appropriate~~
517 ~~additional premium under a group hospital and medical expense-~~
518 ~~incurred insurance policy, under a group prepaid health care~~
519 ~~contract, and under a group hospital and medical service plan~~
520 ~~contract,~~ the benefits or level of benefits specified in



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521 subsection (2) for the medically necessary care and treatment of
522 mental and nervous disorders, including substance use disorders,
523 as described defined in the Diagnostic and Statistical Manual of
524 Mental Disorders, Fifth Edition, published by standard
525 nomenclature of the American Psychiatric Association, subject to
526 the right of the applicant for a group policy or contract to
527 select any alternative benefits or level of benefits as may be
528 offered by the insurer, health maintenance organization, or
529 service plan corporation provided that, if alternate inpatient,
530 outpatient, or partial hospitalization benefits are selected,
531 such benefits shall not be less than the level of benefits
532 required under paragraph (2) (a), paragraph (2) (b), or paragraph
533 (2) (c), respectively.

534 (2) Under individual or group policies described in
535 subsection (1) ~~or contracts~~, inpatient hospital benefits,
536 partial hospitalization benefits, and outpatient benefits
537 consisting of durational limits, dollar amounts, deductibles,
538 and coinsurance factors may not be provided in a manner that is
539 more restrictive than medical and surgical benefits, and limits
540 on the scope or duration of treatments which are not expressed
541 numerically, also known as nonquantitative treatment
542 limitations, must be provided in a manner that is comparable and
543 may not be applied more stringently than limits on medical and
544 surgical benefits, in accordance with 45 C.F.R. s.
545 146.136(c) (2), (3), and (4) shall not be less favorable than for
546 physical illness generally, except that:

547 (a) Inpatient benefits may be limited to not less than 30
548 days per benefit year as defined in the policy or contract. If
549 inpatient hospital benefits are provided beyond 30 days per



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550 ~~benefit year, the durational limits, dollar amounts, and~~
551 ~~coinsurance factors thereto need not be the same as applicable~~
552 ~~to physical illness generally.~~

553 (b) Outpatient benefits may be limited to \$1,000 for
554 consultations with a licensed physician, a psychologist licensed
555 pursuant to chapter 490, a mental health counselor licensed
556 pursuant to chapter 491, a marriage and family therapist
557 licensed pursuant to chapter 491, and a clinical social worker
558 licensed pursuant to chapter 491. If benefits are provided
559 beyond the \$1,000 per benefit year, the durational limits,
560 dollar amounts, and coinsurance factors thereof need not be the
561 same as applicable to physical illness generally.

562 (c) Partial hospitalization benefits shall be provided
563 under the direction of a licensed physician. For purposes of
564 this part, the term "partial hospitalization services" is
565 defined as those services offered by a program that is
566 accredited by an accrediting organization whose standards
567 incorporate comparable regulations required by this state.
568 Alcohol rehabilitation programs accredited by an accrediting
569 organization whose standards incorporate comparable regulations
570 required by this state or approved by the state and licensed
571 drug abuse rehabilitation programs shall also be qualified
572 providers under this section. In a given benefit year, if
573 partial hospitalization services or a combination of inpatient
574 and partial hospitalization are used, the total benefits paid
575 for all such services may not exceed the cost of 30 days after
576 inpatient hospitalization for psychiatric services, including
577 physician fees, which prevail in the community in which the
578 partial hospitalization services are rendered. If partial



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579 ~~hospitalization services benefits are provided beyond the limits~~
580 ~~set forth in this paragraph, the durational limits, dollar~~
581 ~~amounts, and coinsurance factors thereof need not be the same as~~
582 ~~those applicable to physical illness generally.~~

583 (3) Insurers must maintain strict confidentiality regarding
584 psychiatric and psychotherapeutic records submitted to an
585 insurer for the purpose of reviewing a claim for benefits
586 payable under this section. These records submitted to an
587 insurer are subject to the limitations of s. 456.057, relating
588 to the furnishing of patient records.

589 (4) Every insurer shall submit an annual affidavit
590 attesting to compliance with the applicable provisions of the
591 MHPAEA.

592 (5) The office shall implement and enforce applicable
593 provisions of MHPAEA and federal guidance or regulations
594 relating to MHPAEA, including, but not limited to, 45 C.F.R. s.
595 146.136, 45 C.F.R. s. 147.160, and 45 C.F.R. s. 156.115(a)(3),
596 and this section.

597 (6) The Financial Services Commission may adopt rules to
598 implement this section.

599 Section 10. Subsection (4) is added to section 627.669,
600 Florida Statutes, to read:

601 627.669 Optional coverage required for substance abuse
602 impaired persons; exception.—

603 (4) This section is repealed January 1, 2021.

604 Section 11. Effective January 1, 2021, present subsection
605 (17) of section 627.6699, Florida Statutes, is redesignated as
606 subsection (18), and a new subsection (17) is added to that
607 section, to read:



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608 627.6699 Employee Health Care Access Act.—

609 (17) MENTAL HEALTH AND SUBSTANCE ABUSE BENEFITS.—A health
610 benefit plan that provides coverage to employees of a small
611 employer is subject to s. 627.4193.

612 Section 12. Effective January 1, 2021, subsection (9) is
613 added to section 641.26, Florida Statutes, to read:

614 641.26 Annual and quarterly reports.—

615 (9) Every health maintenance organization issuing,
616 delivering, or issuing for delivery contracts providing
617 comprehensive major medical coverage shall annually submit an
618 affidavit to the office attesting to compliance with the
619 requirements of s. 627.4193. The office may adopt rules to
620 implement this subsection.

621 Section 13. Effective January 1, 2021, subsection (48) is
622 added to section 641.31, Florida Statutes, to read:

623 641.31 Health maintenance contracts.—

624 (48) All health maintenance contracts that provide
625 comprehensive medical coverage must comply with the coverage
626 provisions of s. 627.4193. The commission may adopt rules to
627 implement this subsection.

628 Section 14. Section 786.1516, Florida Statutes, is created
629 to read:

630 786.1516 Immunity for providing assistance in a suicide
631 emergency.—

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

633 (a) "Emergency care" means assistance or advice offered to
634 avoid, mitigate, or attempt to mitigate the effects of a suicide
635 emergency.

636 (b) "Suicide emergency" means an occurrence that reasonably



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637 indicates an individual is at risk of dying or attempting to die
638 by suicide.

639 (2) A person who provides emergency care at or near the
640 scene of a suicide emergency, gratuitously and in good faith, is
641 not liable for any civil damages or penalties as a result of any
642 act or omission by the person providing the emergency care
643 unless the person is grossly negligent or caused the suicide
644 emergency.

645 Section 15. Present subsection (28) of section 1002.33,
646 Florida Statutes, is redesignated as subsection (29), and a new
647 subsection (28) is added to that section, to read:

648 1002.33 Charter schools.—

649 (28) CONTINUING EDUCATION AND INSERVICE TRAINING FOR YOUTH
650 SUICIDE AWARENESS AND PREVENTION.—

651 (a) By October 1, 2020, every charter school must:

652 1. Incorporate 2 hours of training offered pursuant to s.
653 1012.583. The training must be included in the existing
654 continuing education or inservice training requirements for
655 instructional personnel and may not add to the total hours
656 currently required by the department. Every charter school must
657 require all instructional personnel to participate.

658 2. Have at least two school-based staff members certified
659 or otherwise deemed competent in the use of a suicide screening
660 instrument approved under s. 1012.583(1) and have a policy to
661 use such suicide risk screening instrument to evaluate a
662 student's suicide risk before requesting the initiation of, or
663 initiating, an involuntary examination due to concerns about
664 that student's suicide risk.

665 (b) Every charter school must report its compliance with



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666 this subsection to the department.

667 Section 16. Subsections (2) and (3) of section 1012.583,
668 Florida Statutes, are amended to read:

669 1012.583 Continuing education and inservice training for
670 youth suicide awareness and prevention.—

671 (2) By October 1, 2020, every public school must A school
672 shall be considered a "Suicide Prevention Certified School" if
673 it:

674 (a) Incorporate Incorporates 2 hours of training offered
675 pursuant to this section. The training must be included in the
676 existing continuing education or inservice training requirements
677 for instructional personnel and may not add to the total hours
678 currently required by the department. Every public school A
679 school that chooses to participate in the training must require
680 all instructional personnel to participate.

681 (b) Have Has at least two school-based staff members
682 certified or otherwise deemed competent in the use of a suicide
683 screening instrument approved under subsection (1) and have has
684 a policy to use such suicide risk screening instrument to
685 evaluate a student's suicide risk before requesting the
686 initiation of, or initiating, an involuntary examination due to
687 concerns about that student's suicide risk.

688 (3) Every public school A school that meets the criteria in
689 subsection (2) must report its compliance with this section to
690 the department. The department shall keep an updated record of
691 all Suicide Prevention Certified Schools and shall post the list
692 of these schools on the department's website. Each school shall
693 also post on its own website whether it is a Suicide Prevention
694 Certified School, and each school district shall post on its



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695 ~~district website a list of the Suicide Prevention Certified~~
696 ~~Schools in that district.~~

697 Section 17. Paragraphs (a) and (c) of subsection (3) of
698 section 394.495, Florida Statutes, are amended to read:

699 394.495 Child and adolescent mental health system of care;
700 programs and services.—

701 (3) Assessments must be performed by:

702 (a) A professional as defined in s. 394.455(5), (7), (33)
703 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

704 (c) A person who is under the direct supervision of a
705 qualified professional as defined in s. 394.455(5), (7), (33)
706 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under
707 chapter 491.

708 Section 18. Subsection (5) of section 394.496, Florida
709 Statutes, is amended to read:

710 394.496 Service planning.—

711 (5) A professional as defined in s. 394.455(5), (7), (33)
712 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under
713 chapter 491 must be included among those persons developing the
714 services plan.

715 Section 19. Subsection (6) of section 394.9085, Florida
716 Statutes, is amended to read:

717 394.9085 Behavioral provider liability.—

718 (6) For purposes of this section, the terms "detoxification
719 services," "addictions receiving facility," and "receiving
720 facility" have the same meanings as those provided in ss.
721 397.311(26)(a)4., 397.311(26)(a)1., and 394.455(40) ~~394.455(39)~~,
722 respectively.

723 Section 20. Paragraph (b) of subsection (1) of section



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724 409.972, Florida Statutes, is amended to read:

725 409.972 Mandatory and voluntary enrollment.—

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

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

733 Section 21. Paragraph (e) of subsection (4) of section
734 464.012, Florida Statutes, is amended to read:

735 464.012 Licensure of advanced practice registered nurses;
736 fees; controlled substance prescribing.—

737 (4) In addition to the general functions specified in
738 subsection (3), an advanced practice registered nurse may
739 perform the following acts within his or her specialty:

740 (e) A psychiatric nurse, who meets the requirements in s.
741 394.455(36) ~~s. 394.455(35)~~, within the framework of an
742 established protocol with a psychiatrist, may prescribe
743 psychotropic controlled substances for the treatment of mental
744 disorders.

745 Section 22. Subsection (7) of section 744.2007, Florida
746 Statutes, is amended to read:

747 744.2007 Powers and duties.—

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

751 Section 23. The Office of Program Policy Analysis and
752 Government Accountability shall perform a review of suicide



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753 prevention programs and efforts made by other states and make
754 recommendations on their applicability to this state. The office
755 shall submit a report containing the findings and
756 recommendations to the President of the Senate and the Speaker
757 of the House of Representatives by January 1, 2021.

758 Section 24. Except as otherwise expressly provided in this
759 act, this act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 7012

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senator Rouson

SUBJECT: Mental Health

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Delia	Hendon		CF Submitted as Committee Bill
1.	Sneed	Kidd	AHS	Recommend: Fav/CS
2.	Sneed	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7012 makes several changes to laws relating to substance abuse and mental health services. Specifically, the bill:

- Redefines “mental illness” related to the Baker Act and post-adjudication commitment to exclude dementia and traumatic brain injury.
- Defines “coordinated specialty care programs” as an essential element of a coordinated system of care and requires the DCF to report annually on any gaps in availability or access in the state. Makes coordinated specialty care programs eligible for Criminal Justice, Mental Health, and Substance Abuse Reinvestment grants.
- Allows licensed health care professional and facilities to contract with the DCF and managing entities to provide mental health services without obtaining a separate license from the DCF.
- Broadens the scope and duties of the Statewide Office of Suicide Prevention (Statewide Office) in the Department of Children and Families (DCF) by requiring the Statewide Office to coordinate education and training curricula on suicide prevention efforts for veterans and services members.
- Creates the First Responders Suicide Deterrence Task Force within the Statewide Office to assist in the reduction of suicide rates of first responders.
- Broadens the scope and duties of the Suicide Prevention Coordinating Council by requiring the Council to make recommendations on the implementation of evidence-based mental

health programs and suicide risk identification training and adds five new members to the Council.

- Adds new training and staffing requirements for instructional personnel at public and charter schools.
- Adds new continuing education requirements related to suicide prevention for various health care practitioners.
- Requires Baker Act receiving facilities to provide suicide prevention information resources to minors being released from a facility.
- Provides civil immunity to persons who help or attempt to help others at imminent risk of suicide.
- Requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review other states' suicide prevention programs and submit a report of its findings and recommendations to the Legislature.
- Requires county jails to administer the psychotropic medications prescribed by the DCF when a forensic client is discharged and returned to the county jail, unless the jail physician documents the need to change or discontinue such medication.
- Requires the DCF treating physician to consult with the jail physician and consider prescribing medication included in the jail's drug formulary.
- Requires county jails to send to the DCF all medical information on individuals in their custody who will be admitted to a state mental health treatment facility. Requires the DCF to request this information immediately upon receipt of a completed commitment packet and requires the county jail to provide such information within three business days of the request.
- Removes the requirement for prevention coalitions to be certified by the DCF.

For Fiscal Year 2020-2021, the bill provides the DCF with two full-time equivalent (FTE) positions and appropriates \$418,036 in recurring funds and \$8,896 in nonrecurring funds from the General Revenue Funds for the Statewide Office of Suicide Prevention to meet the workload and information sharing requirements.

The bill takes effect July 1, 2020.

II. Present Situation:

Suicide is a major public health issue and a leading cause of death nationally,¹ with complex causes such as mental health and substance use disorders, painful losses, exposure to violence, and social isolation.² Suicide rates increased in nearly every state from 1999 through 2016.³ In 2017, suicide was the second leading cause of death nationwide for persons aged 10–14, 15–19,

¹ Heron M. *Deaths: Leading Causes for 2017*. National Vital Statistics Reports; Vol. 68 No 6. Hyattsville, MD: National Center for Health Statistics. 2019.

² Substance Abuse and Mental Health Service Administration, *Suicide Prevention*, available at: <https://www.samhsa.gov/suicide-prevention> (last visited November 7, 2019).

³ Centers for Disease Control and Prevention, *Suicides Rising across the U.S.* (June 7, 2018), available at: <https://www.cdc.gov/vitalsigns/suicide/index.html> (last visited November 6, 2019).

and 20–24.⁴ After stable trends from 2000 to 2007, suicide rates for persons aged 10–24 increased 56 percent from 2007 (6.8 per 100,000 persons) to 2017 (10.6 per 100,000 persons).⁵

While suicide is often characterized as a response to a single event or set of circumstances, suicide is the result of complex interactions among neurobiological, genetic, psychological, social, cultural, and environmental risk and protective factors.⁶ The factors that contribute to any particular suicide are diverse; therefore, efforts related to suicide prevention must incorporate multiple approaches.⁷

In Florida, the rate of suicides increased by 10.6 percent from 1996 to 2016.⁸ According to the 2017 Florida Morbidity Statistics Report, the total number of deaths due to suicide in Florida was 3,187 in 2017, a slight increase from 3,122 in 2016.⁹ Suicide was the eighth leading cause of death in Florida, and the suicide rate per 100,000 population was 15.5. This is a slight increase from 2016 (15.4). Suicide was the second leading cause of death for individuals within the 25-34 age group in 2017, similar to the national ranking of 2016, and the third leading cause of death for individuals within 15-24 age group. Suicide was the fourth leading cause of death for individuals within the 5-14, 35-44, and 45-54 age groups.

Statewide Office for Suicide Prevention

The Statewide Office of Suicide Prevention (Statewide Office), which is housed within the Department of Children and Families (DCF), must coordinate education and training curricula in suicide prevention efforts for law enforcement personnel, first responders to emergency calls, health care providers, school employees, and others who may have contact with persons at risk of suicide.¹⁰

The Statewide Office is allowed to seek and accept grants or funds from federal, state, or local sources to support the operation and defray the authorized expenses of the Statewide Office and the Suicide Prevention Coordinating Council.¹¹

Suicide Prevention Coordinating Council

The Suicide Prevention Coordinating Council (Council) is located within the DCF and develops strategies for preventing suicide and advises the Statewide Office regarding the development of a

⁴ *Supra* note 1.

⁵ Heron M., Curtin, S., *Death Rates Due to Suicide and Homicide Among Persons Aged 10-24: United States, 2007-2017*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention National Center for Health Statistics, available at: <https://www.cdc.gov/nchs/data/databriefs/db352-h.pdf> (last visited November 6, 2019).

⁶ *Supra* note 1.

⁷ *Id.*

⁸ *Supra* note 2.

⁹ Florida Department of Health, *2017 Florida Morbidity Statistics Report*, 2017, available at: <http://www.floridahealth.gov/diseases-and-conditions/disease-reporting-and-management/disease-reporting-and-surveillance/data-and-publications/documents/2017-annual-morbidity-statistics-report.pdf> (last visited November 8, 2019).

¹⁰ Section 14.2019, F.S.

¹¹ *Id.*

statewide plan for suicide prevention. A report on the plan is prepared and presented annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives.¹²

The Council is currently comprised of 27 voting members and 1 nonvoting member. Thirteen of the members are appointed by the director of the Statewide Office, four are appointed by the Governor, and ten are state agency directors or their designees.¹³

Suicide among First Responders

First responders include law enforcement personnel, firefighters, and emergency medical services workers. In comparison to the general population, first responders are at heightened risk for depression, post-traumatic stress disorder (PTSD), and suicide. Further, police and firefighters are more likely to commit suicide than to die in the line of duty.¹⁴ Many first responders previously served in the military, which likely exposed them to trauma prior to becoming a first responder.¹⁵ Suicide amongst first responders is considered to be grossly underreported. For example, in a study conducted by the Firefighter Behavioral Health Alliance (FBHA), researchers estimate that only about 40 percent of firefighter suicides are reported.¹⁶

The Law Enforcement Mental Health and Wellness Act of 2017

Signed into law January 2018, the Law Enforcement Mental Health and Wellness Act of 2017 calls for the U.S. Department of Justice to review and report to Congress on mental health practices and services in the U.S. Departments of Defense and Veterans Affairs that could be adopted by law enforcement agencies to support first responders.¹⁷ The law additionally directs the Department of Justice to make recommendations on:

- Effectiveness of crisis lines for law enforcement officers;
- Efficacy of yearly mental health checks for law enforcement officers;
- Expanded peer mentoring programs; and
- Ensuring privacy for participants of these programs.¹⁸

The report, provided to Congress on March 2019, includes the following recommendations to enhance mental health and reduce suicide rates:

- Support the development of resources for community-based clinicians who interact with law enforcement and their families;
- Support placement of mental health professionals in law enforcement agencies;

¹² Section 14.20195, F.S.

¹³ *Id.*

¹⁴ Miriam Heyman, Jeff Dill, and Robert Douglas, *The Ruderman White Paper on Mental Health and Suicide of First Responders* (April 2018), pg. 7-12; available at: https://issuu.com/rudermanfoundation/docs/first_responder_white_paper_final_ac270d530f8bfb. PTSD rates amongst first responders, in contrast to the 6.8 percent reported for the general population, significantly increase to 14.6 percent to 22 percent for firefighters, and 35 percent for police officers.

¹⁵ *Id.* at 9.

¹⁶ *Id.*

¹⁷ U.S. Department of Justice, *Community Oriented Policing Services (COPS), Law Enforcement Mental Health and Wellness Services (LEMHWA) Program Resources*; available at: <https://cops.usdoj.gov/lemhwareources> (last visited Feb. 5, 2020).

¹⁸ Public Law 115-113 (115th Congress).

- Encourage programs that permit retired law enforcement officers to access departmental peer support programs after separating employment;
- Support the development of model policies and implementation guidelines for agencies to make substantial efforts to reduce suicide;
- Support the creation of a Law Enforcement Suicide Event report surveillance system;
- Evaluate the efficacy of crisis lines;
- Support the expansion of peer support programs; and
- Bolster privacy protections for officers seeking support from peer crisis lines and other support programs.¹⁹

First-Episode Psychosis

The term “psychosis” is used to describe a condition that affects the mind and generally involves some loss of contact with reality. Psychosis can include hallucinations (seeing, hearing, smelling, tasting, or feeling something that is not real), paranoia, delusions (believing something that is not real even when presented with facts), or disordered thoughts and speech.²⁰ Psychosis may be caused by medications or alcohol or drug abuse but can also be a symptom of mental illness or a physical condition.²¹

Psychosis affects people from all walks of life. Approximately three out of 100 people will experience psychosis at some time in their lives, often beginning when a person is in their late teens to mid-twenties.²² Researchers are still learning about how and why psychosis develops, but it is generally thought to be triggered by a combination of genetic predisposition and life stressors during critical stages of brain development.²³ Risk factors that may contribute to the development of psychosis include stressors such as physical illness, substance use, and psychological or physical trauma.²⁴

Early psychosis, known as “first-episode psychosis,” is the most important time to connect an individual with treatment.²⁵ Studies have shown that it is common for a person to experience psychotic symptoms for more than a year before ever receiving treatment.²⁶ Reducing the duration of untreated psychosis is critical to improving a person’s chance of recovery. The most effective treatment for early psychosis is coordinated specialty care, which uses a team-based approach with shared decision-making that focuses on working with individuals to reach their

¹⁹ Spence, Deborah L., Melissa Fox, Gilbert C. Moore, Sarah Estill, and Nazmia E.A.

Comrie, Community Oriented Policing Services (COPS), U.S. Dept. of Justice, *Law Enforcement Mental Health and Wellness Act, Report to Congress* (March 2019); available at: <https://cops.usdoj.gov/RIC/Publications/cops-p370-pub.pdf>

²⁰ National Institute of Mental Health, *Fact Sheet: First Episode Psychosis*, available at:

<https://www.nimh.nih.gov/health/topics/schizophrenia/raise/fact-sheet-first-episode-psychosis.shtml> (last visited November 7, 2019).

²¹ *Id.*

²² *Id.*

²³ National Alliance on Mental Illness, *What is Early and First-Episode Psychosis?* (July 2016), available at:

<https://www.nami.org/NAMI/media/NAMI-Media/Images/FactSheets/What-is-Early-and-First-Episode-Psychosis.pdf> (last visited November 7, 2019).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Supra* note 20.

recovery goals.²⁷ Coordinated specialty care programs provide people with early psychosis, greater improvement in their symptoms.²⁸

Veterans and Mental Health

Mental Health among Veterans

According to the National Center for Post-Traumatic Stress Disorder, between 11 and 20 percent of veterans who served in Operations Iraqi Freedom and Enduring Freedom have Post-Traumatic Stress Disorder (PTSD) in a given year.²⁹ Additionally, 12 percent of Gulf War Veterans and 15 percent of Vietnam Veterans have PTSD, and up to 30 percent of Vietnam Veterans will have PTSD in their lifetime.³⁰ Statistics on depression in veterans vary, but it is estimated that between 2 and 10 percent of servicemembers return from active military operations with major depression.³¹

The 2019 National Veteran Suicide Prevention Annual Report published by the United States Department of Veterans Affairs (USDVA) details veteran deaths from suicide from 2005 to 2017.³² During that time span, veteran suicides increased from 5,787 in 2005 to 6,139 in 2017. The annual number of veteran suicide deaths has exceeded 6,000 every year since 2008, and the annual number of veteran suicide deaths increased by 129 from 2016 to 2017.

Mental Illness and Substance Abuse of Offenders in the Criminal Justice System

As many as 125,000 adults with a mental illness or substance use disorder requiring immediate treatment are arrested and booked into Florida jails each year.³³ Between 2002 and 2010, the population of inmates with mental illness or substance use disorder in Florida increased from 8,000 to 17,000 inmates.

State Forensic System -- Mental Health Treatment for Criminal Defendants

Chapter 916, F.S., governs the state forensic system, a network of state facilities and community services for persons with mental health issues involved with the criminal justice system. The forensic system serves defendants deemed incompetent to proceed or not guilty by reason of insanity. A defendant is deemed incompetent to proceed if he or she does not have sufficient

²⁷ *Supra* note 23.

²⁸ *First Episode Psychosis Programs: A Guide to State Expansion*, National Alliance on Mental Illness, (February 2017), available at: <https://www.nami.org/getattachment/Extranet/Advocacy/FEP-State-Advocacy-Toolkit/FEP-State-Advocacy-Guide.pdf> (last visited November 7, 2019).

²⁹ National Center for PTSD, *How Common is PTSD? PTSD and the Military*, available at: https://www.ptsd.va.gov/understand/common/common_veterans.asp (last visited November 6, 2019).

³⁰ *Id.*

³¹ RAND Center for Military Health Policy Research, *Invisible Wounds of War: Psychological and Cognitive Injuries, Their Consequences, and Services to Assist Recovery*, at 54 (Terri Tanielian and Lisa H. Jaycox, Eds.) (2008), available at: http://www.rand.org/pubs/monographs/2008/RAND_MG720.pdf (last visited November 6, 2019).

³² U.S. Department of Veterans Affairs, *2019 National Veteran Suicide Prevention Annual Report*, 2019, available at: https://www.mentalhealth.va.gov/docs/data-sheets/2019/2019_National_Veteran_Suicide_Prevention_Annual_Report_508.pdf (last visited November 6, 2019).

³³ The Florida Senate, *Forensic Hospital Diversion Pilot Program, Interim Report 2011-106*, (Oct. 2010), p. 1, available at: <https://www.flsenate.gov/UserContent/Session/2011/Publications/InterimReports/pdf/2011-106cf.pdf> (last visited February 27, 2020).

present ability to consult with his or her lawyer with a reasonable degree of rational understanding or if the defendant lacks both a rational and factual understanding of the proceedings against him or her.³⁴

If a defendant is suspected of being incompetent, the court, defense counsel, or the State may file a motion to have the defendant's cognitive state assessed.³⁵ If the motion is granted, court-appointed experts will evaluate the defendant's cognitive state. The defendant's competency is then determined by the judge in a subsequent hearing.³⁶ If the defendant is found to be competent, the criminal proceeding resumes.³⁷ If the defendant is found to be incompetent to proceed, the proceeding may not resume unless competency is restored.³⁸ Competency restoration services teach defendants about the legal process, their charges, potential legal outcomes they might face, and their legal rights so as to prepare them to participate meaningfully in their own defense.³⁹

Defendants may be adjudicated not guilty by reason of insanity pursuant to s. 916.15, F.S. The DCF must admit a defendant adjudicated not guilty by reason of insanity who is committed to the department⁴⁰ to an appropriate facility or program for treatment and must retain and treat the defendant.⁴¹

Offenders who are charged with a felony and deemed incompetent to proceed and offenders adjudicated not guilty by reason of insanity may be involuntarily committed to state civil⁴² and forensic⁴³ treatment facilities by the circuit court,^{44, 45} or in lieu of such commitment, may be released on conditional release by the circuit court if the person is not serving a prison sentence.⁴⁶

³⁴ Section 916.12(1), F.S.

³⁵ Rule 3.210, Fla.R.Crim.P.

³⁶ *Id.*

³⁷ Rule 3.212, Fla.R.Crim.P.

³⁸ *Id.*

³⁹ OPPAGA, *Juvenile and Adult Incompetent to Proceed Cases and Costs*, Report. No. 13-04, Feb. 2013, p. 1, available at: <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1304rpt.pdf> (last visited February 27, 2020).

⁴⁰ The court may also order outpatient treatment at any other appropriate facility or service or discharge the defendant. Rule 3.217, Fla.R.Crim.P.

⁴¹ Section 916.15(3), F.S.

⁴² A "civil facility" is a mental health facility established within the DCF or by contract with the DCF to serve individuals committed pursuant to chapter 394, F.S., and defendants pursuant to chapter 916, F.S., who do not require the security provided in a forensic facility; or an intermediate care facility for the developmentally disabled, a foster care facility, a group home facility, or a supported living setting designated by the Agency for Persons with Disabilities (APD) to serve defendants who do not require the security provided in a forensic facility. Section 916.106(4), F.S.

⁴³ A "forensic facility" is a separate and secure facility established within the DCF or APD to service forensic clients. A separate and secure facility means a security-grade building for the purpose of separately housing persons who have mental illness from persons who have intellectual disabilities or autism and separately housing persons who have been involuntarily committed pursuant to chapter 916, F.S., from non-forensic residents. S. 916.106(10), F.S.

⁴⁴ "Court" is defined to mean the circuit court. Section 916.106(5), F.S.

⁴⁵ Sections 916.13, 916.15, and 916.302, F.S.

⁴⁶ Sections 916.17(1), F.S.

Sharing Medical Information between County Jails and the DCF

Forensic clients committed to the DCF's state mental health treatment facilities are transferred to the facilities directly from the county jails, and often need immediate or continuous medical treatment. Jail physicians must provide a current psychotropic medication⁴⁷ order at the time a forensic client is transferred to the state mental health treatment facility or upon request of the admitting physician following an evaluation.⁴⁸ However, there is no timeframe within which a jail physician must respond to a request by the DCF for such information, nor is there any requirement for jail physicians to provide other medical information about individuals being transferred to the DCF. While the DCF currently requests medical information from the county jails when a commitment packet is received from the courts, there is no time requirement within which the DCF must make the request.⁴⁹

Continuation of Psychiatric Medications

When forensic clients are released from state mental health treatment facilities, most are returned to the county jail to await resolution of their court cases. Some individuals are maintained by county jails on the same psychiatric medication regimen prescribed and administered at the state mental health treatment facility, while others are not. One possible outcome of discontinuing the previous medication regimen is the individual again losing competency, in which case the jail must return him or her to a secure forensic facility due to an inability to stand trial or proceed with resolution of his or her court case.⁵⁰

Licensure Requirements for Substance Abuse Service Providers

The DCF regulates substance abuse treatment by licensing individual treatment components under statute and rule.⁵¹ All private and publicly-funded entities providing substance abuse services must be licensed for each service component they provide.⁵² However, current law exempts:

- Hospitals licensed under ch. 395, F.S.;
- Nursing home facilities;
- Substance abuse education program established pursuant to s. 1003.42, F.S.;
- Facilities operated by the Federal Government;
- A physician or physician assistant licensed under chs. 458 or 459, F.S.;
- Psychologist licensed under ch. 490, F.S.;
- Social workers, marriage and family therapist or mental health counselors licensed under ch. 491, F.S.;

⁴⁷ Psychotropic medication is a broad term referring to medications that affect mental function, behavior, and experience; these medications include anxiolytic/hypnotic medications, such as benzodiazepines, antidepressant medications, such as selective serotonin reuptake inhibitors (SSRIs), and antipsychotic medications. Pamela L. Lindsey, *Psychotropic Medication Use among Older Adults: What All Nurses Need to Know*, J. GERONTOL NURS., (Sept. 2009), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3128509/> (last visited February 27, 2020).

⁴⁸ Section 916.107(3)(a)2.a., F.S.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Ch. 397, F.S. and R. 65D-30, F.A.C.

⁵² Section 397.403, F.S.

- Churches or nonprofit religious organizations providing substance abuse services that are solely religious, spiritual or ecclesiastical in nature;
- Facilities licensed under ch. 393, F.S.;
- Crisis stabilization units licensed under ch. 394, F.S.;
- DUI education and screening services provider under chs. 316 or 322, F.S.⁵³

The exemptions from licensure do not apply if the entity provides state-funded services through the DCF managing entity system or provides services under a government-operated substance abuse program.⁵⁴

Licensed service components include a continuum of substance abuse prevention,⁵⁵ intervention,⁵⁶ and clinical treatment services.⁵⁷ Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.⁵⁸ “Clinical treatment services” include, but are not limited to, the following licensable service components:⁵⁹

- Addictions receiving facility;
- Day or night treatment;
- Day or night treatment with community housing;
- Detoxification;
- Intensive inpatient treatment;
- Intensive outpatient treatment;
- Medication-assisted treatment for opiate addiction;
- Outpatient treatment; and
- Residential treatment.

Certification of Community Substance Abuse Prevention Coalitions

Section 397.321, F.S., requires the DCF to license and regulate all substance abuse providers in the state. It also requires the DCF to develop a certification process by rule for community substance abuse prevention coalitions (prevention coalitions).

⁵³ Section 397.4012, F.S.

⁵⁴ *Id.*

⁵⁵ Section 397.311(26)(c), F.S. Prevention is a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles. *See also*, Department of Children and Families, *Substance Abuse: Prevention*, <https://www.myflfamilies.com/service-programs/samh/prevention/> (last visited Jan. 21, 2020). Substance abuse prevention is best accomplished through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural and community environments.

⁵⁶ Section 397.311(26)(b), F.S. Intervention is structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.

⁵⁷ Section 397.311(25), F.S.

⁵⁸ *Id.*

⁵⁹ Section 397.311(25)(a), F.S.

Prevention coalitions are local partnerships between multiple sectors of the community that respond to community conditions by developing and implementing comprehensive plans that lead to measurable, population-level reductions in drug use and related problems.⁶⁰ They do not provide substance abuse treatment services, and certification is not a requirement for eligibility to receive federal or state substance abuse prevention funding. However, to receive funding from the DCF, a coalition must follow a comprehensive process that includes a detailed needs assessment and plan for capacity building, development, implementation, and sustainability to ensure that data-driven, evidence-based practices are employed for addressing substance misuse for state-funded coalitions.⁶¹

Some prevention coalitions choose to apply for certification from nationally-recognized credentialing entities. Additionally, the Florida Certification Board, a non-profit professional credentialing entity, offers certifications for Certified Prevention Specialists and Certified Prevention Professionals, for those individuals who desire professional credentialing. However, Florida is the only state that requires prevention coalitions to be certified. Only one other state, Ohio, has established a certification program for prevention coalitions, and it is voluntary.⁶²

Continuing Education Requirements for Health Care Practitioners

Compliance with continuing education (CE) requirements is a condition of renewal of licensure for health care practitioners. Boards, or the Department of Health (DOH) when there is no board, require each licensee to demonstrate competency by completing CEs during each licensure cycle. The number of required CE hours varies by profession. The requirements for CEs may be found in ch. 456, F.S., professional practice acts, administrative rules, or a combination of these references. Failure to comply with CE requirements may result in disciplinary action against the licensee, in accordance with the disciplinary guidelines established by the applicable board, or the DOH if there is no board.

The DOH or boards, when applicable, monitor health care practitioner's compliance with the CE requirements in a manner required by statute. The statutes vary as to the required method to use. For example, the DOH or a board, when applicable, may have to randomly select a licensee to request the submission of CE documentation,⁶³ require a licensee to submit sworn affidavit or statement attesting that he or she has completed the required CE hours,⁶⁴ or perform an audit. Licensees are responsible for maintaining documentation of the CE courses completed.

The Good Samaritan Act

The "Good Samaritan Act," codified in s. 768.13, F.S., provides immunity from civil liability for damages to any person who:

⁶⁰ Department of Children and Families, Agency Bill Analysis, SB 1678, January 14, 2020. On file with the Senate Children, Families, and Elder Affairs Committee.

⁶¹ *Id.*

⁶² *Id.*

⁶³ Section 457.107, F.S.

⁶⁴ Sections 458.347(4)(e), 466.0135(6), 466.014, and 466.032(5), F.S.

- Gratuitously and in good faith renders emergency care or treatment either in direct response to declared state emergencies or at the scene of an emergency situation, without objection of the injured victim, if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.⁶⁵
- Participates in emergency response activities of a community emergency response team if that person acts prudently and within the scope of his or her training.⁶⁶
- Gratuitously and in good faith renders emergency care or treatment to an injured animal at the scene of an emergency if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.⁶⁷

The Good Samaritan Act, however, does not specifically address immunity from liability for individuals who attempt to render aid to others at risk of dying or attempting to die by suicide. Several states have implemented such measures in their Good Samaritan statutes in order to shield those who make a good faith effort to render aid from civil liability.⁶⁸

Suicide Prevention Certified Schools

Section 1012.583, F.S., requires the Department of Education (DOE), in consultation with the Statewide Office for Suicide Prevention and suicide prevention experts, to develop a list of approved youth suicide awareness and prevention training materials and suicide screening instruments that may be used for training in youth suicide awareness, suicide prevention and suicide screening for school instructional personnel. The approved list of materials:⁶⁹

- Must identify available standardized suicide screening instruments appropriate for use with a school-age population and which have validity and reliability and include information about obtaining instruction in the administration and use of such instruments.
- Must include training on how to identify appropriate mental health services and how to refer youth and their families to those services;
- May include materials currently being used by a school district if such materials meet any criteria established by the department; and
- May include programs that instructional personnel can complete through a self-review of approved youth suicide awareness and prevention materials.

A school is considered a “Suicide Prevention Certified School” if it:

- Has at least two school-based staff members certified or otherwise deemed competent in the use of a DOE-approved suicide screening instrument; and
- Chooses to incorporate 2 hours of the DOE-approved training materials and requires all of its instructional personnel to participate in the training.

Currently, neither public school instructional personnel nor charter school instructional personnel are required to participate in suicide prevention training, or be certified or deemed competent in

⁶⁵ Section 768.13(2)(a), F.S.

⁶⁶ Section 768.13(2)(d), F.S.

⁶⁷ Section 768.13(3), F.S.

⁶⁸ Schiff, Damien, *Samaritans: Good, Bad and Ugly: A Comparative Law Analysis*, 11 Roger Williams Univ. L. Rev. 95 (2005).

⁶⁹ Section 1012.583(1), F.S.

the use of a suicide risk screening instrument. Additionally, neither public schools nor charter schools are required to use a suicide risk screening instrument to evaluate a student's suicide risk prior to initiating or requesting to initiate the Baker Act.

III. Effect of Proposed Changes:

Section 1 amends s. 14.2019, F.S., adding veterans and service members to the list of stakeholders that comprise the network of community-based programs intended to improve suicide prevention initiatives. The bill also requires the Statewide Office to coordinate education and training curricula in suicide prevention efforts for veterans and service members. The bill requires the Statewide Office to act as a clearinghouse for information and resources related to suicide prevention by disseminating evidence-based practices and by collecting and analyzing data on trends in suicide by various population demographics. The bill requires the Statewide Office to advise the Florida Department of Transportation (DOT) on the implementation of evidence-based suicide deterrents when designing new infrastructure projects.

The bill establishes the First Responders Suicide Deterrence Task Force within and supported by the Statewide Office for Suicide Prevention. The purpose of the task force is to make recommendations on how to reduce the incidence of suicide among current and retired first responders. The task force is made up of representatives of the Florida Professional Firefighters, the Florida Police Benevolent Association, the Florida Fraternal Order of Police, the Florida Sheriffs Association, the Florida Police Chiefs Association, and the Florida Fire Chiefs' Association.

The bill also requires the task force to identify or develop training programs and materials to better enable first responders to cope with life and work stress and foster an organizational culture that supports first responders. The bill identifies a supportive organizational culture as one that:

- Promotes mutual support and solidarity among first responders;
- Trains agency supervisors and managers to identify suicidal risk among first responders;
- Improves the use of existing resources by first responders; and
- Educates first responders on suicide awareness and resources for help.

The bill requires the task force to identify public and private resources to implement the training programs and materials. The task force must report its findings and recommendations to the Governor and Legislature each July 1, beginning in 2021. Consistent with s. 20.03, F.S., the task force expires after 3 years.

Section 2 amends s. 14.20195, F.S., directing the Suicide Prevention Coordinating Council (Council) to make findings and recommendations regarding suicide prevention specifically related to the implementation of evidence-based mental health awareness and assistance training programs and gatekeeper training throughout the state. The bill requires the Council to work with the DCF to advise the public on the locations and availability of local behavioral health providers.

The bill also adds five new voting members to the Council and requires that 18, rather than 13, members be appointed by the director of the Statewide Office. The bill amends the list of organizations appointed by the Statewide Office to include:

- The Florida Behavioral Health Association (the bill eliminates the individual memberships of the Florida Alcohol and Drug Abuse Association and the Florida Council for Community Mental Health because these organizations have merged to form the Florida Behavioral Health Association);
- The Florida Medical Association;
- The Florida Osteopathic Medical Association;
- The Florida Psychiatric Society;
- The Florida Psychological Association;
- Veterans Florida; and
- The Florida Association of Managing Entities.

Section 3 amends s. 334.044, F.S., requiring the DOT to work with the Statewide Office in developing a plan to consider evidence-based suicide deterrents on all newly planned infrastructure projects throughout the state.

Section 4 amends s. 394.455, F.S., defining “coordinated specialty care programs” as evidence-based programs that use intensive case management, individual or group therapy, supported employment, family education and supports, and appropriate psychotropic medication to treat individuals who are experiencing early indications of serious mental illness, especially first-episode psychosis. The bill also redefines the term “mental illness” related to Baker Act and post-adjudication commitment to exclude dementia and traumatic brain injury.

Section 5 amends s. 394.4573, F.S., establishing coordinated specialty care programs as an essential element of a coordinated system of care and requires the DCF to conduct an assessment of the availability of and access to coordinated specialty care programs in the state, including any gaps in availability or access that may exist. This assessment must be included in the DCF’s annual report to the Governor and Legislature on the assessment of behavioral health services in the state.

Section 6 amends s. 394.463, F.S., requiring facilities who hold and release Baker Act patients who are minors to provide information regarding the availability of mobile response teams, suicide prevention resources, social supports, and local self-help groups to the patient’s guardian upon release.

Section 7 amends s. 394.658, F.S., to include “coordinated specialty care programs” in the list of support programs or diversion initiatives eligible for an implementation or expansion grant under the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program.

Section 8 amends s. 394.67, F.S., to define a “coordinated specialty care program” as an evidence-based program for individuals who are experiencing early indications of serious mental illness, such as symptoms of a first psychotic episode, including, but not limited to, intensive case management, individual or group therapy, supported employment, family education and supports, and the provision of appropriate psychotropic medication as needed.

Section 9 amends s. 397.311, F.S., to replace the term “medication-assisted treatment for opiate addiction” with “medication-assisted treatment opioid use disorders.”

Section 10 amends s. 397.321, F.S., to delete the requirement that the DCF develop a certification process by rule for community substance abuse prevention. As a result, prevention coalitions would no longer be subject to a certification process.

Section 11 amends s. 397.4012, F.S., to allow the following substance abuse service providers to be exempt from licensure if they contract with the DCF or a managing entity:

- A hospital or hospital-based component;
- A nursing home facility;
- An allopathic or osteopathic physician or physician assistant;
- A psychologist;
- A social worker;
- A marriage and family therapist;
- A mental health counselor; and
- A crisis stabilization unit.

Allowing certain substance abuse service providers an exemption from licensure may increase the number of providers available to the DCF and managing entities to provide substance abuse services.

Section 12 creates s. 456.0342, F.S., adding suicide prevention to the continuing education (CE) requirements for allopathic physicians, osteopath physicians, and nurses, effective January 1, 2022. Such licensees must complete two hours of CE courses on suicide risk assessment, treatment, and management. The bill requires the respective licensing board for each of the three professions to include the hours required for completion in the total hours of continuing education required by law.

Section 13 creates s. 786.1516, F.S., defining ‘emergency care’ to mean assistance or advice offered to avoid or attempt to mitigate a suicide emergency. The bill defines a ‘suicide emergency’ as an occurrence that reasonably indicates one is at risk of dying of or attempting suicide. The bill provides civil immunity for persons who provide emergency care at or near the scene of a suicide emergency.

Section 14 amends s. 916.106, F.S., the Forensic Client Services Act, to exclude defendants with dementia and traumatic brain injury who do not have a co-occurring mental illness from the definition of “mental illness.”

Section 15 amends s. 913.13, F.S., relating to the involuntary commitment of a defendant adjudicated incompetent, to require jail physicians to continue to administer the same psychotropic medication from a mental health treatment facility, unless there is a documented need to change or discontinue the medication. The bill requires jail physicians to collaborate with the DCF treating physicians to ensure any changes to the medication regimen do not adversely impact the ability of the defendant to proceed with court proceedings. The bill provides that jail

physicians have the final authority for determining which medication to administer to jail inmates.

The bill requires the DCF to request medical information from a jail within two days of receipt of a commitment order and jails are required to send the information to the DCF within three days after the receipt of a request from the DCF.

Section 16 applies the same provisions under Section 15 of the bill to s. 916.15, F.S., relating to the involuntary commitment of a defendant adjudicated not guilty by reason of insanity.

Section 17 amends s. 1002.33, F.S., requiring all charter schools to incorporate 2 hours of suicide prevention training for all instructional personnel by October 1, 2020. The bill also requires all charter schools to have at least 2 school-based staff members certified or otherwise competent in the use of an approved suicide screening instrument and have a policy in place to utilize the instrument to gauge a student's suicide risk before initiating a Baker Act or requesting the initiation of a Baker Act. The bill requires each charter school to report their compliance with these provisions to the DOE.

Section 18 amends s. 1012.583, F.S., putting in place the same requirements for public schools as those detailed in Section 15 for charter schools. The bill also eliminates the 'Suicide Prevention Certified School' designation in statute.

Section 19 amends s. 39.407, F.S., to correct a cross-reference related to medical, psychiatric, and psychological examination and treatment of a child.

Section 20 amends s. 394.495, F.S., to correct cross-references related to child and adolescent mental health systems of care.

Section 21 amends s. 394.496, F.S., to correct cross-references related to service planning.

Section 22 amends s. 394.674, F.S., to correct a cross-reference related to fee collection requirements for eligibility for publicly funded substance abuse and mental health services.

Section 23 amends s. 394.74, F.S., to correct a cross-reference related to contracts for provision of local substance abuse and mental health programs.

Section 24 amends s. 394.9085, F.S., to correct a cross-reference related to behavioral provider liability.

Section 25 amends s. 409.972, F.S., to correct a cross-reference related to mandatory and voluntary enrollment in Medicaid.

Section 26 amends s. 464.012, F.S., to correct a cross-reference related to licensure of advanced registered nurse practitioners, fees, and controlled substance prescribing.

Section 27 amends s. 744.2007, F.S., to correct a cross-reference related to powers and duties of public guardians.

Section 28 requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to perform a review of suicide prevention programs in other states and make recommendations on their applicability to Florida. The bill also requires the OPPAGA to submit a report containing the findings and recommendations to the President of the Senate and the Speaker of the House of Representatives by January 1, 2021.

Section 29 provides the DCF with two full-time equivalent positions, salary rate of 90,384, and an appropriation for Fiscal Year 2020-2021 of \$418,036 in recurring and \$8,896 nonrecurring funds from the General Revenue Fund to implement the bill.

Section 30 provides an effective date for the bill of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 7012 provides the DCF with two full-time equivalent positions, salary rate of 90,384, and an appropriation for Fiscal Year 2020-2021 of \$418,036 in recurring and \$8,896 nonrecurring funds from the General Revenue Fund to implement the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 14.2019, 14.20195, 39.407, 334.044, 394.455, 394.4573, 394.463, 394.495, 394.496, 394.658, 394.67, 394.674, 394.74, 394.9085, 397.311, 397.321, 397.4012, 409.972, 464.012, 744.2007, 916.106, 916.13, 916.15, 1002.33, and 1012.583.

This bill creates the following sections of the Florida Statutes: 456.0342 and 786.1516.

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

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

CS by Appropriations on February 27, 2020:

The committee substitute:

- Creates the First Responders Suicide Deterrence Task Force within the Statewide Office of Suicide Prevention for the purpose of providing recommendations on reducing suicide rates amongst active and retired first responders.
- Requires the task force to identify or develop training programs, materials, and resources to better enable first responders to cope with life and work stress and foster a supportive organizational culture.
- Provides for the membership of the task force.
- Requires the task force to report findings and recommendations on preventing suicide to the Governor and Legislature each July 1, from 2021 through 2023.
- Provides for the expiration of the task force in 3 years.
- Defines “coordinated specialty care programs” as an essential element of a coordinated system of care and requires the DCF to report annually on gaps in availability or access of such programs in the state. Makes coordinated specialty care programs eligible for Criminal Justice, Mental Health, and Substance Abuse Reinvestment grants.
- Allows licensed health care professional and facilities to contract with the DCF and managing entities to provide mental health services without obtaining a separate license from the DCF.

- Provides two full-time equivalent positions, associated salary rate, and appropriations of \$418,036 in recurring funds and \$8,896 in nonrecurring funds from the General Revenue Fund to the DCF to carry out the duties for the Office of Suicide Prevention provided for in the bill.
- Redefines “mental illness” related to the Baker Act and post-adjudication commitment to exclude dementia and traumatic brain injury.
- Replaces the term “first episode psychosis program” with “coordinated specialty care program” and replaces the term “opiate addiction” with “opioid use disorder” in the definition of medication assisted treatment.
- Removes all bill provisions relating to federal mental health parity laws.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs

586-01370-20

20207012__

1 A bill to be entitled
 2 An act relating to mental health; amending s. 14.2019,
 3 F.S.; providing additional duties for the Statewide
 4 Office for Suicide Prevention; amending s. 14.20195,
 5 F.S.; providing additional duties for the Suicide
 6 Prevention Coordinating Council; revising the
 7 composition of the council; amending s. 334.044, F.S.;
 8 requiring the Department of Transportation to work
 9 with the office in developing a plan relating to
 10 evidence-based suicide deterrents in certain
 11 locations; amending s. 394.455, F.S.; defining the
 12 term "first episode psychosis program"; amending s.
 13 394.4573, F.S.; revising the requirements for the
 14 annual state behavioral health services assessment;
 15 revising the essential elements of a coordinated
 16 system of care; amending s. 394.463, F.S.; requiring
 17 that certain information be provided to the guardian
 18 or representative of a minor patient released from
 19 involuntary examination; creating s. 456.0342, F.S.;
 20 providing applicability; requiring specified persons
 21 to complete certain suicide prevention education
 22 courses by a specified date; requiring certain boards
 23 to include the hours for such courses in the total
 24 hours of continuing education required for the
 25 profession; amending s. 627.6675, F.S.; conforming a
 26 provision to changes made by the act; transferring,
 27 renumbering, and amending s. 627.668, F.S.; requiring
 28 certain entities issuing, delivering, or issuing for
 29 delivery certain health insurance policies to comply

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30 with specified federal provisions that prohibit the
 31 imposition of less favorable benefit limitations on
 32 mental health and substance use disorder benefits than
 33 on medical and surgical benefits; deleting provisions
 34 relating to optional coverage for mental and nervous
 35 disorders by such entities; revising the standard for
 36 defining substance use disorders; requiring such
 37 entities to submit an annual affidavit attesting to
 38 compliance with federal law; requiring the office to
 39 implement and enforce certain federal laws in a
 40 specified manner; authorizing the Financial Services
 41 Commission to adopt rules; repealing s. 627.669, F.S.,
 42 relating to optional coverage required for substance
 43 abuse impaired persons; amending s. 627.6699, F.S.;
 44 providing applicability; amending s. 641.26, F.S.;
 45 requiring certain entities to submit an annual
 46 affidavit to the Office of Insurance Regulation
 47 attesting to compliance with certain requirements;
 48 authorizing the office to adopt rules; amending s.
 49 641.31, F.S.; requiring that certain health
 50 maintenance contracts comply with certain
 51 requirements; authorizing the commission to adopt
 52 rules; creating s. 786.1516, F.S.; defining the terms
 53 "emergency care" and "suicide emergency"; providing
 54 that persons providing certain emergency care are not
 55 liable for civil damages or penalties under certain
 56 circumstances; amending ss. 1002.33 and 1012.583,
 57 F.S.; requiring charter schools and public schools,
 58 respectively, to incorporate certain training on

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59 suicide prevention in continuing education and
 60 inservice training requirements; providing that such
 61 schools must require all instructional personnel to
 62 participate in the training; requiring such schools to
 63 have a specified minimum number of staff members who
 64 are certified or deemed competent in the use of
 65 suicide screening instruments; requiring such schools
 66 to have a policy for such instruments; requiring such
 67 schools to report certain compliance to the Department
 68 of Education; conforming provisions to changes made by
 69 the act; amending ss. 394.495, 394.496, 394.9085,
 70 409.972, 464.012, and 744.2007, F.S.; conforming
 71 cross-references; requiring the Office of Program
 72 Policy Analysis and Government Accountability to
 73 perform a review of certain programs and efforts
 74 relating to suicide prevention programs in other
 75 states and make certain recommendations; requiring the
 76 office to submit a report to the Legislature by a
 77 specified date; providing effective dates.

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

81 Section 1. Paragraphs (a) and (d) of subsection (2) of
 82 section 14.2019, Florida Statutes, are amended, and paragraphs
 83 (e) and (f) are added to that subsection, to read:

84 14.2019 Statewide Office for Suicide Prevention.—

85 (2) The statewide office shall, within available resources:

86 (a) Develop a network of community-based programs to
 87 improve suicide prevention initiatives. The network shall

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88 identify and work to eliminate barriers to providing suicide
 89 prevention services to individuals who are at risk of suicide.
 90 The network shall consist of stakeholders advocating suicide
 91 prevention, including, but not limited to, not-for-profit
 92 suicide prevention organizations, faith-based suicide prevention
 93 organizations, law enforcement agencies, first responders to
 94 emergency calls, veterans, servicemembers, suicide prevention
 95 community coalitions, schools and universities, mental health
 96 agencies, substance abuse treatment agencies, health care
 97 providers, and school personnel.

98 (d) Coordinate education and training curricula in suicide
 99 prevention efforts for law enforcement personnel, first
 100 responders to emergency calls, veterans, servicemembers, health
 101 care providers, school employees, and other persons who may have
 102 contact with persons at risk of suicide.

103 (e) Act as a clearinghouse for information and resources
 104 related to suicide prevention by:

105 1. Disseminating and sharing evidence-based best practices
 106 relating to suicide prevention;

107 2. Collecting and analyzing data on trends in suicide and
 108 suicide attempts annually by county, age, gender, profession,
 109 and other demographics as designated by the statewide office.

110 (f) Advise the Department of Transportation on the
 111 implementation of evidence-based suicide deterrents in the
 112 design elements and features of infrastructure projects
 113 throughout the state.

114 Section 2. Paragraph (c) of subsection (1) and subsection
 115 (2) of section 14.20195, Florida Statutes, are amended, and
 116 paragraph (d) is added to subsection (1) of that section, to

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read:

14.20195 Suicide Prevention Coordinating Council; creation; membership; duties.—There is created within the Statewide Office for Suicide Prevention a Suicide Prevention Coordinating Council. The council shall develop strategies for preventing suicide.

(1) SCOPE OF ACTIVITY.—The Suicide Prevention Coordinating Council is a coordinating council as defined in s. 20.03 and shall:

(c) Make findings and recommendations regarding suicide prevention programs and activities, including, but not limited to, the implementation of evidence-based mental health awareness and assistance training programs and gatekeeper training in municipalities throughout the state. The council shall prepare an annual report and present it to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, each year. The annual report must describe the status of existing and planned initiatives identified in the statewide plan for suicide prevention and any recommendations arising therefrom.

(d) In conjunction with the Department of Children and Families, advise members of the public on the locations and availability of local behavioral health providers.

(2) MEMBERSHIP.—The Suicide Prevention Coordinating Council shall consist of 32 ~~27~~ voting members and one nonvoting member.

(a) Eighteen ~~Thirteen~~ members shall be appointed by the director of the Statewide Office for Suicide Prevention and shall represent the following organizations:

1. The Florida Association of School Psychologists.

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2. The Florida Sheriffs Association.
 3. The Suicide Prevention Action Network USA.
 4. The Florida Initiative of Suicide Prevention.
 5. The Florida Suicide Prevention Coalition.
 6. The American Foundation of Suicide Prevention.
 7. The Florida School Board Association.
 8. The National Council for Suicide Prevention.
 9. The state chapter of AARP.
 10. The Florida Behavioral Health Association ~~The Florida Alcohol and Drug Abuse Association.~~
 11. The Florida Council for Community Mental Health.
 - ~~12.~~ The Florida Counseling Association.
 - ~~12.13.~~ NAMI Florida.
 13. The Florida Medical Association.
 14. The Florida Osteopathic Medical Association.
 15. The Florida Psychiatric Society.
 16. The Florida Psychological Association.
 17. Veterans Florida.
 18. The Florida Association of Managing Entities.
- (b) The following state officials or their designees shall serve on the coordinating council:
1. The Secretary of Elderly Affairs.
 2. The State Surgeon General.
 3. The Commissioner of Education.
 4. The Secretary of Health Care Administration.
 5. The Secretary of Juvenile Justice.
 6. The Secretary of Corrections.
 7. The executive director of the Department of Law Enforcement.

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175 8. The executive director of the Department of Veterans'
 176 Affairs.

177 9. The Secretary of Children and Families.

178 10. The executive director of the Department of Economic
 179 Opportunity.

180 (c) The Governor shall appoint four additional members to
 181 the coordinating council. The appointees must have expertise
 182 that is critical to the prevention of suicide or represent an
 183 organization that is not already represented on the coordinating
 184 council.

185 (d) For the members appointed by the director of the
 186 Statewide Office for Suicide Prevention, seven members shall be
 187 appointed to initial terms of 3 years, and seven members shall
 188 be appointed to initial terms of 4 years. For the members
 189 appointed by the Governor, two members shall be appointed to
 190 initial terms of 4 years, and two members shall be appointed to
 191 initial terms of 3 years. Thereafter, such members shall be
 192 appointed to terms of 4 years. Any vacancy on the coordinating
 193 council shall be filled in the same manner as the original
 194 appointment, and any member who is appointed to fill a vacancy
 195 occurring because of death, resignation, or ineligibility for
 196 membership shall serve only for the unexpired term of the
 197 member's predecessor. A member is eligible for reappointment.

198 (e) The director of the Statewide Office for Suicide
 199 Prevention shall be a nonvoting member of the coordinating
 200 council and shall act as chair.

201 (f) Members of the coordinating council shall serve without
 202 compensation. Any member of the coordinating council who is a
 203 public employee is entitled to reimbursement for per diem and

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204 travel expenses as provided in s. 112.061.

205 Section 3. Present paragraph (c) of subsection (10) of
 206 section 334.044, Florida Statutes, is redesignated as paragraph
 207 (d), and a new paragraph (c) is added to that subsection, to
 208 read:

209 334.044 Powers and duties of the department.—The department
 210 shall have the following general powers and duties:

211 (10)

212 (c) The department shall work with the Statewide Office for
 213 Suicide Prevention in developing a plan to consider the
 214 implementation of evidence-based suicide deterrents on all new
 215 infrastructure projects.

216 Section 4. Present subsections (17) through (48) of section
 217 394.455, Florida Statutes, are redesignated as subsections (18)
 218 through (49), respectively, and a new subsection (17) is added
 219 to that section, to read:

220 394.455 Definitions.—As used in this part, the term:

221 (17) "First episode psychosis program" means an evidence-
 222 based program for individuals between 14 and 30 years of age who
 223 are experiencing early indications of serious mental illness,
 224 especially a first episode of psychotic symptoms. The program
 225 includes, but is not limited to, intensive case management,
 226 individual or group therapy, supported employment, family
 227 education and supports, and appropriate psychotropic medication,
 228 as indicated.

229 Section 5. Section 394.4573, Florida Statutes, is amended
 230 to read:

231 394.4573 Coordinated system of care; annual assessment;
 232 essential elements; measures of performance; system improvement

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233 grants; reports.—On or before December 1 of each year, the
 234 department shall submit to the Governor, the President of the
 235 Senate, and the Speaker of the House of Representatives an
 236 assessment of the behavioral health services in this state. The
 237 assessment shall consider, at a minimum, the extent to which
 238 designated receiving systems function as no-wrong-door models,
 239 the availability of treatment and recovery services that use
 240 recovery-oriented and peer-involved approaches, the availability
 241 of less-restrictive services, and the use of evidence-informed
 242 practices. The assessment must also describe the availability of
 243 and access to first episode psychosis programs, and any gaps in
 244 the availability and access of such programs, in all areas of
 245 the state. The department's assessment shall consider, at a
 246 minimum, the needs assessments conducted by the managing
 247 entities pursuant to s. 394.9082(5). Beginning in 2017, the
 248 department shall compile and include in the report all plans
 249 submitted by managing entities pursuant to s. 394.9082(8) and
 250 the department's evaluation of each plan.

251 (1) As used in this section:

252 (a) "Care coordination" means the implementation of
 253 deliberate and planned organizational relationships and service
 254 procedures that improve the effectiveness and efficiency of the
 255 behavioral health system by engaging in purposeful interactions
 256 with individuals who are not yet effectively connected with
 257 services to ensure service linkage. Examples of care
 258 coordination activities include development of referral
 259 agreements, shared protocols, and information exchange
 260 procedures. The purpose of care coordination is to enhance the
 261 delivery of treatment services and recovery supports and to

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262 improve outcomes among priority populations.

263 (b) "Case management" means those direct services provided
 264 to a client in order to assess his or her needs, plan or arrange
 265 services, coordinate service providers, link the service system
 266 to a client, monitor service delivery, and evaluate patient
 267 outcomes to ensure the client is receiving the appropriate
 268 services.

269 (c) "Coordinated system of care" means the full array of
 270 behavioral and related services in a region or community offered
 271 by all service providers, whether participating under contract
 272 with the managing entity or by another method of community
 273 partnership or mutual agreement.

274 (d) "No-wrong-door model" means a model for the delivery of
 275 acute care services to persons who have mental health or
 276 substance use disorders, or both, which optimizes access to
 277 care, regardless of the entry point to the behavioral health
 278 care system.

279 (2) The essential elements of a coordinated system of care
 280 include:

281 (a) Community interventions, such as prevention, primary
 282 care for behavioral health needs, therapeutic and supportive
 283 services, crisis response services, and diversion programs.

284 (b) A designated receiving system that consists of one or
 285 more facilities serving a defined geographic area and
 286 responsible for assessment and evaluation, both voluntary and
 287 involuntary, and treatment or triage of patients who have a
 288 mental health or substance use disorder, or co-occurring
 289 disorders.

290 1. A county or several counties shall plan the designated

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receiving system using a process that includes the managing entity and is open to participation by individuals with behavioral health needs and their families, service providers, law enforcement agencies, and other parties. The county or counties, in collaboration with the managing entity, shall document the designated receiving system through written memoranda of agreement or other binding arrangements. The county or counties and the managing entity shall complete the plan and implement the designated receiving system by July 1, 2017, and the county or counties and the managing entity shall review and update, as necessary, the designated receiving system at least once every 3 years.

2. To the extent permitted by available resources, the designated receiving system shall function as a no-wrong-door model. The designated receiving system may be organized in any manner which functions as a no-wrong-door model that responds to individual needs and integrates services among various providers. Such models include, but are not limited to:

a. A central receiving system that consists of a designated central receiving facility that serves as a single entry point for persons with mental health or substance use disorders, or co-occurring disorders. The central receiving facility shall be capable of assessment, evaluation, and triage or treatment or stabilization of persons with mental health or substance use disorders, or co-occurring disorders.

b. A coordinated receiving system that consists of multiple entry points that are linked by shared data systems, formal referral agreements, and cooperative arrangements for care coordination and case management. Each entry point shall be a

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designated receiving facility and shall, within existing resources, provide or arrange for necessary services following an initial assessment and evaluation.

c. A tiered receiving system that consists of multiple entry points, some of which offer only specialized or limited services. Each service provider shall be classified according to its capabilities as either a designated receiving facility or another type of service provider, such as a triage center, a licensed detoxification facility, or an access center. All participating service providers shall, within existing resources, be linked by methods to share data, formal referral agreements, and cooperative arrangements for care coordination and case management.

An accurate inventory of the participating service providers which specifies the capabilities and limitations of each provider and its ability to accept patients under the designated receiving system agreements and the transportation plan developed pursuant to this section shall be maintained and made available at all times to all first responders in the service area.

(c) Transportation in accordance with a plan developed under s. 394.462.

(d) Crisis services, including mobile response teams, crisis stabilization units, addiction receiving facilities, and detoxification facilities.

(e) Case management. Each case manager or person directly supervising a case manager who provides Medicaid-funded targeted case management services shall hold a valid certification from a

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349 department-approved credentialing entity as defined in s.
 350 397.311(10) by July 1, 2017, and, thereafter, within 6 months
 351 after hire.

352 (f) Care coordination that involves coordination with other
 353 local systems and entities, public and private, which are
 354 involved with the individual, such as primary care, child
 355 welfare, behavioral health care, and criminal and juvenile
 356 justice organizations.

357 (g) Outpatient services.

358 (h) Residential services.

359 (i) Hospital inpatient care.

360 (j) Aftercare and other postdischarge services.

361 (k) Medication-assisted treatment and medication
 362 management.

363 (l) Recovery support, including, but not limited to,
 364 support for competitive employment, educational attainment,
 365 independent living skills development, family support and
 366 education, wellness management and self-care, and assistance in
 367 obtaining housing that meets the individual's needs. Such
 368 housing may include mental health residential treatment
 369 facilities, limited mental health assisted living facilities,
 370 adult family care homes, and supportive housing. Housing
 371 provided using state funds must provide a safe and decent
 372 environment free from abuse and neglect.

373 (m) Care plans shall assign specific responsibility for
 374 initial and ongoing evaluation of the supervision and support
 375 needs of the individual and the identification of housing that
 376 meets such needs. For purposes of this paragraph, the term
 377 "supervision" means oversight of and assistance with compliance

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378 with the clinical aspects of an individual's care plan.

379 (n) First episode psychosis programs.

380 (3) SYSTEM IMPROVEMENT GRANTS.—Subject to a specific
 381 appropriation by the Legislature, the department may award
 382 system improvement grants to managing entities based on a
 383 detailed plan to enhance services in accordance with the no-
 384 wrong-door model as defined in subsection (1) and to address
 385 specific needs identified in the assessment prepared by the
 386 department pursuant to this section. Such a grant must be
 387 awarded through a performance-based contract that links payments
 388 to the documented and measurable achievement of system
 389 improvements.

390 Section 6. Subsection (3) of section 394.463, Florida
 391 Statutes, is amended to read:

392 394.463 Involuntary examination.—

393 (3) NOTICE OF RELEASE.—Notice of the release shall be given
 394 to the patient's guardian or representative, to any person who
 395 executed a certificate admitting the patient to the receiving
 396 facility, and to any court which ordered the patient's
 397 evaluation. If the patient is a minor, information regarding the
 398 availability of a local mobile response service, suicide
 399 prevention resources, social supports, and local self-help
 400 groups must also be provided to the patient's guardian or
 401 representative along with the notice of the release.

402 Section 7. Section 456.0342, Florida Statutes, is created
 403 to read:

404 456.0342 Required instruction on suicide prevention.—The
 405 requirements of this section apply to each person licensed or
 406 certified under chapter 458, chapter 459, or part I of chapter

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464.

(1) By January 1, 2022, each licensed or certified practitioner shall complete a board-approved 2-hour continuing education course on suicide prevention. The course must address suicide risk assessment, treatment, and management.

(2) Each licensing board that requires a licensee or certificate holder to complete a course pursuant to this section must include the hours required for completion in the total hours of continuing education required by law for such profession.

Section 8. Effective January 1, 2021, paragraph (b) of subsection (8) of section 627.6675, Florida Statutes, is amended to read:

627.6675 Conversion on termination of eligibility.—Subject to all of the provisions of this section, a group policy delivered or issued for delivery in this state by an insurer or nonprofit health care services plan that provides, on an expense-incurred basis, hospital, surgical, or major medical expense insurance, or any combination of these coverages, shall provide that an employee or member whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy, and under any group policy providing similar benefits that the terminated group policy replaced, for at least 3 months immediately prior to termination, shall be entitled to have issued to him or her by the insurer a policy or certificate of health insurance, referred to in this section as a “converted policy.” A group

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insurer may meet the requirements of this section by contracting with another insurer, authorized in this state, to issue an individual converted policy, which policy has been approved by the office under s. 627.410. An employee or member shall not be entitled to a converted policy if termination of his or her insurance under the group policy occurred because he or she failed to pay any required contribution, or because any discontinued group coverage was replaced by similar group coverage within 31 days after discontinuance.

(8) BENEFITS OFFERED.—

(b) An insurer shall offer the benefits specified in s. 627.4193 ~~s. 627.668~~ and the benefits specified in s. 627.669 if ~~those benefits were provided in the group plan.~~

Section 9. Effective January 1, 2021, section 627.668, Florida Statutes, is transferred, renumbered as section 627.4193, Florida Statutes, and amended to read:

627.4193 627.668 Requirements for mental health and substance use disorder benefits; reporting requirements ~~Optional coverage for mental and nervous disorders required; exception.—~~

(1) Every insurer issuing, delivering, or issuing for delivery comprehensive major medical individual or, health maintenance organization, and nonprofit hospital and medical service plan corporation transacting group health insurance policies or providing prepaid health care in this state must comply with the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and any regulations relating to MHPAEA, including, but not limited to, 45 C.F.R. s. 146.136, 45 C.F.R. s. 147.160, and 45 C.F.R. s. 156.115(a) (3); and must provide ~~shall make available to the~~

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policyholder as part of the application, for an appropriate additional premium under a group hospital and medical expense-incurred insurance policy, under a group prepaid health care contract, and under a group hospital and medical service plan ~~contract~~, the benefits or level of benefits specified in subsection (2) for the medically necessary care and treatment of mental and nervous disorders, including substance use disorders, as described defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by standard nomenclature of the American Psychiatric Association, subject to the right of the applicant for a group policy or contract to select any alternative benefits or level of benefits as may be offered by the insurer, health maintenance organization, or service plan corporation provided that, if alternate inpatient, outpatient, or partial hospitalization benefits are selected, such benefits shall not be less than the level of benefits required under paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c), respectively.

(2) Under individual or group policies described in subsection (1) or contracts, inpatient hospital benefits, partial hospitalization benefits, and outpatient benefits consisting of durational limits, dollar amounts, deductibles, and coinsurance factors may not be provided in a manner that is more restrictive than medical and surgical benefits, and limits on the scope or duration of treatments which are not expressed numerically, also known as nonquantitative treatment limitations, must be provided in a manner that is comparable and may not be applied more stringently than limits on medical and surgical benefits, in accordance with 45 C.F.R. s.

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146.136(c) (2), (3), and (4) shall not be less favorable than for physical illness generally, except that:

(a) ~~Inpatient benefits may be limited to not less than 30 days per benefit year as defined in the policy or contract. If inpatient hospital benefits are provided beyond 30 days per benefit year, the durational limits, dollar amounts, and coinsurance factors thereto need not be the same as applicable to physical illness generally.~~

(b) ~~Outpatient benefits may be limited to \$1,000 for consultations with a licensed physician, a psychologist licensed pursuant to chapter 490, a mental health counselor licensed pursuant to chapter 491, a marriage and family therapist licensed pursuant to chapter 491, and a clinical social worker licensed pursuant to chapter 491. If benefits are provided beyond the \$1,000 per benefit year, the durational limits, dollar amounts, and coinsurance factors thereof need not be the same as applicable to physical illness generally.~~

(c) ~~Partial hospitalization benefits shall be provided under the direction of a licensed physician. For purposes of this part, the term "partial hospitalization services" is defined as those services offered by a program that is accredited by an accrediting organization whose standards incorporate comparable regulations required by this state. Alcohol rehabilitation programs accredited by an accrediting organization whose standards incorporate comparable regulations required by this state or approved by the state and licensed drug abuse rehabilitation programs shall also be qualified providers under this section. In a given benefit year, if partial hospitalization services or a combination of inpatient~~

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~~and partial hospitalization are used, the total benefits paid for all such services may not exceed the cost of 30 days after inpatient hospitalization for psychiatric services, including physician fees, which prevail in the community in which the partial hospitalization services are rendered. If partial hospitalization services benefits are provided beyond the limits set forth in this paragraph, the durational limits, dollar amounts, and coinsurance factors thereof need not be the same as these applicable to physical illness generally.~~

(3) Insurers must maintain strict confidentiality regarding psychiatric and psychotherapeutic records submitted to an insurer for the purpose of reviewing a claim for benefits payable under this section. These records submitted to an insurer are subject to the limitations of s. 456.057, relating to the furnishing of patient records.

(4) Every insurer shall submit an annual affidavit attesting to compliance with the applicable provisions of the MHPAEA.

(5) The office shall implement and enforce applicable provisions of MHPAEA and federal guidance or regulations relating to MHPAEA, including, but not limited to, 45 C.F.R. s. 146.136, 45 C.F.R. s. 147.160, and 45 C.F.R. s. 156.115(a)(3), and this section.

(6) The Financial Services Commission may adopt rules to implement this section.

Section 10. Subsection (4) is added to section 627.669, Florida Statutes, to read:

627.669 Optional coverage required for substance abuse impaired persons; exception.—

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(4) This section is repealed January 1, 2021.

Section 11. Effective January 1, 2021, present subsection (17) of section 627.6699, Florida Statutes, is redesignated as subsection (18), and a new subsection (17) is added to that section, to read:

627.6699 Employee Health Care Access Act.—

(17) MENTAL HEALTH AND SUBSTANCE ABUSE BENEFITS.—A health benefit plan that provides coverage to employees of a small employer is subject to s. 627.4193.

Section 12. Effective January 1, 2021, subsection (9) is added to section 641.26, Florida Statutes, to read:

641.26 Annual and quarterly reports.—

(9) Every health maintenance organization issuing, delivering, or issuing for delivery contracts providing comprehensive major medical coverage shall annually submit an affidavit to the office attesting to compliance with the requirements of s. 627.4193. The office may adopt rules to implement this subsection.

Section 13. Effective January 1, 2021, subsection (48) is added to section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.—

(48) All health maintenance contracts that provide comprehensive medical coverage must comply with the coverage provisions of s. 627.4193. The commission may adopt rules to implement this subsection.

Section 14. Section 786.1516, Florida Statutes, is created to read:

786.1516 Immunity for providing assistance in a suicide emergency.—

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

582 (a) "Emergency care" means assistance or advice offered to
 583 avoid, mitigate, or attempt to mitigate the effects of a suicide
 584 emergency.

585 (b) "Suicide emergency" means an occurrence that reasonably
 586 indicates an individual is at risk of dying or attempting to die
 587 by suicide.

588 (2) A person who provides emergency care at or near the
 589 scene of a suicide emergency, gratuitously and in good faith, is
 590 not liable for any civil damages or penalties as a result of any
 591 act or omission by the person providing the emergency care
 592 unless the person is grossly negligent or caused the suicide
 593 emergency.

594 Section 15. Present subsection (28) of section 1002.33,
 595 Florida Statutes, is redesignated as subsection (29), and a new
 596 subsection (28) is added to that section, to read:

597 1002.33 Charter schools.—

598 (28) CONTINUING EDUCATION AND INSERVICE TRAINING FOR YOUTH
 599 SUICIDE AWARENESS AND PREVENTION.—

600 (a) By October 1, 2020, every charter school must:

601 1. Incorporate 2 hours of training offered pursuant to s.
 602 1012.583. The training must be included in the existing
 603 continuing education or inservice training requirements for
 604 instructional personnel and may not add to the total hours
 605 currently required by the department. Every charter school must
 606 require all instructional personnel to participate.

607 2. Have at least two school-based staff members certified
 608 or otherwise deemed competent in the use of a suicide screening
 609 instrument approved under s. 1012.583(1) and have a policy to

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610 use such suicide risk screening instrument to evaluate a
 611 student's suicide risk before requesting the initiation of, or
 612 initiating, an involuntary examination due to concerns about
 613 that student's suicide risk.

614 (b) Every charter school must report its compliance with
 615 this subsection to the department.

616 Section 16. Subsections (2) and (3) of section 1012.583,
 617 Florida Statutes, are amended to read:

618 1012.583 Continuing education and inservice training for
 619 youth suicide awareness and prevention.—

620 (2) By October 1, 2020, every public school must ~~A school~~
 621 ~~shall be considered a "Suicide Prevention Certified School" if~~
 622 ~~it:~~

623 (a) Incorporate ~~incorporates~~ 2 hours of training offered
 624 pursuant to this section. The training must be included in the
 625 existing continuing education or inservice training requirements
 626 for instructional personnel and may not add to the total hours
 627 currently required by the department. Every public school ~~A~~
 628 ~~school that chooses to participate in the training~~ must require
 629 all instructional personnel to participate.

630 (b) Have ~~Has~~ at least two school-based staff members
 631 certified or otherwise deemed competent in the use of a suicide
 632 screening instrument approved under subsection (1) and have ~~has~~
 633 a policy to use such suicide risk screening instrument to
 634 evaluate a student's suicide risk before requesting the
 635 initiation of, or initiating, an involuntary examination due to
 636 concerns about that student's suicide risk.

637 (3) Every public school ~~A school that meets the criteria in~~
 638 ~~subsection (2)~~ must report its compliance with this section to

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the department. ~~The department shall keep an updated record of all Suicide Prevention Certified Schools and shall post the list of these schools on the department's website. Each school shall also post on its own website whether it is a Suicide Prevention Certified School, and each school district shall post on its district website a list of the Suicide Prevention Certified Schools in that district.~~

Section 17. Paragraphs (a) and (c) of subsection (3) of section 394.495, Florida Statutes, are amended to read:

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

(3) Assessments must be performed by:

(a) A professional as defined in s. 394.455(5), (7), (33) ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

(c) A person who is under the direct supervision of a qualified professional as defined in s. 394.455(5), (7), (33) ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under chapter 491.

Section 18. Subsection (5) of section 394.496, Florida Statutes, is amended to read:

394.496 Service planning.—

(5) A professional as defined in s. 394.455(5), (7), (33) ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under chapter 491 must be included among those persons developing the services plan.

Section 19. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "detoxification

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services," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss. 397.311(26) (a) 4., 397.311(26) (a) 1., and 394.455(40) ~~394.455(39)~~, respectively.

Section 20. Paragraph (b) of subsection (1) of section 409.972, Florida Statutes, is amended to read:

409.972 Mandatory and voluntary enrollment.—

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

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

Section 21. Paragraph (e) of subsection (4) of section 464.012, Florida Statutes, is amended to read:

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

(4) In addition to the general functions specified in subsection (3), an advanced practice registered nurse may perform the following acts within his or her specialty:

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

Section 22. Subsection (7) of section 744.2007, Florida Statutes, is amended to read:

744.2007 Powers and duties.—

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

700 Section 23. The Office of Program Policy Analysis and
701 Government Accountability shall perform a review of suicide
702 prevention programs and efforts made by other states and make
703 recommendations on their applicability to this state. The office
704 shall submit a report containing the findings and
705 recommendations to the President of the Senate and the Speaker
706 of the House of Representatives by January 1, 2021.

707 Section 24. Except as otherwise expressly provided in this
708 act, this act shall take effect July 1, 2020.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Children, Families, and Elder Affairs, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health and Human
Services
Health Policy
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR LAUREN BOOK

32nd District

February 14, 2020

Chair Rob Bradley
Committee on Appropriations
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Bradley:

I respectfully request that **SB 7012—Mental Health** be placed on the agenda for the next Committee on Appropriations meeting.

Should you have any questions or concerns, please feel free to contact my office or me. Thank you in advance for your consideration.

Thank you,

A handwritten signature in cursive script that reads "Lauren Book".

Senator Lauren Book
Senate District 32

Cc: Cynthia Sauls Kynoch, Staff Director
Alicia Weiss, Administrative Assistant

REPLY TO:

- ☐ 967 Nob Hill Road, Plantation, Florida 33324 (954) 424-6674
- ☐ 202 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

2/27/2020

Meeting Date

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

SB 7012

Bill Number (if applicable)

Topic Mental Health

Amendment Barcode (if applicable)

Name Matt Rickett

Job Title lobbyist

Address 300 East Brevard St.

Phone _____

Street

Tallahassee

FL

32301

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Police Benevolent Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 7018 (857014)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); and Infrastructure and Security Committee

SUBJECT: Essential State Infrastructure

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Price	Miller		IS Submitted as Committee Bill
1. Sanders/Blizzard	Betta	AEG	Recommend: Fav/CS
2. Sanders/Blizzard	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7018 provides that a permit application to use the right-of-way for a utility must be processed and acted upon within the expedited time frames of the “Advanced Wireless Infrastructure Deployment Act,” section 337.401(7)(d)7.,8., and 9., Florida Statutes.

The bill requires the Public Service Commission (PSC), in coordination with the Department of Transportation and the Department of Agriculture and Consumer Services, to develop and recommend a plan for the development of electric vehicle (EV) charging station infrastructure along the State Highway System (SHS). The bill sets out a number of legislative findings, as well as the nonexclusive goals and objectives of the recommended plan.

The bill requires the recommended plan to be developed and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2021. The plan must include recommendations for legislation and may include other recommendations as determined by the PSC. The bill also requires the PSC, by December 1, 2020, to file a status report containing any preliminary recommendations, including recommendations for legislation.

The bill clarifies that sections 570.71 and 704.06, Florida Statutes, not be interpreted to prohibit lands traditionally used for agriculture that are subject to a conservation easement from being

utilized for the construction of any public or private linear facility and right of access, if such rights are voluntarily negotiated.

The bill appears to have an indeterminate fiscal impact on local and state governmental entities. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Use of Right-of-Way by Utilities

Section 337.401, F.S., addresses the use of public right-of-way for utility purposes and sets out regulations governing such use. That section authorizes the Florida Department of Transportation (FDOT) and local governmental entities (referred to as “authorities”) to adopt and enforce reasonable rules or regulations relating to the placement and maintenance of facilities or equipment, across, on, or within the right-of-way limits of any road or publicly owned rail corridors under their respective jurisdiction. This includes any electric transmission, voice, telegraph, data, or other communications services lines or wireless facilities; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to as “utilities” in ss. 337.401-337.404, F.S.

Authorities may authorize any person who is a resident of this state, or any corporation which is organized under the laws of this state or licensed to do business within this state, to use a right-of-way for a utility in accordance with the authority’s rules or regulations.¹ A utility may not be installed, located, or relocated within a right-of-way unless authorized by a written permit.² Entities interested in performing utility work in a right-of-way may file an application to use a right-of-way for placing and maintaining utilities with the appropriate jurisdictional permitting authority.

FDOT Utility Permitting

Pursuant to the grant of authority in s. 337.401, F.S., the FDOT generally issues permits for the construction, alteration, operation, relocation, removal, and maintenance of utilities in the FDOT’s right-of-way in conformance with its Utility Accommodation Manual (UAM).³ The UAM requires the FDOT to process all permit applications in accordance with s. 120.60, F.S., related to licensing.

Section 120.60, F.S., requires the FDOT to: examine a utility permit application; notify the applicant of any apparent errors or omissions within 30 days of its receipt; and request any additional information the FDOT is permitted by law to require. That section of law also authorizes the FDOT to establish by rule the time period for submitting any requested additional information. However, the UAM sets out no such time period.

¹ s. 337.401(2), F.S.

² *Id.*

³ Rule Chapter 14-46, F.A.C.

Under s. 120.60, F.S., an application is complete upon the FDOT's receipt of all requested information and correction of any error or omission for which the applicant was timely notified. The FDOT must approve or deny a utility permit application within 90 days after receipt of the completed application.

Municipal and County Utility Permitting

Based on research, no set time period govern local governmental entity processing of general utility permit applications. However, under current law, a shorter period of time for processing utility permit applications is provided in the Advanced Wireless Infrastructure Deployment Act (the Act). The Act applies only to a county or municipality as the "authority" and expressly provides that the term "authority" does not include the FDOT. Rights-of-way under the jurisdiction and control of the FDOT are expressly excluded from subsection (7) of s. 337.401, F.S.

Under the Act:

- Within 14 days after receiving an application, a county or municipality with jurisdiction and control of the rights-of-way of any public road must determine whether the application is complete and notify the applicant by electronic mail. If this requirement is not met within the 14 day timeframe, the application is deemed complete.⁴
- A complete application must be approved or denied within 60 days after receipt or it is deemed approved.⁵
- If the application is denied, the county or municipality must specify in writing the basis for denial and send the documentation to the applicant by electronic mail on the day the authority denies the application. The applicant may cure the deficiencies identified by the authority and resubmit the application within 30 days after notice of the denial is sent to the applicant. The authority must approve or deny the revised application within 30 days after receipt or the application is deemed approved. If an authority provides for administrative review of the denial of an application, the review must be complete and a written decision issued within 45 days after a written request for review is made. If the administrative review is not complete within 45 days, the authority waives any claim regarding failure to exhaust administrative remedies in any judicial review of the denial of an application.⁶

Electric Vehicle Charging Station Infrastructure

Burning fossil fuels, such as gasoline and diesel, releases carbon dioxide into the atmosphere. Increased levels of carbon dioxide, along with other greenhouse gas levels, warm the earth's atmosphere, resulting in documented effects such as sea-level rise, storm surge intensity, and increased rainfall and intensity.⁷ According to information released in February 2019 by the United States Energy Information Administration, of the 230.1 million metric tons (MMTs) of

⁴ Section 337.401(7)(d)7., F.S.

⁵ Section 337.401(7)(d)8., F.S.

⁶ Section 337.401(7)(d)9., F.S.

⁷ Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida*, 106, 141 (2018) available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited February 6, 2020).

carbon dioxide produced in Florida in 2016, the transportation sector accounted for 103.6 MMTs.⁸

Electric vehicles (EVs) offer a cleaner fuel source, and interest in EV use has been driven in part by their potential for reduction in greenhouse gas emissions. However, their relative high cost compared to conventional fuel-powered vehicles and their relative limited range have restricted the commercial viability of EVs.⁹ Yet, while advancements in EV-related technology are continuing, EV manufacturing is rising, and EV prices have been dropping, representatives in both the government and the private sector suggest that successful adoption of EV use is heavily dependent on the accessibility of charging stations.¹⁰

Types of EVs

The U.S. Department of Energy's Alternative Fuels Data Center (AFDC) uses the term, "electric-drive vehicles," to collectively refer to hybrid electric vehicles (HEVs), plug-in hybrid electric vehicles (PHEVs), and all-electric vehicles (AEVs). According to the AFDC:

- HEVs are primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The battery is charged through regenerative braking and by the internal combustion engine and is not plugged in to charge.
- PHEVs are powered by an internal combustion engine that can run on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The vehicle can be plugged in to an electric power source to charge the battery. Some can travel nearly 100 miles on electricity alone, and all can operate solely on gasoline (similar to a conventional hybrid).
- AEVs use a battery to store the electric energy that powers the motor. AEV batteries are charged by plugging the vehicle in to an electric power source.¹¹

EV Charging Equipment

EV charging equipment is generally classified based on the rate at which the equipment charges the EV batteries. Charging times vary, depending on the depletion level of the battery, how much energy the battery holds, the type of battery, and the type of supply equipment. According to the AFDC, charging times can range from less than 20 minutes to 20 hours or more, depending on the identified factors. Potential driving distance ranges from:

- Two to five miles of range per one hour of charging for AC Level 1 supply equipment;
- Ten to twenty miles per one hour of charging for AC Level 2 supply equipment; and

⁸ U.S. Energy Information Administration, *Energy-Related Carbon Dioxide Emissions by State, 2005-2016* (February 2019), Table 4, available at <https://www.eia.gov/environment/emissions/state/analysis/pdf/stateanalysis.pdf> (last visited February 6, 2020).

⁹ See the Federal Highway Administration's *FHWA NHTS Brief, Electric Vehicle Feasibility*, July 2016, pp. 1-2, available at <https://nhts.ornl.gov/briefs/EVFeasibility20160701.pdf> (last visited February 6, 2020).

¹⁰ *Id.* at p. 2. See also CBS Chicago, *Electric Vehicle Sales on the Rise, But More Charging Stations Needed To Keep the Trend Going*, September 19, 2019, available at <https://chicago.cbslocal.com/2019/09/19/electric-vehicles-super-fast-charging-stations/> (last visited February 6, 2020).

¹¹ U.S. Department of Energy, Alternative Fuels Data Center, *Hybrid and Plug-In Electric Vehicles*, available at <https://www.afdc.energy.gov/vehicles/electric.html> (Last visited February 6, 2020).

- Sixty to eighty miles per twenty minutes of charging for DC fast charging supply equipment.¹²

According to the AFDC, for most drivers, charging currently occurs at home or at fleet facilities.¹³

More specifically, Level 1 (home) charging cords come as standard equipment on new EVs, only require a standard 120-volt outlet, and can add about 50 miles of range in an overnight charge. Level 1 charging is sufficient for low- and medium-range PHEVs and all AEVs for drivers with relatively low daily driving.¹⁴

Level 2 (home and public) charging commonly requires a charging unit on a 240-volt circuit, such as one used to run a household clothes dryer, with the charging rate dependent on the rate at which a vehicle can accept a charge and the maximum current available. An eight-hour charge will add about 180 miles of range with a typical 30-amp circuit. This method may require the purchase of a home charging unit and modifications to a home electric system but charges from two to eight times faster than a Level 1, depending on the amperage and the vehicle. These chargers are said to be the most common at public charging places like offices, grocery stores, and parking garages.¹⁵

DC Fast Chargers (public charging) can typically add 50 to 90 miles in 30 minutes, depending on the charging station's power capacity and the make of the EV. These chargers are best used for longer travel distances; vehicles used the major portion of a day, such as taxis; and for vehicles whose drivers have limited access to home charging.¹⁶

Tesla recently opened a "next-generation" EV charging station in Las Vegas supporting a peak rate of up to 250 kilowatts capable of charging up to 1,500 vehicles per day. However only one Tesla vehicle can charge at the peak rate, resulting in up to 180 miles of range in 15 minutes on a Tesla Model 3 Long Range.¹⁷

Additional charging options are under development, such as an industry standard for higher rates of charging using power levels common at commercial and industrial locations in the United States. The standard's target is power levels far exceeding currently typical voltages.¹⁸

¹² *Id.*

¹³ U.S. Department of Energy, Alternative Fuels Data Center, *Developing Infrastructure to Charge Electric Plug-In Vehicles*, available at https://afdc.energy.gov/fuels/electricity_infrastructure.html (last visited February 6, 2020).

¹⁴ Union of Concerned Scientists, *Electric Vehicle Charging, Types, Time, Cost and Savings*, (March 2018) available at <https://www.ucsusa.org/resources/electric-vehicle-charging-types-time-cost-and-savings> (last visited February 6, 2020).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See TechCrunch, *Tesla's new V3 Supercharger can charge up to 1,500 electric vehicles a day*, Korosec, K., (July 18, 2019), available at <https://techcrunch.com/2019/07/18/teslas-new-v3-supercharger-can-charge-up-to-1500-electric-vehicles-a-day/> (last visited February 6, 2020).

¹⁸ See *supra* note 7.

Current Availability of EV Charging Stations in Florida

Section 377.815, F.S., authorizes, but does not require, the Florida Department of Agriculture and Consumer Services (DACS) to post information on its website relating to alternative fueling stations (including electric vehicle charging stations) that are available for public use in this state. The DACS's website contains addresses by city and county on EV charging station locations in Florida reflecting 889 charging station locations by specific address.¹⁹ The AFDC currently indicate that the total number of public EV charging stations in Florida is 1,345, consisting of 3,884 charging outlets.²⁰

Whether the currently available charging stations are sufficient (in number, location, and charging capability) to encourage expansion of EV use in Florida, by individuals and by commercial fleets, as a tool against the effects of climate change, is an open question.

Conservation Easements

A conservation easement is a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open, agricultural or wooded condition. Conservation easements are meant to retain areas as suitable habitat for fish, plants or wildlife or to retain the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological or cultural significance. The purpose of a conservation easement is accomplished by restricting the amount of development allowed on a piece of property, limiting other land uses, and maintaining existing areas of conservation interest on a piece of property in their natural condition.

A conservation easement must prohibit or limit any or all of the following:

- Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- Removal or destruction of trees, shrubs, or other vegetation;
- Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;
- Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;
- Activities detrimental to drainage, flood control, water conservation erosion control, soil conservation, or fish and wildlife habitat preservation;
- Acts or uses detrimental to such retention of land or water areas; and
- Acts or uses detrimental to the preservation of the structural integrity or physical appearances of sites or properties of historical, architectural, archaeological, or cultural significance.²¹

¹⁹ See the Florida Department of Agriculture and Consumer Services website, select *Electricity*, available at <https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Transportation> (last visited February 6, 2020).

²⁰ U.S. Department of Energy, Alternative Fuels Data Center, *Alternative Fueling Station Counts by State*, available at <https://afdc.energy.gov/stations/states> (last visited February 6, 2020).

²¹ Section 704.06, F.S.

Section 704.06(11), F.S., dictates that no provision of law may prohibit or limit the owner of land or the owner of a conservation easement from voluntarily negotiating the sale or use of such land or easement for the construction and operation of linear facilities, to include; electric transmission and distribution facilities, telecommunications transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances.

III. Effect of Proposed Changes:

Section 1 amends s. 337.401(2), F.S., to apply the expedited timeframes for processing utility permit applications for communications facilities in county or municipal rights-of-way to all utility permit applications under s. 337.401, F.S. Any utility permit application submitted to the FDOT or local governmental entities would be subject to the described, expedited timeframes under s. 337.401(7), F.S.

Section 2 creates s. 366.945, F.S., to require development of a recommended plan for the development of EV charging station infrastructure along the SHS.²²

The bill recites the following legislative findings:

- Climate change may have significant impacts to the State of Florida which will require the development of avoidance, adaptation, and mitigation strategies to address these potential impacts on future state projects, plans, and programs;
- A significant portion of the carbon dioxide emissions in Florida are produced by the transportation sector;
- EVs can help reduce these emissions, thereby helping to reduce the impact of climate change on the state;
- Use of EVs for non-local driving requires adequate reliable charging stations to help with electric vehicle battery range limitations;
- Having adequate reliable charging stations along the SHS will also help with evacuations during hurricanes or other disasters;
- Ensuring the prompt installation of adequate reliable charging stations is in the public interest; and
- A recommended plan for electric vehicle charging station infrastructure should be established to address changes in the emerging electric vehicle market and necessary charging infrastructure.

The PSC,²³ in coordination with the Department of Transportation and the Department of Agriculture and Consumer Services, is directed to develop and recommend a plan for current and

²² Section 334.03(24), F.S., defines the State Highway System as “the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state’s jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state’s jurisdiction. These facilities shall be facilities to which access is regulated.”

²³ Sections 350.011, 366.04, and 366.05, F.S., set out the jurisdiction, powers, and duties of the PSC. With respect to the PSC’s current regulation of electric industries, the PSC regulates investor-owned electric companies and matters such as rates and charges, meter and billing accuracy, electric lines up to a meter, reliability of electric service, new construction safety code compliance for transmission and distribution; territorial agreements and disputes, and the need for certain power plants

future plans for the development of EV charging station infrastructure along the SHS. The PSC is authorized to consult with other agencies as it deems appropriate.

The bill requires the recommended plan to be developed and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2021. The plan must include recommendations for legislation and may include any other recommendations as determined by the PSC.

The bill sets out the following goals and objectives of the plan, including, but not limited to:

- Projecting the increase in use of EVs in the state over the next 20 years and determining how to ensure an adequate supply of reliable EV charging stations to support and encourage this growth in a manner supporting a competitive market with ample consumer choice;
- Evaluating and comparing the types of EV charging stations available at present and in the future, including the technology and infrastructure incorporated in such stations, along with the circumstances within which each type of station and infrastructure is typically used, including fleet charging, for the purpose of identifying any advantages to developing particular types or uses of these stations;
- Considering strategies to develop this supply of charging stations, including but not limited to, methods of building partnerships with local governments, other state and federal entities, electric utilities, the business community, and the public in support of EV charging stations;
- Identifying the types or characteristics of locations along the SHS to support a supply of electric vehicle charging stations that will:
 - Accomplish the goals and objectives of this section;
 - Support both short-range and long-range electric vehicle travel;
 - Encourage the expansion of EV use in this state; and
 - Adequately serve evacuation routes in this state;
- Identifying any barriers to the use of EVs and EV charging station infrastructure both for short- and long-range EV travel along the SHS;
- Identifying an implementation strategy for expanding electric vehicle and charging station infrastructure use in this state;
- Identifying the type of regulatory structure for the delivery of electricity to EVs and charging station infrastructure, including competitive neutral policies and the participation of public utilities in the marketplace; and
- Reviewing emerging technologies in the electric and alternative vehicle market, including alternative fuel sources.

The bill requires the PSC, by December 1, 2020, to file a status report with the Governor, the President of the Senate, and the Speaker of the House of Representatives containing any preliminary recommendations, including recommendations for legislation.

and transmission lines. The PSC does not regulate rates and adequacy of services provided by municipally-owned and rural cooperative electric utilities, except for safety oversight; electrical wiring inside a customer's building; taxes on the electric bill; physical placement of transmission and distribution lines; damages claims; right of way matters, or physical placement or relocation of utility poles. See PSC, *When to Call the Florida Public Service Commission*, available at http://www.psc.state.fl.us/Files/PDF/Publications/Consumer/Brochure/When_to_Call_the_PSC.pdf (last visited February 6, 2020).

Section 3 clarifies that ss. 570.71 and 704.06, F.S., not be interpreted to prohibit lands traditionally used for agriculture and subject to a conservation easement from being utilized for the construction of any public or private linear facility and right of access, if such rights are voluntarily negotiated. Reasonable compensation for use of the conservation easement must be based on the resulting diminution in value of the easement. The bill provides that a linear facility remains subject to state environmental permitting regulations.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that development of the required plan increases the number of EV charging stations in the state, residents, businesses, and tourists are expected to benefit from increased availability of EV charging stations, facilitating mobility and commerce and reducing costs related to EV travel.

The ability to construct linear facilities through a conservation easement instead of bypassing the easement, may provide a cost savings to private companies.

Landowners will be required to compensate governmental entities based on the reduction in value of conservation easements, however, this cost may be offset by the amount

received from private entities for the construction of linear facilities through the easements.

C. Government Sector Impact:

The PSC estimates a fiscal impact of \$43,871.²⁴ This will be necessary to support activities related to developing and submitting the required status report, recommended plan, and recommended legislation; however, based upon information received, this could be handled within existing resources. The Department of Transportation has indicated the bill has an indeterminate but negative impact due to the loss of fuel tax revenue and the costs associated with implementing coordination of the recommended plan.²⁵ In addition, the fiscal impact related to potential increased workload to accommodate the expedited time periods for all utility permit applications to both state and local governmental entities is unknown and indeterminate. The Department of Agriculture and Consumer Services will have indeterminate expenses related to the required coordination in developing the recommended plan, but these costs can be absorbed within existing resources.²⁶

There may be an indeterminate positive impact to governmental entities relating to the construction of linear facilities across land subject to a conservation easement owned by a governmental entity. The bill requires landowners to compensate the entities for the reduced value of the conservation easement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 337.401 and 704.06.

This bill creates section 366.945 of the Florida Statutes.

²⁴ Public Service Commission, *Senate Bill 7018 Agency Bill Analysis* (December 18, 2019) (on file with Appropriations Subcommittee on Agriculture, Environment and General Government).

²⁵ Conversation with John Kotyk, Legislative Affairs Director, Florida Department of Transportation (February 13, 2020).

²⁶ Florida Department of Agriculture and Consumer Services, *Senate Bill 7018 Agency Bill Analysis* (January 1, 2020) (on file with Appropriations Subcommittee on Agriculture, Environment and General Government).

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

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

Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 13, 2020:

The committee substitute:

- Provides that the permit application to use the right-of-way for a utility must be processed and acted upon within time frames of the “Advanced Wireless Infrastructure Deployment Act,” s. 337.401(7)(d)7.,8., and 9., F.S., which provides for expedited timeframes.
- Requires the Public Service Commission (PSC), in coordination with the Department of Transportation and the Department of Agriculture and Consumer Services, to develop and recommend a plan for the development of electric vehicle (EV) charging station infrastructure along the State Highway System.
- Clarifies that sections 570.71 and 704.06, F.S., shall not be interpreted to prohibit lands traditionally used for agriculture that are subject to a conservation easement, from being utilized for the construction of any public or private linear facility and right of access, if such rights are voluntarily negotiated.

B. Amendments:

None.



721886

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Lee) recommended the following:

Senate Amendment

Delete lines 51 - 52
and insert:
permit application required under this subsection by a county or
municipality having jurisdiction and control of the right-of-way
of any public road must be processed and acted upon in
accordance with the timeframes



932702

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Lee) recommended the following:

Senate Amendment (with title amendment)

Between lines 53 and 54
insert:

Section 2. Section 338.236, Florida Statutes, is created to
read:

338.236 Staging areas for emergencies.—The Department of
Transportation may plan, design, and construct staging areas to
be activated during a declared state of emergency at key
geographic locations on the turnpike system. Such staging areas
must be used for the staging of emergency supplies, such as



932702

water, fuel, generators, vehicles, equipment, and other related materials, to facilitate the prompt provision of emergency assistance to the public, and to otherwise facilitate emergency response and assistance, including evacuations, deployment of emergency-related supplies and personnel, and restoration of essential services.

(1) In selecting a proposed site for a designated staging area under this section, the department, in consultation with the Division of Emergency Management, must consider the extent to which such site:

(a) Is located in a geographic area that best facilitates the wide dissemination of emergency-related supplies and equipment;

(b) Provides ease of access to major highways and other transportation facilities;

(c) Is sufficiently large to accommodate the staging of a significant amount of emergency-related supplies and equipment;

(d) Provides space in support of emergency preparedness and evacuation activities, such as fuel reserve capacity;

(e) Could be used during nonemergency periods for commercial motor vehicle parking and for other uses; and

(f) Is consistent with other state and local emergency management considerations.

The department must give priority consideration to placement of such staging areas in counties with a population of 200,000 or fewer, as determined by the most recent official estimate pursuant to s. 186.901, in which a multiuse corridor of regional economic significance, as provided in s. 338.2278, is located.



932702

(2) The department may acquire property and property rights necessary for such staging areas as provided in s. 338.04.

(3) The department may authorize other uses of a staging area as provided in the Florida Transportation Code, including, but not limited to, for commercial motor vehicle parking to comply with federal hours-of-service off-duty requirements or sleeper berth requirements and for other vehicular parking to provide rest for drivers.

(4) Staging area projects must be included in the work program developed by the department pursuant to s. 339.135.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete line 6
and insert:
way; creating s. 338.236, F.S.; authorizing the Department of Transportation to plan, design, and construct staging areas as part of the turnpike system for the intended purpose of staging supplies for prompt provision of assistance to the public in a declared state of emergency; requiring the department, in consultation with the Division of Emergency Management, to select sites for such areas; providing factors to be considered by the department and division in selecting sites; requiring the department to give priority consideration to placement of such staging areas in specified counties; authorizing the department to acquire property necessary for such staging areas; authorizing the department to authorize



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70 certain other uses of staging areas; requiring staging
71 area projects to be included in the department's work
72 program; creating s. 366.945, F.S.; providing
73 legislative



219506

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2020	.	
	.	
	.	
	.	

The Committee on Appropriations (Lee) recommended the following:

Senate Amendment

Between lines 135 and 136
insert:
9. Quantifying the loss of revenue to the State
Transportation Trust Fund due to the current and projected
future use of electric vehicles in this state and summarizing
efforts of other states to address such revenue loss.



857014

576-03597-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

A bill to be entitled

An act relating to essential state infrastructure;
amending s. 337.401, F.S.; specifying permit
application timeframes required for the installation,
location, or relocation of utilities within rights-of-
way; creating s. 366.945, F.S.; providing legislative
findings; requiring the Public Service Commission, in
consultation with the Department of Transportation and
the Office of Energy within the Department of
Agriculture and Consumer Services, to develop and
recommend, by a specified date, to the Governor, the
President of the Senate, and the Speaker of the House
of Representatives a plan for the development of
electric vehicle charging station infrastructure along
the State Highway System; authorizing the commission
to consult with other agencies as the commission deems
appropriate; requiring the plan to include
recommendations for legislation; authorizing the plan
to include other recommendations as determined by the
commission; providing the goals and objectives of the
plan; requiring the commission to file a status report
with the Governor and the Legislature by a specified
date containing any preliminary recommendations,
including recommendations for legislation; amending s.
704.06, F.S.; providing construction relating to the
rights of an owner of land that has been traditionally



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576-03597-20

used for agriculture and is subject to a conservation
easement; providing an effective date.

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

Section 1. Subsection (2) of section 337.401, Florida
Statutes, is amended to read:

337.401 Use of right-of-way for utilities subject to
regulation; permit; fees.—

(2) The authority may grant to any person who is a resident
of this state, or to any corporation which is organized under
the laws of this state or licensed to do business within this
state, the use of a right-of-way for the utility in accordance
with such rules or regulations as the authority may adopt. ~~A no~~
utility may not ~~shall~~ be installed, located, or relocated unless
authorized by a written permit issued by the authority. However,
for public roads or publicly owned rail corridors under the
jurisdiction of the department, a utility relocation schedule
and relocation agreement may be executed in lieu of a written
permit. The permit must ~~shall~~ require the permitholder to be
responsible for any damage resulting from the issuance of such
permit. The authority may initiate injunctive proceedings as
provided in s. 120.69 to enforce provisions of this subsection
or any rule or order issued or entered into pursuant thereto. A
permit application required by an authority under this section
must be processed and acted upon consistent with the timeframes
provided in subparagraphs (7)(d)7., 8., and 9.

Section 2. Section 366.945, Florida Statutes, is created to
read:



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366.945 Electric vehicle charging stations; infrastructure plan development.-

(1) The Legislature finds that:

(a) Climate change may have significant impacts to this state which will require the development of avoidance, adaptation, and mitigation strategies to address these potential impacts on future state projects, plans, and programs;

(b) A significant portion of the carbon dioxide emissions in this state are produced by the transportation sector;

(c) Electric vehicles can help reduce these emissions, thereby helping to reduce the impact of climate change on this state;

(d) The use of electric vehicles for non-local driving requires adequate, reliable charging stations to address electric vehicle battery range limitations;

(e) Having adequate, reliable charging stations along the State Highway System will also help with evacuations during hurricanes or other disasters;

(f) Ensuring the prompt installation of adequate, reliable charging stations is in the public interest; and

(g) A recommended plan for electric vehicle charging station infrastructure should be established to address changes in the emerging electric vehicle market and necessary charging infrastructure.

(2) (a) The commission, in coordination with the Department of Transportation and the Office of Energy within the Department of Agriculture and Consumer Services, shall develop and recommend a plan for current and future plans for the development of electric vehicle charging station infrastructure



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along the State Highway System, as defined in s. 334.03(24). The commission may consult with other agencies as the commission deems appropriate. The recommended plan must be developed and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2021. The plan must include recommendations for legislation and may include other recommendations as determined by the commission.

(b) The goals and objectives of the plan include, but are not limited to, all of the following:

1. Projecting the increase in the use of electric vehicles in this state over the next 20 years and determining how to ensure an adequate supply of reliable electric vehicle charging stations to support and encourage this growth in a manner supporting a competitive market with ample consumer choice.

2. Evaluating and comparing the types of electric vehicle charging stations available at present and that may become available in the future, including the technology and infrastructure incorporated in such stations, along with the circumstances within which each type of station and infrastructure is typically used, including fleet charging, for the purpose of identifying any advantages to developing particular types or uses of these stations.

3. Considering strategies to develop this supply of charging stations, including, but not limited to, methods of building partnerships with local governments, other state and federal entities, electric utilities, the business community, and the public in support of electric vehicle charging stations.

4. Identifying the types or characteristics of possible locations for electric vehicle charging station infrastructure



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along the State Highway System to support a supply of electric vehicle charging stations that will:

a. Accomplish the goals and objectives of this section;

b. Support both short-range and long-range electric vehicle travel;

c. Encourage the expansion of electric vehicle use in this state; and

d. Adequately serve evacuation routes in this state.

5. Identifying any barriers to the use of electric vehicles and electric vehicle charging station infrastructure both for short-range and long-range electric vehicle travel along the State Highway System.

6. Identifying an implementation strategy for expanding electric vehicle and charging station infrastructure use in this state.

7. Identifying the type of regulatory structure necessary for the delivery of electricity to electric vehicles and charging station infrastructure, including competitive neutral policies and the participation of public utilities in the marketplace.

8. Reviewing emerging technologies in the electric and alternative vehicle market, including alternative fuel sources.

(c) By December 1, 2020, the commission shall file a status report with the Governor, the President of the Senate, and the Speaker of the House of Representatives containing any preliminary recommendations, including recommendations for legislation.

Section 3. Subsection (11) of section 704.06, Florida Statutes, is amended to read



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704.06 Conservation easements; creation; acquisition; enforcement.—

(11) ~~(a) Nothing in~~ This section or other provisions of law may not ~~shall~~ be construed to prohibit or limit the owner of land, or the owner of a conservation easement over land, to voluntarily negotiate the sale or ~~use~~ ~~utilization~~ of such lands or easement for the construction and operation of linear facilities, including electric transmission and distribution facilities, telecommunications transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances, nor does ~~shall~~ this section prohibit the use of eminent domain for said purposes as established by law. In any legal proceeding to condemn land for the purpose of construction and operation of a linear facility as described above, the court shall consider the public benefit provided by the conservation easement and linear facilities in determining which lands may be taken and the compensation paid.

(b) For any land that has traditionally been used for agriculture, as that term is defined in s. 570.02, and is subject to a conservation easement entered into at any time pursuant to s. 570.71, this section or s. 570.71 may not be construed to limit the owner of the land to voluntarily negotiating the use of the land for any public or private linear facility, right of access, and related appurtenances, and reasonable compensation based on diminution in value of its interest in the conservation easement shall be the only remedy to the owner of the conservation easement for the construction and operation of any public or private linear facilities and



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172 related access and appurtenances.

173 (c) This section does not preclude the applicability of any
174 environmental permitting requirements applicable to a linear
175 facility pursuant to chapters 369-380 or chapter 403 or any
176 agency rules adopted pursuant to those chapters.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 7018

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); and Infrastructure and Security Committee

SUBJECT: Essential State Infrastructure

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Price	Miller		IS Submitted as Committee Bill
1.	Sanders/Blizzard	Betta	AEG	Recommend: Fav/CS
2.	Sanders/Blizzard	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7018:

- Authorizes the Department of Transportation (FDOT) to plan, design, and construct staging areas for emergency response on the turnpike system. These areas are for the staging of emergency supplies, equipment, and personnel to facilitate the prompt provision of emergency assistance to the public in response to a declared state of emergency;
- Directs the FDOT, in consultation with the Division of Emergency Management (DEM), to consider certain factors when selecting a proposed site, and the FDOT is authorized to acquire property necessary for such staging areas;
- Requires the FDOT to give priority consideration to placement of such staging areas in counties with a population of 200,000 or less in which a multi-use corridor of regional significance is located;
- Grants the FDOT power to authorize other uses of a staging area and requires that staging-area projects be included in the FDOT's work program;
- Provides that a permit application by a county or municipality to use the right-of-way for a utility must be processed and acted upon within the expedited time frames of the "Advanced Wireless Infrastructure Deployment Act," s. 337.401(7)(d)7.,8., and 9., F.S.;
- Requires the Public Service Commission (PSC), in coordination with the FDOT and the Department of Agriculture and Consumer Services, to develop and recommend a plan for the development of electric vehicle (EV) charging station infrastructure along the State Highway

System (SHS). The bill sets out a number of legislative findings, as well as the nonexclusive goals and objectives of the recommended plan;

- Requires the recommended plan to be developed and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2021. The plan must include recommendations for legislation and may include other recommendations as determined by the PSC. The bill also requires the PSC, by December 1, 2020, to file a status report containing any preliminary recommendations, including recommendations for legislation; and
- Clarifies that ss. 570.71 and 704.06, F.S., not be interpreted to prohibit lands traditionally used for agriculture that are subject to a conservation easement from being utilized for the construction of any public or private linear facility and right of access, if such rights are voluntarily negotiated.

The bill appears to have an indeterminate fiscal impact on local and state governmental entities. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Emergency Declaration and Staging Areas

Chapter 252, F.S., confers certain emergency powers upon the Governor, the DEM, and the governing bodies of each political subdivision of the state when an emergency or disaster occurs in Florida.¹ Section 252.36(2), F.S., authorizes the Governor to declare a state of emergency by executive order or proclamation if the Governor finds an emergency or the threat of an emergency has occurred or is about to occur.² The Governor's order or proclamation, among other items:

- Activates the emergency mitigation, response, and recovery aspects of the applicable state, local, and inter-jurisdictional emergency management plans, and
- Activates plans and resources to carry out the distribution of any supplies, equipment, and materials, and facilities relating to emergencies.

Section 252.359, F.S., charges DEM with establishing "a statewide system to facilitate the transportation and distribution of essentials in commerce"... "to meet the needs of residents affected during a declared emergency and to ensure continuing economic resilience of communities impacted by disaster."³ Similarly, among other related authority, political subdivisions are authorized to obtain and distribute equipment, materials, and supplies for emergency management purposes.⁴

¹ Section 252.32(1)(b), F.S.

² The law provides that the state of emergency continues until the Governor finds the emergency conditions no longer exist and terminates the state of emergency. However, a state of emergency may not exist for more than 60 days unless the Governor renews it. The Legislature may terminate a state of emergency at any time by concurrent resolution.

³ Section 252.359, F.S., defines the term, "essentials," to mean goods that are consumed or used as a direct result of a declared emergency, or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being.

⁴ Section 252.38(3), F.S.

Generally, when the Governor declares a state of emergency, the acquisition of property for staging area purposes involves similar processes at both the state and local level; identification of a potential site and execution of an agreement for use of the site. For example, DEM logistics personnel work with regional coordination teams and other DEM field staff to identify potential staging area sites suitable for the expected emergency. For purposes of executing a memorandum of agreement (MOU), the DEM requires the site location and owner, a point of contact, the square footage of the site, and photos or maps of the site. Locations are finalized after a site visit with the site owner to verify the site's feasibility for use. If agreement is reached, an MOU is executed. The acquired sites are mobilized to ensure resources are logged, prepared, and readied for redeployment to an impacted area.⁵

Pre-designated sites are also used for staging. For example, the FDOT allows utility providers and first responders to use commercial motor vehicle weigh stations as staging areas, most of which are along I-75. The FDOT also uses its maintenance yards and operations centers to stage FDOT crews and contracted crews.^{6, 7}

At the local level, both pre-designated sites and sites identified in anticipation of need may be used. For example, Leon County Emergency Management staff advise that both the county and the City of Tallahassee have regularly used public property (such as the fairgrounds and the airport), as well as private property for staging areas.⁸

Florida's Turnpike

The Florida Turnpike Enterprise (FLTE) within the FDOT is empowered to plan, construct, maintain, repair, and operate the Florida Turnpike System. The term, "turnpike system," is defined to mean "those limited access toll highways and associated feeder roads and other structures, appurtenances, or rights previously designated, acquired, or constructed pursuant to the Florida Turnpike Enterprise Law and such other additional turnpike projects as may be acquired or constructed as approved by the Legislature."⁹ The turnpike system currently includes the mainline from Miami to Central Florida, as well as the Homestead Extension, Sawgrass Expressway, Seminole Expressway, Beachline Expressway, Southern Connector Extension, Veterans Expressway, Suncoast Parkway, Polk Parkway, Western Beltway, and the I-4 Connector.¹⁰

⁵ See DEM email to Senate Infrastructure and Security Committee staff November 14, 2019 (copy on file in the Senate Infrastructure and Security Committee).

⁶ See the FDOT email to Senate Infrastructure and Security Committee staff November 18, 2019 (copy on file in the Senate Infrastructure and Security Committee).

⁷ For a map of the FDOT's maintenance yards and operations centers, see FDOT, *Transportation Organizational Partners Map*, select Legend icon, bottom left, available at <https://fdot.maps.arcgis.com/apps/webappviewer/index.html?id=659db618c58d4a279bc95386ab20fe30> (last visited January 10, 2020).

⁸ Telephone conversation between Senate Infrastructure and Security Committee staff and Leon County Emergency Management staff November 12, 2019.

⁹ Section 338.221(6), F.S.

¹⁰ For a map of the system, see Florida's Turnpike, under the *About* heading, available at <http://www.floridasturnpike.com/about.html> (last visited January 10, 2020).

In addition, any future multi-use corridor of regional significance (M-CORES corridor) constructed as authorized under s. 338.2278, F.S., will be part of the turnpike system. Enacted during the 2019 Regular Session, M-CORES is a program designed to advance construction of regional corridors that will accommodate multiple modes of transportation and multiple types of infrastructure. The specific purpose of the program is to revitalize rural communities, encourage job creation in those communities, and provide regional connectivity while leveraging technology, enhancing quality of life and public safety, and protecting the environment and natural resources. The following three corridors comprise the M-CORES Program:

- Southwest-Central Florida Connector (Collier County to Polk County);
- Suncoast Connector (Citrus County to Jefferson County); and
- Northern Turnpike Connector (northern terminus of the Florida Turnpike northwest to the Suncoast Parkway).¹¹

FDOT Acquisition of Property

Section 338.04, F.S., grants the FDOT's FLTE (and others, collectively called "authorities") authorization to acquire private or public property and property rights for limited access facilities and service roads in the same manner as they are authorized to acquire property or property rights for highways. That process involves negotiated sales or, failing successful negotiation, the power of eminent domain granted to the FDOT under s. 337.27, F.S.

Eminent domain is the constitutional power of the government to take private property for public use. Chapters 73 and 74, F.S., provide for eminent domain and proceedings supplemental to eminent domain, respectively. Chapter 73, F.S., specifies the pre-suit negotiation requirements, the petition filing requirements, the service of process and publication requirements, the pretrial process, jury trial process, and post-trial process. Chapter 74, F.S., sets out the supplemental proceedings to eminent domain, including provisions allowing a governmental entity to take possession and title of property in advance of entry of final judgment by depositing with the court an amount no less than the governmental entity's good faith estimate of the value of the property being sought.

Before an eminent domain proceeding can be filed, the FDOT must attempt to negotiate in good faith with the fee owner of the property to be acquired and attempt to reach an agreement regarding the amount of compensation to be paid for the owner's property.¹² The condemning authority must meet additional requirements, such as providing the owner with a written offer, notifying the owner of statutory rights to receive fees and costs,¹³ and notifying business owners of all of their rights.¹⁴ Once a petition for eminent domain is filed, both the FDOT and the owner must make offers of judgment; *i.e.*, an offer to have judgment entered for payment of compensation for amounts specified in the offers.

In accordance with s. 73.071, F.S., eminent domain trials for valuation of property are argued before a twelve-person jury. The amount of compensation is determined as of the date of trial, or

¹¹ For additional detailed M-CORES information, See the FDOT M-CORES site, available at <https://floridamcores.com/#home> (last visited January 10, 2020).

¹² Section 73.015, F.S.

¹³ Section 73.0511, F.S.

¹⁴ Section 73.015(2), F.S.

the date upon which title passes, whichever occurs first. The jury determines solely the amount of compensation to be paid. Generally, whether the parties settle prior to or after a petition is filed, the landowners and business owners are entitled to attorney fees¹⁵ and reasonable costs incurred, including appraisal fees and accountant fees.¹⁶

The Florida Transportation Code

The Florida Transportation Code (code)¹⁷ includes all Florida Statutes governing the duties and responsibilities for the FDOT. The code authorizes the FDOT to provide space to facilitate the conduct of research and demonstration projects relative to innovative transportation technologies¹⁸ or serve as staging areas for the FDOT's construction and maintenance contractors.¹⁹ The sites may provide additional or overflow parking for both commercial motor vehicles and other vehicular traffic²⁰ or serve other functions, such as making fuel or food services available to travelers.²¹

Use of Right-of-Way by Utilities

Section 337.401, F.S., addresses the use of public right-of-way for utility purposes and sets out regulations governing such use. That section authorizes the Florida Department of Transportation (FDOT) and local governmental entities (referred to as "authorities") to adopt and enforce reasonable rules or regulations relating to the placement and maintenance of facilities or equipment, across, on, or within the right-of-way limits of any road or publicly owned rail corridors under their respective jurisdiction. This includes any electric transmission, voice, telegraph, data, or other communications services lines or wireless facilities; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to as "utilities" in ss. 337.401-337.404, F.S.

Authorities may authorize any person who is a resident of this state, or any corporation which is organized under the laws of this state or licensed to do business within this state, to use a right-of-way for a utility in accordance with the authority's rules or regulations.²² A utility may not be installed, located, or relocated within a right-of-way unless authorized by a written permit.²³ Entities interested in performing utility work in a right-of-way may file an application to use a right-of-way for placing and maintaining utilities with the appropriate jurisdictional permitting authority.

FDOT Utility Permitting

Pursuant to the grant of authority in s. 337.401, F.S., the FDOT generally issues permits for the construction, alteration, operation, relocation, removal, and maintenance of utilities in the

¹⁵ Section 73.092, F.S.

¹⁶ Section 73.091, F.S.

¹⁷ Chapters 334-339, 348, and 349 and ss. 332.003-332.007, 351.35, 351.36 351.37, and 861.011, F.S.

¹⁸ Section 334.044(21), F.S.

¹⁹ Section 337.11(1), F.S.

²⁰ *Id.*

²¹ Section 338.234, F.S.

²² Section 337.401(2), F.S.

²³ *Id.*

FDOT's right-of-way in conformance with its Utility Accommodation Manual (UAM).²⁴ The UAM requires the FDOT to process all permit applications in accordance with s. 120.60, F.S., related to licensing.

Section 120.60, F.S., requires the FDOT to: examine a utility permit application; notify the applicant of any apparent errors or omissions within 30 days of its receipt; and request any additional information the FDOT is permitted by law to require. That section of law also authorizes the FDOT to establish by rule the time period for submitting any requested additional information. However, the UAM sets out no such time period.

Under s. 120.60, F.S., an application is complete upon the FDOT's receipt of all requested information and correction of any error or omission for which the applicant was timely notified. The FDOT must approve or deny a utility permit application within 90 days after receipt of the completed application.

Municipal and County Utility Permitting

Based on research, no set time period govern local governmental entity processing of general utility permit applications. However, under current law, a shorter period of time for processing utility permit applications is provided in the Advanced Wireless Infrastructure Deployment Act (the Act). The Act applies only to a county or municipality as the "authority" and expressly provides that the term "authority" does not include the FDOT. Rights-of-way under the jurisdiction and control of the FDOT are expressly excluded from subsection (7) of s. 337.401, F.S.

Under the Act:

- Within 14 days after receiving an application, a county or municipality with jurisdiction and control of the rights-of-way of any public road must determine whether the application is complete and notify the applicant by electronic mail. If this requirement is not met within the 14 day timeframe, the application is deemed complete.²⁵
- A complete application must be approved or denied within 60 days after receipt or it is deemed approved.²⁶
- If the application is denied, the county or municipality must specify in writing the basis for denial and send the documentation to the applicant by electronic mail on the day the authority denies the application. The applicant may cure the deficiencies identified by the authority and resubmit the application within 30 days after notice of the denial is sent to the applicant. The authority must approve or deny the revised application within 30 days after receipt or the application is deemed approved. If an authority provides for administrative review of the denial of an application, the review must be complete and a written decision issued within 45 days after a written request for review is made. If the administrative review is not complete within 45 days, the authority waives any claim regarding failure to exhaust administrative remedies in any judicial review of the denial of an application.²⁷

²⁴ Rule Chapter 14-46, F.A.C.

²⁵ Section 337.401(7)(d)7., F.S.

²⁶ Section 337.401(7)(d)8., F.S.

²⁷ Section 337.401(7)(d)9., F.S.

Electric Vehicle Charging Station Infrastructure

Burning fossil fuels, such as gasoline and diesel, releases carbon dioxide into the atmosphere. Increased levels of carbon dioxide, along with other greenhouse gas levels, warm the earth's atmosphere, resulting in documented effects such as sea-level rise, storm surge intensity, and increased rainfall and intensity.²⁸ According to information released in February 2019 by the United States Energy Information Administration, of the 230.1 million metric tons (MMTs) of carbon dioxide produced in Florida in 2016, the transportation sector accounted for 103.6 MMTs.²⁹

Electric vehicles (EVs) offer a cleaner fuel source, and interest in EV use has been driven in part by their potential for reduction in greenhouse gas emissions. However, their relative high cost compared to conventional fuel-powered vehicles and their relative limited range have restricted the commercial viability of EVs.³⁰ Yet, while advancements in EV-related technology are continuing, EV manufacturing is rising, and EV prices have been dropping, representatives in both the government and the private sector suggest that successful adoption of EV use is heavily dependent on the accessibility of charging stations.³¹

Types of EVs

The U.S. Department of Energy's Alternative Fuels Data Center (AFDC) uses the term, "electric-drive vehicles," to collectively refer to hybrid electric vehicles (HEVs), plug-in hybrid electric vehicles (PHEVs), and all-electric vehicles (AEVs). According to the AFDC:

- HEVs are primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The battery is charged through regenerative braking and by the internal combustion engine and is not plugged in to charge.
- PHEVs are powered by an internal combustion engine that can run on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The vehicle can be plugged in to an electric power source to charge the battery. Some can travel nearly 100 miles on electricity alone, and all can operate solely on gasoline (similar to a conventional hybrid).
- AEVs use a battery to store the electric energy that powers the motor. AEV batteries are charged by plugging the vehicle in to an electric power source.³²

²⁸ Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida*, 106, 141 (2018) available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited February 6, 2020).

²⁹ U.S. Energy Information Administration, *Energy-Related Carbon Dioxide Emissions by State, 2005-2016* (February 2019), Table 4, available at <https://www.eia.gov/environment/emissions/state/analysis/pdf/stateanalysis.pdf> (last visited February 6, 2020).

³⁰ See the Federal Highway Administration's *FHWA NHTS Brief, Electric Vehicle Feasibility*, July 2016, pp. 1-2, available at <https://nhts.ornl.gov/briefs/EVFeasibility20160701.pdf> (last visited February 6, 2020).

³¹ *Id.* at p. 2. See also CBS Chicago, *Electric Vehicle Sales on the Rise, But More Charging Stations Needed To Keep the Trend Going*, September 19, 2019, available at <https://chicago.cbslocal.com/2019/09/19/electric-vehicles-super-fast-charging-stations/> (last visited February 6, 2020).

³² U.S. Department of Energy, Alternative Fuels Data Center, *Hybrid and Plug-In Electric Vehicles*, available at <https://www.afdc.energy.gov/vehicles/electric.html> (Last visited February 6, 2020).

EV Charging Equipment

EV charging equipment is generally classified based on the rate at which the equipment charges the EV batteries. Charging times vary, depending on the depletion level of the battery, how much energy the battery holds, the type of battery, and the type of supply equipment. According to the AFDC, charging times can range from less than 20 minutes to 20 hours or more, depending on the identified factors. Potential driving distance ranges from:

- Two to five miles of range per one hour of charging for AC Level 1 supply equipment;
- Ten to twenty miles per one hour of charging for AC Level 2 supply equipment; and
- Sixty to eighty miles per twenty minutes of charging for DC fast charging supply equipment.³³

According to the AFDC, for most drivers, charging currently occurs at home or at fleet facilities.³⁴

More specifically, Level 1 (home) charging cords come as standard equipment on new EVs, only require a standard 120-volt outlet, and can add about 50 miles of range in an overnight charge. Level 1 charging is sufficient for low- and medium-range PHEVs and all AEVs for drivers with relatively low daily driving.³⁵

Level 2 (home and public) charging commonly requires a charging unit on a 240-volt circuit, such as one used to run a household clothes dryer, with the charging rate dependent on the rate at which a vehicle can accept a charge and the maximum current available. An eight-hour charge will add about 180 miles of range with a typical 30-amp circuit. This method may require the purchase of a home charging unit and modifications to a home electric system but charges from two to eight times faster than a Level 1, depending on the amperage and the vehicle. These chargers are said to be the most common at public charging places like offices, grocery stores, and parking garages.³⁶

DC Fast Chargers (public charging) can typically add 50 to 90 miles in 30 minutes, depending on the charging station's power capacity and the make of the EV. These chargers are best used for longer travel distances; vehicles used the major portion of a day, such as taxis; and for vehicles whose drivers have limited access to home charging.³⁷

Tesla recently opened a “next-generation” EV charging station in Las Vegas supporting a peak rate of up to 250 kilowatts capable of charging up to 1,500 vehicles per day. However only one

³³ *Id.*

³⁴ U.S. Department of Energy, Alternative Fuels Data Center, *Developing Infrastructure to Charge Electric Plug-In Vehicles*, available at https://afdc.energy.gov/fuels/electricity_infrastructure.html (last visited February 6, 2020).

³⁵ Union of Concerned Scientists, *Electric Vehicle Charging, Types, Time, Cost and Savings*, (March 2018) available at <https://www.ucsusa.org/resources/electric-vehicle-charging-types-time-cost-and-savings> (last visited February 6, 2020).

³⁶ *Id.*

³⁷ *Id.*

Tesla vehicle can charge at the peak rate, resulting in up to 180 miles of range in 15 minutes on a Tesla Model 3 Long Range.³⁸

Additional charging options are under development, such as an industry standard for higher rates of charging using power levels common at commercial and industrial locations in the United States. The standard's target is power levels far exceeding currently typical voltages.³⁹

Current Availability of EV Charging Stations in Florida

Section 377.815, F.S., authorizes, but does not require, the Florida Department of Agriculture and Consumer Services (DACS) to post information on its website relating to alternative fueling stations (including electric vehicle charging stations) that are available for public use in this state. The DACS's website contains addresses by city and county on EV charging station locations in Florida reflecting 889 charging station locations by specific address.⁴⁰ The AFDC currently indicate that the total number of public EV charging stations in Florida is 1,359, consisting of 3,923 charging outlets.⁴¹

Whether the currently available charging stations are sufficient (in number, location, and charging capability) to encourage expansion of EV use in Florida, by individuals and by commercial fleets, as a tool against the effects of climate change, is an open question.

Conservation Easements

A conservation easement is a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open, agricultural or wooded condition. Conservation easements are meant to retain areas as suitable habitat for fish, plants or wildlife or to retain the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological or cultural significance. The purpose of a conservation easement is accomplished by restricting the amount of development allowed on a piece of property, limiting other land uses, and maintaining existing areas of conservation interest on a piece of property in their natural condition.

A conservation easement must prohibit or limit any or all of the following:

- Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- Removal or destruction of trees, shrubs, or other vegetation;

³⁸ See TechCrunch, *Tesla's new V3 Supercharger can charge up to 1,500 electric vehicles a day*, Korosec, K., (July 18, 2019), available at <https://techcrunch.com/2019/07/18/teslas-new-v3-supercharger-can-charge-up-to-1500-electric-vehicles-a-day/> (last visited February 6, 2020).

³⁹ See *supra* note 7.

⁴⁰ See the Florida Department of Agriculture and Consumer Services website, select *Electricity*, available at <https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Transportation> (last visited February 6, 2020).

⁴¹ U.S. Department of Energy, Alternative Fuels Data Center, *Alternative Fueling Station Counts by State*, available at <https://afdc.energy.gov/stations/states> (last visited February 27, 2020).

- Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;
- Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;
- Activities detrimental to drainage, flood control, water conservation erosion control, soil conservation, or fish and wildlife habitat preservation;
- Acts or uses detrimental to such retention of land or water areas; and
- Acts or uses detrimental to the preservation of the structural integrity or physical appearances of sites or properties of historical, architectural, archaeological, or cultural significance.⁴²

Section 704.06(11), F.S., dictates that no provision of law may prohibit or limit the owner of land or the owner of a conservation easement from voluntarily negotiating the sale or use of such land or easement for the construction and operation of linear facilities, to include; electric transmission and distribution facilities, telecommunications transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances.

III. Effect of Proposed Changes:

Emergency Staging Areas

Section 1 creates s. 338.236, F.S., and authorizes the FDOT to plan, design, and construct staging areas for emergency response as part of the turnpike system. The sites are intended to be designated areas for the staging of emergency supplies, equipment, and personnel to facilitate the prompt provision of emergency assistance to the public in response to a declared state of emergency. The bill provides that emergency supplies, such as water, fuel, generators, vehicles, equipment, and other related materials, staged at key geographic points will aide in emergency response and assistance, including evacuations, deployment of emergency-related supplies and personnel, and restoration of essential services.

In selecting a proposed site, the bill directs the FDOT, in consultation with the DEM, to consider the extent to which a proposed site for a staging area:

- Is located in a geographic area that best facilitates wide dissemination of emergency-related supplies and equipment;
- Provides ease of access to major highways and other transportation facilities;
- Is sufficiently large to accommodate staging of a significant amount of emergency-related supplies and equipment;
- Provides space in support of emergency preparedness and evacuation activities, such as fuel reserve capacity;
- Could be used during non-emergency periods for commercial motor vehicle parking or other uses; and
- Is consistent with other state and local emergency management considerations.

⁴² Section 704.06, F.S.

The FDOT must give priority consideration to placement of emergency staging areas in counties with a population of 200,000 or less in which a Multi-use Corridors of Regional Economic Significance (M-CORES)⁴³ corridor is located.⁴⁴

The bill authorizes the FDOT to acquire property and property rights necessary for such staging areas as provided in s. 338.04, F.S., through negotiated sales or the eminent domain process. The FDOT is also granted the power to authorize other uses of a staging area, as provided in the Florida Transportation Code, including, but not limited to, commercial motor vehicle parking to comply with federal hours of service off-duty and sleeper berth requirements and for other vehicular parking to provide rest for drivers.

The bill requires that staging area projects be included in the FDOT's work program.⁴⁵

The increased availability of staging areas may elevate the efficiency of response to emergencies in this state, thereby facilitating faster recovery from such emergencies for both the public and private sectors, including, but not limited to, quicker resumption of market activity, such as tourism. Authorization for other appropriate uses of the proposed staging areas during non-emergency periods may result in other economic efficiencies.

Utility Permit Applications

Section 2 amends s. 337.401(2), F.S., to apply the expedited timeframes for processing utility permit applications for communications facilities in county or municipal rights-of-way to all utility permit applications submitted to a county or municipality under s. 337.401, F.S. Any utility permit application submitted to a county or municipality would be subject to the described, expedited timeframes under s. 337.401(7), F.S.

Electric Vehicle Charging Station Infrastructure

Section 3 creates s. 366.945, F.S., to require development of a recommended plan for the development of EV charging station infrastructure along the SHS.⁴⁶

The bill recites the following legislative findings:

- Climate change may have significant impacts to the State of Florida which will require the development of avoidance, adaptation, and mitigation strategies to address these potential impacts on future state projects, plans, and programs;

⁴³ The M-CORES program is intended to revitalize rural communities, encourage job creation and provide regional connectivity while leveraging technology, enhancing the quality of life and public safety, and protecting the environment and natural resources. M-CORES, *About M-CORES*, <https://floridamcores.com/> (last visited February 20, 2020).

⁴⁴ The county population is as determined by the most recent official state estimate pursuant to s. 186.901, F.S.

⁴⁵ The FDOT's work program is developed pursuant to s. 339.175, F.S. FDOT is responsible for developing a five-year plan of transportation projects in partnership with other entities such as communities, metropolitan planning organizations, local governments, other state and federal agencies, modal partners, and regional entities.

⁴⁶ Section 334.03(24), F.S., defines the State Highway System as "the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state's jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state's jurisdiction. These facilities shall be facilities to which access is regulated."

- A significant portion of the carbon dioxide emissions in Florida are produced by the transportation sector;
- EVs can help reduce these emissions, thereby helping to reduce the impact of climate change on the state;
- Use of EVs for non-local driving requires adequate reliable charging stations to help with electric vehicle battery range limitations;
- Having adequate reliable charging stations along the SHS will also help with evacuations during hurricanes or other disasters;
- Ensuring the prompt installation of adequate reliable charging stations is in the public interest; and
- A recommended plan for electric vehicle charging station infrastructure should be established to address changes in the emerging electric vehicle market and necessary charging infrastructure.

The PSC,⁴⁷ in coordination with the Department of Transportation and the Department of Agriculture and Consumer Services, is directed to develop and recommend a plan for current and future plans for the development of EV charging station infrastructure along the SHS. The PSC is authorized to consult with other agencies as it deems appropriate.

The bill requires the recommended plan to be developed and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2021. The plan must include recommendations for legislation and may include any other recommendations as determined by the PSC.

The bill sets out the following goals and objectives of the plan, including, but not limited to:

- Projecting the increase in use of EVs in the state over the next 20 years and determining how to ensure an adequate supply of reliable EV charging stations to support and encourage this growth in a manner supporting a competitive market with ample consumer choice;
- Evaluating and comparing the types of EV charging stations available at present and in the future, including the technology and infrastructure incorporated in such stations, along with the circumstances within which each type of station and infrastructure is typically used, including fleet charging, for the purpose of identifying any advantages to developing particular types or uses of these stations;
- Considering strategies to develop this supply of charging stations, including but not limited to, methods of building partnerships with local governments, other state and federal entities, electric utilities, the business community, and the public in support of EV charging stations;
- Identifying the types or characteristics of locations along the SHS to support a supply of electric vehicle charging stations that will:

⁴⁷ Sections 350.011, 366.04, and 366.05, F.S., set out the jurisdiction, powers, and duties of the PSC. With respect to the PSC's current regulation of electric industries, the PSC regulates investor-owned electric companies and matters such as rates and charges, meter and billing accuracy, electric lines up to a meter, reliability of electric service, new construction safety code compliance for transmission and distribution; territorial agreements and disputes, and the need for certain power plants and transmission lines. The PSC does not regulate rates and adequacy of services provided by municipally-owned and rural cooperative electric utilities, except for safety oversight; electrical wiring inside a customer's building; taxes on the electric bill; physical placement of transmission and distribution lines; damages claims; right of way matters, or physical placement or relocation of utility poles. See PSC, *When to Call the Florida Public Service Commission*, available at http://www.psc.state.fl.us/Files/PDF/Publications/Consumer/Brochure/When_to_Call_the_PSC.pdf (last visited February 6, 2020).

- Accomplish the goals and objectives of this section;
- Support both short-range and long-range electric vehicle travel;
- Encourage the expansion of EV use in this state; and
- Adequately serve evacuation routes in this state;
- Identifying any barriers to the use of EVs and EV charging station infrastructure both for short- and long-range EV travel along the SHS;
- Identifying an implementation strategy for expanding electric vehicle and charging station infrastructure use in this state;
- Identifying the type of regulatory structure for the delivery of electricity to EVs and charging station infrastructure, including competitive neutral policies and the participation of public utilities in the marketplace; and
- Reviewing emerging technologies in the electric and alternative vehicle market, including alternative fuel sources.
- Quantifying the loss of revenue to the State Transportation Trust Fund due to the current and projected future use of EVs and summarizing the efforts of other states to address the revenue loss.

The bill requires the PSC, by December 1, 2020, to file a status report with the Governor, the President of the Senate, and the Speaker of the House of Representatives containing any preliminary recommendations, including recommendations for legislation.

Conservation Easements

Section 4 clarifies that ss. 570.71 and 704.06, F.S., not be interpreted to prohibit lands traditionally used for agriculture and subject to a conservation easement from being utilized for the construction of any public or private linear facility and right of access, if such rights are voluntarily negotiated. Reasonable compensation for use of the conservation easement must be based on the resulting diminution in value of the easement. The bill provides that a linear facility remains subject to state environmental permitting regulations.

Effective Date

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Increased availability of staging areas on the turnpike system may provide the general public with earlier provision of essential emergency supplies during emergencies and may provide additional benefits, such as increased availability of parking on the turnpike system, during non-emergency periods. The business community may experience a positive impact in that more efficient emergency response may allow for a faster return to normal market activity. The Florida Department of Transportation's (FDOT) maintenance and construction contractors may benefit from increased availability of staging areas during non-emergency periods.

To the extent that development of the required plan increases the number of electric vehicle (EV) charging stations in the state, residents, businesses, and tourists are expected to benefit from increased availability of EV charging stations, facilitating mobility and commerce and reducing costs related to EV travel.

The ability to construct linear facilities through a conservation easement instead of bypassing the easement, may provide a cost savings to private companies.

Landowners will be required to compensate governmental entities based on the reduction in value of conservation easements, however, this cost may be offset by the amount received from private entities for the construction of linear facilities through the easements.

C. Government Sector Impact:

The fiscal impact of implementing emergency staging areas is indeterminate. The FDOT must first exercise the authority granted in this bill and select a site or sites, in consultation with Department of Emergency Management, and estimate the costs to plan, design, and construct the staging areas. These costs are unknown at this time. However, having such staging areas in place may reduce costs associated with providing necessary staging areas for emergency response purposes, for both state and local governments, and may reduce costs incurred by the FDOT for the provision of other uses authorized by the bill during non-emergency periods of time.

The Public Service Commission estimates a fiscal impact of \$43,871 to implement provisions relating to the electric vehicle charging station infrastructure plan.⁴⁸ This will be necessary to support activities related to developing and submitting the required status report, recommended plan, and recommended legislation; however, based upon information received, this could be handled within existing resources. The FDOT has indicated the bill has an indeterminate but negative impact due to the loss of fuel tax revenue and the costs associated with implementing coordination of the recommended plan.⁴⁹ In addition, the fiscal impact related to potential increased workload to accommodate the expedited time periods for all utility permit applications to local governmental entities is unknown and indeterminate. The Department of Agriculture and Consumer Services will have indeterminate expenses related to the required coordination in developing the recommended plan, but these costs can be absorbed within existing resources.⁵⁰

There may be an indeterminate positive impact to governmental entities relating to the construction of linear facilities across land subject to a conservation easement owned by a governmental entity. The bill requires landowners to compensate the entities for the reduced value of the conservation easement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 337.401 and 704.06.

This bill creates the following sections of the Florida Statutes: 338.236 and 366.945.

IX. Additional Information:

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

CS by Appropriations on February 27, 2020:

The committee substitute:

⁴⁸ Public Service Commission, *Senate Bill 7018 Agency Bill Analysis* (December 18, 2019) (on file with Appropriations Subcommittee on Agriculture, Environment and General Government).

⁴⁹ Conversation with John Kotyk, Legislative Affairs Director, Florida Department of Transportation (February 13, 2020).

⁵⁰ Florida Department of Agriculture and Consumer Services, *Senate Bill 7018 Agency Bill Analysis* (January 1, 2020) (on file with Appropriations Subcommittee on Agriculture, Environment and General Government).

- Authorizes the Florida Department of Transportation (FDOT) to plan, design, and construct staging areas for emergency response on the turnpike system;
- Directs the FDOT, in consultation with the Division of Emergency Management, to consider certain factors when selecting a proposed site, and authorizes the FDOT to acquire property necessary for such staging areas;
- Requires the FDOT to give priority consideration to placement of such staging areas in counties with a population of 200,000 or less in which a multi-use corridor of regional significance is located;
- Grants the FDOT power to authorize other uses of a staging area and requires that staging-area projects be included in the FDOT's work program;
- Excludes the FDOT from provisions requiring permit application to use the right-of-way for a utility must be processed and acted upon within time frames of the "Advanced Wireless Infrastructure Deployment Act," s. 337.401(7)(d)7.,8., and 9., F.S., which provides for expedited timeframes;
- Requires the Public Service Commission (PSC), in coordination with the FDOT and the Department of Agriculture and Consumer Services (DACS), to develop and recommend a plan for the development of electric vehicle (EV) charging station infrastructure along the State Highway System;
- Requires the PSC, FDOT and DACS to quantify the loss of revenue to the State Transportation Trust Fund due to the current and projected future use of electric vehicles in the state and to summarize the efforts of other states to address such revenue loss in the consideration of the recommended plan; and
- Clarifies that sections 570.71 and 704.06, F.S., shall not be interpreted to prohibit lands traditionally used for agriculture that are subject to a conservation easement, from being utilized for the construction of any public or private linear facility and right of access, if such rights are voluntarily negotiated.

B. Amendments:

None.

By the Committee on Infrastructure and Security

596-02011-20

20207018__

A bill to be entitled

An act relating to electric vehicle charging station infrastructure; creating s. 366.945, F.S.; providing legislative findings; requiring the Public Service Commission, in consultation with the Department of Transportation and the Office of Energy within the Department of Agriculture and Consumer Services, to develop and recommend, by a specified date, to the Governor, the President of the Senate, and the Speaker of the House of Representatives a plan for the development of electric vehicle charging station infrastructure along the State Highway System; authorizing the commission to consult with other agencies as the commission deems appropriate; requiring the plan to include recommendations for legislation; authorizing the plan to include other recommendations as determined by the commission; providing the goals and objectives of the plan; requiring the commission to file a status report with the Governor and the Legislature by a specified date containing any preliminary recommendations, including recommendations for legislation; providing an effective date.

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

Section 1. Section 366.945, Florida Statutes, is created to read:
366.945 Electric vehicle charging stations; infrastructure

Page 1 of 4

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

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plan development.

(1) The Legislature finds that:

(a) Climate change may have significant impacts to this state which will require the development of avoidance, adaptation, and mitigation strategies to address these potential impacts on future state projects, plans, and programs;

(b) A significant portion of the carbon dioxide emissions in this state are produced by the transportation sector;

(c) Electric vehicles can help reduce these emissions, thereby helping to reduce the impact of climate change on this state;

(d) The use of electric vehicles for non-local driving requires adequate, reliable charging stations to address electric vehicle battery range limitations;

(e) Having adequate, reliable charging stations along the State Highway System will also help with evacuations during hurricanes or other disasters;

(f) Ensuring the prompt installation of adequate, reliable charging stations is in the public interest; and

(g) A recommended plan for electric vehicle charging station infrastructure should be established to address changes in the emerging electric vehicle market and necessary charging infrastructure.

(2) (a) The commission, in coordination with the Department of Transportation and the Office of Energy within the Department of Agriculture and Consumer Services, shall develop and recommend a plan for current and future plans for the development of electric vehicle charging station infrastructure along the State Highway System, as defined in s. 334.03(24). The

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

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commission may consult with other agencies as the commission deems appropriate. The recommended plan must be developed and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2021. The plan must include recommendations for legislation and may include other recommendations as determined by the commission.

(b) The goals and objectives of the plan include, but are not limited to, all of the following:

1. Projecting the increase in the use of electric vehicles in this state over the next 20 years and determining how to ensure an adequate supply of reliable electric vehicle charging stations to support and encourage this growth in a manner supporting a competitive market with ample consumer choice.

2. Evaluating and comparing the types of electric vehicle charging stations available at present and that may become available in the future, including the technology and infrastructure incorporated in such stations, along with the circumstances within which each type of station and infrastructure is typically used, including fleet charging, for the purpose of identifying any advantages to developing particular types or uses of these stations.

3. Considering strategies to develop this supply of charging stations, including, but not limited to, methods of building partnerships with local governments, other state and federal entities, electric utilities, the business community, and the public in support of electric vehicle charging stations.

4. Identifying the types or characteristics of possible locations for electric vehicle charging station infrastructure along the State Highway System to support a supply of electric

596-02011-20

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vehicle charging stations that will:

a. Accomplish the goals and objectives of this section;
b. Support both short-range and long-range electric vehicle travel;

c. Encourage the expansion of electric vehicle use in this state; and

d. Adequately serve evacuation routes in this state.

5. Identifying any barriers to the use of electric vehicles and electric vehicle charging station infrastructure both for short-range and long-range electric vehicle travel along the State Highway System.

6. Identifying an implementation strategy for expanding electric vehicle and charging station infrastructure use in this state.

7. Identifying the type of regulatory structure necessary for the delivery of electricity to electric vehicles and charging station infrastructure, including competitive neutral policies and the participation of public utilities in the marketplace.

8. Reviewing emerging technologies in the electric and alternative vehicle market, including alternative fuel sources.

(c) By December 1, 2020, the commission shall file a status report with the Governor, the President of the Senate, and the Speaker of the House of Representatives containing any preliminary recommendations, including recommendations for legislation.

Section 2. This act shall take effect July 1, 2020.



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Appropriations Committee

Subject: Committee Agenda Request

Date: February 17, 2020

I respectfully request that **Senate Bill #7018**, relating to Electric Vehicle Charging Station Infrastructure, be placed on the:

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

A handwritten signature in blue ink that reads "Tom Lee".

Senator Tom Lee
Florida Senate, District 20

THE FLORIDA SENATE
APPEARANCE RECORD

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

02-27-2020
Meeting Date

SB 7018
Bill Number (if applicable)

Topic Electric Vehicle Charging Station Infrastructure Amendment Barcode (if applicable)

Name Amy Datz

Job Title Retired Environmental Scientist & Transit Planner-Activist

Address _____ Phone 850 322-7599
Street _____
Tallahassee FL 32309
City State Zip
Email amy.datz@fla.gov

Speaking: ☒ For ☐ Against ☒ Information

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

Representing Environmental Caucus of Florida (Post-Partisan)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20

Meeting Date

7018

Bill Number (if applicable)

Topic Electric vehicle charging stations

Amendment Barcode (if applicable)

Name Lindsay Cross

Job Title Government Relations Director

Address 1700 N Monroe 11-286

Phone _____

Street

Tally

City

FL

State

32303

Zip

Email lindsay@fcvoters.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida conservation voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/20
Meeting Date

7018
Bill Number (if applicable)

Topic Essential State Infrastructure

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address PO Box 9757
Street

Phone 850-701-3621

Tallahassee FL 32302
City State Zip

Email ahughes@flcities.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-20

Meeting Date

7018

Bill Number (if applicable)

Topic Electric Vehicle Charging Station Infrastructure

Amendment Barcode (if applicable)

Name Melanie Bostick

Job Title Vice President Liberty Partners of Tallahassee

Address 113 E. College Ave, Suite 400

Phone (850) 841-1726

Street

Tallahassee

FL

32302

City

State

Zip

Email melanie@libertypartnersfl.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Advanced Energy Economy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/27/20

Meeting Date

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

7018

Bill Number (if applicable)

Topic EV CHARGING INFRASTRUCTURE

Amendment Barcode (if applicable)

Name MATT ALFORD

Job Title EXECUTIVE DIRECTOR

Address _____
Street

Phone (850) 556-6487

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing DRIVE ELECTRIC FLORIDA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-27-20

Meeting Date

SB 7018

Bill Number (if applicable)

Topic EV CHARGING INFRASTRUCTURE

Amendment Barcode (if applicable)

Name TAYLOR BIEHL

Job Title Dir. Gov't AFFAIRS

Address 106 E. COLLEGE AVE. STE 640

Phone 850-224-1660

Street

TLH

FL

32301

City

State

Zip

Email TAYLOR@CAPITALIZINGFLORIDA.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing TESLA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 7046

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: State Group Insurance Program

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>McVaney</u>	<u>McVaney</u>		GO Submitted as Committee Bill
1. <u>McSwain</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

I. Summary:

SB 7046 amends the State Group Insurance Program administered by the Department of Management Services.

For the State Group Insurance Program, the bill:

- Requires the department to establish an anti-fraud program.
- Defines particular instances that will be deemed to be fraudulent based on the acts of the providers and imposes civil and criminal penalties.
- Deletes obsolete language regarding employees paid from the other-personal-services appropriations categories and hired before April 1, 2013.

For the State Employee Health Insurance Program, the bill:

- Repeals the implementation of the metal tier health insurance plans, which had been scheduled for implementation during the 2020 plan year.
- Codifies the regions that must be used for any procurement of HMO services beginning in 2023. These regions are based on utilization and referral patterns studied by DMS recently and the rule recommended by the department.
- Requires an HMO option to be available to all enrollees of the program living in Florida.

For the Prescription Drug Program, the bill:

- Clarifies the implementation of a prescription drug formulary management. The department and the pharmacy benefit manager are not permitted to substitute their judgment over the judgment of the prescriber regarding whether a prescription drug is medically necessary for the treatment of a patient. The department or pharmacy benefit manager may ask specific questions of the prescriber to ensure the patient is served well.
- The bill requires the department to ensure that all rebates, fees and other charges related to pharmacy spend are remitted to the state for the benefit of the program.

The bill is expected to have a positive but indeterminate fiscal impact on the State Employees Group Self-Insurance Trust Fund.

This bill takes effect July 1, 2020.

II. Present Situation:

State Group Insurance Program

Overview

The State Group Insurance Program (SGI Program) is created by s. 110.123, F.S., and is administered by the Division of State Group Insurance (DSGI) within the Department of Management Services (DMS). The SGI Program is an optional benefit for most state employees employed by executive branch agencies, state universities, the court system, and the Legislature and includes health, life, dental, vision, disability, and other supplemental insurance benefits. The SGI Program typically makes benefits changes on a plan year basis, January 1 through December 31.

Eligible Employees

The SGI Program is open to the following individuals:

- All state officers;
- All state employees paid from “salaries and benefits” appropriation categories, regardless of the number of hours worked;
- Retired state officers and state employees;
- Surviving spouses of deceased state officers and state employees;
- Certain terminated state officers and state employees; and
- Certain state employees paid from “other-personal-services” (OPS) appropriation categories.

For OPS employees hired after April 1, 2013, to be eligible to participate in the health insurance program, the employee must¹:

- Be reasonably expected to work an average of at least 30 hours per week; and
- Have worked an average of at least 30 hours per week during the person’s measurement period (which is 12 consecutive months² of employment).

For OPS employees hired before April 1, 2013, the measurement period was the six-month period from April 1, 2013, through September 30, 2013.³

State Employee Health Insurance Program

Health Insurance Premiums and Revenues

Over 176,000 active and retired state employees and officers are expected to participate in the health insurance program during Fiscal Year 2020-2021. The health insurance benefit for active

¹ Section 110.123(2)(c)2., F.S.

² Section 110.123(13)(d), F.S.

³ Section 110.123(13)(c), F.S.

employees has premium rates for single, spouse program,⁴ or family coverage regardless of plan selection. These premiums cover both medical and pharmacy claims. The state will contribute approximately 92 percent toward the total annual premium for active employees and officers, or \$2.08 billion out of total premium of \$2.25 billion for active employees during Fiscal Year 2020-2021.⁵ Retirees and Consolidated Omnibus Budget Reconciliation Act (COBRA) participants will contribute an additional \$235.6 million in premiums, with \$250.2 million in other revenue for a total of \$2.74 billion in total revenues.⁶

State Employee Health Insurance (Medical Claims)

The DMS provides medical services to health plan members through a self-insured preferred provider organization (PPO), self-insured HMO plans, and a fully-insured HMO plan. Under current contracts, a single provider (Florida Blue) administers the statewide PPO plan. This contract expires December 2022. Three providers (Aetna, AvMed, and United Health Care) administer the self-insured HMO plans providing services in 60 counties combined. Capital Health Plan is a fully-insured HMO plan providing services in 7 counties. The current HMO contracts were awarded on a county-by-county basis with service based on the county in which the member works or resides. These contracts expire December 2020, but are eligible for three 1-year renewals.

Metal Tier Plans

During the 2017 Regular Session, the Legislature directed the DMS to offer health plans, beginning in the 2020 plan year, with specific actuarial values. The actuarial values represent the average cost sharing between the plan and the enrollee for a set of benefits. The cost sharing element includes premiums as well as deductibles and out-of-pocket coinsurance and copayments. Specifically, the DMS was directed to include in the health insurance program:

- A platinum level plan, which must have an actuarial value of at least 90 percent.
- A gold level plan, which must have an actuarial value of at least 80 percent.
- A silver level plan, which must have an actuarial value of at least 70 percent.
- A bronze level plan, which must have an actuarial value of at least 60 percent.⁷

The DMS was directed to contract with an independent benefits consultant to develop an implementation plan by January 1, 2019.⁸ The DMS contracted with Foster & Foster to complete the report.⁹

The table below shows the current premiums by pay plan and by coverage type and the proposed platinum and bronze plans.¹⁰ The report assumes that roughly 80 percent of the enrollees will

⁴ The Spouse Program provides discounted rates for family coverage when both spouses work for the state.

⁵ Florida Legislature, Office of Economic and Demographic Research, Self-Insurance Estimating Conference, *State Employees' Group Health Self-Insurance Trust Fund – Report on the Financial Outlook for Fiscal Years Ending June 30, 2020 through June 30, 2025*, adopted January 8, 2020, page 6, available at <http://edr.state.fl.us/content/conferences/healthinsurance/HealthInsuranceOutlook.pdf>.

⁶ *Id.*

⁷ Section 110.123(3)(j), F.S.

⁸ Section 110.123(3)(k), F.S.

⁹ *Implementation of Metal Tier Health Plans in the State Group Health Insurance Program*, prepared by Foster & Foster for State of Florida Department of Management Services, Division of State Group Insurance.

¹⁰ *Id.* at 161.

choose the platinum plans and another 6 percent will choose the bronze plans.¹¹ As shown in the columns for enrollee premiums, the enrollees choosing the platinum plans will pay significantly higher monthly premiums than they do under the current plans. On the other hand, enrollees selecting the bronze plans may experience lower premiums than under the current plans.

		2019 Standard Plan Premium Rates			2020 PPO/HMO Platinum Plan			2020 PPO/HMO Bronze Plan		
		Employer	Enrollee	Total	Employer	Enrollee	Total	Employer	Enrollee	Total
Career Service/OPS	Single	\$684.42	\$50.00	\$734.42	\$685	\$165	\$850	\$600	\$5	\$605
	Family	\$1,473.18	\$180.00	\$1,653.18	\$1,475	\$395	\$1,870	\$1,300	\$30	\$1,330
	Spouse	\$1,623.20	\$30.00	\$1,653.20	\$1,625	\$245	\$1,870	\$1,320	\$10	\$1,330
SES/SMS	Single	\$726.08	\$8.34	\$734.42	\$730	\$120	\$850	\$600	\$5	\$605
	Family	\$1,623.20	\$30.00	\$1,653.20	\$1,625	\$245	\$1,870	\$1,300	\$30	\$1,330
Early Retirees	Single	n/a	\$734.42	\$734.42	n/a	\$850	\$850	n/a	\$588	\$588
	Family	n/a	\$1,653.18	\$1,653.18	n/a	\$1,870	\$1,870	n/a	\$1,297	\$1,297

A major concern regarding implementation of the metal plans is the opportunity for roughly 29,000 eligible employees who “opt-out” of coverage to enroll in the bronze plan. The report points out that if all of these employees enrolled in a family plan, the premiums paid by state agencies would increase by \$464 million annually, the premiums paid by these employees would increase by \$10 million annually, and newly authorized income supplements would increase by \$61 million. Overall, state agencies would bear an additional \$525 million of costs.¹²

State Employees Prescription Drug Program

Overview

As part of the SGI program, the DMS is required to maintain the State Employees’ Prescription Drug Program (Prescription Drug Plan).¹³ The DMS contracts with CVS/Caremark, a pharmacy benefits manager (PBM), to administer the Prescription Drug Plan. The Prescription Drug Plan has three cost sharing categories for members: generic drugs, preferred brand name drugs, which are those brand name drugs on the preferred drug list, and non-preferred brand name drugs, which are those brand name drugs not on the preferred drug list. Contractually, the PBM updates the preferred drug list quarterly as brand name drugs enter the market and as the PBM negotiates pricing, including rebates with manufacturers.

Typically, generic drugs are the least expensive and have the lowest member cost share, preferred brand name drugs have the middle cost share, and non-preferred brand name drugs are the most expensive and have the highest member cost share. As a general practice, prescriptions written for a brand name drug, preferred or non-preferred, will be substituted with a generic drug when available. If the prescribing health care provider states clearly on the prescription that the brand name drug is medically necessary over the generic equivalent, the member will pay only the brand name preferred or nonpreferred cost share. If the member requests the brand name drug over the generic equivalent, without the provider’s medically necessary request, then the member will pay the brand name preferred or nonpreferred cost share plus the difference between the actual cost of the generic drug and the brand name drug.

¹¹ *Id.* at 155.

¹² *Id.* at 159.

¹³ Section 110.12315, F.S.

Prescription drug costs differ depending on which health plan a member enrolls in and whether the prescription drug is a generic, a preferred brand-name, or a non-preferred brand-name. A member can get up to a 30-day supply at retail pharmacy in the Prescription Drug Plan network and up to a 90-day supply at a mail order pharmacy or at a participating 90-day retail pharmacy. The use of mail order pharmacy is optional, but Preferred Provider Organization (PPO) members must utilize the 90-day mail or retail option after three 30-day fills at a retail pharmacy for any maintenance medications. In addition, certain specialty medications are only available via delivery to a member's home or a participating pharmacy. The following chart shows the copayments for generics, mail order, or a participating 90-day retail pharmacy for maintenance medications.

	Standard HMO and Standard PPO		High-Deductible HMO and PPO
	Retail (30-day)	Mail Order and Retail (90-day)	All Prescriptions
Generic	\$7	\$14	30%
Preferred Brand Name	\$30	\$60	30%
Non-preferred Brand Name	\$50	\$100	30%

The Prescription Drug Plan also covers compound medications. Compound medications combine, mix, or alter the ingredients of one or more drugs or products to create another drug or product. The Prescription Drug Plan only covers the federal legend drug ingredient of a compounded medication when all of the following criteria are satisfied:

- The compounded medication is not used in place of a commercially available federal legend drug in the same strength and formulation, unless medically necessary;
- The compounded medication is specifically produced for use by a covered person to treat a covered condition; and
- The compounded medication, including all sterile compounded products, is made in compliance with Chapter 465, F.S.

Formulary Management

Prior to plan year 2020, the PBM employed only limited prescription drug formulary management in the form of reviews designed to ensure that drugs are being prescribed for appropriate medical conditions. There was, however, no use of utilization management protocols to incentivize the use of some drugs over others. The Prescription Drug Plan has an open formulary, which covers all federal legend drugs for covered medical conditions. However, the PBM each year announces in July the therapeutic classes of drugs that will be impacted by exclusion for the next plan year.

During the 2019 Regular Session, the Legislature amended s. 110.12315, F.S., to direct the DMS to implement formulary management for prescription drugs and supplies. The management practices are to include and exclude prescription drugs and supplies for coverage by the health insurance program. However, the formulary management could not restrict access to the most clinically appropriate, clinically effective, or the lowest new-cost prescription drugs and supplies.

If a prescription drug was otherwise excluded from the formulary, the drug must be made available for inclusion in the formulary (as a non-preferred drug) if the prescribing authority clearly states on the prescription that the drug is medically necessary in the treatment of the patient.

Pharmacy Spend and PBM Rebates

When a brand-name drug or supply is included in the formulary for coverage by the health insurance plan, the PBM may be successful in negotiating discounted prices, fees, or rebates from the various manufacturers. According to CVS/Caremark, none of the manufacturer payments associated drugs purchased on behalf of the state health insurance program are retained by CVS/Caremark. The table below shows the expected pharmacy spend and PBM rebates for Fiscal Years 2020-2021 through FY 2024-2025.¹⁴

	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
PPO-PBM Rebates	\$92.9 m	\$100.5 m	\$104.0 m	\$107.7 m	\$111.7 m
HMO-PBM Rebates	\$81.5 m	\$90.3 m	\$95.6 m	\$101.4 m	\$107.6 m
Total PBM Rebates	\$174.4 m	\$193.8 m	\$199.6 m	\$209.1 m	\$219.3 m
PPO-Pharmacy Spend	\$430.2 m	\$481.0 m	\$539.4 m	\$612.3 m	\$701.1 m
HMO-Pharmacy Spend	\$361.0 m	\$402.6 m	\$451.8 m	\$510.0 m	\$580.9 m
Total Pharmacy Spend	\$791.2 m	\$883.6 m	\$991.2 m	\$1,122.3 m	\$1,282.0 m
% Growth in Total Spend	10.72%	11.68%	10.32%	13.23%	14.23%
Total Rebates as % of Total Spend	22.0%	21.9%	20.1%	18.6%	17.1%

Anti-Fraud Investigative Units

Section 626.9891, F.S., requires each insurer admitted to do business in Florida to establish and maintain a designated anti-fraud unit or contract with others to investigate and report possible fraudulent insurance acts by insureds or by persons making claims for services against policies held by insureds. Each insurer must also adopt an anti-fraud plan and submit the plan to the Division of Investigative and Forensic Services of the Department of Financial Services.

The State Group Health Insurance Program is not an insurer for purposes of this law, and DMS has not established or contracted for an anti-fraud investigative unit or adopted an anti-fraud plan.

Insurance Fraud

Section 817.234, F.S., defines, and imposes penalties for, insurance fraud. The criminal penalties for violations are as based on the value of the property involved as follows:

- If less than \$20,000, the offender commits a 3rd degree felony;
- If \$20,000 or more but less than \$100,000, the offender commits a 2nd degree felony; and
- If \$100,000 or more, the offender commits a 1st degree felony.

¹⁴ *Supra* note 5.

False Claims Act

The Florida False Claims Act (FFCA)¹⁵ authorizes civil actions by individuals and the state against persons who file false claims for payment or approval with a state agency. The FFCA is modeled after the Federal False Claims Act¹⁶ that was enacted during the Civil War in response to widespread fraud among defense contractors.¹⁷ The FFCA creates a right for the agency or any person to bring a civil action for violations of its provisions. Actions brought by private entities on behalf of the state are called *qui tam* actions.¹⁸

The FFCA has often been used to combat health care, nursing home, Medicaid, and Medicare fraud. An action under the FFCA can be brought either by the state itself or by a private individual on behalf of the state. The Department of Legal Affairs and then the Department of Financial Services are responsible for investigating and litigating actions brought under the FFCA. In addition to Florida, 28 states, the District of Columbia, New York City, and Chicago have a False Claims Act with *qui tam* provisions.¹⁹

Current law provides that when a *qui tam* action is filed in the circuit court of the Second Judicial Circuit, in and for Leon County, it must be identified on its face as a *qui tam* action and a copy of the complaint and disclosure of all material evidence must be served on the Attorney General, as head of the Department of Legal Affairs, and the Chief Financial Officer, as head of the Department of Financial Services.²⁰

When a private individual brings a potential claim to the attention of the Department of Legal Affairs or the Department of Financial Services, these departments have 60 days to decide whether they are going to intervene, and take over litigating the FFCA action from the private individual.²¹

Actions that violate the FFCA include:

- Submitting a false claim for payment or approval;
- Making or using a false record to get a false or fraudulent claim paid or approved;
- Conspiring to make a false claim or to deceive an agency to get a false or fraudulent claim allowed or paid; or

¹⁵ Sections 68.081-68.092, F.S.

¹⁶ 31 U.S.C. §§ 3729 – 3732.

¹⁷ *False Claims Amendments Act of 1986*, S. Rep. No. 99-345, at 8 (1986), reprinted in 1986 U.S.C.C.A.N 5266, 5273 (“The Claims Act was adopted in 1863 and signed into law by President Abraham Lincoln in order to combat rampant fraud in Civil War defense contracts.”); see also *Rainwater v. United States*, 356 U.S. 590, 592 (1958) (“The Act was originally passed in 1863 after disclosure of widespread fraud against the Government during the War Between the States.”).

¹⁸ *Qui tam* cases usually arise from an employee of an institution such as a health care provider who discovers that violations of the FFCA are occurring. This is a type of whistleblower action. In a *qui tam* action under the FFCA, the employee will sue on behalf of the state to collect money that was illegally defrauded from the state. A private entity that brings a successful FFCA action on behalf of the state will receive an amount that the court decides is reasonable for collecting the civil penalty and damages. The amount must not be less than 25 percent and not more than 30 percent of the proceeds recovered under a judgment. Section 68.085(2), F.S.

¹⁹ See State False Claims Acts, <https://www.taf.org/state-laws> (last visited January 24, 2020).

²⁰ Section 68.083(3), F.S.

²¹ *Id.*

- Making or using a false record to conceal, avoid, or decrease payments owed to the state government.²²

The penalty for violating the FFCA is \$5,500 to \$11,000 per claim, plus three times the amount of damages to the state government for FFCA violations.²³

III. Effect of Proposed Changes:

Section 1 amends s. 110.123, F.S., to modify the health insurance program available to state employees and officers.

Subsections (2) and (13) are amended to delete obsolete language relating to OPS employees hired prior to April 1, 2013. This change has no impact on employees or the State Group Insurance Program.

Subsection (3) is amended to require at least one HMO option to be available for health insurance program enrollees residing in the state. Under the current HMO contracts, an HMO option is available throughout the state.

Statutory direction requiring the DMS to establish HMO regions by rule is deleted. This language is obsolete because a new subsection (14) is created to establish the HMO regions by law, beginning in the 2023 plan year. Although HMO regions are established, the DMS retains the authority to contract with HMOs on a statewide basis.

Statutory direction requiring the DMS to implement “metal tier” plans beginning in the 2020 plan year, as well as, the requirement for a report to the legislature, is deleted.

Section 2 creates s. 110.12305, F.S., to establish definitions and impose civil and criminal penalties for fraud committed against the State Group Insurance Program.

This section provides the following criminal penalties for violations. These penalties are identical to the penalties imposed for fraud committed against the Medicaid Program.

Penalties for Violations		
Valuation of Violation	Penalty Type	Statutory Penalties
A person may not knowingly make, cause to be made, or aid and abet in the making of any false statement or false representation of a material fact:		
<ul style="list-style-type: none"> • Any claim submitted, or commission or omission, to the department or its contracted vendors; or • Any claim submitted to the department or its contracted vendors for items or services that are not authorized to be reimbursed by the program. 		
A provider may not knowingly:		
<ul style="list-style-type: none"> • Charge, solicit, accept, or receive anything of value, other than an authorized copayment from a health plan member; • Fail to credit the department or its contracted vendors for any payment received from a third-party source; and 		

²² Section 68.082(2), F.S.

²³ Section 68.082(2)(g), F.S.

Penalties for Violations		
Valuation of Violation	Penalty Type	Statutory Penalties
<ul style="list-style-type: none"> Offer, solicit, pay, or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in-kind in return for a service, good, items under the program. 		
\$10,000 or less	3 rd Degree Felony	Punishable by up to 5 years in prison If a habitual felony offender, for a term not exceeding 10 years
\$10,000 or more, but less than \$50,000	2 nd Degree Felony	Punishable by up to 15 years in prison If a habitual felony offender, for a term not exceeding 30 years
\$50,000 or more	1 st Degree Felony	Punishable by up to 30 years in prison If a habitual felony offender may impose life sentence
Value of scheme or course of conduct	May be aggregated in determining degree of felony	
Any person who conspires to knowingly purchase, or knowingly attempt to purchase a legend drug that was paid for by the program		Commits a felony
If value of legend drug is less than \$20,000	3 rd Degree Felony	Punishable by up to 5 years in prison If a habitual felony offender, for a term not exceeding 10 years
If value of legend drug is more than \$20,000 but less than \$100,000	2 nd Degree Felony	Punishable by up to 15 years in prison If a habitual felony offender, for a term not exceeding 30 years
If value of legend drug is greater than \$100,000	1 st Degree Felony	Punishable by up to 30 years in prison If a habitual felony offender may impose life sentence
Fines	Five times the pecuniary gain unlawfully received, or the value of the loss incurred by the program or the contracted vendor, whichever is greater	

Section 3 creates s. 110.12306, F.S., to direct the department to establish, or contract for, an anti-fraud investigative unit relating to the claims paid from the State Employees Health Insurance Trust Fund.

Section 4 amends s. 110.12315, F.S., relating to the prescription drug program. This section clarifies that, if the prescribing authority notes the drug as medically necessary, the drug must be covered by the program. The DMS or its PBM is not permitted to substitute its judgment over the judgement of the prescribing authority. The DMS or its PBM must ensure that each drug is being used appropriately (for a particular condition and appropriate dosage) and for a condition otherwise covered under the health insurance plan. For drugs that are not included on the formulary for program coverage but are prescribed as medically necessary, the DMS or its PBM must inquire about whether the prescribing authority has considered alternative prescription drugs that are included in the formulary. However, these inquiries must be completed within one business day after the pharmacist receives the prescription.

The DMS must ensure that any rebates, discounts, and other fees associated with the purchase or use of prescription drugs or supplies in the program are for the benefit of the program. The DMS must audit the amounts annually.

Section 5 amends s. 110.131, F.S., to correct a cross-reference.

Section 6 provides that the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

To establish an anti-fraud investigative unit, the department will incur costs either as additional personnel costs or as contracted services. However, with the investigative unit and the potential imposition of significant penalties for fraud committed against the

program, the program is expected to experience indeterminate savings for the State Employees Group Health Self-Insurance Trust Fund.

With the clarification relating to the implementation of formulary management in the prescription drug program, the DMS may experience reduced costs associated with pharmacy drug expenditures and potentially a higher volume of rebates for prescription drugs. Likewise, with the mandated audits of pharmacy rebates, discounts, and other fees, the DMS may see an increase in rebates remitted into the State Employees Group Health Self-Insurance Trust Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 110.123 and 110.12315.

This bill creates the following sections of the Florida Statutes: 10.12305 and 110.12306.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By the Committee on Governmental Oversight and Accountability

585-02629-20

20207046__

1 A bill to be entitled
 2 An act relating to the state group insurance program;
 3 amending s. 110.123, F.S.; revising the definition of
 4 "full-time state employees" to conform to changes made
 5 by the act; authorizing persons eligible to
 6 participate in the program to elect membership with
 7 certain health maintenance organization plans;
 8 requiring at least one health maintenance organization
 9 plan be made available to each enrollee residing in
 10 the state; deleting provisions providing for the
 11 establishment of health maintenance organization plan
 12 regions by Department of Management Services rule;
 13 deleting the requirement that health plans be offered
 14 in specified benefit levels; deleting obsolete
 15 language regarding eligibility for participation in
 16 the program for other-personal-services employees;
 17 establishing regions for health maintenance
 18 organizations for specified purposes; providing for
 19 construction; creating s. 110.12305, F.S.; defining
 20 terms; prohibiting specified fraudulent acts in
 21 connection with the program, including the submission
 22 of fraudulent insurance claims, making false
 23 statements in claims, and the acceptance of certain
 24 payments; providing criminal penalties; specifying
 25 that the repayment, or attempted repayments, of any
 26 unlawful payments does not constitute a defense or a
 27 ground for dismissal for a violation of the act;
 28 specifying which property is deemed to be paid for by
 29 the program; specifying application of the business

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30 records hearsay exception to certain records in the
 31 custody of the department or a contracted vendor;
 32 specifying factors that establish an inference that a
 33 person had knowledge of a false statement or false
 34 representation regarding a claim; prohibiting the sale
 35 or purchase of a legend drug paid for by the program;
 36 providing criminal penalties; prohibiting a person
 37 from knowingly making or causing to be made, or
 38 attempting or conspiring to make, any false statement
 39 or representation in order to obtain goods or services
 40 from the program; providing criminal penalties;
 41 providing immunity for certain persons who provide
 42 information regarding provider fraud to governmental
 43 entities; specifying the scope of such immunity;
 44 defining the term "fraudulent acts"; requiring the
 45 department to publicize certain terms of the Florida
 46 False Claims Act to state employees and the public;
 47 creating s. 110.12306, F.S.; defining a term;
 48 requiring the Division of State Group Insurance to
 49 establish an anti-fraud unit for certain purposes by a
 50 specified date; authorizing the division to contract
 51 with other parties to perform certain anti-fraud
 52 measures; requiring the division to adopt an anti-
 53 fraud plan and designate at least one employee to
 54 implement anti-fraud measures; amending s. 110.12315,
 55 F.S.; modifying requirements for identifying a
 56 medically necessary drug excluded from the formulary
 57 on a prescription; prohibiting the department or its
 58 pharmacy benefit manager from substituting its

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judgment over the judgment of a prescriber in determining whether a drug excluded from the formulary is medically necessary; requiring the department or its pharmacy benefit manager to take specified action regarding formulary management; removing a limitation for the annual maximum amount for coverage for medically necessary prescription and nonprescription enteral formulas and amino-acid-based elemental formulas for home use; requiring the department to ensure that the prescription drug program receives certain benefits, and to perform annual audits of such benefits; amending s. 110.131, F.S.; conforming a cross-reference; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (2), paragraphs (h), (j), and (k) of subsection (3), and paragraphs (c) and (d) of subsection (13) of section 110.123, Florida Statutes, are amended, and subsection (14) is added to that section, to read:

110.123 State group insurance program.—

(2) DEFINITIONS.—As used in ss. 110.123-110.1239, the term:

(c) "Full-time state employees" means employees of all branches or agencies of state government holding salaried positions who are paid by state warrant or from agency funds and who work or are expected to work an average of at least 30 or more hours per week; employees paid from regular salary appropriations for 8 months' employment, including university personnel on academic contracts; and employees paid from other-

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personal-services (OPS) funds who are reasonably expected to work an average of at least 30 hours or more per week or have worked an average of at least 30 hours or more per week during the employee's measurement period as described in subparagraphs 1. and 2. The term includes all full-time employees of the state universities. The term does not include seasonal workers who are paid from OPS funds.

~~1. For persons hired before April 1, 2013, the term includes any person paid from OPS funds who:~~

~~a. Has worked an average of at least 30 hours or more per week during the initial measurement period from April 1, 2013, through September 30, 2013; or~~

~~b. Has worked an average of at least 30 hours or more per week during a subsequent measurement period.~~

~~2. For persons hired after April 1, 2013, the term includes any person paid from OPS funds who:~~

~~a. Is reasonably expected to work an average of at least 30 hours or more per week; or~~

~~b. Has worked an average of at least 30 hours or more per week during the person's measurement period.~~

(3) STATE GROUP INSURANCE PROGRAM.—

(h)1. A person eligible to participate in the state group insurance program ~~may be authorized by rules adopted by the department,~~ in lieu of participating in the state group health insurance plan, may ~~to~~ exercise an option to elect membership in a health maintenance organization plan which is under contract with the state in accordance with criteria established by this section and by ~~said~~ rules adopted by the department. The offer of optional membership in a health maintenance organization plan

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permitted by this paragraph may be limited or conditioned by rule as may be necessary to meet the requirements of state and federal laws.

2. The department shall contract with health maintenance organizations seeking to participate in the state group insurance program through a request for proposal or other procurement process, as developed by the Department of Management Services and determined to be appropriate.

a. The department shall establish a schedule of minimum benefits for health maintenance organization coverage, and that schedule shall include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; age-based and gender-based wellness benefits; and other benefits as may be required by the department. Additional services may be provided subject to the contract between the department and the HMO. As used in this paragraph, the term "age-based and gender-based wellness benefits" includes aerobic exercise, education in alcohol and substance abuse prevention, blood cholesterol screening, health risk appraisals, blood pressure screening and education, nutrition education, program planning, safety belt education, smoking cessation, stress management, weight management, and women's health education.

b. The department may establish uniform deductibles, copayments, coverage tiers, or coinsurance schedules for all

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participating HMO plans.

c. The department may require detailed information from each health maintenance organization participating in the procurement process, including information pertaining to organizational status, experience in providing prepaid health benefits, accessibility of services, financial stability of the plan, quality of management services, accreditation status, quality of medical services, network access and adequacy, performance measurement, ability to meet the department's reporting requirements, and the actuarial basis of the proposed rates and other data determined by the director to be necessary for the evaluation and selection of health maintenance organization plans and negotiation of appropriate rates for these plans. Upon receipt of proposals by health maintenance organization plans and the evaluation of those proposals, the department may enter into negotiations with all of the plans or a subset of the plans, as the department determines appropriate. The department may negotiate regional or statewide contracts with health maintenance organization plans. Such plans must be cost-effective and must offer high value to enrollees.

d. The department may limit the number of HMOs that it contracts with in each region based on the nature of the bids the department receives, the number of state employees in the region, or any unique characteristics of the region. At least one HMO plan must be available to each enrollee residing in the state ~~The department shall establish the regions throughout the state by rule. The department must submit the rule to the President of the Senate and the Speaker of the House of Representatives for ratification no later than 30 days before~~

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~~the 2020 Regular Session of the Legislature. The rule may not take effect until it is ratified by the Legislature.~~

e. All persons participating in the state group insurance program may be required to contribute towards a total state group health premium that may vary depending upon the plan, coverage level, and coverage tier selected by the enrollee and the level of state contribution authorized by the Legislature.

3. The department is authorized to negotiate and to contract with specialty psychiatric hospitals for mental health benefits, on a regional basis, for alcohol, drug abuse, and mental and nervous disorders. The department may establish, subject to the approval of the Legislature pursuant to subsection (5), any such regional plan upon completion of an actuarial study to determine any impact on plan benefits and premiums.

4. In addition to contracting pursuant to subparagraph 2., the department may enter into contract with any HMO to participate in the state group insurance program which:

a. Serves greater than 5,000 recipients on a prepaid basis under the Medicaid program;

b. Does not currently meet the 25-percent non-Medicare/non-Medicaid enrollment composition requirement established by the Department of Health excluding participants enrolled in the state group insurance program;

c. Meets the minimum benefit package and copayments and deductibles contained in sub-subparagraphs 2.a. and b.;

d. Is willing to participate in the state group insurance program at a cost of premiums that is not greater than 95 percent of the cost of HMO premiums accepted by the department

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in each service area; and

e. Meets the minimum surplus requirements of s. 641.225.

The department is authorized to contract with HMOs that meet the requirements of sub-subparagraphs a.-d. prior to the open enrollment period for state employees. The department is not required to renew the contract with the HMOs as set forth in this paragraph more than twice. Thereafter, the HMOs shall be eligible to participate in the state group insurance program only through the request for proposal or invitation to negotiate process described in subparagraph 2.

5. All enrollees in a state group health insurance plan, a TRICARE supplemental insurance plan, or any health maintenance organization plan have the option of changing to any other health plan that is offered by the state within any open enrollment period designated by the department. Open enrollment shall be held at least once each calendar year.

6. When a contract between a treating provider and the state-contracted health maintenance organization is terminated for any reason other than for cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary, through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating provider, or until the next open enrollment period offered, whichever is longer, but no longer than 6 months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal care, regardless of the trimester in which care was

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initiated, to continue care and coverage until completion of postpartum care. This does not prevent a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subparagraph, the program and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

7. Any HMO participating in the state group insurance program shall submit health care utilization and cost data to the department, in such form and in such manner as the department shall require, as a condition of participating in the program. The department shall enter into negotiations with its contracting HMOs to determine the nature and scope of the data submission and the final requirements, format, penalties associated with noncompliance, and timetables for submission. These determinations shall be adopted by rule.

8. The department may establish and direct, with respect to collective bargaining issues, a comprehensive package of insurance benefits that may include supplemental health and life coverage, dental care, long-term care, vision care, and other benefits it determines necessary to enable state employees to select from among benefit options that best suit their individual and family needs. Beginning with the 2018 plan year, the package of benefits may also include products and services described in s. 110.12303.

a. Based upon a desired benefit package, the department shall issue a request for proposal or invitation to negotiate

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for providers interested in participating in the state group insurance program, and the department shall issue a request for proposal or invitation to negotiate for providers interested in participating in the non-health-related components of the state group insurance program. Upon receipt of all proposals, the department may enter into contract negotiations with providers submitting bids or negotiate a specially designed benefit package. Providers offering or providing supplemental coverage as of May 30, 1991, which qualify for pretax benefit treatment pursuant to s. 125 of the Internal Revenue Code of 1986, with 5,500 or more state employees currently enrolled may be included by the department in the supplemental insurance benefit plan established by the department without participating in a request for proposal, submitting bids, negotiating contracts, or negotiating a specially designed benefit package. These contracts shall provide state employees with the most cost-effective and comprehensive coverage available; however, except as provided in subparagraph (f)3., no state or agency funds shall be contributed toward the cost of any part of the premium of such supplemental benefit plans. With respect to dental coverage, the division shall include in any solicitation or contract for any state group dental program made after July 1, 2001, a comprehensive indemnity dental plan option which offers enrollees a completely unrestricted choice of dentists. If a dental plan is endorsed, or in some manner recognized as the preferred product, such plan shall include a comprehensive indemnity dental plan option which provides enrollees with a completely unrestricted choice of dentists.

b. Pursuant to the applicable provisions of s. 110.161, and

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s. 125 of the Internal Revenue Code of 1986, the department shall enroll in the pretax benefit program those state employees who voluntarily elect coverage in any of the supplemental insurance benefit plans as provided by sub-subparagraph a.

c. Nothing herein contained shall be construed to prohibit insurance providers from continuing to provide or offer supplemental benefit coverage to state employees as provided under existing agency plans.

~~(j) For the 2020 plan year and each plan year thereafter, health plans shall be offered in the following benefit levels:~~

~~1. Platinum level, which shall have an actuarial value of at least 90 percent.~~

~~2. Gold level, which shall have an actuarial value of at least 80 percent.~~

~~3. Silver level, which shall have an actuarial value of at least 70 percent.~~

~~4. Bronze level, which shall have an actuarial value of at least 60 percent.~~

~~(k) In consultation with the independent benefits consultant described in s. 110.12304, the department shall develop a plan for implementation of the benefit levels described in paragraph (j). The plan shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2019, and include recommendations for:~~

~~1. Employer and employee contribution policies.~~

~~2. Steps necessary for maintaining or improving total employee compensation levels when the transition is initiated.~~

~~3. An education strategy to inform employees of the~~

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~~additional choices available in the state group insurance program.~~

~~This paragraph expires July 1, 2019.~~

(13) OTHER-PERSONAL-SERVICES EMPLOYEES (OPS).—

(c) The ~~initial~~ measurement period used to determine whether an employee ~~hired before April 1, 2013, and~~ paid from OPS funds is a full-time employee described in ~~subparagraph (2)(c)1. is the 6-month period from April 1, 2013, through September 30, 2013.~~

~~(d) All other measurement periods used to determine whether an employee paid from OPS funds is a full-time employee described in paragraph (2)(c) must be for 12 consecutive months.~~

(14) REGIONS FOR HEALTH MAINTENANCE ORGANIZATIONS.—

(a) The following regions are established for purposes of the department entering into contracts with HMOs to provide services on a regional basis on or after January 1, 2023, pursuant to paragraph (3)(h):

1. Region 1 consists of Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, and Washington Counties.

2. Region 2 consists of Franklin, Gadsden, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla Counties.

3. Region 3 consists of Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Marion, Suwannee, and Union Counties.

4. Region 4 consists of Baker, Clay, Duval, Flagler, Nassau, Putnam, St. Johns, and Volusia Counties.

5. Region 5 consists of Brevard, Indian River, Lake,

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Orange, Osceola, and Seminole Counties.

6. Region 6 consists of Citrus, DeSoto, Hardee, Hernando, Highlands, Hillsborough, Manatee, Pasco, Pinellas, Polk, Sarasota, and Sumter Counties.

7. Region 7 consists of Martin, Okeechobee, Palm Beach, and St. Lucie Counties.

8. Region 8 consists of Charlotte, Collier, Glades, Hendry, and Lee Counties.

9. Region 9 consists of Broward, Miami-Dade, and Monroe Counties.

(b) The establishment of these regions does not limit the department's authority to contract for HMO services on a statewide basis.

Section 2. Section 110.12305, Florida Statutes, is created to read:

110.12305 Provider fraud.—

(1) As used in this section, the term:

(a) "Item or service" includes:

1. Any particular item, device, medical supply, or service claimed to have been provided to a health plan member and listed in an itemized claim for payment; or

2. In the case of a claim based on costs, any entry in the cost report, books of account, or other documents supporting such claim.

(b) "Knowingly" means that the act was done voluntarily and intentionally and not because of mistake or accident. As used in this section, the term also includes the word "willfully" or "willful," which means that an act was committed voluntarily and purposely, with the specific intent to do something prohibited

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by law, and that the act was committed with bad purpose, either to disobey or disregard the law.

(c) "Prescription drug" means any drug, including, but not limited to, finished dosage forms or active ingredients that are subject to, defined in, or described in s. 503(b) of the Federal Food, Drug, and Cosmetic Act or in s. 465.003(8), s. 499.003(17), s. 499.007(13), or s. 499.82(10).

(d) "Provider" means any person providing health care services or prescription drugs and supplies funded by the program.

(e) "Value" means the amount billed to the program for the property dispensed or the market value of a legend drug or goods or services at the time and place of the offense. If the market value cannot be determined, the term means the replacement cost of the legend drug or goods or services within a reasonable time after the offense.

(2) (a) A person may not:

1. Knowingly make, cause to be made, or aid and abet in the making of any false statement or false representation of a material fact, by commission or omission, in any claim submitted to the department or its contracted vendors for payment.

2. Knowingly make, cause to be made, or aid and abet in the making of a claim for items or services that are not authorized to be reimbursed by the program.

3. Knowingly charge, solicit, accept, or receive anything of value, other than an authorized copayment from a health plan member, from any source in addition to the amount legally payable for an item or service provided to a health plan member under the program or knowingly fail to credit the department or

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407 its contracted vendors for any payment received from a third-
408 party source.

409 4. Knowingly solicit, offer, pay, or receive any
410 remuneration, including any kickback, bribe, or rebate, directly
411 or indirectly, overtly or covertly, in cash or in kind, in
412 return for referring an individual to a person for the
413 furnishing or arranging of any item or service for which payment
414 may be made, in whole or in part, under the program, or in
415 return for obtaining, purchasing, leasing, ordering, or
416 arranging for or recommending, obtaining, purchasing, leasing,
417 or ordering any goods, facility, item, or service for which
418 payment may be made, in whole or in part, under the program.

419 (b)1. A person who violates this subsection and receives or
420 endeavors to receive anything of value of:

421 a. Ten thousand dollars or less commits a felony of the
422 third degree, punishable as provided in s. 775.082, s. 775.083,
423 or s. 775.084.

424 b. More than \$10,000, but less than \$50,000, commits a
425 felony of the second degree, punishable as provided in s.
426 775.082, s. 775.083, or s. 775.084.

427 c. Fifty thousand dollars or more commits a felony of the
428 first degree, punishable as provided in s. 775.082, s. 775.083,
429 or s. 775.084.

430 2. The value of separate funds, goods, or services that a
431 person received or attempted to receive pursuant to a scheme or
432 course of conduct may be aggregated in determining the degree of
433 the offense.

434 3. In addition to the sentence authorized by law, a person
435 who is convicted of a violation of this subsection shall pay a

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436 fine in an amount equal to five times the pecuniary gain
437 unlawfully received or the loss incurred by the program or
438 contracted vendor, whichever amount is greater.

439 (3) The repayment of any payments wrongfully obtained, or
440 the offer or endeavor to repay funds wrongfully obtained, does
441 not constitute a defense to or a ground for dismissal of
442 criminal charges brought under this section.

443 (4) Property paid for by the program includes all property
444 furnished or intended to be furnished to any health plan member
445 of benefits under the program, regardless of whether
446 reimbursement is ever actually made by the program.

447 (5) All records in the custody of the department or its
448 contracted vendors which relate to provider fraud are business
449 records within the meaning of s. 90.803(6).

450 (6) Proof that a claim was submitted to the department or
451 its contracted vendors which contained a false statement or a
452 false representation of a material fact, by commission or
453 omission, unless satisfactorily explained, gives rise to an
454 inference that the person whose signature appears as the
455 provider's authorizing signature on the claim form, or whose
456 signature appears on an electronic claim submission agreement
457 submitted for claims made to the contracted vendor by electronic
458 means, had knowledge of the false statement or false
459 representation. This subsection applies whether the signature
460 appears on the claim form or the electronic claim submission
461 agreement by means of handwriting, typewriting, facsimile
462 signature stamp, computer impulse, initials, or otherwise.

463 (7) Any person who knowingly sells, who knowingly attempts
464 or conspires to sell, or who knowingly causes any other person

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to sell or attempt or conspire to sell a legend drug that was paid for by the program commits a felony.

(a) If the value of the legend drug involved is less than \$20,000, the crime is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the value of the legend drug involved is \$20,000 or more but less than \$100,000, the crime is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the value of the legend drug involved is \$100,000 or more, the crime is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) Any person who knowingly purchases, or who knowingly attempts or conspires to purchase, a legend drug that was paid for by the program and intended for use by another person commits a felony.

(a) If the value of the legend drug is less than \$20,000, the crime is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the value of the legend drug is \$20,000 or more but less than \$100,000, the crime is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the value of the legend drug is \$100,000 or more, the crime is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) Any person who knowingly makes or knowingly causes to be made, or who attempts or conspires to make, any false statement or representation to any person for the purpose of obtaining goods or services from the program commits a felony.

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(a) If the value of the goods or services is less than \$20,000, the crime is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the value of the goods or services is \$20,000 or more but less than \$100,000, the crime is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the value of the goods or services involved is \$100,000 or more, the crime is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The value of individual items of the legend drugs or goods or services involved in distinct transactions committed during a single scheme or course of conduct, whether involving a single person or several persons, may be aggregated when determining the punishment for the offense.

(10) A person who provides the state, any state agency, or any political subdivision of the state or an agency thereof with information about fraud or suspected fraudulent acts by a provider is immune from civil liability for libel, slander, or any other relevant tort for providing such information unless the person acted with knowledge that the information was false or with reckless disregard for the truth or falsity of the information. Such immunity extends to reports of fraudulent acts or suspected fraudulent acts conveyed to or from the department in any manner, including any forum and with any audience as directed by the department, and includes all discussions subsequent to the report and subsequent inquiries from the department, unless the person acted with knowledge that the

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information was false or with reckless disregard for the truth or falsity of the information. As used in this subsection, the term "fraudulent acts" includes actual or suspected fraud and abuse, insurance fraud, or licensure fraud, including any fraud-related matters that a provider or health plan is required to report to the department or a law enforcement agency.

(11) The department must publicize to state employees and the public the ability of persons to bring a civil action under the provisions of the Florida False Claims Act and the potential for the persons bringing a civil action under the act to obtain a monetary award.

Section 3. Section 110.12306, Florida Statutes, is created to read:

110.12306 Anti-fraud investigative units.—

(1) As used in this section, the term "designated anti-fraud unit" means a distinct unit within the division which is made up of employees whose principal responsibilities are the investigation and disposition of claims and who are also assigned investigation of fraud.

(2) By December 31, 2020, the division:

(a)1. Shall establish and maintain a designated anti-fraud unit to investigate and report possible fraudulent insurance acts by insureds, persons making claims for services against the State Employees Health Insurance Trust Fund, or vendors under contract with the division.

2. May contract with others to investigate and report possible fraudulent insurance acts by insureds, persons making claims for services against the State Employees Health Insurance Trust Fund, or vendors under contract with the division.

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(b) Shall adopt an anti-fraud plan.

(c) Shall designate at least one employee with the primary responsibility of implementing the requirements of this section.

Section 4. Paragraph (a) of subsection (9) and subsection (10) of section 110.12315, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

110.12315 Prescription drug program.—The state employees' prescription drug program is established. This program shall be administered by the Department of Management Services, according to the terms and conditions of the plan as established by the relevant provisions of the annual General Appropriations Act and implementing legislation, subject to the following conditions:

(9) (a) 1. Beginning with the 2020 plan year, the department must implement formulary management for prescription drugs and supplies. Such management practices must require prescription drugs to be subject to formulary inclusion or exclusion but may not restrict access to the most clinically appropriate, clinically effective, and lowest net-cost prescription drugs and supplies. Drugs excluded from the formulary must be available for inclusion if a physician, an advanced practice registered nurse, or a physician assistant prescribing a pharmaceutical clearly states on the prescription, or otherwise in the manner specified in s. 465.025(2), that the excluded drug is medically necessary. The department or its pharmacy benefit manager may not substitute its judgment over the judgment of the prescriber of a prescription drug as to whether the drug is medically necessary.

2. The department or its pharmacy benefit manager must ensure that:

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a. The condition for which the patient is being treated is covered under the program;

b. The prescribed drug is approved by the Federal Drug Administration or supported in the compendia of current literature for the treatment of the patient's condition; and
c. The prescribed dosage falls within the Federal Drug Administration approved labeling or within dosing guidelines found in the compendia of current literature as treatment for the patient's condition.

3. If the prescription drug or supply is not included on the formulary but is prescribed as medically necessary for the treatment of the patient, the department or its pharmacy benefit manager must inquire of the prescribing authority as to whether:

a. The prescribing authority has considered alternative prescription drugs and supplies that are included on the formulary;

b. The patient has tried and had inadequate treatment response or intolerance to alternative prescription drugs that are included on the formulary; and

c. The patient has a contraindication to the alternative prescription drugs that are included on the formulary.

Such inquiries must be made as soon as practicable but no later than the next business day after the pharmacist received the prescription.

4. Prescription drugs and supplies first made available in the marketplace after January 1, 2020, may not be covered by the prescription drug program until specifically included in the list of covered prescription drugs and supplies.

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(10) In addition to the comprehensive package of health insurance and other benefits required or authorized to be included in the state group insurance program, the program must provide coverage for medically necessary prescription and nonprescription enteral formulas and amino-acid-based elemental formulas for home use, regardless of the method of delivery or intake, which are ordered or prescribed by a physician. As used in this subsection, the term "medically necessary" means the formula to be covered represents the only medically appropriate source of nutrition for a patient. ~~Such coverage may not exceed an amount of \$20,000 annually for any insured individual.~~

(11) The department must ensure that the prescription drug program receives the benefits of all discounts, rebates, and other fees associated with the prescription drugs and supplies provided through the program. The department shall annually audit the amounts of discounts, rebates, and other fees received by the department or its pharmacy benefit manager for the prescription drugs and supplies provided through the program.

Section 5. Subsection (5) of section 110.131, Florida Statutes, is amended to read:

110.131 Other-personal-services employment.—

(5) Beginning January 1, 2014, an other-personal-services (OPS) employee who has worked an average of at least 30 or more hours per week during the measurement period described in s. 110.123(13)(c) ~~s. 110.123(13)(c) or (d)~~, or who is reasonably expected to work an average of at least 30 or more hours per week following his or her employment, is eligible to participate in the state group insurance program as provided under s. 110.123.

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Section 6. This act shall take effect July 1, 2020.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 7058

INTRODUCER: Finance and Tax Committee

SUBJECT: Internal Revenue Code

DATE: February 26, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Babin	Diez-Arguelles		FT Submitted as Committee Bill
1. Babin	Kynoch	AP	Favorable

I. Summary:

SB 7058 updates Florida's corporate Income Tax Code by adopting the federal Internal Revenue Code in effect on January 1, 2020.

The Revenue Estimating Conference estimates that the bill will have an indeterminate, positive or negative, impact on General Revenue Fund receipts beginning in Fiscal Year 2020-2021.

The bill is effective upon becoming law and operates retroactively to January 1, 2020.

II. Present Situation:

Annual Adoption of the Internal Revenue Code

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.¹ The determination of taxable income for Florida tax purposes begins with the taxable income used for federal income tax purposes.² Additional adjustments are then made to determine Florida's taxable income. By starting with federal taxable income, Florida eases the administrative burden on Florida taxpayers because they receive the same treatment in Florida as is allowed in determining their federal taxable income.

Florida maintains this relationship with the federal Internal Revenue Code (IRC) each year by adopting the IRC as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income.

¹ Sections 220.11(2) and 220.63(2), F.S.

² See generally s. 220.13(2), F.S.

The Tax Cuts and Jobs Act of 2017

On December 22, 2017, President Trump signed into law the Tax Cuts and Jobs Act of 2017 (TCJA).³ The TCJA made significant changes to federal income tax provisions that affect Florida corporations. The unique structure of the TCJA resulted in corporate taxpayers generally having more income subjected to tax (higher taxable income), but ultimately paying less federal tax. This situation occurred because although the TCJA increased federal taxable income by limiting deductions and creating new items of income, the TCJA also lowered the federal corporate tax rate from 35 percent to 21 percent.

Since Florida begins its corporate income tax calculation with federal taxable income, the TCJA has resulted in an increase of Florida taxable income. However, unlike the federal tax rate reduction, Florida's tax rate has remained the same, and thus, the TCJA has resulted in an increase in Florida's corporate income tax collections.

Florida's Response to the TCJA

Recognizing the potential for increased corporate income tax collections, Florida adopted a procedure for refunding corporate income tax collections that exceed a certain threshold⁴ and temporarily reducing the corporate income tax rate by a proportional amount.⁵ The procedure provides refunds to qualifying corporate taxpayers and tax rate reductions based on corporate income tax collections in Fiscal Years 2018-2019, 2019-2020, and 2020-2021.⁶ Tax rate reductions are repealed for taxable years beginning on or after January 1, 2022, after which the corporate income tax rate returns to 5.5 percent;⁷ and the final refund payments, if any, will be paid to qualifying corporate taxpayers by May 1, 2022.⁸

Currently, the refund and tax rate reduction procedure will result in taxpayer refunds for excess collections received in Fiscal Year 2018-2019, and the corporate income tax rate is temporarily decreased from 5.5 percent to 4.458 percent for taxable years beginning in calendar years 2019, 2020, and 2021. No additional refunds or rate reductions are estimated to occur under the current forecast for corporate income tax collections.⁹

The Further Consolidated Appropriations Act, 2020

The Further Consolidated Appropriations Act, 2020,¹⁰ extended for a limited time certain expiring tax provisions in the IRC. These changes have the effect of limiting certain deductions

³ Pub. Law No. 115-97 (Dec. 22, 2017).

⁴ The threshold is 107 percent of the Revenue Estimating Conference's February 23, 2018, estimate for the relevant fiscal year. Section 220.1105(1)(b), F.S.

⁵ See s. 220.1105(2), F.S.

⁶ *Id.*

⁷ Section 220.1105(5), F.S.

⁸ See s. 220.1105(4) and (4)(c), F.S.

⁹ Revenue Estimating Conference, *Corporate Income Tax – Supporting Material for Statutory Adjustment*, available at http://www.edr.state.fl.us/Content/conferences/generalrevenue/CIT_AdjustmentSupportingMaterial.pdf (last visited Feb. 18, 2020).

¹⁰ Pub. Law No. 116-94 (Dec. 20, 2019).

and granting certain credits to Florida taxpayers, but the effects will vary depending on the tax position of the taxpayer involved, which is unknown.

III. Effect of Proposed Changes:

Section 1 amends s. 220.03, F.S., to adopt the Internal Revenue Code in effect on January 1, 2020, for use by corporations subject to Florida's Corporate Income Tax.

Section 2 applies the bill retroactively to January 1, 2020.

Section 3 provides an effective date of upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of state tax shared with them. Therefore, the mandates provisions of Article VII, section 18 of the Florida Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that due to certain provisions within the Further Consolidated Appropriations Act, 2020, the bill will have an indeterminate, positive or negative, fiscal impact on General Revenue Fund receipts beginning in Fiscal Year 2020-2021.

B. Private Sector Impact:

By adopting recent changes to the Internal Revenue Code, Florida provides ease of administration for Florida corporate taxpayers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 220.03 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By the Committee on Finance and Tax

593-03921-20

20207058__

1 A bill to be entitled
2 An act relating to the Internal Revenue Code; amending
3 s. 220.03, F.S.; adopting the 2020 version of the
4 Internal Revenue Code for purposes of the state
5 corporate income tax code; providing for retroactive
6 operation; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Paragraph (n) of subsection (1) and paragraph
11 (c) of subsection (2) of section 220.03, Florida Statutes, are
12 amended to read:
13 220.03 Definitions.—
14 (1) SPECIFIC TERMS.—When used in this code, and when not
15 otherwise distinctly expressed or manifestly incompatible with
16 the intent thereof, the following terms shall have the following
17 meanings:
18 (n) "Internal Revenue Code" means the United States
19 Internal Revenue Code of 1986, as amended and in effect on
20 January 1, 2020 ~~2019~~, except as provided in subsection (3).
21 (2) DEFINITIONAL RULES.—When used in this code and neither
22 otherwise distinctly expressed nor manifestly incompatible with
23 the intent thereof:
24 (c) Any term used in this code has the same meaning as when
25 used in a comparable context in the Internal Revenue Code and
26 other statutes of the United States relating to federal income
27 taxes, as such code and statutes are in effect on January 1,
28 2020 ~~2019~~. However, if subsection (3) is implemented, the
29 meaning of a term shall be taken at the time the term is applied

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

593-03921-20

20207058__

30 under this code.
31 Section 2. The amendment to s. 220.03, Florida Statutes,
32 made by this act operates retroactively to January 1, 2020.
33 Section 3. This act shall take effect upon becoming a law.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE
APPEARANCE RECORD

2-27-20

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

7058

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name B. D. Jagerst

Job Title Legislative Assistant

Address 516 N Adams

Phone _____

Street

Tallahassee

City

State

32301

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Agriculture,
Environment, and General Government, *Chair*
Children, Families, and Elder Affairs, *Vice Chair*
Appropriations
Environment and Natural Resources
Health Policy

SENATOR DEBBIE MAYFIELD
17th District

February 26, 2020

Chair Bradley
201 Capital
404 S. Monroe Street
Tallahassee, FL 32399-1100

RB

Chair Bradley,

I am respectfully requesting an excused absence from Appropriations Committee on February 27, 2020, scheduled from 9:00am – 6:00pm.

I am also requesting that my cosponsor Senator Bean on SB1742, which is on agenda for tomorrow, be allowed to present in my place.

I appreciate your consideration of this request and I look forward to our continued work on the Appropriations Committee. If you have any questions or concerns, please do not hesitate to call me directly.

Thank you,

A handwritten signature in blue ink that reads "Debbie Mayfield".

Senator Debbie Mayfield
District 17

REPLY TO:

- ☐ 900 East Strawbridge Avenue, Melbourne, Florida 32901 (321) 409-2025 FAX: (888) 263-3815
- ☐ 1801 27th Street, Vero Beach, Florida 32960 (772) 226-1970
- ☐ 322 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flisenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

CourtSmart Tag Report

Room: KN 412

Case No.:

Type:

Caption: Senate Appropriations Committee

Judge:

Started: 2/27/2020 9:10:40 AM

Ends: 2/27/2020 3:10:05 PM

Length: 05:59:26

9:10:53 AM	Sen. Bradley (Chair)
9:14:07 AM	S 1628
9:14:39 AM	Am. 231978
9:14:40 AM	Sen. Book
9:16:30 AM	Sen. Bradley
9:16:53 AM	Magda Bader, Holocaust Survivor
9:43:05 AM	Sen. Bradley
9:44:45 AM	Rositta Kenisgberg, President, Holocaust Documentation and Education
9:54:03 AM	Am. 360128
9:54:12 AM	Sen. Book
9:54:48 AM	Mark Anderson, Lobbyist, The Florida Holocaust Museum
9:55:43 AM	Steve Gello, Past Chairman, Holocaust Documentation and Education Center
10:00:34 AM	S 1628 (cont.)
10:00:53 AM	Amy Datz, Activist, Self
10:02:20 AM	Recording Paused
10:04:23 AM	Recording Resumed
10:04:47 AM	Sen. Book
10:06:58 AM	S 884
10:07:04 AM	Am. 571032
10:07:13 AM	Sen. Hooper
10:08:25 AM	Am. 507994
10:08:33 AM	Sen. Hooper
10:09:15 AM	Gary Hester, Government Affairs, Florida Police Chiefs Association
10:10:28 AM	Am. 181080
10:10:32 AM	Sen. Hooper
10:11:05 AM	S 884 (cont.)
10:11:11 AM	Sen. Powell
10:11:47 AM	Sen. Hooper
10:12:36 AM	Sen. Gibson
10:13:26 AM	Sen. Hooper
10:14:11 AM	Lisa Henning, Legislative Director, Fraternal Order of Police (waives in support)
10:14:15 AM	Steve Zona, President, Fraternal Order of Police (waives in support)
10:14:18 AM	Gary Hester, Government Affairs, Florida Police Chiefs Association (waives in support)
10:14:25 AM	Mick McHale, Lobbyist, Florida Police Benevolent Association (waives in support)
10:14:30 AM	Robert Chapman, State Employee, Self (waives in support)
10:14:44 AM	Sen. Thurston
10:15:20 AM	Sen. Hooper
10:15:54 AM	Sen. Powell
10:16:44 AM	Sen. Brandes
10:16:51 AM	Sen. Hooper
10:19:25 AM	S 1120
10:19:33 AM	Am. 137486
10:19:41 AM	Sen. Harrell
10:22:10 AM	S 1370
10:22:16 AM	Am. 651134
10:22:27 AM	Sen. Harrell
10:22:49 AM	Am. 641398
10:22:58 AM	Sen. Harrell
10:23:25 AM	Am. 358292
10:23:31 AM	Sen. Harrell
10:23:56 AM	S 1370 (cont.)
10:24:04 AM	Matthew Choy, Policy Director, Florida Chamber of Commerce (waives in support)

10:24:10 AM Mike Cusick, Florida Society of Ambulatory Surgical Centers (waives in support)
10:25:17 AM S 7046
10:25:25 AM Sen. Hooper
10:27:02 AM Sen. Lee
10:27:23 AM Sen. Hooper
10:29:33 AM S 78
10:29:41 AM Sen. Broxson
10:29:55 AM Am. 945272
10:30:07 AM Sen. Broxson
10:30:27 AM Sen. Simpson (Chair)
10:30:32 AM Am. 145822
10:30:39 AM Sen. Bradley
10:31:57 AM Am. 553514
10:32:04 AM Am. 535266
10:32:14 AM Sen. Braynon
10:33:21 AM Jess McCarty, Assistant County Attorney, Miami-Dade County (waives in support)
10:33:42 AM Am. 254798
10:33:51 AM Sen. Stewart
10:34:35 AM S 78 (cont.)
10:34:55 AM Sen. Broxson
10:36:04 AM Sen. Bradley (Chair)
10:36:09 AM S 178
10:36:15 AM Am. 266148
10:36:43 AM Sen. Rodriguez
10:37:07 AM Paul Owens, President, 1000 Friends of Florida (waives in support)
10:38:03 AM S 1074
10:38:10 AM S 1076
10:38:25 AM Sen. Wright
10:38:58 AM Roy Clark, Legislative Affairs Director, Florida Department of Veterans' Affairs (waives in support)
10:39:04 AM Shawn Foster, Lobbyist, American Legion Auxiliary (waives in support)
10:39:11 AM Dan Hendrickson, Volunteer, Tallahassee Veterans Legal Collaborative (waives in support)
10:40:09 AM S 1074
10:40:17 AM Sen. Wright
10:41:03 AM Shawn Foster, Lobbyist, American Legion Auxiliary (waives in support)
10:41:08 AM Roy Clark, Legislative Affairs Director, Florida Department of Veterans' Affairs (waives in support)
10:42:06 AM S 524
10:42:22 AM Sen. Gruters
10:42:46 AM Am. 762896
10:43:02 AM Sen. Gruters
10:43:10 AM S 524 (cont.)
10:43:18 AM B.D. Jogerst, Legislative Assistant, Associated Industries of Florida (waives in support)
10:43:23 AM Jake Farmer, Director Government Affairs, Florida Retail Federation (waives in support)
10:44:32 AM Sen. Bradley
10:45:36 AM S 922
10:45:39 AM Sen. Gruters
10:46:26 AM Am. 230682
10:46:32 AM Sen. Gruters
10:46:52 AM S 922 (cont.)
10:47:00 AM Lauren Storch, Government Relations, Hillsborough County (waives in support)
10:47:03 AM B.D. Jogerst, Legislative Assistant, Associated Industries of Florida (waives in support)
10:47:07 AM Carolyn Johnson, Policy Director, Florida Chamber of Commerce (waives in support)
10:47:14 AM Nicholas Albarez, Legislative Affairs Director, Department of Economic Opportunity (waives in support)
10:48:16 AM Sen. Simpson (Chair)
10:48:25 AM S 1298
10:48:52 AM Am. 595712
10:49:06 AM Sen. Simmons
10:50:08 AM Richard Chait, Attorney, Workers Compensation Section-Florida Bar (waives in support)
10:50:14 AM Grace Lovett, Vice President of Government Affairs, Florida Retail Federation (waives in support)
10:50:28 AM Sen. Rouson
10:51:54 AM S 1312
10:51:58 AM Sen. Montford
10:53:10 AM Am. 561048

10:53:19 AM Sen. Montford
10:54:01 AM Mark Earley, Supervisor of Elections, Florida Supervisors of Election and Voters of Leon County (waives in support)
10:54:29 AM Sen. Powell
10:55:06 AM Sen. Montford
10:55:44 AM Sen. Powell
10:56:01 AM Sen. Montford
10:56:17 AM Sen. Powell
10:56:40 AM Sen. Montford
10:57:04 AM Mark Earley, Supervisor of Elections, Florida Supervisors of Elections Leon County
10:58:57 AM Sen. Powell
10:59:07 AM M. Earley
10:59:53 AM David Ramba, Lobbyist, Florida Supervisors of Elections (waives in support)
10:59:56 AM Jasmyne Henderson, Lobbyist, Miami-Dade County (waives in support)
11:00:28 AM French Brown, Lobbyist, Verified Voting
11:02:18 AM Sen. Montford
11:03:36 AM Sen. Bradley (Chair)
11:03:41 AM S 1066
11:04:05 AM Am. 593778 (withdrawn)
11:04:13 AM Am. 101774 (withdrawn)
11:04:23 AM Am. 277762
11:04:40 AM Sen. Gruters
11:05:08 AM Sen. Lee
11:05:16 AM Sen. Gruters
11:05:41 AM Sen. Lee
11:07:03 AM Sen. Gruters
11:07:18 AM Sen. Lee
11:07:52 AM Sen. Gruters
11:08:26 AM Sen. Lee
11:09:09 AM Sen. Gruters
11:09:37 AM Sen. Bradley
11:10:42 AM Sen. Montford
11:11:04 AM Sen. Gruters
11:11:27 AM Sen. Montford
11:11:34 AM Sen. Gruters
11:11:44 AM Sen. Montford
11:11:51 AM Sen. Bradley
11:12:04 AM Sen. Lee
11:13:07 AM Sen. Bradley
11:13:33 AM Sen. Powell
11:14:12 AM Sen. Gruters
11:14:40 AM Sen. Simmons
11:15:05 AM Sen. Gruters
11:15:15 AM Sen. Simmons
11:15:35 AM Am. 569730
11:15:44 AM Sen. Bradley
11:16:32 AM Sen. Gruters
11:16:44 AM Am. 569730 (withdrawn)
11:17:02 AM Am. 277762
11:17:18 AM Wayne Bertsch, Government Relations, Pasco County Schools
11:17:45 AM Sen. Bradley
11:18:11 AM Kyle Shephard, Dir. Intergovernmental Relations, City of Orlando (waives in support)
11:18:20 AM Codeye Woody, Dir. Legislative and Congressional Affairs, Orange County Public Schools (waives in support)
11:18:57 AM S 1066 (cont.)
11:19:01 AM Sen. Lee
11:19:32 AM Sen. Gruters
11:19:34 AM Sen. Lee
11:19:48 AM Sen. Bradley
11:19:57 AM Amy Patterson, Director, Capital Projects Collier County
11:21:36 AM S 1066
11:22:11 AM S 1450

11:22:14 AM Am. 594336
11:22:23 AM Sen. Gruters
11:22:47 AM Am. 333976
11:22:58 AM Sen. Gruters
11:24:20 AM John Schrader, Deputy Legislative Affairs Director, Florida Department of Environmental Protection
(waives in support)
11:24:41 AM Am. 879998
11:24:50 AM Sen. Gruters
11:25:00 AM Sen. Brandes
11:25:13 AM Sen. Gruters
11:25:37 AM Sen. Brandes
11:26:11 AM Sen. Gruters
11:26:16 AM Sen. Brandes
11:26:43 AM Sen. Gruters
11:26:48 AM Sen. Brandes
11:27:43 AM Sen. Bradley
11:28:07 AM S 1450 (temporarily postponed)
11:28:51 AM S 82
11:29:08 AM Am. 796252
11:29:16 AM Sen. Bean
11:30:16 AM Am. 909432
11:30:22 AM Sen. Rouson
11:31:42 AM Sen. Benacquisto (Chair)
11:32:03 AM Kirk Hall, CEO, The Arc of Florida (waives in support)
11:32:17 AM Janice Phillips, Support Coordinator, Association of Support Coordinators Agencies (waives in support)
11:32:23 AM Sen. Bean
11:33:15 AM Sen. Rouson
11:33:39 AM Am. 329026
11:33:47 AM Sen. Rouson
11:34:23 AM K. Hall (waives in support)
11:34:34 AM Dixie Sansom, Lobbyist, The Arc of Florida (waives in support)
11:34:37 AM Sen. Bean
11:35:04 AM Am. 446518
11:35:10 AM Sen. Gibson
11:36:07 AM K. Hall (waives in support)
11:36:17 AM Sen. Bean
11:36:41 AM S 82 (cont.)
11:36:52 AM J. Phillips (waives in support)
11:37:16 AM D. Sansom
11:37:37 AM Sen. Thurston
11:37:51 AM D. Sansom
11:38:22 AM Suzanne Sewell, President, Florida ARF (waives in support)
11:38:35 AM Sen. Rouson
11:39:04 AM Sen. Gibson
11:39:53 AM Sen. Bean
11:41:29 AM S 702
11:41:33 AM Sen. Albritton
11:42:22 AM Sen. Stewart
11:42:36 AM Sen. Albritton
11:43:24 AM Sen. Lee
11:44:04 AM Sen. Albritton
11:44:28 AM Sen. Lee
11:44:46 AM Sen. Albritton
11:45:48 AM S 714
11:45:52 AM Sen. Hutson
11:47:32 AM Sen. Stewart
11:48:09 AM Sen. Hutson
11:49:54 AM Sen. Powell
11:50:13 AM Sen. Hutson
11:51:34 AM Sen. Powell
11:52:08 AM Sen. Hutson
11:53:01 AM Sen. Powell

11:53:41 AM	Sen. Hutson
11:54:40 AM	Sen. Montford
11:55:05 AM	Sen. Hutson
11:56:10 AM	Sen. Montford
11:56:21 AM	Sen. Hutson
11:56:48 AM	Sen. Montford
11:56:54 AM	Sen. Hutson
11:57:45 AM	Sen. Thurston
11:58:33 AM	Sen. Hutson
11:59:40 AM	Sen. Thurston
11:59:56 AM	Sen. Hutson
12:00:21 PM	Sen. Thurston
12:00:45 PM	Sen. Hutson
12:01:31 PM	Sen. Thurston
12:01:48 PM	Sen. Hutson
12:03:33 PM	Sen. Braynon
12:04:43 PM	Sen. Hutson
12:06:25 PM	Sen. Brandes
12:06:42 PM	Sen. Hutson
12:06:50 PM	Sen. Flores
12:07:53 PM	Sen. Hutson
12:08:44 PM	Sen. Flores
12:09:22 PM	Sen. Hutson
12:10:13 PM	Sen. Benacquisto
12:10:24 PM	Sen. Simmons
12:10:43 PM	Sen. Hutson
12:11:02 PM	Sen. Simmons
12:12:48 PM	Sen. Bradley (Chair)
12:12:53 PM	Sen. Hutson
12:14:13 PM	Joe Mazziotta, Physician, Self
12:18:45 PM	Sen. Hutson
12:19:07 PM	J. Mazziotta
12:19:17 PM	Sen. Hutson
12:19:34 PM	J. Mazziotta
12:19:57 PM	Sen. Thurston
12:20:21 PM	J. Mazziotta
12:21:05 PM	Sen. Thurston
12:21:44 PM	J. Mazziotta
12:21:57 PM	Sen. Hutson
12:22:20 PM	J. Mazziotta
12:22:29 PM	Sen. Hutson
12:22:47 PM	J. Mazziotta
12:23:34 PM	Sen. Hutson
12:23:50 PM	J. Mazziotta
12:24:16 PM	Sen. Hutson
12:24:39 PM	J. Mazziotta
12:24:43 PM	Sen. Simmons
12:25:36 PM	J. Mazziotta
12:26:02 PM	Sen. Simmons
12:27:06 PM	J. Mazziotta
12:27:33 PM	Sen. Book
12:27:54 PM	J. Mazziotta
12:28:30 PM	Sen. Book
12:28:59 PM	J. Mazziotta
12:29:46 PM	Sen. Brandes
12:30:01 PM	J. Mazziotta
12:30:10 PM	Sen. Brandes
12:30:59 PM	J. Mazziotta
12:31:22 PM	Sen. Brandes
12:31:43 PM	J. Mazziotta
12:31:46 PM	Sen. Brandes
12:31:50 PM	J. Mazziotta

12:32:19 PM Sen. Montford
 12:33:44 PM J. Mazziotta
 12:34:22 PM Sen. Montford
 12:34:55 PM Michael Jackson, Executive Vice President and CEO, Florida Pharmacy Association
 12:37:18 PM Rohan Joseph, Physician, Florida Chapter of American College of Surgeons
 12:38:04 PM David Poole, Director Legislative Affairs, AIDS Healthcare Foundation (waives in support)
 12:38:13 PM Phillip Suderman, Policy Director, Americans for Prosperity (waives in support)
 12:38:18 PM B.D. Jogerst, Legislative Assistant, Associated Industries of Florida (waives in support)
 12:38:23 PM Jake Farmer, Director Government Affairs, Florida Retail Federation (waives in support)
 12:38:28 PM Jared Willis, Director of Government Relations, Florida Osteopathic Medical Association (waives in opposition)
 12:38:41 PM Sen. Gibson
 12:40:29 PM Sen. Powell
 12:41:49 PM Sen. Montford
 12:44:08 PM Sen. Stewart
 12:45:43 PM Sen. Brandes
 12:48:02 PM Sen. Braynon
 12:49:55 PM Sen. Thurston
 12:50:00 PM Sen. Lee
 12:52:57 PM Sen. Simpson
 12:53:29 PM Sen. Gainer
 12:53:39 PM Sen. Bradley
 12:53:46 PM Sen. Gainer
 12:54:32 PM Sen. Bradley
 12:56:09 PM Sen. Hutson
 1:00:10 PM S 542
 1:00:31 PM Sen. Perry
 1:00:59 PM B.D. Jogerst, Legislative Assistant, Associated Industries of Florida (waives in support)
 1:01:04 PM Jake Farmer, Director Governmental Affairs, Florida Retail Federation (waives in support)
 1:02:05 PM S 916
 1:02:40 PM Sen. Baxley
 1:03:22 PM Am. 506046 (withdrawn)
 1:03:30 PM Am. 104490
 1:03:34 PM Sen. Baxley
 1:04:03 PM S 916 (cont.)
 1:04:11 PM Cliff Bauer, President, Florida Pace Centers
 1:06:41 PM Dorene Barker, Associate State Director, AARP Florida (waives in support)
 1:07:40 PM S 1450
 1:07:55 PM Am. 879998 (withdrawn)
 1:08:04 PM S 1450 (cont.)
 1:08:13 PM John Schrader, Dep. Legislative Affairs Director, Florida DEP (waives in support)
 1:08:19 PM Alex Bickley, Director of Legislative Affairs, Florida DEP (waives in support)
 1:08:27 PM Sen. Lee
 1:08:38 PM Sen. Bradley
 1:09:49 PM S 1262
 1:10:13 PM Sen. Bracy
 1:12:25 PM Sen. Braynon
 1:13:55 PM Sen. Powell
 1:16:36 PM Sen. Rouson
 1:17:45 PM Sen. Bradley
 1:18:42 PM Sen. Bracy
 1:20:55 PM S 918
 1:20:57 PM Sen. Brandes
 1:21:28 PM Sen. Lee
 1:22:14 PM Sen. Brandes
 1:23:17 PM Osiris Ramos Jr., Graduate Advisor, Florida YMCA Youth in Government
 1:25:14 PM Edward Briggs, Director of Government Affairs, Helios Education Foundation (waives in support)
 1:25:46 PM Recording Paused
 1:26:27 PM Recording Resumed
 1:26:33 PM Sen. Brandes
 1:27:31 PM Sen. Simpson (Chair)
 1:27:39 PM S 170

1:27:47 PM Sen. Stewart
 1:28:56 PM Katrina Duesterhaus, Self
 1:38:20 PM Gary Hester, Government Affairs, Florida Police Chiefs Association (waives in support)
 1:38:28 PM Jennifer Dritt, Executive Director, Florida Council Against Sexual Violence (waives in support)
 1:38:41 PM Matt Puckett, Lobbyist, Florida Police Benevolent Association (waives in support)
 1:38:47 PM Anita Berry, Lobbyist, Palm Beach County (waives in support)
 1:38:52 PM Dixie Sansom, Lobbyist, The Arc of Florida (waives in support)
 1:39:06 PM Sen. Stewart
 1:40:33 PM S 70
 1:40:41 PM Am. 108536
 1:40:58 PM Sen. Book
 1:42:23 PM Lori Alhadeff, School Board Member
 1:44:29 PM Scott Jenkins, Senior Government Consultant, School Check In
 1:47:13 PM Sen. Benacquisto
 1:47:28 PM S. Jenkins
 1:47:34 PM Sen. Benacquisto
 1:47:38 PM S. Jenkins
 1:49:15 PM Jeffrey Kelly, Senior Solution Architect, Mutualink
 1:52:52 PM Sen. Stargel
 1:53:11 PM J. Kelly
 1:53:57 PM Sen. Montford
 1:54:05 PM J. Kelly
 1:54:09 PM Sen. Montford
 1:54:15 PM J. Kelly
 1:54:17 PM Sen. Montford
 1:54:28 PM J. Kelly
 1:54:48 PM Sen. Lee
 1:55:38 PM J. Kelly
 1:56:10 PM Sen. Lee
 1:56:18 PM J. Kelly
 1:56:53 PM Tony Hunter, Senior Vice President, Alertpoint Security
 1:58:32 PM Andrew Goren, Volunteer, Make Our Schools Safe (waives in support)
 1:58:39 PM Mick McHale, Lobbyist, Florida Police Benevolent Association (waives in support)
 1:58:46 PM Wayne Bernoska, President, Florida Professional Firefighters (waives in support)
 1:58:55 PM Eric Stern, Legislative Communications Member, Florida PTA (waives in support)
 1:59:05 PM Sen. Stargel
 2:00:13 PM Sen. Brandes
 2:01:56 PM Sen. Book
 2:04:13 PM Sen. Bradley (Chair)
 2:04:25 PM S 1326
 2:04:27 PM Sen. Simpson
 2:04:50 PM Am. 835096
 2:05:05 PM Am. 756300
 2:05:10 PM Sen. Simpson
 2:06:52 PM Victoria Zepp, Chief Policy Officer, FCC
 2:08:54 PM Natalie Kelly, CEO, Florida Association of Managing Entities
 2:10:13 PM S 1326 (cont.)
 2:10:18 PM Sen. Rouson
 2:10:35 PM Sen. Simpson
 2:10:54 PM Shawn Foster, Lobbyist, Youth and Family Alternatives (waives in support)
 2:11:03 PM Christ Card, Chief of Community Based Care, Eckerd Connects (waives in support)
 2:11:08 PM V. Zepp (waives in support)
 2:11:12 PM N. Kelly (waives in support)
 2:11:17 PM Jordan Reed, Legislative Intern, National Association of Social Workers Florida (waives in support)
 2:11:25 PM Michael Wickersheim, Legislative Affairs Director, Department of Children and Families (waives in support)
 2:12:31 PM S 122
 2:12:45 PM Am. 603180
 2:12:55 PM Sen. Rouson
 2:15:46 PM Am. 311942
 2:15:51 PM Sen. Rouson
 2:16:08 PM Am. 839790

2:16:16 PM Sen. Rouson
2:16:52 PM Victoria Zepp, Chief Policy Officer, FCC (waives in support)
2:17:10 PM S 122 (cont.)
2:17:19 PM Eric Stern, Legislative Communications Member, Florida PTA (waives in support)
2:17:22 PM Jordan Reed, Legislative Intern, National Association of Social Workers Florida (waives in support)
2:17:26 PM Chris Card, Chief of Community Based Care, Eckerd Connects (waives in support)
2:17:29 PM V. Zepp (waives in support)
2:17:38 PM Sen. Rouson
2:18:48 PM S 836
2:19:05 PM Sen. Simmons
2:20:05 PM Eric Stern, Legislative Communications Member, Florida PTA (waives in support)
2:21:07 PM S 1092
2:21:11 PM Sen. Bean
2:21:50 PM Ray Colburn, Executive Director, Florida Firechiefs' Association (waives in support)
2:21:56 PM Meredith Stanfield, Director of Legislative and Cabinet Affairs, Chief Financial Officer's Office (waives in support)
2:22:00 PM Wayne Bernoska, President, Florida Professional Firefighters (waives in support)
2:22:07 PM Robert Chapman, State Employee, Self (waives in support)
2:22:13 PM Amber Hughes, Senior Legislative Advocate, Florida League of Cities (waives in support)
2:23:16 PM S 1404
2:23:25 PM S 1118
2:23:34 PM Am. 773884
2:23:46 PM Sen. Brandes
2:24:17 PM Am. 676616
2:24:25 PM Sen. Brandes
2:24:53 PM Am. 162448
2:25:04 PM S 1118 (cont.)
2:25:13 PM Sen. Rouson
2:25:24 PM Sen. Brandes
2:26:12 PM Jared Torres, Legislative Affairs Director, Florida Department of Corrections (waives in support)
2:27:21 PM S 1116
2:27:24 PM Sen. Brandes
2:27:39 PM Jared Torres, Legislative Affairs Director, Florida Department of Corrections (waives in support)
2:28:36 PM S 1552
2:28:37 PM Am. 481528
2:28:48 PM Sen. Flores
2:29:13 PM Ron Draa, Director of External Affairs, Florida Department of Law Enforcement (waives in support)
2:30:16 PM S 1556
2:30:17 PM Sen Bean
2:30:52 PM Am. 760806
2:31:00 PM Sen. Bean
2:31:20 PM S 1556 (cont.)
2:31:24 PM Dixie Sansom, Lobbyist, The Arc of Florida (waives in support)
2:32:17 PM Sen. Bradley
2:32:23 PM Sen. Braynon
2:32:40 PM Sen. Powell
2:32:46 PM Sen. Stewart
2:32:51 PM Sen. Rouson
2:33:02 PM Sen. Gibson
2:33:13 PM Sen. Thurston
2:33:25 PM Sen. Book
2:33:28 PM Sen. Montford
2:33:33 PM Sen. Thurston
2:33:39 PM Sen. Stargel
2:34:04 PM Sen. Bradley
2:34:14 PM Sen. Benacquisto
2:34:20 PM Sen. Flores
2:34:24 PM Sen. Bean
2:34:40 PM Sen. Simmons
2:35:52 PM S 1742
2:36:03 PM Sen. Bean
2:36:31 PM Am. 808052

2:36:46 PM Sen. Bean
2:37:03 PM S 1742 (cont.)
2:37:10 PM Jack Hebert, Government Affairs Director, Florida Chiropractic Association (waives in support)
2:38:07 PM Sen. Simpson
2:38:26 PM Sen. Gainer
2:38:43 PM S 1784
2:38:47 PM Am. 776336
2:39:06 PM Sen. Gainer
2:40:48 PM S 7012
2:40:54 PM Am. 195908
2:41:17 PM Sen. Book
2:42:41 PM Am. 661030
2:42:46 PM Sen. Book
2:43:32 PM Am. 401064
2:43:36 PM Sen. Book
2:44:01 PM S 7012 (cont.)
2:44:23 PM Sen. Rouson
2:44:51 PM Sen. Book
2:45:17 PM Matt Puckett, Lobbyist, Florida Police Benevolent Association (waives in support)
2:46:44 PM Sen. Bradley
2:47:46 PM S 7058
2:47:58 PM Sen. Gainer
2:48:41 PM B.D. Jogerst, Legislative Assistant, Associated Industries of Florida (waives in support)
2:48:48 PM Sen. Gainer
2:48:58 PM Sen. Bradley
2:50:07 PM S 7018
2:50:14 PM Am. 857014
2:50:46 PM Sen. Lee
2:52:18 PM Am. 721886
2:52:23 PM Sen. Lee
2:52:59 PM Am. 932702
2:53:04 PM Sen. Lee
2:53:35 PM Sen. Powell
2:54:11 PM Sen. Lee
2:55:25 PM Sen. Powell
2:55:55 PM Sen. Lee
2:56:53 PM Sen. Powell
2:57:01 PM Sen. Lee
2:57:24 PM Am. 219506
2:57:30 PM Sen. Lee
2:58:38 PM S 7018 (cont.)
2:58:45 PM Amy Datz, Transit Planner Activist, Environmental Caucus of Florida
3:02:24 PM Lindsay Cross, Government Relations Director, Florida Conservation Voters
3:05:20 PM Amber Hughes, Senior Legislative Advocate, Florida League of Cities (waives in opposition)
3:05:27 PM Melanie Bostick, Vice President, Liberty Partners of Tallahassee/Advanced Energy Economy (waives in support)
3:05:33 PM Matt Alford, Executive Director, Drive Electric Florida (waives in support)
3:05:37 PM Taylor Biehl, Director of Government Affairs, Tesla (waives in support)
3:05:50 PM Sen. Lee
3:09:03 PM Sen. Flores
3:09:20 PM Sen. Lee
3:09:55 PM Sen. Benacquisto
3:10:05 PM