

<b>Tab 1</b>	<b>SB 280 by Baxley (CO-INTRODUCERS) Berman, Bracy, Diaz;</b> (Similar to CS/H 00157) Cardiopulmonary Resuscitation Training in Public Schools					
<b>Tab 2</b>	<b>CS/SB 360 by CA, Hooper;</b> (Similar to CS/CS/H 00415) Fire Prevention and Control					
<b>Tab 3</b>	<b>CS/SB 368 by JU, Baxley;</b> (Similar to CS/CS/1ST ENG/H 00441) Elder-focused Dispute Resolution Process					
417370	D	S	RCS	AP, Baxley	Delete everything after	04/22 04:42 PM
<b>Tab 4</b>	<b>CS/SB 390 by BI, Wright;</b> (Compare to CS/H 01155) Prescription Drug Coverage					
<b>Tab 5</b>	<b>CS/SB 414 by CF, Perry (CO-INTRODUCERS) Boyd, Rouson;</b> (Similar to CS/CS/H 01349) Economic Self-sufficiency					
562418	A	S	RCS	AP, Perry	Delete L.58 - 104:	04/22 03:48 PM
<b>Tab 6</b>	<b>SB 586 by Wright (CO-INTRODUCERS) Perry, Stewart, Farmer;</b> (Identical to H 00435) Veterans Employment and Training					
<b>Tab 7</b>	<b>CS/SB 894 by HP, Diaz;</b> (Compare to CS/CS/1ST ENG/H 00431) Physician Assistants					
282916	PCS	S	RCS	AP, AHS		04/22 03:50 PM
254840	A	S	RCS	AP, Diaz	Delete L.159 - 535:	04/22 03:50 PM
<b>Tab 8</b>	<b>CS/SB 934 by ED, Wright;</b> (Similar to CS/H 01159) Education					
233914	PCS	S	RCS	AP, AED		04/22 03:52 PM
894982	A	S	RCS	AP, Wright	Delete L.79 - 113:	04/22 03:52 PM
<b>Tab 9</b>	<b>CS/SB 938 by ED, Wright;</b> (Similar to CS/CS/CS/H 00429) Purple Star Campuses					
420898	D	S	RCS	AP, Wright	Delete everything after	04/22 03:53 PM
<b>Tab 10</b>	<b>SB 996 by Garcia (CO-INTRODUCERS) Hutson;</b> (Identical to CS/H 00649) Community Associations					
<b>Tab 11</b>	<b>CS/SB 1082 by TR, Albritton;</b> (Similar to CS/H 00077) Diesel Exhaust Fluid					
111502	A	S	RCS	AP, Albritton	Delete L.77:	04/22 04:03 PM
247654	A	S	L RCS	AP, Albritton	btw L.76 - 77:	04/22 04:03 PM
<b>Tab 12</b>	<b>CS/SB 1084 by HP, Pizzo (CO-INTRODUCERS) Book, Rodriguez;</b> (Similar to CS/CS/CS/1ST ENG/H 00805) Volunteer Ambulance Services					
<b>Tab 13</b>	<b>SJR 1182 by Brandes;</b> (Identical to H 01377) Limitation on the Assessment of Real Property/Residential Purposes					
<b>Tab 14</b>	<b>CS/CS/SB 1186 by FT, CA, Brandes;</b> (Similar to CS/CS/H 01379) Property Assessments for Elevated Properties					
324278	D	S	L RCS	AP, Brandes	Delete everything after	04/22 04:06 PM
<b>Tab 15</b>	<b>CS/SB 1256 by CA, Polsky;</b> (Identical to CS/CS/H 00597) Homestead Exemption for Seniors 65 and Older					

**Tab 16 SB 1282 by Harrell; (Similar to CS/CS/2ND ENG/H 00419) Early Learning and Early Grade Success**

112068	PCS	S	RCS	AP, AED		04/22 04:14 PM
923476	A	S	RCS	AP, Harrell	Delete L.394 - 402.	04/22 04:14 PM
657762	A	S	RCS	AP, Harrell	Delete L.660 - 661:	04/22 04:14 PM
693470	A	S	RCS	AP, Harrell	Delete L.1438 - 1445:	04/22 04:14 PM
346066	A	S	L RCS	AP, Harrell	Delete L.1715 - 1717:	04/22 04:14 PM
260284	A	S	L RCS	AP, Harrell	Delete L.2213 - 2297:	04/22 04:14 PM
961452	A	S	L RCS	AP, Harrell	Delete L.821 - 924:	04/22 04:14 PM

**Tab 17 SB 1482 by Garcia (CO-INTRODUCERS) Pizzo; (Similar to CS/1ST ENG/H 01177) Biscayne Bay**

305928	PCS	S	RCS	AP, AEG		04/22 04:15 PM
554170	A	S	RCS	AP, Pizzo	Delete L.36 - 38:	04/22 04:15 PM

**Tab 18 CS/SB 1530 by CJ, Book; (Compare to CS/CS/H 01189) Victims of Sexual Offenses**

549558	PCS	S	RCS	AP, ACJ		04/22 04:18 PM
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**Tab 19 SB 1976 by Brodeur; (Similar to CS/1ST ENG/H 01157) Freestanding Emergency Departments**

410084	PCS	S	RCS	AP, AHS		04/22 04:18 PM
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**Tab 20 HB 1359 by Brannan; (Similar to CS/S 01502) Pub. Rec./Department of Highway Safety and Motor Vehicles**

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**APPROPRIATIONS**  
**Senator Stargel, Chair**  
**Senator Bean, Vice Chair**

**MEETING DATE:** Wednesday, April 21, 2021  
**TIME:** 4:30—6:30 p.m.  
**PLACE:** Pat Thomas Committee Room, 412 Knott Building

**MEMBERS:** Senator Stargel, Chair; Senator Bean, Vice Chair; Senators Albritton, Book, Bracy, Brandes, Broxson, Diaz, Farmer, Gainer, Gibson, Hooper, Hutson, Mayfield, Passidomo, Perry, Pizzo, Powell, Rouson, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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Public Testimony will be received from 412 Knott. There is limited seating due to social distancing guidelines. Members of the public are asked to enter through the main (first floor) entrance of the Knott Building.

1	<b>SB 280</b> Baxley (Similar CS/H 157)	Cardiopulmonary Resuscitation Training in Public Schools; Providing that school districts are encouraged to provide basic training in first aid, including cardiopulmonary resuscitation, in specified grades; requiring school districts to provide basic training in first aid, including cardiopulmonary resuscitation, in specified grades; revising requirements for instruction in cardiopulmonary resuscitation, etc.  ED 02/16/2021 Favorable AED 04/13/2021 Favorable AP 04/21/2021 Favorable	Favorable Yeas 20 Nays 0
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With subcommittee recommendation - Education

2	<b>CS/SB 360</b> Community Affairs / Hooper (Similar CS/CS/H 415, Compare H 587, CS/CS/CS/H 1209, CS/S 1408, S 1902)	Fire Prevention and Control; Authorizing the use of radio communication enhancement systems to comply with minimum radio signal strength requirements; prohibiting the authority having jurisdiction from requiring certain radio communication enhancement systems in apartments or buildings of a certain height; revising the transitory period for compliance; providing an exception to the prohibition against installing or transporting certain radio equipment using law enforcement or fire rescue frequencies, etc.  CA 03/03/2021 Fav/CS BI 03/30/2021 Favorable AP 04/21/2021 Not Considered	Not Considered
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**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	<b>CS/SB 368</b> Judiciary / Baxley (Similar CS/CS/H 441)	Elder-focused Dispute Resolution Process; Authorizing the courts to appoint an eldercaring coordinator and refer certain parties and elders to eldercaring coordination; prohibiting the courts from referring certain parties to eldercaring coordination without the consent of the elder and other parties to the action; requiring the courts to conduct intermittent review hearings regarding the conclusion or extension of such appointments; requiring prospective eldercaring coordinators to submit fingerprints for purposes of criminal history background screening; requiring that notice of hearing on removal of a coordinator be timely served, etc.  CF 02/03/2021 Favorable JU 03/15/2021 Fav/CS AP 04/21/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
4	<b>CS/SB 390</b> Banking and Insurance / Wright (Compare CS/H 1155)	Prescription Drug Coverage; Authorizing the Office of Insurance Regulation to examine pharmacy benefit managers; revising the entities conducting pharmacy audits to which certain requirements and restrictions apply; authorizing the office to require health insurers to submit to the office certain contracts or contract amendments entered into with pharmacy benefit managers; requiring certain health benefit plans covering small employers to comply with certain provisions, etc.  BI 03/16/2021 Fav/CS AEG 04/13/2021 Favorable AP 04/21/2021 Favorable	Favorable Yeas 19 Nays 0
With subcommittee recommendation - Agriculture, Environment, and General Government			
5	<b>CS/SB 414</b> Children, Families, and Elder Affairs / Perry (Similar CS/CS/H 1349)	Economic Self-sufficiency; Revising the priority the early learning coalition is required to give children for participation in a school readiness program; requiring the Office of Early Learning within the Department of Education, in coordination with the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies, to conduct an analysis of certain assistance programs; requiring certain agencies to enter into a data-sharing agreement with certain entities and annually provide certain data by a specified date; requiring the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies to provide an annual report on the analysis to the Office of Early Learning by a specified date; providing for the scheduled expiration of the assistance program analysis project, etc.  CF 03/23/2021 Fav/CS AHS 04/08/2021 Favorable AP 04/21/2021 Fav/CS	Fav/CS Yeas 18 Nays 0



**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
With subcommittee recommendation – Health and Human Services			
6	<b>SB 586</b> Wright (Identical H 435)	Veterans Employment and Training; Directing Florida Is For Veterans, Inc., to serve as the state's principal assistance organization under the United States Department of Defense's SkillBridge program; prescribing duties of the corporation to facilitate the administration of the SkillBridge program, etc.  MS 03/01/2021 Favorable CM 03/09/2021 Favorable AP 04/21/2021 Favorable	Favorable Yeas 20 Nays 0
<b>A proposed committee substitute</b> for the following bill (CS/SB 894) is available:			
7	<b>CS/SB 894</b> Health Policy / Diaz (Compare CS/CS/H 431, H 1299)	Physician Assistants; Deleting a limitation on the number of physician assistants a physician may supervise at one time; deleting a requirement that a physician assistant inform his or her patients that they have the right to see a physician before the physician assistant prescribes or dispenses a prescription; authorizing physician assistants to procure drugs and medical devices; authorizing physician assistants to bill for and receive direct payment for services they deliver, etc.  HP 03/17/2021 Fav/CS AHS 04/08/2021 Fav/CS AP 04/21/2021 Fav/CS	Fav/CS Yeas 17 Nays 3
With subcommittee recommendation – Health and Human Services			
<b>A proposed committee substitute</b> for the following bill (CS/SB 934) is available:			
8	<b>CS/SB 934</b> Education / Wright (Similar CS/H 1159, Compare CS/H 7011, S 1898)	Education; Requiring additional specified strategies to be included in rules establishing uniform core curricula for each state-approved teacher preparation program; expanding the instruction that an educator preparation institute may provide to include instruction and professional development for part-time and full-time nondegreed teachers of career programs; requiring the Department of Education to approve a certification program if an institute provides evidence of its capacity to implement a competency-based program that includes specified strategies; revising the minimum qualifications for part-time and full-time nondegreed teachers of career programs, etc.  ED 03/02/2021 Fav/CS AED 04/08/2021 Fav/CS AP 04/21/2021 Fav/CS	Fav/CS Yeas 19 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
With subcommittee recommendation - Education			
9	<b>CS/SB 938</b> Education / Wright (Similar CS/CS/CS/H 429, H 633)	Purple Star Campuses; Requiring the Department of Education to establish the Purple Star Campus program; specifying program criteria for participating schools; authorizing the department to establish additional program eligibility criteria; authorizing schools to partner with school districts to meet such criteria; requiring the State Board of Education to adopt rules, etc.  ED 03/09/2021 Fav/CS MS 03/16/2021 Favorable AP 04/21/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
10	<b>SB 996</b> Garcia (Identical CS/H 649, Compare S 1998)	Community Associations; Specifying requirements for the contents, delivery, and posting of certain association notices; providing that certain associations have the right to seek judicial review, appeal decisions, and represent unit or parcel owners in certain proceedings; providing and revising the parties considered as the defendants in a tax suit; providing unit or parcel owners' options for defending a tax suit; providing that a condominium association may take certain actions relating to a challenge to ad valorem taxes in its own name or on behalf of unit owners, etc.  RI 03/01/2021 Favorable FT 03/18/2021 Favorable AP 04/21/2021 Favorable	Favorable Yeas 19 Nays 0
11	<b>CS/SB 1082</b> Transportation / Albritton (Similar CS/H 77)	Diesel Exhaust Fluid; Requiring specified public airports to require a diesel exhaust fluid safety mitigation and exclusion plan for certain fixed-base operators; requiring public airports to make such plans available for review during inspections by the Department of Transportation after a specified date; requiring the department to convene a workgroup of public airport representatives by a specified date to develop specified uniform industry standards, etc.  TR 03/03/2021 Temporarily Postponed TR 03/24/2021 Fav/CS AP 04/21/2021 Fav/CS RC	Fav/CS Yeas 20 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations

Wednesday, April 21, 2021, 4:30—6:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	<b>CS/SB 1084</b> Health Policy / Pizzo (Similar CS/CS/CS/H 805)	Volunteer Ambulance Services; Authorizing certain medical staff of a volunteer ambulance service to use red lights on a privately owned vehicle under certain circumstances; authorizing vehicles of volunteer ambulance services to show or display red lights and operate emergency lights and sirens under certain circumstances; prohibiting certain medical staff of volunteer ambulance services from operating red warning signals when not responding to an emergency in the line of duty; exempting certain first responder agencies from certificate of public convenience and necessity requirements, etc.  HP 03/10/2021 Fav/CS AP 04/21/2021 Favorable	Favorable Yeas 16 Nays 3
13	<b>SJR 1182</b> Brandes (Identical HJR 1377, Compare CS/CS/H 1379, Linked CS/CS/S 1186)	Limitation on the Assessment of Real Property/Residential Purposes; Proposing amendments to the State Constitution, effective January 1, 2023, to authorize the Legislature, by general law, to prohibit the consideration of any change or improvement made to real property used for residential purposes to improve the property's resistance to flood damage in determining the assessed value of such property for ad valorem taxation purposes, etc.  CA 03/10/2021 Favorable FT 04/14/2021 Favorable AP 04/21/2021 Favorable	Favorable Yeas 20 Nays 0
14	<b>CS/CS/SB 1186</b> Finance and Tax / Community Affairs / Brandes (Similar CS/CS/H 1379, Compare HJR 1377, Linked SJR 1182)	Property Assessments for Elevated Properties; Specifying that changes to elevate certain homestead and nonhomestead residential property, respectively, do not increase the assessed value of the property under certain circumstances; requiring property owners to provide certification for such property; prohibiting certain areas from being included in square footage calculation, etc.  CA 03/10/2021 Fav/CS FT 04/14/2021 Fav/CS AP 04/21/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
15	<b>CS/SB 1256</b> Community Affairs / Polsky (Identical CS/CS/H 597)	Homestead Exemption for Seniors 65 and Older; Revising provisions to require certain taxpayers to submit a claim for homestead exemption only one time if certain conditions are met; requiring the property appraiser to provide specified information related to income limitations on an annual basis, etc.  CA 03/16/2021 Fav/CS FT 03/25/2021 Favorable AP 04/21/2021 Favorable	Favorable Yeas 20 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations

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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 (SB 1282) is available:

16	<b>SB 1282</b> Harrell (Similar CS/CS/H 419, Compare CS/H 575, CS/H 7011, S 1336, S 1898)	Early Learning and Early Grade Success; Deleting the Office of Early Learning from within the Office of Independent Education and Parental Choice of the Department of Education; establishing the Division of Early Learning within the department; revising approved child care or early education settings for the placement of certain children; requiring each parent who enrolls his or her child in the Voluntary Prekindergarten Education Program to allow his or her child to participate in a specified screening and progress monitoring program; revising the performance standards for the Voluntary Prekindergarten Education Program; authorizing certain students who enrolled in the Voluntary Prekindergarten Education Program to receive intensive reading interventions using specified funds, etc.  ED 03/23/2021 Favorable AED 04/08/2021 Fav/CS AP 04/21/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
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With subcommittee recommendation - Education

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**A proposed committee substitute** for the following bill (SB 1482) is available:

17	<b>SB 1482</b> Garcia (Similar CS/H 1177)	Biscayne Bay; Establishing the Biscayne Bay Commission; providing for commission purpose, membership, duties, and authority; prohibiting sewage disposal facilities from disposing of any wastes into Biscayne Bay, etc.  EN 03/15/2021 Favorable AEG 04/08/2021 Fav/CS AP 04/21/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
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With subcommittee recommendation - Agriculture, Environment, and General Government

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**A proposed committee substitute** for the following bill (CS/SB 1530) is available:

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	<b>CS/SB 1530</b> Criminal Justice / Book (Compare CS/CS/H 1189)	Victims of Sexual Offenses; Authorizing a victim of sexual battery or cyberstalking to petition the Governor to disqualify a state attorney under certain circumstances; requiring county health departments to participate in local sexual assault response teams coordinated by local certified rape crisis centers if such a team exists; authorizing the certified rape crisis center serving the county to coordinate with community partners to establish a local or regional team if a local sexual assault response team does not exist; requiring teams to promote and support the use of sexual assault forensic examiners meeting certain requirements, etc.  CJ 03/23/2021 Fav/CS ACJ 04/08/2021 Fav/CS AP 04/21/2021 Fav/CS	Fav/CS Yeas 18 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			
<b>A proposed committee substitute</b> for the following bill (SB 1976) is available:			
19	<b>SB 1976</b> Brodeur (Similar CS/H 1157)	Freestanding Emergency Departments; Deleting an obsolete provision relating to a prohibition on new emergency departments located off the premises of licensed hospitals; prohibiting a freestanding emergency department from holding itself out to the public as an urgent care center; requiring a freestanding emergency department to clearly identify itself as a hospital emergency department using certain signage; requiring a freestanding emergency department to post signs in certain locations which contain specified statements; requiring health insurers to post certain information regarding appropriate use of emergency care services on their websites and update such information at least annually, etc.  HP 03/24/2021 Favorable AHS 04/08/2021 Fav/CS AP 04/21/2021 Fav/CS	Fav/CS Yeas 19 Nays 1
With subcommittee recommendation – Health and Human Services			
20	<b>HB 1359, 1st Eng.</b> Brannan (Similar CS/S 1502, Compare S 1134, CS/S 1500, Linked CS/H 1151)	Pub. Rec./Department of Highway Safety and Motor Vehicles; Provides exemption from public records requirements for information received by DHSMV as result of investigation or examination conducted pursuant to certain provisions; authorizes DHSMV to release such information under certain circumstances; provides for future legislative review & repeal of exemption; provides statement of public necessity.  AP 04/21/2021 Favorable	Favorable Yeas 19 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations

Wednesday, April 21, 2021, 4:30—6:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Other Related Meeting Documents		

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 280

INTRODUCER: Senator Baxley and others

SUBJECT: Cardiopulmonary Resuscitation Training in Public Schools

DATE: April 21, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jahnke</u>	<u>Bouck</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<b>Recommend: Favorable</b>
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<b>Favorable</b>

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**I. Summary:**

SB 280 modifies the provision by school districts to provide basic training in first aid, including cardiopulmonary resuscitation (CPR), and the use of an automated external defibrillator during the instruction. Specifically, the bill:

- Alters the encouragement for school districts to provide basic training in first aid, including CPR, for all students beginning in grade 6 and every two years thereafter to specify such instruction for students in grade 6 and grade 8.
- Requires school districts to provide basic training in first aid, including CPR, for all students in grade 9 and grade 11.
- Specifies the use of basic, hands-only CPR instruction. This instruction must be based on a one-hour, nationally recognized training program that uses the most current evidence-based emergency cardiovascular care guidelines.
- Removes the requirement to use an automated external defibrillator in instructional practice when a school district has the equipment necessary to perform the instruction.

The bill does not require a state appropriation. See Section V.

The bill takes effect July 1, 2021.

## II. Present Situation:

### Cardiac Arrest

Heart disease is the leading cause of death in the United States.<sup>1</sup> Sudden cardiac arrest is the leading cause of death for student athletes.<sup>2</sup> Cardiac arrest is the abrupt loss of heart function in a person who may or may not have been diagnosed with heart disease. It can come on suddenly or in the wake of other symptoms. Cardiac arrest is often fatal if appropriate steps are not taken immediately. More than 356,000 cardiac arrests occur outside a hospital in the United States each year.<sup>3</sup> Among those cardiac arrests, 7,037 children experience cardiac arrest outside a hospital.<sup>4</sup>

Though the vast majority of cardiac arrests occur at home, about 19 percent in adults and 13 percent in children happen in public. Bystander cardiopulmonary resuscitation (CPR) can double or triple a person's chances of survival if started immediately.<sup>5</sup> One major barrier to bystanders providing lifesaving care for cardiac arrest victims is a lack of training, especially in how to perform CPR.<sup>6</sup>

Certain people, including people in low-income, Black, and Hispanic neighborhoods, are less likely to receive CPR from bystanders than people in high-income white neighborhoods.<sup>7</sup> Research has indicated that older age, lesser education, and lower income were associated with reduced likelihood of CPR training. These findings illustrate important gaps in CPR education in the United States and suggest the need to develop tailored CPR training efforts to address this variability.<sup>8</sup>

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<sup>1</sup> Center for Disease Control and Prevention, *Heart Disease*, <https://www.cdc.gov/heartdisease/facts.htm> (last visited Feb. 5, 2021).

<sup>2</sup> Mayo Clinic, *Sudden death in young people: Heart problems often blamed*, <https://www.mayoclinic.org/diseases-conditions/sudden-cardiac-arrest/in-depth/sudden-death/art-20047571> (last visited Feb. 5, 2021). Section 1006.165(1)(b), F.S. requires a school employee or volunteer with current training in cardiopulmonary resuscitation and use of a defibrillator to be present at each athletic event during and outside of the school year, including athletic contests, practices, workouts, and conditioning sessions. The training must include completion of a course in cardiopulmonary resuscitation or a basic first aid course that includes cardiopulmonary resuscitation training, and demonstrated proficiency in the use of a defibrillator. Each employee or volunteer who is reasonably expected to use a defibrillator must complete this training.

<sup>3</sup> American Heart Association, *About Cardiac Arrest*, <https://www.heart.org/en/health-topics/cardiac-arrest/about-cardiac-arrest> (Last visited Feb. 8, 2021).

<sup>4</sup> American Academy of Pediatrics, *Advocating for Life Support training of Children, Parents, Caregivers, School Personnel, and the Public*, <https://pediatrics.aappublications.org/content/141/6/e20180705#ref-1> (last visited Feb. 8, 2021).

<sup>5</sup> American Heart Association, *Why Women fear performing CPR on women – and what to do about it*, <https://www.heart.org/en/news/2020/11/23/why-people-fear-performing-cpr-on-women-and-what-to-do-about-it> (last visited Feb. 8, 2021).

<sup>6</sup> University of Virginia Health, *Bystanders can Help More Cardiac Arrest Victims Survive*, <https://newsroom.uvahealth.com/2019/12/11/bystanders-save-cardiac-arrest-patients/> (last visited Feb. 8, 2021).

<sup>7</sup> Centers for Disease Control and Prevention, *Three Things You May Not Know About CPR*, <https://www.cdc.gov/heartdisease/cpr.htm> (last visited Feb. 8, 2021).

<sup>8</sup> Journal of the American Heart Association, *Cardiopulmonary Resuscitation Training Disparities in the United States*, <https://www.ahajournals.org/doi/10.1161/JAHA.117.006124> (last visited Feb. 12, 2021).



## State Required Cardiopulmonary Resuscitation Training

According to the American Heart Association, 38 states and Washington D.C. have passed laws or adopted curriculum requiring hands-on, guidelines-based CPR training for students to graduate high school.<sup>9</sup>

Currently, Florida school districts are encouraged, but not required, to provide basic training in first aid, including CPR for all students beginning in grade 6 and every two years thereafter. Private and public partnerships for providing training or necessary funding are also encouraged.<sup>10</sup>

### *Next Generation Sunshine State Standards*

There is currently one benchmark related to CPR within the Next Generation Sunshine State Standards for Physical Education, which requires students to demonstrate basic CPR procedures.<sup>11</sup> There are multiple courses at the high school level that incorporate instruction in basic first aid and CPR procedures, including:

- Health Opportunities through Physical Education (HOPE);
- First Aid and Safety;
- Care and Prevention of Athletic Injuries;
- Water Safety;
- Personal Fitness Trainer;
- Access Health Opportunities Through Physical Education;
- Florida's Preinternational Baccalaureate Personal Fitness; and
- United States Coast Guard Leadership and Operations.<sup>12</sup>

Although not a requirement, districts currently providing instruction offer hands-only CPR through HOPE and other physical education courses.<sup>13</sup> According to the Florida Department of Education, most districts providing this instruction partner with the American Heart Association in their area, for both the instructors and necessary equipment. A program offered by the American Heart Association<sup>14</sup> is an example of a nationally recognized training program using the most current evidence-based<sup>15</sup> emergency cardiovascular care guidelines.

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<sup>9</sup> American Heart Association, *CPR training at school now required in 38 states*, <https://www.heart.org/en/news/2018/08/22/cpr-training-at-school-now-required-in-38-states> (last visited Feb. 5, 2021).

<sup>10</sup> Section 1003.453(3), F.S.

<sup>11</sup> CPALMS, Standards, *Physical Education, PE.912.M.1.17, Benchmark Information*, <https://www.cpalms.org/Public/PreviewStandard/Preview/8022> (last visited Feb. 12, 2021).

<sup>12</sup> CPALMS, Standards, *Physical Education, PE.912.M.1.17, Related Courses*, <https://www.cpalms.org/Public/PreviewStandard/Preview/8022> (last visited Feb. 12, 2021). CPALMS, Course, *First Aid and Safety (#0800320)*, <https://www.cpalms.org/Public/PreviewCourse/Preview/4688> (last visited Feb. 12, 2021).

<sup>13</sup> Email, Florida Department of Education, Legislative Affairs (Feb. 9, 2021) (on file with the Senate Committee on Education).

<sup>14</sup> American Heart Association, *CPR in Schools*, <https://cpr.heart.org/en/training-programs/community-programs/cpr-in-schools> (last visited Feb. 9, 2021).

<sup>15</sup> "Evidence-based" implies sufficient clinical trial evidence to document the impact and need for each element of a specific guideline. National Center for Biotechnology Information, *Resuscitation Research and Continuous Quality Improvement* [https://www.ncbi.nlm.nih.gov/books/NBK321500/#sec\\_000159](https://www.ncbi.nlm.nih.gov/books/NBK321500/#sec_000159) (last visited Feb. 12, 2021).

### III. Effect of Proposed Changes:

This bill amends s. 1003.453(3), F.S., to specify that the encouragement for school districts to provide basic training in first aid, including cardiopulmonary resuscitation (CPR), applies to students in grade 6 and grade 8.

The bill requires school districts to provide basic training in first aid, including CPR, for all students in grade 9 and grade 11.

The bill clarifies instruction in CPR as basic, hands-only. The bill retains the requirement that a training program must use the most current evidence-based emergency cardiovascular care guidelines, but specifies that the instruction must be based on a one-hour nationally recognized training program. The bill does not specify a particular training program. In addition, it is unclear if such instruction must be limited to one hour.

Hands-only CPR involves chest compressions only and does not require mouth-to-mouth breathing.<sup>16</sup> Being trained in hands-only CPR increases the chances of a bystander taking action in a cardiac emergency.<sup>17</sup> Requiring instruction in first aid and CPR may help a student prevent or mitigate a potentially life threatening situation.

Additionally, the bill removes the requirement to use an automated external defibrillator in instructional practice when a school district has the equipment necessary to perform the instruction.

This bill takes effect 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.

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<sup>16</sup> American Heart Association, *Hands-Only CPR*, <https://cpr.heart.org/en/cpr-courses-and-kits/hands-only-cpr> (Last visited Feb. 8, 2021).

<sup>17</sup> American Heart Association, *FAQ: Hands-Only CPR*, available at [https://cpr.heart.org/-/media/cpr-files/courses-and-kits/hands-only-cpr/handsonly-cpr-faqs-ucm\\_494175.pdf?la=en](https://cpr.heart.org/-/media/cpr-files/courses-and-kits/hands-only-cpr/handsonly-cpr-faqs-ucm_494175.pdf?la=en).

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 does not require a state appropriation. However, a school district that does not currently provide instruction in first aid and cardiopulmonary resuscitation may experience increased costs associated with the requirements of the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1003.453 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 Baxley

12-00084A-21

2021280\_\_

1                           A bill to be entitled  
 2       An act relating to cardiopulmonary resuscitation  
 3       training in public schools; amending s. 1003.453,  
 4       F.S.; providing that school districts are encouraged  
 5       to provide basic training in first aid, including  
 6       cardiopulmonary resuscitation, in specified grades;  
 7       requiring school districts to provide basic training  
 8       in first aid, including cardiopulmonary resuscitation,  
 9       in specified grades; revising requirements for  
 10       instruction in cardiopulmonary resuscitation;  
 11       providing an effective date.  
 12  
 13       WHEREAS, heart disease is the leading cause of death in the  
 14       United States and Florida, and  
 15       WHEREAS, sudden cardiac arrest is the leading cause of  
 16       death on school campuses and of student athletes, and  
 17       WHEREAS, an estimated 1 in 25 United States schools will  
 18       have a sudden death on campus every year, and  
 19       WHEREAS, in 2019, there were approximately 356,000 sudden  
 20       cardiac arrests that occurred in the United States, including  
 21       7,037 children under the age of 18 who experienced sudden  
 22       cardiac arrest, and  
 23       WHEREAS, 70 out of 100 of sudden cardiac arrests happen at  
 24       home, and  
 25       WHEREAS, 9 out of 10 of all sudden cardiac arrests are  
 26       fatal, and  
 27       WHEREAS, only 1 in 10 victims survive a sudden cardiac  
 28       arrest, and  
 29       WHEREAS, only 8 in 100 victims survive a sudden cardiac

Page 1 of 3

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

12-00084A-21

2021280\_\_

30       arrest on school campuses in the United States, and  
 31       WHEREAS, the American Heart Association estimates that at  
 32       least 5 in 10 victims could survive if bystanders performed  
 33       cardiopulmonary resuscitation (CPR) and used automated external  
 34       defibrillators (AEDs) immediately after a cardiac arrest event,  
 35       and  
 36       WHEREAS, African Americans and Latinos are at least two  
 37       times more likely to die from sudden cardiac arrest, African-  
 38       American children are 41 percent less likely to receive CPR, and  
 39       Floridians in poor areas are more likely to die due to lack of  
 40       CPR education, and  
 41       WHEREAS, a University of Washington study showed that 89 in  
 42       100 victims on school campuses would survive a sudden cardiac  
 43       arrest if a well-executed Cardiac Emergency Response Plan were  
 44       implemented at the school campus, and  
 45       WHEREAS, the chain of survival includes prompt recognition  
 46       of a sudden cardiac arrest event, notification of emergency  
 47       services, prompt CPR, AED defibrillation, and advanced cardiac  
 48       life support, and  
 49       WHEREAS, in Florida, there are over 40,000 heart disease  
 50       deaths every single year, and  
 51       WHEREAS, Florida is a leading state for heart disease,  
 52       drownings, lightning strikes, accidental deaths, and accidental  
 53       overdoses, all conditions for which the initial life-saving  
 54       measure is CPR, NOW, THEREFORE,  
 55  
 56       Be It Enacted by the Legislature of the State of Florida:  
 57  
 58       Section 1. Subsection (3) of section 1003.453, Florida

Page 2 of 3

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

12-00084A-21

2021280\_\_

59 Statutes, is amended to read:

60 1003.453 School wellness and physical education policies;  
61 nutrition guidelines.-

62 (3) School districts are encouraged to provide basic  
63 training in first aid, including cardiopulmonary resuscitation,  
64 for all students, ~~beginning in grade 6 and grade 8 every 2 years~~  
65 ~~thereafter.~~ School districts are required to provide basic  
66 training in first aid, including cardiopulmonary resuscitation,  
67 for all students in grade 9 and grade 11. Instruction in the use  
68 of basic, hands-only cardiopulmonary resuscitation must be based  
69 on a one-hour, nationally recognized training program that uses  
70 the most current evidence-based emergency cardiovascular care  
71 guidelines. The instruction must allow students to practice the  
72 psychomotor skills associated with performing cardiopulmonary  
73 resuscitation ~~and use an automated external defibrillator when a~~  
74 ~~school district has the equipment necessary to perform the~~  
75 ~~instruction.~~ Private and public partnerships for providing  
76 training or necessary funding are encouraged.

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

# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

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

## JOINT COMMITTEE:

Joint Legislative Auditing Committee,  
*Alternating Chair*

## SENATOR DENNIS BAXLEY

12th District

April 13, 2021

The Honorable Chair Kelli Stargel  
420 Senate Office Building  
Tallahassee, FL 32399

Dear Chair Stargel,

I would like to request SB 280 Cardiopulmonary Resuscitation Training in Schools be heard in the next Appropriations Committee meeting.

This bill requires school districts to provide basic training in first aid, including CPR, for all students in grade 9 and grade 11. The training must use the most current evidence-based emergency cardiovascular care guidelines, but specifies that the instructions must be based on a one-hour nationally recognized training program.

I appreciate your favorable consideration.

Onward & Upward,



Senator Dennis K. Baxley  
Senate District 12

DKB/dd

cc: Tim Sadberry, Staff Director

## REPLY TO:

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

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

THE FLORIDA SENATE  
APPEARANCE RECORD

4/21/2021  
Meeting Date

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

SB 280  
Bill Number (if applicable)

Topic Cardiopulmonary Resuscitation Training Amendment Barcode (if applicable)

Name Khank-Lien ("Con Lynn") Banko

Job Title Treasurer

Address 1747 Orlando Central Parkway Phone 407-855-7604

Orlando FL 32809  
City State Zip

Email treasurer@flondapta.org

Speaking:  For  Against  Information

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

Representing Florida PTA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4-21-21

Meeting Date

SB280

Bill Number (if applicable)

Topic SB280 CPR Bill

Amendment Barcode (if applicable)

Name Vicki Williams

Job Title \_\_\_\_\_

Address 1349 Conservancy Dr. E

Phone 850-545-2507

Talahassee FL 32312

Email chawil04@comcast.net

City

State

Zip

Speaking:  For  Against  Information

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

Representing The Williams Family

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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

---

BILL: CS/SB 360

INTRODUCER: Community Affairs Committee and Senator Hooper

SUBJECT: Fire Prevention and Control

DATE: April 21, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<b>Fav/CS</b>
2.	<u>Schrader</u>	<u>Knudson</u>	<u>BI</u>	<b>Favorable</b>
3.	<u>Sanders</u>	<u>Sadberry</u>	<u>AP</u>	<b>Pre-meeting</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 360 extends the grace periods during which high-rise buildings are not required to comply with a local authority's minimum radio signal strength standards by five years.

Local fire authorities set minimum standards for radio signal strength throughout buildings within their jurisdictions in order to ensure consistent fire and rescue communication capabilities.

The bill also provides that two-way radio communication enhancement systems may be used to comply with a local authority's minimum radio signal strength requirements, but may not be required by local fire authorities in buildings that are four stories or less in height.

Finally, the bill clarifies that the prohibition against installing and transporting radio equipment that utilizes law enforcement frequencies does not preclude the installation of two-way radio communication enhancement systems.

The bill does not impact state funds or expenditures.

The bill takes effect July 1, 2021.

## II. Present Situation:

### Florida Fire Prevention Code

The State Fire Marshal, by rule, adopts the Florida Fire Prevention Code (Florida Fire Code), which contains all firesafety 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 firesafety laws and rules.<sup>1</sup> The State Fire Marshal adopts a new edition of the Florida Fire Code every three years.<sup>2</sup> The Florida Fire Code is largely based on the *National Fire Protection Association's (NFPA) Standard 1, Fire Prevention Code*, along with the current edition of the *Life Safety Code, NFPA 101*.<sup>3</sup> The 7th edition took effect on December 31, 2020.<sup>4</sup> State law requires all municipalities, counties, and special districts with firesafety responsibilities to enforce the Florida Fire Code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code.<sup>5</sup> The Florida Fire Code applies to every building and structure throughout the state with few exceptions.<sup>6</sup> Municipalities, counties, and special districts with firesafety responsibilities may supplement the Florida Fire Code with more stringent standards adopted in accordance with s. 633.208, F.S.<sup>7</sup>

### Radio Signal Strength for Fire Department Communications

The life safety of firefighters and citizens depends on reliable, functional communication tools that work in the harshest and most hostile of environments.<sup>8</sup> All firefighters, professional and volunteer, operate in extreme environments that are markedly different from those of any other radio users.<sup>9</sup> The radio is the lifeline that connects the firefighters to command and outside assistance when in the most desperate of situations.<sup>10</sup>

Modern focus on radio signal strength stems from difficulties experienced by firefighters attempting rescue operations on September 11, 2001, in the World Trade Towers, who found that in certain areas of the building their radio signal degraded, making live communication difficult or impossible.<sup>11</sup>

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<sup>1</sup> Fla. Admin. Code R. 69A-60.002.

<sup>2</sup> Section 633.202(1), F.S.

<sup>3</sup> Section 633.202(2), F.S.

<sup>4</sup> Division of State Fire Marshal, *Florida Fire Prevention Code*, available at <https://www.myfloridacfo.com/division/sfm/bfp/floridafirepreventioncodepage.htm> (last visited Apr. 1, 2021).

<sup>5</sup> Sections 633.108 and 633.208, F.S.

<sup>6</sup> Section 633.208, F.S., and Fla. Admin. Code R. 69A-60.002(1).

<sup>7</sup> Section 633.208(3), F.S., and Fla. Admin. Code R 69A-60.002(2).

<sup>8</sup> Federal Emergency Management Agency, United States Fire Administration. *Voice Radio Communications Guide for the Fire Service* (June 2016), p. 1, available at [https://www.usfa.fema.gov/downloads/pdf/publications/Voice\\_Radio\\_Communications\\_Guide\\_for\\_the\\_Fire\\_Service.pdf](https://www.usfa.fema.gov/downloads/pdf/publications/Voice_Radio_Communications_Guide_for_the_Fire_Service.pdf) (last visited Apr. 1, 2021).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See *Assessment of Total Evacuation Systems for Tall Buildings: Literature Review*, National Fire Protection Association's (NFPA), available at <https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/Executive-summaries/evacsystemstallbuildingsliteraturereviewexecsum.ashx#:~:text=According%20to%20the%20definition%20of,floor%20of%20the%20highest%20occupiable> (last visited Apr. 1, 2021).

Two-way radio communication enhancement systems are devices installed after a building is constructed that accept and then amplify radio signals used by first responders. A radio frequency site survey may be conducted in a building to determine areas where radio signal strength drops due to materials used in construction, such as thick walls, metal construction, underground structures, and low-emissivity glass windows. The generally desired effect is that radio signal strength at ground level, where a fire rescue operation might be based, is equal to the radio signal strength in all locations throughout the building, to ensure consistent communication. Several devices are available to boost signal strength to meet required radio signal strength. These include bi-directional amplifiers and networks of indoor antennae, referred to collectively as a distributed antenna system.<sup>12</sup>

### **Florida Fire Code Minimum Radio Signal Strength**

The Florida Fire Code provides that all new and existing buildings must maintain minimum radio signal strength at a level determined by the authority having jurisdiction (local fire authorities).<sup>13</sup> Where required by a local fire authority, two-way radio communication enhancement systems must comply with federal standards for installation and upkeep.<sup>14</sup> Additionally, if a two-way radio communication enhancement system would have a negative impact on the operations of a facility, the local fire authority may accept an automatically activated emergency responder radio coverage system in the alternative.<sup>15</sup>

### **Minimum Radio Signal Strength for High-rise Buildings**

Section 633.202(18), F.S., enacted in 2016,<sup>16</sup> provides that local fire authorities must determine minimum radio signal strength for fire department communications in all new and existing high-rise buildings. A high-rise building is defined in the Florida Fire Code as a building greater than 75 feet in height where the building height is measured from the lowest level of fire department vehicle access to the floor of the highest story that can be occupied.<sup>17</sup> Existing high-rise buildings are not required to comply with a local authority's minimum radio strength requirements until January 1, 2022. However, an existing high-rise building must have applied for the appropriate permit for installation of equipment meeting the local authority's standards by December 31, 2019. Existing high-rise apartment buildings are not required to comply until January 1, 2025, and must apply for permits to reach compliance by December 31, 2022.

A 2018 declaratory statement from the Department of Financial Services clarified that the compliance timeframes provided in s. 633.202(18), F.S., apply only to high-rise buildings and do

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<sup>12</sup> See *High-Rise Public Safety System Integrators*, Treasure Island Fire Department, available at [https://www.mytreasureisland.org/residents/departments/fire\\_dept/local\\_high-rise\\_public\\_safety\\_system\\_integrators.php](https://www.mytreasureisland.org/residents/departments/fire_dept/local_high-rise_public_safety_system_integrators.php) (last visited Apr. 1, 2021); *Information Bulletin: Two-Way Radio Communication Enhancement System Requirements*, East Lake Tarpon Special Fire Control District, available at <https://www.elfr.org/files/e2eae3cb2/Bulletin+East+Lake+Two+Way+Communications.pdf> (last visited Apr. 1, 2021).

<sup>13</sup> Florida Fire Prevention Code (7th ed.) s. 11.10.1. The "authority having jurisdiction" is typically the designated head fire and rescue officer of the county, municipality, or special district with fire safety responsibilities over an area.

<sup>14</sup> Florida Fire Prevention Code (7th ed.) s. 11.10.2.

<sup>15</sup> Florida Fire Prevention Code (7th ed.) s. 11.10.3.

<sup>16</sup> Chapter 2016-129, s. 27, Laws of Fla. At the time of its enactment, the subsection was s. 633.202(17), F.S.

<sup>17</sup> NFPA 101, Life Safety Code, 2015 edition - Ch. 3.29.6.

not apply to buildings less than 75 feet in height.<sup>18</sup> Thus, compliance with minimum radio signal strength requirements for non-high-rise buildings is controlled by s. 11.10 of the Florida Fire Code, which provides no grace periods or acceptable timeframes for compliance.

### **Radio Equipment Receiving Law Enforcement Frequencies**

Section 843.16, F.S., makes it unlawful to install or transport any frequency modulation radio receiving equipment so adjusted or tuned as to receive messages or signals on frequencies assigned by the Federal Communications Commission to law enforcement or fire rescue personnel. Section 843.16(3), F.S., provides certain exceptions to this prohibition, including:

- Holders of a valid amateur radio operator or station license issued by the Federal Communications Commission;
- A recognized newspaper or news publication engaged in covering the news on a full-time basis;
- An alarm system contractor certified pursuant to part II of ch. 489, F.S., operating a central monitoring system;
- A sworn law enforcement officer as defined in s. 943.10, F.S., or emergency service employee as defined in s. 496.404, F.S., while using personal transportation to and from work; and
- An employee of a government agency that holds a valid Federal Communications Commission station license or that has a valid agreement or contract allowing access to another agency's radio station.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 633.202(18), F.S., to extend the date by which high-rise buildings must comply with a local authority's minimum radio signal strength requirements by five years. It provides that existing buildings are not required to meet these standards until January 1, 2027 (from January 1, 2022); however, such buildings must apply for an appropriate permit to install required installations to meet the standards by December 31, 2024 (from December 31, 2019). For apartment buildings the same dates are extended from January 1, 2025, to January 1, 2030, and from December 31, 2022, to December 31, 2027, respectively.

This section further provides that two-way radio communication enhancement systems may be used to comply with a local authority's minimum radio signal strength requirements, but may not be required by local fire authorities for buildings that are four stories or fewer in height.

**Section 2** amends s. 843.16, F.S., to clarify that its provisions do not apply to the installation of two-way radio communication enhancement systems for compliance with s. 633.202(18), F.S.

**Section 3** provides that the bill takes effect July 1, 2021.

---

<sup>18</sup> Department of Financial Services Declaratory Statement, *In the Matter of Charles B. Parks, Chief Florida Fire Code Official of Broward County*, (April 18, 2018), available at [https://www.doah.state.fl.us/FLAID/DFS/2018/DFS\\_217787-17-DS\\_12042019\\_013047.pdf](https://www.doah.state.fl.us/FLAID/DFS/2018/DFS_217787-17-DS_12042019_013047.pdf) (last visited Apr. 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:

Private building owners may temporarily delay expenses relating to the push-back the requirement to retrofit out-of-compliance buildings for an additional five years.

## C. Government Sector Impact:

Government building owners may temporarily delay expenses relating to the push-back the requirement to retrofit out-of-compliance buildings for an additional five years.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 633.202 and 843.16.

**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 Community Affairs on March 3, 2021:**

The committee substitute:

- Preserves the term “high-rise” in the bill, maintaining the requirement that only high-rise buildings are subject to the statutory timeframes for compliance with a local authority’s minimum radio signal strength requirements; and
- Provides that two-way radio communication enhancement systems and similar systems may not be required in buildings that are four stories or less in height.

- B. **Amendments:**

None.

By the Committee on Community Affairs; and Senator Hooper

578-02372-21

2021360c1

1 A bill to be entitled  
 2 An act relating to fire prevention and control;  
 3 amending s. 633.202, F.S.; authorizing the use of  
 4 radio communication enhancement systems to comply with  
 5 minimum radio signal strength requirements;  
 6 prohibiting the authority having jurisdiction from  
 7 requiring certain radio communication enhancement  
 8 systems in apartments or buildings of a certain  
 9 height; revising the transitory period for compliance;  
 10 revising the date by which existing apartment  
 11 buildings that are not in compliance must initiate an  
 12 application for an appropriate permit; amending s.  
 13 843.16, F.S.; providing an exception to the  
 14 prohibition against installing or transporting certain  
 15 radio equipment using law enforcement or fire rescue  
 16 frequencies; providing an effective date.  
 17  
 18 Be It Enacted by the Legislature of the State of Florida:  
 19  
 20 Section 1. Subsection (18) of section 633.202, Florida  
 21 Statutes, is amended to read:  
 22 633.202 Florida Fire Prevention Code.—  
 23 (18) The authority having jurisdiction shall determine the  
 24 minimum radio signal strength for fire department communications  
 25 in all new high-rise and existing high-rise buildings. Two-way  
 26 radio communication enhancement systems may be used to comply  
 27 with minimum radio signal strength requirements. However, two-  
 28 way radio communication enhancement systems and similar systems  
 29 may not be required in apartments or buildings that are four

Page 1 of 2

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

578-02372-21

2021360c1

30 stories or less in height. Existing buildings are not required  
 31 to comply with minimum radio strength for fire department  
 32 communications and two-way radio system enhancement  
 33 communications as required by the Florida Fire Prevention Code  
 34 until January 1, 2027 ~~2022~~. However, by December 31, 2024 ~~2019~~,  
 35 an existing building that is not in compliance with the  
 36 requirements for minimum radio strength for fire department  
 37 communications must apply for an appropriate permit for the  
 38 required installation with the local government agency having  
 39 jurisdiction and must demonstrate that the building will become  
 40 compliant by January 1, 2027 ~~2022~~. Existing apartment buildings  
 41 are not required to comply until January 1, 2030 ~~2025~~. However,  
 42 existing apartment buildings are required to apply for the  
 43 appropriate permit for the required communications installation  
 44 by December 31, 2027 ~~2022~~.  
 45 Section 2. Paragraph (f) is added to subsection (3) of  
 46 section 843.16, Florida Statutes, to read:  
 47 843.16 Unlawful to install or transport radio equipment  
 48 using assigned frequency of state or law enforcement officers;  
 49 definitions; exceptions; penalties.—  
 50 (3) This section does not apply to the following:  
 51 (f) The installation of a two-way radio communication  
 52 enhancement system to comply with the requirements of s.  
 53 633.202(18).  
 54 Section 3. This act shall take effect July 1, 2021.

Page 2 of 2

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

4-21-21

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

360

Meeting Date

Bill Number (if applicable)

Topic In building 2-way communication

Amendment Barcode (if applicable)

Name Richard Pinsky

Job Title \_\_\_\_\_

Address 201 E. Park Ave Suite 300

Phone \_\_\_\_\_

Street

Tallahassee FL 32301

Email richardpinsky@atkins.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Emergency Communications Industry 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)



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

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

April 21, 2021

*Meeting Date*

SB 360

*Bill Number (if applicable)*

Topic Fire Prevention and Control

*Amendment Barcode (if applicable)*

Name Chief Ray Colburn

Job Title Executive Director

Address 221 Pinewood Dr.

Phone 407-468-6622

*Street*

Tallahassee

FL

32303

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)

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

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

4/21/21

*Meeting Date*

360

*Bill Number (if applicable)*

Topic Fire Prevention and Control

*Amendment Barcode (if applicable)*

Name Jon Pasqualone

Job Title Executive Director

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Hobe Sound

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*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Fire Marshall and Inspectors 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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 368

INTRODUCER: Appropriations Committee; Judiciary Committee; and Senator Baxley

SUBJECT: Elder-focused Dispute Resolution Process

DATE: April 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Ravelo</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
3.	<u>Forbes</u>	<u>Sadberry</u>	<u>AP</u>	<b>Fav/CS</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 368 creates an alternative dispute resolution process for persons 60 years of age and older who are involved in certain legal proceedings, such as guardianships. Specifically, the bill allows a court to appoint an eldercaring coordinator to assist in disputes that can impact an elder's safety and autonomy.

An eldercaring coordinator may be appointed for up to 2 years, although a court has discretion to extend or suspend the appointment as needed. In order to be appointed as an eldercaring coordinator, an applicant must:

- Meet a professional licensing requirement, such as membership in The Florida Bar or being a licensed nurse;
- Complete 3 years of post-licensing or certification practice;
- Receive training in family and elder mediation;
- Receive 44 hours in eldercare coordinator training, which must offer training on topics including, among other things:
  - Elder, guardianship, and incapacity law;
  - Family dynamics;
  - Multicultural competency; and
  - Elder abuse, neglect, and exploitation.
- Successfully pass a background check; and

- Have not been a respondent in a final order granting an injunction for protection against domestic, dating, sexual, or repeat violence or stalking or exploitation of an elder or a disabled person.

The bill provides that an eldercaring coordinator may be removed or disqualified if the coordinator no longer meets the minimum qualifications or upon court order.

The bill requires an equal amount of fees and costs for eldercaring coordination to be paid by each party, subject to an exception. If a court finds that a party is indigent, the bill prohibits the court from ordering the party to eldercaring coordination unless funds are available to pay the indigent party's allocated portion. Likewise, cases involving exploitation of an elder or domestic violence are ineligible for a referral without the consent of the parties involved.

The bill provides that all communications that meet specified requirements and are made during eldercaring coordination must be kept confidential. The bill provides that parties to the eldercaring coordination, including the coordinator, may not testify unless one of the enumerated exceptions applies. The bill also provides remedies for breaches of confidentiality.

The bill provides legislative findings and requires the Florida Supreme Court to establish minimum standards and procedures for training, qualifications, discipline, and education of eldercaring coordinators. The bill also defines a number of terms, including:

- "Action";
- "Care and safety";
- "Elder";
- "Eldercaring coordination";
- "Eldercaring coordination communication";
- "Eldercaring coordinator";
- "Eldercaring plan";
- "Good cause";
- "Legally authorized decisionmaker";
- "Participant"; and
- "Party."

The Office of State Courts Administrator states that the bill will have an indeterminate fiscal impact on the state court system and no impact on the private sector. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

## II. Present Situation:

### Elder Population

As the country's "baby-boomer" population reaches retirement age and life expectancy increases, the nation's elder population is projected to increase from 49.2 million in 2016<sup>1</sup> to 77 million by 2034.<sup>2</sup> Florida has long been a destination state for senior citizens and has the highest percentage of senior residents in the entire nation.<sup>3</sup> In 2018, individuals aged 65 and older represented approximately 20 percent of Florida's total population.<sup>4</sup> By 2030, this number is projected to increase to 5.9 million, meaning the elderly will make up approximately one quarter of the state's population and it is estimated that individuals age 65 and older will account for approximately 47.9 percent of the state's population growth between 2010 and 2030.<sup>5</sup>

### Mediation

Mediation is a process in which a neutral third person acts to facilitate the resolution of a lawsuit or other dispute between two or more parties.<sup>6</sup> Various statutes currently authorize courts to use mediation to aid in resolving cases, but the statutes also provide that many of the procedural aspects of mediation are to be governed by the Florida Rules of Civil Procedure.<sup>7</sup> Depending on the type of case, there are different circumstances under which a court would refer the matter to mediation. In a lawsuit for money damages, the court must refer the matter to mediation upon the request of a party if the party is willing and able to pay the costs of the mediation or the costs can be equitably divided between the parties.<sup>8</sup> However, a court need not refer such a case to mediation if it involves:

- Medical malpractice or debt collection;
- A landlord-tenant dispute not involving personal injury;
- Disputes covered under the Small Claims Act; or
- One of the few other circumstances set forth in statute.<sup>9</sup>

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<sup>1</sup> Press Release, U.S. Census Bureau, *The Nation's Older Population is Still Growing*, *Census Bureau Reports* (June 22, 2017), Release Number: CB17-100, available at <https://www.census.gov/newsroom/press-releases/2017/cb17-100.html> (last visited April 22, 2021).

<sup>2</sup> Press Release, U.S. Census Bureau, *Older People Projected to Outnumber Children for First Time in U.S. History* (revised Oct. 8, 2019), available at <https://www.census.gov/newsroom/press-releases/2018/cb18-41-population-projections.html> (last visited April 22, 2021).

<sup>3</sup> Pew Research Center, *Where Do the Oldest Americans Live?*, July 9, 2015, available at <https://www.pewresearch.org/fact-tank/2015/07/09/where-do-the-oldest-americans-live/> (last visited April 22, 2021).

<sup>4</sup> U.S. Census Bureau, *Annual Estimates of the Resident Population for Selected Age Groups by Sex for the United States*, available at <https://www.census.gov/newsroom/press-releases/2020/65-older-population-grows.html> (last visited April 22, 2021).

<sup>5</sup> The Office of Economic & Demographic Research (EDR), *Population Data: 2016, 2020, 2025, 2030, 2035, 2040, & 2045, County by Age, Race, Sex, and Hispanic Origin*, p. 89-90 and 269-70, available at [http://edr.state.fl.us/Content/population-demographics/data/Medium\\_Projections\\_ARSH.pdf](http://edr.state.fl.us/Content/population-demographics/data/Medium_Projections_ARSH.pdf) (last visited April 22, 2021); The EDR, *Econographic News: Economic and Demographic News for Decision Makers, 2019, Vol. 1*, available at: <http://edr.state.fl.us/content/population-demographics/reports/econographicnews-2019v1.pdf> (last visited April 22, 2021).

<sup>6</sup> Section 44.1011(2), F.S.; *See also* Fla. Jur. 2d, Arbitration and Award §113.

<sup>7</sup> Section 44.102(1), F.S.

<sup>8</sup> Section 44.102(2)(a), F.S.

<sup>9</sup> *Id.*

Beyond these cases that a court *must* refer to mediation, the court *may*, in general, refer all or part of any other filed civil action to mediation.<sup>10</sup>

### Domestic Violence

Domestic violence means any criminal offense resulting in the physical injury or death of one family or household member<sup>11, 12</sup> by another family or household member, including, but not limited to:

- Assault;<sup>13</sup>
- Aggravated assault;<sup>14</sup>
- Battery;<sup>15</sup>
- Aggravated battery;<sup>16</sup>
- Sexual assault;<sup>17</sup>
- Sexual battery;<sup>18</sup>
- Stalking;<sup>19</sup>
- Aggravated stalking;<sup>20</sup>
- Kidnapping;<sup>21</sup> or

<sup>10</sup> Section 44.102(2)(b)-(d), F.S. Additionally, a court is required or authorized to refer certain family law and dependency matters to litigation, as specified in s. 44.102(2)(c) and (d), F.S.

<sup>11</sup> Section 741.28(2), F.S.

<sup>12</sup> Section 741.28(3), F.S., defines “family or household member” to mean spouses, former spouses, persons related by blood or marriage, persons presently residing together as if a family or who have resided together in the past as a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

<sup>13</sup> Section 784.011, F.S., defines “assault” to mean an intentional, unlawful threat by word or act to do violence to another, coupled with an apparent ability to do so, creating a well-founded fear in such other person that violence is imminent.

<sup>14</sup> Section 784.021, F.S., defines “aggravated assault” means an assault with a deadly weapon without intent to kill or with intent to commit a felony.

<sup>15</sup> Section 784.03, F.S., defines “battery” to mean the actual and intentional touching or striking of another against his or her will or intentionally causing bodily harm to another.

<sup>16</sup> Section 784.045, F.S., defines “aggravated battery” to mean a battery in which the offender: intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; uses a deadly weapon; or victimizes a person the offender knew or should have known was pregnant.

<sup>17</sup> Although not specifically defined under Florida law, “sexual assault” generally has the same meaning as sexual battery. See University of South Florida, *USF Health in South Tampa Annual Security Report 2020*, p. 3-1, available at <https://health.usf.edu/-/media/3573942FF8E04B5F8B3FB4BF956BBC31.ashx> (last visited April 22, 2021).

<sup>18</sup> Section 794.011(1)(h), F.S., defines “sexual battery” to mean oral, anal, or vaginal penetration by, or in union with, the sexual organ of another or the anal or vaginal penetration of another by any object, but does not include an act done for a bona fide medical purpose.

<sup>19</sup> Section 784.048(2), F.S., defines “stalking” to mean willfully, maliciously, and repeatedly following, harassing, or cyberstalking another. Section 784.048(1)(d), F.S., defines “cyberstalk” to mean to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person; or to access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person’s permission, causing substantial emotional distress to that person and serving no legitimate purpose.

<sup>20</sup> Section 784.048(3), F.S., defines “aggravated stalking” to mean willfully, maliciously, and repeatedly following, harassing, or cyberstalking another and making a credible threat to that person.

<sup>21</sup> Section 787.01(1), F.S., defines “kidnapping” to mean forcibly, secretly, or by threat confining, abducting, or imprisoning another against his or her will and without lawful authority with the intent to: hold for ransom or reward or as a shield or

- False imprisonment.<sup>22</sup>

In 2018, Florida law enforcement agencies received 104,914 domestic violence reports,<sup>23</sup> resulting in 64,573 arrests.<sup>24</sup> Additionally, Florida's 41 certified domestic violence shelters<sup>25</sup> admitted new 14,817 victims to a residential services program and 38,869 new victims to a non-residential services program in Fiscal Year 2018-19.<sup>26</sup>

### Exploitation of Vulnerable Adults

The “Adult Protective Services Act” (ch. 415, F.S.) defines abuse as “any willful act or threatened act by a relative, caregiver, or household member, which causes or is likely to cause significant impairment to a vulnerable adult’s<sup>27</sup> physical, mental, or emotional health.”<sup>28</sup> The Adult Protective Services program, located within the Department of Children and Families (DCF), is responsible for investigating allegations of abuse, neglect<sup>29</sup>, or exploitation<sup>30</sup>, as provided in the Adult Protective Services Act.<sup>31</sup>

Section 415.1034, F.S., requires any person who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited to report suspected abuse to the central abuse hotline immediately.

Once a person reports to the central abuse hotline, the DCF must initiate a protective investigation within 24 hours.<sup>32</sup> If a caregiver refuses to allow the DCF to begin a protective investigation or interferes with the investigation, the DCF may contact the appropriate law enforcement agency for assistance.<sup>33</sup>

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hostage; commit or facilitate a felony; inflict bodily harm upon or terrorize another; or interfere with the performance of any governmental or political function.

<sup>22</sup> Section 787.02(1), F.S., defines “false imprisonment” to mean forcibly, by threat, or secretly confining, abducting, imprisoning, or restraining another person without lawful authority and against his or her will.

<sup>23</sup> Florida Department of Law Enforcement, *Florida’s County and Jurisdictional Reported Domestic Violence Offenses, 2018*, p. 22, available at [http://www.fdle.state.fl.us/FSAC/Documents/PDF/DV\\_OFF\\_JUR18.aspx](http://www.fdle.state.fl.us/FSAC/Documents/PDF/DV_OFF_JUR18.aspx) (last visited April 22, 2021).

<sup>24</sup> Florida Department of Law Enforcement, *Florida’s County and Jurisdictional Domestic Violence Related Arrests, 2018*, p. 21, available at [http://www.fdle.state.fl.us/FSAC/Documents/PDF/DV\\_ARR\\_JUR18.aspx](http://www.fdle.state.fl.us/FSAC/Documents/PDF/DV_ARR_JUR18.aspx) (last visited April 22, 2021).

<sup>25</sup> The Department of Children and Families (“The DCF”) operates the statewide Domestic Violence Program, responsible for certifying domestic violence centers. Section 39.905, F.S., and ch. 65H-1, F.A.C., set forth the minimum domestic violence center certification standards. See The DCF, *Domestic Violence Program Overview*, available at <https://www.myflfamilies.com/service-programs/domestic-violence/overview.shtml>

<sup>25</sup> The DCF, *Domestic Violence Annual Report*, p. 2, available at <https://www.myflfamilies.com/service-programs/domestic-violence/docs/2018-2019%20DV%20Service%20Report.pdf> (last visited April 22, 2021).

<sup>26</sup> The DCF, *Domestic Violence Annual Report*, p. 2, available at <https://www.myflfamilies.com/service-programs/domestic-violence/docs/2018-2019%20DV%20Service%20Report.pdf> (last visited April 22, 2021).

<sup>27</sup> Section 415.102(28), F.S., defines “vulnerable adult” to mean 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.

<sup>28</sup> Section 415.102(1), F.S.

<sup>29</sup> See s. 415.102(16), F.S.

<sup>30</sup> See s. 415.102(8), F.S., for the definition of “exploitation”.

<sup>31</sup> See ss. 415.101-415.113, F.S.

<sup>32</sup> Section 415.104, F.S.

<sup>33</sup> *Id.*

Chapter 825, F.S., also provides criminal penalties for the abuse, neglect, and exploitation of elderly and disabled adults.<sup>34</sup> Section 825.103, F.S., provides that a person commits the offense of “exploitation of an elderly person<sup>35</sup> or disabled adult”<sup>36</sup> when he or she:

- Stands in a position of trust and confidence, or has a business relationship, with an elderly person or a disabled adult and knowingly obtains or uses, or endeavors to obtain or use, the elderly person’s or disabled adult’s funds, assets, or property with the intent to temporarily or permanently deprive that person of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult;
- Obtains or uses, endeavors to obtain or use, or conspires with another to obtain or use an elderly person’s or disabled adult’s funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, and he or she knows or reasonably should know that the elderly person or disabled adult lacks the capacity to consent;
- Breaches a fiduciary duty to the elderly person or disabled adult while acting as the person’s guardian, trustee, or agent under a power of attorney, and such breach results in an unauthorized appropriation, sale, or transfer of property;
- Misappropriates, misuses, or transfers without authorization money belonging to an elderly person or disabled adult from an account in which the elderly person or disabled adult placed the funds, owned the funds, and was the sole contributor or payee of the funds before the misappropriation, misuse, or unauthorized transfer; or
- Intentionally or negligently fails to effectively use an elderly person’s or disabled adult’s income and assets for the necessities required for that person’s support and maintenance while acting as a caregiver or standing in a position of trust and confidence with the elderly person or disabled adult.

An elderly person or disabled adult “lacks capacity to consent” when suffering from impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause, causing the elderly person or disabled adult to lack sufficient understanding or capacity to make or communicate reasonable decisions concerning their person or property.<sup>37</sup>

### **Parenting Coordination**

In 2009, the Florida Legislature established a statutory framework for a form of child-focused mediation known as parenting coordination.<sup>38</sup> Parenting coordinators are appointed by the court to assist parents in developing, implementing, or resolving disputes in a parenting plan. The

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<sup>34</sup> See ss. 825.101-106, F.S.

<sup>35</sup> Section 825.101(4), F.S., defines “elderly person” to mean a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.

<sup>36</sup> Section 825.101(3), F.S., defines “disabled adult” to mean a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living.

<sup>37</sup> Section 825.101(8), F.S.

<sup>38</sup> Chapter 2009-180, s. 2, L.O.F. (creating s. 61.125, F.S., effective October 1, 2009).



parenting coordinators help parents to resolve disputes by providing education, making recommendations, and making limited decisions within the scope of the court's order of referral.<sup>39</sup> To be a qualified parenting coordinator, a person must complete various training requirements and must be a:

- Licensed mental health professional;
- Licensed physician with certification by the American Board of Psychiatry and Neurology;
- Certified family law mediator with a master's degree related to mental health; or
- Member of The Florida Bar.<sup>40</sup>

Additionally, a parenting coordinator must complete all of the following:

- Three years of post-licensure or post-certification practice.
- A family mediation training program certified by the Florida Supreme Court.
- A minimum of 24 hours of parenting coordination training.<sup>41</sup>
- A minimum of 4 hours of training in domestic violence and child abuse which is related to parenting coordination.<sup>42</sup>

### **Eldercaring Coordination**

As parenting coordination became recognized as a viable method of dispute resolution in contentious child custody and visitation matters, courts and legal professionals used the concept as a model to develop a similar option for disputes involving elders.<sup>43</sup>

Eldercaring coordination emphasizes improving relationships between elders, family members, and others in supportive roles so that all parties are able to collaborate successfully with professionals in making difficult decisions and adapting to changing circumstances.<sup>44</sup> The Association for Conflict Resolution defines eldercaring coordination as, "a dispute resolution process during which an eldercaring coordinators assists elders, legally authorized decision-makers, and others who participate by court order or invitation, to resolve disputes with high conflict levels in a manner that respects the elder's need for autonomy and safety."<sup>45</sup>

Eldercaring coordination is used to complement other services, such as obtaining legal information or representation; individual or family therapy; and medical, psychological, or psychiatric evaluation or mediation.<sup>46</sup> Eldercaring coordination may also prove efficient in:

- Resolving non-legal issues outside of court;

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<sup>39</sup> Section 61.125(2) and (3), F.S.

<sup>40</sup> Section 61.152(5)(a)1., F.S.

<sup>41</sup> The topics include parenting coordination concepts and ethics, family systems theory and application, family dynamics in separation and divorce, child and adolescent development, the parenting coordination process, parenting coordination techniques, and Florida family law and procedure. Section 61.125(5)(a)2.c., F.S.

<sup>42</sup> Section 61.125(5)(a)2., F.S.

<sup>43</sup> The Association for Conflict Resolution, *Guidelines for Eldercare Coordination*, p. 2, (October 2014), available at <https://ncpj.files.wordpress.com/2017/05/m4-fieldstone-morley-acr-guidelines-for-eldercaring-coordination.pdf> (last visited April 22, 2021) (hereinafter "ACR Guidelines").

<sup>44</sup> Sue Bronson & Linda Fieldstone, *From Friction to Fireworks to Focus: Eldercaring Coordination Sheds Light in High-Conflict Cases*, 24 Experience 29, p. 2, American Bar Association, Fall/Winter 2015 (on file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>45</sup> ACR Guidelines, p. 15

<sup>46</sup> *Id.*

- Fostering a need for self-determination among both elders and family members;
- Monitoring high-risk situations for signs of elder abuse, neglect, or exploitation; or
- Offering an additional source of support during times of transition.<sup>47</sup>

Currently, fourteen jurisdictions in five states have eldercare coordination pilot programs.<sup>48</sup>

### **Eldercaring Coordination in Florida**

While parenting coordination is used throughout Florida in many cases involving issues related to children, there is no statewide alternative dispute resolution in place to address cases involving the elderly.<sup>49</sup> In March 2013, the Florida Chapter of the Association of Family and Conciliation Courts (FLAFCC) created a task force known as the Task Force on Eldercaring Coordination (FLAFCC Task Force), which sought to develop a dispute resolution model for contentious cases involving elders, their family members, and other participants.<sup>50</sup>

The FLAFCC Task Force worked collaboratively with the Association for Conflict Resolution's Task Force on Eldercaring Coordination (ACR Task Force), which provided general, non-state specific guidance and suggestions on the practice of eldercaring coordination.<sup>51</sup> The ACR Guidelines for Eldercaring Coordinators were developed, and on November 6, 2014, these guidelines were adopted by the Association of Family and Conciliation Courts.<sup>52</sup> Subsequently, on November 10, 2014, the FLAFCC Board of Directors approved their own, Florida-specific guidelines, which are utilized by eldercare coordinators in Florida.<sup>53</sup>

In 2015, eight of Florida's twenty judicial circuits were chosen to participate in a pilot program intended to provide eldercare coordination services: the Fifth, Seventh, Ninth, Twelfth, Thirteenth, Fifteenth, Seventeenth, and Eighteenth Circuits.<sup>54</sup> Court administrators representing the First, Sixth, Eighth, and Eleventh circuits have since expressed interest in becoming a part of the pilot.<sup>55</sup> Pilot programs were also created in four other states: Idaho, Indiana, Ohio, and Minnesota.<sup>56</sup> The pilot programs<sup>57</sup> function by having eldercaring coordinators assigned to elder

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<sup>47</sup> *Id.*

<sup>48</sup> Karen Campbell, *Dispute Resolution Tactics Emerge to Aid the Elderly*, 27 *Experience* 2, 13, American Bar Association, July 2017. (On file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>49</sup> Florida Chapter of the Association of Family and Conciliation Courts Task Force on Eldercaring Coordination, *Guidelines for Eldercaring Coordinators*, p. 3 (October 2014), available at [https://flafcc.org/wp-content/uploads/2020/08/flafcc\\_guidelines\\_for\\_eldercaring\\_coordination\\_website.pdf](https://flafcc.org/wp-content/uploads/2020/08/flafcc_guidelines_for_eldercaring_coordination_website.pdf) (last visited April 22, 2021).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.* at 4.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> Jim Ash, 'Eldercaring' Program Serves the Courts and Florida's Aging Citizens, *The Florida Bar News*, October 15, 2018, available at <https://www.floridabar.org/the-florida-bar-news/eldercaring-program-serves-the-courts-and-floridas-aging-citizens/> (last visited April 22, 2021) (hereinafter cited as "Florida Bar News").

<sup>55</sup> *Id.*; see also The Office of the State Courts Administrator (OSCA), *Judicial Branch 2021 Legislative Agenda*, p. 18-19, (2021) (On file with the Senate Committee on Children, Families, and Elder Affairs.).

<sup>56</sup> *Id.*; see also OSCA *Judicial Branch 2021 Legislative Agenda*, p. 18-19 (2021) (On file with the Senate Committee on Children, Families, and Elder Affairs)(hereinafter cited as "Judicial Branch 2021 Legislative Agenda").

<sup>57</sup> "Pilot site" is defined as: "One judge or group of judges or magistrates that refer at least six cases for eldercaring coordination, or a group of attorneys that initiate at least six cases for eldercaring coordination through agreed order, where

law cases involving typical indicators of family discord.<sup>58</sup> A total of approximately 75 cases have been referred to the eight Florida sites since their inception.<sup>59</sup>

According to the FLAFCC Elder Justice Initiative on Eldercaring Coordination (Initiative), judges from the Probate and Guardianship Divisions of courts from each pilot site first evaluated and selected individuals to be trained as eldercaring coordinators.<sup>60</sup> Judges, eldercaring coordinators, and administrators were then trained on eldercaring coordination.<sup>61</sup> Cases were referred and the FLAFCC has since reported the following findings from cases at the pilot sites:

- Fewer motions;
- Shorter, more efficient hearings;
- Reduced levels of family conflict, leading to minimized abuse, neglect, and exploitation of elders;
- A reduced need for guardianships and a reduced number of cases in need of final determinations of capacity; and
- An increased ability of elders and family members to respond to issues efficiently and without needing further judicial intervention.<sup>62</sup>

### III. Effect of Proposed Changes:

The bill creates s. 44.407, F.S., allowing eldercaring coordination as an alternative dispute resolution process for elders, their family members, and their legally authorized decision makers engaged in disputes involving an elder's wants, needs, and best interests.

#### Definitions

The bill provides a number of definitions, including:

- "Action," which is defined as a proceeding in which a party sought or seeks a judgment or an order from the court to:
  - Determine if someone is or is not incapacitated pursuant to s. 744.331, F.S.
  - Appoint or remove a guardian or a guardian advocate.
  - Review any actions of a guardian.
  - Execute an investigation pursuant to s. 415.104, F.S.
  - Review an agent's actions pursuant to s. 709.2116, F.S.
  - Review a proxy's decision pursuant to s. 765.105, F.S.
  - Enter an injunction for the protection of an elder under s. 825.1035, F.S.
  - Follow up on a complaint made to the Office of Public and Professional Guardians pursuant to s. 744.2004, F.S.

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those families choose to participate in the independent research of the process." Judicial Branch 2021 Legislative Agenda, p. 19.

<sup>58</sup> The Florida Bar News.

<sup>59</sup> *Id.*

<sup>60</sup> Judicial Branch 2021 Legislative Agenda, p. 19.

<sup>61</sup> *Id.*

<sup>62</sup> Judicial Branch 2021 Legislative Agenda, p. 19-20.

- At the discretion of the presiding judge, address any other matters pending before the court which involve the care or safety of an elder.<sup>63</sup>
- “Care and safety,” which is defined as the condition of the aging person’s general physical, mental, emotional, psychological, and social well-being. The term specifically does not include:
  - A determination of incapacity by the court under s. 744.331(5) or (6), F.S.; or
  - Matters relating to the elder’s estate planning, agent designations under ch. 709, F.S., or surrogate designations under ch. 765, F.S., trusts in which the elder is a grantor, fiduciary, or beneficiary, or other similar financial matters, unless the parties agree otherwise.
- “Elder,” which is defined as a person 60 years of age or older who is alleged to be suffering from the infirmities of aging as manifested by a physical, a mental, or an emotional dysfunction to the extent that the elder’s ability to provide adequately for the protection or care of his or her own person or property is impaired.
- “Eldercaring coordination,” which is defined as an elder-focused dispute resolution process during which an eldercaring coordinator assists an elder, legally authorized decisionmakers, and others who participate by court order or by invitation of the eldercaring coordinator, in resolving disputes regarding the care and safety of an elder by:
  - Facilitating more effective communication and negotiation and the development of problem-solving skills.
  - Providing education about eldercare resources.
  - Facilitating the creation, modification, or implementation of an eldercaring plan and reassessing it as necessary to reach a resolution of ongoing disputes concerning the care and safety of the elder.
  - Making recommendations for the resolution of disputes concerning the care and safety of the elder.
  - With the prior approval of the parties to an action or of the court, making limited decisions within the scope of the court’s order of referral.
- “Eldercaring coordination communication,” which is defined to mean an oral or a written statement or nonverbal conduct intended to make an assertion by, between, or among parties, participants, or the eldercaring coordinator which is made during the course of an eldercaring coordination activity, or before the activity if made in furtherance of eldercaring coordination.<sup>64</sup>
- “Eldercaring coordinator,” which is defined to mean an impartial third person who is appointed by the court or designated by the parties and who meets the requirements of of the bill.<sup>65</sup>
- “Eldercaring plan” to mean a continually reassessed plan for the items, tasks, or responsibilities needed to provide for the care and safety of an elder which is modified throughout eldercaring coordination to meet the changing needs of the elder and which takes

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<sup>63</sup> The term may be applied only to using eldercaring coordination solely to address disputes regarding the care and safety of the elder. The term does not include actions brought under ch. 732, F.S., ch. 733, F.S., or ch. 736, F.S.

<sup>64</sup> The definition goes on to state that the term does not include statements made during eldercaring coordination which involve the commission of a crime, the intent to commit a crime, or ongoing abuse, exploitation, or neglect of a child or vulnerable adult.

<sup>65</sup> The definition further states that the role of the eldercaring coordinator is to assist parties through eldercaring coordination in a manner that respects the elder’s need for autonomy and safety.

into consideration the preferences and wishes of the elder. The plan is not a legally enforceable document, but is meant for use by the parties and participants.

- “Good cause” to mean a finding that the eldercaring coordinator:
  - Is not fulfilling the duties and obligations of the position;
  - Has failed to comply with any order of the court, unless the order has been superseded on appeal;
  - Has conflicting or adverse interests that affect his or her impartiality;
  - Has engaged in circumstances that compromise the integrity of eldercaring coordination; or
  - Has had a disqualifying event occur.<sup>66</sup>
- “Legally authorized decisionmaker,” which is defined to mean an individual designated, either by the elder or by the court, pursuant to ch. 709, F.S. (relating to powers of attorney), ch. 744, F.S. (relating to guardianships), ch. 747, F.S. (relating to conservatorships), or ch. 765, F.S. (relating to health care advance directives) who has the authority to make specific decisions on behalf of the elder who is the subject of an action.
- “Participant,” which is defined to mean an individual who is not a party and who joins eldercaring coordination by invitation of or with the consent of the eldercaring coordinator but who has not filed a pleading in the action from which the case was referred to eldercaring coordination.
- “Party,” which is defined to include the elder who is the subject of an action and any other individual over whom the court has jurisdiction related to that action.

### **Referral Process**

The bill allows a court to appoint an eldercaring coordinator and refer the parties to eldercaring coordination upon agreement of the parties, the court’s own motion, or the motion of any party. The bill prohibits the court from referring parties with a history of domestic violence or exploitation of an elder to eldercaring coordination absent the consent of all parties, including the elder. Further, the court must offer each party a chance to consult with either an attorney or a domestic violence advocate prior to accepting consent of the referral and the court is required to determine whether or not each of the parties has given their consent freely and voluntarily.

When a court is determining whether to refer parties who may have an above-mentioned history that would otherwise preclude the referral, the court must consider:

- Whether a party has committed a violation of an act of exploitation as defined in s. 415.102(8), F.S., or s. 825.103(1), F.S., or domestic violence as defined in s. 741.28, F.S. against another party or any member of another party’s family;
- Engaged in a behavioral pattern where power and control are used against another party and that could jeopardize another party’s ability to negotiate fairly; or
- Behaved in a way that leads another party to reasonably believe that they are in imminent danger of becoming a victim of domestic violence.

The bill also requires the court to consider all relevant factors, including, but not limited to, those listed in s. 741.30(6)(b), F.S.

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<sup>66</sup> The bill provides that the term does not include a party’s disagreement with the eldercaring coordinator’s methods or procedures.

The court is required to order necessary precautions to protect the safety of all parties to the proceeding, all participants, the elder and their property if it refers a case that involves a party who has any history of domestic violence or exploitation of an elder. These precautions may include adherence to all provisions of an injunction for protection or conditions of bail, probation, a criminal sentence, and other relevant precautions.

### **Appointment and Qualifications of the Eldercaring Coordinator**

The bill provides that the court's appointment of an eldercaring coordinator is for a term of up to 2 years. The court must conduct review hearings intermittently to determine whether it is appropriate to conclude or extend the term of the appointment. The court's appointment order must define the scope of authority under the appointment in the action, and it must specify that a party may move the court at any time during the period of appointment for termination of the appointment. Upon the filing of a motion for removal, the court must conduct a timely hearing on the motion. The eldercaring coordination process continues while the motion is pending. The court must consider, at a minimum, the following factors:

- The efforts and progress of eldercaring coordination in the action to date;
- The preference of the elder, if ascertainable; and
- Whether continuation of the appointment is in the best interest of the elder.

The bill prescribes the qualifications of eldercaring coordinators and also identifies factors that disqualify individuals from serving as eldercaring coordinators. Specifically, the bill requires eldercaring coordinators to be in good standing or in clear and active status with all professional licensing authorities or certification boards and to meet at least one of the following requirements related to professional training:

- Be a licensed mental health professional under ch. 491, F.S., and hold a master's degree (or a higher degree) in their field;
- Be a licensed psychologist under ch. 490, F.S.;
- Be a licensed physician under ch. 458 or 459, F.S.;
- Be a licensed nurse under ch. 464, F.S., and hold a master's degree or a higher degree;
- Hold a family mediator certification from the Florida Supreme Court and a master's degree or a higher degree;
- Be a member in good standing of The Florida Bar; or
- Serve as a professional guardian as defined in s. 744.102(17), F.S., and hold a master's degree or a higher degree.

The bill also requires eldercaring coordinators to complete all of the following:

- Three years of post-licensure or post-certification practice;
- A Florida Supreme Court-certified family mediation training program;
- A Florida Supreme Court-certified elder mediation training program, which encompasses 44 or more hours of training, and includes training in the following areas:
  - Advanced tactics for dispute resolution of issues related to aging, illness, incapacity, or other vulnerabilities associated with persons age 60 or older;
  - Elder, guardianship, and incapacity law and procedures and less restrictive alternatives to guardianship;

- Phases of eldercaring coordination and the role and functions of an eldercaring coordinator;
- The elder's role within eldercaring coordination;
- A minimum of six hours on the implications of elder abuse, neglect, and exploitation along with other safety issues relevant to eldercaring coordination;
- The role of the elder in eldercaring coordination;
- Family dynamics pertaining to eldercaring coordination;
- Eldercaring coordination skills and techniques;
- Multicultural competence and its use in eldercaring coordination;
- A minimum of four hours of ethical considerations related to eldercaring coordination;
- The use of technology in eldercaring coordination; and
- Court-specific eldercaring coordination procedures.

Pending certification of such a training program by the Florida Supreme Court, the bill requires an eldercaring coordinator applicant to document completion of training that satisfies the hours and elements described above.

Further, qualified eldercaring coordinators must:

- Pass a Level 2 background screening pursuant to s. 435.04(2) and (3), F.S., or be exempt from disqualification under s. 435.07, F.S.;
- Have not had a final order granting an injunction for protection against domestic, dating, sexual, or repeat violence or stalking or exploitation of an elder or a disabled person filed against them;
- Meet any additional qualifications required by the court to address party-specific issues.

If an eldercaring coordinator no longer meets the minimum qualifications to serve as such or one of the disqualifying circumstances occurs, the bill provides that an eldercaring coordinator must resign and promptly notify the court. Further, the bill requires the court to remove an eldercaring coordinator upon their resignation or disqualification, or upon a finding of good cause.

Upon a motion of the court or any party, the court is permitted to suspend the authority of an eldercaring coordinator pending a hearing on the motion for removal. Notice of such a hearing must be timely served on the eldercaring coordinator and all other parties to the action.

If it is shown that a motion was made in bad faith, the court has discretion to award reasonable attorney fees and costs to a party or an eldercaring coordinator who prevails on a motion for removal, in addition to any other legal remedy.

The bill provides that whenever an eldercaring coordinator resigns, is removed, or is suspended from an appointment, the court must then appoint a successor qualified eldercaring coordinator agreed to by all parties to the action, or another qualified eldercaring coordinator to serve for the remainder of the original term if the parties are unable to come to an agreement on a successor.

### **Fees and Costs for Eldercaring Coordination**

The bill requires the eldercaring coordinator's fees to be paid in equal portion by each party referred to the eldercaring coordination process unless the court determines that an unequal allocation is necessary based on the financial circumstances of each party, including the elder.

The bill also requires the referral order to specify the percentage of eldercaring coordination fees each party must pay. The bill provides that a party who is asserting that he or she is unable to pay the eldercaring coordination fees and costs must complete an approved financial affidavit form. The court is required to consider specified factors for determining whether a non-indigent party has the ability to pay, including:

- Income;
- Assets and liabilities;
- Financial obligations; and
- Resources, including, but not limited to, whether the party can receive or is receiving trust benefits, whether the party is represented by and paying a lawyer, and whether paying the fees and costs of eldercaring coordination would create a substantial hardship.

If a party is found to be indigent pursuant to s. 57.082, F.S., which provides for the appointment of an attorney in certain civil cases, the court may not order eldercaring coordination unless public funds are available to pay the indigent party's portion or a non-indigent party agrees to pay all of the fees and costs.

### **Confidentiality of Eldercaring Coordination Communications**

The bill protects the confidentiality of all communications by, between, or among the parties and the eldercaring coordinator during eldercaring coordination, and precludes the eldercaring coordinator from testifying or offering evidence, except in specified circumstances, as follows:

- The relevant communications are needed to identify, authenticate, confirm, or deny a written and signed agreement which the parties entered into during the course of eldercaring coordination.
- The relevant communications are needed in order to identify an issue to be resolved by the court without disclosing any other communications made by any party or the eldercaring coordinator.
- The relevant communications are limited to the subject of a party's compliance with the order of referral to eldercaring coordination, orders for psychological evaluation, court orders or health care provider recommendations for counseling, or court orders for substance abuse testing or treatment.
- The relevant communications are needed in order to determine whether the eldercaring coordinator is sufficiently qualified or to determine the immunity and liability of an eldercaring coordinator shown to have acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for the rights, safety, or property of the parties.
- The parties mutually agree that the communications can be disclosed.
- The relevant communications are needed for the eldercaring coordinator to contact persons outside of the eldercaring coordination process to give or obtain information that furthers the eldercaring coordination process.
- The relevant communications are needed in order to protect a person from future acts which would constitute domestic violence under ch. 741, F.S.; child abuse, neglect, or abandonment under ch. 39, F.S.; or abuse, neglect, or exploitation of an elderly or disabled adult under ch. 415, F.S., or ch. 825, F.S., or are required in an investigation conducted pursuant to s. 744.2004, F.S., or a review pursuant to s. 744.368(5), F.S.



- The relevant communications are offered to report, prove, or disprove professional misconduct alleged to have occurred during eldercaring coordination, solely for the internal use of the body conducting the investigation of such misconduct.
- The relevant communications are offered to report, prove, or disprove professional malpractice alleged to have occurred during eldercaring coordination, solely for the professional malpractice proceeding.
- The relevant communications were deliberately used to plan a crime, commit or attempt to commit a crime, conceal ongoing criminal activity, or threaten violence.

The bill provides that a party that discloses a privileged eldercaring coordination communication waives that privilege, but only to the extent necessary for the other party or parties to respond to the disclosure or representation. Any eldercaring coordination participant who knowingly discloses an eldercaring coordination communication is subject to remedies, including:

- Equitable relief.
- Compensatory damages.
- Contribution to the other party or parties' attorney's fees, the other party's portion of the eldercaring coordinator fees, and the other party's portion of the costs incurred in the eldercaring coordination process.
- Reasonable attorney's fees and costs incurred in the application for remedies.

Applications for remedies cannot be brought later than 2 years after the date on which the party had a reasonable opportunity to discover the breach of confidentiality, and in no case more than 4 years after the breach.

The bill requires an eldercaring coordinator to inform the court of any emergency situation without notice to the parties, and defines an emergency situation as follows:

- An eldercaring coordinator has made, or intends to make, a report pursuant to ch. 39, F.S., or ch. 415, F.S., related to child abuse or elder abuse; or
- Any party, or a person acting on their behalf, is threatening to, or is believed to be planning to, kidnap an elder as defined in s. 787.01, F.S., or wrongfully removes or is removing the elder from the jurisdiction of the court absent court approval or compliance with the relevant requirements of s. 744.1098, F.S.<sup>67</sup>

The bill mandates eldercaring coordinators immediately notify the court and each party, by affidavit or verified report, if the eldercaring coordinator learns that a party is the subject of a final order or protective injunction against domestic violence or exploitation of an elderly person, or has been arrested for an act of domestic violence or exploitation of an elderly person.

The bill also limits the civil liability of an eldercaring coordinator who acts in good faith, and requires the Florida Supreme Court to establish minimum standards and procedures for the training, ethical conduct, and discipline of eldercaring coordinators. Pending the establishment of such standards and procedures for the discipline of eldercaring coordinators, the bill requires a

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<sup>67</sup> The bill further provides that where an eldercaring coordinator believes that a party or family member has relocated an elder within the state in order to safeguard the elder from domestic violence, the eldercaring coordinator is not permitted to disclose the location of the elder unless required to do so by the court.

court's order of referral to eldercaring coordination to address procedures governing complaints against the appointed eldercaring coordinator. The bill allows the Court to employ or appoint personnel as necessary to assist in carrying out these functions.

The bill also provides a number of legislative findings.

The bill is effective July 1, 2021.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 368 may reduce litigation costs to participants in eldercaring coordination.

C. Government Sector Impact:

The Office of the State Courts Administrator (OSCA) anticipates that the bill will lead to a decreased workload for courts because cases that use eldercaring coordination generally have fewer motions filed, shorter hearings, and very few require emergency hearings.<sup>68</sup> The fiscal impact to the state is indeterminate because there is currently insufficient data

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<sup>68</sup> The OSCA, *Senate Bill 368 Judicial Impact Statement*, p. 2 (February 1, 2021) (on file with the Senate Committee on Children, Families, and Elder Affairs).

to reliably calculate the effect of the bill on judicial workload.<sup>69</sup> However, some level of costs are anticipated in order to implement eldercaring coordination throughout the state.<sup>70</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill creates section 44.407 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 April 21, 2021:**

The committee substitute:

- Adds removal of a guardian advocate to the list of proceedings potentially eligible for referral to eldercaring coordination.
- Adds a definition of “care and safety.”
- Specifies that a court may not refer the parties to eldercaring coordination in actions brought under chapters 732, 733, and 736, F.S., which relate to wills and trusts.
- Authorizes a party to move the court to terminate an eldercaring coordinator appointment.
- Amends eldercaring coordinator training requirements by requiring the training to:
  - Total 44 instead of 28 hours; and
  - Include the following coursework:
    - Advanced tactics for dispute resolution of issues related to aging, illness, incapacity, or other vulnerabilities associated with elderly people;
    - Six hours on the implications of elder abuse, neglect, and exploitation and other safety issues pertinent to this training; and
    - Four instead of 2 hours of ethical considerations.
- Clarifies that pending the Florida Supreme Court certifying a training program for eldercaring coordinators, a prospective eldercaring coordinator must document completion of training that satisfies the hours and elements prescribed in the bill.
- Specifies that eldercaring coordinator’s fees should be paid in equal portion by each party referred to the eldercaring coordination process.

<sup>69</sup> The OSCA, *Senate Bill 368 Judicial Impact Statement*, p. 3 (February 1, 2021) (on file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>70</sup> *Id.*

- Requires the referral order to specify the percentage of eldercaring coordination fees each party must pay.
- Provides that any eldercaring coordination participant who knowingly discloses an eldercaring coordination communication is subject to remedies.
- Clarifies that in the interim period between the bill's effective date and the Florida Supreme Court establishing disciplinary guidelines and procedures, a court that refers individuals to eldercaring coordination is permitted to outline disciplinary procedures governing complaints against an eldercaring coordinator in the initial order of referral.
- Makes clarifying and technical changes.

**CS by Judiciary on Mar 15, 2021.**

The committee substitute:

- Adds physicians licensed under chapter 459 (Osteopathic medicine) to the list of qualified individuals who may serve as an elder caring coordinator.
- Specifies how fingerprints are to be processed for the level 2 background screening conducted for a person appointed to serve as an eldercaring coordinator.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
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The Committee on Appropriations (Baxley) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 44.407, Florida Statutes, is created to  
read:

44.407 Elder-focused dispute resolution process.-

(1) LEGISLATIVE FINDINGS.-The Legislature finds that:

(a) Denying an elder a voice in decisions regarding himself  
or herself may negatively affect the elder's health and well-



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11 being, as well as deprive the elder of his or her legal rights.  
12 Even if an elder is losing capacity to make major decisions for  
13 himself or herself, the elder is still entitled to the dignity  
14 of having his or her voice heard.

15 (b) In conjunction with proceedings in court, it is in the  
16 best interest of an elder, his or her family members, and  
17 legally recognized decisionmakers to have access to a  
18 nonadversarial process to resolve disputes relating to an elder  
19 which focuses on the elder's wants, needs, and best interests.  
20 Such a process will protect and preserve the elder's exercisable  
21 rights.

22 (c) By recognizing that every elder, including those whose  
23 capacity is being questioned, has unique needs, unique  
24 interests, and differing abilities, the Legislature intends for  
25 this section to promote the public welfare by establishing a  
26 unique dispute resolution option to complement and enhance, not  
27 replace, other services, such as the provision of legal  
28 information or legal representation; financial advice;  
29 individual or family therapy; medical, psychological, or  
30 psychiatric evaluation; or mediation, specifically for issues  
31 related to the care and needs of elders. The Legislature intends  
32 that this section be liberally construed to accomplish these  
33 goals.

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

35 (a)1. "Action" means a proceeding in which a party sought  
36 or seeks a judgment or an order from the court to:

37 a. Determine, pursuant to s. 744.331, whether someone is or  
38 is not incapacitated.

39 b. Appoint or remove a guardian or guardian advocate.



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- 40 c. Review any actions of a guardian.
- 41 d. Execute an investigation pursuant to s. 415.104.
- 42 e. Review an agent's actions pursuant to s. 709.2116.
- 43 f. Review a proxy's decision pursuant to s. 765.105.
- 44 g. Enter an injunction for the protection of an elder under  
45 s. 825.1035.
- 46 h. Follow up on a complaint made to the Office of Public  
47 and Professional Guardians pursuant to s. 744.2004.
- 48 i. At the discretion of the presiding judge, address any  
49 other matters pending before the court which involve the care  
50 and safety of an elder.
- 51 2. The term may be applied only to using eldercaring  
52 coordination solely to address disputes regarding the care and  
53 safety of the elder. The term does not include actions brought  
54 under chapter 732, chapter 733, or chapter 736.
- 55 (b) "Care and safety" means the condition of the aging  
56 person's general physical, mental, emotional, psychological, and  
57 social well-being. The term does not include:
- 58 1. A determination of capacity by the court under s.  
59 744.331(5) or (6); or
- 60 2. Unless the parties agree otherwise, matters relating to  
61 the elder's estate planning, agent designations under chapter  
62 709, or surrogate designations under chapter 765; trusts in  
63 which the elder is a grantor, fiduciary, or beneficiary; or  
64 other similar financially focused matters.
- 65 (c) "Elder" means a person 60 years of age or older who is  
66 alleged to be suffering from the infirmities of aging as  
67 manifested by a physical, mental, or emotional dysfunction to  
68 the extent that the elder's ability to provide adequately for



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69 the protection or care of his or her own person or property is  
70 impaired.

71 (d) "Eldercaring coordination" means an elder-focused  
72 dispute resolution process during which an eldercaring  
73 coordinator assists an elder, legally authorized decisionmakers,  
74 and others who participate by court order or by invitation of  
75 the eldercaring coordinator, in resolving disputes regarding the  
76 care and safety of an elder by:

77 1. Facilitating more effective communication and  
78 negotiation and the development of problem-solving skills.

79 2. Providing education about eldercare resources.

80 3. Facilitating the creation, modification, or  
81 implementation of an eldercaring plan and reassessing it as  
82 necessary to reach a resolution of ongoing disputes concerning  
83 the care and safety of the elder.

84 4. Making recommendations for the resolution of disputes  
85 concerning the care and safety of the elder.

86 5. With the prior approval of the parties to an action or  
87 of the court, making limited decisions within the scope of the  
88 court's order of referral.

89 (e) "Eldercaring coordination communication" means an oral  
90 or written statement or nonverbal conduct intended to make an  
91 assertion by, between, or among parties, participants, or the  
92 eldercaring coordinator which is made during the course of an  
93 eldercaring coordination activity, or before the activity if  
94 made in furtherance of eldercaring coordination. The term does  
95 not include statements made during eldercaring coordination  
96 which involve the commission of a crime, the intent to commit a  
97 crime, or ongoing abuse, exploitation, or neglect of a child or





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98 vulnerable adult.

99 (f) "Eldercaring coordinator" means an impartial third  
100 person who is appointed by the court or designated by the  
101 parties and who meets the requirements of subsection (5). The  
102 role of the eldercaring coordinator is to assist parties through  
103 eldercaring coordination in a manner that respects the elder's  
104 need for autonomy and safety.

105 (g) "Eldercaring plan" means a continually reassessed plan  
106 for the items, tasks, or responsibilities needed to provide for  
107 the care and safety of an elder which is modified throughout  
108 eldercaring coordination to meet the changing needs of the elder  
109 and which takes into consideration the preferences and wishes of  
110 the elder. The plan is not a legally enforceable document, but  
111 is meant for use by the parties and participants.

112 (h) "Good cause" means a finding that the eldercaring  
113 coordinator:

114 1. Is not fulfilling the duties and obligations of the  
115 position;

116 2. Has failed to comply with any order of the court, unless  
117 the order has been superseded on appeal;

118 3. Has conflicting or adverse interests that affect his or  
119 her impartiality;

120 4. Has engaged in circumstances that compromise the  
121 integrity of eldercaring coordination; or

122 5. Has had a disqualifying event occur.

123  
124 The term does not include a party's disagreement with the  
125 eldercaring coordinator's methods or procedures.

126 (i) "Legally authorized decisionmaker" means an individual



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127 designated, either by the elder or by the court, pursuant to  
128 chapter 709, chapter 744, chapter 747, or chapter 765 who has  
129 the authority to make specific decisions on behalf of the elder  
130 who is the subject of an action.

131 (j) "Participant" means an individual who is not a party  
132 and who joins eldercaring coordination by invitation of or with  
133 the consent of the eldercaring coordinator but who has not filed  
134 a pleading in the action from which the case was referred to  
135 eldercaring coordination.

136 (k) "Party" includes the elder who is the subject of an  
137 action and any other individual over whom the court has  
138 jurisdiction related to that action.

139 (3) REFERRAL.—

140 (a) Upon agreement of the parties to an action, the court's  
141 own motion, or the motion of a party to the action, the court  
142 may appoint an eldercaring coordinator and refer the parties to  
143 eldercaring coordination to assist in the resolution of disputes  
144 concerning the care and safety of the elder who is the subject  
145 of the action.

146 (b) The court may not refer a party who has a history of  
147 domestic violence or exploitation of an elderly person to  
148 eldercaring coordination unless the elder and other parties in  
149 the action consent to such referral.

150 1. The court shall offer each party an opportunity to  
151 consult with an attorney or a domestic violence advocate before  
152 accepting consent to such referral. The court shall determine  
153 whether each party has given his or her consent freely and  
154 voluntarily.

155 2. The court shall consider whether a party has committed



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156 an act of exploitation as defined in s. 415.102(8) or s.  
157 825.103(1) or domestic violence as defined in s. 741.28 against  
158 another party or any member of another party's family; engaged  
159 in a pattern of behaviors that exert power and control over  
160 another party and that may compromise another party's ability to  
161 negotiate a fair result; or engaged in behavior that leads  
162 another party to have reasonable cause to believe that he or she  
163 is in imminent danger of becoming a victim of domestic violence.  
164 The court shall consider and evaluate all relevant factors,  
165 including, but not limited to, the factors specified in s.  
166 741.30(6)(b).

167 3. If a party has a history of domestic violence or  
168 exploitation of an elderly person, the court must order  
169 safeguards to protect the safety of the participants and the  
170 elder and the elder's property, including, but not limited to,  
171 adherence to all provisions of an injunction for protection or  
172 conditions of bail, probation, or a sentence arising from  
173 criminal proceedings.

174 (4) COURT APPOINTMENT.—

175 (a) A court appointment of an eldercaring coordinator is  
176 for a term of up to 2 years, and the court shall conduct review  
177 hearings intermittently to determine whether the term should be  
178 concluded or extended. Appointments conclude upon expiration of  
179 the term or upon discharge by the court, whichever occurs  
180 earlier.

181 (b) The order of appointment issued by the court must  
182 define the scope of the eldercaring coordinator's authority  
183 under the appointment in the particular action, consistent with  
184 this section.



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185           (c) The order must specify that, notwithstanding the  
186 requirement for intermittent review hearings imposed under  
187 paragraph (a), a party may move the court at any time during the  
188 period of appointment for termination of the appointment. Upon  
189 the filing of such a motion, the court shall timely conduct a  
190 hearing to determine whether to terminate the appointment. Until  
191 the court has ruled on the motion, the eldercaring coordination  
192 process must continue. In making the determination, the court  
193 shall consider, at a minimum:

194           1. The efforts and progress of eldercaring coordination in  
195 the action to date;

196           2. The preference of the elder, if ascertainable; and

197           3. Whether continuation of the appointment is in the best  
198 interests of the elder.

199           (5) QUALIFICATIONS FOR ELDERCARING COORDINATORS.—

200           (a) The court shall appoint qualified eldercaring  
201 coordinators who meet all of the following requirements:

202           1. Meet one of the following professional requirements:

203           a. Be licensed as a mental health professional under

204 chapter 491 and hold at least a master's degree in the  
205 professional field of practice;

206           b. Be licensed as a psychologist under chapter 490;

207           c. Be licensed as a physician under chapter 458 or chapter  
208 459;

209           d. Be licensed as a nurse under chapter 464 and hold at  
210 least a master's degree;

211           e. Be certified by the Florida Supreme Court as a family  
212 mediator and hold at least a master's degree;

213           f. Be a member in good standing of The Florida Bar; or



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214 g. Be a professional guardian as defined in s. 744.102 and  
215 hold at least a master's degree.

216 2. Complete all of the following:

217 a. Three years of post-licensure or post-certification  
218 practice;

219 b. A family mediation training program certified by the  
220 Florida Supreme Court; and

221 c. An eldercaring coordinator training program certified by  
222 the Florida Supreme Court. The training must total at least 44  
223 hours and must include advanced tactics for dispute resolution  
224 of issues related to aging, illness, incapacity, or other  
225 vulnerabilities associated with persons 60 years of age or  
226 older, as well as elder, guardianship, and incapacity law and  
227 procedures and less restrictive alternatives to guardianship;  
228 phases of eldercaring coordination and the role and functions of  
229 an eldercaring coordinator; the elder's role within eldercaring  
230 coordination; family dynamics related to eldercaring  
231 coordination; eldercaring coordination skills and techniques;  
232 multicultural competence and its use in eldercaring  
233 coordination; at least 6 hours on the implications of elder  
234 abuse, neglect, and exploitation and other safety issues  
235 pertinent to this training; at least 4 hours of ethical  
236 considerations pertaining to this training; use of technology  
237 within eldercaring coordination; and court-specific eldercaring  
238 coordination procedures. Pending certification of such a  
239 training program by the Florida Supreme Court, the eldercaring  
240 coordinator must document completion of training that satisfies  
241 the hours and the elements prescribed in this sub-subparagraph.

242 3. Successfully pass a level 2 background screening as set



243 forth in s. 435.04(2) and (3) or be exempt from disqualification  
244 under s. 435.07. The prospective eldercaring coordinator must  
245 submit a full set of fingerprints to the court or to a vendor,  
246 entity, or agency authorized by s. 943.053(13). The court,  
247 vendor, entity, or agency shall forward the fingerprints to the  
248 Department of Law Enforcement for state processing, and the  
249 Department of Law Enforcement shall forward the fingerprints to  
250 the Federal Bureau of Investigation for national processing. The  
251 prospective eldercaring coordinator shall pay the fees for state  
252 and federal fingerprint processing. The state cost for  
253 fingerprint processing shall be as provided in s. 943.053(3) (e)  
254 for records provided to persons or entities other than those  
255 specified as exceptions therein.

256 4. Have not been a respondent in a final order granting an  
257 injunction for protection against domestic, dating, sexual, or  
258 repeat violence or stalking or exploitation of an elder or a  
259 disabled person.

260 5. Meet any additional qualifications the court may require  
261 to address issues specific to the parties.

262 (b) A qualified eldercaring coordinator must be in good  
263 standing or in clear and active status with all professional  
264 licensing authorities or certification boards to which the  
265 eldercaring coordinator is subject.

266 (6) DISQUALIFICATIONS AND REMOVAL OF ELDERCARING  
267 COORDINATORS.—

268 (a) An eldercaring coordinator must resign and immediately  
269 report to the court if he or she no longer meets the minimum  
270 qualifications or if any of the disqualifying circumstances  
271 occurs.



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272       (b) The court shall remove an eldercaring coordinator upon  
273 the eldercaring coordinator's resignation or disqualification or  
274 a finding of good cause shown based on the court's own motion or  
275 a party's motion.

276       (c) Upon the court's own motion or upon a party's motion,  
277 the court may suspend the authority of an eldercaring  
278 coordinator pending a hearing on the motion for removal. Notice  
279 of hearing on removal must be timely served on the eldercaring  
280 coordinator and all parties.

281       (d) If a motion was made in bad faith, a court may, in  
282 addition to any other remedy authorized by law, award reasonable  
283 attorney fees and costs to a party or an eldercaring coordinator  
284 who successfully challenges a motion for removal.

285       (7) SUCCESSOR ELDERCARING COORDINATOR.—If an eldercaring  
286 coordinator resigns, is removed, or is suspended from an  
287 appointment, the court shall appoint a successor qualified  
288 eldercaring coordinator who is agreed to by all parties or, if  
289 the parties do not reach agreement on a successor, another  
290 qualified eldercaring coordinator to serve for the remainder of  
291 the original term.

292       (8) FEES AND COSTS.—Each party referred by the court to the  
293 eldercaring coordination process shall pay an equal portion of  
294 the eldercaring coordinator's fees and costs unless the court  
295 determines that an unequal allocation is necessary based on the  
296 financial circumstances of each party, including the elder. The  
297 court's order of referral must specify which parties are ordered  
298 to the process and the percentage of the eldercaring  
299 coordinator's fees and costs which each party is required to  
300 pay.



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301       (a) A party who is asserting that he or she is unable to  
302 pay the eldercaring coordination fees and costs must complete a  
303 financial affidavit form approved by the presiding court. The  
304 court shall consider the party's financial circumstances,  
305 including income; assets; liabilities; financial obligations;  
306 and resources, including, but not limited to, whether the party  
307 can receive or is receiving trust benefits, whether the party is  
308 represented by and paying a lawyer, and whether paying the fees  
309 and costs of eldercaring coordination would create a substantial  
310 hardship.

311       (b) If a court finds that a party is indigent based upon  
312 the criteria prescribed in s. 57.082, the court may not order  
313 the party to eldercaring coordination unless funds are available  
314 to pay the indigent party's allocated portion of the eldercaring  
315 coordination fees and costs, which may include funds provided  
316 for that purpose by one or more nonindigent parties who consent  
317 to paying such fees and costs, or unless insurance coverage or  
318 reduced or pro bono services are available to pay all or a  
319 portion of such fees and costs. If financial assistance, such as  
320 health insurance or eldercaring coordination grants, is  
321 available, such assistance must be taken into consideration by  
322 the court in determining the financial abilities of the parties.

323       (9) CONFIDENTIALITY; PRIVILEGE; EXCEPTIONS.—

324       (a) Except as provided in this section, all eldercaring  
325 coordination communications are confidential. An eldercaring  
326 coordination party, an eldercaring coordinator, or a participant  
327 may not disclose an eldercaring coordination communication to a  
328 person other than another eldercaring coordination party, an  
329 eldercaring coordinator, or a participant, or a party's or





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330 participant's counsel. A violation of this section may be  
331 remedied as provided in paragraph (g). If the eldercaring  
332 coordination is court ordered, a violation of this section also  
333 may subject the eldercaring coordination participant to  
334 sanctions by the court, including, but not limited to, costs,  
335 attorney fees, and eldercaring coordinator's fees.

336 (b) An eldercaring coordination party, an eldercaring  
337 coordinator, or a participant has a privilege to refuse to  
338 testify and to prevent any other person from testifying in a  
339 subsequent proceeding regarding eldercaring coordination  
340 communications.

341 (c) Notwithstanding paragraphs (a) and (b), confidentiality  
342 or privilege does not attach to a signed written agreement  
343 reached during eldercaring coordination, unless the parties  
344 agree otherwise, or to any eldercaring coordination  
345 communication that:

346 1. Is necessary to identify, authenticate, confirm, or deny  
347 a written and signed agreement entered into by the parties  
348 during eldercaring coordination.

349 2. Is necessary to identify an issue for resolution by the  
350 court, including to support a motion to terminate eldercaring  
351 coordination, without otherwise disclosing communications made  
352 by any party, participant, or the eldercaring coordinator.

353 3. Is limited to the subject of a party's compliance with  
354 the order of referral to eldercaring coordination, orders for  
355 psychological evaluation, court orders or health care provider  
356 recommendations for counseling, or court orders for substance  
357 abuse testing or treatment.

358 4. Is necessary to determine the qualifications of an



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359 eldercaring coordinator or to determine the immunity and  
360 liability of an eldercaring coordinator who has acted in bad  
361 faith or with malicious purpose or in a manner exhibiting wanton  
362 and willful disregard for the rights, safety, or property of the  
363 parties under subsection (11).

364 5. The parties agree may be disclosed or for which  
365 privilege against disclosure has been waived by all parties.

366 6. Is made in the event the eldercaring coordinator needs  
367 to contact persons outside of the eldercaring coordination  
368 process to give or obtain information that furthers the  
369 eldercaring coordination process.

370 7. Must be reported pursuant to chapter 39 or chapter 415  
371 solely for the purpose of making the mandatory report to the  
372 entity requiring the report.

373 8. Is necessary to protect any person from future acts that  
374 would constitute child abuse, neglect, or abandonment under  
375 chapter 39; abuse, neglect, or exploitation of an elderly or  
376 disabled adult under chapter 415 or chapter 825; or domestic  
377 violence under chapter 741 or is necessary to further an  
378 investigation conducted under s. 744.2004 or a review conducted  
379 under s 744.368(5).

380 9. Is offered, solely for the internal use of a body  
381 conducting an investigation of professional misconduct, to  
382 report, prove, or disprove such misconduct that is alleged to  
383 have occurred during eldercaring coordination.

384 10. Is offered, solely for consideration in a professional  
385 malpractice proceeding, to report, prove, or disprove  
386 professional malpractice alleged to have occurred during  
387 eldercaring coordination.



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388 11. Is willfully used to plan a crime, commit or attempt to  
389 commit a crime, conceal ongoing criminal activity, or threaten  
390 violence.

391 (d) An eldercaring coordination communication disclosed  
392 under subparagraph (c)1., subparagraph (c)2., subparagraph  
393 (c)5., subparagraph (c)8., or subparagraph (c)9. remains  
394 confidential and is not discoverable or admissible for any other  
395 purpose, unless otherwise authorized by this section.

396 (e) Information that is otherwise admissible or subject to  
397 discovery is not inadmissible or protected from discovery by  
398 reason of its disclosure or use in the eldercaring coordination  
399 process.

400 (f) A party who discloses or makes a representation about a  
401 privileged eldercaring coordination communication waives that  
402 privilege, but only to the extent necessary for the other party  
403 or parties to respond to the disclosure or representation.

404 (g)1. Any eldercaring coordination party or participant who  
405 knowingly and willfully discloses an eldercaring coordination  
406 communication in violation of this subsection, upon application  
407 by any party to a court of competent jurisdiction, is subject to  
408 remedies, including:

409 a. Equitable relief;

410 b. Compensatory damages;

411 c. Contribution to the other party's or parties' attorney  
412 fees, the other party's or parties' portion of the eldercaring  
413 coordinator fees, and the other party's or parties' portion of  
414 the costs incurred in the eldercaring coordination process; and

415 d. Reasonable attorney fees and costs incurred in the  
416 application for remedies under this section.



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417 2. Notwithstanding any other law, an application for relief  
418 filed under this paragraph may not be commenced later than 2  
419 years after the date on which the party had a reasonable  
420 opportunity to discover the breach of confidentiality, but in no  
421 case more than 4 years after the breach.

422 3. An eldercaring coordination party or participant may not  
423 be subject to a civil action under this paragraph for lawful  
424 compliance with s. 119.07.

425 (10) EMERGENCY REPORTING TO THE COURT.—

426 (a) An eldercaring coordinator must immediately inform the  
427 court by affidavit or verified report, without notice to the  
428 parties, if:

429 1. The eldercaring coordinator has or will be making a  
430 report pursuant to chapter 39 or chapter 415; or

431 2. A party, including someone acting on a party's behalf,  
432 is threatening or is believed to be planning to commit the  
433 offense of kidnapping upon an elder as defined in s. 787.01, or  
434 wrongfully removes or is removing the elder from the  
435 jurisdiction of the court without prior court approval or  
436 compliance with the requirements of s. 744.1098. If the  
437 eldercaring coordinator suspects that a party or family member  
438 has relocated an elder within this state to protect the elder  
439 from a domestic violence situation, the eldercaring coordinator  
440 may not disclose the location of the elder unless required by  
441 court order.

442 (b) An eldercaring coordinator shall immediately inform the  
443 court by affidavit or verified report and serve a copy of such  
444 affidavit or report on each party upon learning that a party is  
445 the subject of a final order or injunction of protection against



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446 domestic violence or exploitation of an elderly person or has  
447 been arrested for an act of domestic violence or exploitation of  
448 an elderly person.

449 (11) IMMUNITY AND LIMITATION ON LIABILITY.-

450 (a) A person who is appointed or employed to assist the  
451 body designated to perform duties relating to disciplinary  
452 proceedings involving eldercaring coordinators has absolute  
453 immunity from liability arising from the performance of his or  
454 her duties while acting within the scope of his or her appointed  
455 functions or duties of employment.

456 (b) An eldercaring coordinator who is appointed by the  
457 court is not liable for civil damages for any act or omission  
458 within the scope of his or her duties under an order of referral  
459 unless such person acted in bad faith or with malicious purpose  
460 or in a manner exhibiting wanton and willful disregard for the  
461 rights, safety, or property of the parties.

462 (12) MINIMUM STANDARDS AND PROCEDURES.-The Florida Supreme  
463 Court shall establish minimum standards and procedures for the  
464 qualification, ethical conduct, discipline, and training and  
465 education of eldercaring coordinators who serve under this  
466 section. The Florida Supreme Court may appoint or employ such  
467 personnel as are necessary to assist the court in exercising its  
468 powers and performing its duties under this section. Pending the  
469 establishment of such minimum standards and procedures for the  
470 discipline of eldercaring coordinators, the order of referral by  
471 the court may address procedures governing complaints against  
472 the appointed eldercaring coordinator consistent with this  
473 section.

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



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===== 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 an elder-focused dispute resolution  
process; creating s. 44.407, F.S.; providing  
legislative findings; defining terms; authorizing the  
courts to appoint an eldercaring coordinator and refer  
certain parties and elders to eldercaring  
coordination; prohibiting the courts from referring  
certain parties to eldercaring coordination without  
the consent of the elder and other parties to the  
action; specifying the duration of eldercaring  
coordinator appointments; requiring the courts to  
conduct intermittent review hearings regarding the  
conclusion or extension of such appointments;  
providing qualifications and disqualifications for  
eldercaring coordinators; requiring eldercaring  
coordinators to document completed training that meets  
certain requirements until the Florida Supreme Court  
certifies a training program; requiring the applicant  
to meet certain qualifications for background  
screening, unless otherwise exempt; requiring  
prospective eldercaring coordinators to submit  
fingerprints for purposes of criminal history  
background screening; providing for the payment and  
cost of fingerprint processing; providing for the



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504 removal and suspension of authority of certain  
505 eldercaring coordinators; requiring that notice of  
506 hearing on removal of a coordinator be timely served;  
507 authorizing the courts to award certain fees and costs  
508 under certain circumstances; requiring the court to  
509 appoint successor eldercaring coordinators under  
510 certain circumstances; requiring the parties to  
511 eldercaring coordination to pay an equal share of the  
512 eldercaring coordinator's fees and costs under certain  
513 circumstances; authorizing the courts to make certain  
514 determinations based on the fees and costs of  
515 eldercaring coordination; providing that all  
516 eldercaring communications are confidential; providing  
517 exceptions to confidentiality; providing remedies for  
518 breaches of such confidentiality; providing  
519 requirements for emergency reporting to courts under  
520 certain circumstances; providing immunity from  
521 liability for eldercaring coordinators under specified  
522 circumstances; requiring the Florida Supreme Court to  
523 establish certain minimum standards and procedures for  
524 eldercaring coordinators; authorizing the court's  
525 order of referral to address procedures governing  
526 complaints until the minimum standards and procedures  
527 are established; providing an effective date.

By the Committee on Judiciary; and Senator Baxley

590-02870-21

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1 A bill to be entitled  
 2 An act relating to an elder-focused dispute resolution  
 3 process; creating s. 44.407, F.S.; providing  
 4 legislative findings; defining terms; authorizing the  
 5 courts to appoint an eldercaring coordinator and refer  
 6 certain parties and elders to eldercaring  
 7 coordination; prohibiting the courts from referring  
 8 certain parties to eldercaring coordination without  
 9 the consent of the elder and other parties to the  
 10 action; specifying the duration of eldercaring  
 11 coordinator appointments; requiring the courts to  
 12 conduct intermittent review hearings regarding the  
 13 conclusion or extension of such appointments;  
 14 providing qualifications and disqualifications for  
 15 eldercaring coordinators; requiring the applicant to  
 16 meet certain qualifications for background screening,  
 17 unless otherwise exempt; requiring prospective  
 18 eldercaring coordinators to submit fingerprints for  
 19 purposes of criminal history background screening;  
 20 providing for the payment and cost of fingerprint  
 21 processing; providing for the removal and suspension  
 22 of authority of certain eldercaring coordinators;  
 23 requiring that notice of hearing on removal of a  
 24 coordinator be timely served; authorizing the courts  
 25 to award certain fees and costs under certain  
 26 circumstances; requiring the court to appoint  
 27 successor eldercaring coordinators under certain  
 28 circumstances; authorizing the courts to make certain  
 29 determinations based on the fees and costs of

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

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30 eldercaring coordination; providing that certain  
 31 communications between the parties, participants, and  
 32 eldercaring coordinators are confidential; providing  
 33 exceptions to confidentiality; providing requirements  
 34 for emergency reporting to courts under certain  
 35 circumstances; providing immunity from liability for  
 36 eldercaring coordinators under specified  
 37 circumstances; requiring the Florida Supreme Court to  
 38 establish certain minimum standards and procedures for  
 39 eldercaring coordinators; providing an effective date.

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

42  
 43 Section 1. Section 44.407, Florida Statutes, is created to  
 44 read:

45 44.407 Elder-focused dispute resolution process.—

46 (1) LEGISLATIVE FINDINGS.—The Legislature finds that:

47 (a) Denying an elder a voice in decisions regarding himself  
 48 or herself may negatively affect the elder's health and well-  
 49 being, as well as deprive the elder of his or her legal rights.  
 50 Even if an elder is losing capacity to make major decisions for  
 51 himself or herself, the elder is still entitled to the dignity  
 52 of having his or her voice heard.

53 (b) As an alternative to proceedings in court, it is in the  
 54 best interest of an elder, their family members, and legally  
 55 recognized decisionmakers to have access to a nonadversarial  
 56 process to resolve disputes relating to an elder which focuses  
 57 on the elder's wants, needs, and best interests. Such a process  
 58 will protect and preserve the elder's exercisable rights.

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59 (c) By recognizing that every elder, including those whose  
 60 capacity is being questioned, has unique needs, interests, and  
 61 differing abilities, the Legislature intends for this section to  
 62 promote the public welfare by establishing a unique dispute  
 63 resolution option to complement and enhance, not replace, other  
 64 services, such as the provision of legal information or legal  
 65 representation; financial advice; individual or family therapy;  
 66 medical, psychological, or psychiatric evaluation; or mediation,  
 67 specifically for issues related to the care and needs of elders.  
 68 The Legislature intends that this section be liberally construed  
 69 to accomplish these goals.

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

- 71 (a) "Action" means a proceeding in which a party sought or  
 72 seeks a judgment or an order from the court to:
- 73 1. Determine if someone is or is not incapacitated pursuant  
 74 to s. 744.331.
  - 75 2. Appoint or remove a guardian.
  - 76 3. Undertake an investigation pursuant to s. 415.104.
  - 77 4. Audit an annual guardianship report.
  - 78 5. Review a proxy's decision pursuant to s. 765.105.
  - 79 6. Appoint a guardian advocate pursuant to s. 393.12.
  - 80 7. Enter an injunction for the protection of an elder under  
 81 s. 825.1035.
  - 82 8. Follow up on a complaint made to the Office of Public  
 83 and Professional Guardians pursuant to s. 744.2004.
  - 84 9. Address advice received by the court from the clerk of  
 85 the court pursuant to s. 744.368(5).
  - 86 10. At the discretion of the presiding judge, address other  
 87 matters pending before the court which involve the care or

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88 safety of an elder or the security of an elder's property.

89 (b) "Elder" means a person 60 years of age or older who is  
 90 alleged to be suffering from the infirmities of aging as  
 91 manifested by a physical, a mental, or an emotional dysfunction  
 92 to the extent that the elder's ability to provide adequately for  
 93 the protection or care of his or her own person or property is  
 94 impaired.

95 (c) "Eldercaring coordination" means an elder-focused  
 96 dispute resolution process during which an eldercaring  
 97 coordinator assists an elder, legally authorized decisionmakers,  
 98 and others who participate by court order or by invitation of  
 99 the eldercaring coordinator, in resolving disputes regarding the  
 100 care and safety of an elder by:

- 101 1. Facilitating more effective communication and  
 102 negotiation and the development of problem-solving skills.
  - 103 2. Providing education about eldercare resources.
  - 104 3. Facilitating the creation, modification, or  
 105 implementation of an eldercaring plan and reassessing it as  
 106 necessary to reach a resolution of ongoing disputes concerning  
 107 the care and safety of the elder.
  - 108 4. Making recommendations for the resolution of disputes  
 109 concerning the care and safety of the elder.
  - 110 5. With the prior approval of the parties to an action or  
 111 of the court, making limited decisions within the scope of the  
 112 court's order of referral.
- 113 (d) "Eldercaring coordination communication" means an oral  
 114 or a written statement or nonverbal conduct intended to make an  
 115 assertion by or to an eldercaring coordinator or individuals  
 116 involved in eldercaring coordination made during an eldercaring

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117 coordination activity, or before the activity if made in  
 118 furtherance of eldercaring coordination. The term does not  
 119 include statements made during eldercaring coordination which  
 120 involve the commission of a crime, the intent to commit a crime,  
 121 or ongoing abuse, exploitation, or neglect of a child or  
 122 vulnerable adult.

123 (e) "Eldercaring coordinator" means an impartial third  
 124 person who is appointed by the court or designated by the  
 125 parties and who meets the requirements of subsection (5). The  
 126 role of the eldercaring coordinator is to assist parties through  
 127 eldercaring coordination in a manner that respects the elder's  
 128 need for autonomy and safety.

129 (f) "Eldercaring plan" means a continually reassessed plan  
 130 for the items, tasks, or responsibilities needed to provide for  
 131 the care and safety of an elder which is modified throughout  
 132 eldercaring coordination to meet the changing needs of the elder  
 133 and which takes into consideration the preferences and wishes of  
 134 the elder. The plan is not a legally enforceable document, but  
 135 is meant for use by the parties and participants.

136 (g) "Good cause" means a finding that the eldercaring  
 137 coordinator:

- 138 1. Is not fulfilling the duties and obligations of the  
 139 position;
- 140 2. Has failed to comply with any order of the court, unless  
 141 the order has been superseded on appeal;
- 142 3. Has conflicting or adverse interests that affect his or  
 143 her impartiality;
- 144 4. Has engaged in circumstances that compromise the  
 145 integrity of eldercaring coordination; or

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146 5. Has had a disqualifying event occur.

147  
 148 The term does not include a party's disagreement with the  
 149 eldercaring coordinator's methods or procedures.

150 (h) "Legally authorized decisionmaker" means an individual  
 151 designated, either by the elder or by the court, pursuant to  
 152 chapter 709, chapter 744, chapter 747, or chapter 765 who has  
 153 the authority to make specific decisions on behalf of the elder  
 154 who is the subject of an action.

155 (i) "Participant" means an individual who joins eldercaring  
 156 coordination by invitation of or with the consent of the  
 157 eldercaring coordinator but who has not filed a pleading in the  
 158 action from which the case was referred to eldercaring  
 159 coordination.

160 (j) "Party" includes the elder who is the subject of an  
 161 action and any other individual over whom the court has  
 162 jurisdiction.

163 (3) REFERRAL.-

164 (a) Upon agreement of the parties to the action, the  
 165 court's own motion, or the motion of a party to the action, the  
 166 court may appoint an eldercaring coordinator and refer the  
 167 parties to eldercaring coordination to assist in the resolution  
 168 of disputes concerning the care and safety of the elder who is  
 169 the subject of an action.

170 (b) The court may not refer a party who has a history of  
 171 domestic violence or exploitation of an elderly person to  
 172 eldercaring coordination unless the elder and other parties in  
 173 the action consent to such referral.

174 1. The court shall offer each party an opportunity to

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175 consult with an attorney or a domestic violence advocate before  
 176 accepting consent to such referral. The court shall determine  
 177 whether each party has given his or her consent freely and  
 178 voluntarily.

179 2. The court shall consider whether a party has committed  
 180 an act of exploitation as defined in s. 415.102(8) or s.  
 181 825.103(1) or domestic violence as defined in s. 741.28 against  
 182 another party or any member of another party's family; engaged  
 183 in a pattern of behaviors that exert power and control over  
 184 another party and that may compromise another party's ability to  
 185 negotiate a fair result; or engaged in behavior that leads  
 186 another party to have reasonable cause to believe that he or she  
 187 is in imminent danger of becoming a victim of domestic violence.  
 188 The court shall consider and evaluate all relevant factors,  
 189 including, but not limited to, the factors specified in s.  
 190 741.30(6)(b).

191 3. If a party has a history of domestic violence or  
 192 exploitation of an elderly person, the court must order  
 193 safeguards to protect the safety of the participants and the  
 194 elder and the elder's property, including, but not limited to,  
 195 adherence to all provisions of an injunction for protection or  
 196 conditions of bail, probation, or a sentence arising from  
 197 criminal proceedings.

198 (4) COURT APPOINTMENT.—A court appointment of an  
 199 eldercaring coordinator is for a term of up to 2 years and the  
 200 court shall conduct review hearings intermittently to determine  
 201 whether the term should be concluded or extended. Appointments  
 202 conclude upon expiration of the term or upon discharge by the  
 203 court, whichever occurs earlier.

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204 (5) QUALIFICATIONS FOR ELDERCARING COORDINATORS.—  
 205 (a) The court shall appoint qualified eldercaring  
 206 coordinators who meet the requirements of each of the following:  
 207 1. Meet one of the following professional requirements:  
 208 a. Be licensed as a mental health professional under  
 209 chapter 491 and hold at least a master's degree in the  
 210 professional field of practice;  
 211 b. Be licensed as a psychologist under chapter 490;  
 212 c. Be licensed as a physician under chapter 458 or chapter  
 213 459;  
 214 d. Be licensed as a nurse under chapter 464 and hold at  
 215 least a master's degree;  
 216 e. Be certified by the Florida Supreme Court as a family  
 217 mediator and hold at least a master's degree;  
 218 f. Be a member in good standing of The Florida Bar; or  
 219 g. Be a professional guardian as defined in s. 744.102(17)  
 220 and hold at least a master's degree.  
 221 2. Complete all of the following:  
 222 a. Three years of post-licensure or post-certification  
 223 practice;  
 224 b. A family mediation training program certified by the  
 225 Florida Supreme Court;  
 226 c. An elder mediation training program that meets standards  
 227 approved and adopted by the Florida Supreme Court. If the  
 228 Florida Supreme Court has not yet adopted such standards, the  
 229 standards for elder mediation training approved and adopted by  
 230 the Association for Conflict Resolution apply; and  
 231 d. Eldercaring coordinator training. The training must  
 232 total at least 28 hours and must include eldercaring

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233 coordination; elder, guardianship, and incapacity law and  
 234 procedures and less restrictive alternatives to guardianship as  
 235 it pertains to eldercaring coordination; at least 4 hours on the  
 236 implications of elder abuse, neglect, and exploitation and other  
 237 safety issues in eldercaring coordination; the elder's role  
 238 within eldercaring coordination; family dynamics related to  
 239 eldercaring coordination; eldercaring coordination skills and  
 240 techniques; multicultural competence and its use in eldercaring  
 241 coordination; at least 2 hours of ethical considerations  
 242 pertaining to eldercaring coordination; use of technology within  
 243 eldercaring coordination; and court-specific eldercaring  
 244 coordination procedures.

245 3. Successfully pass a level 2 background screening as set  
 246 forth in s. 435.04(2) and (3) or be exempt from disqualification  
 247 under s. 435.07. The prospective eldercaring coordinator must  
 248 submit a full set of fingerprints to the court or to a vendor,  
 249 entity, or agency authorized by s. 943.053(13). The court,  
 250 vendor, entity, or agency shall forward the fingerprints to the  
 251 Department of Law Enforcement for state processing and the  
 252 Department of Law Enforcement shall forward the fingerprints to  
 253 the Federal Bureau of Investigation for national processing. The  
 254 prospective eldercaring coordinator shall pay the fees for state  
 255 and federal fingerprint processing. The state cost for  
 256 fingerprint processing shall be as provided in s. 943.053(3) (e)  
 257 for records provided to persons or entities other than those  
 258 specified as exceptions therein.

259 4. Have not been a respondent in a final order granting an  
 260 injunction for protection against domestic, dating, sexual, or  
 261 repeat violence or stalking or exploitation of an elder or a

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262 disabled person.

263 5. Meet any additional qualifications the court may require  
 264 to address issues specific to the parties.

265 (b) A qualified eldercaring coordinator must be in good  
 266 standing or in clear and active status with all professional  
 267 licensing authorities or certification boards.

268 (6) DISQUALIFICATIONS AND REMOVAL OF ELDERCARING  
 269 COORDINATORS.—

270 (a) An eldercaring coordinator must resign and immediately  
 271 report to the court if he or she no longer meets the minimum  
 272 qualifications or if any of the disqualifying circumstances  
 273 occurs.

274 (b) The court shall remove an eldercaring coordinator upon  
 275 the eldercaring coordinator's resignation or disqualification or  
 276 a finding of good cause shown based on the court's own motion or  
 277 a party's motion.

278 (c) Upon the court's own motion or upon a party's motion,  
 279 the court may suspend the authority of an eldercaring  
 280 coordinator pending a hearing on the motion for removal. Notice  
 281 of hearing on removal must be timely served on the eldercaring  
 282 coordinator and all parties.

283 (d) If a motion was made in bad faith, a court may, in  
 284 addition to any other remedy authorized by law, award reasonable  
 285 attorney fees and costs to a party or an eldercaring coordinator  
 286 who successfully challenges a motion for removal.

287 (7) SUCCESSOR ELDERCARING COORDINATOR.—If an eldercaring  
 288 coordinator resigns, is removed, or is suspended from an  
 289 appointment, the court shall appoint a successor qualified  
 290 eldercaring coordinator who is agreed to by all parties or, if

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291 the parties do not reach agreement on a successor, another  
 292 qualified eldercaring coordinator to serve for the remainder of  
 293 the original term.

294 (8) FEES AND COSTS.—The court may not order the parties to  
 295 eldercaring coordination without their consent unless the court  
 296 determines that the parties have the financial ability to pay  
 297 the eldercaring coordination fees and costs. The court shall  
 298 determine the allocation among the parties of fees and costs for  
 299 eldercaring coordination and may make an unequal allocation  
 300 based on the financial circumstances of each party, including  
 301 the elder.

302 (a) A party who is asserting that he or she is unable to  
 303 pay the eldercaring coordination fees and costs must complete a  
 304 financial affidavit form approved by the presiding court. The  
 305 court shall consider the party's financial circumstances,  
 306 including income; assets; liabilities; financial obligations;  
 307 and resources, including, but not limited to, whether the party  
 308 can receive or is receiving trust benefits, whether the party is  
 309 represented by and paying a lawyer, and whether paying the fees  
 310 and costs of eldercaring coordination would create a substantial  
 311 hardship.

312 (b) If a court finds that a party is indigent based upon  
 313 the criteria prescribed in s. 57.082, the court may not order  
 314 the party to eldercaring coordination unless funds are available  
 315 to pay the indigent party's allocated portion of the eldercaring  
 316 coordination fees and costs, which may include funds provided  
 317 for that purpose by one or more nonindigent parties who consent  
 318 to paying such fees and costs, or unless insurance coverage or  
 319 reduced or pro bono services are available to pay all or a

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320 portion of such fees and costs. If financial assistance, such as  
 321 health insurance or eldercaring coordination grants, is  
 322 available, such assistance must be taken into consideration by  
 323 the court in determining the financial abilities of the parties.

324 (9) CONFIDENTIALITY.—

325 (a) Except as otherwise provided in this section, all  
 326 communications made by, between, or among any parties,  
 327 participants, or eldercaring coordinator during eldercaring  
 328 coordination shall be kept confidential.

329 (b) The eldercaring coordinator, participants, and each  
 330 party designated in the order appointing the eldercaring  
 331 coordinator may not testify or otherwise offer evidence about  
 332 communications made by, between, or among the parties,  
 333 participants, and the eldercaring coordinator during eldercaring  
 334 coordination, unless one of the following applies:

335 1. Such communications are necessary to identify,  
 336 authenticate, confirm, or deny a written and signed agreement  
 337 entered into by the parties during eldercaring coordination.

338 2. Such communications are necessary to identify an issue  
 339 for resolution by the court without otherwise disclosing  
 340 communications made by any party or the eldercaring coordinator.

341 3. Such communications are limited to the subject of a  
 342 party's compliance with the order of referral to eldercaring  
 343 coordination, orders for psychological evaluation, court orders  
 344 or health care provider recommendations for counseling, or court  
 345 orders for substance abuse testing or treatment.

346 4. The communications are necessary to determine the  
 347 qualifications of an eldercaring coordinator or to determine the  
 348 immunity and liability of an eldercaring coordinator who has

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349 acted in bad faith or with malicious purpose or in a manner  
 350 exhibiting wanton and willful disregard for the rights, safety,  
 351 or property of the parties pursuant to subsection (11).

352 5. The parties agree that the communications be disclosed.

353 6. The communications are necessary to protect any person  
 354 from future acts that would constitute domestic violence under  
 355 chapter 741; child abuse, neglect, or abandonment under chapter  
 356 39; or abuse, neglect, or exploitation of an elderly or disabled  
 357 adult under chapter 415 or chapter 825, or are necessary in an  
 358 investigation conducted under s. 744.2004 or a review conducted  
 359 under s. 744.368(5).

360 7. The communications are offered to report, prove, or  
 361 disprove professional misconduct alleged to have occurred during  
 362 eldercaring coordination, solely for the internal use of the  
 363 body conducting the investigation of such misconduct.

364 8. The communications are offered to report, prove, or  
 365 disprove professional malpractice alleged to have occurred  
 366 during eldercaring coordination, solely for the professional  
 367 malpractice proceeding.

368 9. The communications were willfully used to plan a crime,  
 369 commit or attempt to commit a crime, conceal ongoing criminal  
 370 activity, or threaten violence.

371 (c) Notwithstanding paragraphs (a) and (b), confidentiality  
 372 or privilege does not attach to a signed written agreement  
 373 reached during eldercaring coordination, unless the parties  
 374 agree otherwise, or to any eldercaring coordination  
 375 communication:

376 1. For which the confidentiality or privilege against  
 377 disclosure has been waived by all parties;

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378 2. That is willfully used to plan a crime, commit or  
 379 attempt to commit a crime, conceal ongoing criminal activity, or  
 380 threaten violence; or

381 3. That requires a mandatory report pursuant to chapter 39  
 382 or chapter 415 solely for the purpose of making the mandatory  
 383 report to the entity requiring the report.

384 (10) EMERGENCY REPORTING TO THE COURT.—

385 (a) An eldercaring coordinator must immediately inform the  
 386 court by affidavit or verified report, without notice to the  
 387 parties, if:

388 1. The eldercaring coordinator has or will be making a  
 389 report pursuant to chapter 39 or chapter 415; or

390 2. A party, including someone acting on a party's behalf,  
 391 is threatening or is believed to be planning to commit the  
 392 offense of kidnapping upon an elder as defined in s. 787.01, or  
 393 wrongfully removes or is removing the elder from the  
 394 jurisdiction of the court without prior court approval or  
 395 compliance with the requirements of s. 744.1098. If the  
 396 eldercaring coordinator suspects that a party or family member  
 397 has relocated an elder within this state to protect the elder  
 398 from a domestic violence situation, the eldercaring coordinator  
 399 may not disclose the location of the elder unless required by  
 400 court order.

401 (b) An eldercaring coordinator shall immediately inform the  
 402 court by affidavit or verified report and serve a copy of such  
 403 affidavit or report on each party upon learning that a party is  
 404 the subject of a final order or injunction of protection against  
 405 domestic violence or exploitation of an elderly person or has  
 406 been arrested for an act of domestic violence or exploitation of

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407 an elderly person.

408 (11) IMMUNITY AND LIMITATION ON LIABILITY.—

409 (a) A person who is appointed or employed to assist the  
410 body designated to perform duties relating to disciplinary  
411 proceedings involving eldercaring coordinators has absolute  
412 immunity from liability arising from the performance of his or  
413 her duties while acting within the scope of his or her appointed  
414 functions or duties of employment.

415 (b) An eldercaring coordinator who is appointed by the  
416 court is not liable for civil damages for any act or omission  
417 within the scope of his or her duties under an order of referral  
418 unless such person acted in bad faith or with malicious purpose  
419 or in a manner exhibiting wanton and willful disregard for the  
420 rights, safety, or property of the parties.

421 (12) MINIMUM STANDARDS AND PROCEDURES.—The Florida Supreme  
422 Court shall establish minimum standards and procedures for the  
423 qualification, ethical conduct, discipline, and training and  
424 education of eldercaring coordinators who serve under this  
425 section. The Florida Supreme Court may appoint or employ such  
426 personnel as are necessary to assist the court in exercising its  
427 powers and performing its duties under this section.

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

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

**SENATOR DENNIS BAXLEY**

12th District

March 16, 2021

The Honorable Chair Kelli Stargel  
420 Senate Office Building  
Tallahassee, FL 32399

Dear Chair Stargel,

I would like to request that CS/SB 368 Elder-focused Dispute Resolution Process be heard in the next Appropriations Committee Meeting.

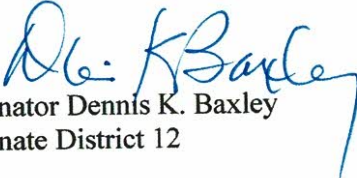
This bill enables families to resolve disputes in a manner that respects the need, safety, and autonomy of their aging loved one in a private forum with the assistance of Elder-caring Coordinators.

Elder-caring coordination is a dispute resolution process modeled after the parenting coordination process, in which an elder-caring coordinator assists elders, legally authorized decision makers, and specified others to resolve disputes with high conflict levels that impact the elder's autonomy and safety.

Since 2015, eight Florida judicial circuits have participated in an elder-caring coordination pilot program. Participants reported: Fewer required court proceedings; Reduced family conflict; Minimized abuse, neglect, and exploitation of the elder; Reduced need for guardianships; and Faster, private resolution of non-legal issues.

I appreciate your favorable consideration.

Onward & Upward,

  
Senator Dennis K. Baxley  
Senate District 12

DKB/dd

**REPLY TO:**

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

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore



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

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

April 21, 2021

*Meeting Date*

SB 368

*Bill Number (if applicable)*

Topic Elder-focused Dispute Resolution Process

*Amendment Barcode (if applicable)*

Name Eric Maclure

Job Title Deputy State Courts Administrator

Address 500 South Duval Street

Phone 850-414-1048

*Street*

Tallahassee

FL

32399

Email macluree@flcourts.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Committee on Alternative Dispute Resolution Rules and Policy / STATE COURTS SYSTEM

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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/SB 390

INTRODUCER: Banking and Insurance Committee and Senator Wright

SUBJECT: Prescription Drug Coverage

DATE: April 21, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<b>Fav/CS</b>
2.	<u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	<b>Recommend: Favorable</b>
3.	<u>Sanders</u>	<u>Sadberry</u>	<u>AP</u>	<b>Favorable</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 390 revises provisions of the Florida Insurance Code (code) relating to the oversight of pharmacy benefit managers (PBMs) by the Office of Insurance Regulation (OIR). Specifically, the bill:

- Authorizes the OIR to conduct market conduct examinations of PBMs to determine compliance with applicable provisions of the code;
- Requires a health insurer or Health Maintenance Organizations (HMO), and any entity acting on their behalf, including a PBM, to comply with the pharmacy audit provisions;
- Provides that a health insurer or HMO may only contract with a PBM that complies with specified statutory requirements;
- Authorizes an audited pharmacy to appeal certain pharmacy audit findings made by health insurers or HMO; and
- Clarifies that an insurer or HMO remains responsible for any violations of the pharmacy audit requirements and the prompt pay law by a PBM acting on its behalf.

The OIR estimates that it will incur a negative fiscal impact, ranging from \$100,000 to \$200,000, to contract with a pharmacist to provide oversight of PBM market conduct examinations and respond to complaints involving pharmacy audits.

The Division of State Group Insurance program may incur an indeterminate negative fiscal impact associated with the administrative costs associated with any market conduct examination

of its PBM by the OIR, to the extent such examination occurs and such costs are passed down to participants of the program.

The bill is effective July 1, 2021.

## II. Present Situation:

In 2019, total U.S. health care spending increased 4.6 percent from the prior year to reach \$2.8 trillion or \$11,482 per person.<sup>1</sup> Over the past 20 years, U.S. drug spending has increased by 330 percent compared with a 208 percent increase in total U.S. health expenditures.<sup>2</sup>

### The Prescription Drug Supply Chain

In recent years, the affordability of prescription drugs has gained attention, resulting in pharmacy benefit managers (PBMs) and drug manufacturers coming under scrutiny as policymakers have attempted to understand their role in the drug supply chain. Many stakeholders (drug manufacturers, drug wholesalers, pharmacy services administrative organizations, pharmacy benefit managers, health plans, employers, and consumers) are involved with, and pay different prices for, prescription drugs as they move from the drug manufacturer to the insured.

Due to a lack of transparency in the marketplace, it can be difficult to determine the final price of a prescription drug. The final price of a drug may include rebates and discounts to insurers, Health Maintenance Organizations (HMO), or pharmacy benefit managers that are not disclosed.<sup>3</sup> Market participants, such as drug wholesalers, may add their own markups and fees, and drug manufacturers may offer direct consumer discounts, such as prescription drug coupons that can be redeemed when filling a particular prescription at a pharmacy.<sup>4</sup>

Some independent pharmacies may contract with pharmacy services administrative organizations (PSAO) to interact on their behalf with other stakeholders, such as drug wholesalers and third-party payers, such as large private and public health plans and their PBMs.<sup>5</sup> The PSAOs develop networks of pharmacies by signing contractual agreements with each pharmacy that authorizes them to negotiate with third-party payers on the pharmacy's behalf. Drug wholesalers and independent pharmacy cooperatives owned the majority of PSAOs in operation in 2011 or 2012.<sup>6</sup> Health insurers, HMOs, or self-insured employers may contract with PBMs to manage their

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<sup>1</sup> Centers for Medicare and Medicaid Services, *National Health Expenditure 2019 Highlights*, <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsHistorical> (last visited Mar. 22, 2021).

<sup>2</sup> Kirzinger, A., et. al., for the Kaiser Family Foundation. *US Public's Perspective on Prescription Drug Costs*. *JAMA*. 2019;322(15):1440. doi:10.1001/jama.2019.15547, <https://jamanetwork.com/journals/jama/fullarticle/2752910> (last visited Mar. 22, 2021).

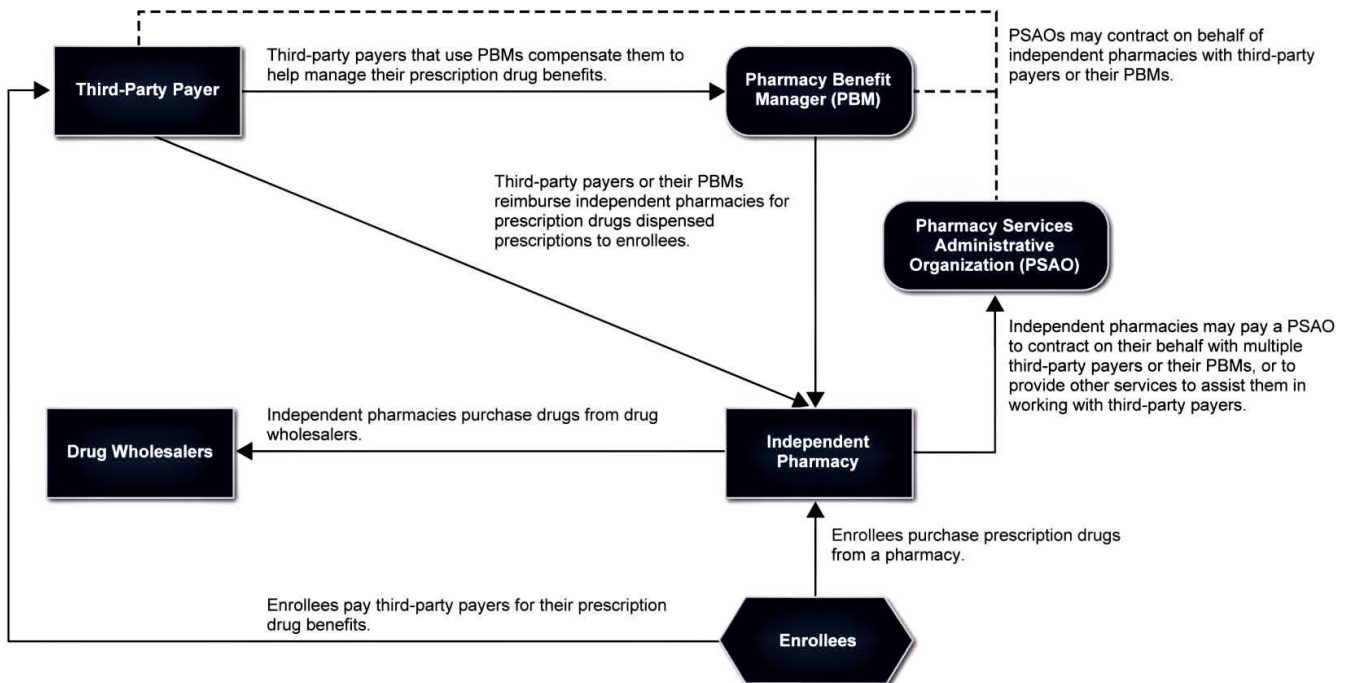
<sup>3</sup> *Annu. Rev. Public Health*. 1999. 20:361–401.

<sup>4</sup> Reynolds, Ian, et. al., *The Prescription Drug Landscape, Explored* (Mar. 2019). The Pew Charitable Trusts, <https://www.pewtrusts.org/en/research-and-analysis/reports/2019/03/08/the-prescription-drug-landscape-explored> (last visited Mar. 22, 2021).

<sup>5</sup> General Accounting Office, *The Number, Role, and Ownership of Pharmacy Services Administrative Organizations* (GAO-13-176) (Feb 28, 2013), <https://www.gao.gov/assets/gao-13-176.pdf> (last visited Mar. 22, 2021).

<sup>6</sup> *Id.*

prescription drug benefits. The interaction among key entities involved in the distribution and payment of prescription drugs is depicted below:<sup>7</sup>



Source: GAO analysis based on interviews and industry reports.

### The Commonwealth Fund Study of 15 Large Employer Plans<sup>8</sup>

In response to concerns about rising drug costs, a recent study by The Commonwealth Fund evaluated drug utilization from plan sponsors to estimate savings from reducing the use of high cost, low-value drugs and described some of the cost concerns and challenges relating to the drug supply chain, as follows:

PBMs negotiate with pharmaceutical manufacturers for price discounts, which are typically paid as rebates based on sales volumes driven by formulary placement. Rebates can reduce the final net price to the plan sponsor and may be passed on to patients. However, in exchange for low administration fees, plan sponsors allow PBMs to keep a portion of the negotiated rebates and other fees. Contracts between PBMs and plan sponsors contain rebate guarantees, perpetuating the demand for high-rebate drugs by encouraging PBMs to maximize rebate revenue, giving preference to some drugs over others on formularies based on rebate revenue rather than their value and final cost to the patient or plan sponsor. Additionally, PBMs earn revenue from “spread” pricing, which is the difference between what PBMs pay pharmacies on behalf of plan sponsors

<sup>7</sup> *Id* at pg. 15.

<sup>8</sup> Vela, Lauren, *Reducing Wasteful Spending in Employers’ Pharmacy Benefit Plans* (Aug. 2019) the Commonwealth Fund, <https://www.commonwealthfund.org/publications/issue-briefs/2019/aug/reducing-wasteful-spending-employers-pharmacy-benefit-plans> (last visited Mar. 22, 2021).

and what PBMs are reimbursed by the plan sponsor. This also encourages PBMs to prioritize higher-cost drugs to allow for a larger spread.<sup>9</sup>

The study further describes additional factors that may increase costs for employers and insureds:

[P]lan sponsors often allow broad formularies that include wasteful drugs because they are concerned that employees will be disappointed if their prescribed drugs are not covered. Doctors prescribe these drugs because they are often unaware of drug costs. Pharmaceutical manufacturers contribute to these patterns by promoting their products through “detailers” — pharmaceutical salespeople calling on doctors — when less costly alternatives may be clinically appropriate for patients. Plan sponsors have addressed the resulting high spending by increasing patient cost-sharing on lower-value drugs. Manufacturers counteract cost-sharing and formulary management tools by flooding the market with copayment coupons that undermine the benefit structure put in place by plan sponsors.<sup>10</sup>

### Pharmacy Benefit Managers

Many public and private employers and health plans contract with PBMs to help manage drug costs.<sup>11</sup> Some of the services provided by the PBMs include processing pharmacy claims; providing mail-order pharmacy services to their customers; negotiating rebates (discounts paid by a drug manufacturer to a PBM), developing pharmacy networks, creating drug formularies; reviewing drug utilization; and providing disease management.<sup>12</sup> Generally, a contract between a PBM and a health plan or an employer specifies the amount a plan or an employer will pay a PBM for brand name and generic drugs and specify certain savings guarantees.<sup>13</sup> A recent report found that PBMs passed through 78 percent of manufacturer rebates to health plans in 2012 and 91 percent in 2016.<sup>14</sup> For the same period, the report noted that manufacturer rebates grew from \$39.7 billion to \$89.5 billion, and played a growing role in partially offsetting increases in list prices, which the study noted have risen more quickly than overall retail prescription drug spending.<sup>15</sup>

In recent years, significant consolidations in the PBM industry have occurred. Further, many health insurers are acquiring PBMs. Many entities have cited reducing drug cost as a factor for

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Pharmacy Benefit Managers and Their Role in Drug Spending (Apr. 22, 2019), <https://www.commonwealthfund.org/publications/explainer/2019/apr/pharmacy-benefit-managers-and-their-role-drug-spending> (last visited Mar. 22, 2021).

<sup>12</sup> *Supra* note 3.

<sup>13</sup> *Policy Options To Help Self-Insured Employers Improve PBM Contracting Efficiency*, Health Affairs Blog, (May 29, 2019), <https://www.healthaffairs.org/doi/10.1377/hblog20190529.43197/full/> (last visited Mar. 22, 2021).

<sup>14</sup> *Supra* note 4.

<sup>15</sup> *Id.*

many of the acquisitions.<sup>16</sup> In 2018, three PBMs processed about 75 percent of all equivalent prescription claims: CVS Health (including Caremark and Aetna), Express Scripts, and the OptumRx business of UnitedHealth.<sup>17</sup> The following six PBMs handled more than 95 percent of the total U.S. equivalent prescription claims managed:

- CVS Caremark/Aetna, 30 percent;
- Express Scripts, 23 percent;
- OptumRx (UnitedHealth), 23 percent;
- Humana Pharmacy Solutions, seven percent;
- Medimpact Healthcare Systems, six percent; and
- Prime Therapeutics, six percent.<sup>18</sup>

### ***Reimbursement of Pharmacies by PBMs***

Generally, the maximum allowable cost (MAC) price represents the upper limit price that a plan will pay or reimburse for generic drugs and sometimes brand drugs that have generic versions available (multisource brands).<sup>19</sup> A PBM can maintain multiple MAC lists, each tied to the requirements of a particular employee benefit plan or other payer.<sup>20</sup> A MAC pricing list is a cost management tool that is developed from a proprietary survey of wholesale prices existing in the marketplace, taking into account market share, inventory, reasonable profit margins, and other factors.<sup>21</sup> One of the goals of the MAC pricing list is to ensure that the pharmacy or their buying groups are motivated to seek and purchase generic drugs at the lowest price.<sup>22</sup> If a pharmacy procures a higher-priced product, the pharmacy may not make as much profit, or in some instances, may lose money on that specific purchase.<sup>23</sup>

### **Retail Pharmacies**

Independent pharmacies are a type of retail pharmacy with a physical store location—often in rural and underserved areas—that dispense medications to consumers, including both prescription and over-the-counter drugs.<sup>24</sup> Nationwide, the number of independent pharmacies in the United States continues to decline. In 2010, there were 23,106 independent pharmacies; by

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<sup>16</sup> Barlas, Stephen, Vertical Integration Heats Up in Drug Industry: Will Medication Price Hikes Cool Down as a Result? *Pharmacy & Therapeutics: a peer-reviewed journal for formulary management* vol. 43,1 (2018): 31-39, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5737250/> (last visited Mar. 22, 2021).

<sup>17</sup> Drug Channels, CVS, Express Scripts, and the Evolution of the PBM Business Model (May 29, 2019), <https://www.drugchannels.net/2019/05/cvs-express-scripts-and-evolution-of.html> (last visited Mar. 22, 2021).

<sup>18</sup> *Id.*

<sup>19</sup> Academy of Managed Care Pharmacy, Maximum Allowable Cost (MAC) Pricing (May 22, 2019), <https://www.amcp.org/policy-advocacy/policy-advocacy-focus-areas/where-we-stand-position-statements/maximum-allowable-cost-mac-pricing> (last visited Mar. 22, 2021).

<sup>20</sup> Hyman, David, *The Unintended Consequences of Restrictions on the Use of Maximum Allowable Cost Programs ("MACs") for Pharmacy Reimbursement* (Apr. 2015), <https://www.pcmanet.org/wp-content/uploads/2016/08/hyman-mac-white-paper-april-2015.pdf> (last visited Mar. 22, 2021)

<sup>21</sup> *Id.*

<sup>22</sup> *Supra* note 18.

<sup>23</sup> *Id.*

<sup>24</sup> *Supra* note 3. In the report, an independent pharmacy means a pharmacy having one to three pharmacies under common ownership.

2017, that number had dropped to 21,909.<sup>25</sup> Independent community pharmacies represented an estimated 35 percent of all community pharmacies nationwide in 2019, and comprised a \$73.7 billion marketplace.<sup>26</sup>

The decision of employers, HMOs, or insurers to contract with PBMs may shift business away from smaller, local retail pharmacies that are also known as independent pharmacies. Historically, independent pharmacies were important health care providers in their communities and their pharmacists had long-term relationships with their patients.<sup>27</sup> However, many independent pharmacies have closed in recent years because of the competition resulting from the proliferation of large, chain retail pharmacies<sup>28</sup> that can negotiate with PBMs at deeply discounted reimbursement levels based on large volume sales.

Further, innovations and greater competition in the pharmacy marketplace are occurring. In 2018, Amazon acquired PillPack, a mail-order pharmacy, which has pharmacy licenses in all 50 states.<sup>29</sup> Further, many digital pharmacies are entering the marketplace and focus on certain strategies, such as:

- Home delivery of individual prescriptions;
- Operating at least one brick-and mortar retail location (so that the pharmacy can remain in a PBM's network);
- Dispensing 30-day prescriptions, not 90-day maintenance prescriptions;
- Offering a mobile application so consumers can manage their account, order prescription refills, and schedule delivery; and
- Providing telehealth consultations with prescribers.<sup>30</sup>

### **Federal Oversight of Health Insurance**

On March 23, 2010, the Patient Protection and Affordable Care Act (PPACA) was signed into law.<sup>31</sup> Among its significant changes to the U.S. health insurance system are requirements for health insurers to make coverage available to all individuals and employers, without exclusions for preexisting medical conditions and without basing premiums on any health-related factors.<sup>32</sup>

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<sup>25</sup> Arnold, Karen, *Independent Pharmacies: Not Dead Yet*, (Jan. 12, 2019, vol. 163, issue 1) Drug Topics, Voice of the Pharmacist, <https://www.drugtopics.com/view/independent-pharmacies-not-dead-yet> (last visited Mar. 22, 2021).

<sup>26</sup> APhA, *National Community Pharmacists Association Releases 2020 Digest Report* (Oct. 22, 2020), <https://www.pharmacist.com/article/ncpa-releases-2020-digest-report> (last visited Mar. 22, 2021).

<sup>27</sup> Independent pharmacies are a type of retail pharmacy with a store-based location—often in rural and underserved areas—that dispense medications to consumers, including both prescription and over-the-counter drugs. See <http://www.gao.gov/assets/660/651631.pdf> (last visited Mar. 22, 2021).

<sup>28</sup> Such as Walmart, CVS, Walgreens, Publix or Kroger. See <https://www.beckershospitalreview.com/pharmacy/15-largest-pharmacies-in-the-us.html> (last visited Mar. 22, 2021).

<sup>29</sup> Garcia, Ahiz, *Amazon rolls out “Amazon Pharmacy” branding to PillPack*, CNN Business (Nov. 15, 2019), <https://www.cnn.com/2019/11/15/tech/amazon-pharmacy-pillpack/index.html> (last visited Mar. 22, 2021).

<sup>30</sup> Drug Channels, *The Promise and Limits of Digital Pharmacies* (Feb. 16, 2021), <https://www.drugchannels.net/2021/02/the-promise-and-limits-of-digital.html> (last visited Mar. 22, 2021).

<sup>31</sup> Pub. L. 111–148 was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), which amended and revised several provisions of the PPACA, was enacted on March 30, 2010. The two laws are collectively referred to as the “Patient Protection and Affordable Care Act.” See <https://www.healthcare.gov/where-can-i-read-the-affordable-care-act/> (last visited Mar. 22, 2021).

<sup>32</sup> Most of the insurance regulatory provisions in PPACA amend Title XXVII of the Public Health Service Act (PHSA), (42 U.S.C. s. 300gg et seq.).



The PPACA imposes many other requirements on qualified health plans offered by individual and group plans, including required benefits, reporting of medical loss ratios, and internal and external appeals of adverse benefit determinations.<sup>33</sup>

### ***Medical Loss Ratios, Rebates, and Spread Pricing***

If an insurer or HMO spends less than 80 percent in the individual or small group market (85 percent in the large group market) of premium on medical care and efforts to improve the quality of care, they must refund the portion of premium that exceeds this limit.<sup>34</sup> The 80 percent (or 85 percent) is the medical loss ratio (MLR). The PBMs must report rebate information to the health insurers and HMOs, and the insurer or HMO includes this information as a deduction from the amount of incurred claims in the MLR reporting to the Department of Health and Human Services (HHS).<sup>35</sup>

### ***Insurer Reporting of Health Plan Spending on Drugs***

Beginning in 2021, federal law requires a group health plan or health insurance issuer offering group or individual health insurance coverage to report to the Secretary of the Department of Labor and the Secretary of the Department of Treasury the following information with respect to the health plan or coverage in the previous plan year:

- The 50 brand prescription drugs most frequently dispensed and the total number of paid claims for each drug;
- The 50 most costly prescription drugs by total annual spending;
- The 50 prescription drugs with the greatest increase in plan expenditures over the preceding plan year;
- Total spending on health care services by such plan or coverage, categorized by type of costs, including hospital, health care provider, clinical services, prescription drugs, and other medical costs;
- Spending on prescription drugs by the plan or coverage, and the enrollees;
- Average monthly premium paid by the employer and by participants and beneficiaries; and
- Impact of rebates, fees and other remuneration paid by drug manufacturers on premiums and out-of-pocket costs.<sup>36</sup>

## **Oversight of Health Insurers, HMOs, and PBMs in Florida**

### ***Insurers and HMOs***

The Office of Insurance Regulation (OIR) licenses and regulates insurers, HMOs, and other risk-bearing entities.<sup>37</sup> To operate in Florida, an insurer or HMO must obtain a certificate of authority from the OIR.<sup>38</sup>

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<sup>33</sup> *Id.*

<sup>34</sup> 45 CFR 158.210 and 158.211.

<sup>35</sup> 42 U.S.C. s. 2718.

<sup>36</sup> Consolidated Appropriations Act, 2021, Title II (H.R. 133), Public L. No. 116-260 (Dec. 27, 2020). See <https://www.congress.gov/116/bills/hr133/BILLS-116hr133enr.pdf> (last visited Mar. 22, 2021).

<sup>37</sup> Section 20.121(3)(a)1., F.S.

<sup>38</sup> Sections 624.401 and 641.21(1), F.S.



### ***Oversight of PBMs***

A PBM is a person or entity doing business in Florida, which contracts to administer prescription drug benefits on behalf of a health insurer or an HMO to residents of Florida.<sup>39</sup> The PBMs are required to register with the OIR.<sup>40</sup> The registration process requires an applicant to remit a nonrefundable fee not to exceed \$500, a copy of certain corporate documents, and a completed registration form. Registration and registration renewal certificates are valid for two years and are nontransferable.<sup>41</sup>

The Insurance Code<sup>42</sup> mandates that contracts between health insurers or HMOs and PBMs contain certain provisions. However, there is no statutory penalty if the PBM does not comply with these contractual provisions. These mandatory contractual provisions require the PBM to:

- Update the maximum allowable cost (MAC) pricing information at least once every seven calendar days;
- Maintain a process that will eliminate drugs from the MAC lists or modify drug prices in a timely manner to remain consistent with changes in pricing data;
- Not limit a pharmacist’s ability to disclose whether the cost-sharing obligation exceeds the retail price for a covered prescription drug, and the availability of a more affordable alternative drug, pursuant to s. 465.0244, F.S.; and
- Not require an insured to pay for a prescription drug at the point of sale in an amount that exceeds the lesser of:
  - The applicable cost sharing amount; or
  - The retail price of the drug in the absence of prescription drug coverage.

**Maximum Allowable Cost.** Current law defines the term, “maximum allowable cost” (MAC) as the per-unit amount that a PBM reimburses a pharmacist for a prescription drug, excluding dispensing fees, prior to the application of copayments, coinsurance, and other cost-sharing charges, if any.<sup>43</sup>

**Payment of claims.** Current law requires a PBM, acting on behalf of an insurer or HMO, to pay a provider’s claim within a prescribed time.<sup>44</sup> Further, the Department of Financial Services reviews alleged violations, relating to claims of providers not paid or denied by the insurer or HMO.<sup>45</sup>

### ***Florida Pharmacy Audits***

Pursuant to ch. 465, F.S., the Florida Pharmacy Act, a “pharmacy” includes a community pharmacy, an institutional pharmacy, a nuclear pharmacy, a special pharmacy, and an Internet pharmacy. The term “community pharmacy” includes every location where medicinal drugs are

<sup>39</sup> Section 624.490, F.S.

<sup>40</sup> *Id.*

<sup>41</sup> Office of Insurance Regulation, *Registration Form for Pharmacy Benefit Managers*, <https://www.floir.com/siteDocuments/AllFormsPBM.pdf> (last visited Mar. 22, 2021). The current registration fee is \$5.

<sup>42</sup> Sections 627.64741, 627.6572, and 641.314, F.S.

<sup>43</sup> *Id.*

<sup>44</sup> Sections 627.6131 and 641.3155, F.S.

<sup>45</sup> Department of Financial Services, Division of Consumer Services, *Medical Provider Informational Memorandum* at <https://apps.fldfs.com/eservice/MedicalProvider.aspx> (last visited Mar. 22, 2021).

compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.<sup>46</sup> The term, “independent pharmacy,” is not defined.

Pharmacies are subject to routine audits by an insurer, HMO, or a PBM acting on behalf of an insurer or HMO. Audits of pharmacies are conducted to determine compliance with respect to billing, reimbursement, and other contractual requirements.<sup>47</sup> Section 465.1885, F.S., prescribes the following rights of a pharmacy in connection with an audit conducted directly or indirectly by an insurance company, a managed care company, or a PBM:

- To be notified at least seven calendar days before the initial onsite audit;
- To have the onsite audit scheduled after the first three calendar days of a month unless the pharmacist consents otherwise;
- To have the audit period limited to 24 months after the date a claim is submitted to or adjudicated by the entity;
- To have an audit that requires clinical or professional judgment conducted by or in consultation with a pharmacist;
- To use the written and verifiable records of a hospital, physician, or other authorized practitioner, which are transmitted by any means of communication, to validate the pharmacy records in accordance with state and federal law;
- To be reimbursed for a claim that was retroactively denied for a clerical error, typographical error, scrivener’s error, or computer error if the prescription was properly and correctly dispensed, unless a pattern of such errors exists, fraudulent billing is alleged, or the error results in actual financial loss to the entity;
- To receive the preliminary audit report within 120 days after the conclusion of the audit;
- To produce documentation to address a discrepancy or audit finding within 10 business days after the preliminary audit report is delivered to the pharmacy;
- To receive the final audit report within 6 months after receiving the preliminary audit report; and
- To have recoupment or penalties based on actual overpayments and not according to the accounting practice of extrapolation.<sup>48</sup>

However, neither the Department of Health nor the Board of Pharmacy has authority under ch. 465, F.S., the Florida Pharmacy Act, to enforce these provisions against any entity not complying with these requirements.

### **Statewide Provider and Health Plan Claim Dispute Resolution Program**

The Agency for Health Care Administration (AHCA), administers the Statewide Provider and Health Plan Claim Dispute Resolution Program, which assists contracted and noncontracted providers and health plans to resolve claim disputes that are not resolved by the provider and the health plan.<sup>49</sup> The AHCA contracts with an independent dispute resolution organization to assist health care providers and health plans in order to resolve claim disputes. These services are

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<sup>46</sup> Section 465.003(11), F.S.

<sup>47</sup> JD Supra, *Pharmacy Compliance: Will Your Pharmacy’s Policies and Protocols Withstand a DEA or PBM Audit?* (Aug. 3, 2020), <https://www.jdsupra.com/legalnews/pharmacy-compliance-will-your-pharmacy-78764/> (last visited Mar. 22, 2021).

<sup>48</sup> Section 465.188, F.S., prescribes the rights of a pharmacy in connection with a Medicaid audit.

<sup>49</sup> Section 408.7057, F.S.

available to Medicaid managed care providers and health plans. Claims submitted to managed care plans that have been denied in full or in part, or allegedly underpaid or overpaid, may be eligible for dispute under the arbitration process.<sup>50</sup>

### **State Group Insurance Program**

Under the authority of s. 110.123, F.S., the Department of Management Services (department), through the Division of State Group Insurance (DSGI), administers the state group insurance program under a cafeteria plan consistent with s. 125, Internal Revenue Code, to provide medical and prescription drug benefits for state employees and state university employees. To administer the program, the department contracts with third-party administrators for self-insured health plans, fully insured HMOs, and a PBM for the self-insured State Employees' Prescription Drug Program pursuant to s. 110.12315, F.S. The current PBM for the state employees' prescription drug plan is CaremarkPCS Health, LLC (CVS Caremark).<sup>51</sup>

### **Recent U.S. Supreme Court Decision**

In 2015, Arkansas enacted a law, Senate Bill 688, Act 900 of the Regular Session (Act),<sup>52</sup> which effectively requires PBMs to reimburse Arkansas pharmacies at a price equal to or higher than the pharmacy's acquisition cost. To accomplish this result, the law requires PBMs to update their MAC lists in a timely manner when drug prices increase, and to provide pharmacies with an administrative appeal process to challenge MAC reimbursement rates that are below the pharmacies' acquisition costs.<sup>53</sup> If a pharmacy could not have acquired the drug at a lower price from its typical wholesaler, a PBM must increase its reimbursement rate to cover the pharmacy's acquisition cost.<sup>54</sup> A PBM must also allow pharmacies to "reverse and rebill" each reimbursement claim affected by the pharmacy's inability to procure the drug from its typical wholesaler at a price equal to or less than the MAC reimbursement price.<sup>55</sup> Lastly, the Act allows a pharmacy to decline to sell a drug to a consumer if the relevant PBM will reimburse the pharmacy at less than its acquisition cost.<sup>56</sup>

In late 2020, the U.S. Supreme Court decided that Arkansas' law regulating PBMs was not preempted by the federal Employee Retirement Income Security Act of 1974 (ERISA),<sup>57</sup> because the Arkansas law has neither an impermissible connection with nor reference to ERISA<sup>58</sup> and is, therefore, not preempted.<sup>59</sup>

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<sup>50</sup> *Id.*

<sup>51</sup> Department of Management Services, Division of State Group Insurance, *2021 Benefits State Employees' Prescription Drug Plan*, [https://www.mybenefits.myflorida.com/content/download/150426/1002145/2021\\_CVS\\_Caremark\\_Brochure.pdf](https://www.mybenefits.myflorida.com/content/download/150426/1002145/2021_CVS_Caremark_Brochure.pdf) (last visited Mar. 10, 2021)

<sup>52</sup> AR SB 688, 2015 90<sup>th</sup> General Assembly (Apr. 2, 2015). Act 900, 2015 Session. *See* <https://www.arkleg.state.ar.us/Acts/Document?type=pdf&act=900&ddBienniumSession=2015%2F2015R> (last visited Mar. 22, 2021).

<sup>53</sup> Arkansas Code 17-92-507 (2019 Supp.).

<sup>54</sup> Section 17-92-507(c)(4)(C)(i)(b) (Supp. 2019).

<sup>55</sup> Section 17-92-507(c)(4)(C)(iii) (Supp. 2019).

<sup>56</sup> Section 17-92-507(e) (Supp. 2019).

<sup>57</sup> 88 Stat. 829, as amended, 29 U. S. C. s. 1001 *et seq.*

<sup>58</sup> 29 U. S. C. s. 1144(a).

<sup>59</sup> *Rutledge v. Pharmaceutical Care Management Assn.*, 592 U.S. \_\_\_\_ (2020) [No. 18-540 (Dec. 10, 2020)].

### III. Effect of Proposed Changes:

**Section 1** amends s. 624.3161, F.S., to authorize the Office of Insurance Regulation (OIR) to conduct market conduct examinations of pharmacy benefits managers (PBMs). This section currently authorizes the OIR to examine insurers and Health Maintenance Organizations (HMOs).

**Section 2** transfers s. 465.1885, F.S., renumbers the section as s. 624.491, F.S., and amends the section to clarify the existing rights of a pharmacy, relating to a pharmacy audit, are statutory requirements for an insurer or HMO or any entity acting on behalf of the insurer or HMO, including, but not limited to, a PBM conducting a pharmacy audit. The section specifies:

- Limits on when audits can be conducted;
- Audit periods;
- Use of a consulting pharmacist;
- Use of written and verifiable records of health care providers to validate pharmacy records;
- Retroactive reimbursement for claims denied for certain errors;
- The timeframe for the provision of preliminary audits;
- Allowance for production of preliminary documentation to rebut an audit finding;
- Time period for production of the final audit; and
- Methodology for calculating final recoupment and penalties.

The section allows a pharmacy to appeal claim payments due because of an audit with the Statewide Provider and Health Plan Claim Dispute Resolution Program at the Agency for Health Care Administration pursuant to s. 408.7057, F.S.

**Sections 3, 4, 5, and 6** amend s. 627.64741, 627.6572, 627.6699, and 641.314, F.S., respectively, relating to individual health insurance policies, large and small group health insurance policies, and HMO contracts.

The bill prohibits an insurer or HMO from contracting with a PBM, unless the PBM:

- Updates its maximum allowable cost (MAC) information at least every seven days;
- Maintains a process that, in a timely manner, will eliminate drugs from MAC lists or modify drug prices to remain consistent with changes in pricing data used in formulating MAC prices and product availability;
- Does not limit a pharmacist's ability to disclose whether the cost-sharing obligation exceeds the retail price for a covered prescription drug and the availability of a more affordable alternative drug; and
- Does not require an insured to make a payment for a prescription drug in an amount that exceeds the lesser of the applicable cost-sharing amount or the retail price of the drug.

Under current law, an insurer or HMO must include these provisions in any contract with a PBM. However, there is no statutory penalties for a PBM's noncompliance with these provisions.

The sections also provide that the OIR may require any health insurer or HMO to submit any PBM contract or amendment for the administration of pharmacy benefits to the OIR for review.

After review of the contract, the OIR may order the health insurer or HMO to cancel the contract in accordance with the contract terms and applicable law if any of the following conditions exist:

- The contract does not comply with the Florida Insurance Code.
- The PBM is not registered with the OIR pursuant to s. 624.490, F.S.

Under current law, s. 641.234, F.S., authorizes the OIR to require an HMO to submit any contract for administrative services, contract with a provider other than an individual physician, contract for management services, and contract with an affiliated entity to the OIR. After review of a contract, the OIR may order the HMO to cancel the contract in accordance with the terms of the contract and applicable law if:

- The fees to be paid by the health maintenance organization under the contract are so unreasonably high as compared with similar contracts entered into by the HMO or as compared with similar contracts entered into by other HMOs in similar circumstances that the contract is detrimental to the subscribers, stockholders, investors, or creditors of the HMO; or
- The contract is with an entity that is not licensed under state statutes, if such license is required, or is not in good standing with the applicable regulatory agency.

**Section 7** provides that this bill takes effect July 1, 2021.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

The bill clarifies statutory provisions relating to pharmacy audits to impose audit requirements rather than rights, which will provide greater transparency regarding the audit process. The bill provides pharmacies with a process to appeal pharmacy benefits managers (PBMs) audit filings related to claim payments with the Statewide Provider and Health Plan Claim Dispute Resolution Program.

Since the bill authorizes the Office of Insurance Regulation (OIR) to conduct market conduct examinations of PBMs, the bill will increase the administrative costs of health insurers, Health Maintenance Organizations (HMOs), and PBMs to the extent PBMs are examined. Entities examined by the OIR are responsible for the payment of the examination expenses.<sup>60</sup>

**C. Government Sector Impact:****Office of Insurance Regulation<sup>61</sup>**

According to the OIR, the bill will have a negative fiscal impact of \$100,000 to \$200,000 on a recurring basis. The OIR would incur costs associated with obtaining pharmacy-related training or contracting with a pharmacist in order to provide effective oversight of PBM market conduct examinations and respond to any complaints involving pharmacy audits. The minimum estimated cost to contract with a pharmacist would be \$100,000 - \$200,000 (Contracted Services).

**Department of Management Services/Division of State Group Insurance<sup>62</sup>**

The costs of a PBM market conduct examination conducted by the OIR could result in an indeterminate increase in administrative costs of the program's PBM. These costs could be recouped from individuals enrolled in the Division of State Group Insurance program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 624.3161, 465.1885, 627.64741, 627.6572, 627.6699, and 641.314.

<sup>60</sup> Section 624.6131(4), F.S.

<sup>61</sup> Office of Insurance Regulation, *2021 Legislative Session, Analysis SB 390* (Jan. 4, 2021).

<sup>62</sup> Department of Management Services, *2021 Agency Legislative Bill Analysis of SB 390* (Feb. 19, 2021).

This bill transfers, renumbers to section 624.491 and amends, section 465.1885 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 March 16, 2021:**

The CS makes the following changes:

- Eliminates changes to the definition of maximum allowable cost.
- Revises conditions in which the Office of Insurance Regulation (OIR) may cancel contracts of insurers or Health Maintenance Organizations (HMOs) with pharmacy benefits managers (PBMs) by eliminating the ability of the OIR to cancel because the fees paid by the insurer or HMO are so unreasonably high, as compared with contracts entered into by other insurers or HMOs in similar circumstances, that the contract is detrimental to policyholders or subscribers of the insurer or HMO, respectively.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Wright

597-02931-21

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1 A bill to be entitled  
 2 An act relating to prescription drug coverage;  
 3 amending s. 624.3161, F.S.; authorizing the Office of  
 4 Insurance Regulation to examine pharmacy benefit  
 5 managers; specifying that certain examination costs  
 6 are payable by persons examined; transferring,  
 7 renumbering, and amending s. 465.1885, F.S.; revising  
 8 the entities conducting pharmacy audits to which  
 9 certain requirements and restrictions apply;  
 10 authorizing audited pharmacies to appeal certain  
 11 findings; providing that health insurers and health  
 12 maintenance organizations that transfer a certain  
 13 payment obligation to pharmacy benefit managers remain  
 14 responsible for certain violations; amending ss.  
 15 627.64741 and 627.6572, F.S.; authorizing the office  
 16 to require health insurers to submit to the office  
 17 certain contracts or contract amendments entered into  
 18 with pharmacy benefit managers; authorizing the office  
 19 to order health insurers to cancel such contracts  
 20 under certain circumstances; authorizing the  
 21 commission to adopt rules; revising applicability;  
 22 amending s. 627.6699, F.S.; requiring certain health  
 23 benefit plans covering small employers to comply with  
 24 certain provisions; amending s. 641.314, F.S.;  
 25 authorizing the office to require health maintenance  
 26 organizations to submit to the office certain  
 27 contracts or contract amendments entered into with  
 28 pharmacy benefit managers; authorizing the office to  
 29 order health maintenance organizations to cancel such

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

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30 contracts under certain circumstances; authorizing the  
 31 commission to adopt rules; revising applicability;  
 32 providing an effective date.  
 33  
 34 Be It Enacted by the Legislature of the State of Florida:  
 35  
 36 Section 1. Subsections (1) and (3) of section 624.3161,  
 37 Florida Statutes, are amended to read:  
 38 624.3161 Market conduct examinations.—  
 39 (1) As often as it deems necessary, the office shall  
 40 examine each pharmacy benefit manager as defined in s. 624.490;  
 41 each licensed rating organization;~~7~~ each advisory organization;~~7~~  
 42 each group, association, carrier; as defined in s. 440.02, or  
 43 other organization of insurers which engages in joint  
 44 underwriting or joint reinsurance;~~7~~ and each authorized insurer  
 45 transacting in this state any class of insurance to which the  
 46 provisions of chapter 627 are applicable. The examination shall  
 47 be for the purpose of ascertaining compliance by the person  
 48 examined with the applicable provisions of chapters 440, 624,  
 49 626, 627, and 635.  
 50 (3) The examination may be conducted by an independent  
 51 professional examiner under contract to the office, in which  
 52 case payment shall be made directly to the contracted examiner  
 53 by the insurer or person examined in accordance with the rates  
 54 and terms agreed to by the office and the examiner.  
 55 Section 2. Section 465.1885, Florida Statutes, is  
 56 transferred, renumbered as section 624.491, Florida Statutes,  
 57 and amended to read:  
 58 624.491 ~~465.1885~~ Pharmacy audits; ~~rights.~~—

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59 (1) A health insurer or health maintenance organization  
 60 providing pharmacy benefits through a major medical individual  
 61 or group health insurance policy or a health maintenance  
 62 organization contract, respectively, shall comply with the  
 63 requirements of this section when the insurer or health  
 64 maintenance organization or any person or entity acting on  
 65 behalf of the insurer or health maintenance organization,  
 66 including, but not limited to, a pharmacy benefit manager as  
 67 defined in s. 624.490, audits the records of a pharmacy licensed  
 68 under chapter 465. The person or entity conducting such audit  
 69 must if an audit of the records of a pharmacy licensed under  
 70 this chapter is conducted directly or indirectly by a managed  
 71 care company, an insurance company, a third party payor, a  
 72 pharmacy benefit manager, or an entity that represents  
 73 responsible parties such as companies or groups, referred to as  
 74 an "entity" in this section, the pharmacy has the following  
 75 rights:

76 (a) Except as provided in subsection (3), notify the  
 77 pharmacy ~~To be notified~~ at least 7 calendar days before the  
 78 initial onsite audit for each audit cycle.

79 (b) Not schedule an ~~To have the~~ onsite audit during  
 80 ~~scheduled after~~ the first 3 calendar days of a month unless the  
 81 pharmacist consents otherwise.

82 (c) Limit the duration of ~~To have the~~ audit period limited  
 83 to 24 months after the date a claim is submitted to or  
 84 adjudicated by the entity.

85 (d) In the case of ~~To have~~ an audit that requires clinical  
 86 or professional judgment, conduct the audit in consultation  
 87 with, or allow the audit to be conducted by, ~~or in consultation~~

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88 ~~with~~ a pharmacist.

89 (e) Allow the pharmacy to use the written and verifiable  
 90 records of a hospital, physician, or other authorized  
 91 practitioner, which are transmitted by any means of  
 92 communication, to validate the pharmacy records in accordance  
 93 with state and federal law.

94 (f) Reimburse the pharmacy ~~To be reimbursed~~ for a claim  
 95 that was retroactively denied for a clerical error,  
 96 typographical error, scrivener's error, or computer error if the  
 97 prescription was properly and correctly dispensed, unless a  
 98 pattern of such errors exists, fraudulent billing is alleged, or  
 99 the error results in actual financial loss to the entity.

100 (g) Provide the pharmacy with a copy of ~~To receive~~ the  
 101 preliminary audit report within 120 days after the conclusion of  
 102 the audit.

103 (h) Allow the pharmacy to produce documentation to address  
 104 a discrepancy or audit finding within 10 business days after the  
 105 preliminary audit report is delivered to the pharmacy.

106 (i) Provide the pharmacy with a copy of ~~To receive~~ the  
 107 final audit report within 6 months after receipt of ~~receiving~~  
 108 the preliminary audit report.

109 (j) Calculate any ~~To have~~ recoupment or penalties based on  
 110 actual overpayments and not according to the accounting practice  
 111 of extrapolation.

112 (2) ~~The rights contained in~~ This section does ~~de~~ not apply  
 113 to:

114 (a) Audits in which suspected fraudulent activity or other  
 115 intentional or willful misrepresentation is evidenced by a  
 116 physical review, review of claims data or statements, or other

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117 investigative methods;

118 (b) Audits of claims paid for by federally funded programs;  
119 or

120 (c) Concurrent reviews or desk audits that occur within 3  
121 business days ~~after~~ ~~of~~ transmission of a claim and where no  
122 chargeback or recoupment is demanded.

123 (3) An entity that audits a pharmacy located within a  
124 Health Care Fraud Prevention and Enforcement Action Team (HEAT)  
125 Task Force area designated by the United States Department of  
126 Health and Human Services and the United States Department of  
127 Justice may dispense with the notice requirements of paragraph

128 (1) (a) if such pharmacy has been a member of a credentialed  
129 provider network for less than 12 months.

130 (4) Pursuant to s. 408.7057, and after receipt of the final  
131 audit report issued by the health insurer or health maintenance  
132 organization, a pharmacy may appeal the findings of the final  
133 audit as to whether a claim payment is due and as to the amount  
134 of a claim payment.

135 (5) A health insurer or health maintenance organization  
136 that, under terms of a contract, transfers to a pharmacy benefit  
137 manager the obligation to pay any pharmacy licensed under  
138 chapter 465 for any pharmacy benefit claims arising from  
139 services provided to or for the benefit of any insured or  
140 subscriber remains responsible for any violations of this  
141 section, s. 627.6131, or s. 641.3155, as applicable.

142 Section 3. Section 627.64741, Florida Statutes, is amended  
143 to read:

144 627.64741 Pharmacy benefit manager contracts.—

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

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146 (a) "Maximum allowable cost" means the per-unit amount that  
147 a pharmacy benefit manager reimburses a pharmacist for a  
148 prescription drug, excluding dispensing fees, prior to the  
149 application of copayments, coinsurance, and other cost-sharing  
150 charges, if any.

151 (b) "Pharmacy benefit manager" means a person or entity  
152 doing business in this state which contracts to administer or  
153 manage prescription drug benefits on behalf of a health insurer  
154 to residents of this state.

155 (2) A health insurer may contract only with a pharmacy  
156 benefit manager that satisfies all of the following conditions ~~A~~  
157 ~~contract between a health insurer and a pharmacy benefit manager~~  
158 ~~must require that the pharmacy benefit manager:~~

159 (a) ~~Updates~~ Update maximum allowable cost pricing  
160 information at least every 7 calendar days.

161 (b) ~~Maintains~~ Maintain a process that ~~will~~, in a timely  
162 manner, will eliminate drugs from maximum allowable cost lists  
163 or modify drug prices to remain consistent with changes in  
164 pricing data used in formulating maximum allowable cost prices  
165 and product availability.

166 ~~(c)(3) Does not limit A contract between a health insurer~~  
167 ~~and a pharmacy benefit manager must prohibit the pharmacy~~  
168 ~~benefit manager from limiting a pharmacist's ability to disclose~~  
169 whether the cost-sharing obligation exceeds the retail price for  
170 a covered prescription drug, and the availability of a more  
171 affordable alternative drug, pursuant to s. 465.0244.

172 ~~(d)(4) Does not require A contract between a health insurer~~  
173 ~~and a pharmacy benefit manager must prohibit the pharmacy~~  
174 ~~benefit manager from requiring an insured to make a payment for~~

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175 a prescription drug at the point of sale in an amount that  
176 exceeds the lesser of:

- 177 ~~1.(a)~~ The applicable cost-sharing amount; or  
178 ~~2.(b)~~ The retail price of the drug in the absence of  
179 prescription drug coverage.

180 (3) The office may require a health insurer to submit to  
181 the office any contract or amendments to a contract for the  
182 administration or management of prescription drug benefits by a  
183 pharmacy benefit manager on behalf of the insurer.

184 (4) After review of a contract submitted under subsection  
185 (3), the office may order the insurer to cancel the contract in  
186 accordance with the terms of the contract and applicable law if  
187 the office determines that any of the following conditions  
188 exist:

189 (a) The contract does not comply with this section or any  
190 other provision of the Florida Insurance Code.

191 (b) The pharmacy benefit manager is not registered with the  
192 office as required under s. 624.490.

193 (5) The commission may adopt rules to administer this  
194 section.

195 ~~(6)(5)~~ This section applies to contracts entered into,  
196 amended, or renewed on or after July 1, ~~2021~~ 2018. All contracts  
197 entered into or renewed between July 1, 2018, and June 30, 2021,  
198 are governed by the law in effect at the time the contract was  
199 entered into or renewed.

200 Section 4. Section 627.6572, Florida Statutes, is amended  
201 to read:

202 627.6572 Pharmacy benefit manager contracts.—

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

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204 (a) "Maximum allowable cost" means the per-unit amount that  
205 a pharmacy benefit manager reimburses a pharmacist for a  
206 prescription drug, excluding dispensing fees, prior to the  
207 application of copayments, coinsurance, and other cost-sharing  
208 charges, if any.

209 (b) "Pharmacy benefit manager" means a person or entity  
210 doing business in this state which contracts to administer or  
211 manage prescription drug benefits on behalf of a health insurer  
212 to residents of this state.

213 (2) A health insurer may contract only with a pharmacy  
214 benefit manager that satisfies all of the following conditions A  
215 ~~contract between a health insurer and a pharmacy benefit manager~~  
216 ~~must require that the pharmacy benefit manager:~~

217 (a) ~~Updates~~ Update maximum allowable cost pricing  
218 information at least every 7 calendar days.

219 (b) ~~Maintains~~ Maintain a process that ~~will~~, in a timely  
220 manner, will eliminate drugs from maximum allowable cost lists  
221 or modify drug prices to remain consistent with changes in  
222 pricing data used in formulating maximum allowable cost prices  
223 and product availability.

224 ~~(c)(3) Does not limit~~ A contract between a health insurer  
225 ~~and a pharmacy benefit manager must prohibit the pharmacy~~  
226 ~~benefit manager from limiting~~ a pharmacist's ability to disclose  
227 whether the cost-sharing obligation exceeds the retail price for  
228 a covered prescription drug, and the availability of a more  
229 affordable alternative drug, pursuant to s. 465.0244.

230 ~~(d)(4) Does not require~~ A contract between a health insurer  
231 ~~and a pharmacy benefit manager must prohibit the pharmacy~~  
232 ~~benefit manager from requiring~~ an insured to make a payment for

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233 a prescription drug at the point of sale in an amount that  
234 exceeds the lesser of:

- 235 ~~1.(a)~~ The applicable cost-sharing amount; or  
236 ~~2.(b)~~ The retail price of the drug in the absence of  
237 prescription drug coverage.

238 (3) The office may require a health insurer to submit to  
239 the office any contract or amendments to a contract for the  
240 administration or management of prescription drug benefits by a  
241 pharmacy benefit manager on behalf of the insurer.

242 (4) After review of a contract submitted under subsection  
243 (3), the office may order the insurer to cancel the contract in  
244 accordance with the terms of the contract and applicable law if  
245 the office determines that any of the following conditions  
246 exist:

247 (a) The contract does not comply with this section or any  
248 other provision of the Florida Insurance Code.

249 (b) The pharmacy benefit manager is not registered with the  
250 office as required under s. 624.490.

251 (5) The commission may adopt rules to administer this  
252 section.

253 ~~(6)(5)~~ This section applies to contracts entered into,  
254 amended, or renewed on or after July 1, 2021 ~~2018~~. All contracts  
255 entered into or renewed between July 1, 2018, and June 30, 2021,  
256 are governed by the law in effect at the time the contract was  
257 entered into or renewed.

258 Section 5. Paragraph (h) is added to subsection (5) of  
259 section 627.6699, Florida Statutes, to read:

260 627.6699 Employee Health Care Access Act.—

261 (5) AVAILABILITY OF COVERAGE.—

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262 (h) A health benefit plan covering small employers which is  
263 issued or renewed in this state on or after July 1, 2021, must  
264 comply with s. 627.6572.

265 Section 6. Section 641.314, Florida Statutes, is amended to  
266 read:

267 641.314 Pharmacy benefit manager contracts.—

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

269 (a) "Maximum allowable cost" means the per-unit amount that  
270 a pharmacy benefit manager reimburses a pharmacist for a  
271 prescription drug, excluding dispensing fees, prior to the  
272 application of copayments, coinsurance, and other cost-sharing  
273 charges, if any.

274 (b) "Pharmacy benefit manager" means a person or entity  
275 doing business in this state which contracts to administer or  
276 manage prescription drug benefits on behalf of a health  
277 maintenance organization to residents of this state.

278 (2) A health maintenance organization may contract only  
279 with a pharmacy benefit manager that satisfies all of the  
280 following conditions ~~A contract between a health maintenance~~  
281 ~~organization and a pharmacy benefit manager must require that~~  
282 ~~the pharmacy benefit manager:~~

283 (a) Updates ~~Update~~ maximum allowable cost pricing  
284 information at least every 7 calendar days.

285 (b) Maintains ~~Maintain~~ a process that ~~will~~, in a timely  
286 manner, will eliminate drugs from maximum allowable cost lists  
287 or modify drug prices to remain consistent with changes in  
288 pricing data used in formulating maximum allowable cost prices  
289 and product availability.

290 ~~(c)(3) Does not limit A contract between a health~~

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291 ~~maintenance organization and a pharmacy benefit manager must~~  
 292 ~~prohibit the pharmacy benefit manager from limiting a~~  
 293 ~~pharmacist's ability to disclose whether the cost-sharing~~  
 294 ~~obligation exceeds the retail price for a covered prescription~~  
 295 ~~drug, and the availability of a more affordable alternative~~  
 296 ~~drug, pursuant to s. 465.0244.~~

297 ~~(d)(4) Does not require A contract between a health~~  
 298 ~~maintenance organization and a pharmacy benefit manager must~~  
 299 ~~prohibit the pharmacy benefit manager from requiring a~~  
 300 ~~subscriber to make a payment for a prescription drug at the~~  
 301 ~~point of sale in an amount that exceeds the lesser of:~~

302 ~~1.(a) The applicable cost-sharing amount; or~~

303 ~~2.(b) The retail price of the drug in the absence of~~  
 304 ~~prescription drug coverage.~~

305 (3) The office may require a health maintenance  
 306 organization to submit to the office any contract or amendments  
 307 to a contract for the administration or management of  
 308 prescription drug benefits by a pharmacy benefit manager on  
 309 behalf of the health maintenance organization.

310 (4) After review of a contract submitted under subsection  
 311 (3), the office may order the health maintenance organization to  
 312 cancel the contract in accordance with the terms of the contract  
 313 and applicable law if the office determines that any of the  
 314 following conditions exist:

315 (a) The contract does not comply with this section or any  
 316 other provision of the Florida Insurance Code.

317 (b) The pharmacy benefit manager is not registered with the  
 318 office as required under s. 624.490.

319 (5) The commission may adopt rules to administer this

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

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320 section.

321 (6)(5) This section applies to pharmacy benefit manager  
 322 contracts entered into, amended, or renewed on or after July 1,  
 323 2021 ~~2018~~. All contracts entered into or renewed between July 1,  
 324 2018, and June 30, 2021, are governed by the law in effect at  
 325 the time the contract was entered into or renewed.

326 Section 7. This act shall take effect July 1, 2021.

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



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*  
Commerce and Tourism, *Vice Chair*  
Appropriations Subcommittee on Education  
Appropriations Subcommittee on Transportation, Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Finance and Tax  
Transportation

**SENATOR TOM A. WRIGHT**

14th District

April 13, 2021

The Honorable Kelli Stargel  
420, Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: CS/Senate Bill 390 – Prescription Drug Coverage

Dear Chair Stargel:

CS/Senate Bill 390, relating to Prescription Drug Coverage has been referred to the Committee on Appropriations. I am requesting your consideration on placing CS/SB 390 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 blue ink, appearing to read "Tom A. Wright", enclosed within a large, stylized blue scribble or flourish.

Tom A. Wright, District 14

cc: Tim Sadberry, Staff Director of the Committee on Appropriations  
Jamie DeLoach, Deputy Staff Director of the Committee on Appropriations  
John Shettle, Deputy 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
- 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

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THE FLORIDA SENATE

APPEARANCE RECORD

4/21/21

Meeting Date

390

Bill Number (if applicable)

Topic PBM Reform

Amendment Barcode (if applicable)

Name Jeff Kottkamp

Job Title

Address

Street

Tallahassee

Florida

City

State

Zip

Phone

Email JeffKottkamp

Speaking:  For  Against  Information

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

Representing Small business Pharmacies Aligned for Reform (SPAR)

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

21 April 21

Meeting Date

390

Bill Number (if applicable)

Topic Prescription Drug Coverage

Amendment Barcode (if applicable)

Name Cynthia A Henderson

Job Title

Address 108 E Jefferson St, Suite A

Phone 850-559-0855

Street Tallahassee

FL

32301

Email cyhenderson@me.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing EPIC Pharmacies

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)



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

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

April 21, 2021

*Meeting Date*

390

*Bill Number (if applicable)*

Topic Prescription Drug Coverage

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title \_\_\_\_\_

Address 2215 Thomasville Road

Phone 850-510-9922

*Street*

Tallahassee

FL

32308

Email Barney@BarneyBishop.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing SPAR \_ Small business Pharmacies Aligned for Reform

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)

**0The 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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 414

INTRODUCER: Appropriations Committee; Children, Families, and Elder Affairs Committee; and Senator Perry and others

SUBJECT: Economic Self-sufficiency

DATE: April 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	<u>Recommend: Favorable</u>
3.	<u>Sneed</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 414 requires the Florida Office of Early Learning (OEL) to collaborate with the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies (UF) to conduct an analysis of certain federal and state programs. The analysis must review and analyze specified information and data. The bill requires each agency that is responsible for the administration of the program to enter into data-sharing agreements, subject to federal law, with OEL and UF, and provide a program services data file to UF, by specified dates. The bill also requires the Department of Children and Families (DCF) to assist the UF with receiving information on programs that it administers, including assistance with seeking required approvals or waivers from applicable federal agencies.

The UF must provide the OEL with a report by May 31 each year that includes the results of the analysis. The OEL must submit the report to the Governor, President of the Senate, and Speaker of the House of Representatives within 30 days after receiving the report.

The bill amends the list of children who are given priority to participate in the School Readiness program. The bill also removes certain definitions applicable to the School Readiness program.

There is no anticipated fiscal impact on state or local government.

The bill is effective July 1, 2021.

## II. Present Situation:

Several Florida government entities are responsible for administering federal and state funded programs to assist low-income families with food, housing, and other services, which are summarized below.<sup>1</sup> Many of these programs are part of the Economic Self-Sufficiency Program that is administered by the DCF and designed to promote economic self-sufficient communities.<sup>2</sup>

### Supplemental Nutrition Assistance Program

The Supplemental Nutrition Assistance Program (SNAP) is a federal nutrition program, formerly known as “food stamps,” that offers nutrition assistance to eligible, low-income individuals and families with funds to purchase eligible food and provides economic benefits to communities by reducing poverty and food insecurity.<sup>3</sup> The U.S. Department of Agriculture, Food and Nutrition Service (FNS) funds 100 percent of the SNAP benefit amount. However, FNS and states share the administrative costs of the program.<sup>4</sup>

Each state plan must meet the eligibility requirements and may not impose any additional eligibility requirements as a condition for participating in the program.<sup>5</sup> The Department of Children and Families (DCF) is responsible for determining an individual’s eligibility to receive SNAP benefits.<sup>6</sup> The amount of benefits, or the allotment, a household qualifies for depends on the number of individuals in the household and the household’s net income.<sup>7</sup> The program applies a gross income eligibility standard and excludes certain income from the calculation.<sup>8</sup> If the household’s income is higher than the permitted amount, the household is not eligible for SNAP.<sup>9</sup> To calculate a household’s allotment, 30 percent of its net income is subtracted from the maximum allotment for that household size.<sup>10</sup> As of November 2020, a total of 3,510,072 Floridians were participating in SNAP.<sup>11</sup>

The DCF reports that the FNS conducts annual reviews of SNAP to measure the accuracy of state eligibility and benefit determination through the assignment of error rates.<sup>12</sup> The SNAP

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<sup>1</sup> The DCF, *Agency Analysis for SB 414*, p. 2, January 11, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter referred to as “The DCF Analysis”).

<sup>2</sup> The DCF, *Program Overview*, available at <https://myflfamilies.com/service-programs/access/overview.shtml> (last visited March 31, 2021).

<sup>3</sup> USA Gov, *Food Assistance*, available at <https://www.usa.gov/food-help> (last visited March 31, 2021).

<sup>4</sup> U.S. Department of Agriculture, Food and Nutrition (FNS), *State Options Report: Supplemental Nutrition Assistance Program*, (11th ed.), Sept. 2013, available at [http://www.fns.usda.gov/sites/default/files/snap/11-State\\_Options.pdf](http://www.fns.usda.gov/sites/default/files/snap/11-State_Options.pdf) (last visited March 31, 2021).

<sup>5</sup> 7 U.S.C. §2014(b).

<sup>6</sup> *Id.* at p. 2.

<sup>7</sup> FNS, *SNAP Data Tables*, available at <https://www.fns.usda.gov/snap/recipient/eligibility> (last visited March 31, 2021).

<sup>8</sup> 7 U.S.C. §2014(b) and (c).

<sup>9</sup> *Id.*

<sup>10</sup> FNS, *SNAP Eligibility*, <https://www.fns.usda.gov/snap/recipient/eligibility> (last visited March 31, 2021).

<sup>11</sup> FNS, *SNAP Data Tables*, available at <https://fns-prod.azureedge.net/sites/default/files/resource-files/29SNAPcurrPP-3.pdf> (last visited March 31, 2021).

<sup>12</sup> The DCF Analysis at p. 5.

Management Evaluation conducts ongoing assessments of the DCF's compliance with responsibilities for the administration of the program as required under federal law.<sup>13</sup>

### **Housing Choice Voucher Program**

The Housing Choice Voucher Program (HCVP) “is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market.”<sup>14</sup> The U.S. Department of Housing and Urban Development (HUD) oversees the HCVP,<sup>15</sup> but the program “is generally administered by State or local governmental entities called public housing agencies (PHAs).”<sup>16</sup> HUD provides funding to the PHAs, which then contract with a landlord to subsidize rent on behalf of the program participant.<sup>17</sup> Housing units receiving HCVP funding must meet and maintain certain housing quality standards.<sup>18</sup>

Generally, a family's income may not exceed 50 percent of the median income for the county or metropolitan area in which they live.<sup>19</sup> Seventy-five percent of the voucher provided to PHAs must be allocated to families whose income does not exceed 30 percent of the median income in the area.<sup>20</sup> If eligible, the PHA will provide a housing voucher if available or place the family on a waiting list.<sup>21</sup>

The Florida Housing Finance Corporation administers the Housing Choice Voucher Program.<sup>22</sup> On February 25, 2021, the HUD announced that it awarded Florida \$281.5 million in grants to local communities for affordable housing.<sup>23</sup>

### **Temporary Cash Assistance Program**

The DCF administers the Temporary Cash Assistance (TCA) program<sup>24</sup>, which is intended to help families become self-supporting.<sup>25</sup> TCA is a state program that provides cash assistance to families with children under the age of 18 or under 19 for full time secondary school students that meet the specified requirements.<sup>26</sup> Applicants must meet a number of technical, income, and resource requirements.<sup>27</sup> The statute provides for cash assistance based upon the family size and

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<sup>13</sup> *Id.*; 7 U.S.C. §275.5.

<sup>14</sup> The U.S. Department of Housing and Urban Development (HUD), *Housing Choice Vouchers Fact Sheet*, available at [https://www.hud.gov/topics/housing\\_choice\\_voucher\\_program\\_section\\_8](https://www.hud.gov/topics/housing_choice_voucher_program_section_8) (last visited March 24, 2021).

<sup>15</sup> See 42 U.S.C. s. 1437.

<sup>16</sup> 24 C.F.R. § 982.1.

<sup>17</sup> *Id.*

<sup>18</sup> See 24 C.F.R. § 982.401.

<sup>19</sup> The U.S. Department of Housing and Urban Development (HUD), *Housing Choice Vouchers Fact Sheet*, available at [https://www.hud.gov/topics/housing\\_choice\\_voucher\\_program\\_section\\_8](https://www.hud.gov/topics/housing_choice_voucher_program_section_8) (last visited March 24, 2021).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> The DCF Analysis at p. 2.

<sup>23</sup> The HUD, *Florida*, available at <https://www.hud.gov/states/florida> (last visited March 24, 2021).

<sup>24</sup> The DCF Analysis at p.2.

<sup>25</sup> DCF TCA.

<sup>26</sup> The DCF, *Temporary Cash Assistance (TCA)*, available at <https://www.myflfamilies.com/service-programs/access/temporary-cash-assistance.shtml> (last visited March 24, 2021) (hereinafter cited as “DCF TCA”).

<sup>27</sup> Section 414.095, F.S.

amount the family has to pay, if any, for shelter.<sup>28</sup> The TCA program has no time limit for child only cases, but does have a set time limit of 48 months for adult recipients.<sup>29</sup>

### Medicaid Program

Title XIX of the Social Security Act provides for medical assistance including eligible prescriptions for qualified individuals.<sup>30</sup> States that have an approved Medicaid state plan are eligible to receive a percentage of reimbursement of specified sums.<sup>31</sup> State plans must meet certain criteria that requires the state to contribute not less than 40 percent of the non-federal share of the expenses authorized under the plan and federal law.<sup>32</sup> States are required to provide information to permit monitoring of the program performance.<sup>33</sup> The Improper Payments Information Act<sup>34</sup> requires federal agencies to conduct annual reviews of the program to identify significant erroneous payments.<sup>35</sup> This is done by the Payment Error Rate Measurement (PERM) program conducting a 17-state three-year rotation process, which means that each state is reviewed once every three years.<sup>36</sup>

The DCF is responsible for the Medicaid program eligibility requirements, and has authority to develop rules and the agreement with Social Security Administration.<sup>37</sup> Medicaid program payments are made only for services included in the program which are made on behalf of eligible individuals to qualified providers in accordance with federal and state law.<sup>38</sup> As of September 2020, Florida had enrolled 4,006,720 individuals in Medicaid and Children's Health Insurance Program.<sup>39</sup> When states are not under PERM review, the state is required to conduct Medicaid Eligibility Quality Control activities which are ordinarily based on the PERM findings to reduce or eliminate the identified deficiencies by the next PERM review.<sup>40</sup>

### School Readiness Program

Part VI of ch. 1002, F.S., provides for Florida's School Readiness program. The OEL is the designated lead agency that must comply with the responsibilities under federal law, including the Child Care and Development Block Grant Trust Fund pursuant to 45 C.F.R. parts 98 and 99.<sup>41</sup> Early Learning Coalitions (ELC) are vested with powers and tasked with duties to operate

<sup>28</sup> Section 414.095(10), F.S.

<sup>29</sup> Benefits Application, *Florida Temporary Cash Assistance (TCA & TANF) Application Information*, available at [http://benefitsapplication.com/program\\_info/FL/Temporary%20Cash%20Assistance#:~:text=Florida%20Temporary%20Cash%20Assistance%20%28TCA%20%26%20TANF%29%20Application.of%20the%20society%20and%20contribute%20to%20it%20positively](http://benefitsapplication.com/program_info/FL/Temporary%20Cash%20Assistance#:~:text=Florida%20Temporary%20Cash%20Assistance%20%28TCA%20%26%20TANF%29%20Application.of%20the%20society%20and%20contribute%20to%20it%20positively) (last visited March 24, 2021).

<sup>30</sup> 42 U.S.C. §1396a.

<sup>31</sup> 42 U.S.C. §1396b.

<sup>32</sup> 42 U.S.C. §1396a.

<sup>33</sup> 42 C.F.R. §431.954(a)(1).

<sup>34</sup> Pub. L. 107-300.

<sup>35</sup> 42 C.F.R. §431.954(a)(2).

<sup>36</sup> The DCF Analysis at p. 5.

<sup>37</sup> Section 409.963, F.S.

<sup>38</sup> *Id.*

<sup>39</sup> Medicaid.gov, *Medicaid & CHIP in Florida*, available at <https://www.medicaid.gov/state-overviews/stateprofile.html?state=Florida> (last visited March 24, 2021).

<sup>40</sup> The DCF Analysis at p. 5.

<sup>41</sup> Section 1002.82(1), F.S.

the program under Florida law including, in part, providing parents with information about available community resources, determining childrens' and providers' eligibility, and establishing a sliding fee scale.<sup>42</sup>

The ELC determines the sliding fee scale based on the family's income. "Family income" is defined as the combined gross income, whether earned or unearned, that is derived from any source by all family or household members who are 18 years of age or older who are currently residing together in the same dwelling unit with specified exclusions.<sup>43</sup>

"Earned income" means gross remuneration derived from work, professional service, or self-employment and includes commissions, bonuses, back pay awards, and the cash value of all remuneration paid in a medium other than cash.<sup>44</sup> "Unearned income" means income other than earned, which includes but is not limited to, in part, documented alimony and child support received, social security and other specified benefits.<sup>45</sup>

The program provides assistance, for instance, with applying for various subsidies, negotiating discounts with child care providers, and identifying summer camp programs.<sup>46</sup> A child who is younger than 13 years old and who has a parent receiving temporary cash assistance under ch. 414, F.S., and subject to federal work requirements is given priority to participate in the program.<sup>47</sup> The OEL reports that approximately 62 percent of the 1.1 million children who are younger than six years old in Florida are enrolled in the School Readiness program.<sup>48</sup> Over 200,000 children received school readiness services from over 7,600 providers in the 2017-18 fiscal year.<sup>49</sup>

### **Preschool Development Grant**

Florida's OEL is one of 20 states that receives the Preschool Development Birth to Five Renewal Grant (PDG-R).<sup>50</sup> It provides Florida with \$13.4 million in funding each year for a total of three years.<sup>51</sup> The PDG-R will be used to improve Florida's programs and services to support young children and their families.<sup>52</sup> This is being done, in part, by analyzing data to determine whether the programs operate efficiently.<sup>53</sup>

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<sup>42</sup> Section 1002.84(3) and (7), F.S.

<sup>43</sup> Section 1002.81(8), F.S.

<sup>44</sup> Section 1002.81(6), F.S.

<sup>45</sup> Section 1002.81(15), F.S.

<sup>46</sup> Section 1002.92(3)(e) to (g), F.S.

<sup>47</sup> Section 1002.87(1), F.S.

<sup>48</sup> The OEL, *School Readiness*, available at <http://www.floridaearlylearning.com/school-readiness> (last visited March 24, 2021).

<sup>49</sup> *Id.*

<sup>50</sup> The OEL, *Preschool Development Birth through Five Renewal Grant (PDG-R)*, available at <http://www.floridaearlylearning.com/statewide-initiatives/preschool-development-grant-birth-through-five> (last visited March 24, 2021) (hereinafter cited as "OEL PDG-R").

<sup>51</sup> *Id.*

<sup>52</sup> Florida's State Advisory Council, *Florida Early Childhood Strategic Plan*, p. iii, July 2019, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/Strategic\\_Plan\\_FINAL\\_FINAL\\_10.16.19.pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/Strategic_Plan_FINAL_FINAL_10.16.19.pdf) (last visited March 24, 2021).

<sup>53</sup> OEL PDG-R.

The OEL collaborates with the UF to perform certain work required under the Strategic Plan, which drives how the grant funds will be used.<sup>54</sup> UF is currently conducting an analysis of state programs to determine needs and an unduplicated count of children within the programs and developing reporting capacity of the current needs assessment portal (ECENA).<sup>55</sup>

### III. Effect of Proposed Changes:

The bill requires the OEL, in coordination with UF, to analyze the following programs:

- Supplemental Nutrition Assistance Program;<sup>56</sup>
- Temporary Cash Assistance program;<sup>57</sup>
- Medicaid program;<sup>58</sup>
- School Readiness program;<sup>59</sup> and
- Housing Choice Voucher Program.<sup>60</sup>

The analysis must include the following information:

- The program eligibility criteria;
- The manner by which each program establishes and documents eligibility and disbursement policies;
- The frequency of eligibility determinations; and
- The number and size of families receiving multiple program services compared to all eligible families.

The UF must develop participation profiles based on the number of families receiving multiple program services including the family composition and the most frequent program services or combination of services the families are receiving in each county or region.

Each agency who is responsible for administering the programs must enter into data-sharing agreements, subject to federal law, with the OEL and the UF by September 1, 2021. Upon execution of such agreements, each agency must provide a program service data file to the UF by November 1, 2021, with data for the proceeding 10 years and submit a supplemental program data file each November 1 thereafter, if applicable. The DCF must assist the UF with receiving program information which is required to be analyzed for those programs it administers, including assisting with seeking any required approvals or waivers from applicable federal agencies.

The UF must provide a report with the results of the analysis to the OEL by May 31 of each year, and within 30 days of receiving the report, the OEL must submit the report to the Governor, the

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<sup>54</sup> *Id.*; University of Florida, *Preschool Development Grant University of Florida Anita Zucker Center for Excellence in Early Childhood Studies Scope of Work*, available at [https://education.ufl.edu/research/files/2019/06/Preschool-Development-Grant\\_07-31-19.pdf](https://education.ufl.edu/research/files/2019/06/Preschool-Development-Grant_07-31-19.pdf) (last visited March 24, 2021) (hereinafter cited as “UF Scope of Work”).

<sup>55</sup> UF Scope of Work.

<sup>56</sup> 7 U.S.C. ss. 2011 et seq.

<sup>57</sup> Section 414.095, F.S.

<sup>58</sup> Section 409.963, F.S.

<sup>59</sup> Ch. 1002, F.S.

<sup>60</sup> 42 U.S.C. s. 1437f.

President of the Senate, and the Speaker of the House of Representatives. The bill provides for a sunset clause of June 30, 2023.

The bill removes the definitions of “earned income” and “unearned income” in s. 1002.81, F.S. This means that the statute will no longer specify how family income is calculated for purposes of eligibility for the School Readiness program, allowing the OEL to establish income eligibility requirements for the school readiness program<sup>61</sup> without the limitations included in the definitions and, in particular, will permit the OEL to exclude stimulus funds received by families that may otherwise cause them to be deemed ineligible for the program. Income eligibility requirements must be established in accordance with s. 1002.87, F.S., and federal law.<sup>62</sup>

The bill amends the list of children who receive priority to participate in the School Readiness program to include a parent who has an Intensive Service Account or an Individual Training Account under s. 445.009, F.S.<sup>63</sup>

The bill is effective July 1, 2021.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

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<sup>61</sup> Section 1002.82(2)(z), F.S.

<sup>62</sup> See 45 C.F.R. § 98.21.

<sup>63</sup> These accounts are used to provide funds for intensive services and training provided pursuant to Pub. L. No. 113-128. Individual Training Accounts must be expended on programs that train people to enter high-wage occupations.



**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The OEL will absorb costs for the additional responsibilities related to audit requests.<sup>64</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1002.81 and 1002.87.

The bill creates an undesignated section of 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 April 21, 2021:**

The committee substitute:

- Requires the DCF to assist the UF with receiving information on programs that it administers, including assistance with seeking required approvals or waivers from applicable federal agencies;
- Modifies the UF's deadline to provide the OEL with a report of its findings from June 30<sup>th</sup> to May 31<sup>st</sup> of each year;
- Modifies the provision that each agency which must enter into a data-sharing agreement with the OEL and the UF to be subject to federal law; and
- Requires each agency to provide a supplemental program data file to UF by November 1, 2022 and each year thereafter only if it is applicable.

**CS by Children, Families, and Elder Affairs on March 23, 2021:**

The committee substitute:

- Removes the requirement for the Auditor General to conduct an audit once every three years of certain state and federally funded programs;
- Provides for the OEL in collaboration with the UF to conduct an analysis of the state and federally funded programs annually;

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<sup>64</sup> The DOE Analysis at p. 4.

- Removes the requirement to analyze the data related to families who claim the Earned Income Tax Credit;
- Provides the UF to develop participation profiles based on specified data;
- Requires the UF to provide the OEL with a report of the data results by a specified date each year, and the OEL to submit a copy of the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives within 30 days of receipt;
- Provides for a sunset clause of June 30, 2023;
- Removes the definitions of “earned income” and “unearned income” from s. 1002.81, F.S.; and
- Expands the list of children who receive priority to participate in the School Readiness program.

B. Amendments:

None.



562418

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
	.	
	.	
	.	

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The Committee on Appropriations (Perry) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 58 - 104

and insert:

Section 3. (1) The Office of Early Learning within the Department of Education shall coordinate with the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies to conduct an analysis of, at a minimum, recipients of the Supplemental Nutrition Assistance Program established under 7 U.S.C. ss. 2011 et seq., the temporary cash assistance program



11 under s. 414.095, Florida Statutes, the Medicaid program under  
12 s. 409.963, Florida Statutes, the school readiness program under  
13 part VI of chapter 1002, Florida Statutes, and the Housing  
14 Choice Voucher Program established under 42 U.S.C. s. 1437f.

15 (2) The analysis must include a review of eligibility  
16 criteria, the manner in which each program establishes and  
17 documents eligibility and disbursement policies, the frequency  
18 of eligibility determinations, and the number of families  
19 receiving multiple program services out of the total number of  
20 eligible families.

21 (3) The University of Florida Anita Zucker Center for  
22 Excellence in Early Childhood Studies shall, through its  
23 analysis, develop participant profiles based on the number of  
24 families receiving multiple program services that include family  
25 composition and the most frequent program services or  
26 combination of services families are accessing in each county or  
27 geographic region.

28 (4) (a) Each agency responsible for the administration of a  
29 program to be analyzed under subsection (1) shall enter into a  
30 data sharing agreement with the Office of Early Learning and the  
31 University of Florida Anita Zucker Center for Excellence in  
32 Early Childhood Studies by September 1, 2021. Upon execution of  
33 the data sharing agreement, and subject to any federal  
34 requirements, each agency shall submit a program services data  
35 file to the University of Florida Anita Zucker Center for  
36 Excellence in Early Childhood Studies by November 1, 2021,  
37 containing program service data from the preceding 10 federal  
38 fiscal years, if available. By November 1, 2022, and each year  
39 thereafter if applicable, each agency shall submit a



562418

40 supplemental data file to the University of Florida Anita Zucker  
41 Center for Excellence in Early Childhood Studies containing  
42 program service data from the preceding federal fiscal year.

43 (b) The Department of Children and Families shall assist  
44 the University of Florida Anita Zucker Center for Excellence in  
45 Early Childhood Studies with receiving information required to  
46 be analyzed under subsection (1) that is related to the  
47 department's programs, including, but not limited to, providing  
48 assistance with seeking any required approvals or waivers from  
49 applicable federal agencies.

50 (5) The University of Florida Anita Zucker Center for  
51 Excellence in Early Childhood Studies shall provide a report to  
52 the Office of Early Learning based on the results of its  
53 analysis by May 31 of each year.

54 (6) The Office of Early Learning within 30 days after  
55 receiving the report shall submit it to the Governor, the  
56 President of the Senate, and the Speaker of the House of  
57 Representatives.

58 (7) This section expires on June 30, 2023, unless  
59

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

61 And the title is amended as follows:

62 Between lines 14 and 15

63 insert:

64 requiring the Department of Children and Families to  
65 provide certain assistance;

By the Committee on Children, Families, and Elder Affairs; and  
Senators Perry and Boyd

586-03270-21

2021414c1

1 A bill to be entitled  
2 An act relating to economic self-sufficiency; amending  
3 s. 1002.81, F.S.; deleting obsolete language; amending  
4 s. 1002.87, F.S.; revising the priority the early  
5 learning coalition is required to give children for  
6 participation in a school readiness program; requiring  
7 the Office of Early Learning within the Department of  
8 Education, in coordination with the University of  
9 Florida Anita Zucker Center for Excellence in Early  
10 Childhood Studies, to conduct an analysis of certain  
11 assistance programs; providing requirements for the  
12 analysis; requiring certain agencies to enter into a  
13 data-sharing agreement with certain entities and  
14 annually provide certain data by a specified date;  
15 requiring the University of Florida Anita Zucker  
16 Center for Excellence in Early Childhood Studies to  
17 provide an annual report on the analysis to the Office  
18 of Early Learning by a specified date; requiring the  
19 Office of Early Learning to submit the annual report  
20 to the Governor and the Legislature within a certain  
21 timeframe; providing for the scheduled expiration of  
22 the assistance program analysis project; providing an  
23 effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Subsections (6) and (15) of section 1002.81,  
28 Florida Statutes, are amended to read:  
29 1002.81 Definitions.—Consistent with the requirements of 45

Page 1 of 4

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

586-03270-21

2021414c1

30 C.F.R. parts 98 and 99 and as used in this part, the term:  
31 ~~(6) "Earned income" means gross remuneration derived from~~  
32 ~~work, professional service, or self-employment. The term~~  
33 ~~includes commissions, bonuses, back pay awards, and the cash~~  
34 ~~value of all remuneration paid in a medium other than cash.~~  
35 ~~(15) "Unearned income" means income other than earned~~  
36 ~~income. The term includes, but is not limited to:~~  
37 ~~(a) Documented alimony and child support received.~~  
38 ~~(b) Social security benefits.~~  
39 ~~(c) Supplemental security income benefits.~~  
40 ~~(d) Workers' compensation benefits.~~  
41 ~~(e) Reemployment assistance or unemployment compensation~~  
42 ~~benefits.~~  
43 ~~(f) Veterans' benefits.~~  
44 ~~(g) Retirement benefits.~~  
45 ~~(h) Temporary cash assistance under chapter 414.~~  
46 Section 2. Paragraph (a) of subsection (1) of section  
47 1002.87, Florida Statutes, is amended to read:  
48 1002.87 School readiness program; eligibility and  
49 enrollment.—  
50 (1) Each early learning coalition shall give priority for  
51 participation in the school readiness program as follows:  
52 (a) Priority shall be given first to a child younger than  
53 13 years of age from a family that includes a parent who is  
54 receiving temporary cash assistance under chapter 414 and  
55 subject to the federal work requirements or a parent who has an  
56 Intensive Service Account or an Individual Training Account  
57 under s. 445.009.  
58 Section 3. (1) The Office of Early Learning within the

Page 2 of 4

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

586-03270-21

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59 Department of Education shall, in coordination with the  
 60 University of Florida Anita Zucker Center for Excellence in  
 61 Early Childhood Studies, conduct an analysis of, at a minimum,  
 62 recipients of the Supplemental Nutrition Assistance Program  
 63 established under 7 U.S.C. ss. 2011 et seq., the temporary cash  
 64 assistance program established under chapter 414, Florida  
 65 Statutes, the Medicaid program under s. 409.963, Florida  
 66 Statutes, the school readiness program under part VI of chapter  
 67 1002, Florida Statutes, and the housing choice voucher program  
 68 established under 42 U.S.C. s. 1437.

69 (2) The analysis must include a review of eligibility  
 70 criteria, the manner in which each program establishes and  
 71 documents eligibility and disbursement policies, the frequency  
 72 of eligibility determinations, and the number of families  
 73 receiving multiple program services as compared to the total  
 74 number of eligible families.

75 (3) As part of the analysis, the University of Florida  
 76 Anita Zucker Center for Excellence in Early Childhood Studies  
 77 shall develop participant profiles based on the number of  
 78 families receiving multiple program services which include  
 79 family composition and the most frequent program services or  
 80 combination of services families are accessing in each county or  
 81 geographic region.

82 (4) Each agency responsible for the administration of a  
 83 program that is required to be analyzed under subsection (1)  
 84 shall enter into a data-sharing agreement with the Office of  
 85 Early Learning and the University of Florida Anita Zucker Center  
 86 for Excellence in Early Childhood Studies by September 1, 2021.  
 87 Upon execution of the data-sharing agreement, each such agency,

586-03270-21

2021414c1

88 by November 1, 2021, shall submit a program services data file  
 89 to the University of Florida Anita Zucker Center for Excellence  
 90 in Early Childhood Studies which contains program service data  
 91 from the preceding 10 federal fiscal years, as available. By  
 92 November 1, 2022, and each November 1 thereafter, each such  
 93 agency shall submit a supplemental data file to the University  
 94 of Florida Anita Zucker Center for Excellence in Early Childhood  
 95 Studies containing program service data from the preceding  
 96 federal fiscal year.

97 (5) By each June 30, the University of Florida Anita Zucker  
 98 Center for Excellence in Early Childhood Studies shall provide a  
 99 report to the Office of Early Learning based on the results of  
 100 the analysis required by this section.

101 (6) Within 30 days after receiving the report, the Office  
 102 of Early Learning shall submit it to the Governor, the President  
 103 of the Senate, and the Speaker of the House of Representatives.

104 (7) This section shall expire on June 30, 2023, unless  
 105 reviewed and reenacted by the Legislature before that date.

106 Section 4. This act shall take effect July 1, 2021.



The Florida Senate

## Committee Agenda Request

**To:** Senator Kelli Stargel, Chair  
Committee on Appropriations

**Subject:** Committee Agenda Request

**Date:** April 8, 2021

---

I respectfully request that **Senate Bill #414**, relating to Economic Self-sufficiency, 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 and is positioned above a horizontal line.

Senator Keith Perry  
Florida Senate, District 8



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

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

4/21/2021

*Meeting Date*

414

*Bill Number (if applicable)*

Topic Economic Self-sufficiency

*Amendment Barcode (if applicable)*

Name Matthew Choy

Job Title Director

Address 136 South Bronough St

Phone 5613863451

*Street*

Tallahassee

FL

32301

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 The 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)

4/21/2021  
Meeting Date

SB414  
Bill Number (if applicable)

Topic Economic Self-Sufficiency

Amendment Barcode (if applicable)

Name Khank-Lieu ("Con Lynn") Branko

Job Title Treasurer

Address 1747 Orlando Central Parkway

Phone 407-855-7604

Street

Orlando

City

FL

State

32809

Zip

Email treasurer@floridapta.org

Speaking:  For  Against  Information

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

Representing Florida PTA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 586

INTRODUCER: Senator Wright and others

SUBJECT: Veterans Employment and Training

DATE: April 21, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	<b>Favorable</b>
2.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
3.	<u>Gerbrandt</u>	<u>Sadberry</u>	<u>AP</u>	<b>Favorable</b>

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**I. Summary:**

SB 586 designates Florida is for Veterans as the state’s principal assistance organization under the United States Department of Defense’s (department) SkillBridge program for employers and transitioning servicemembers.

In its role under the SkillBridge program, Florida is for Veterans is required to:

- Establish and maintain its certification for either the SkillBridge program or a similar workforce training and transition program established by the department;
- Educate businesses, business associations, and transitioning servicemembers on the SkillBridge program and its benefits, and educate military command and personnel within the state on opportunities available to transitioning servicemembers through the program;
- Assist businesses in obtaining approval for skilled workforce training curricula under the program, including apprenticeships, internships, or fellowships; and
- Match transitioning servicemembers who are deemed eligible for program participation by their military command with training opportunities offered by Florida is for Veterans or participating businesses, with the intent of having transitioning servicemembers achieve gainful employment in the state upon completion of their training.

The bill takes effect on July 1, 2021.

## II. Present Situation:

### Transitioning Servicemembers

Each year, about 200,000 servicemembers end military service as veterans and either reenter the civilian workforce or enroll in higher education.<sup>1</sup> Nationally, Florida has the third largest veteran population, with more than 1.5 million veterans. A significant number of these veterans are recently transitioned servicemembers.<sup>2</sup>

For example, for Fiscal Year 2019, the number of servicemembers transitioning into the workforce by duty location in the state was as follows:<sup>3</sup>

Duty Location	Servicemembers Transitioning
Pensacola NAS	768
NAS Whiting Field Milton	84
Hurlburt Field ABS FL	1,096
Eglin AFB	852
Tyndall AFB	488
NS Mayport	141
NAS Jacksonville	1,341
Patrick AFB	259
Macdill AFB	546
Miami	71
NAS Key West	176

### Federal Programs for Transitioning Servicemembers

#### *Transition Assistance Program*

The Transition Assistance Program provides transitioning servicemembers employment information, tools, and training through a cooperative effort among the Department of Labor, and the Departments of Defense, Education, Homeland Security, Veterans Affairs, the Small Business Administration, and the Office of Personnel Management.<sup>4</sup> Workshop offerings include a mandatory one-day employment preparation workshop for transitioning servicemembers, and optional two-day workshops in career exploration and technical career preparation or general employment preparation.<sup>5</sup>

The U.S. Department of Labor Veterans' Employment and Training Service (VETS) Apprenticeship Pilot (Pilot) introduces apprenticeship to transitioning servicemembers during the Transition Assistance Program workshops. The Pilot provides counseling, apprenticeship

<sup>1</sup> Department of Defense SkillBridge, *Industry Partners and Employers*, available at <https://dodskillbridge.usalearning.gov/industry-employers.htm> (last visited March 8, 2021).

<sup>2</sup> Department of Veterans Affairs, *2021 Legislative Bill Analysis (SB 586)* (Jan. 25, 2021) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

<sup>3</sup> *Id.*

<sup>4</sup> U.S. Dep't of Labor, *Veterans' Employment and Training Service, Transition Assistance Program*, available at <https://www.dol.gov/agencies/vets/programs/tap> (last visited March 8, 2021).

<sup>5</sup> *Id.*

opportunities, and placement services to transitioning servicemembers and their spouses who are interested in an apprenticeship after separating from the military. The Pilot launched April 2020 and runs through April 2021.<sup>6</sup>

### ***SkillBridge***

The Department of Defense SkillBridge program connects servicemembers with participating companies that provide training, apprenticeships, and internships. A servicemember is eligible to participate during his or her last 180 days of military service. Once approved, a unit commander authorizes the servicemember up to 180 days of permissive leave for the servicemember to gain civilian experience with an industry participant.<sup>7</sup> Companies benefit at no cost, and the servicemember continues to receive military compensation.

For servicemembers, SkillBridge provides a chance to work and learn in civilian career areas, and can help bridge the gap between the end of service and the beginning of civilian careers.<sup>8</sup>

Guard and Reserve members are also eligible to participate in SkillBridge, and if space is available, a veteran or a military spouse may seek a position in SkillBridge.<sup>9</sup>

To view opportunities, SkillBridge maintains an online platform of listings submitted by industry partners.<sup>10</sup> As of January 14, 2021, 52 SkillBridge programs operate in Florida.<sup>11</sup> An additional listing is provided of organizations that have been authorized by the Department of Defense through a “Memorandum of Understanding” to work with each of the branches of the military and installation commanders to develop SkillBridge training programs for their personnel. Florida is for Veterans is one of the 5 approved organizations in Florida.<sup>12</sup>

### **Florida Is For Veterans**

The Florida Legislature created Florida is for Veterans, also known as Veterans Florida, in 2014.<sup>13</sup> Florida is for Veterans is a nonprofit that promotes the state as veteran-friendly by helping veterans adjust to civilian life through workplace and entrepreneurial assistance.<sup>14</sup>

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<sup>6</sup> Department of Labor, *Veterans’ Employment and Training Service Apprenticeship Pilot*, available at [https://content.govdelivery.com/attachments/USDOL/2020/09/16/file\\_attachments/1547435/VETS-ApprenticeshipPilot-Sept2020.pdf](https://content.govdelivery.com/attachments/USDOL/2020/09/16/file_attachments/1547435/VETS-ApprenticeshipPilot-Sept2020.pdf) (last visited March 10, 2021).

<sup>7</sup> Department of Defense SkillBridge, *What is SkillBridge? Program Overview*, available at <https://dodskillbridge.usalearning.gov/program-overview.htm> (last visited March 8, 2021).

<sup>8</sup> *Id.*

<sup>9</sup> Department of Defense, *SkillBridge, Frequently Asked Questions*; available at <https://dodskillbridge.usalearning.gov/faq.htm> (last visited March 8, 2021).

<sup>10</sup> Department of Defense, *SkillBridge Locations*, available at <https://dodskillbridge.usalearning.gov/locations.htm> (last visited March 8, 2021).

<sup>11</sup> Department of Veterans Affairs, *2021 Legislative Bill Analysis (SB 586)* (Jan. 25, 2021) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

<sup>12</sup> Department of Defense, *Authorized SkillBridge Organizations*, available at <https://dodskillbridge.usalearning.gov/organizations.htm> (last visited March 8, 2021). The other approved organizations are Florida Homes Realty & Mortgage, JDog Junk Removal and Hauling - MVP Florida East, Northeast Florida Builders Association (NEFBA) Apprenticeship Training Program, and State College Florida Manatee - Sarasota - 26 West Business Incubator.

<sup>13</sup> Section 12, ch. 2014-1, Laws of Fla.

<sup>14</sup> Section 295.21(2), F.S.

Florida is for Veterans operates a variety of training and employment assistance programs, including an Entrepreneurship Program, a Workforce Training Grant Program, a Veteran Agriculture Program, and training during military service by industry partners through the United States Department of Defense SkillBridge program.

### ***Entrepreneurship Program***

Almost one in four active duty servicemembers wants to open their own business.<sup>15</sup> The Entrepreneurship Program offers veterans online and on-site instruction, facilitation, and mentorship. Since the program began in early 2016, more than 3,200 veterans have applied, and 1,704 have been served.<sup>16</sup>

### ***Workforce Training Grant***

The Workforce Grant reimburses qualified employers up to fifty percent of industry skills-based training costs (maximum of \$8,000 per trainee) for new or current employees.<sup>17</sup> Approved training can be provided by third parties, in house corporate, or on the job training. Preference should be given to targeted industry businesses<sup>18</sup> and to businesses in the defense supply, cloud virtualization, or commercial aviation manufacturing industries.<sup>19</sup>

### ***Agriculture Program***

The Veterans Florida Agriculture Program is an intensive six-month internship that educates veterans about modern agriculture production practices.<sup>20</sup> Participants intern at the University of Florida Institute of Food and Agricultural Sciences Research and Education Centers located across Florida and can receive \$15 per hour to participate. Funding is provided through a U.S. Department of Agriculture grant titled Enhancing Agricultural Opportunities for Military Veterans Program.<sup>21 22</sup>

### ***SkillBridge***

Florida is for Veterans, in partnership with the University of Florida, has started to expand SkillBridge fellowship offerings with employers to serve transitioning active-duty

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<sup>15</sup> Veterans Florida, *Annual Report 2020*, pg. 13, available at <https://www.veteransflorida.org/about/> (last visited March 8, 2021).

<sup>16</sup> *Id.*

<sup>17</sup> The program was expanded in 2018 to allow training grants be awarded to businesses that promote and improve skills of veterans, rather than only to businesses that hire veterans. See section 4 Ch. 2018-7, L.O.F.

<sup>18</sup> These are high-skill industries producing goods or services and wages generally 125 percent above state or local wages with a strong expectation for future growth in both employment and output. See s. 288.106(q), F.S.

<sup>19</sup> Section 295.22(3)(d), F.S.

<sup>20</sup> Veterans Florida, *Agriculture Program*, available at <https://www.veteransflorida.org/agriculture/> (last visited March 10, 2021).

<sup>21</sup> The Enhancing Agricultural Opportunities for Military Veterans Program provides grants to non-profits to increase the number of military veterans gaining knowledge and skills through comprehensive, hands-on and immersive model farm and ranch programs offered regionally that lead to successful careers in the food and agricultural sector, available at <https://nifa.usda.gov/program/enhancing-agricultural-opportunities-military-veterans-agvets#:~:text=The%20Enhancing%20Agricultural%20Opportunities%20for%20Military%20Veterans%20Program,successful%20careers%20in%20the%20food%20and%20agricultural%20sector> (last visited April 20, 2021).

<sup>22</sup> *Supra* note 17.

servicemembers.<sup>23</sup> On Feb. 10, 2021, the Florida Chamber of Commerce announced a partnership with Florida is for Veterans to launch a new coalition that will help servicemembers prepare to transition back into the workforce.<sup>24</sup> The coalition's mission will be to promote SkillBridge to employers and transitioning servicemembers, and to assist businesses with obtaining SkillBridge approval for skilled workforce training.<sup>25</sup> Another focus of the coalition will be on high-tech opportunities.<sup>26</sup>

### III. Effect of Proposed Changes:

The bill designates Florida is for Veterans as the state's principal assistance organization under the United States Department of Defense's (department) SkillBridge program for employers and transitioning servicemembers.

In its role under the SkillBridge program, Florida is for Veterans is required to:

- Establish and maintain its certification for either the Skillbridge program or a similar workforce training and transition program established by the department;
- Educate businesses, business associations, and transitioning servicemembers on the SkillBridge program and its benefits, and educate military command and personnel within the state on opportunities available to transitioning servicemembers through the program;
- Assist businesses in obtaining approval for skilled workforce training curricula under the program, including apprenticeships, internships, or fellowships; and
- Match transitioning servicemembers who are deemed eligible for program participation by their military command with training opportunities offered by Florida is for Veterans or participating businesses, with the intent of having transitioning servicemembers achieve gainful employment in the state upon completion of their training.

The bill takes effect on July 1, 2021.

### 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 Article VII, Section 18 of the State Constitution.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>23</sup> Florida Department of Veterans' Affairs, *Quarterly Report for the First Quarter of the 2020-2021 Fiscal Year*, pg. 16 (Nov. 20, 2020), available at <https://floridavets.org/leadership/quarterly-report/> (last visited March 8, 2021).

<sup>24</sup> Jordan Kirkland, The Capitolist, *Industry leaders form coalition to help servicemembers transition to civilian life* (Feb. 10, 2021), available at <https://thecapitolist.com/industry-leaders-form-coalition-to-help-servicemembers-transition-to-civilian-life/> (last visited March 8, 2021).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

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:

There are currently five organizations in Florida authorized by the Office of the Deputy Secretary of Defense through an official Memorandum of Understanding to work with each branch of the military and its respective installation commanders to develop SkillBridge training programs for their personnel. It is unclear what, if any, impact designating one of these organizations as the principal assistance organization will have on other participants in the program.

Designating Florida is for Veterans as the principal assistance organization for SkillBridge may make it easier for both industry partners and servicemembers to access a single point of entry, thereby increasing the likelihood of participation.

C. Government Sector Impact:

SB 586 creates new duties for Florida is for Veterans. Currently, Florida is for Veterans receives nonrecurring general revenue funding for the Workforce Training Grant and the Entrepreneur Training Grant. Without an additional appropriation, it is a possibility that grant funds will be redirected to the Skillbridge program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 295.21 and 295.22.



**IX. Additional Information:**

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

None.

- B. **Amendments:**

None.

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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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By Senator Wright

14-00495-21

2021586\_\_

A bill to be entitled

An act relating to veterans employment and training; amending s. 295.21, F.S.; directing Florida Is For Veterans, Inc., to serve as the state's principal assistance organization under the United States Department of Defense's SkillBridge program; amending s. 295.22, F.S.; prescribing duties of the corporation to facilitate the administration of the SkillBridge program; providing an effective date.

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

Section 1. Paragraph (g) is added to subsection (3) of section 295.21, Florida Statutes, to read:

295.21 Florida Is For Veterans, Inc.—

(3) DUTIES.—The corporation shall:

(g) Serve as the state's principal assistance organization under the United States Department of Defense's SkillBridge program for employers and transitioning servicemembers.

Section 2. Paragraph (f) is added to subsection (3) of section 295.22, Florida Statutes, to read:

295.22 Veterans Employment and Training Services Program.—

(3) ADMINISTRATION.—Florida Is For Veterans, Inc., shall administer the Veterans Employment and Training Services Program and perform all of the following functions:

(f) As the state's principal assistance organization under the United States Department of Defense's SkillBridge program for qualified businesses in this state and for transitioning servicemembers who reside in, or who wish to reside in, this

Page 1 of 2

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

14-00495-21

2021586\_\_

state, the corporation shall:

1. Establish and maintain, as applicable, its certification for the SkillBridge program or any other similar workforce training and transition programs established by the United States Department of Defense;

2. Educate businesses, business associations, and transitioning servicemembers on the SkillBridge program and its benefits, and educate military command and personnel within the state on the opportunities available to transitioning servicemembers through the SkillBridge program;

3. Assist businesses in obtaining approval for skilled workforce training curricula under the SkillBridge program, including, but not limited to, apprenticeships, internships, or fellowships; and

4. Match transitioning servicemembers who are deemed eligible for SkillBridge participation by their military command with training opportunities offered by the corporation or participating businesses, with the intent of having transitioning servicemembers achieve gainful employment in this state upon completion of their SkillBridge training.

Section 3. This act shall take effect July 1, 2021.

Page 2 of 2

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



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*  
Commerce and Tourism, *Vice Chair*  
Appropriations Subcommittee on Education  
Appropriations Subcommittee on Transportation, Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Finance and Tax  
Transportation

## SENATOR TOM A. WRIGHT

14th District

March 25, 2021

The Honorable Kelli Stargel  
420, Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 586 – Veterans Employment and Training

Dear Chair Stargel:

Senate Bill 586, relating to Veterans Employment and Training has been referred to the Committee on Appropriations. I am requesting your consideration on placing SB 586 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 blue ink, appearing to read "Tom A. Wright", with a large, sweeping flourish underneath.

Tom A. Wright, District 14

cc: Tim Sadberry, Staff Director of the Committee on Appropriations  
Jamie DeLoach, Deputy Staff Director of the Committee on Appropriations  
John Shettle, Deputy 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
- 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

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

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

4/21/2021

*Meeting Date*

586

*Bill Number (if applicable)*

Topic Veterans Employment and Training

*Amendment Barcode (if applicable)*

Name Matthew Choy

Job Title Director

Address 136 South Bronough St

Phone 5613863451

*Street*

Tallahassee

FL

32301

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 The 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)

21 April 2021

*Meeting Date*

SB 586

*Bill Number (if applicable)*

Topic Veterans Employment and Training

*Amendment Barcode (if applicable)*

Name James "Hammer" Hartsell, Major General, USMC (Ret),

Job Title Deputy Executive Director

Address 400 S. Monroe Street Ste 2105

Phone 850-487-1533

*Street*

Tallahassee

FL

32399

Email HartsellJ@FDVA.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 Florida Department 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)

4/21/21

Meeting Date

586  
~~568~~

Bill Number (if applicable)

Topic Veterans Employment

Amendment Barcode (if applicable)

Name Joe Marino

Job Title Exec Dir

Address 930 Thomasville Rd #100

Phone 850 322 2093

Street

Tall

City

FL

State

32309

Zip

Email marino@veteransflorida.org

Speaking:  For  Against  Information

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

Representing Veterans 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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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**BILL:** PCS/CS/SB 894 (282916)

**INTRODUCER:** Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Diaz

**SUBJECT:** Physician Assistants

**DATE:** April 21, 2021

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	<b>Fav/CS</b>
2.	Gerbrandt	Kidd	AHS	<b>Recommend: Fav/CS</b>
3.	Gerbrandt	Sadberry	AP	<b>Pre-meeting</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 894 expands the scope of practice of physician assistants by allowing them to:

- Prescribe psychiatric mental health controlled substances to minors under certain circumstances;
- Procure certain medical equipment and devices;
- Supervise medical assistants; and
- Sign and certify documents that currently require a physician's signatures such as Baker Act commitments, do-not-resuscitate orders, school physicals, and death certificates.

The bill also authorizes physician assistants to directly bill for and receive payments from public and private insurance companies for the services they deliver.

Current law limits the number of physician assistants a physician can supervise to four. The bill expands the number of PAs that a physician can supervise to 10.

The fiscal impact of the bill is indeterminate, see Section V.

The bill takes effect on July 1, 2021.

## II. Present Situation:

### Physician Assistants (PAs)

#### *History of the Physician Assistant Profession*

In 1965 physicians and educators recognized there was a shortage of primary care physicians, so Duke University Medical Center, put together the first class of PAs. Duke selected four Navy Vietnam-era hospital corpsmen who had received considerable medical training during their military service. The first PA class graduated from the Duke program in 1967.<sup>1</sup>

In Florida, physicians were first authorized to use PAs in their practice in 1979. The legislative intent for recognizing the PA profession was to allow physicians to delegate the performance of “medical services” to qualified PAs when such delegation was consistent with the patient’s health and welfare; freeing physicians to more effectively utilize their medical education, training, and experience. Physicians were required to apply to their board<sup>2</sup> to utilize and supervise a PA in their practice. PAs were required to be graduates of board-approved programs, or the equivalent, and to be approved by the Department of Health (DOH) to perform “medical services” under the supervision of a physician, who was certified by the board to supervise the PA. PAs were not required to be licensed by the DOH. Physicians utilizing PAs were liable for any act or omissions of the PAs while under the physician’s supervision.<sup>3</sup>

#### *Physician Assistant Education*

Physician assistant programs must be recommended by the Council on PAs and approved by the Board of Medicine (BOM) and the Board of Osteopathic Medicine (BOOM) (collectively known as the boards). The council may only recommend PA programs that hold full accreditation or provisional accreditation from the Commission on Accreditation of Allied Health Programs or its successor organization. The boards are required to adopt program standards to ensure the health and welfare of patients that receive PA services, and review curricula, faculties, and facilities of PA programs to ensure they meet standards set forth by the boards.<sup>4</sup>

Currently, there are 17 universities in Florida offering PA programs accredited by the Accreditation Review Commission on Education (ARC-PA).<sup>5</sup> Physician Assistant programs are on average 24 to 27 months, or six or seven semesters, requiring 96 to 111 plus clinical and classroom credit hours to graduate. The programs are designed to prepare students to practice as part of a Physician-PA team. Upon completion, graduates receive a Master of Science in PA Practice degree or a Master of PA Studies, or similar degree.

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<sup>1</sup> American Association of Physician Assistants, About, History, *History of the PA Profession*, available at <https://www.aapa.org/about/history/> (last visited Mar. 5, 2021).

<sup>2</sup> Section 456.001(1), F.S., defines “board” as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the Department of Health or, in some cases, within the department’s Division of Medical Quality Assurance.

<sup>3</sup> Chapter 79-230, s. 1., and ch. 79-320, s. 1., Laws of Fla. (Creating ss. 459.018 and 458.017, F.S., effective Jul. 1, 1979).

<sup>4</sup> Section 458.347(6) and 459.022(6), F.S.

<sup>5</sup> Florida Academy of PAs, *For Students - PA Programs in Florida*, available at <https://www.fapaonline.org/page/studentprograms> (last visited Mar. 4, 2021).



Following graduation, a PA candidate must take and pass the PA National Certifying Examination (PANCE) given by the National Commission on Certification of PAs (NCCPA) to become certified. It is a five-hour exam with 300 multiple-choice questions, with no didactic components.<sup>6</sup>

### ***The Council of Physician Assistants***

Physician Assistants are regulated within the DOH by the Florida Council on Physician Assistants (Council) in conjunction with either the Board of Medicine (BOM) for PAs licensed under ch. 458, F.S., or the Board of Osteopathic Medicine (BOOM) for PAs licensed under ch. 459, F.S.<sup>7</sup>

The Council consists of five members:<sup>8</sup>

- One physician who is a member of the BOM who supervises a PA in his or her practice;
- One physician who is a member of the BOOM who supervises a PA in his or her practice; and
- Three PAs licensed under chs. 458 or 459, F.S.

The Council is responsible for:<sup>9</sup>

- Recommending PAs to the DOH for licensure;
- Developing rules for the boards' consideration regulating the use of PAs by physicians;
- Developing rules to ensure the continuity of supervision in each practice setting;
- Making recommendations to the boards on matters relating to PAs;
- Addressing the concerns and problems of practicing PAs in order to improve safety in the clinical practices of PAs;
- Denying, restricting, or placing conditions on the license of a PA who fails to meet the licensing requirements;<sup>10</sup> and
- Establishing's a formulary of medicinal drugs that a PA may not prescribe (negative formulary).<sup>11</sup>

### ***Physician Assistant Licensure***

An applicant for a PA license must be at least 18 years of age. The DOH must issue a license to a person who has been certified by the Council as having met all of the following requirements:<sup>12</sup>

- Completed aboard-approved PA training program;
- Obtained a passing score on the NCCPA proficiency exam;
- Acknowledged any prior felony convictions;

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<sup>6</sup> The National Commission on Certification of PA (NCCPA), *Become Certified, Becoming Certified*, available at <https://www.nccpa.net/BecomingCertified> (last visited Mar. 4, 2021). The NCCPA is the only certifying organization for PAs in the United States. As of Dec. 31, 2020, there were approximately 148,500 certified PAs in the United States.

<sup>7</sup> Sections 458.347 and 459.022, F.S.

<sup>8</sup> Sections 458.347(9) and 459.022(9), F.S. Members of the Board of Medicine and the Board of Osteopathic Medicine are appointed by the Governor and confirmed by the Senate. *See* ss. 458.307 and 459.004, F.S., respectively.

<sup>9</sup> Sections 458.347(9)(c) and 459.022(9)(c), F.S.

<sup>10</sup> Sections 458.347(9)(d) and 459.022(9)(d), F.S.

<sup>11</sup> Section 458.347(4)(f), F.S.

<sup>12</sup> Sections 458.347(7) and 459.022(7), F.S.

- Submitted to a background screening and have no disqualifying offenses;<sup>13</sup>
- Acknowledged any previous revocation or denial of licensure in any state; and
- Provided a copy of course transcripts and a copy of the course descriptions from the PA's training program describing the course content in pharmacotherapy if the applicant is seeking prescribing authority.

Physician Assistants must renew their licenses biennially. During each biennial renewal cycle, a PA must complete 100 hours of continuing medical education or must demonstrate current certification issued by the NCCPA.<sup>14</sup> To maintain certification, a PA must earn at least 100 hours of continuing medical education biennially, and must take and pass a re-certification examination every 10 years.<sup>15</sup>

### ***Physician Assistant Scope of Practice and Physician Supervision***

Physician assistants may only practice under the direct or indirect supervision of a physician with whom they have a working relationship.<sup>16</sup> Physician Assistants are licensed to perform only those medical services delegated to them by a supervising allopathic or osteopathic physician.<sup>17</sup>

A supervising physician may only delegate tasks and procedures to the PA that are within the supervising physician's scope of practice. A supervising physician decides whether to permit a PA to perform a task or procedure under direct or indirect supervision based on his or her reasonable medical judgment regarding the probability of morbidity and mortality to the patient, and the physician must be certain the PA has the knowledge and skills to perform the task or procedure assigned.<sup>18</sup>

Current law requires a supervising physician to exercise "responsible supervision" and control and, except in cases of emergency, requires the easy availability<sup>19</sup> or physical presence of the physician for consultation and direction of the actions of the PA. The BOM and BOOM establish rules as to what constitutes responsible supervision of a PA.<sup>20</sup>

The boards have established by rule that "responsible supervision" of a PA means the ability of the supervising physician to exercise control and provide direction over the services or tasks performed by the PA. Whether the supervision of a PA is adequate is dependent upon the:

- Complexity of the task;
- Risk to the patient;
- Background, training, and skill of the PA;
- Adequacy of the direction in terms of its form;
- Setting in which the tasks are performed;

<sup>13</sup> Section 456.0135, F.S.

<sup>14</sup> Sections 458.347(7)(c) and 459.022(7)(c), F.S.

<sup>15</sup> National Commission on Certification of Physician Assistants, *Maintaining Certification*, available at <https://www.nccpa.net/CertificationProcess> (last visited Mar. 4, 2021).

<sup>16</sup> Sections 458.347(2)(f) and 459.022(2)(f), F.S.

<sup>17</sup> Sections 458.347(4) and 459.022(4), F.S.

<sup>18</sup> Fla. Adm. Code R. 64B8-30.012(2) and 64B15-6.010(2).

<sup>19</sup> The term "easy availability" includes the ability to communicate by way of telecommunication.

<sup>20</sup> Sections 458.347(2)(f) and 459.022(2)(f), F.S.

- Availability of the supervising physician;
- Necessity for immediate attention; and
- Number of other persons that the supervising physician must supervise.<sup>21</sup>

Responsible supervision and control also require the supervising physician to periodically review the PA's performance<sup>22</sup> and to determine the level of supervision the PA requires for every task or procedure delegated to the PA as to whether it will be under:<sup>23</sup>

- *Direct supervision:* Requires the physical presence of the supervising physician on the premises so that the physician is immediately available to the PA when needed; or
- *Indirect supervision:* Requires the supervising physician to be within reasonable physical proximity, and easily availability, to the PA for communication with the PA, including via telecommunication.

A supervising physician may also delegate to a PA his or her authority to:<sup>24</sup>

- Prescribe or dispense any medicinal drug used in the supervising physician's practice unless such medication is listed in the negative formulary established by the Council, but only under the following circumstances:
  - The PA identifies himself or herself as a PA and advises the patient of his or her right to see a physician before the prescription is written or dispensed;
  - The supervising physician must be registered as a dispensing practitioner and have notified the DOH on an approved form of his or her intent to delegate prescriptive authority or to change prescriptive authority; and
  - The PA must have completed 10 hours of continuing medical education in the specialty practice in which the PA has prescriptive authority with each licensure renewal, and three of the 10 hours must be on the safe and effective prescribing of controlled substances.
- Order any medication for administration to the supervising physician's patient in a hospital or other facility licensed under ch. 395, F.S., or a nursing home licensed under Part II, ch. 400, F.S.; and
- Perform any other service that is not expressly prohibited in the PA Practice Acts, or the rules adopted thereunder.

Current law prohibits PAs licensed under the BOM from prescribing general anesthetics, radiographic contrast materials, and psychiatric mental health controlled substances to children under 18 years of age and limits their prescribing authority of schedule II controlled substances to 7 days.<sup>25</sup>

The DOH is authorized to issue a prescriber number to each PA who has been delegated prescribing authority by a supervising physician. The prescriber number grants authority for the prescribing of medicinal drugs, and creates a presumption that the PA is authorized to prescribe the drug and that the prescription is valid.

<sup>21</sup> Fla. Admin. Code R. 64B8-30.001 and 64B15-6.001.

<sup>22</sup> Fla. Adm. Code R. 64B8-30.001(3) and 64B15-6.001(3) (2021).

<sup>23</sup> Fla. Adm. Code R. 64B8-30.001(4) and (5) and 64B15-6.001(4) and (5).

<sup>24</sup> Sections 458.347(4) and 459.022(4), F.S.

<sup>25</sup> Section 458.347(4)(f)1., F.S.

A supervising physician is responsible and liable for any acts or omissions of the PAs he or she supervises and may not supervise more than four PAs at any time.<sup>26</sup>

Upon employment as a PA, a licensed PA must notify the DOH of his or her supervising physician in writing within 30 days after such employment or after any subsequent changes of his or her supervising physician. The notification must include the full name, Florida medical license number, specialty, and address of the supervising physician.<sup>27</sup>

### ***Reimbursement for PA Services: Medicare***

Medicare generally reimburses for medical and surgical services provided by PAs at 85 percent of the physician fee schedule. This rate generally applies to all practice settings, including hospitals, nursing facilities, homes, offices, and clinics. However, when acting as a surgical assistant, the PA's reimbursement rate is only 13.6 percent of the primary surgeon's allowable fee, and no payment is made for PAs assisting at surgery at an approved and accredited teaching hospital unless no residents are available, the surgeon does not use residents with his patients, or trauma surgery is required. To be eligible for Medicare reimbursement for PA services, a PA must:

- Graduate from an accredited PA program or passed the national certification exam;
- Be state-licensed;
- Obtain a National Provider Identifier (NPI);<sup>28</sup> and
- Enroll in Medicare through the Medicare electronic enrollment system.<sup>29</sup>

Under Medicare, a PA's required level of supervision for reimbursement generally requires access to the collaborating physician or supervising physician by reliable electronic communication. Personal presence of the physician is generally not required. Medicare policies will not override state law guidelines or facility policies.<sup>30</sup> Medicare does allow PAs to submit claims under their own NPI as the rendering provider, but does not allow PAs to directly bill (receive payment directly) for covered Medicare services.<sup>31</sup> Reimbursement is made to the PA's employer.<sup>32</sup>

Notable restrictions on a PA's scope of practice under Medicare include:

- PAs may not order home health services or sign a patient's home health plan of care;
- PAs may not perform the initial comprehensive visit for patients in skilled nursing facilities;

<sup>26</sup> Sections 458.347(15) and 459.022(15), F.S.

<sup>27</sup> Sections 458.458.347(7) and 459.022(7), F.S.

<sup>28</sup> An NPI is a unique identification number for covered health care providers that can be shared with other providers and health plans, and is used for billing purposes. Centers for Medicare and Medicaid Services, *National Provider Identifier Standard (NPI)*, available at <https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/NationalProvIdentStand> (last visited March 25, 2021).

<sup>29</sup> American Association of Physician Assistants, *Basic Concepts of Reimbursement: a Primer*, available at <https://www.aapa.org/wp-content/uploads/2018/04/WEB-18.066-Program-Director-Page-Redesign-Reimbursement-101-v2.pdf> (last viewed Mar. 8, 2021).

<sup>30</sup> *Id.*

<sup>31</sup> See 42 U.S.C. 1395u(b)(6)(C), 2021, which will allow services provided by PAs to be directly billed and paid to PAs only when no other facility or provider services are billed the same day after Jan. 1, 2022.

<sup>32</sup> American Association of Physician Assistants, *Basic Concepts of Reimbursement: a Primer*, available at <https://www.aapa.org/wp-content/uploads/2018/04/WEB-18.066-Program-Director-Page-Redesign-Reimbursement-101-v2.pdf> (last viewed Mar. 8, 2021).

- PAs are not reimbursed for certifying terminal illness; and
- PAs may not delegate the performance of diagnostic tests requiring direct or personal supervision of ancillary staff.<sup>33</sup>

### ***Reimbursement for PA Services: Medicaid***

Unlike the Medicare program, which has federal laws mandating the coverage of medical services provided by PAs, the state determines whether PAs are eligible providers under its Medicaid program and which services PAs are able to provide. In Florida, if a PA performs a service for a Medicaid enrollee, the PA must have his or her own Medicaid provider number, and the service must be billed using the PA's provider number unless the physician performs the majority of the service.<sup>34</sup> Medicaid services provided by a PA within his or her scope of practice may be billed under a physician's Medicaid provider number when the physician is in the building and able to render assistance as needed. These services are reimbursed at the physician-allowable amount. Services provided within the PA's scope of practice that are performed when the physician is not in the building must be billed under the rendering PA's Medicaid provider number and are reimbursed at 80 percent of the allowable amount.<sup>35</sup>

### ***Reimbursement for PA Services: Commercial Health Insurance***

Commercial insurers have varying policies regarding billing and reimbursement of services provided by a PA. Many choose not to enroll PAs as providers and require PAs to bill under the physicians' Medicaid number. For those that enroll PAs, billing and coverage policies must be clearly ascertained by every individual practice for every individual payer with whom they contract.<sup>36</sup>

## **III. Effect of Proposed Changes:**

The bill revises the practice acts for PAs in chs. 458 and 459, F.S.

### **Physician Assistant Education**

Currently, board-approved PA programs must be accredited by the Commission on Accreditation of Allied Health Programs. The bill amends the list of accrediting entities that PA programs must be accredited by in order to be an "approved program," to include:

- The Accreditation Review Commission on Education for the Physician Assistant or its successor entity; or
- Before 2001:
  - The Committee on Allied Health Education and Accreditation; or

<sup>33</sup> *Id.*

<sup>34</sup> Agency for Health Care Administration, *Florida Medicare Provider Reimbursement Handbook*, available at [https://ahca.myflorida.com/medicaid/review/Reimbursement/RH\\_08\\_080701\\_CMS-1500\\_ver1\\_4.pdf](https://ahca.myflorida.com/medicaid/review/Reimbursement/RH_08_080701_CMS-1500_ver1_4.pdf) (last visited Mar. 8, 2021).

<sup>35</sup> Agency for Health Care Administration, *Practitioner Fee Schedule*, available at [https://ahca.myflorida.com/medicaid/review/Reimbursement/2020-01-01\\_Fee\\_Sched\\_Billing\\_Codes/Practitioner\\_Fee\\_Schedule\\_2020.pdf](https://ahca.myflorida.com/medicaid/review/Reimbursement/2020-01-01_Fee_Sched_Billing_Codes/Practitioner_Fee_Schedule_2020.pdf) (last visited Mar. 15, 2021).

<sup>36</sup> American Association of Physician Assistants, *Basic Concepts of Reimbursement: a Primer*, available at <https://www.aapa.org/wp-content/uploads/2018/04/WEB-18.066-Program-Director-Page-Redesign-Reimbursement-101-v2.pdf> (last viewed Mar. 8, 2021).

- The Commission on Accreditation of Allied Health Programs.

The bill repeals current law that requires the BOM and BOOM to adopt standards to ensure that PA programs operate in a manner that does not endanger the health or welfare of patients who receive PA services, and repeals the boards' responsibility to review the quality of the curricula, faculties, and facilities of PA programs.

### **Physician Assistant Licensure**

Currently, to obtain licensure a PA must have a certificate of completion of a board approved PA training program and pass an entry-level proficiency exam. To obtain licensure as a PA, the bill requires a PA to graduate from an approved program accredited by the Accreditation Review Commission on Education for the PA, and submit a diploma from the approved program with their application. The bill also clarifies that a PA must obtain a passing score on the physician assistant national certifying examination (PANACE).

The bill also amends the following licensure requirements for applicants who graduated:

- After December 31, 2020, a master's degree from an approved program;
- Before January 1, 2020, a bachelor's or master's degree from an approved program;
- Before July 1, 1994, graduation from an approved program of instruction in primary health care or surgery;
- Before July 1, 1983, a certification as a PA by the boards; and
- For applicants who do not meet any of the educational requirements specified above, but who have passed the PANACE examination administered by the NCCPA before 1986, the board may also grant a license.

The bill repeals the following items that applicants must submit with their application for licensure:

- A PA program verification form; and
- A copy of course transcripts and course descriptions from the PA program describing course content in pharmacotherapy, if the applicant intends to apply for prescribing authority.

### **Physician Assistant Scope of Practice and Physician Supervision**

The bill expands the scope of practice of PAs and authorizes PA's to:

- Prescribe Schedule II psychiatric mental health controlled substances to minors. PAs may only prescribe a 14-day supply of these controlled substances and only if the PA is under the supervision of a pediatrician, family practice physician, or psychiatrist;
- Procure medical devices and drugs unless listed in the negative formulary established by the Council and adopted by the BOM and the BOOM;
- Supervise medical assistants;<sup>37</sup>
- Authenticate documents with their signature, certification, stamp, verification, affidavit, or endorsement if it may be authenticated by a physician's signature, certification, stamp,

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<sup>37</sup> Section 458.3485, F.S., defines a "medical assistant" as a professional multi-skilled person dedicated to assisting in all aspects of medical practice under the direct supervision and responsibility of a physician.

verification, affidavit, or endorsement, except for certifications for the medical use of marijuana. Such documents include, but are not limited to, the following:

- Initiation of an involuntary examination under the Baker Act;<sup>38</sup>
- Do-not-resuscitate (DNR) orders or orders for life-sustaining treatment;
- Death certificates;
- School physical examinations;
- Medical examinations for workers' compensation claims, except medical examinations required for the evaluation and assignment of the claimants date of maximum medical improvement as defined in s. 440.02, F.S., and for any impairment ratings under s. 440.15, F.S.;<sup>39</sup>
- Orders for:
  - Physical therapy;
  - Occupational therapy;
  - Speech-language therapy;
  - Home health services; and
  - Durable medical equipment.
- File the certificate of death or fetal death in the absence of a funeral director; and
- Correct a permanent death certificate.

The bill makes conforming changes to the sections of current law relating to the involuntary examinations under the Baker Act and the signing of DNR orders.

Current law limits the number of PAs a physician may supervise to four. The bill increases the number of PAs a physician may supervise to 10. The bill also deletes the following requirements:

- PAs must inform patients that they have the right to see a physician before a prescription is prescribed or dispensed by the PA; and
- PAs must notify the DOH within 30 days of employment or after any change in their supervising physician.

The bill removes from current law:

- Obsolete language related to prescriber numbers; and
- The presumption that the inclusion of the PA prescriber number on a prescription indicates the PA is authorized to prescribe the medicinal drug and that the prescription is valid.

### **Reimbursement for PA Services**

The bill authorizes PAs to directly bill and receive payment from public and private insurance companies for services rendered.

The bill takes effect on July 1, 2021.

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<sup>38</sup> Section 394.463, F.S.

<sup>39</sup> Under s. 440.02(10), F.S., the “date of maximum medical improvement” means the date after which further recovery from, or lasting improvement to, an injury or disease can no longer reasonably be anticipated, based upon reasonable medical probability.

**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 fiscal impact of PCS/CS/SB 894 is indeterminate. The bill may have a positive fiscal impact on health insurers who can reimburse for services provided by PA at a lower rate than if those same services are provided by a physician. However, to the extent that the bill's provisions, relating to physician supervision and PA scope of practice, increase access to health care services the bill may have a negative fiscal impact on health insurers who provide coverage for those services.

## C. Government Sector Impact:

The fiscal impact of the bill is indeterminate. The bill may have a positive fiscal impact on health insurers who reimburse for services provided by PA at a lower rate than if those same services are provided by a physician. However, to the extent that the bill's provisions, relating to physician supervision and PA scope of practice, increase access to health care services the bill may have a negative fiscal impact on health insurers who provide coverage for those services.

**VI. Technical Deficiencies:**

None.



**VII. Related Issues:**

The bill authorizes PAs to bill for and receive direct payment for the services they deliver. However:

- Nothing in the bill requires public or private insurers to pay PAs directly for those services;
- Health insurance policies, and contracts with providers, are negotiated between the parties involved and they dictate how and to whom payment for services and benefits are made, in accordance with the provisions of the policy or contract;
- Any insurer who has contracted with a preferred provider for the delivery of health care services to its insureds must make payments directly to the preferred provider for such services, and insurers traditionally contract with supervising physicians and include PA services, not directly with PAs;<sup>40</sup> and
- Workers' compensation carriers do not pay PAs directly, as they are not authorized under workers' compensation law.<sup>41</sup>

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 458.347, 459.022, 382.008, 394.463, and 401.45.

**IX. Additional Information:**

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

**PCS (282916) by Appropriations (Recommended by Appropriations Subcommittee on Health and Human Services:**

The CS:

- Expands the number of PAs that a physician can supervise to 10.
  - Reverts back to current law and clarifies that PA charts do not need to be reviewed or co-signed by the supervising physician.
  - Reverts back to current law that requires the supervising physicians name on PA prescriptions.
  - Authorizes PAs to prescribe a 14 day supply of Schedule II psychiatric mental health controlled substances for children under 18 provided the PA is under the supervision of a pediatrician, family practice physician, or psychiatrist.
  - Excludes medical use marijuana certifications from the list of documents that a PA can authenticate with their signature, certification, stamp, verification, affidavits, or endorsement.
  - Clarifies that PAs may authenticate medical examinations for workers' compensation claims, except for the medical examination(s) required for the evaluation and assignment of the claimant's date of MMI and impairment rating, if any.
-

- Deletes references to medical assistants being regulated under ch. 459, F.S. Medical assistants are defined and regulated under ch. 458, F.S.

**CS by Health Policy on March 17, 2021:**

The CS eliminates certain provisions from the underlying bill, including authority for PAs to practice primary care autonomously, after meeting certain requirements, without physician supervision, and other provisions, including:

- The legislative intent for PAs to practice medicine;
- A provision to prohibit PAs from authenticating certifications for a patient to use medical marijuana;
- A requirement that for PAs to authenticate death certificates, the PA must have had training on the completion of death certificates; and
- A requirement that applicants for a PA licensure must submit:
  - A PA program verification form; and
  - An evidence-quality copy of course transcripts and a copy of the course description from a PA training program describing course content in pharmacotherapy, if the applicant wishes to apply for prescribing authority.

The CS inserts the following into the bill:

- Repeals the provision in current law that prohibits a PA from prescribing a psychiatric mental health controlled substance for a minor;
- Provides the following relating to third-party payors:
  - Payment for services within a PA's scope of practice must be made when ordered or performed by a PA if the same service would have been covered if ordered or performed by a physician; and
  - PAs are authorized to bill for and receive direct payment for the services they deliver.
- Repeals the current-law requirement that a licensed PA must notify the DOH within 30 days after starting employment, or after any changes in supervising physician, including the full name, medical license number, specialty, and address of the supervising physician;
- Repeals current law requiring the name, address and telephone number of the supervising physician on PAs prescriptions, but requires PAs' name, address and telephone number on prescriptions;
- Repeals the presumption that the inclusion of the PA prescriber number on a prescription indicates the PA is authorized to prescribe the medicinal drug and the prescription is valid.
- Authorizes PAs to include date of MMI when authenticating medical evaluations for workers' compensation claims;
- Repeals the current-law requirement that PAs must inform patients that they have the right to see the physician before a prescription is prescribed or dispensed by the PA; and
- Authorizes licensed PA to procure medical devices and drugs unless the drug is listed on the negative formulary.

B. Amendments:

None.

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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	.	
04/22/2021	.	
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The Committee on Appropriations (Diaz) recommended the following:

**Senate Amendment**

Delete lines 159 - 535

and insert:

Award Category 1 credit, ~~or~~ designated by the American Academy of Physician Assistants as a Category 1 Credit, or designated by the American Osteopathic Association as a Category 1-A Credit.

~~4. The department may issue a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion~~



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11 ~~of the requirements of this paragraph. The physician assistant~~  
12 ~~is not required to independently register pursuant to s.~~  
13 ~~465.0276.~~

14       5. The prescription may be in paper or electronic form but  
15 must comply with ss. 456.0392(1) and 456.42(1) and chapter 499  
16 and must contain the physician assistant's, ~~in addition to the~~  
17 ~~supervising physician's~~ name, address, and telephone number and  
18 the name of any of his or her supervising physicians, ~~the~~  
19 ~~physician assistant's prescriber number~~. Unless it is a drug or  
20 drug sample dispensed by the physician assistant, the  
21 prescription must be filled in a pharmacy permitted under  
22 chapter 465 and must be dispensed in that pharmacy by a  
23 pharmacist licensed under chapter 465. ~~The inclusion of the~~  
24 ~~prescriber number creates a presumption that the physician~~  
25 ~~assistant is authorized to prescribe the medicinal drug and the~~  
26 ~~prescription is valid.~~

27       6. The physician assistant must note the prescription or  
28 dispensing of medication in the appropriate medical record.

29       (f)1. The council shall establish a formulary of medicinal  
30 drugs that a fully licensed physician assistant having  
31 prescribing authority under this section or s. 459.022 may not  
32 prescribe. The formulary must include general anesthetics and  
33 radiographic contrast materials and must limit the prescription  
34 of Schedule II controlled substances as listed in s. 893.03 to a  
35 7-day supply. The formulary must also restrict the prescribing  
36 of Schedule II psychiatric mental health controlled substances  
37 for children younger than 18 years of age to a 14-day supply,  
38 provided the physician assistant is under the supervision of a  
39 pediatrician, family practice physician, or psychiatrist.



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40           2. In establishing the formulary, the council shall consult  
41 with a pharmacist licensed under chapter 465, but not licensed  
42 under this chapter or chapter 459, who shall be selected by the  
43 State Surgeon General.

44           3. Only the council shall add to, delete from, or modify  
45 the formulary. Any person who requests an addition, a deletion,  
46 or a modification of a medicinal drug listed on such formulary  
47 has the burden of proof to show cause why such addition,  
48 deletion, or modification should be made.

49           4. The boards shall adopt the formulary required by this  
50 paragraph, and each addition, deletion, or modification to the  
51 formulary, by rule. Notwithstanding any provision of chapter 120  
52 to the contrary, the formulary rule shall be effective 60 days  
53 after the date it is filed with the Secretary of State. Upon  
54 adoption of the formulary, the department shall mail a copy of  
55 such formulary to each fully licensed physician assistant having  
56 prescribing authority under this section or s. 459.022, and to  
57 each pharmacy licensed by the state. The boards shall establish,  
58 by rule, a fee not to exceed \$200 to fund the provisions of this  
59 paragraph and paragraph (e).

60           (g) A supervisory physician may delegate to a licensed  
61 physician assistant the authority to, and the licensed physician  
62 assistant acting under the direction of the supervisory  
63 physician may, order any medication for administration to the  
64 supervisory physician's patient in a facility licensed under  
65 chapter 395 or part II of chapter 400, notwithstanding any  
66 provisions in chapter 465 or chapter 893 which may prohibit this  
67 delegation.

68           (h) A licensed physician assistant may perform services



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69 delegated by the supervising physician in the physician  
70 assistant's practice in accordance with his or her education and  
71 training unless expressly prohibited under this chapter, chapter  
72 459, or rules adopted under this chapter or chapter 459.

73 (i) Except for a physician certification under s. 381.986,  
74 a physician assistant may authenticate any document with his or  
75 her signature, certification, stamp, verification, affidavit, or  
76 endorsement if such document may be so authenticated by the  
77 signature, certification, stamp, verification, affidavit, or  
78 endorsement of a physician, except those required for s.  
79 381.986. Such documents include, but are not limited to, any of  
80 the following:

81 1. Initiation of an involuntary examination pursuant to s.  
82 394.463.

83 2. Do-not-resuscitate orders or physician orders for the  
84 administration of life-sustaining treatment.

85 3. Death certificates.

86 4. School physical examinations.

87 5. Medical examinations for workers' compensation claims,  
88 except medical examinations required for the evaluation and  
89 assignment of the claimant's date of maximum medical improvement  
90 as defined in s. 440.02 and for the impairment rating, if any,  
91 under s. 440.15.

92 6. Orders for physical therapy, occupational therapy,  
93 speech-language therapy, home health services, or durable  
94 medical equipment.

95 (j) A physician assistant may supervise medical assistants  
96 as defined in this chapter.

97 (k) This chapter authorizes third-party payors to reimburse



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98 employers of physician assistants for covered services rendered  
99 by licensed physician assistants. Payment for services within  
100 the physician assistant's scope of practice must be made when  
101 ordered or performed by a physician assistant if the same  
102 service would have been covered if ordered or performed by a  
103 physician. Physician assistants are authorized to bill for and  
104 receive direct payment for the services they deliver.

105 ~~(5) PERFORMANCE BY TRAINEES. Notwithstanding any other law,~~  
106 ~~a trainee may perform medical services when such services are~~  
107 ~~rendered within the scope of an approved program.~~

108 ~~(6) PROGRAM APPROVAL.-~~

109 (a) The boards shall approve programs, based on  
110 recommendations by the council, for the education and training  
111 of physician assistants which meet standards established by rule  
112 of the boards. The council may recommend only those physician  
113 assistant programs that hold full accreditation or provisional  
114 accreditation from the Accreditation Review Commission on  
115 Education for the Physician Assistant or its successor entity  
116 or, before 2001, from the Committee on Allied Health Education  
117 and Accreditation or the Commission on Accreditation of Allied  
118 Health Programs or its successor organization. Any educational  
119 institution offering a physician assistant program approved by  
120 the boards pursuant to this paragraph may also offer the  
121 physician assistant program authorized in paragraph (c) for  
122 unlicensed physicians.

123 (b) Notwithstanding any other law, a trainee may perform  
124 medical services when such services are rendered within the  
125 scope of an approved program ~~The boards shall adopt and publish~~  
126 ~~standards to ensure that such programs operate in a manner that~~





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127 ~~does not endanger the health or welfare of the patients who~~  
128 ~~receive services within the scope of the programs. The boards~~  
129 ~~shall review the quality of the curricula, faculties, and~~  
130 ~~facilities of such programs and take whatever other action is~~  
131 ~~necessary to determine that the purposes of this section are~~  
132 ~~being met.~~

133 ~~(c) Any community college with the approval of the State~~  
134 ~~Board of Education may conduct a physician assistant program~~  
135 ~~which shall apply for national accreditation through the~~  
136 ~~American Medical Association's Committee on Allied Health,~~  
137 ~~Education, and Accreditation, or its successor organization, and~~  
138 ~~which may admit unlicensed physicians, as authorized in~~  
139 ~~subsection (7), who are graduates of foreign medical schools~~  
140 ~~listed with the World Health Organization. The unlicensed~~  
141 ~~physician must have been a resident of this state for a minimum~~  
142 ~~of 12 months immediately prior to admission to the program. An~~  
143 ~~evaluation of knowledge base by examination shall be required to~~  
144 ~~grant advanced academic credit and to fulfill the necessary~~  
145 ~~requirements to graduate. A minimum of one 16-week semester of~~  
146 ~~supervised clinical and didactic education, which may be~~  
147 ~~completed simultaneously, shall be required before graduation~~  
148 ~~from the program. All other provisions of this section shall~~  
149 ~~remain in effect.~~

150 ~~(6)(7) PHYSICIAN ASSISTANT LICENSURE.-~~

151 (a) Any person desiring to be licensed as a physician  
152 assistant must apply to the department. The department shall  
153 issue a license to any person certified by the council as having  
154 met all of the following requirements:

155 1. Is at least 18 years of age.



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156           2. Has graduated from an approved program.  
157           a. For an applicant who graduated after December 31, 2020,  
158 has received a master's degree in accordance with the  
159 Accreditation Review Commission on Education for the Physician  
160 Assistant or, before 2001, its equivalent or predecessor  
161 organization.  
162           b. For an applicant who graduated on or before December 31,  
163 2020, has received a bachelor's or master's degree from an  
164 approved program.  
165           c. For an applicant who graduated before July 1, 1994, has  
166 graduated from an approved program of instruction in primary  
167 health care or surgery.  
168           d. For an applicant who graduated before July 1, 1983, has  
169 received a certification as a physician assistant from the  
170 boards.  
171           e. The board may also grant a license to an applicant who  
172 does not meet the educational requirement specified in this  
173 subparagraph but who has passed the Physician Assistant National  
174 Certifying Examination administered by the National Commission  
175 on Certification of Physician Assistants before 1986.  
176           3. Has obtained a passing score as ~~satisfactorily passed a~~  
177 ~~proficiency examination by an acceptable score~~ established by  
178 the National Commission on Certification of Physician Assistants  
179 or its equivalent or successor organization and has been  
180 nationally certified. If an applicant does not hold a current  
181 certificate issued by the National Commission on Certification  
182 of Physician Assistants or its equivalent or successor  
183 organization and has not actively practiced as a physician  
184 assistant within the immediately preceding 4 years, the



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185 applicant must retake and successfully complete the entry-level  
186 examination of the National Commission on Certification of  
187 Physician Assistants or its equivalent or successor organization  
188 to be eligible for licensure.

189 ~~4.3.~~ Has completed the application form and remitted an  
190 application fee not to exceed \$300 as set by the boards. An  
191 application for licensure as made by a physician assistant must  
192 include:

193 a. A diploma from an approved ~~certificate of completion of~~  
194 ~~a physician assistant training program specified in subsection~~  
195 ~~(6).~~

196 b. Acknowledgment of any prior felony convictions.

197 c. Acknowledgment of any previous revocation or denial of  
198 licensure or certification in any state.

199 ~~d. A copy of course transcripts and a copy of the course~~  
200 ~~description from a physician assistant training program~~  
201 ~~describing course content in pharmacotherapy, if the applicant~~  
202 ~~wishes to apply for prescribing authority. These documents must~~  
203 ~~meet the evidence requirements for prescribing authority.~~

204 ~~(d) Upon employment as a physician assistant, a licensed~~  
205 ~~physician assistant must notify the department in writing within~~  
206 ~~30 days after such employment or after any subsequent changes in~~  
207 ~~the supervising physician. The notification must include the~~  
208 ~~full name, Florida medical license number, specialty, and~~  
209 ~~address of the supervising physician.~~

210 (e) Notwithstanding subparagraph (a)2., the department may  
211 grant to a recent graduate of an approved program, as specified  
212 in subsection (5) ~~(6)~~, who expects to take the first examination  
213 administered by the National Commission on Certification of



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214 Physician Assistants available for registration after the  
215 applicant's graduation, a temporary license. The temporary  
216 license shall expire 30 days after receipt of scores of the  
217 proficiency examination administered by the National Commission  
218 on Certification of Physician Assistants. Between meetings of  
219 the council, the department may grant a temporary license to  
220 practice based on the completion of all temporary licensure  
221 requirements. All such administratively issued licenses shall be  
222 reviewed and acted on at the next regular meeting of the  
223 council. The recent graduate may be licensed before employment  
224 ~~but must comply with paragraph (d).~~ An applicant who has passed  
225 the proficiency examination may be granted permanent licensure.  
226 An applicant failing the proficiency examination is no longer  
227 temporarily licensed but may reapply for a 1-year extension of  
228 temporary licensure. An applicant may not be granted more than  
229 two temporary licenses and may not be licensed as a physician  
230 assistant until he or she passes the examination administered by  
231 the National Commission on Certification of Physician  
232 Assistants. As prescribed by board rule, the council may require  
233 an applicant who does not pass the licensing examination after  
234 five or more attempts to complete additional remedial education  
235 or training. The council shall prescribe the additional  
236 requirements in a manner that permits the applicant to complete  
237 the requirements and be reexamined within 2 years after the date  
238 the applicant petitions the council to retake the examination a  
239 sixth or subsequent time.

240 (12) ~~(13)~~ RULES.—The boards shall adopt rules to implement  
241 this section, including rules detailing the contents of the  
242 application for licensure and notification pursuant to



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243 subsection (6) ~~(7)~~ and rules to ensure both the continued  
244 competency of physician assistants and the proper utilization of  
245 them by physicians or groups of physicians.

246 Section 2. Subsections (1) through (6), paragraphs (a),  
247 (d), and (e) of subsection (7), and subsection (13) of section  
248 459.022, Florida Statutes, are amended to read:

249 459.022 Physician assistants.—

250 (1) LEGISLATIVE INTENT.—

251 ~~(a) The purpose of this section is to authorize physician~~  
252 ~~assistants, with their education, training, and experience in~~  
253 ~~the field of medicine, to provide increased efficiency of and~~  
254 ~~access to high-quality medical services at a reasonable cost to~~  
255 ~~consumers encourage more effective utilization of the skills of~~  
256 ~~osteopathic physicians or groups of osteopathic physicians by~~  
257 ~~enabling them to delegate health care tasks to qualified~~  
258 ~~assistants when such delegation is consistent with the patient's~~  
259 ~~health and welfare.~~

260 ~~(b) In order that maximum skills may be obtained within a~~  
261 ~~minimum time period of education, a physician assistant shall be~~  
262 ~~specialized to the extent that she or he can operate efficiently~~  
263 ~~and effectively in the specialty areas in which she or he has~~  
264 ~~been trained or is experienced.~~

265 ~~(c) The purpose of this section is to encourage the~~  
266 ~~utilization of physician assistants by osteopathic physicians~~  
267 ~~and to allow for innovative development of programs for the~~  
268 ~~education of physician assistants.~~

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

270 (a) "Approved program" means a physician assistant program  
271 in the United States or in its territories or possessions which



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272 is accredited by the Accreditation Review Commission on  
273 Education for the Physician Assistant or, for programs before  
274 2001, accredited by its equivalent or predecessor entities the  
275 Committee on Allied Health Education and Accreditation or the  
276 Commission on Accreditation of Allied Health Education Programs  
277 ~~program,~~ formally approved by the boards, for the education of  
278 physician assistants.

279 (b) "Boards" means the Board of Medicine and the Board of  
280 Osteopathic Medicine.

281 (d)~~(e)~~ "Council" means the Council on Physician Assistants.

282 (h)~~(d)~~ "Trainee" means a person who is currently enrolled  
283 in an approved program.

284 (e) "Physician assistant" means a person who is a graduate  
285 of an approved program or its equivalent or meets standards  
286 approved by the boards and is licensed to perform medical  
287 services delegated by the supervising physician.

288 (f) "Physician assistant national certifying examination"  
289 means the Physician Assistant National Certifying Examination  
290 administered by the National Commission on Certification of  
291 Physician Assistants or its successor agency.

292 (g) "Supervision" means responsible supervision and  
293 control. Except in cases of emergency, supervision requires the  
294 easy availability or physical presence of the licensed physician  
295 for consultation and direction of the actions of the physician  
296 assistant. For the purposes of this definition, the term "easy  
297 availability" includes the ability to communicate by way of  
298 telecommunication. The boards shall establish rules as to what  
299 constitutes responsible supervision of the physician assistant.

300 ~~(g) "Proficiency examination" means an entry-level~~



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301 ~~examination approved by the boards, including, but not limited~~  
302 ~~to, those examinations administered by the National Commission~~  
303 ~~on Certification of Physician Assistants.~~

304 (c) ~~(h)~~ "Continuing medical education" means courses  
305 recognized and approved by the boards, the American Academy of  
306 Physician Assistants, the American Medical Association, the  
307 American Osteopathic Association, or the Accreditation Council  
308 on Continuing Medical Education.

309 (3) PERFORMANCE OF SUPERVISING PHYSICIAN.—Each physician or  
310 group of physicians supervising a licensed physician assistant  
311 must be qualified in the medical areas in which the physician  
312 assistant is to perform and shall be individually or  
313 collectively responsible and liable for the performance and the  
314 acts and omissions of the physician assistant. A physician may  
315 not supervise more than 10 ~~four~~ currently licensed physician  
316 assistants at any one time. A physician supervising a physician  
317 assistant pursuant to this section may not be required to review  
318 and cosign charts or medical records prepared by such physician  
319 assistant.

320 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

321 (a) The boards shall adopt, by rule, the general principles  
322 that supervising physicians must use in developing the scope of  
323 practice of a physician assistant under direct supervision and  
324 under indirect supervision. These principles shall recognize the  
325 diversity of both specialty and practice settings in which  
326 physician assistants are used.

327 (b) This chapter does not prevent third-party payors from  
328 reimbursing employers of physician assistants for covered  
329 services rendered by licensed physician assistants.



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330 (c) Licensed physician assistants may not be denied  
331 clinical hospital privileges, except for cause, so long as the  
332 supervising physician is a staff member in good standing.

333 (d) A supervisory physician may delegate to a licensed  
334 physician assistant, pursuant to a written protocol, the  
335 authority to act according to s. 154.04(1)(c). Such delegated  
336 authority is limited to the supervising physician's practice in  
337 connection with a county health department as defined and  
338 established pursuant to chapter 154. The boards shall adopt  
339 rules governing the supervision of physician assistants by  
340 physicians in county health departments.

341 (e) A supervising physician may delegate to a fully  
342 licensed physician assistant the authority to prescribe or  
343 dispense any medication used in the supervising physician's  
344 practice unless such medication is listed on the formulary  
345 created pursuant to s. 458.347. A fully licensed physician  
346 assistant may only prescribe or dispense such medication under  
347 the following circumstances:

348 1. A physician assistant must clearly identify to the  
349 patient that she or he is a physician assistant ~~and must inform~~  
350 ~~the patient that the patient has the right to see the physician~~  
351 ~~before a prescription is prescribed or dispensed by the~~  
352 ~~physician assistant.~~

353 2. The supervising physician must notify the department of  
354 her or his intent to delegate, on a department-approved form,  
355 before delegating such authority and of any change in  
356 prescriptive privileges of the physician assistant. Authority to  
357 dispense may be delegated only by a supervising physician who is  
358 registered as a dispensing practitioner in compliance with s.





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359 465.0276.

360 3. A fully licensed physician assistant may procure medical  
361 devices and medicinal drugs unless the drug is listed on the  
362 formulary created pursuant to s. 458.347(4)(f).

363 4. The physician assistant must complete a minimum of 10  
364 continuing medical education hours in the specialty practice in  
365 which the physician assistant has prescriptive privileges with  
366 each licensure renewal. Three of the 10 hours must consist of a  
367 continuing education course on the safe and effective  
368 prescribing of controlled substance medications which is offered  
369 by a statewide professional association of physicians in this  
370 state accredited to provide educational activities designated  
371 for the American Medical Association Physician's Recognition  
372 Award Category 1 credit, designated by the American Academy of  
373 Physician Assistants as a Category 1 Credit, or designated by  
374 the American Osteopathic Association as a Category 1-A Credit.

375 ~~4. The department may issue a prescriber number to the~~  
376 ~~physician assistant granting authority for the prescribing of~~  
377 ~~medicinal drugs authorized within this paragraph upon completion~~  
378 ~~of the requirements of this paragraph. The physician assistant~~  
379 ~~is not required to independently register pursuant to s.~~  
380 ~~465.0276.~~

381 5. The prescription may be in paper or electronic form but  
382 must comply with ss. 456.0392(1) and 456.42(1) and chapter 499  
383 and must contain the physician assistant's, ~~in addition to the~~  
384 ~~supervising physician's~~ name, address, and telephone number and  
385 the name of any of his or her supervising physicians,~~the~~



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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 physician assistants; amending ss. 458.347 and 459.022, F.S.; revising legislative intent; defining and redefining terms; revising a limitation on the number of physician assistants a physician may supervise at one time; deleting a requirement that a physician assistant inform his or her patients that they have the right to see a physician before the physician assistant prescribes or dispenses a prescription; authorizing physician assistants to procure drugs and medical devices; providing an exception; conforming provisions to changes made by the act; revising requirements for a certain formulary; authorizing physician assistants to authenticate documents that may be authenticated by a physician; providing exceptions; authorizing physician assistants to supervise medical assistants; authorizing third-party payors to reimburse employers of physician assistants for services rendered; providing requirements for such payment for services; authorizing physician assistants to bill for and receive direct payment for services they deliver; revising provisions relating to approved programs for physician assistants; revising provisions relating to physician assistant licensure requirements; amending ss. 382.008, 394.463, and 401.45, F.S.; conforming provisions relating to certificates of death,



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certificates for involuntary examinations, and orders not to resuscitate, respectively, to changes made by the act; providing an effective date.

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

Section 1. Subsections (1) through (6), paragraphs (a), (d), and (e) of subsection (7), and subsection (13) of section 458.347, Florida Statutes, are amended to read:

458.347 Physician assistants.—

(1) LEGISLATIVE INTENT.—

~~(a) The purpose of this section is to authorize physician assistants, with their education, training, and experience in the field of medicine, to provide increased efficiency of and access to high-quality medical services at a reasonable cost to consumers encourage more effective utilization of the skills of physicians or groups of physicians by enabling them to delegate health care tasks to qualified assistants when such delegation is consistent with the patient's health and welfare.~~

~~(b) In order that maximum skills may be obtained within a minimum time period of education, a physician assistant shall be specialized to the extent that he or she can operate efficiently and effectively in the specialty areas in which he or she has been trained or is experienced.~~

~~(c) The purpose of this section is to encourage the utilization of physician assistants by physicians and to allow for innovative development of programs for the education of physician assistants.~~

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



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57 (a) "Approved program" means a physician assistant program  
58 in the United States or in its territories or possessions which  
59 is accredited by the Accreditation Review Commission on  
60 Education for the Physician Assistant or, for programs before  
61 2001, accredited by its equivalent or predecessor entities the  
62 Committee on Allied Health Education and Accreditation or the  
63 Commission on Accreditation of Allied Health Education Programs  
64 program, formally approved by the boards, for the education of  
65 physician assistants.

66 (b) "Boards" means the Board of Medicine and the Board of  
67 Osteopathic Medicine.

68 (d)(e) "Council" means the Council on Physician Assistants.

69 (h)(d) "Trainee" means a person who is currently enrolled  
70 in an approved program.

71 (e) "Physician assistant" means a person who is a graduate  
72 of an approved program or its equivalent or meets standards  
73 approved by the boards and is licensed to perform medical  
74 services delegated by the supervising physician.

75 (f) "Physician assistant national certifying examination"  
76 means the Physician Assistant National Certifying Examination  
77 administered by the National Commission on Certification of  
78 Physician Assistants or its successor agency.

79 (g) "Supervision" means responsible supervision and  
80 control. Except in cases of emergency, supervision requires the  
81 easy availability or physical presence of the licensed physician  
82 for consultation and direction of the actions of the physician  
83 assistant. For the purposes of this definition, the term "easy  
84 availability" includes the ability to communicate by way of  
85 telecommunication. The boards shall establish rules as to what



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86 constitutes responsible supervision of the physician assistant.

87 ~~(g) "Proficiency examination" means an entry-level~~  
88 ~~examination approved by the boards, including, but not limited~~  
89 ~~to, those examinations administered by the National Commission~~  
90 ~~on Certification of Physician Assistants.~~

91 ~~(c)(h)~~ "Continuing medical education" means courses  
92 recognized and approved by the boards, the American Academy of  
93 Physician Assistants, the American Medical Association, the  
94 American Osteopathic Association, or the Accreditation Council  
95 on Continuing Medical Education.

96 (3) PERFORMANCE OF SUPERVISING PHYSICIAN.—Each physician or  
97 group of physicians supervising a licensed physician assistant  
98 must be qualified in the medical areas in which the physician  
99 assistant is to perform and shall be individually or  
100 collectively responsible and liable for the performance and the  
101 acts and omissions of the physician assistant. A physician may  
102 not supervise more than 10 ~~four~~ currently licensed physician  
103 assistants at any one time. A physician supervising a physician  
104 assistant pursuant to this section may not be required to review  
105 and cosign charts or medical records prepared by such physician  
106 assistant.

107 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

108 (a) The boards shall adopt, by rule, the general principles  
109 that supervising physicians must use in developing the scope of  
110 practice of a physician assistant under direct supervision and  
111 under indirect supervision. These principles shall recognize the  
112 diversity of both specialty and practice settings in which  
113 physician assistants are used.

114 (b) This chapter does not prevent third-party payors from



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115 reimbursing employers of physician assistants for covered  
116 services rendered by licensed physician assistants.

117 (c) Licensed physician assistants may not be denied  
118 clinical hospital privileges, except for cause, so long as the  
119 supervising physician is a staff member in good standing.

120 (d) A supervisory physician may delegate to a licensed  
121 physician assistant, pursuant to a written protocol, the  
122 authority to act according to s. 154.04(1)(c). Such delegated  
123 authority is limited to the supervising physician's practice in  
124 connection with a county health department as defined and  
125 established pursuant to chapter 154. The boards shall adopt  
126 rules governing the supervision of physician assistants by  
127 physicians in county health departments.

128 (e) A supervising physician may delegate to a fully  
129 licensed physician assistant the authority to prescribe or  
130 dispense any medication used in the supervising physician's  
131 practice unless such medication is listed on the formulary  
132 created pursuant to paragraph (f). A fully licensed physician  
133 assistant may only prescribe or dispense such medication under  
134 the following circumstances:

135 1. A physician assistant must clearly identify to the  
136 patient that he or she is a physician assistant ~~and inform the~~  
137 ~~patient that the patient has the right to see the physician~~  
138 ~~before a prescription is prescribed or dispensed by the~~  
139 ~~physician assistant.~~

140 2. The supervising physician must notify the department of  
141 his or her intent to delegate, on a department-approved form,  
142 before delegating such authority and of any change in  
143 prescriptive privileges of the physician assistant. Authority to



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144 dispense may be delegated only by a supervising physician who is  
145 registered as a dispensing practitioner in compliance with s.  
146 465.0276.

147 3. A fully licensed physician assistant may procure medical  
148 devices and drugs unless the medication is listed on the  
149 formulary created pursuant to paragraph (f).

150 4. The physician assistant must complete a minimum of 10  
151 continuing medical education hours in the specialty practice in  
152 which the physician assistant has prescriptive privileges with  
153 each licensure renewal. Three of the 10 hours must consist of a  
154 continuing education course on the safe and effective  
155 prescribing of controlled substance medications which is offered  
156 by a statewide professional association of physicians in this  
157 state accredited to provide educational activities designated  
158 for the American Medical Association Physician's Recognition  
159 Award Category 1 credit or designated by the American Academy of  
160 Physician Assistants as a Category 1 credit.

161 ~~4. The department may issue a prescriber number to the~~  
162 ~~physician assistant granting authority for the prescribing of~~  
163 ~~medicinal drugs authorized within this paragraph upon completion~~  
164 ~~of the requirements of this paragraph. The physician assistant~~  
165 ~~is not required to independently register pursuant to s.~~  
166 ~~465.0276.~~

167 5. The prescription may be in paper or electronic form but  
168 must comply with ss. 456.0392(1) and 456.42(1) and chapter 499  
169 and must contain the physician assistant's, in addition to the  
170 supervising physician's name, address, and telephone number, ~~the~~  
171 ~~physician assistant's prescriber number~~. Unless it is a drug or  
172 drug sample dispensed by the physician assistant, the



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173 prescription must be filled in a pharmacy permitted under  
174 chapter 465 and must be dispensed in that pharmacy by a  
175 pharmacist licensed under chapter 465. ~~The inclusion of the  
176 prescriber number creates a presumption that the physician  
177 assistant is authorized to prescribe the medicinal drug and the  
178 prescription is valid.~~

179 6. The physician assistant must note the prescription or  
180 dispensing of medication in the appropriate medical record.

181 (f)1. The council shall establish a formulary of medicinal  
182 drugs that a fully licensed physician assistant having  
183 prescribing authority under this section or s. 459.022 may not  
184 prescribe. The formulary must include general anesthetics and  
185 radiographic contrast materials and must limit the prescription  
186 of Schedule II controlled substances as listed in s. 893.03 to a  
187 7-day supply. The formulary must also restrict the prescribing  
188 of Schedule II psychiatric mental health controlled substances  
189 for children younger than 18 years of age to a 14-day supply,  
190 provided the physician assistant is under the supervision of a  
191 pediatrician, family practice physician, or psychiatrist.

192 2. In establishing the formulary, the council shall consult  
193 with a pharmacist licensed under chapter 465, but not licensed  
194 under this chapter or chapter 459, who shall be selected by the  
195 State Surgeon General.

196 3. Only the council shall add to, delete from, or modify  
197 the formulary. Any person who requests an addition, a deletion,  
198 or a modification of a medicinal drug listed on such formulary  
199 has the burden of proof to show cause why such addition,  
200 deletion, or modification should be made.

201 4. The boards shall adopt the formulary required by this



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202 paragraph, and each addition, deletion, or modification to the  
203 formulary, by rule. Notwithstanding any provision of chapter 120  
204 to the contrary, the formulary rule shall be effective 60 days  
205 after the date it is filed with the Secretary of State. Upon  
206 adoption of the formulary, the department shall mail a copy of  
207 such formulary to each fully licensed physician assistant having  
208 prescribing authority under this section or s. 459.022, and to  
209 each pharmacy licensed by the state. The boards shall establish,  
210 by rule, a fee not to exceed \$200 to fund the provisions of this  
211 paragraph and paragraph (e).

212 (g) A supervisory physician may delegate to a licensed  
213 physician assistant the authority to, and the licensed physician  
214 assistant acting under the direction of the supervisory  
215 physician may, order any medication for administration to the  
216 supervisory physician's patient in a facility licensed under  
217 chapter 395 or part II of chapter 400, notwithstanding any  
218 provisions in chapter 465 or chapter 893 which may prohibit this  
219 delegation.

220 (h) A licensed physician assistant may perform services  
221 delegated by the supervising physician in the physician  
222 assistant's practice in accordance with his or her education and  
223 training unless expressly prohibited under this chapter, chapter  
224 459, or rules adopted under this chapter or chapter 459.

225 (i) Except for a physician certification under s. 381.986,  
226 a physician assistant may authenticate any document with his or  
227 her signature, certification, stamp, verification, affidavit, or  
228 endorsement if such document may be so authenticated by the  
229 signature, certification, stamp, verification, affidavit, or  
230 endorsement of a physician, except those required for s.



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231 381.986. Such documents include, but are not limited to, any of  
232 the following:  
233 1. Initiation of an involuntary examination pursuant to s.  
234 394.463.  
235 2. Do-not-resuscitate orders or physician orders for the  
236 administration of life-sustaining treatment.  
237 3. Death certificates.  
238 4. School physical examinations.  
239 5. Medical examinations for workers' compensation claims,  
240 except medical examinations required for the evaluation and  
241 assignment of the claimant's date of maximum medical improvement  
242 as defined in s. 440.02 and for the impairment rating, if any,  
243 under s. 440.15.  
244 6. Orders for physical therapy, occupational therapy,  
245 speech-language therapy, home health services, or durable  
246 medical equipment.  
247 (j) A physician assistant may supervise medical assistants  
248 as defined in this chapter.  
249 (k) This chapter authorizes third-party payors to reimburse  
250 employers of physician assistants for covered services rendered  
251 by licensed physician assistants. Payment for services within  
252 the physician assistant's scope of practice must be made when  
253 ordered or performed by a physician assistant if the same  
254 service would have been covered if ordered or performed by a  
255 physician. Physician assistants are authorized to bill for and  
256 receive direct payment for the services they deliver.  
257 ~~(5) PERFORMANCE BY TRAINEES. Notwithstanding any other law,~~  
258 ~~a trainee may perform medical services when such services are~~  
259 ~~rendered within the scope of an approved program.~~



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260 ~~(6) PROGRAM APPROVAL.-~~  
261 (a) The boards shall approve programs, based on  
262 recommendations by the council, for the education and training  
263 of physician assistants which meet standards established by rule  
264 of the boards. The council may recommend only those physician  
265 assistant programs that hold full accreditation or provisional  
266 accreditation from the Accreditation Review Commission on  
267 Education for the Physician Assistant or its successor entity  
268 or, before 2001, from the Committee on Allied Health Education  
269 and Accreditation or the Commission on Accreditation of Allied  
270 Health Programs or its successor organization. Any educational  
271 institution offering a physician assistant program approved by  
272 the boards pursuant to this paragraph may also offer the  
273 physician assistant program authorized in paragraph (c) for  
274 unlicensed physicians.  
275 (b) Notwithstanding any other law, a trainee may perform  
276 medical services when such services are rendered within the  
277 scope of an approved program ~~The boards shall adopt and publish~~  
278 ~~standards to ensure that such programs operate in a manner that~~  
279 ~~does not endanger the health or welfare of the patients who~~  
280 ~~receive services within the scope of the programs. The boards~~  
281 ~~shall review the quality of the curricula, faculties, and~~  
282 ~~facilities of such programs and take whatever other action is~~  
283 ~~necessary to determine that the purposes of this section are~~  
284 ~~being met.~~  
285 ~~(c) Any community college with the approval of the State~~  
286 ~~Board of Education may conduct a physician assistant program~~  
287 ~~which shall apply for national accreditation through the~~  
288 ~~American Medical Association's Committee on Allied Health,~~



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289 ~~Education, and Accreditation, or its successor organization, and~~  
290 ~~which may admit unlicensed physicians, as authorized in~~  
291 ~~subsection (7), who are graduates of foreign medical schools~~  
292 ~~listed with the World Health Organization. The unlicensed~~  
293 ~~physician must have been a resident of this state for a minimum~~  
294 ~~of 12 months immediately prior to admission to the program. An~~  
295 ~~evaluation of knowledge base by examination shall be required to~~  
296 ~~grant advanced academic credit and to fulfill the necessary~~  
297 ~~requirements to graduate. A minimum of one 16-week semester of~~  
298 ~~supervised clinical and didactic education, which may be~~  
299 ~~completed simultaneously, shall be required before graduation~~  
300 ~~from the program. All other provisions of this section shall~~  
301 ~~remain in effect.~~

302 ~~(6)(7) PHYSICIAN ASSISTANT LICENSURE.-~~

303 (a) Any person desiring to be licensed as a physician  
304 assistant must apply to the department. The department shall  
305 issue a license to any person certified by the council as having  
306 met all of the following requirements:

307 1. Is at least 18 years of age.

308 2. Has graduated from an approved program.

309 a. For an applicant who graduated after December 31, 2020,  
310 has received a master's degree in accordance with the  
311 Accreditation Review Commission on Education for the Physician  
312 Assistant or, before 2001, its equivalent or predecessor  
313 organization.

314 b. For an applicant who graduated on or before December 31,  
315 2020, has received a bachelor's or master's degree from an  
316 approved program.

317 c. For an applicant who graduated before July 1, 1994, has



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318 graduated from an approved program of instruction in primary  
319 health care or surgery.

320 d. For an applicant who graduated before July 1, 1983, has  
321 received a certification as a physician assistant from the  
322 boards.

323 e. The board may also grant a license to an applicant who  
324 does not meet the educational requirement specified in this  
325 subparagraph but who has passed the Physician Assistant National  
326 Certifying Examination administered by the National Commission  
327 on Certification of Physician Assistants before 1986.

328 3. Has obtained a passing score as satisfactorily passed a  
329 proficiency examination by an acceptable score established by  
330 the National Commission on Certification of Physician Assistants  
331 or its equivalent or successor organization and has been  
332 nationally certified. If an applicant does not hold a current  
333 certificate issued by the National Commission on Certification  
334 of Physician Assistants or its equivalent or successor  
335 organization and has not actively practiced as a physician  
336 assistant within the immediately preceding 4 years, the  
337 applicant must retake and successfully complete the entry-level  
338 examination of the National Commission on Certification of  
339 Physician Assistants or its equivalent or successor organization  
340 to be eligible for licensure.

341 4.3- Has completed the application form and remitted an  
342 application fee not to exceed \$300 as set by the boards. An  
343 application for licensure as made by a physician assistant must  
344 include:

345 a. A diploma from an approved certificate of completion of  
346 a physician assistant training program specified in subsection



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347 ~~(6).~~  
348       b. Acknowledgment of any prior felony convictions.  
349       c. Acknowledgment of any previous revocation or denial of  
350 licensure or certification in any state.  
351       ~~d. A copy of course transcripts and a copy of the course~~  
352 ~~description from a physician assistant training program~~  
353 ~~describing course content in pharmacotherapy, if the applicant~~  
354 ~~wishes to apply for prescribing authority. These documents must~~  
355 ~~meet the evidence requirements for prescribing authority.~~  
356       ~~(d) Upon employment as a physician assistant, a licensed~~  
357 ~~physician assistant must notify the department in writing within~~  
358 ~~30 days after such employment or after any subsequent changes in~~  
359 ~~the supervising physician. The notification must include the~~  
360 ~~full name, Florida medical license number, specialty, and~~  
361 ~~address of the supervising physician.~~  
362       (e) Notwithstanding subparagraph (a)2., the department may  
363 grant to a recent graduate of an approved program, as specified  
364 in subsection (5) ~~(6)~~, who expects to take the first examination  
365 administered by the National Commission on Certification of  
366 Physician Assistants available for registration after the  
367 applicant's graduation, a temporary license. The temporary  
368 license shall expire 30 days after receipt of scores of the  
369 proficiency examination administered by the National Commission  
370 on Certification of Physician Assistants. Between meetings of  
371 the council, the department may grant a temporary license to  
372 practice based on the completion of all temporary licensure  
373 requirements. All such administratively issued licenses shall be  
374 reviewed and acted on at the next regular meeting of the  
375 council. The recent graduate may be licensed before employment



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376 ~~but must comply with paragraph (d).~~ An applicant who has passed  
377 the proficiency examination may be granted permanent licensure.  
378 An applicant failing the proficiency examination is no longer  
379 temporarily licensed but may reapply for a 1-year extension of  
380 temporary licensure. An applicant may not be granted more than  
381 two temporary licenses and may not be licensed as a physician  
382 assistant until he or she passes the examination administered by  
383 the National Commission on Certification of Physician  
384 Assistants. As prescribed by board rule, the council may require  
385 an applicant who does not pass the licensing examination after  
386 five or more attempts to complete additional remedial education  
387 or training. The council shall prescribe the additional  
388 requirements in a manner that permits the applicant to complete  
389 the requirements and be reexamined within 2 years after the date  
390 the applicant petitions the council to retake the examination a  
391 sixth or subsequent time.  
392       ~~(12)-(13)~~ RULES.—The boards shall adopt rules to implement  
393 this section, including rules detailing the contents of the  
394 application for licensure and notification pursuant to  
395 subsection (6) ~~(7)~~ and rules to ensure both the continued  
396 competency of physician assistants and the proper utilization of  
397 them by physicians or groups of physicians.  
398       Section 2. Subsections (1) through (6), paragraphs (a),  
399 (d), and (e) of subsection (7), and subsection (13) of section  
400 459.022, Florida Statutes, are amended to read:  
401       459.022 Physician assistants.—  
402       (1) LEGISLATIVE INTENT.—  
403       ~~(a)~~ The purpose of this section is to authorize physician  
404 assistants, with their education, training, and experience in





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405 ~~the field of medicine, to provide increased efficiency of and~~  
406 ~~access to high-quality medical services at a reasonable cost to~~  
407 ~~consumers encourage more effective utilization of the skills of~~  
408 ~~osteopathic physicians or groups of osteopathic physicians by~~  
409 ~~enabling them to delegate health care tasks to qualified~~  
410 ~~assistants when such delegation is consistent with the patient's~~  
411 ~~health and welfare.~~

412 ~~(b) In order that maximum skills may be obtained within a~~  
413 ~~minimum time period of education, a physician assistant shall be~~  
414 ~~specialized to the extent that she or he can operate efficiently~~  
415 ~~and effectively in the specialty areas in which she or he has~~  
416 ~~been trained or is experienced.~~

417 ~~(c) The purpose of this section is to encourage the~~  
418 ~~utilization of physician assistants by osteopathic physicians~~  
419 ~~and to allow for innovative development of programs for the~~  
420 ~~education of physician assistants.~~

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

422 (a) "Approved program" means a physician assistant program  
423 in the United States or in its territories or possessions which  
424 is accredited by the Accreditation Review Commission on  
425 Education for the Physician Assistant or, for programs before  
426 2001, accredited by its equivalent or predecessor entities the  
427 Committee on Allied Health Education and Accreditation or the  
428 Commission on Accreditation of Allied Health Education Programs  
429 program, formally approved by the boards, for the education of  
430 physician assistants.

431 (b) "Boards" means the Board of Medicine and the Board of  
432 Osteopathic Medicine.

433 ~~(d)~~(e) "Council" means the Council on Physician Assistants.



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434 ~~(h)~~(d) "Trainee" means a person who is currently enrolled  
435 in an approved program.

436 (e) "Physician assistant" means a person who is a graduate  
437 of an approved program or its equivalent or meets standards  
438 approved by the boards and is licensed to perform medical  
439 services delegated by the supervising physician.

440 (f) "Physician assistant national certifying examination"  
441 means the Physician Assistant National Certifying Examination  
442 administered by the National Commission on Certification of  
443 Physician Assistants or its successor agency.

444 (g) "Supervision" means responsible supervision and  
445 control. Except in cases of emergency, supervision requires the  
446 easy availability or physical presence of the licensed physician  
447 for consultation and direction of the actions of the physician  
448 assistant. For the purposes of this definition, the term "easy  
449 availability" includes the ability to communicate by way of  
450 telecommunication. The boards shall establish rules as to what  
451 constitutes responsible supervision of the physician assistant.

452 ~~(g) "Proficiency examination" means an entry-level~~  
453 ~~examination approved by the boards, including, but not limited~~  
454 ~~to, those examinations administered by the National Commission~~  
455 ~~on Certification of Physician Assistants.~~

456 ~~(c)~~(h) "Continuing medical education" means courses  
457 recognized and approved by the boards, the American Academy of  
458 Physician Assistants, the American Medical Association, the  
459 American Osteopathic Association, or the Accreditation Council  
460 on Continuing Medical Education.

461 (3) PERFORMANCE OF SUPERVISING PHYSICIAN.—Each physician or  
462 group of physicians supervising a licensed physician assistant



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463 must be qualified in the medical areas in which the physician  
464 assistant is to perform and shall be individually or  
465 collectively responsible and liable for the performance and the  
466 acts and omissions of the physician assistant. A physician may  
467 not supervise more than 10 ~~four~~ currently licensed physician  
468 assistants at any one time. A physician supervising a physician  
469 assistant pursuant to this section may not be required to review  
470 and cosign charts or medical records prepared by such physician  
471 assistant.

472 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

473 (a) The boards shall adopt, by rule, the general principles  
474 that supervising physicians must use in developing the scope of  
475 practice of a physician assistant under direct supervision and  
476 under indirect supervision. These principles shall recognize the  
477 diversity of both specialty and practice settings in which  
478 physician assistants are used.

479 (b) This chapter does not prevent third-party payors from  
480 reimbursing employers of physician assistants for covered  
481 services rendered by licensed physician assistants.

482 (c) Licensed physician assistants may not be denied  
483 clinical hospital privileges, except for cause, so long as the  
484 supervising physician is a staff member in good standing.

485 (d) A supervisory physician may delegate to a licensed  
486 physician assistant, pursuant to a written protocol, the  
487 authority to act according to s. 154.04(1)(c). Such delegated  
488 authority is limited to the supervising physician's practice in  
489 connection with a county health department as defined and  
490 established pursuant to chapter 154. The boards shall adopt  
491 rules governing the supervision of physician assistants by



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492 physicians in county health departments.

493 (e) A supervising physician may delegate to a fully  
494 licensed physician assistant the authority to prescribe or  
495 dispense any medication used in the supervising physician's  
496 practice unless such medication is listed on the formulary  
497 created pursuant to s. 458.347. A fully licensed physician  
498 assistant may only prescribe or dispense such medication under  
499 the following circumstances:

500 1. A physician assistant must clearly identify to the  
501 patient that she or he is a physician assistant ~~and must inform~~  
502 ~~the patient that the patient has the right to see the physician~~  
503 ~~before a prescription is prescribed or dispensed by the~~  
504 ~~physician assistant.~~

505 2. The supervising physician must notify the department of  
506 her or his intent to delegate, on a department-approved form,  
507 before delegating such authority and of any change in  
508 prescriptive privileges of the physician assistant. Authority to  
509 dispense may be delegated only by a supervising physician who is  
510 registered as a dispensing practitioner in compliance with s.  
511 465.0276.

512 3. A fully licensed physician assistant may procure medical  
513 devices and drugs unless the medication is listed on the  
514 formulary created pursuant to s. 458.347(4)(f).

515 4. The physician assistant must complete a minimum of 10  
516 continuing medical education hours in the specialty practice in  
517 which the physician assistant has prescriptive privileges with  
518 each licensure renewal. Three of the 10 hours must consist of a  
519 continuing education course on the safe and effective  
520 prescribing of controlled substance medications which is offered



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521 by a provider that has been approved by the American Academy of  
522 Physician Assistants and which is designated for the American  
523 Medical Association Physician's Recognition Award Category 1  
524 credit or designated by the American Academy of Physician  
525 Assistants as a Category 1 credit.

526 ~~4. The department may issue a prescriber number to the~~  
527 ~~physician assistant granting authority for the prescribing of~~  
528 ~~medicinal drugs authorized within this paragraph upon completion~~  
529 ~~of the requirements of this paragraph. The physician assistant~~  
530 ~~is not required to independently register pursuant to s.~~  
531 ~~465.0276.~~

532 5. The prescription may be in paper or electronic form but  
533 must comply with ss. 456.0392(1) and 456.42(1) and chapter 499  
534 and must contain the physician assistant's, in addition to the  
535 supervising physician's name, address, and telephone number, ~~the~~  
536 ~~physician assistant's prescriber number~~. Unless it is a drug or  
537 drug sample dispensed by the physician assistant, the  
538 prescription must be filled in a pharmacy permitted under  
539 chapter 465, and must be dispensed in that pharmacy by a  
540 pharmacist licensed under chapter 465. ~~The inclusion of the~~  
541 ~~prescriber number creates a presumption that the physician~~  
542 ~~assistant is authorized to prescribe the medicinal drug and the~~  
543 ~~prescription is valid.~~

544 6. The physician assistant must note the prescription or  
545 dispensing of medication in the appropriate medical record.

546 (f) A supervisory physician may delegate to a licensed  
547 physician assistant the authority to, and the licensed physician  
548 assistant acting under the direction of the supervisory  
549 physician may, order any medication for administration to the



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550 supervisory physician's patient in a facility licensed under  
551 chapter 395 or part II of chapter 400, notwithstanding any  
552 provisions in chapter 465 or chapter 893 which may prohibit this  
553 delegation.

554 (g) A licensed physician assistant may perform services  
555 delegated by the supervising physician in the physician  
556 assistant's practice in accordance with his or her education and  
557 training unless expressly prohibited under this chapter, chapter  
558 458, or rules adopted under this chapter or chapter 458.

559 (h) Except for a physician certification under s. 381.986,  
560 a physician assistant may authenticate any document with his or  
561 her signature, certification, stamp, verification, affidavit, or  
562 endorsement if such document may be so authenticated by the  
563 signature, certification, stamp, verification, affidavit, or  
564 endorsement of a physician, except those required for s.  
565 381.986. Such documents include, but are not limited to, any of  
566 the following:

567 1. Initiation of an involuntary examination pursuant to s.  
568 394.463.

569 2. Do-not-resuscitate orders or physician orders for the  
570 administration of life-sustaining treatment.

571 3. Death certificates.

572 4. School physical examinations.

573 5. Medical examinations for workers' compensation claims,  
574 except medical examinations required for the evaluation and  
575 assignment of the claimant's date of maximum medical improvement  
576 as defined in s. 440.02 and for the impairment rating, if any,  
577 under s. 440.15.

578 6. Orders for physical therapy, occupational therapy,



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579 speech-language therapy, home health services, or durable  
580 medical equipment.

581 (i) A physician assistant may supervise medical assistants  
582 as defined in chapter 458.

583 (j) This chapter authorizes third-party payors to reimburse  
584 employers of physician assistants for covered services rendered  
585 by licensed physician assistants. Payment for services within  
586 the physician assistant's scope of practice must be made when  
587 ordered or performed by a physician assistant if the same  
588 service would have been covered if ordered or performed by a  
589 physician. Physician assistants are authorized to bill for and  
590 receive direct payment for the services they deliver.

591 (5) PERFORMANCE BY TRAINEES. Notwithstanding any other law,  
592 a trainee may perform medical services when such services are  
593 rendered within the scope of an approved program.

594 ~~(6) PROGRAM APPROVAL.-~~

595 (a) The boards shall approve programs, based on  
596 recommendations by the council, for the education and training  
597 of physician assistants which meet standards established by rule  
598 of the boards. The council may recommend only those physician  
599 assistant programs that hold full accreditation or provisional  
600 accreditation from the Accreditation Review Commission on  
601 Education for the Physician Assistant or its successor entity  
602 or, before 2001, from the Committee on Allied Health Education  
603 and Accreditation or the Commission on Accreditation of Allied  
604 Health Programs or its successor organization.

605 (b) Notwithstanding any other law, a trainee may perform  
606 medical services when such services are rendered within the  
607 scope of an approved program. The boards shall adopt and publish



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608 ~~standards to ensure that such programs operate in a manner that~~  
609 ~~does not endanger the health or welfare of the patients who~~  
610 ~~receive services within the scope of the programs. The boards~~  
611 ~~shall review the quality of the curricula, faculties, and~~  
612 ~~facilities of such programs and take whatever other action is~~  
613 ~~necessary to determine that the purposes of this section are~~  
614 ~~being met.~~

615 ~~(6)(7) PHYSICIAN ASSISTANT LICENSURE.-~~

616 (a) Any person desiring to be licensed as a physician  
617 assistant must apply to the department. The department shall  
618 issue a license to any person certified by the council as having  
619 met all of the following requirements:

620 1. Is at least 18 years of age.

621 2. Has graduated from an approved program.

622 a. For an applicant who graduated after December 31, 2020,  
623 has received a master's degree in accordance with the  
624 Accreditation Review Commission on Education for the Physician  
625 Assistant or, before 2001, its equivalent or predecessor  
626 organization.

627 b. For an applicant who graduated on or before December 31,  
628 2020, has received a bachelor's or master's degree from an  
629 approved program.

630 c. For an applicant who graduated before July 1, 1994, has  
631 graduated from an approved program of instruction in primary  
632 health care or surgery.

633 d. For an applicant who graduated before July 1, 1983, has  
634 received a certification as a physician assistant from the  
635 boards.

636 e. The board may also grant a license to an applicant who



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637 ~~does not meet the educational requirement specified in this~~  
638 ~~subparagraph but who has passed the Physician Assistant National~~  
639 ~~Certifying Examination administered by the National Commission~~  
640 ~~on Certification of Physician Assistants before 1986.~~

641 ~~3. Has obtained a passing score as satisfactorily passed a~~  
642 ~~proficiency examination by an acceptable score established by~~  
643 ~~the National Commission on Certification of Physician Assistants~~  
644 ~~or its equivalent or successor organization and has been~~  
645 ~~nationally certified.~~ If an applicant does not hold a current  
646 certificate issued by the National Commission on Certification  
647 of Physician Assistants or its equivalent or successor  
648 organization and has not actively practiced as a physician  
649 assistant within the immediately preceding 4 years, the  
650 applicant must retake and successfully complete the entry-level  
651 examination of the National Commission on Certification of  
652 Physician Assistants or its equivalent or successor organization  
653 to be eligible for licensure.

654 ~~4.3-~~ Has completed the application form and remitted an  
655 application fee not to exceed \$300 as set by the boards. An  
656 application for licensure as made by a physician assistant must  
657 include:

658 a. A diploma from an approved certificate of completion of  
659 a physician assistant training program specified in subsection  
660 (6).

661 b. Acknowledgment of any prior felony convictions.

662 c. Acknowledgment of any previous revocation or denial of  
663 licensure or certification in any state.

664 d. ~~A copy of course transcripts and a copy of the course~~  
665 ~~description from a physician assistant training program~~



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666 ~~describing course content in pharmacotherapy, if the applicant~~  
667 ~~wishes to apply for prescribing authority. These documents must~~  
668 ~~meet the evidence requirements for prescribing authority.~~

669 ~~(d) Upon employment as a physician assistant, a licensed~~  
670 ~~physician assistant must notify the department in writing within~~  
671 ~~30 days after such employment or after any subsequent changes in~~  
672 ~~the supervising physician. The notification must include the~~  
673 ~~full name, Florida medical license number, specialty, and~~  
674 ~~address of the supervising physician.~~

675 (e) Notwithstanding subparagraph (a)2., the department may  
676 grant to a recent graduate of an approved program, as specified  
677 in subsection (5) ~~(6)~~, a temporary license to expire upon  
678 receipt of scores of the proficiency examination administered by  
679 the National Commission on Certification of Physician  
680 Assistants. Between meetings of the council, the department may  
681 grant a temporary license to practice to physician assistant  
682 applicants based on the completion of all temporary licensure  
683 requirements. All such administratively issued licenses shall be  
684 reviewed and acted on at the next regular meeting of the  
685 council. The recent graduate may be licensed before ~~prior to~~  
686 ~~employment, but must comply with paragraph (d).~~ An applicant who  
687 has passed the proficiency examination may be granted permanent  
688 licensure. An applicant failing the proficiency examination is  
689 no longer temporarily licensed, but may reapply for a 1-year  
690 extension of temporary licensure. An applicant may not be  
691 granted more than two temporary licenses and may not be licensed  
692 as a physician assistant until she or he passes the examination  
693 administered by the National Commission on Certification of  
694 Physician Assistants. As prescribed by board rule, the council



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695 may require an applicant who does not pass the licensing  
696 examination after five or more attempts to complete additional  
697 remedial education or training. The council shall prescribe the  
698 additional requirements in a manner that permits the applicant  
699 to complete the requirements and be reexamined within 2 years  
700 after the date the applicant petitions the council to retake the  
701 examination a sixth or subsequent time.

702 ~~(12)(13)~~ RULES.—The boards shall adopt rules to implement  
703 this section, including rules detailing the contents of the  
704 application for licensure and notification pursuant to  
705 subsection (6) ~~(7)~~ and rules to ensure both the continued  
706 competency of physician assistants and the proper utilization of  
707 them by physicians or groups of physicians.

708 Section 3. Paragraph (a) of subsection (2) and subsections  
709 (3) and (5) of section 382.008, Florida Statutes, are amended to  
710 read:

711 382.008 Death, fetal death, and nonviable birth  
712 registration.—

713 (2) (a) The funeral director who first assumes custody of a  
714 dead body or fetus shall file the certificate of death or fetal  
715 death. In the absence of the funeral director, the physician,  
716 physician assistant, advanced practice registered nurse  
717 registered under s. 464.0123, or other person in attendance at  
718 or after the death or the district medical examiner of the  
719 county in which the death occurred or the body was found shall  
720 file the certificate of death or fetal death. The person who  
721 files the certificate shall obtain personal data from a legally  
722 authorized person as described in s. 497.005 or the best  
723 qualified person or source available. The medical certification



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724 of cause of death shall be furnished to the funeral director,  
725 either in person or via certified mail or electronic transfer,  
726 by the physician, physician assistant, advanced practice  
727 registered nurse registered under s. 464.0123, or medical  
728 examiner responsible for furnishing such information. For fetal  
729 deaths, the physician, physician assistant, advanced practice  
730 registered nurse registered under s. 464.0123, midwife, or  
731 hospital administrator shall provide any medical or health  
732 information to the funeral director within 72 hours after  
733 expulsion or extraction.

734 (3) Within 72 hours after receipt of a death or fetal death  
735 certificate from the funeral director, the medical certification  
736 of cause of death shall be completed and made available to the  
737 funeral director by the decedent's primary or attending  
738 practitioner or, if s. 382.011 applies, the district medical  
739 examiner of the county in which the death occurred or the body  
740 was found. The primary or attending practitioner or the medical  
741 examiner shall certify over his or her signature the cause of  
742 death to the best of his or her knowledge and belief. As used in  
743 this section, the term "primary or attending practitioner" means  
744 a physician, physician assistant, or advanced practice  
745 registered nurse registered under s. 464.0123 who treated the  
746 decedent through examination, medical advice, or medication  
747 during the 12 months preceding the date of death.

748 (a) The department may grant the funeral director an  
749 extension of time upon a good and sufficient showing of any of  
750 the following conditions:

- 751 1. An autopsy is pending.
- 752 2. Toxicology, laboratory, or other diagnostic reports have



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753 not been completed.

754 3. The identity of the decedent is unknown and further  
755 investigation or identification is required.

756 (b) If the decedent's primary or attending practitioner or  
757 the district medical examiner of the county in which the death  
758 occurred or the body was found indicates that he or she will  
759 sign and complete the medical certification of cause of death  
760 but will not be available until after the 5-day registration  
761 deadline, the local registrar may grant an extension of 5 days.  
762 If a further extension is required, the funeral director must  
763 provide written justification to the registrar.

764 (5) A permanent certificate of death or fetal death,  
765 containing the cause of death and any other information that was  
766 previously unavailable, shall be registered as a replacement for  
767 the temporary certificate. The permanent certificate may also  
768 include corrected information if the items being corrected are  
769 noted on the back of the certificate and dated and signed by the  
770 funeral director, physician, physician assistant, advanced  
771 practice registered nurse registered under s. 464.0123, or  
772 district medical examiner of the county in which the death  
773 occurred or the body was found, as appropriate.

774 Section 4. Paragraph (a) of subsection (2) of section  
775 394.463, Florida Statutes, is amended to read:

776 394.463 Involuntary examination.-

777 (2) INVOLUNTARY EXAMINATION.-

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

780 1. A circuit or county court may enter an ex parte order  
781 stating that a person appears to meet the criteria for



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782 involuntary examination and specifying the findings on which  
783 that conclusion is based. The ex parte order for involuntary  
784 examination must be based on written or oral sworn testimony  
785 that includes specific facts that support the findings. If other  
786 less restrictive means are not available, such as voluntary  
787 appearance for outpatient evaluation, a law enforcement officer,  
788 or other designated agent of the court, shall take the person  
789 into custody and deliver him or her to an appropriate, or the  
790 nearest, facility within the designated receiving system  
791 pursuant to s. 394.462 for involuntary examination. The order of  
792 the court shall be made a part of the patient's clinical record.  
793 A fee may not be charged for the filing of an order under this  
794 subsection. A facility accepting the patient based on this order  
795 must send a copy of the order to the department within 5 working  
796 days. The order may be submitted electronically through existing  
797 data systems, if available. The order shall be valid only until  
798 the person is delivered to the facility or for the period  
799 specified in the order itself, whichever comes first. If a time  
800 limit is not specified in the order, the order is valid for 7  
801 days after the date that the order was signed.

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



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811 copy of the report to the department within 5 working days.  
812 3. A physician, a physician assistant, a clinical  
813 psychologist, a psychiatric nurse, an advanced practice  
814 registered nurse registered under s. 464.0123, a mental health  
815 counselor, a marriage and family therapist, or a clinical social  
816 worker may execute a certificate stating that he or she has  
817 examined a person within the preceding 48 hours and finds that  
818 the person appears to meet the criteria for involuntary  
819 examination and stating the observations upon which that  
820 conclusion is based. If other less restrictive means, such as  
821 voluntary appearance for outpatient evaluation, are not  
822 available, a law enforcement officer shall take into custody the  
823 person named in the certificate and deliver him or her to the  
824 appropriate, or nearest, facility within the designated  
825 receiving system pursuant to s. 394.462 for involuntary  
826 examination. The law enforcement officer shall execute a written  
827 report detailing the circumstances under which the person was  
828 taken into custody. The report and certificate shall be made a  
829 part of the patient's clinical record. Any facility accepting  
830 the patient based on this certificate must send a copy of the  
831 certificate to the department within 5 working days. The  
832 document may be submitted electronically through existing data  
833 systems, if applicable.  
834  
835 When sending the order, report, or certificate to the  
836 department, a facility shall, at a minimum, provide information  
837 about which action was taken regarding the patient under  
838 paragraph (g), which information shall also be made a part of  
839 the patient's clinical record.



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840 Section 5. Paragraphs (a) and (c) of subsection (3) of  
841 section 401.45, Florida Statutes, are amended to read:  
842 401.45 Denial of emergency treatment; civil liability.—  
843 (3) (a) Resuscitation may be withheld or withdrawn from a  
844 patient by an emergency medical technician or paramedic if  
845 evidence of an order not to resuscitate by the patient's  
846 physician or physician assistant is presented to the emergency  
847 medical technician or paramedic. An order not to resuscitate, to  
848 be valid, must be on the form adopted by rule of the department.  
849 The form must be signed by the patient's physician or physician  
850 assistant and by the patient or, if the patient is  
851 incapacitated, the patient's health care surrogate or proxy as  
852 provided in chapter 765, court-appointed guardian as provided in  
853 chapter 744, or attorney in fact under a durable power of  
854 attorney as provided in chapter 709. The court-appointed  
855 guardian or attorney in fact must have been delegated authority  
856 to make health care decisions on behalf of the patient.  
857 (c) The department, in consultation with the Department of  
858 Elderly Affairs and the Agency for Health Care Administration,  
859 shall develop a standardized do-not-resuscitate identification  
860 system with devices that signify, when carried or worn, that the  
861 possessor is a patient for whom a physician or physician  
862 assistant has issued an order not to administer cardiopulmonary  
863 resuscitation. The department may charge a reasonable fee to  
864 cover the cost of producing and distributing such identification  
865 devices. Use of such devices shall be voluntary.  
866 Section 6. This act shall take effect July 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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 894

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Diaz

SUBJECT: Physician Assistants

DATE: April 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	<b>Fav/CS</b>
2.	Gerbrandt	Kidd	AHS	<b>Recommend: Fav/CS</b>
3.	Gerbrandt	Sadberry	AP	<b>Fav/CS</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 894 expands the scope of practice of physician assistants by allowing them to:

- Prescribe psychiatric mental health controlled substances to minors under certain circumstances;
- Procure certain medical equipment and devices;
- Supervise medical assistants; and
- Sign and certify documents that currently require a physician's signatures such as Baker Act commitments, do-not-resuscitate orders, school physicals, and death certificates.

The bill also authorizes physician assistants to directly bill for and receive payments from public and private insurance companies for the services they deliver.

Current law limits the number of physician assistants a physician can supervise to four. The bill expands the number of PAs that a physician can supervise to 10.

The fiscal impact of the bill is indeterminate, see Section V.

The bill takes effect on July 1, 2021.

## II. Present Situation:

### Physician Assistants (PAs)

#### *History of the Physician Assistant Profession*

In 1965 physicians and educators recognized there was a shortage of primary care physicians, so Duke University Medical Center, put together the first class of PAs. Duke selected four Navy Vietnam-era hospital corpsmen who had received considerable medical training during their military service. The first PA class graduated from the Duke program in 1967.<sup>1</sup>

In Florida, physicians were first authorized to use PAs in their practice in 1979. The legislative intent for recognizing the PA profession was to allow physicians to delegate the performance of “medical services” to qualified PAs when such delegation was consistent with the patient’s health and welfare; freeing physicians to more effectively utilize their medical education, training, and experience. Physicians were required to apply to their board<sup>2</sup> to utilize and supervise a PA in their practice. PAs were required to be graduates of board-approved programs, or the equivalent, and to be approved by the Department of Health (DOH) to perform “medical services” under the supervision of a physician, who was certified by the board to supervise the PA. PAs were not required to be licensed by the DOH. Physicians utilizing PAs were liable for any act or omissions of the PAs while under the physician’s supervision.<sup>3</sup>

#### *Physician Assistant Education*

Physician assistant programs must be recommended by the Council on PAs and approved by the Board of Medicine (BOM) and the Board of Osteopathic Medicine (BOOM) (collectively known as the boards). The council may only recommend PA programs that hold full accreditation or provisional accreditation from the Commission on Accreditation of Allied Health Programs or its successor organization. The boards are required to adopt program standards to ensure the health and welfare of patients that receive PA services, and review curricula, faculties, and facilities of PA programs to ensure they meet standards set forth by the boards.<sup>4</sup>

Currently, there are 17 universities in Florida offering PA programs accredited by the Accreditation Review Commission on Education (ARC-PA).<sup>5</sup> Physician Assistant programs are on average 24 to 27 months, or six or seven semesters, requiring 96 to 111 plus clinical and classroom credit hours to graduate. The programs are designed to prepare students to practice as part of a Physician-PA team. Upon completion, graduates receive a Master of Science in PA Practice degree or a Master of PA Studies, or similar degree.

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<sup>1</sup> American Association of Physician Assistants, About, History, *History of the PA Profession*, available at <https://www.aapa.org/about/history/> (last visited Mar. 5, 2021).

<sup>2</sup> Section 456.001(1), F.S., defines “board” as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the Department of Health or, in some cases, within the department’s Division of Medical Quality Assurance.

<sup>3</sup> Chapter 79-230, s. 1., and ch. 79-320, s. 1., Laws of Fla. (Creating ss. 459.018 and 458.017, F.S., effective Jul. 1, 1979).

<sup>4</sup> Section 458.347(6) and 459.022(6), F.S.

<sup>5</sup> Florida Academy of PAs, *For Students - PA Programs in Florida*, available at <https://www.fapaonline.org/page/studentprograms> (last visited Mar. 4, 2021).

Following graduation, a PA candidate must take and pass the PA National Certifying Examination (PANCE) given by the National Commission on Certification of PAs (NCCPA) to become certified. It is a five-hour exam with 300 multiple-choice questions, with no didactic components.<sup>6</sup>

### ***The Council of Physician Assistants***

Physician Assistants are regulated within the DOH by the Florida Council on Physician Assistants (Council) in conjunction with either the Board of Medicine (BOM) for PAs licensed under ch. 458, F.S., or the Board of Osteopathic Medicine (BOOM) for PAs licensed under ch. 459, F.S.<sup>7</sup>

The Council consists of five members:<sup>8</sup>

- One physician who is a member of the BOM who supervises a PA in his or her practice;
- One physician who is a member of the BOOM who supervises a PA in his or her practice; and
- Three PAs licensed under chs. 458 or 459, F.S.

The Council is responsible for:<sup>9</sup>

- Recommending PAs to the DOH for licensure;
- Developing rules for the boards' consideration regulating the use of PAs by physicians;
- Developing rules to ensure the continuity of supervision in each practice setting;
- Making recommendations to the boards on matters relating to PAs;
- Addressing the concerns and problems of practicing PAs in order to improve safety in the clinical practices of PAs;
- Denying, restricting, or placing conditions on the license of a PA who fails to meet the licensing requirements;<sup>10</sup> and
- Establishing's a formulary of medicinal drugs that a PA may not prescribe (negative formulary).<sup>11</sup>

### ***Physician Assistant Licensure***

An applicant for a PA license must be at least 18 years of age. The DOH must issue a license to a person who has been certified by the Council as having met all of the following requirements:<sup>12</sup>

- Completed aboard-approved PA training program;
- Obtained a passing score on the NCCPA proficiency exam;
- Acknowledged any prior felony convictions;

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<sup>6</sup> The National Commission on Certification of PA (NCCPA), *Become Certified, Becoming Certified*, available at <https://www.nccpa.net/BecomingCertified> (last visited Mar. 4, 2021). The NCCPA is the only certifying organization for PAs in the United States. As of Dec. 31, 2020, there were approximately 148,500 certified PAs in the United States.

<sup>7</sup> Sections 458.347 and 459.022, F.S.

<sup>8</sup> Sections 458.347(9) and 459.022(9), F.S. Members of the Board of Medicine and the Board of Osteopathic Medicine are appointed by the Governor and confirmed by the Senate. *See* ss. 458.307 and 459.004, F.S., respectively.

<sup>9</sup> Sections 458.347(9)(c) and 459.022(9)(c), F.S.

<sup>10</sup> Sections 458.347(9)(d) and 459.022(9)(d), F.S.

<sup>11</sup> Section 458.347(4)(f), F.S.

<sup>12</sup> Sections 458.347(7) and 459.022(7), F.S.

- Submitted to a background screening and have no disqualifying offenses;<sup>13</sup>
- Acknowledged any previous revocation or denial of licensure in any state; and
- Provided a copy of course transcripts and a copy of the course descriptions from the PA's training program describing the course content in pharmacotherapy if the applicant is seeking prescribing authority.

Physician Assistants must renew their licenses biennially. During each biennial renewal cycle, a PA must complete 100 hours of continuing medical education or must demonstrate current certification issued by the NCCPA.<sup>14</sup> To maintain certification, a PA must earn at least 100 hours of continuing medical education biennially, and must take and pass a re-certification examination every 10 years.<sup>15</sup>

### ***Physician Assistant Scope of Practice and Physician Supervision***

Physician assistants may only practice under the direct or indirect supervision of a physician with whom they have a working relationship.<sup>16</sup> Physician Assistants are licensed to perform only those medical services delegated to them by a supervising allopathic or osteopathic physician.<sup>17</sup>

A supervising physician may only delegate tasks and procedures to the PA that are within the supervising physician's scope of practice. A supervising physician decides whether to permit a PA to perform a task or procedure under direct or indirect supervision based on his or her reasonable medical judgment regarding the probability of morbidity and mortality to the patient, and the physician must be certain the PA has the knowledge and skills to perform the task or procedure assigned.<sup>18</sup>

Current law requires a supervising physician to exercise "responsible supervision" and control and, except in cases of emergency, requires the easy availability<sup>19</sup> or physical presence of the physician for consultation and direction of the actions of the PA. The BOM and BOOM establish rules as to what constitutes responsible supervision of a PA.<sup>20</sup>

The boards have established by rule that "responsible supervision" of a PA means the ability of the supervising physician to exercise control and provide direction over the services or tasks performed by the PA. Whether the supervision of a PA is adequate is dependent upon the:

- Complexity of the task;
- Risk to the patient;
- Background, training, and skill of the PA;
- Adequacy of the direction in terms of its form;
- Setting in which the tasks are performed;

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<sup>13</sup> Section 456.0135, F.S.

<sup>14</sup> Sections 458.347(7)(c) and 459.022(7)(c), F.S.

<sup>15</sup> National Commission on Certification of Physician Assistants, *Maintaining Certification*, available at <https://www.nccpa.net/CertificationProcess> (last visited Mar. 4, 2021).

<sup>16</sup> Sections 458.347(2)(f) and 459.022(2)(f), F.S.

<sup>17</sup> Sections 458.347(4) and 459.022(4), F.S.

<sup>18</sup> Fla. Adm. Code R. 64B8-30.012(2) and 64B15-6.010(2).

<sup>19</sup> The term "easy availability" includes the ability to communicate by way of telecommunication.

<sup>20</sup> Sections 458.347(2)(f) and 459.022(2)(f), F.S.

- Availability of the supervising physician;
- Necessity for immediate attention; and
- Number of other persons that the supervising physician must supervise.<sup>21</sup>

Responsible supervision and control also require the supervising physician to periodically review the PA's performance<sup>22</sup> and to determine the level of supervision the PA requires for every task or procedure delegated to the PA as to whether it will be under:<sup>23</sup>

- *Direct supervision:* Requires the physical presence of the supervising physician on the premises so that the physician is immediately available to the PA when needed; or
- *Indirect supervision:* Requires the supervising physician to be within reasonable physical proximity, and easily availability, to the PA for communication with the PA, including via telecommunication.

A supervising physician may also delegate to a PA his or her authority to:<sup>24</sup>

- Prescribe or dispense any medicinal drug used in the supervising physician's practice unless such medication is listed in the negative formulary established by the Council, but only under the following circumstances:
  - The PA identifies himself or herself as a PA and advises the patient of his or her right to see a physician before the prescription is written or dispensed;
  - The supervising physician must be registered as a dispensing practitioner and have notified the DOH on an approved form of his or her intent to delegate prescriptive authority or to change prescriptive authority; and
  - The PA must have completed 10 hours of continuing medical education in the specialty practice in which the PA has prescriptive authority with each licensure renewal, and three of the 10 hours must be on the safe and effective prescribing of controlled substances.
- Order any medication for administration to the supervising physician's patient in a hospital or other facility licensed under ch. 395, F.S., or a nursing home licensed under Part II, ch. 400, F.S.; and
- Perform any other service that is not expressly prohibited in the PA Practice Acts, or the rules adopted thereunder.

Current law prohibits PAs licensed under the BOM from prescribing general anesthetics, radiographic contrast materials, and psychiatric mental health controlled substances to children under 18 years of age and limits their prescribing authority of schedule II controlled substances to 7 days.<sup>25</sup>

The DOH is authorized to issue a prescriber number to each PA who has been delegated prescribing authority by a supervising physician. The prescriber number grants authority for the prescribing of medicinal drugs, and creates a presumption that the PA is authorized to prescribe the drug and that the prescription is valid.

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<sup>21</sup> Fla. Admin. Code R. 64B8-30.001 and 64B15-6.001.

<sup>22</sup> Fla. Adm. Code R. 64B8-30.001(3) and 64B15-6.001(3) (2021).

<sup>23</sup> Fla. Adm. Code R. 64B8-30.001(4) and (5) and 64B15-6.001(4) and (5).

<sup>24</sup> Sections 458.347(4) and 459.022(4), F.S.

<sup>25</sup> Section 458.347(4)(f)1., F.S.

A supervising physician is responsible and liable for any acts or omissions of the PAs he or she supervises and may not supervise more than four PAs at any time.<sup>26</sup>

Upon employment as a PA, a licensed PA must notify the DOH of his or her supervising physician in writing within 30 days after such employment or after any subsequent changes of his or her supervising physician. The notification must include the full name, Florida medical license number, specialty, and address of the supervising physician.<sup>27</sup>

### ***Reimbursement for PA Services: Medicare***

Medicare generally reimburses for medical and surgical services provided by PAs at 85 percent of the physician fee schedule. This rate generally applies to all practice settings, including hospitals, nursing facilities, homes, offices, and clinics. However, when acting as a surgical assistant, the PA's reimbursement rate is only 13.6 percent of the primary surgeon's allowable fee, and no payment is made for a PAs assisting at surgery at an approved and accredited teaching hospital unless no residents are available, the surgeon does not use residents with his patients, or trauma surgery is required. To be eligible for Medicare reimbursement for PA services, a PA must:

- Graduate from an accredited PA program or passed the national certification exam;
- Be state-licensed;
- Obtain a National Provider Identifier (NPI);<sup>28</sup> and
- Enroll in Medicare through the Medicare electronic enrollment system.<sup>29</sup>

Under Medicare, a PA's required level of supervision for reimbursement generally requires access to the collaborating physician or supervising physician by reliable electronic communication. Personal presence of the physician is generally not required. Medicare policies will not override state law guidelines or facility policies.<sup>30</sup> Medicare does allow PAs to submit claims under their own NPI as the rendering provider, but does not allow PAs to directly bill (receive payment directly) for covered Medicare services.<sup>31</sup> Reimbursement is made to the PA's employer.<sup>32</sup>

Notable restrictions on a PA's scope of practice under Medicare include:

- PAs may not order home health services or sign a patient's home health plan of care;
- PAs may not perform the initial comprehensive visit for patients in skilled nursing facilities;

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<sup>26</sup> Sections 458.347(15) and 459.022(15), F.S.

<sup>27</sup> Sections 458.458.347(7) and 459.022(7), F.S.

<sup>28</sup> An NPI is a unique identification number for covered health care providers that can be shared with other providers and health plans, and is used for billing purposes. Centers for Medicare and Medicaid Services, *National Provider Identifier Standard (NPI)*, available at <https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/NationalProvIdentStand> (last visited March 25, 2021).

<sup>29</sup> American Association of Physician Assistants, *Basic Concepts of Reimbursement: a Primer*, available at <https://www.aapa.org/wp-content/uploads/2018/04/WEB-18.066-Program-Director-Page-Redesign-Reimbursement-101-v2.pdf> (last viewed Mar. 8, 2021).

<sup>30</sup> *Id.*

<sup>31</sup> See 42 U.S.C. 1395u(b)(6)(C), 2021, which will allow services provided by PAs to be directly billed and paid to PAs only when no other facility or provider services are billed the same day after Jan. 1, 2022.

<sup>32</sup> American Association of Physician Assistants, *Basic Concepts of Reimbursement: a Primer*, available at <https://www.aapa.org/wp-content/uploads/2018/04/WEB-18.066-Program-Director-Page-Redesign-Reimbursement-101-v2.pdf> (last viewed Mar. 8, 2021).

- PAs are not reimbursed for certifying terminal illness; and
- PAs may not delegate the performance of diagnostic tests requiring direct or personal supervision of ancillary staff.<sup>33</sup>

### ***Reimbursement for PA Services: Medicaid***

Unlike the Medicare program, which has federal laws mandating the coverage of medical services provided by PAs, the state determines whether PAs are eligible providers under its Medicaid program and which services PAs are able to provide. In Florida, if a PA performs a service for a Medicaid enrollee, the PA must have his or her own Medicaid provider number, and the service must be billed using the PA's provider number unless the physician performs the majority of the service.<sup>34</sup> Medicaid services provided by a PA within his or her scope of practice may be billed under a physician's Medicaid provider number when the physician is in the building and able to render assistance as needed. These services are reimbursed at the physician-allowable amount. Services provided within the PA's scope of practice that are performed when the physician is not in the building must be billed under the rendering PA's Medicaid provider number and are reimbursed at 80 percent of the allowable amount.<sup>35</sup>

### ***Reimbursement for PA Services: Commercial Health Insurance***

Commercial insurers have varying policies regarding billing and reimbursement of services provided by a PA. Many choose not to enroll PAs as providers and require PAs to bill under the physicians' Medicaid number. For those that enroll PAs, billing and coverage policies must be clearly ascertained by every individual practice for every individual payer with whom they contract.<sup>36</sup>

## **III. Effect of Proposed Changes:**

The bill revises the practice acts for PAs in chs. 458 and 459, F.S.

### **Physician Assistant Education**

Currently, board-approved PA programs must be accredited by the Commission on Accreditation of Allied Health Programs. The bill amends the list of accrediting entities that PA programs must be accredited by in order to be an "approved program," to include:

- The Accreditation Review Commission on Education for the Physician Assistant or its successor entity; or
- Before 2001:
  - The Committee on Allied Health Education and Accreditation; or

<sup>33</sup> *Id.*

<sup>34</sup> Agency for Health Care Administration, *Florida Medicare Provider Reimbursement Handbook*, available at [https://ahca.myflorida.com/medicaid/review/Reimbursement/RH\\_08\\_080701\\_CMS-1500\\_ver1\\_4.pdf](https://ahca.myflorida.com/medicaid/review/Reimbursement/RH_08_080701_CMS-1500_ver1_4.pdf) (last visited Mar. 8, 2021).

<sup>35</sup> Agency for Health Care Administration, *Practitioner Fee Schedule*, available at [https://ahca.myflorida.com/medicaid/review/Reimbursement/2020-01-01\\_Fee\\_Sched\\_Billing\\_Codes/Practitioner\\_Fee\\_Schedule\\_2020.pdf](https://ahca.myflorida.com/medicaid/review/Reimbursement/2020-01-01_Fee_Sched_Billing_Codes/Practitioner_Fee_Schedule_2020.pdf) (last visited Mar. 15, 2021).

<sup>36</sup> American Association of Physician Assistants, *Basic Concepts of Reimbursement: a Primer*, available at <https://www.aapa.org/wp-content/uploads/2018/04/WEB-18.066-Program-Director-Page-Redesign-Reimbursement-101-v2.pdf> (last viewed Mar. 8, 2021).

- The Commission on Accreditation of Allied Health Programs.

The bill repeals current law that requires the BOM and BOOM to adopt standards to ensure that PA programs operate in a manner that does not endanger the health or welfare of patients who receive PA services, and repeals the boards' responsibility to review the quality of the curricula, faculties, and facilities of PA programs.

### **Physician Assistant Licensure**

Currently, to obtain licensure a PA must have a certificate of completion of a board approved PA training program and pass an entry-level proficiency exam. To obtain licensure as a PA, the bill requires a PA to graduate from an approved program accredited by the Accreditation Review Commission on Education for the PA, and submit a diploma from the approved program with their application. The bill also clarifies that a PA must obtain a passing score on the physician assistant national certifying examination (PANACE).

The bill also amends the following licensure requirements for applicants who graduated:

- After December 31, 2020, a master's degree from an approved program;
- Before January 1, 2020, a bachelor's or master's degree from an approved program;
- Before July 1, 1994, graduation from an approved program of instruction in primary health care or surgery;
- Before July 1, 1983, a certification as a PA by the boards; and
- For applicants who do not meet any of the educational requirements specified above, but who have passed the PANACE examination administered by the NCCPA before 1986, the board may also grant a license.

Currently, a PA must complete a minimum of 10 continuing medical education (CME) hours in the specialty practice in which the PA has prescriptive authority with each licensure renewal. Three of the 10 hours must consist of a continuing education course on the safe and effective prescribing of controlled substances offered by a statewide professional association of physicians. The bill adds the American Osteopathic Association as an approved CME provider for the controlled substance course.

The bill repeals the following items that applicants must submit with their application for licensure:

- A PA program verification form; and
- A copy of course transcripts and course descriptions from the PA program describing course content in pharmacotherapy, if the applicant intends to apply for prescribing authority.

### **Physician Assistant Scope of Practice and Physician Supervision**

The bill expands the scope of practice of PAs and authorizes PA's to:

- Prescribe Schedule II psychiatric mental health controlled substances to minors. PAs may only prescribe a 14-day supply of these controlled substances and only if the PA is under the supervision of a pediatrician, family practice physician, or psychiatrist;
- Procure medical devices and drugs unless listed in the negative formulary established by the Council and adopted by the BOM and the BOOM;



- Supervise medical assistants;<sup>37</sup>
- Authenticate documents with their signature, certification, stamp, verification, affidavit, or endorsement if it may be authenticated by a physician's signature, certification, stamp, verification, affidavit, or endorsement, except for certifications for the medical use of marijuana. Such documents include, but are not limited to, the following:
  - Initiation of an involuntary examination under the Baker Act;<sup>38</sup>
  - Do-not-resuscitate (DNR) orders or orders for life-sustaining treatment;
  - Death certificates;
  - School physical examinations;
  - Medical examinations for workers' compensation claims, except medical examinations required for the evaluation and assignment of the claimants date of maximum medical improvement as defined in s. 440.02, F.S., and for any impairment ratings under s. 440.15, F.S.;<sup>39</sup>
  - Orders for:
    - Physical therapy;
    - Occupational therapy;
    - Speech-language therapy;
    - Home health services; and
    - Durable medical equipment.
- File the certificate of death or fetal death in the absence of a funeral director; and
- Correct a permanent death certificate.

The bill makes conforming changes to the sections of current law relating to the involuntary examinations under the Baker Act and the signing of DNR orders.

Current law limits the number of PAs a physician may supervise to four. The bill increases the number of PAs a physician may supervise to 10. The bill also deletes the following requirements:

- PAs must inform patients that they have the right to see a physician before a prescription is prescribed or dispensed by the PA; and
- PAs must notify the DOH within 30 days of employment or after any change in their supervising physician.

The bill removes from current law:

- Obsolete language related to prescriber numbers; and
- The presumption that the inclusion of the PA prescriber number on a prescription indicates the PA is authorized to prescribe the medicinal drug and that the prescription is valid.

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<sup>37</sup> Section 458.3485, F.S., defines a "medical assistant" as a professional multi-skilled person dedicated to assisting in all aspects of medical practice under the direct supervision and responsibility of a physician.

<sup>38</sup> Section 394.463, F.S.

<sup>39</sup> Under s. 440.02(10), F.S., the "date of maximum medical improvement" means the date after which further recovery from, or lasting improvement to, an injury or disease can no longer reasonably be anticipated, based upon reasonable medical probability.

**Reimbursement for PA Services**

The bill authorizes PAs to directly bill and receive payment from public and private insurance companies for services rendered.

The bill takes effect on July 1, 2021.

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

The fiscal impact of CS/CS/SB 894 is indeterminate. The bill may have a positive fiscal impact on health insurers who can reimburse for services provided by PA at a lower rate than if those same services are provided by a physician. However, to the extent that the bill's provisions, relating to physician supervision and PA scope of practice, increase access to health care services the bill may have a negative fiscal impact on health insurers who provide coverage for those services.

**C. Government Sector Impact:**

The fiscal impact of the bill is indeterminate. The bill may have a positive fiscal impact on health insurers who reimburse for services provided by PA at a lower rate than if those same services are provided by a physician. However, to the extent that the bill's

provisions, relating to physician supervision and PA scope of practice, increase access to health care services the bill may have a negative fiscal impact on health insurers who provide coverage for those services.

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

The bill authorizes PAs to bill for and receive direct payment for the services they deliver. However:

- Nothing in the bill requires public or private insurers to pay PAs directly for those services;
- Health insurance policies, and contracts with providers, are negotiated between the parties involved and they dictate how and to whom payment for services and benefits are made, in accordance with the provisions of the policy or contract;
- Any insurer who has contracted with a preferred provider for the delivery of health care services to its insureds must make payments directly to the preferred provider for such services, and insurers traditionally contract with supervising physicians and include PA services, not directly with PAs;<sup>40</sup> and
- Workers' compensation carriers do not pay PAs directly, as they are not authorized under workers' compensation law.<sup>41</sup>

#### **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 458.347, 459.022, 382.008, 394.463, and 401.45.

#### **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 April 21, 2021:**

The committee substitute:

- Expands the number of PAs that a physician can supervise to 10.
  - Reverts back to current law and clarifies that PA charts do not need to be reviewed or co-signed by the supervising physician.
  - Reverts back to current law that requires the supervising physicians name on PA prescriptions.
  - Authorizes PAs to prescribe a 14 day supply of Schedule II psychiatric mental health controlled substances for children under 18 provided the PA is under the supervision of a pediatrician, family practice physician, or psychiatrist.
-

- Excludes medical use marijuana certifications from the list of documents that a PA can authenticate with their signature, certification, stamp, verification, affidavits, or endorsement.
- Clarifies that PAs may authenticate medical examinations for workers' compensation claims, except for the medical examination(s) required for the evaluation and assignment of the claimant's date of MMI and impairment rating, if any.
- Deletes references to medical assistants being regulated under ch. 459, F.S. Medical assistants are defined and regulated under ch. 458, F.S.
- Adds the American Osteopathic Association as an approved continuing medical education provider for the controlled substance course required of PAs for licensure renewal.
- Restores current law that requires the name of each supervising physician to be included on a PAs prescription pad.

**CS by Health Policy on March 17, 2021:**

The CS eliminates certain provisions from the underlying bill, including authority for PAs to practice primary care autonomously, after meeting certain requirements, without physician supervision, and other provisions, including:

- The legislative intent for PAs to practice medicine;
- A provision to prohibit PAs from authenticating certifications for a patient to use medical marijuana;
- A requirement that for PAs to authenticate death certificates, the PA must have had training on the completion of death certificates; and
- A requirement that applicants for a PA licensure must submit:
  - A PA program verification form; and
  - An evidence-quality copy of course transcripts and a copy of the course description from a PA training program describing course content in pharmacotherapy, if the applicant wishes to apply for prescribing authority.

The CS inserts the following into the bill:

- Repeals the provision in current law that prohibits a PA from prescribing a psychiatric mental health controlled substance for a minor;
- Provides the following relating to third-party payors:
  - Payment for services within a PA's scope of practice must be made when ordered or performed by a PA if the same service would have been covered if ordered or performed by a physician; and
  - PAs are authorized to bill for and receive direct payment for the services they deliver.
- Repeals the current-law requirement that a licensed PA must notify the DOH within 30 days after starting employment, or after any changes in supervising physician, including the full name, medical license number, specialty, and address of the supervising physician;
- Repeals current law requiring the name, address and telephone number of the supervising physician on PAs prescriptions, but requires PAs' name, address and telephone number on prescriptions;

- Repeals the presumption that the inclusion of the PA prescriber number on a prescription indicates the PA is authorized to prescribe the medicinal drug and the prescription is valid.
- Authorizes PAs to include date of MMI when authenticating medical evaluations for workers' compensation claims;
- Repeals the current-law requirement that PAs must inform patients that they have the right to see the physician before a prescription is prescribed or dispensed by the PA; and
- Authorizes licensed PA to procure medical devices and drugs unless the drug is listed on the negative formulary.

B. Amendments:

None.

By the Committee on Health Policy; and Senator Diaz

588-02977-21

2021894c1

1 A bill to be entitled  
 2 An act relating to physician assistants; amending ss.  
 3 458.347 and 459.022, F.S.; revising legislative  
 4 intent; defining and redefining terms; deleting a  
 5 limitation on the number of physician assistants a  
 6 physician may supervise at one time; deleting a  
 7 provision prohibiting a requirement that a supervising  
 8 physician review and cosign charts or medical records  
 9 prepared by a physician assistant under his or her  
 10 supervision; deleting a requirement that a physician  
 11 assistant inform his or her patients that they have  
 12 the right to see a physician before the physician  
 13 assistant prescribes or dispenses a prescription;  
 14 authorizing physician assistants to procure drugs and  
 15 medical devices; providing an exception; conforming  
 16 provisions to changes made by the act; revising  
 17 requirements for a certain formulary; authorizing  
 18 physician assistants to authenticate documents that  
 19 may be authenticated by a physician; authorizing  
 20 physician assistants to supervise medical assistants;  
 21 authorizing third-party payors to reimburse employers  
 22 of physician assistants for services rendered;  
 23 providing requirements for such payment for services;  
 24 authorizing physician assistants to bill for and  
 25 receive direct payment for services they deliver;  
 26 revising provisions relating to approved programs for  
 27 physician assistants; revising provisions relating to  
 28 physician assistant licensure requirements; amending  
 29 ss. 382.008, 394.463, and 401.45, F.S.; conforming

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

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30 provisions relating to certificates of death,  
 31 certificates for involuntary examinations, and orders  
 32 not to resuscitate, respectively, to changes made by  
 33 the act; providing an effective date.  
 34  
 35 Be It Enacted by the Legislature of the State of Florida:  
 36  
 37 Section 1. Subsections (1) through (6), paragraphs (a),  
 38 (d), and (e) of subsection (7), and subsection (13) of section  
 39 458.347, Florida Statutes, are amended to read:  
 40 458.347 Physician assistants.—  
 41 (1) LEGISLATIVE INTENT.—  
 42 ~~(a)~~ The purpose of this section is to authorize physician  
 43 assistants, with their education, training, and experience in  
 44 the field of medicine, to provide increased efficiency of and  
 45 access to high-quality medical services at a reasonable cost to  
 46 consumers encourage more effective utilization of the skills of  
 47 physicians or groups of physicians by enabling them to delegate  
 48 health care tasks to qualified assistants when such delegation  
 49 is consistent with the patient's health and welfare.  
 50 ~~(b)~~ In order that maximum skills may be obtained within a  
 51 minimum time period of education, a physician assistant shall be  
 52 specialized to the extent that he or she can operate efficiently  
 53 and effectively in the specialty areas in which he or she has  
 54 been trained or is experienced.  
 55 ~~(c)~~ The purpose of this section is to encourage the  
 56 utilization of physician assistants by physicians and to allow  
 57 for innovative development of programs for the education of  
 58 physician assistants.

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

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59 (2) DEFINITIONS.—As used in this section, the term:  
60 (a) “Approved program” means a physician assistant program  
61 in the United States or in its territories or possessions which  
62 is accredited by the Accreditation Review Commission on  
63 Education for the Physician Assistant or, for programs before  
64 2001, accredited by its equivalent or predecessor entities the  
65 Committee on Allied Health Education and Accreditation or the  
66 Commission on Accreditation of Allied Health Education Programs  
67 ~~program~~, formally approved by the boards, for the education of  
68 physician assistants.

69 (b) “Boards” means the Board of Medicine and the Board of  
70 Osteopathic Medicine.

71 ~~(d)~~ (e) “Council” means the Council on Physician Assistants.

72 ~~(h)~~ (d) “Trainee” means a person who is currently enrolled  
73 in an approved program.

74 (e) “Physician assistant” means a person who is a graduate  
75 of an approved program or its equivalent or meets standards  
76 approved by the boards and is licensed to perform medical  
77 services delegated by the supervising physician.

78 (f) “Physician assistant national certifying examination”  
79 means the Physician Assistant National Certifying Examination  
80 administered by the National Commission on Certification of  
81 Physician Assistants or its successor agency.

82 (g) “Supervision” means responsible supervision and  
83 control. Except in cases of emergency, supervision requires the  
84 easy availability or physical presence of the licensed physician  
85 for consultation and direction of the actions of the physician  
86 assistant. For the purposes of this definition, the term “easy  
87 availability” includes the ability to communicate by way of

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88 telecommunication. The boards shall establish rules as to what  
89 constitutes responsible supervision of the physician assistant.

90 ~~(g) “Proficiency examination” means an entry-level~~  
91 ~~examination approved by the boards, including, but not limited~~  
92 ~~to, those examinations administered by the National Commission~~  
93 ~~on Certification of Physician Assistants.~~

94 ~~(c)~~ (h) “Continuing medical education” means courses  
95 recognized and approved by the boards, the American Academy of  
96 Physician Assistants, the American Medical Association, the  
97 American Osteopathic Association, or the Accreditation Council  
98 on Continuing Medical Education.

99 (3) PERFORMANCE OF SUPERVISING PHYSICIAN.—Each physician or  
100 group of physicians supervising a licensed physician assistant  
101 must be qualified in the medical areas in which the physician  
102 assistant is to perform and shall be individually or  
103 collectively responsible and liable for the performance and the  
104 acts and omissions of the physician assistant. ~~A physician may~~  
105 ~~not supervise more than four currently licensed physician~~  
106 ~~assistants at any one time. A physician supervising a physician~~  
107 ~~assistant pursuant to this section may not be required to review~~  
108 ~~and co-sign charts or medical records prepared by such physician~~  
109 ~~assistant.~~

110 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

111 (a) The boards shall adopt, by rule, the general principles  
112 that supervising physicians must use in developing the scope of  
113 practice of a physician assistant under direct supervision and  
114 under indirect supervision. These principles shall recognize the  
115 diversity of both specialty and practice settings in which  
116 physician assistants are used.

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117 (b) This chapter does not prevent third-party payors from  
118 reimbursing employers of physician assistants for covered  
119 services rendered by licensed physician assistants.

120 (c) Licensed physician assistants may not be denied  
121 clinical hospital privileges, except for cause, so long as the  
122 supervising physician is a staff member in good standing.

123 (d) A supervisory physician may delegate to a licensed  
124 physician assistant, pursuant to a written protocol, the  
125 authority to act according to s. 154.04(1)(c). Such delegated  
126 authority is limited to the supervising physician's practice in  
127 connection with a county health department as defined and  
128 established pursuant to chapter 154. The boards shall adopt  
129 rules governing the supervision of physician assistants by  
130 physicians in county health departments.

131 (e) A supervising physician may delegate to a fully  
132 licensed physician assistant the authority to prescribe or  
133 dispense any medication used in the supervising physician's  
134 practice unless such medication is listed on the formulary  
135 created pursuant to paragraph (f). A fully licensed physician  
136 assistant may only prescribe or dispense such medication under  
137 the following circumstances:

138 1. A physician assistant must clearly identify to the  
139 patient that he or she is a physician assistant ~~and inform the~~  
140 ~~patient that the patient has the right to see the physician~~  
141 ~~before a prescription is prescribed or dispensed by the~~  
142 ~~physician assistant.~~

143 2. The supervising physician must notify the department of  
144 his or her intent to delegate, on a department-approved form,  
145 before delegating such authority and of any change in

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146 prescriptive privileges of the physician assistant. Authority to  
147 dispense may be delegated only by a supervising physician who is  
148 registered as a dispensing practitioner in compliance with s.  
149 465.0276.

150 3. A fully licensed physician assistant may procure medical  
151 devices and drugs unless the medication is listed on the  
152 formulary created pursuant to paragraph (f).

153 4. The physician assistant must complete a minimum of 10  
154 continuing medical education hours in the specialty practice in  
155 which the physician assistant has prescriptive privileges with  
156 each licensure renewal. Three of the 10 hours must consist of a  
157 continuing education course on the safe and effective  
158 prescribing of controlled substance medications which is offered  
159 by a statewide professional association of physicians in this  
160 state accredited to provide educational activities designated  
161 for the American Medical Association Physician's Recognition  
162 Award Category 1 credit or designated by the American Academy of  
163 Physician Assistants as a Category 1 credit.

164 ~~4. The department may issue a prescriber number to the~~  
165 ~~physician assistant granting authority for the prescribing of~~  
166 ~~medicinal drugs authorized within this paragraph upon completion~~  
167 ~~of the requirements of this paragraph. The physician assistant~~  
168 ~~is not required to independently register pursuant to s.~~  
169 ~~465.0276.~~

170 5. The prescription may be in paper or electronic form but  
171 must comply with ss. 456.0392(1) and 456.42(1) and chapter 499  
172 and must contain the physician assistant's, ~~in addition to the~~  
173 ~~supervising physician's~~ name, address, and telephone number, ~~the~~  
174 ~~physician assistant's prescriber number.~~ Unless it is a drug or



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175 drug sample dispensed by the physician assistant, the  
 176 prescription must be filled in a pharmacy permitted under  
 177 chapter 465 and must be dispensed in that pharmacy by a  
 178 pharmacist licensed under chapter 465. ~~The inclusion of the  
 179 prescriber number creates a presumption that the physician  
 180 assistant is authorized to prescribe the medicinal drug and the  
 181 prescription is valid.~~

182 6. The physician assistant must note the prescription or  
 183 dispensing of medication in the appropriate medical record.

184 (f)1. The council shall establish a formulary of medicinal  
 185 drugs that a fully licensed physician assistant having  
 186 prescribing authority under this section or s. 459.022 may not  
 187 prescribe. The formulary must include general anesthetics and  
 188 radiographic contrast materials and must limit the prescription  
 189 of Schedule II controlled substances as listed in s. 893.03 to a  
 190 7-day supply. ~~The formulary must also restrict the prescribing  
 191 of psychiatric mental health controlled substances for children  
 192 younger than 18 years of age.~~

193 2. In establishing the formulary, the council shall consult  
 194 with a pharmacist licensed under chapter 465, but not licensed  
 195 under this chapter or chapter 459, who shall be selected by the  
 196 State Surgeon General.

197 3. Only the council shall add to, delete from, or modify  
 198 the formulary. Any person who requests an addition, a deletion,  
 199 or a modification of a medicinal drug listed on such formulary  
 200 has the burden of proof to show cause why such addition,  
 201 deletion, or modification should be made.

202 4. The boards shall adopt the formulary required by this  
 203 paragraph, and each addition, deletion, or modification to the

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204 formulary, by rule. Notwithstanding any provision of chapter 120  
 205 to the contrary, the formulary rule shall be effective 60 days  
 206 after the date it is filed with the Secretary of State. Upon  
 207 adoption of the formulary, the department shall mail a copy of  
 208 such formulary to each fully licensed physician assistant having  
 209 prescribing authority under this section or s. 459.022, and to  
 210 each pharmacy licensed by the state. The boards shall establish,  
 211 by rule, a fee not to exceed \$200 to fund the provisions of this  
 212 paragraph and paragraph (e).

213 (g) A supervisory physician may delegate to a licensed  
 214 physician assistant the authority to, and the licensed physician  
 215 assistant acting under the direction of the supervisory  
 216 physician may, order any medication for administration to the  
 217 supervisory physician's patient in a facility licensed under  
 218 chapter 395 or part II of chapter 400, notwithstanding any  
 219 provisions in chapter 465 or chapter 893 which may prohibit this  
 220 delegation.

221 (h) A licensed physician assistant may perform services  
 222 delegated by the supervising physician in the physician  
 223 assistant's practice in accordance with his or her education and  
 224 training unless expressly prohibited under this chapter, chapter  
 225 459, or rules adopted under this chapter or chapter 459.

226 (i) A physician assistant may authenticate any document  
 227 with his or her signature, certification, stamp, verification,  
 228 affidavit, or endorsement if such document may be so  
 229 authenticated by the signature, certification, stamp,  
 230 verification, affidavit, or endorsement of a physician. Such  
 231 documents include, but are not limited to, any of the following:

232 1. Initiation of an involuntary examination pursuant to s.

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233 394.463.234 2. Do-not-resuscitate orders or physician orders for the  
235 administration of life-sustaining treatment.236 3. Death certificates.237 4. School physical examinations.238 5. Medical evaluations for workers' compensation claims,  
239 including date of maximum medical improvement as defined in s.  
240 440.02.241 6. Orders for physical therapy, occupational therapy,  
242 speech-language therapy, home health services, or durable  
243 medical equipment.244 (j) A physician assistant may supervise medical assistants  
245 as defined in this chapter and chapter 459.246 (k) This chapter authorizes third-party payors to reimburse  
247 employers of physician assistants for covered services rendered  
248 by licensed physician assistants. Payment for services within  
249 the physician assistant's scope of practice must be made when  
250 ordered or performed by a physician assistant if the same  
251 service would have been covered if ordered or performed by a  
252 physician. Physician assistants are authorized to bill for and  
253 receive direct payment for the services they deliver.254 ~~(5) PERFORMANCE BY TRAINEES. Notwithstanding any other law,~~  
255 ~~a trainee may perform medical services when such services are~~  
256 ~~rendered within the scope of an approved program.~~257 ~~(6) PROGRAM APPROVAL.-~~258 (a) The boards shall approve programs, based on  
259 recommendations by the council, for the education and training  
260 of physician assistants which meet standards established by rule  
261 of the boards. The council may recommend only those physician

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262 assistant programs that hold full accreditation or provisional  
263 accreditation from the Accreditation Review Commission on  
264 Education for the Physician Assistant or its successor entity  
265 or, before 2001, from the Committee on Allied Health Education  
266 and Accreditation or the Commission on Accreditation of Allied  
267 Health Programs or its successor organization. Any educational  
268 institution offering a physician assistant program approved by  
269 the boards pursuant to this paragraph may also offer the  
270 physician assistant program authorized in paragraph (c) for  
271 unlicensed physicians.272 (b) Notwithstanding any other law, a trainee may perform  
273 medical services when such services are rendered within the  
274 scope of an approved program. The boards shall adopt and publish  
275 standards to ensure that such programs operate in a manner that  
276 does not endanger the health or welfare of the patients who  
277 receive services within the scope of the programs. The boards  
278 shall review the quality of the curricula, faculties, and  
279 facilities of such programs and take whatever other action is  
280 necessary to determine that the purposes of this section are  
281 being met.282 ~~(c) Any community college with the approval of the State~~  
283 ~~Board of Education may conduct a physician assistant program~~  
284 ~~which shall apply for national accreditation through the~~  
285 ~~American Medical Association's Committee on Allied Health,~~  
286 ~~Education, and Accreditation, or its successor organization, and~~  
287 ~~which may admit unlicensed physicians, as authorized in~~  
288 ~~subsection (7), who are graduates of foreign medical schools~~  
289 ~~listed with the World Health Organization. The unlicensed~~  
290 ~~physician must have been a resident of this state for a minimum~~

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291 ~~of 12 months immediately prior to admission to the program. An~~  
 292 ~~evaluation of knowledge base by examination shall be required to~~  
 293 ~~grant advanced academic credit and to fulfill the necessary~~  
 294 ~~requirements to graduate. A minimum of one 16-week semester of~~  
 295 ~~supervised clinical and didactic education, which may be~~  
 296 ~~completed simultaneously, shall be required before graduation~~  
 297 ~~from the program. All other provisions of this section shall~~  
 298 ~~remain in effect.~~

299 ~~(6)(7)~~ PHYSICIAN ASSISTANT LICENSURE.—

300 (a) Any person desiring to be licensed as a physician  
 301 assistant must apply to the department. The department shall  
 302 issue a license to any person certified by the council as having  
 303 met all of the following requirements:

304 1. Is at least 18 years of age.

305 2. Has graduated from an approved program.

306 a. For an applicant who graduated after December 31, 2020,  
 307 has received a master's degree in accordance with the  
 308 Accreditation Review Commission on Education for the Physician  
 309 Assistant or, before 2001, its equivalent or predecessor  
 310 organization.

311 b. For an applicant who graduated on or before December 31,  
 312 2020, has received a bachelor's or master's degree from an  
 313 approved program.

314 c. For an applicant who graduated before July 1, 1994, has  
 315 graduated from an approved program of instruction in primary  
 316 health care or surgery.

317 d. For an applicant who graduated before July 1, 1983, has  
 318 received a certification as a physician assistant from the  
 319 boards.

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320 e. The board may also grant a license to an applicant who  
 321 does not meet the educational requirement specified in this  
 322 subparagraph but who has passed the Physician Assistant National  
 323 Certifying Examination administered by the National Commission  
 324 on Certification of Physician Assistants before 1986.

325 3. Has obtained a passing score as satisfactorily passed a  
 326 proficiency examination by an acceptable score established by  
 327 the National Commission on Certification of Physician Assistants  
 328 or its equivalent or successor organization and has been  
 329 nationally certified. If an applicant does not hold a current  
 330 certificate issued by the National Commission on Certification  
 331 of Physician Assistants or its equivalent or successor  
 332 organization and has not actively practiced as a physician  
 333 assistant within the immediately preceding 4 years, the  
 334 applicant must retake and successfully complete the entry-level  
 335 examination of the National Commission on Certification of  
 336 Physician Assistants or its equivalent or successor organization  
 337 to be eligible for licensure.

338 4.3. Has completed the application form and remitted an  
 339 application fee not to exceed \$300 as set by the boards. An  
 340 application for licensure as made by a physician assistant must  
 341 include:

342 a. A diploma from an approved certificate of completion of  
 343 a physician assistant training program specified in subsection  
 344 (6).

345 b. Acknowledgment of any prior felony convictions.

346 c. Acknowledgment of any previous revocation or denial of  
 347 licensure or certification in any state.

348 d. A copy of course transcripts and a copy of the course

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349 ~~description from a physician assistant training program~~  
 350 ~~describing course content in pharmacotherapy, if the applicant~~  
 351 ~~wishes to apply for prescribing authority. These documents must~~  
 352 ~~meet the evidence requirements for prescribing authority.~~

353 ~~(d) Upon employment as a physician assistant, a licensed~~  
 354 ~~physician assistant must notify the department in writing within~~  
 355 ~~30 days after such employment or after any subsequent changes in~~  
 356 ~~the supervising physician. The notification must include the~~  
 357 ~~full name, Florida medical license number, specialty, and~~  
 358 ~~address of the supervising physician.~~

359 (e) Notwithstanding subparagraph (a)2., the department may  
 360 grant to a recent graduate of an approved program, as specified  
 361 in subsection (5) ~~(6)~~, who expects to take the first examination  
 362 administered by the National Commission on Certification of  
 363 Physician Assistants available for registration after the  
 364 applicant's graduation, a temporary license. The temporary  
 365 license shall expire 30 days after receipt of scores of the  
 366 proficiency examination administered by the National Commission  
 367 on Certification of Physician Assistants. Between meetings of  
 368 the council, the department may grant a temporary license to  
 369 practice based on the completion of all temporary licensure  
 370 requirements. All such administratively issued licenses shall be  
 371 reviewed and acted on at the next regular meeting of the  
 372 council. The recent graduate may be licensed before employment  
 373 ~~but must comply with paragraph (d).~~ An applicant who has passed  
 374 the proficiency examination may be granted permanent licensure.  
 375 An applicant failing the proficiency examination is no longer  
 376 temporarily licensed but may reapply for a 1-year extension of  
 377 temporary licensure. An applicant may not be granted more than

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378 two temporary licenses and may not be licensed as a physician  
 379 assistant until he or she passes the examination administered by  
 380 the National Commission on Certification of Physician  
 381 Assistants. As prescribed by board rule, the council may require  
 382 an applicant who does not pass the licensing examination after  
 383 five or more attempts to complete additional remedial education  
 384 or training. The council shall prescribe the additional  
 385 requirements in a manner that permits the applicant to complete  
 386 the requirements and be reexamined within 2 years after the date  
 387 the applicant petitions the council to retake the examination a  
 388 sixth or subsequent time.

389 (12) ~~(13)~~ RULES.—The boards shall adopt rules to implement  
 390 this section, including rules detailing the contents of the  
 391 application for licensure and notification pursuant to  
 392 subsection (6) ~~(7)~~ and rules to ensure both the continued  
 393 competency of physician assistants and the proper utilization of  
 394 them by physicians or groups of physicians.

395 Section 2. Subsections (1) through (6), paragraphs (a),  
 396 (d), and (e) of subsection (7), and subsection (13) of section  
 397 459.022, Florida Statutes, are amended to read:

398 459.022 Physician assistants.—

399 (1) LEGISLATIVE INTENT.—

400 ~~(a)~~ The purpose of this section is to authorize physician  
 401 assistants, with their education, training, and experience in  
 402 the field of medicine, to provide increased efficiency of and  
 403 access to high-quality medical services at a reasonable cost to  
 404 consumers ~~encourage more effective utilization of the skills of~~  
 405 ~~osteopathic physicians or groups of osteopathic physicians by~~  
 406 ~~enabling them to delegate health care tasks to qualified~~

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407 assistants when such delegation is consistent with the patient's  
408 health and welfare.

409 ~~(b) In order that maximum skills may be obtained within a  
410 minimum time period of education, a physician assistant shall be  
411 specialized to the extent that she or he can operate efficiently  
412 and effectively in the specialty areas in which she or he has  
413 been trained or is experienced.~~

414 ~~(c) The purpose of this section is to encourage the  
415 utilization of physician assistants by osteopathic physicians  
416 and to allow for innovative development of programs for the  
417 education of physician assistants.~~

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

419 (a) "Approved program" means a physician assistant program  
420 in the United States or in its territories or possessions which  
421 is accredited by the Accreditation Review Commission on  
422 Education for the Physician Assistant or, for programs before  
423 2001, accredited by its equivalent or predecessor entities the  
424 Committee on Allied Health Education and Accreditation or the  
425 Commission on Accreditation of Allied Health Education Programs  
426 program, formally approved by the boards, for the education of  
427 physician assistants.

428 (b) "Boards" means the Board of Medicine and the Board of  
429 Osteopathic Medicine.

430 ~~(d)~~ (e) "Council" means the Council on Physician Assistants.

431 ~~(h)~~ (d) "Trainee" means a person who is currently enrolled  
432 in an approved program.

433 (e) "Physician assistant" means a person who is a graduate  
434 of an approved program or its equivalent or meets standards  
435 approved by the boards and is licensed to perform medical

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436 services delegated by the supervising physician.

437 (f) "Physician assistant national certifying examination"  
438 means the Physician Assistant National Certifying Examination  
439 administered by the National Commission on Certification of  
440 Physician Assistants or its successor agency.

441 (g) "Supervision" means responsible supervision and  
442 control. Except in cases of emergency, supervision requires the  
443 easy availability or physical presence of the licensed physician  
444 for consultation and direction of the actions of the physician  
445 assistant. For the purposes of this definition, the term "easy  
446 availability" includes the ability to communicate by way of  
447 telecommunication. The boards shall establish rules as to what  
448 constitutes responsible supervision of the physician assistant.

449 ~~(g) "Proficiency examination" means an entry-level  
450 examination approved by the boards, including, but not limited  
451 to, these examinations administered by the National Commission  
452 on Certification of Physician Assistants.~~

453 ~~(c)~~ (h) "Continuing medical education" means courses  
454 recognized and approved by the boards, the American Academy of  
455 Physician Assistants, the American Medical Association, the  
456 American Osteopathic Association, or the Accreditation Council  
457 on Continuing Medical Education.

458 (3) PERFORMANCE OF SUPERVISING PHYSICIAN.—Each physician or  
459 group of physicians supervising a licensed physician assistant  
460 must be qualified in the medical areas in which the physician  
461 assistant is to perform and shall be individually or  
462 collectively responsible and liable for the performance and the  
463 acts and omissions of the physician assistant. ~~A physician may  
464 not supervise more than four currently licensed physician~~

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465 ~~assistants at any one time. A physician supervising a physician~~  
 466 ~~assistant pursuant to this section may not be required to review~~  
 467 ~~and co-sign charts or medical records prepared by such physician~~  
 468 ~~assistant.~~

469 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

470 (a) The boards shall adopt, by rule, the general principles  
 471 that supervising physicians must use in developing the scope of  
 472 practice of a physician assistant under direct supervision and  
 473 under indirect supervision. These principles shall recognize the  
 474 diversity of both specialty and practice settings in which  
 475 physician assistants are used.

476 (b) This chapter does not prevent third-party payors from  
 477 reimbursing employers of physician assistants for covered  
 478 services rendered by licensed physician assistants.

479 (c) Licensed physician assistants may not be denied  
 480 clinical hospital privileges, except for cause, so long as the  
 481 supervising physician is a staff member in good standing.

482 (d) A supervisory physician may delegate to a licensed  
 483 physician assistant, pursuant to a written protocol, the  
 484 authority to act according to s. 154.04(1)(c). Such delegated  
 485 authority is limited to the supervising physician's practice in  
 486 connection with a county health department as defined and  
 487 established pursuant to chapter 154. The boards shall adopt  
 488 rules governing the supervision of physician assistants by  
 489 physicians in county health departments.

490 (e) A supervising physician may delegate to a fully  
 491 licensed physician assistant the authority to prescribe or  
 492 dispense any medication used in the supervising physician's  
 493 practice unless such medication is listed on the formulary

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494 created pursuant to s. 458.347. A fully licensed physician  
 495 assistant may only prescribe or dispense such medication under  
 496 the following circumstances:

497 1. A physician assistant must clearly identify to the  
 498 patient that she or he is a physician assistant ~~and must inform~~  
 499 ~~the patient that the patient has the right to see the physician~~  
 500 ~~before a prescription is prescribed or dispensed by the~~  
 501 ~~physician assistant.~~

502 2. The supervising physician must notify the department of  
 503 her or his intent to delegate, on a department-approved form,  
 504 before delegating such authority and of any change in  
 505 prescriptive privileges of the physician assistant. Authority to  
 506 dispense may be delegated only by a supervising physician who is  
 507 registered as a dispensing practitioner in compliance with s.  
 508 465.0276.

509 3. A fully licensed physician assistant may procure medical  
 510 devices and drugs unless the medication is listed on the  
 511 formulary created pursuant to s. 458.347(4)(f).

512 4. The physician assistant must complete a minimum of 10  
 513 continuing medical education hours in the specialty practice in  
 514 which the physician assistant has prescriptive privileges with  
 515 each licensure renewal. Three of the 10 hours must consist of a  
 516 continuing education course on the safe and effective  
 517 prescribing of controlled substance medications which is offered  
 518 by a provider that has been approved by the American Academy of  
 519 Physician Assistants and which is designated for the American  
 520 Medical Association Physician's Recognition Award Category 1  
 521 credit or designated by the American Academy of Physician  
 522 Assistants as a Category 1 credit.

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523 4. ~~The department may issue a prescriber number to the~~  
 524 ~~physician assistant granting authority for the prescribing of~~  
 525 ~~medicinal drugs authorized within this paragraph upon completion~~  
 526 ~~of the requirements of this paragraph. The physician assistant~~  
 527 ~~is not required to independently register pursuant to s.~~  
 528 ~~465.0276.~~

529 5. The prescription may be in paper or electronic form but  
 530 must comply with ss. 456.0392(1) and 456.42(1) and chapter 499  
 531 and must contain the physician assistant's, in addition to the  
 532 supervising physician's name, address, and telephone number, the  
 533 physician assistant's prescriber number. Unless it is a drug or  
 534 drug sample dispensed by the physician assistant, the  
 535 prescription must be filled in a pharmacy permitted under  
 536 chapter 465, and must be dispensed in that pharmacy by a  
 537 pharmacist licensed under chapter 465. ~~The inclusion of the~~  
 538 ~~prescriber number creates a presumption that the physician~~  
 539 ~~assistant is authorized to prescribe the medicinal drug and the~~  
 540 ~~prescription is valid.~~

541 6. The physician assistant must note the prescription or  
 542 dispensing of medication in the appropriate medical record.

543 (f) A supervisory physician may delegate to a licensed  
 544 physician assistant the authority to, and the licensed physician  
 545 assistant acting under the direction of the supervisory  
 546 physician may, order any medication for administration to the  
 547 supervisory physician's patient in a facility licensed under  
 548 chapter 395 or part II of chapter 400, notwithstanding any  
 549 provisions in chapter 465 or chapter 893 which may prohibit this  
 550 delegation.

551 (g) A licensed physician assistant may perform services

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552 delegated by the supervising physician in the physician  
 553 assistant's practice in accordance with his or her education and  
 554 training unless expressly prohibited under this chapter, chapter  
 555 458, or rules adopted under this chapter or chapter 458.

556 (h) A physician assistant may authenticate any document  
 557 with his or her signature, certification, stamp, verification,  
 558 affidavit, or endorsement if such document may be so  
 559 authenticated by the signature, certification, stamp,  
 560 verification, affidavit, or endorsement of a physician. Such  
 561 documents include, but are not limited to, any of the following:

562 1. Initiation of an involuntary examination pursuant to s.  
 563 394.463.

564 2. Do-not-resuscitate orders or physician orders for the  
 565 administration of life-sustaining treatment.

566 3. Death certificates.

567 4. School physical examinations.

568 5. Medical evaluations for workers' compensation claims,  
 569 including date of maximum medical improvement as defined in s.  
 570 440.02.

571 6. Orders for physical therapy, occupational therapy,  
 572 speech-language therapy, home health services, or durable  
 573 medical equipment.

574 (i) A physician assistant may supervise medical assistants  
 575 as defined in this chapter and chapter 459.

576 (j) This chapter authorizes third-party payors to reimburse  
 577 employers of physician assistants for covered services rendered  
 578 by licensed physician assistants. Payment for services within  
 579 the physician assistant's scope of practice must be made when  
 580 ordered or performed by a physician assistant if the same

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581 service would have been covered if ordered or performed by a  
 582 physician. Physician assistants are authorized to bill for and  
 583 receive direct payment for the services they deliver.

584 ~~(5) PERFORMANCE BY TRAINEES. Notwithstanding any other law,~~  
 585 ~~a trainee may perform medical services when such services are~~  
 586 ~~rendered within the scope of an approved program.~~

587 ~~(6) PROGRAM APPROVAL.—~~

588 (a) The boards shall approve programs, based on  
 589 recommendations by the council, for the education and training  
 590 of physician assistants which meet standards established by rule  
 591 of the boards. The council may recommend only those physician  
 592 assistant programs that hold full accreditation or provisional  
 593 accreditation from the Accreditation Review Commission on  
 594 Education for the Physician Assistant or its successor entity  
 595 or, before 2001, from the Committee on Allied Health Education  
 596 and Accreditation or the Commission on Accreditation of Allied  
 597 Health Programs or its successor organization.

598 (b) Notwithstanding any other law, a trainee may perform  
 599 medical services when such services are rendered within the  
 600 scope of an approved program ~~The boards shall adopt and publish~~  
 601 ~~standards to ensure that such programs operate in a manner that~~  
 602 ~~does not endanger the health or welfare of the patients who~~  
 603 ~~receive services within the scope of the programs. The boards~~  
 604 ~~shall review the quality of the curricula, faculties, and~~  
 605 ~~facilities of such programs and take whatever other action is~~  
 606 ~~necessary to determine that the purposes of this section are~~  
 607 ~~being met.~~

608 ~~(6)(7) PHYSICIAN ASSISTANT LICENSURE.—~~

609 (a) Any person desiring to be licensed as a physician

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610 assistant must apply to the department. The department shall  
 611 issue a license to any person certified by the council as having  
 612 met all of the following requirements:

613 1. Is at least 18 years of age.

614 2. Has graduated from an approved program.

615 a. For an applicant who graduated after December 31, 2020,  
 616 has received a master's degree in accordance with the  
 617 Accreditation Review Commission on Education for the Physician  
 618 Assistant or, before 2001, its equivalent or predecessor  
 619 organization.

620 b. For an applicant who graduated on or before December 31,  
 621 2020, has received a bachelor's or master's degree from an  
 622 approved program.

623 c. For an applicant who graduated before July 1, 1994, has  
 624 graduated from an approved program of instruction in primary  
 625 health care or surgery.

626 d. For an applicant who graduated before July 1, 1983, has  
 627 received a certification as a physician assistant from the  
 628 boards.

629 e. The board may also grant a license to an applicant who  
 630 does not meet the educational requirement specified in this  
 631 subparagraph but who has passed the Physician Assistant National  
 632 Certifying Examination administered by the National Commission  
 633 on Certification of Physician Assistants before 1986.

634 3. Has obtained a passing score as ~~satisfactorily passed a~~  
 635 ~~proficiency examination by an acceptable score~~ established by  
 636 the National Commission on Certification of Physician Assistants  
 637 or its equivalent or successor organization and has been  
 638 nationally certified. If an applicant does not hold a current

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639 certificate issued by the National Commission on Certification  
 640 of Physician Assistants or its equivalent or successor  
 641 organization and has not actively practiced as a physician  
 642 assistant within the immediately preceding 4 years, the  
 643 applicant must retake and successfully complete the entry-level  
 644 examination of the National Commission on Certification of  
 645 Physician Assistants or its equivalent or successor organization  
 646 to be eligible for licensure.

647 ~~4.3-~~ Has completed the application form and remitted an  
 648 application fee not to exceed \$300 as set by the boards. An  
 649 application for licensure as made by a physician assistant must  
 650 include:

651 a. A diploma from an approved certificate of completion of  
 652 a physician assistant training program specified in subsection  
 653 (6).

654 b. Acknowledgment of any prior felony convictions.

655 c. Acknowledgment of any previous revocation or denial of  
 656 licensure or certification in any state.

657 ~~d. A copy of course transcripts and a copy of the course~~  
 658 ~~description from a physician assistant training program~~  
 659 ~~describing course content in pharmacotherapy, if the applicant~~  
 660 ~~wishes to apply for prescribing authority. These documents must~~  
 661 ~~meet the evidence requirements for prescribing authority.~~

662 ~~(d) Upon employment as a physician assistant, a licensed~~  
 663 ~~physician assistant must notify the department in writing within~~  
 664 ~~30 days after such employment or after any subsequent changes in~~  
 665 ~~the supervising physician. The notification must include the~~  
 666 ~~full name, Florida medical license number, specialty, and~~  
 667 ~~address of the supervising physician.~~

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668 (e) Notwithstanding subparagraph (a)2., the department may  
 669 grant to a recent graduate of an approved program, as specified  
 670 in subsection (5) ~~(6)~~, a temporary license to expire upon  
 671 receipt of scores of the proficiency examination administered by  
 672 the National Commission on Certification of Physician  
 673 Assistants. Between meetings of the council, the department may  
 674 grant a temporary license to practice to physician assistant  
 675 applicants based on the completion of all temporary licensure  
 676 requirements. All such administratively issued licenses shall be  
 677 reviewed and acted on at the next regular meeting of the  
 678 council. The recent graduate may be licensed before ~~prior to~~  
 679 ~~employment, but must comply with paragraph (d).~~ An applicant who  
 680 has passed the proficiency examination may be granted permanent  
 681 licensure. An applicant failing the proficiency examination is  
 682 no longer temporarily licensed, but may reapply for a 1-year  
 683 extension of temporary licensure. An applicant may not be  
 684 granted more than two temporary licenses and may not be licensed  
 685 as a physician assistant until she or he passes the examination  
 686 administered by the National Commission on Certification of  
 687 Physician Assistants. As prescribed by board rule, the council  
 688 may require an applicant who does not pass the licensing  
 689 examination after five or more attempts to complete additional  
 690 remedial education or training. The council shall prescribe the  
 691 additional requirements in a manner that permits the applicant  
 692 to complete the requirements and be reexamined within 2 years  
 693 after the date the applicant petitions the council to retake the  
 694 examination a sixth or subsequent time.

695 ~~(12)(13)~~ RULES.—The boards shall adopt rules to implement  
 696 this section, including rules detailing the contents of the

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697 application for licensure and notification pursuant to  
 698 subsection (6) ~~(7)~~ and rules to ensure both the continued  
 699 competency of physician assistants and the proper utilization of  
 700 them by physicians or groups of physicians.

701 Section 3. Paragraph (a) of subsection (2) and subsections  
 702 (3) and (5) of section 382.008, Florida Statutes, are amended to  
 703 read:

704 382.008 Death, fetal death, and nonviable birth  
 705 registration.—

706 (2) (a) The funeral director who first assumes custody of a  
 707 dead body or fetus shall file the certificate of death or fetal  
 708 death. In the absence of the funeral director, the physician,  
 709 physician assistant, advanced practice registered nurse  
 710 registered under s. 464.0123, or other person in attendance at  
 711 or after the death or the district medical examiner of the  
 712 county in which the death occurred or the body was found shall  
 713 file the certificate of death or fetal death. The person who  
 714 files the certificate shall obtain personal data from a legally  
 715 authorized person as described in s. 497.005 or the best  
 716 qualified person or source available. The medical certification  
 717 of cause of death shall be furnished to the funeral director,  
 718 either in person or via certified mail or electronic transfer,  
 719 by the physician, physician assistant, advanced practice  
 720 registered nurse registered under s. 464.0123, or medical  
 721 examiner responsible for furnishing such information. For fetal  
 722 deaths, the physician, physician assistant, advanced practice  
 723 registered nurse registered under s. 464.0123, midwife, or  
 724 hospital administrator shall provide any medical or health  
 725 information to the funeral director within 72 hours after

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726 expulsion or extraction.

727 (3) Within 72 hours after receipt of a death or fetal death  
 728 certificate from the funeral director, the medical certification  
 729 of cause of death shall be completed and made available to the  
 730 funeral director by the decedent's primary or attending  
 731 practitioner or, if s. 382.011 applies, the district medical  
 732 examiner of the county in which the death occurred or the body  
 733 was found. The primary or attending practitioner or the medical  
 734 examiner shall certify over his or her signature the cause of  
 735 death to the best of his or her knowledge and belief. As used in  
 736 this section, the term "primary or attending practitioner" means  
 737 a physician, physician assistant, or advanced practice  
 738 registered nurse registered under s. 464.0123 who treated the  
 739 decedent through examination, medical advice, or medication  
 740 during the 12 months preceding the date of death.

741 (a) The department may grant the funeral director an  
 742 extension of time upon a good and sufficient showing of any of  
 743 the following conditions:

- 744 1. An autopsy is pending.
- 745 2. Toxicology, laboratory, or other diagnostic reports have  
 746 not been completed.
- 747 3. The identity of the decedent is unknown and further  
 748 investigation or identification is required.

749 (b) If the decedent's primary or attending practitioner or  
 750 the district medical examiner of the county in which the death  
 751 occurred or the body was found indicates that he or she will  
 752 sign and complete the medical certification of cause of death  
 753 but will not be available until after the 5-day registration  
 754 deadline, the local registrar may grant an extension of 5 days.

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755 If a further extension is required, the funeral director must  
756 provide written justification to the registrar.

757 (5) A permanent certificate of death or fetal death,  
758 containing the cause of death and any other information that was  
759 previously unavailable, shall be registered as a replacement for  
760 the temporary certificate. The permanent certificate may also  
761 include corrected information if the items being corrected are  
762 noted on the back of the certificate and dated and signed by the  
763 funeral director, physician, physician assistant, advanced  
764 practice registered nurse registered under s. 464.0123, or  
765 district medical examiner of the county in which the death  
766 occurred or the body was found, as appropriate.

767 Section 4. Paragraph (a) of subsection (2) of section  
768 394.463, Florida Statutes, is amended to read:

769 394.463 Involuntary examination.—

770 (2) INVOLUNTARY EXAMINATION.—

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

773 1. A circuit or county court may enter an ex parte order  
774 stating that a person appears to meet the criteria for  
775 involuntary examination and specifying the findings on which  
776 that conclusion is based. The ex parte order for involuntary  
777 examination must be based on written or oral sworn testimony  
778 that includes specific facts that support the findings. If other  
779 less restrictive means are not available, such as voluntary  
780 appearance for outpatient evaluation, a law enforcement officer,  
781 or other designated agent of the court, shall take the person  
782 into custody and deliver him or her to an appropriate, or the  
783 nearest, facility within the designated receiving system

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784 pursuant to s. 394.462 for involuntary examination. The order of  
785 the court shall be made a part of the patient's clinical record.  
786 A fee may not be charged for the filing of an order under this  
787 subsection. A facility accepting the patient based on this order  
788 must send a copy of the order to the department within 5 working  
789 days. The order may be submitted electronically through existing  
790 data systems, if available. The order shall be valid only until  
791 the person is delivered to the facility or for the period  
792 specified in the order itself, whichever comes first. If a time  
793 limit is not specified in the order, the order is valid for 7  
794 days after the date that the order was signed.

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

805 3. A physician, a physician assistant, a clinical  
806 psychologist, a psychiatric nurse, an advanced practice  
807 registered nurse registered under s. 464.0123, a mental health  
808 counselor, a marriage and family therapist, or a clinical social  
809 worker may execute a certificate stating that he or she has  
810 examined a person within the preceding 48 hours and finds that  
811 the person appears to meet the criteria for involuntary  
812 examination and stating the observations upon which that

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813 conclusion is based. If other less restrictive means, such as  
 814 voluntary appearance for outpatient evaluation, are not  
 815 available, a law enforcement officer shall take into custody the  
 816 person named in the certificate and deliver him or her to the  
 817 appropriate, or nearest, facility within the designated  
 818 receiving system pursuant to s. 394.462 for involuntary  
 819 examination. The law enforcement officer shall execute a written  
 820 report detailing the circumstances under which the person was  
 821 taken into custody. The report and certificate shall be made a  
 822 part of the patient's clinical record. Any facility accepting  
 823 the patient based on this certificate must send a copy of the  
 824 certificate to the department within 5 working days. The  
 825 document may be submitted electronically through existing data  
 826 systems, if applicable.

827

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

833 Section 5. Paragraphs (a) and (c) of subsection (3) of  
 834 section 401.45, Florida Statutes, are amended to read:

835 401.45 Denial of emergency treatment; civil liability.—

836 (3) (a) Resuscitation may be withheld or withdrawn from a  
 837 patient by an emergency medical technician or paramedic if  
 838 evidence of an order not to resuscitate by the patient's  
 839 physician or physician assistant is presented to the emergency  
 840 medical technician or paramedic. An order not to resuscitate, to  
 841 be valid, must be on the form adopted by rule of the department.

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842 The form must be signed by the patient's physician or physician  
 843 assistant and by the patient or, if the patient is  
 844 incapacitated, the patient's health care surrogate or proxy as  
 845 provided in chapter 765, court-appointed guardian as provided in  
 846 chapter 744, or attorney in fact under a durable power of  
 847 attorney as provided in chapter 709. The court-appointed  
 848 guardian or attorney in fact must have been delegated authority  
 849 to make health care decisions on behalf of the patient.

850 (c) The department, in consultation with the Department of  
 851 Elderly Affairs and the Agency for Health Care Administration,  
 852 shall develop a standardized do-not-resuscitate identification  
 853 system with devices that signify, when carried or worn, that the  
 854 possessor is a patient for whom a physician or physician  
 855 assistant has issued an order not to administer cardiopulmonary  
 856 resuscitation. The department may charge a reasonable fee to  
 857 cover the cost of producing and distributing such identification  
 858 devices. Use of such devices shall be voluntary.

859 Section 6. This act shall take effect July 1, 2021.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

21 April 2021  
Meeting Date

894  
Bill Number (if applicable)

Topic Physician Assistants

Amendment Barcode (if applicable)

Name DIEGO ECHEVERRI

Job Title Legislative Liaison

Address 200 W College Ave  
Street

Phone 954-614-3363

Tallahassee FL  
City State Zip

Email decheverri@afphy.org

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**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: PCS/CS/SB 934 (233914)

INTRODUCER: Appropriations Committee; (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senator Wright

SUBJECT: Education

DATE: April 21, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Westmark</u>	<u>Bouck</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 934 modifies provisions related to district school boards, high-performing school districts, educator certification and nondegreed career teacher qualifications, teacher preparation programs and educator preparation institutes (EPIs), and school leadership. Specifically, the bill:

- Modifies the uniform core curricula for state-approved teacher preparation programs and EPI competency-based program requirements.
- Removes the General Knowledge Test as an admission requirement to a teacher preparation program.
- Provides that completion of an EPI may demonstrate education and successful occupational experience for nondegreed teachers of career education, and also professional preparation and education competence toward an educator certificate.
- Specifies that a master's degree or higher degree may demonstrate mastery of general knowledge toward an educator certificate.
- Authorizes an organization of private schools or a consortium of charter schools as specified to design alternative preparation programs for certified teachers to add on additional coverages to their certificate.
- Modifies the William Cecil Golden Professional Development Program for School Leaders to expand the definition of an educational leader and expand the collaborative network.
- Authorizes members of special committees and advisory committees to conduct daily business in person or through the use of telecommunications networks.

- Authorizes high-performing school districts to provide up to two days of virtual instruction as part of the required 180 actual teaching days.  
The bill does not affect state expenditures or revenues.

The bill takes effect July 1, 2021.

## II. Present Situation:

### **Educator Certification Requirements**

#### *Initial Eligibility*

To be eligible to seek certification of an educator in Florida, a person must:

- Meet general eligibility criteria to ensure competence and capability to perform the duties, functions, and responsibilities as an educator, including a minimum age, an oath of loyalty, demonstration of a bachelor's or higher degree, and background screening.
- Demonstrate mastery of general knowledge if the person serves as a classroom teacher.
- Demonstrate mastery of subject area knowledge.
- Demonstrate mastery of professional preparation and education competence.<sup>1</sup>

#### *Mastery of General Knowledge*

Acceptable means to demonstrate mastery of general knowledge to meet educator certification requirements include:

- Achievement of passing scores on the general knowledge examination required by State Board of Education (SBE) rule;
- Documentation of a valid professional standard teaching certificate issued by another state;
- Documentation of a valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the SBE;
- Documentation of two semesters of successful, full-time or part-time teaching in a Florida College System (FCS) institution, state university, or private college or university that awards an associate or higher degree and is an accredited institution or an institution of higher education identified by the Department of Education (DOE) as having a quality program; or
- Achievement of passing scores, identified in SBE rule, on national or international examinations that test comparable content and relevant standards in verbal, analytical writing, and quantitative reasoning skills, including, but not limited to, the verbal, analytical writing, and quantitative reasoning portions of the Graduate Record Examination.<sup>2</sup>

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<sup>1</sup> Section 1012.56(2), F.S.

<sup>2</sup> Section 1012.56(3), F.S. A school district that employs an individual who does not achieve passing scores on any subtest of the general knowledge examination must provide information regarding the availability of state-level and district-level supports and instruction to assist him or her in achieving a passing score. Such information must include, but need not be limited to, state-level test information guides, school district test preparation resources, and preparation courses offered by state universities and Florida College System institutions. Section 1012.56(3)(e), F.S.

***Mastery of Subject Area Knowledge***

Acceptable means of demonstrating mastery of subject area knowledge to meet educator certification requirements include:

- For a subject requiring only a baccalaureate degree, a passing score on an examination specified in SBE rule,<sup>3</sup> and may include passing scores on foreign language proficiency examinations, if applicable, or verification of the attainment of subject matter competencies;
- For a subject requiring a master's or higher degree, completion of the subject area specialization requirements specified in SBE rule and achievement of a passing score on the Florida-developed subject area examination or a standardized examination specified in SBE rule;
- Documentation of a valid professional standard teaching certificate issued by another state;
- Documentation of a valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the SBE;
- Documentation of successful completion of a United States Defense Language Institute Foreign Language Center program; or
- Documentation of a passing score on the Defense Language Proficiency Test.<sup>4</sup>

***Mastery of Professional Preparation***

Acceptable means of demonstrating mastery of professional preparation and education competence to meet educator certification requirements are:

- Successful completion of an approved teacher preparation program at a postsecondary educational institution within Florida and achievement of a passing score on the professional education competency examination required by SBE rule;
- Successful completion of a teacher preparation program at a postsecondary educational institution outside Florida and achievement of a passing score on the professional education competency examination required by SBE rule;
- Documentation of a valid professional standard teaching certificate issued by another state;
- Documentation of a valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the SBE;
- Documentation of two semesters of successful, full-time or part-time teaching in a FCS institution, state university, or private college or university that awards an associate or higher degree and is an accredited institution or an institution of higher education identified by the DOE as having a quality program and achievement of a passing score on the professional education competency examination required by SBE rule;
- Successful completion of professional preparation courses as specified in state board rule, successful completion of a specified professional preparation and education competence program, and achievement of a passing score on the professional education competency examination required by SBE rule;
- Successful completion of a specified professional development certification and education competence program; or

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<sup>3</sup> Subject area examinations are required to be aligned to the Next Generation Sunshine State Standards. Section 1012.56(4), F.S.

<sup>4</sup> Section 1012.56(5), F.S.



- Successful completion of a specified competency-based certification program and achievement of a passing score on the professional education competency examination required by rule of the SBE.<sup>5</sup>

### **District Alternative Certification Programs**

Educators who currently hold a valid Florida Temporary or Professional Certificate may be eligible to add another subject coverage or endorsement,<sup>6</sup> according to subject specialization requirements outlined in SBE rule.<sup>7</sup>

Professional Development Certification Programs, formally known as District Alternative Certification Programs, are offered by Florida public school districts, charter schools, or charter management organizations to provide instruction for members of its instructional staff who are non-education baccalaureate or higher degree holders as specified in law,<sup>8</sup> resulting in qualification for an initial Florida Professional Educator's Certificate.<sup>9</sup> Certified teachers may add additional coverage through alternative preparation programs as defined in law.<sup>10</sup> Each alternative teacher preparation program is required to be reviewed and approved by DOE to assure that persons who complete it are competent in the necessary areas of subject matter specialization.<sup>11</sup>

DOE-approved district add-on programs include those offered by colleges, universities, and school districts.<sup>12</sup> Of the 91 providers of teacher preparation programs in Florida for 2020, 23 are districts that run their own programs.<sup>13</sup>

### **Non-degreed Teachers of Career Education**

Qualifications for part-time and full-time non-degreed teachers of career programs are based primarily on successful occupational experience rather than academic training.<sup>14</sup> The qualifications for such teachers require:

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<sup>5</sup> *Id.*

<sup>6</sup> An endorsement is a rider on a Florida certificate with a full subject coverage and denotes a particular expertise in an instructional level or methodology. Florida Department of Education, *Certificate Additions*, <https://www.fldoe.org/teaching/certification/additions/> (last visited March 3, 2021). Endorsements may include, but are not limited to, Autism Spectrum Disorders, English for Speakers of Other Languages (ESOL), Gifted, and Reading.

<sup>7</sup> Florida Department of Education, *Certificate Additions*, <http://www.fldoe.org/teaching/certification/additions/> (last visited March 3, 2021). Educator certification requirements are addressed in s. 1012.56, F.S. *See also* Florida Department of Education, *Certificate Subjects*, <http://www.fldoe.org/teaching/certification/certificate-subjects/> (last visited March 3, 2021); Rules 6A-4.001 - 6A-4.078, F.A.C.

<sup>8</sup> *See* s. 1012.56(8), F.S.

<sup>9</sup> Florida Department of Education, *Professional Development Certification Programs*, <http://www.fldoe.org/teaching/preparation/pdcp.shtml> (last visited March 3, 2021).

<sup>10</sup> Section 1012.575, F.S.

<sup>11</sup> Two or more school districts may jointly participate in an alternative preparation program for teachers. *Id.*

<sup>12</sup> *See* Florida Department of Education, *State-Approved Educator Preparation Programs*, <http://www.fldoe.org/teaching/preparation/initial-teacher-preparation-programs/approved-teacher-edu-programs.shtml> (last visited March 3, 2021). *See also* Rule 6A-5.066, F.A.C.

<sup>13</sup> Sandi Jacobs, EducationCounsel, *A Summary and Analysis of Program Performance* (December 2020), available at <http://www.fldoe.org/core/fileparse.php/7502/urlt/2020FloridaTeacherPrepReport.pdf>, at 3.

<sup>14</sup> Section 1012.39(1)(c), F.S.

- The filing of a complete set of fingerprints as specified in law.
- Documentation of education and successful occupational experience, including:
  - A high school diploma or the equivalent.
  - Completion of six years of full-time successful occupational experience or the equivalent of part-time experience in the teaching specialization area.<sup>15</sup>
  - Completion of career education training conducted through the local school district inservice master plan.
  - For full-time teachers, completion of professional education training in teaching methods, course construction, lesson planning and evaluation, and teaching special needs students.<sup>16</sup>
  - Demonstration of successful teaching performance.
  - Documentation of industry certification when state or national industry certifications are available and applicable.<sup>17</sup>

### **Teacher Preparation Programs**

The SBE maintains a system for development and approval of teacher preparation programs,<sup>18</sup> and each teacher preparation program must be approved by the DOE as specified in law.<sup>19</sup> Continued approval of a teacher preparation program is based on evidence that the program continues to implement the requirements for initial approval and upon significant, objective, and quantifiable measures of the program and the performance of the program completers.<sup>20</sup>

The SBE establishes in rule uniform core curricula for each state-approved teacher preparation program. Such rules must include, but are not limited to, the following:

- Candidate instruction and assessment in the Florida Educator Accomplished Practices across content areas.
- The use of state-adopted content standards to guide curricula and instruction.
- Scientifically researched and evidence-based reading instructional strategies that improve reading performance for all students, including explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and multisensory intervention strategies.
- Content literacy and mathematics practices.
- Strategies appropriate for the instruction of English language learners.
- Strategies appropriate for the instruction of students with disabilities.
- Strategies to differentiate instruction based on student needs.
- The use of character-based classroom management.<sup>21</sup>

---

<sup>15</sup> The district school board may establish alternative qualifications for teachers with an industry certification in the career area in which they teach. *Id.*

<sup>16</sup> This training may be completed through coursework from an accredited or approved institution or an approved district teacher education program. *Id.*

<sup>17</sup> Section 1012.39(1)(c), F.S.

<sup>18</sup> Section 1004.04(1)(b), F.S.

<sup>19</sup> Section 1004.04(3)(c), F.S.

<sup>20</sup> Section 1004.04(4), F.S.

<sup>21</sup> Section 1004.04(2)(a)-(b), F.S.

Each teacher preparation program approved by the DOE must require students to meet, at a minimum, the following as prerequisites for admission into the program:

- Have a grade point average of at least 2.5 on a 4.0 scale in coursework and at an institution specified in law.
- Demonstrate mastery of general knowledge sufficient for entry into the program, including the ability to read, write, and perform in mathematics, by passing the General Knowledge Test of the Florida Teacher Certification Examination or, for a graduate level program, obtain a baccalaureate degree from an institution that is accredited or approved pursuant to the rules of the SBE.<sup>22</sup>

### **Postsecondary Educator Preparation Institutes**

Educator Preparation Institutes (EPIs) provide an alternate route to teacher certification.<sup>23</sup> EPIs are created by a postsecondary institution or a qualified private provider and approved by the DOE.<sup>24</sup> Postsecondary institutions that are accredited or approved as described in SBE rule may seek approval from the DOE to create EPIs for the purpose of providing:

- Professional development instruction to assist teachers in improving classroom instruction and in meeting certification or recertification requirements.
- Instruction to assist potential and existing substitute teachers in performing their duties.
- Instruction to assist paraprofessionals in meeting education and training requirements.
- Instruction for baccalaureate degree holders to become certified teachers as provided in this section in order to increase routes to the classroom for mid-career professionals who hold a baccalaureate degree and college graduates who were not education majors.<sup>25</sup>

Approved EPIs may offer competency-based certification programs specifically designed for non-education major baccalaureate degree holders to enable program participants to meet the educator certification requirements. The DOE is required to approve the program if the EPI includes each of the following:

- Participant instruction and assessment in the Florida Educator Accomplished Practices across content areas.
- The use of state-adopted student content standards to guide curriculum and instruction.
- Scientifically researched and evidence-based reading instructional strategies that improve reading performance for all students, including explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and multisensory intervention strategies.
- Content literacy and mathematical practices.
- Strategies appropriate for instruction of English language learners.
- Strategies appropriate for instruction of students with disabilities.
- Strategies to differentiate instruction based on student needs.
- The use of character-based classroom management.<sup>26</sup>

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<sup>22</sup> Section 1004.04(3)(b), F.S.

<sup>23</sup> Florida Department of Education, *Educator Preparation Institutes (EPIs)*, <http://www.fldoe.org/schools/higher-ed/fl-college-system/academic-student-affairs/educator-preparation-institutes-epis/> (last visited Feb. 26, 2021).

<sup>24</sup> Section 1004.85(1), F.S.

<sup>25</sup> Section 1004.85(2)(a), F.S.

<sup>26</sup> Section 1004.85(3), F.S.

A private provider that has a proven history of delivering high-quality teacher preparation may also seek approval to offer a competency-based certification program specifically designed for non-education major baccalaureate degree holders to enable program participants to meet educator certification requirements.<sup>27</sup>

### **School Leadership Programs**

Public accountability and state approval of school leader preparation programs are outlined in law, and their purpose is to:

- Increase the supply of effective school leaders in the public schools of this state.
- Produce school leaders who are prepared to lead the state's diverse student population in meeting high standards for academic achievement.
- Enable school leaders to facilitate the development and retention of effective and highly effective classroom teachers.
- Produce leaders with the competencies and skills necessary to achieve the state's education goals.
- Sustain the state system of school improvement and education accountability.<sup>28</sup>

### ***William Cecil Golden Professional Development Program for School Leaders***

The William Cecil Golden Professional Development Program for School Leaders was established to provide high standards and sustained support for principals as instructional leaders. The program consists of a collaborative network of state and national professional leadership organizations, coordinated by DOE, to support the human-resource development needs of principals, principal leadership teams, and candidates for principal leadership positions using the framework of leadership standards adopted by the SBE, the Southern Regional Education Board, and the National Staff Development Council.<sup>29</sup>

The goal of the network leadership program is to:

- Provide resources to support and enhance the principal's role as the instructional leader.
- Maintain a clearinghouse and disseminate data-supported information related to enhanced student achievement, based on educational research and best practices.
- Build the capacity to increase the quality of programs for preservice education for aspiring principals and in-service professional development for principals and principal leadership teams.
- Support best teaching and research-based instructional practices through dissemination and modeling at the preservice and in-service levels for both teachers and principals.<sup>30</sup>

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<sup>27</sup> Section 1004.85(2)(b), F.S.

<sup>28</sup> Section 1012.562, F.S.

<sup>29</sup> Section 1012.986, F.S.

<sup>30</sup> *Id.*

## District School Board Governance

Each district school board may adopt policies and procedures necessary for the daily business operation of the district school board, including, but not limited to:

- The provision of legal services for the district school board;
- Conducting a district legislative program;
- District school board member participation at conferences, conventions, and workshops;
- District school board policy development, adoption, and repeal;
- Meeting procedures, including participation via telecommunications networks, use of technology at meetings, and presentations by nondistrict personnel;
- Citizen communications with the district school board and with individual district school board members;
- Collaboration with local government and other entities as required by law; and
- Organization of the district school board, including special committees and advisory committees.<sup>31</sup>

## High-Performing School Districts

Florida recognizes and rewards school districts that demonstrate the ability to consistently maintain or improve their high-performing status through providing such districts with flexibility in meeting specific requirements.<sup>32</sup>

A school district is an academically high-performing school district if it meets the following criteria:

- Earn a grade of “A” for two consecutive years;
- Has no district-operated school that earns a grade of “F”;
- Complies with all class size requirements; and
- Has no material weaknesses or instances of material noncompliance noted in the annual financial audit.<sup>33</sup>

Specific requirements that high-performing school districts must meet include requirements pertaining to:

- The provision of services to students with disabilities;
- Civil rights and provisions relating to discrimination;
- Student health, safety, and welfare;
- The election or compensation of district school board members;
- Student assessment program and the school grading system;
- Financial matters with specified exemptions;

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<sup>31</sup> Section 1001.43(10), F.S.

<sup>32</sup> Section 1003.621, F.S.

<sup>33</sup> In 2002, citizens approved an amendment to the Florida Constitution that set limits on the number of students in core classes in the state's public schools. Beginning with the 2010-2011 school year, the maximum number of students in each core class would be 18 students in prekindergarten through grade 3; 22 students in grades 4 through 8; and 25 students in grades 9 through 12. Florida Department of Education, *Class Size* <http://www.fldoe.org/finance/budget/class-size/> (last visited March 25, 2021), *Id.*

- Planning and budgeting;
- Public school personnel compensation and salary schedules;
- Educational facilities with specified exemptions;
- Instructional materials with specified exemptions;
- Uniform opening date of public schools; and
- Requirements specific to High-Performing School Districts.<sup>34</sup>

### III. Effect of Proposed Changes:

#### Teacher Preparation Programs

The bill modifies s. 1004.04, F.S., to add to the uniform core curricula for each state-approved teacher preparation program, strategies:

- Appropriate for the early identification of students in crisis or experiencing a mental health challenge and the referral of such student to a mental health professional for support.
- To support the use of technology in education and distance learning.

The bill makes it easier for a student to be admitted to an approved teacher preparation program. Specifically, the bill requires students to pass the General Knowledge Test by the time the student completes the program, rather than passing the test to demonstrate mastery of general knowledge as an admissions requirement to a program. However, the bill removes the option to waive admissions requirements for up to 10 percent of admitted students and provide assistance to those who receive waivers to demonstrate competencies, as well as report the status of these annually to the Department of Education (DOE).

#### Postsecondary Educator Preparation Institutes

The bill modifies provisions relating to educator preparation institutes (EPIs). Specifically, the bill modifies:

- Section 1004.85, F.S., related to EPIs, to:
  - Expand the purpose for which a postsecondary institution may seek DOE approval for an EPI, to include instruction and professional development for part-time and full-time non-degreed teachers of career programs.
  - Add to the requirement that if an EPI implements a competency-based program, it must include strategies appropriate for the early identification of students in crisis or experiencing a mental health challenge and the referral of such students to a mental health professional for support, and strategies to support the use of technology in education and distance learning.
  - Add an exception for EPI program participants, as provided in s. 1012.56(7)(a)3., F.S., from the requirement to achieve a passing score on the professional education competency examination before completion of an EPI program, to each fully demonstrate his or her ability to teach the subject area for which he or she is seeking certification. The bill specifies that completion of an EPI program, along with completion of general

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<sup>34</sup> Section 1003.621, F.S.

- certificate, general knowledge, and subject area requirements as specified in law, meets the requirements for an educator professional certificate.
- Section 1012.39, F.S., to add completion of an EPI program approved by the State Board of Education (SBE) as a means of documenting education and successful occupational experience, in addition to completion of career education training conducted through the local school district in-service master plan.

### **Educator Certification and Alternative Teacher Preparation**

The bill modifies s. 1012.56, F.S., relating to educator certification requirements to:

- Add, as an acceptable means of demonstrating mastery of general knowledge, documentation of receipt of a master's or higher degree from an accredited postsecondary educational institution that the DOE has identified as having a quality program resulting in a baccalaureate degree or higher.
- Add completion of an EPI approved by the DOE as an optional means to demonstrate professional preparation and education competence. Additionally, a student who meets the requirement through an EPI and is rated highly effective is not required to take or achieve a passing score on the professional education competency examination to be awarded a professional certificate.

The bill modifies s. 1012.575, F.S., relating to alternative preparation programs for certified teachers, to authorize an organization of private schools or a consortium of charter schools with an approved professional development system<sup>35</sup> to design alternative preparation programs for certified teachers to add an additional coverage to their certificates.

### **School Leadership Programs**

The bill modifies s. 1012.986, F.S., relating to the William Cecil Golden Professional Development Program for School Leaders. Specifically, the bill:

- Expands the definition of an “educational leader” from a principal to also include teacher leaders, assistant principals, or school district leaders.
- Expands the program collaborative network to include school districts, state-approved educational leadership programs, regional consortia, and charter management organizations.
- The bill removes the Southern Regional Education Board and the National Staff Development Council as adopters of the framework of leadership standards, but retains adoption by the SBE.
- Modifies the goal of the network leadership program to:
  - Provide resources to support educational leaders.
  - Expand the information maintained by the program to specify continued enhancement of learning, civic education, coaching and mentoring, mental health awareness, technology in education, distance learning, and school safety.
  - Increase the capacity of educational leadership programs.

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<sup>35</sup> An organization of private schools or consortium of charter schools which has no fewer than 10 member schools in this state, which publishes and files with the DOE copies of its standards, and the member schools of which comply with the provisions specified in law relating to compulsory school attendance, may also develop a professional development system that includes a master plan for in-service activities. The system and in-service plan must be submitted to the commissioner for approval pursuant to SBE rules. Section 1012.98(6), F.S.

- Support evidence-based leadership practices for educational leaders.
- Modifies the delivery systems by which the DOE must coordinate program components to add universities and educational leadership coaching and mentoring, and specifies that local leadership academies are educational.

### **District School Boards**

The bill modifies s. 1001.43, F.S., relating to supplemental powers and duties of the district school board, to authorize members of special committees and advisory committees of a district school board to conduct meetings in person or through the use of telecommunications networks, such as telephonic and video conferencing. The bill specifies that such committees are not required to meet at a physical public place, and authorizes the provision of public access through the use of telecommunications technology.

### **High-Performing School Districts**

The bill modifies s. 1003.621, F.S., relating to academically high-performing school districts, to authorize high-performing school districts to provide up to two days of virtual instruction as part of the required 180 actual teaching or the equivalent on an hourly basis each school year, and specifies that the virtual instruction must be teacher-developed and aligned with enrolled courses.

The bill takes effect July 1, 2021.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

None.



**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1001.43, 1003.621, 1004.04, 1004.85, 1012.39, 1012.56, 1012.575, and 1012.986.

**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 the Appropriations Subcommittee on Education on April 8, 2021:**

The CS/CS makes the following changes:

- Authorizes members of special committees and advisory committees of a district school board to conduct meetings in person or through the use of telecommunications networks.
- Authorizes high-performing school districts to provide up to two days of virtual instruction as part of the required 180 actual teaching days.
- Adds an exception for educator preparation institute (EPI) program participants, as provided in s. 1012.56(7)(a)3., F.S., from the requirement to achieve a passing score on the professional education competency examination before completion of the EPI program, to each fully demonstrate his or her ability to teach the subject area for which he or she is seeking certification. The CS/CS specifies that completion of an EPI program, along with completion of general certificate, general knowledge, and subject area requirements as specified in law, meets the requirements for an educator professional certificate.

**CS by Education on March 3, 2021:**

The committee substitute:

- Adds to the requirement that if an educator preparation institute implements a competency-based program, it must include strategies appropriate for the early identification of students in crisis or experiencing a mental health challenge and the referral of such students to a mental health professional for support, and strategies to support the use of technology in education and distance learning.
- Authorizes an organization of private schools or a consortium of charter schools with an approved professional development system to design alternative preparation programs for certified teachers to add an additional coverage to their certificates.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
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The Committee on Appropriations (Wright) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 79 - 113  
and insert:  
committees and advisory committees. Members of special  
committees and advisory committees may attend meetings and  
establish quorums in person or through the use of  
telecommunications networks such as telephonic and video  
conferencing. No official action of the school board may be  
taken at any meeting of a special committee or an advisory



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11 committee.

12 Section 2. Paragraph (g) of subsection (2) of section  
13 1003.621, Florida Statutes, is amended to read:

14 1003.621 Academically high-performing school districts.—It  
15 is the intent of the Legislature to recognize and reward school  
16 districts that demonstrate the ability to consistently maintain  
17 or improve their high-performing status. The purpose of this  
18 section is to provide high-performing school districts with  
19 flexibility in meeting the specific requirements in statute and  
20 rules of the State Board of Education.

21 (2) COMPLIANCE WITH STATUTES AND RULES.—Each academically  
22 high-performing school district shall comply with all of the  
23 provisions in chapters 1000-1013, and rules of the State Board  
24 of Education which implement these provisions, pertaining to the  
25 following:

26 (g) Those statutes pertaining to planning and budgeting,  
27 including chapter 1011, except s. 1011.62(9)(d), relating to the  
28 requirement for a comprehensive reading plan. A district that is  
29 exempt from submitting a comprehensive reading ~~this~~ plan shall  
30 be deemed approved to receive the research-based reading  
31 instruction allocation. Each academically high-performing school  
32 district may provide up to 2 days of virtual instruction as part  
33 of the required 180 actual teaching days or the equivalent on an  
34 hourly basis each school year, as specified by rules of the  
35 State Board of Education. Virtual instruction that is conducted  
36 in accordance with the plan approved by the department, is  
37 teacher-developed, and is aligned with the standards for  
38 enrolled courses complies with s. 1011.60(2). The day or days  
39 must be indicated on the calendar approved by the school board.



40 The district shall submit a plan for each day of virtual  
41 instruction to the department for approval, in a format  
42 prescribed by the department, with assurances of alignment to  
43 statewide student standards as described in s. 1003.41 before  
44 the start of each school year.

45  
46 ===== T I T L E A M E N D M E N T =====

47 And the title is amended as follows:

48 Delete lines 3 - 12

49 and insert:

50 F.S.; authorizing members of certain committees to  
51 attend meetings and establish quorums in person or  
52 through the use of telecommunications networks;  
53 prohibiting any official action of a school board from  
54 being taken at any meeting of such committees;  
55 amending s. 1003.621, F.S.; authorizing academically  
56 high-performing school districts to provide up to 2  
57 days of virtual instruction; specifying requirements  
58 for such virtual instruction for such virtual  
59 instruction to comply with a specified provision;  
60 amending s. 1004.04,



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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 education; amending s. 1001.43, F.S.; authorizing district school boards to conduct daily business in person or through the use of telecommunication networks; amending s. 1003.621, F.S.; exempting academically high-performing school districts from complying with a specified provision relating to the operation of all schools for a term of 180 actual teaching days; authorizing academically high-performing school districts to provide up to 2 days of virtual instruction; specifying requirements for the virtual instruction; amending s. 1004.04, F.S.; requiring additional specified strategies to be included in rules establishing uniform core curricula for each state-approved teacher preparation program; requiring that certain teacher preparation programs require students to demonstrate mastery of general knowledge by passing the General Knowledge Test of the Florida Teacher Certification Examination by the time of graduation; deleting a provision authorizing a teacher preparation program to waive certain admissions requirements for up to 10 percent of admitted students; amending s. 1004.85, F.S.; expanding the instruction that an educator preparation institute may provide to include instruction and professional development for part-time and full-time nondegreed teachers of career programs; requiring the



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Department of Education to approve a certification program if an institute provides evidence of its capacity to implement a competency-based program that includes specified strategies; amending s. 1012.39, F.S.; revising the minimum qualifications for part-time and full-time nondegreed teachers of career programs; amending s. 1012.56, F.S.; revising the acceptable means of demonstrating mastery of general knowledge to include documentation of receipt of a master's or higher degree from certain postsecondary institutions; revising the criteria for the Department of Education to issue a professional certificate; amending s. 1012.575, F.S.; authorizing an organization of private schools or a consortium of charter schools with an approved professional development system to design alternative teacher preparation programs; amending s. 1012.986, F.S.; defining the term "educational leader"; providing that the William Cecil Golden Professional Development Program for School Leaders must consist of a network of specified entities; revising the goals of the program; requiring the department to offer program components through university or educational leadership academies and through educational leadership coaching and mentoring; making technical changes; providing an effective date.

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



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57 Section 1. Subsection (10) of section 1001.43, Florida  
58 Statutes, is amended to read:

59 1001.43 Supplemental powers and duties of district school  
60 board.—The district school board may exercise the following  
61 supplemental powers and duties as authorized by this code or  
62 State Board of Education rule.

63 (10) DISTRICT SCHOOL BOARD GOVERNANCE AND OPERATIONS.—The  
64 district school board may adopt policies and procedures  
65 necessary for the daily business operation of the district  
66 school board, including, but not limited to, the provision of  
67 legal services for the district school board; conducting a  
68 district legislative program; district school board member  
69 participation at conferences, conventions, and workshops,  
70 including member compensation and reimbursement for expenses;  
71 district school board policy development, adoption, and repeal;  
72 district school board meeting procedures, including  
73 participation via telecommunications networks, use of technology  
74 at meetings, and presentations by nondistrict personnel; citizen  
75 communications with the district school board and with  
76 individual district school board members; collaboration with  
77 local government and other entities as required by law; and  
78 organization of the district school board, including special  
79 committees and advisory committees. Notwithstanding s. 1001.372,  
80 members of special committees and advisory committees may  
81 conduct meetings in person or through the use of  
82 telecommunications networks such as telephonic and video  
83 conferencing. The committee is not required to meet at a  
84 physical public place, and public access may be provided through  
85 the use of telecommunications technology.



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86 Section 2. Paragraph (g) of subsection (2) of section  
87 1003.621, Florida Statutes, is amended to read:

88 1003.621 Academically high-performing school districts.—It  
89 is the intent of the Legislature to recognize and reward school  
90 districts that demonstrate the ability to consistently maintain  
91 or improve their high-performing status. The purpose of this  
92 section is to provide high-performing school districts with  
93 flexibility in meeting the specific requirements in statute and  
94 rules of the State Board of Education.

95 (2) COMPLIANCE WITH STATUTES AND RULES.—Each academically  
96 high-performing school district shall comply with all of the  
97 provisions in chapters 1000-1013, and rules of the State Board  
98 of Education which implement these provisions, pertaining to the  
99 following:

100 (g) Those statutes pertaining to planning and budgeting,  
101 including chapter 1011, except s. 1011.62(9)(d), relating to the  
102 requirement for a comprehensive reading plan, and s. 1011.60(2),  
103 relating to the operation of all schools for a term of 180  
104 actual teaching days. A district that is exempt from submitting  
105 a comprehensive reading ~~this~~ plan shall be deemed approved to  
106 receive the research-based reading instruction allocation. Each  
107 academically high-performing school district may provide up to 2  
108 days of virtual instruction as part of the required 180 actual  
109 teaching days or the equivalent on an hourly basis each school  
110 year, as specified by rules of the State Board of Education, and  
111 shall be deemed in compliance with s. 1011.60(2). This virtual  
112 instruction shall be teacher-developed and aligned with enrolled  
113 courses.

114 Section 3. Paragraph (b) of subsection (2) and paragraph



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115 (b) of subsection (3) of section 1004.04, Florida Statutes, are  
116 amended to read:  
117 1004.04 Public accountability and state approval for  
118 teacher preparation programs.—  
119 (2) UNIFORM CORE CURRICULA AND CANDIDATE ASSESSMENT.—  
120 (b) The rules to establish uniform core curricula for each  
121 state-approved teacher preparation program must include, but are  
122 not limited to, the following:  
123 1. Candidate instruction and assessment in the Florida  
124 Educator Accomplished Practices across content areas.  
125 2. The use of state-adopted content standards to guide  
126 curricula and instruction.  
127 3. Scientifically researched and evidence-based reading  
128 instructional strategies that improve reading performance for  
129 all students, including explicit, systematic, and sequential  
130 approaches to teaching phonemic awareness, phonics, vocabulary,  
131 fluency, and text comprehension and multisensory intervention  
132 strategies.  
133 4. Content literacy and mathematics practices.  
134 5. Strategies appropriate for the instruction of English  
135 language learners.  
136 6. Strategies appropriate for the instruction of students  
137 with disabilities.  
138 7. Strategies to differentiate instruction based on student  
139 needs.  
140 8. The use of character-based classroom management.  
141 9. Strategies appropriate for the early identification of  
142 students in crisis or experiencing a mental health challenge and  
143 the referral of such students to a mental health professional



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144 for support.  
145 10. Strategies to support the use of technology in  
146 education and distance learning.  
147 (3) INITIAL STATE PROGRAM APPROVAL.—  
148 (b) Each teacher preparation program approved by the  
149 Department of Education, as provided for by this section, shall  
150 require students to meet, at a minimum, the following  
151 requirements as prerequisites for admission into the program:  
152 1. For admission into the program, have a grade point  
153 average of at least 2.5 on a 4.0 scale for the general education  
154 component of undergraduate studies or have completed the  
155 requirements for a baccalaureate degree with a minimum grade  
156 point average of 2.5 on a 4.0 scale from any college or  
157 university accredited by a regional accrediting association as  
158 defined by State Board of Education rule or any college or  
159 university otherwise approved pursuant to State Board of  
160 Education rule.  
161 2. Demonstrate mastery of general knowledge ~~sufficient for~~  
162 ~~entry into the program,~~ including the ability to read, write,  
163 and perform in mathematics, by passing the General Knowledge  
164 Test of the Florida Teacher Certification Examination by the  
165 time of graduation or, for a graduate level program, obtain a  
166 baccalaureate degree from an institution that is accredited or  
167 approved pursuant to the rules of the State Board of Education.  
168 ~~Each teacher preparation program may waive these admissions~~  
169 ~~requirements for up to 10 percent of the students admitted.~~  
170 ~~Programs shall implement strategies to ensure that students~~  
171 ~~admitted under a waiver receive assistance to demonstrate~~  
172





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173 ~~competencies to successfully meet requirements for certification~~  
174 ~~and shall annually report to the Department of Education the~~  
175 ~~status of each candidate admitted under such a waiver.~~

176 Section 4. Paragraph (a) of subsection (2) and paragraphs  
177 (a) and (b) of subsection (3) of section 1004.85, Florida  
178 Statutes, are amended to read:

179 1004.85 Postsecondary educator preparation institutes.—

180 (2) (a) Postsecondary institutions that are accredited or  
181 approved as described in State Board of Education rule may seek  
182 approval from the Department of Education to create educator  
183 preparation institutes for the purpose of providing any or all  
184 of the following:

185 1. Professional development instruction to assist teachers  
186 in improving classroom instruction and in meeting certification  
187 or recertification requirements.

188 2. Instruction to assist potential and existing substitute  
189 teachers in performing their duties.

190 3. Instruction to assist paraprofessionals in meeting  
191 education and training requirements.

192 4. Instruction for baccalaureate degree holders to become  
193 certified teachers as provided in this section in order to  
194 increase routes to the classroom for mid-career professionals  
195 who hold a baccalaureate degree and college graduates who were  
196 not education majors.

197 5. Instruction and professional development for part-time  
198 and full-time nondegreed teachers of career programs under s.  
199 1012.39(1)(c).

200 (3) Educator preparation institutes approved pursuant to  
201 this section may offer competency-based certification programs



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202 specifically designed for noneducation major baccalaureate  
203 degree holders to enable program participants to meet the  
204 educator certification requirements of s. 1012.56. An educator  
205 preparation institute choosing to offer a competency-based  
206 certification program pursuant to the provisions of this section  
207 must implement a program previously approved by the Department  
208 of Education for this purpose or a program developed by the  
209 institute and approved by the department for this purpose.  
210 Approved programs shall be available for use by other approved  
211 educator preparation institutes.

212 (a) Within 90 days after receipt of a request for approval,  
213 the Department of Education shall approve a preparation program  
214 pursuant to the requirements of this subsection or issue a  
215 statement of the deficiencies in the request for approval. The  
216 department shall approve a certification program if the  
217 institute provides evidence of the institute's capacity to  
218 implement a competency-based program that includes each of the  
219 following:

220 1.a. Participant instruction and assessment in the Florida  
221 Educator Accomplished Practices across content areas.

222 b. The use of state-adopted student content standards to  
223 guide curriculum and instruction.

224 c. Scientifically researched and evidence-based reading  
225 instructional strategies that improve reading performance for  
226 all students, including explicit, systematic, and sequential  
227 approaches to teaching phonemic awareness, phonics, vocabulary,  
228 fluency, and text comprehension and multisensory intervention  
229 strategies.

230 d. Content literacy and mathematical practices.



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- 231 e. Strategies appropriate for instruction of English  
232 language learners.
- 233 f. Strategies appropriate for instruction of students with  
234 disabilities.
- 235 g. Strategies to differentiate instruction based on student  
236 needs.
- 237 h. The use of character-based classroom management.
- 238 i. Strategies appropriate for the early identification of  
239 students in crisis or experiencing a mental health challenge and  
240 the referral of such students to a mental health professional  
241 for support.
- 242 j. Strategies to support the use of technology in education  
243 and distance learning.
- 244 2. An educational plan for each participant to meet  
245 certification requirements and demonstrate his or her ability to  
246 teach the subject area for which the participant is seeking  
247 certification, which is based on an assessment of his or her  
248 competency in the areas listed in subparagraph 1.
- 249 3. Field experiences appropriate to the certification  
250 subject area specified in the educational plan with a diverse  
251 population of students in a variety of challenging environments,  
252 including, but not limited to, high-poverty schools, urban  
253 schools, and rural schools, under the supervision of qualified  
254 educators.
- 255 4. A certification ombudsman to facilitate the process and  
256 procedures required for participants who complete the program to  
257 meet any requirements related to the background screening  
258 pursuant to s. 1012.32 and educator professional or temporary  
259 certification pursuant to s. 1012.56.



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- 260 (b) Each program participant must:
- 261 1. Meet certification requirements pursuant to s.  
262 1012.56(1) by obtaining a statement of status of eligibility in  
263 the certification subject area of the educational plan and meet  
264 the requirements of s. 1012.56(2)(a)-(f).
- 265 2. Participate in coursework and field experiences that are  
266 appropriate to his or her educational plan prepared under  
267 paragraph (a).
- 268 3. Before completion of the program, fully demonstrate his  
269 or her ability to teach the subject area for which he or she is  
270 seeking certification by documenting a positive impact on  
271 student learning growth in a prekindergarten through grade 12  
272 setting and, except as provided in s. 1012.56(7)(a)3., achieving  
273 a passing score on the professional education competency  
274 examination, the basic skills examination, and the subject area  
275 examination for the subject area certification which is required  
276 by state board rule.
- 277 Section 5. Paragraph (c) of subsection (1) of section  
278 1012.39, Florida Statutes, is amended to read:
- 279 1012.39 Employment of substitute teachers, teachers of  
280 adult education, nondegreed teachers of career education, and  
281 career specialists; students performing clinical field  
282 experience.—
- 283 (1) Notwithstanding ss. 1012.32, 1012.55, 1012.56, and  
284 1012.57, or any other provision of law or rule to the contrary,  
285 each district school board shall establish the minimal  
286 qualifications for:
- 287 (c) Part-time and full-time nondegreed teachers of career  
288 programs. Qualifications shall be established for nondegreed



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289 teachers of career and technical education courses for program  
290 clusters that are recognized in the state and are based  
291 primarily on successful occupational experience rather than  
292 academic training. The qualifications for such teachers shall  
293 require:

294 1. The filing of a complete set of fingerprints in the same  
295 manner as required by s. 1012.32. Faculty employed solely to  
296 conduct postsecondary instruction may be exempted from this  
297 requirement.

298 2. Documentation of education and successful occupational  
299 experience including documentation of:

300 a. A high school diploma or the equivalent.

301 b. Completion of 6 years of full-time successful  
302 occupational experience or the equivalent of part-time  
303 experience in the teaching specialization area. The district  
304 school board may establish alternative qualifications for  
305 teachers with an industry certification in the career area in  
306 which they teach.

307 c. Completion of career education training conducted  
308 through the local school district inservice master plan or  
309 through an educator preparation institute approved by the State  
310 Board of Education pursuant to s. 1004.85.

311 d. For full-time teachers, completion of professional  
312 education training in teaching methods, course construction,  
313 lesson planning and evaluation, and teaching special needs  
314 students. This training may be completed through coursework from  
315 an accredited or approved institution or an approved district  
316 teacher education program.

317 e. Demonstration of successful teaching performance.



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318 f. Documentation of industry certification when state or  
319 national industry certifications are available and applicable.

320 Section 6. Subsection (3) and paragraph (a) of subsection  
321 (7) of section 1012.56, Florida Statutes, are amended to read:  
322 1012.56 Educator certification requirements.—

323 (3) MASTERY OF GENERAL KNOWLEDGE.—Acceptable means of  
324 demonstrating mastery of general knowledge are:

325 (a) Achievement of passing scores on the general knowledge  
326 examination required by state board rule;

327 (b) Documentation of a valid professional standard teaching  
328 certificate issued by another state;

329 (c) Documentation of a valid certificate issued by the  
330 National Board for Professional Teaching Standards or a national  
331 educator credentialing board approved by the State Board of  
332 Education;

333 (d) Documentation of two semesters of successful, full-time  
334 or part-time teaching in a Florida College System institution,  
335 state university, or private college or university that awards  
336 an associate or higher degree and is an accredited institution  
337 or an institution of higher education identified by the  
338 Department of Education as having a quality program; ~~or~~

339 (e) Achievement of passing scores, identified in state  
340 board rule, on national or international examinations that test  
341 comparable content and relevant standards in verbal, analytical  
342 writing, and quantitative reasoning skills, including, but not  
343 limited to, the verbal, analytical writing, and quantitative  
344 reasoning portions of the Graduate Record Examination. Passing  
345 scores identified in state board rule must be at approximately  
346 the same level of rigor as is required to pass the general



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347 knowledge examinations; or  
348 (f) Documentation of receipt of a master's or higher degree  
349 from an accredited postsecondary educational institution that  
350 the Department of Education has identified as having a quality  
351 program resulting in a baccalaureate degree or higher.  
352

353 A school district that employs an individual who does not  
354 achieve passing scores on any subtest of the general knowledge  
355 examination must provide information regarding the availability  
356 of state-level and district-level supports and instruction to  
357 assist him or her in achieving a passing score. Such information  
358 must include, but need not be limited to, state-level test  
359 information guides, school district test preparation resources,  
360 and preparation courses offered by state universities and  
361 Florida College System institutions.

362 (7) TYPES AND TERMS OF CERTIFICATION.—

363 (a) The Department of Education shall issue a professional  
364 certificate for a period not to exceed 5 years to any applicant  
365 who fulfills one of the following:

- 366 1. Meets all the applicable requirements outlined in  
367 subsection (2).
- 368 2. For a professional certificate covering grades 6 through  
369 12:
  - 370 a. Meets the applicable requirements of paragraphs (2)(a)-  
371 (h).
  - 372 b. Holds a master's or higher degree in the area of  
373 science, technology, engineering, or mathematics.
  - 374 c. Teaches a high school course in the subject of the  
375 advanced degree.



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376 d. Is rated highly effective as determined by the teacher's  
377 performance evaluation under s. 1012.34, based in part on  
378 student performance as measured by a statewide, standardized  
379 assessment or an Advanced Placement, Advanced International  
380 Certificate of Education, or International Baccalaureate  
381 examination.

382 e. Achieves a passing score on the Florida professional  
383 education competency examination required by state board rule.

384 3. Meets the applicable requirements of paragraphs (2)(a)-  
385 (h) and completes a professional preparation and education  
386 competence program approved by the department pursuant to  
387 paragraph (8)(c) or an educator preparation institute approved  
388 by the department pursuant to s. 1004.85. An applicant who  
389 completes one of these programs ~~the program~~ and is rated highly  
390 effective as determined by his or her performance evaluation  
391 under s. 1012.34 is not required to take or achieve a passing  
392 score on the professional education competency examination in  
393 order to be awarded a professional certificate.

394  
395 Each temporary certificate is valid for 3 school fiscal years  
396 and is nonrenewable. At least 1 year before an individual's  
397 temporary certificate is set to expire, the department shall  
398 electronically notify the individual of the date on which his or  
399 her certificate will expire and provide a list of each method by  
400 which the qualifications for a professional certificate can be  
401 completed. The State Board of Education shall adopt rules to  
402 allow the department to extend the validity period of a  
403 temporary certificate for 2 years when the requirements for the  
404 professional certificate were not completed due to the serious



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405 illness or injury of the applicant, the military service of an  
406 applicant's spouse, other extraordinary extenuating  
407 circumstances, or if the certificateholder is rated highly  
408 effective in the immediate prior year's performance evaluation  
409 pursuant to s. 1012.34 or has completed a 2-year mentorship  
410 program pursuant to s. 1012.56(8). The department shall extend  
411 the temporary certificate upon approval by the Commissioner of  
412 Education. A written request for extension of the certificate  
413 shall be submitted by the district school superintendent, the  
414 governing authority of a university lab school, the governing  
415 authority of a state-supported school, or the governing  
416 authority of a private school.

417 Section 7. Section 1012.575, Florida Statutes, is amended  
418 to read:

419 1012.575 Alternative preparation programs for certified  
420 teachers to add additional coverage.—A district school board, or  
421 an organization of private schools or a consortium of charter  
422 schools with an approved professional development system as  
423 described in s. 1012.98(6), may design alternative teacher  
424 preparation programs to enable persons already certificated to  
425 add an additional coverage to their certificates. Each  
426 alternative teacher preparation program shall be reviewed and  
427 approved by the Department of Education to assure that persons  
428 who complete the program are competent in the necessary areas of  
429 subject matter specialization. Two or more school districts may  
430 jointly participate in an alternative preparation program for  
431 teachers.

432 Section 8. Subsections (1) and (2) of section 1012.986,  
433 Florida Statutes, are amended to read:



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434 1012.986 William Cecil Golden Professional Development  
435 Program for School Leaders.—

436 (1) There is established the William Cecil Golden  
437 Professional Development Program for School Leaders to provide  
438 high-quality high standards and sustained support for  
439 educational principals as instructional leaders. For purposes of  
440 this section, "educational leader" means teacher leaders,  
441 assistant principals, principals, or school district leaders.  
442 The program shall consist of a collaborative network of school  
443 districts, state-approved educational leadership programs,  
444 regional consortia, charter management organizations, and state  
445 and national professional leadership organizations to respond to  
446 educational instructional leadership needs throughout the state.  
447 The network shall support the human-resource development needs  
448 of educational leaders principals, principal leadership teams,  
449 and candidates for principal leadership positions using the  
450 framework of leadership standards adopted by the State Board of  
451 Education, ~~the Southern Regional Education Board, and the~~  
452 ~~National Staff Development Council.~~ The goal of the network  
453 leadership program is to:

454 (a) Provide resources to support and enhance the roles of  
455 educational leaders principal's role as the instructional  
456 leader.

457 (b) Maintain a clearinghouse and disseminate data-supported  
458 information related to the continued enhancement of enhanced  
459 student achievement and learning, civic education, coaching and  
460 mentoring, mental health awareness, technology in education,  
461 distance learning, and school safety, based on educational  
462 research and best practices.



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463 (c) ~~Build the capacity to~~ Increase the quality and capacity  
464 of educational leadership development programs ~~for preservice~~  
465 ~~education for aspiring principals and inservice professional~~  
466 ~~development for principals and principal leadership teams.~~

467 (d) Support evidence-based leadership ~~best teaching and~~  
468 ~~research-based instructional~~ practices through dissemination and  
469 modeling at the preservice and inservice levels for educational  
470 leaders ~~both teachers and principals.~~

471 (2) The Department of Education shall coordinate through  
472 the network identified in subsection (1) to offer the program  
473 components through multiple delivery systems, including:

474 (a) Approved school district training programs.

475 (b) Interactive technology-based instruction.

476 (c) Regional consortium service organizations pursuant to  
477 s. 1001.451.

478 (d) State, regional, university, or local educational  
479 leadership academies.

480 (e) Educational leadership coaching and mentoring.

481 Section 9. This act shall take effect July 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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 934

INTRODUCER: Appropriations Committee; (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senator Wright

SUBJECT: Education

DATE: April 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Westmark</u>	<u>Bouck</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 934 modifies provisions related to district school boards, high-performing school districts, educator certification and nondegreed career teacher qualifications, teacher preparation programs and educator preparation institutes (EPIs), and school leadership. Specifically, the bill:

- Modifies the uniform core curricula for state-approved teacher preparation programs and EPI competency-based program requirements.
- Removes the General Knowledge Test as an admission requirement to a teacher preparation program.
- Provides that completion of an EPI may demonstrate education and successful occupational experience for nondegreed teachers of career education, and also professional preparation and education competence toward an educator certificate.
- Specifies that a master's degree or higher degree may demonstrate mastery of general knowledge toward an educator certificate.
- Authorizes an organization of private schools or a consortium of charter schools as specified to design alternative preparation programs for certified teachers to add on additional coverages to their certificate.
- Modifies the William Cecil Golden Professional Development Program for School Leaders to expand the definition of an educational leader and expand the collaborative network.
- Authorizes members of special committees and advisory committees to attend meetings and establish quorums in person or through the use of telecommunications networks.

- Specifies that no official action of a school board may be taken at any meeting of a special committee or an advisory committee.
- Authorizes high-performing school districts to provide up to two days of virtual instruction as part of the required 180 actual teaching days.
- Requires such districts to submit a plan for each day of virtual instruction to the Department of Education for approval.

The bill does not affect state expenditures or revenues.

The bill takes effect July 1, 2021.

## II. Present Situation:

### Educator Certification Requirements

#### *Initial Eligibility*

To be eligible to seek certification of an educator in Florida, a person must:

- Meet general eligibility criteria to ensure competence and capability to perform the duties, functions, and responsibilities as an educator, including a minimum age, an oath of loyalty, demonstration of a bachelor's or higher degree, and background screening.
- Demonstrate mastery of general knowledge if the person serves as a classroom teacher.
- Demonstrate mastery of subject area knowledge.
- Demonstrate mastery of professional preparation and education competence.<sup>1</sup>

#### *Mastery of General Knowledge*

Acceptable means to demonstrate mastery of general knowledge to meet educator certification requirements include:

- Achievement of passing scores on the general knowledge examination required by State Board of Education (SBE) rule;
- Documentation of a valid professional standard teaching certificate issued by another state;
- Documentation of a valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the SBE;
- Documentation of two semesters of successful, full-time or part-time teaching in a Florida College System (FCS) institution, state university, or private college or university that awards an associate or higher degree and is an accredited institution or an institution of higher education identified by the Department of Education (DOE) as having a quality program; or
- Achievement of passing scores, identified in SBE rule, on national or international examinations that test comparable content and relevant standards in verbal, analytical writing, and quantitative reasoning skills, including, but not limited to, the verbal, analytical writing, and quantitative reasoning portions of the Graduate Record Examination.<sup>2</sup>

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<sup>1</sup> Section 1012.56(2), F.S.

<sup>2</sup> Section 1012.56(3), F.S. A school district that employs an individual who does not achieve passing scores on any subtest of the general knowledge examination must provide information regarding the availability of state-level and district-level supports and instruction to assist him or her in achieving a passing score. Such information must include, but need not be



***Mastery of Subject Area Knowledge***

Acceptable means of demonstrating mastery of subject area knowledge to meet educator certification requirements include:

- For a subject requiring only a baccalaureate degree, a passing score on an examination specified in SBE rule,<sup>3</sup> and may include passing scores on foreign language proficiency examinations, if applicable, or verification of the attainment of subject matter competencies;
- For a subject requiring a master's or higher degree, completion of the subject area specialization requirements specified in SBE rule and achievement of a passing score on the Florida-developed subject area examination or a standardized examination specified in SBE rule;
- Documentation of a valid professional standard teaching certificate issued by another state;
- Documentation of a valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the SBE;
- Documentation of successful completion of a United States Defense Language Institute Foreign Language Center program; or
- Documentation of a passing score on the Defense Language Proficiency Test.<sup>4</sup>

***Mastery of Professional Preparation***

Acceptable means of demonstrating mastery of professional preparation and education competence to meet educator certification requirements are:

- Successful completion of an approved teacher preparation program at a postsecondary educational institution within Florida and achievement of a passing score on the professional education competency examination required by SBE rule;
- Successful completion of a teacher preparation program at a postsecondary educational institution outside Florida and achievement of a passing score on the professional education competency examination required by SBE rule;
- Documentation of a valid professional standard teaching certificate issued by another state;
- Documentation of a valid certificate issued by the National Board for Professional Teaching Standards or a national educator credentialing board approved by the SBE;
- Documentation of two semesters of successful, full-time or part-time teaching in a FCS institution, state university, or private college or university that awards an associate or higher degree and is an accredited institution or an institution of higher education identified by the DOE as having a quality program and achievement of a passing score on the professional education competency examination required by SBE rule;
- Successful completion of professional preparation courses as specified in state board rule, successful completion of a specified professional preparation and education competence program, and achievement of a passing score on the professional education competency examination required by SBE rule;
- Successful completion of a specified professional development certification and education competence program; or

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limited to, state-level test information guides, school district test preparation resources, and preparation courses offered by state universities and Florida College System institutions. Section 1012.56(3)(e), F.S.

<sup>3</sup> Subject area examinations are required to be aligned to the Next Generation Sunshine State Standards. Section 1012.56(4), F.S.

<sup>4</sup> Section 1012.56(5), F.S.

- Successful completion of a specified competency-based certification program and achievement of a passing score on the professional education competency examination required by rule of the SBE.<sup>5</sup>

### **District Alternative Certification Programs**

Educators who currently hold a valid Florida Temporary or Professional Certificate may be eligible to add another subject coverage or endorsement,<sup>6</sup> according to subject specialization requirements outlined in SBE rule.<sup>7</sup>

Professional Development Certification Programs, formally known as District Alternative Certification Programs, are offered by Florida public school districts, charter schools, or charter management organizations to provide instruction for members of its instructional staff who are non-education baccalaureate or higher degree holders as specified in law,<sup>8</sup> resulting in qualification for an initial Florida Professional Educator's Certificate.<sup>9</sup> Certified teachers may add additional coverage through alternative preparation programs as defined in law.<sup>10</sup> Each alternative teacher preparation program is required to be reviewed and approved by DOE to assure that persons who complete it are competent in the necessary areas of subject matter specialization.<sup>11</sup>

DOE-approved district add-on programs include those offered by colleges, universities, and school districts.<sup>12</sup> Of the 91 providers of teacher preparation programs in Florida for 2020, 23 are districts that run their own programs.<sup>13</sup>

### **Non-degreed Teachers of Career Education**

Qualifications for part-time and full-time non-degreed teachers of career programs are based primarily on successful occupational experience rather than academic training.<sup>14</sup> The qualifications for such teachers require:

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<sup>5</sup> *Id.*

<sup>6</sup> An endorsement is a rider on a Florida certificate with a full subject coverage and denotes a particular expertise in an instructional level or methodology. Florida Department of Education, *Certificate Additions*, <https://www.fldoe.org/teaching/certification/additions/> (last visited March 3, 2021). Endorsements may include, but are not limited to, Autism Spectrum Disorders, English for Speakers of Other Languages (ESOL), Gifted, and Reading.

<sup>7</sup> Florida Department of Education, *Certificate Additions*, <http://www.fldoe.org/teaching/certification/additions/> (last visited March 3, 2021). Educator certification requirements are addressed in s. 1012.56, F.S. *See also* Florida Department of Education, *Certificate Subjects*, <http://www.fldoe.org/teaching/certification/certificate-subjects/> (last visited March 3, 2021); Rules 6A-4.001 - 6A-4.078, F.A.C.

<sup>8</sup> *See* s. 1012.56(8), F.S.

<sup>9</sup> Florida Department of Education, *Professional Development Certification Programs*, <http://www.fldoe.org/teaching/preparation/pdcp.shtml> (last visited March 3, 2021).

<sup>10</sup> Section 1012.575, F.S.

<sup>11</sup> Two or more school districts may jointly participate in an alternative preparation program for teachers. *Id.*

<sup>12</sup> *See* Florida Department of Education, *State-Approved Educator Preparation Programs*, <http://www.fldoe.org/teaching/preparation/initial-teacher-preparation-programs/approved-teacher-edu-programs.shtml> (last visited March 3, 2021). *See also* Rule 6A-5.066, F.A.C.

<sup>13</sup> Sandi Jacobs, EducationCounsel, *A Summary and Analysis of Program Performance* (December 2020), available at <http://www.fldoe.org/core/fileparse.php/7502/urlt/2020FloridaTeacherPrepReport.pdf>, at 3.

<sup>14</sup> Section 1012.39(1)(c), F.S.

- The filing of a complete set of fingerprints as specified in law.
- Documentation of education and successful occupational experience, including:
  - A high school diploma or the equivalent.
  - Completion of six years of full-time successful occupational experience or the equivalent of part-time experience in the teaching specialization area.<sup>15</sup>
  - Completion of career education training conducted through the local school district inservice master plan.
  - For full-time teachers, completion of professional education training in teaching methods, course construction, lesson planning and evaluation, and teaching special needs students.<sup>16</sup>
  - Demonstration of successful teaching performance.
  - Documentation of industry certification when state or national industry certifications are available and applicable.<sup>17</sup>

### **Teacher Preparation Programs**

The SBE maintains a system for development and approval of teacher preparation programs,<sup>18</sup> and each teacher preparation program must be approved by the DOE as specified in law.<sup>19</sup> Continued approval of a teacher preparation program is based on evidence that the program continues to implement the requirements for initial approval and upon significant, objective, and quantifiable measures of the program and the performance of the program completers.<sup>20</sup>

The SBE establishes in rule uniform core curricula for each state-approved teacher preparation program. Such rules must include, but are not limited to, the following:

- Candidate instruction and assessment in the Florida Educator Accomplished Practices across content areas.
- The use of state-adopted content standards to guide curricula and instruction.
- Scientifically researched and evidence-based reading instructional strategies that improve reading performance for all students, including explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and multisensory intervention strategies.
- Content literacy and mathematics practices.
- Strategies appropriate for the instruction of English language learners.
- Strategies appropriate for the instruction of students with disabilities.
- Strategies to differentiate instruction based on student needs.
- The use of character-based classroom management.<sup>21</sup>

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<sup>15</sup> The district school board may establish alternative qualifications for teachers with an industry certification in the career area in which they teach. *Id.*

<sup>16</sup> This training may be completed through coursework from an accredited or approved institution or an approved district teacher education program. *Id.*

<sup>17</sup> Section 1012.39(1)(c), F.S.

<sup>18</sup> Section 1004.04(1)(b), F.S.

<sup>19</sup> Section 1004.04(3)(c), F.S.

<sup>20</sup> Section 1004.04(4), F.S.

<sup>21</sup> Section 1004.04(2)(a)-(b), F.S.

Each teacher preparation program approved by the DOE must require students to meet, at a minimum, the following as prerequisites for admission into the program:

- Have a grade point average of at least 2.5 on a 4.0 scale in coursework and at an institution specified in law.
- Demonstrate mastery of general knowledge sufficient for entry into the program, including the ability to read, write, and perform in mathematics, by passing the General Knowledge Test of the Florida Teacher Certification Examination or, for a graduate level program, obtain a baccalaureate degree from an institution that is accredited or approved pursuant to the rules of the SBE.<sup>22</sup>

### **Postsecondary Educator Preparation Institutes**

Educator Preparation Institutes (EPIs) provide an alternate route to teacher certification.<sup>23</sup> EPIs are created by a postsecondary institution or a qualified private provider and approved by the DOE.<sup>24</sup> Postsecondary institutions that are accredited or approved as described in SBE rule may seek approval from the DOE to create EPIs for the purpose of providing:

- Professional development instruction to assist teachers in improving classroom instruction and in meeting certification or recertification requirements.
- Instruction to assist potential and existing substitute teachers in performing their duties.
- Instruction to assist paraprofessionals in meeting education and training requirements.
- Instruction for baccalaureate degree holders to become certified teachers as provided in this section in order to increase routes to the classroom for mid-career professionals who hold a baccalaureate degree and college graduates who were not education majors.<sup>25</sup>

Approved EPIs may offer competency-based certification programs specifically designed for non-education major baccalaureate degree holders to enable program participants to meet the educator certification requirements. The DOE is required to approve the program if the EPI includes each of the following:

- Participant instruction and assessment in the Florida Educator Accomplished Practices across content areas.
- The use of state-adopted student content standards to guide curriculum and instruction.
- Scientifically researched and evidence-based reading instructional strategies that improve reading performance for all students, including explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and multisensory intervention strategies.
- Content literacy and mathematical practices.
- Strategies appropriate for instruction of English language learners.
- Strategies appropriate for instruction of students with disabilities.
- Strategies to differentiate instruction based on student needs.
- The use of character-based classroom management.<sup>26</sup>

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<sup>22</sup> Section 1004.04(3)(b), F.S.

<sup>23</sup> Florida Department of Education, *Educator Preparation Institutes (EPIs)*, <http://www.fldoe.org/schools/higher-ed/fl-college-system/academic-student-affairs/educator-preparation-institutes-epis/> (last visited Feb. 26, 2021).

<sup>24</sup> Section 1004.85(1), F.S.

<sup>25</sup> Section 1004.85(2)(a), F.S.

<sup>26</sup> Section 1004.85(3), F.S.

A private provider that has a proven history of delivering high-quality teacher preparation may also seek approval to offer a competency-based certification program specifically designed for non-education major baccalaureate degree holders to enable program participants to meet educator certification requirements.<sup>27</sup>

### **School Leadership Programs**

Public accountability and state approval of school leader preparation programs are outlined in law, and their purpose is to:

- Increase the supply of effective school leaders in the public schools of this state.
- Produce school leaders who are prepared to lead the state's diverse student population in meeting high standards for academic achievement.
- Enable school leaders to facilitate the development and retention of effective and highly effective classroom teachers.
- Produce leaders with the competencies and skills necessary to achieve the state's education goals.
- Sustain the state system of school improvement and education accountability.<sup>28</sup>

### ***William Cecil Golden Professional Development Program for School Leaders***

The William Cecil Golden Professional Development Program for School Leaders was established to provide high standards and sustained support for principals as instructional leaders. The program consists of a collaborative network of state and national professional leadership organizations, coordinated by DOE, to support the human-resource development needs of principals, principal leadership teams, and candidates for principal leadership positions using the framework of leadership standards adopted by the SBE, the Southern Regional Education Board, and the National Staff Development Council.<sup>29</sup>

The goal of the network leadership program is to:

- Provide resources to support and enhance the principal's role as the instructional leader.
- Maintain a clearinghouse and disseminate data-supported information related to enhanced student achievement, based on educational research and best practices.
- Build the capacity to increase the quality of programs for preservice education for aspiring principals and in-service professional development for principals and principal leadership teams.
- Support best teaching and research-based instructional practices through dissemination and modeling at the preservice and in-service levels for both teachers and principals.<sup>30</sup>

### **District School Board Governance**

Each district school board may adopt policies and procedures necessary for the daily business operation of the district school board, including, but not limited to:

- The provision of legal services for the district school board;

<sup>27</sup> Section 1004.85(2)(b), F.S.

<sup>28</sup> Section 1012.562, F.S.

<sup>29</sup> Section 1012.986, F.S.

<sup>30</sup> *Id.*

- Conducting a district legislative program;
- District school board member participation at conferences, conventions, and workshops;
- District school board policy development, adoption, and repeal;
- Meeting procedures, including participation via telecommunications networks, use of technology at meetings, and presentations by nondistrict personnel;
- Citizen communications with the district school board and with individual district school board members;
- Collaboration with local government and other entities as required by law; and
- Organization of the district school board, including special committees and advisory committees.<sup>31</sup>

### **High-Performing School Districts**

Florida recognizes and rewards school districts that demonstrate the ability to consistently maintain or improve their high-performing status through providing such districts with flexibility in meeting specific requirements.<sup>32</sup>

A school district is an academically high-performing school district if it meets the following criteria:

- Earns a grade of “A” for two consecutive years;
- Has no district-operated school that earns a grade of “F”;
- Complies with all class size requirements; and
- Has no material weaknesses or instances of material noncompliance noted in the annual financial audit.<sup>33</sup>

Specific requirements that high-performing school districts must meet include requirements pertaining to:

- The provision of services to students with disabilities;
- Civil rights and provisions relating to discrimination;
- Student health, safety, and welfare;
- The election or compensation of district school board members;
- Student assessment program and the school grading system;
- Financial matters with specified exemptions;
- Planning and budgeting;
- Public school personnel compensation and salary schedules;
- Educational facilities with specified exemptions;
- Instructional materials with specified exemptions;
- Uniform opening date of public schools; and

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<sup>31</sup> Section 1001.43(10), F.S.

<sup>32</sup> Section 1003.621, F.S.

<sup>33</sup> In 2002, citizens approved an amendment to the Florida Constitution that set limits on the number of students in core classes in the state's public schools. Beginning with the 2010-2011 school year, the maximum number of students in each core class would be 18 students in prekindergarten through grade 3; 22 students in grades 4 through 8; and 25 students in grades 9 through 12. Florida Department of Education, *Class Size* <http://www.fldoe.org/finance/budget/class-size/> (last visited March 25, 2021), *Id.*

- Requirements specific to High-Performing School Districts.<sup>34</sup>

### III. Effect of Proposed Changes:

#### Teacher Preparation Programs

The bill modifies s. 1004.04, F.S., to add to the uniform core curricula for each state-approved teacher preparation program, strategies:

- Appropriate for the early identification of students in crisis or experiencing a mental health challenge and the referral of such student to a mental health professional for support.
- To support the use of technology in education and distance learning.

The bill makes it easier for a student to be admitted to an approved teacher preparation program. Specifically, the bill requires students to pass the General Knowledge Test by the time the student completes the program, rather than passing the test to demonstrate mastery of general knowledge as an admissions requirement to a program. However, the bill removes the option to waive admissions requirements for up to 10 percent of admitted students and provide assistance to those who receive waivers to demonstrate competencies, as well as report the status of these annually to the Department of Education (DOE).

#### Postsecondary Educator Preparation Institutes

The bill modifies provisions relating to educator preparation institutes (EPIs). Specifically, the bill modifies:

- Section 1004.85, F.S., related to EPIs, to:
  - Expand the purpose for which a postsecondary institution may seek DOE approval for an EPI, to include instruction and professional development for part-time and full-time non-degreed teachers of career programs.
  - Add to the requirement that if an EPI implements a competency-based program, it must include strategies appropriate for the early identification of students in crisis or experiencing a mental health challenge and the referral of such students to a mental health professional for support, and strategies to support the use of technology in education and distance learning.
  - Add an exception for EPI program participants, as provided in s. 1012.56(7)(a)3., F.S., from the requirement to achieve a passing score on the professional education competency examination before completion of an EPI program, to each fully demonstrate his or her ability to teach the subject area for which he or she is seeking certification. The bill specifies that completion of an EPI program, along with completion of general certificate, general knowledge, and subject area requirements as specified in law, meets the requirements for an educator professional certificate.
- Section 1012.39, F.S., to add completion of an EPI program approved by the State Board of Education (SBE) as a means of documenting education and successful occupational experience, in addition to completion of career education training conducted through the local school district in-service master plan.

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<sup>34</sup> Section 1003.621, F.S.

## **Educator Certification and Alternative Teacher Preparation**

The bill modifies s. 1012.56, F.S., relating to educator certification requirements to:

- Add, as an acceptable means of demonstrating mastery of general knowledge, documentation of receipt of a master's or higher degree from an accredited postsecondary educational institution that the DOE has identified as having a quality program resulting in a baccalaureate degree or higher.
- Add completion of an EPI approved by the DOE as an optional means to demonstrate professional preparation and education competence. Additionally, a student who meets the requirement through an EPI and is rated highly effective is not required to take or achieve a passing score on the professional education competency examination to be awarded a professional certificate.

The bill modifies s. 1012.575, F.S., relating to alternative preparation programs for certified teachers, to authorize an organization of private schools or a consortium of charter schools with an approved professional development system<sup>35</sup> to design alternative preparation programs for certified teachers to add an additional coverage to their certificates.

## **School Leadership Programs**

The bill modifies s. 1012.986, F.S., relating to the William Cecil Golden Professional Development Program for School Leaders. Specifically, the bill:

- Expands the definition of an “educational leader” from a principal to also include teacher leaders, assistant principals, or school district leaders.
- Expands the program collaborative network to include school districts, state-approved educational leadership programs, regional consortia, and charter management organizations.
- The bill removes the Southern Regional Education Board and the National Staff Development Council as adopters of the framework of leadership standards, but retains adoption by the SBE.
- Modifies the goal of the network leadership program to:
  - Provide resources to support educational leaders.
  - Expand the information maintained by the program to specify continued enhancement of learning, civic education, coaching and mentoring, mental health awareness, technology in education, distance learning, and school safety.
  - Increase the capacity of educational leadership programs.
  - Support evidence-based leadership practices for educational leaders.
- Modifies the delivery systems by which the DOE must coordinate program components to add universities and educational leadership coaching and mentoring, and specifies that local leadership academies are educational.

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<sup>35</sup> An organization of private schools or consortium of charter schools which has no fewer than 10 member schools in this state, which publishes and files with the DOE copies of its standards, and the member schools of which comply with the provisions specified in law relating to compulsory school attendance, may also develop a professional development system that includes a master plan for in-service activities. The system and in-service plan must be submitted to the commissioner for approval pursuant to SBE rules. Section 1012.98(6), F.S.



### **District School Boards**

The bill modifies s. 1001.43, F.S., relating to supplemental powers and duties of the district school board, to authorize members of special committees and advisory committees of a district school board to attend meetings and establish quorums in person or through the use of telecommunications networks, such as telephonic and video conferencing. The bill prohibits any official action of the school board being taken at any meeting of a special committee or an advisory committee.

### **High-Performing School Districts**

The bill modifies s. 1003.621, F.S., relating to academically high-performing school districts, to authorize high-performing school districts to provide up to two days of virtual instruction as part of the required 180 actual teaching or the equivalent on an hourly basis each school year.<sup>36</sup> Virtual instruction that is conducted in accordance with the plan approved by the DOE, is teacher-developed, and is aligned with the standards for enrolled courses complies with the minimum term requirements for the operation of schools. In addition, the bill requires the day or days must be indicated on the calendar approved by the school board.

The school districts are also required to submit a plan for each day of virtual instruction to the DOE for approval, in a format prescribed by the DOE, with assurances of alignment to statewide student standards<sup>37</sup> before the start of each school year.

The bill takes effect 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.

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<sup>36</sup> See Rule 6A-1.045111, F.A.C. SBE rule specifies that each school district that participates in the state appropriations for the Florida Education Finance Program must operate all schools for a term of 180 actual teaching days as prescribed by s. 1011.60(2), F.S., or the equivalent. *Id.*

<sup>37</sup> Section 1003.41, F.S., describes the Next Generation Sunshine State Standards as the core content of the curricula to be taught in the state and the core content knowledge and skills that K-12 public school students are expected to acquire. Such standards must meet specified requirements, including specific curricular content for English language arts, science, mathematics, social studies, and visual and performing arts.

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: 1001.43, 1003.621, 1004.04, 1004.85, 1012.39, 1012.56, 1012.575, and 1012.986.

**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 April 21, 2021:**

The committee substitute makes the following changes:

- Authorizes members of special committees and advisory committees of a district school board to attend meetings and establish quorums in person or through the use of telecommunications networks.
- Specifies that no official action of a school board may be taken at any meeting of a special committee or an advisory committee.
- Authorizes high-performing school districts to provide up to two days of virtual instruction as part of the required 180 actual teaching days.
- Adds an exception for educator preparation institute (EPI) program participants, as provided in s. 1012.56(7)(a)3., F.S., from the requirement to achieve a passing score on the professional education competency examination before completion of the EPI program, to each fully demonstrate his or her ability to teach the subject area for

which he or she is seeking certification. The CS/CS specifies that completion of an EPI program, along with completion of general certificate, general knowledge, and subject area requirements as specified in law, meets the requirements for an educator professional certificate.

- Removes the exemption from statutory requirements concerning district school board meetings.
- Specifies that virtual instruction that is conducted in accordance with the plan approved by the Department of Education (DOE), is teacher-developed, and is aligned with the standards for enrolled courses complies with minimum term requirements for the operation of schools, and specifies that the day or days must be indicated on the calendar approved by the school board.
- Requires the district to submit a plan for each day of virtual instruction to the DOE for approval, in a format prescribed by the DOE, with assurances of alignment to statewide student standards before the start of each school year.

**CS by Education on March 3, 2021:**

The committee substitute:

- Adds to the requirement that if an educator preparation institute implements a competency-based program, it must include strategies appropriate for the early identification of students in crisis or experiencing a mental health challenge and the referral of such students to a mental health professional for support, and strategies to support the use of technology in education and distance learning.
- Authorizes an organization of private schools or a consortium of charter schools with an approved professional development system to design alternative preparation programs for certified teachers to add an additional coverage to their certificates.

**B. Amendments:**

None.

By the Committee on Education; and Senator Wright

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1 A bill to be entitled  
 2 An act relating to education; amending s. 1004.04,  
 3 F.S.; requiring additional specified strategies to be  
 4 included in rules establishing uniform core curricula  
 5 for each state-approved teacher preparation program;  
 6 requiring that certain teacher preparation programs  
 7 require students to demonstrate mastery of general  
 8 knowledge by passing the General Knowledge Test of the  
 9 Florida Teacher Certification Examination by the time  
 10 of graduation; deleting a provision authorizing a  
 11 teacher preparation program to waive certain  
 12 admissions requirements for up to 10 percent of  
 13 admitted students; amending s. 1004.85, F.S.;  
 14 expanding the instruction that an educator preparation  
 15 institute may provide to include instruction and  
 16 professional development for part-time and full-time  
 17 nondegreed teachers of career programs; requiring the  
 18 Department of Education to approve a certification  
 19 program if an institute provides evidence of its  
 20 capacity to implement a competency-based program that  
 21 includes specified strategies; amending s. 1012.39,  
 22 F.S.; revising the minimum qualifications for part-  
 23 time and full-time nondegreed teachers of career  
 24 programs; amending s. 1012.56, F.S.; revising the  
 25 acceptable means of demonstrating mastery of general  
 26 knowledge to include documentation of receipt of a  
 27 master's or higher degree from certain postsecondary  
 28 institutions; revising the criteria for the Department  
 29 of Education to issue a professional certificate;

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30 amending s. 1012.575, F.S.; authorizing an  
 31 organization of private schools or a consortium of  
 32 charter schools with an approved professional  
 33 development system to design alternative teacher  
 34 preparation programs; amending s. 1012.986, F.S.;  
 35 defining the term "educational leader"; providing that  
 36 the William Cecil Golden Professional Development  
 37 Program for School Leaders must consist of a network  
 38 of specified entities; revising the goals of the  
 39 program; requiring the department to also offer  
 40 program components through university or educational  
 41 leadership academies and through educational  
 42 leadership coaching and mentoring; making technical  
 43 changes; providing an effective date.  
 44  
 45 Be It Enacted by the Legislature of the State of Florida:  
 46  
 47 Section 1. Paragraph (b) of subsection (2) and paragraph  
 48 (b) of subsection (3) of section 1004.04, Florida Statutes, are  
 49 amended to read:  
 50 1004.04 Public accountability and state approval for  
 51 teacher preparation programs.—  
 52 (2) UNIFORM CORE CURRICULA AND CANDIDATE ASSESSMENT.—  
 53 (b) The rules to establish uniform core curricula for each  
 54 state-approved teacher preparation program must include, but are  
 55 not limited to, the following:  
 56 1. Candidate instruction and assessment in the Florida  
 57 Educator Accomplished Practices across content areas.  
 58 2. The use of state-adopted content standards to guide

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59 curricula and instruction.

60 3. Scientifically researched and evidence-based reading  
61 instructional strategies that improve reading performance for  
62 all students, including explicit, systematic, and sequential  
63 approaches to teaching phonemic awareness, phonics, vocabulary,  
64 fluency, and text comprehension and multisensory intervention  
65 strategies.

66 4. Content literacy and mathematics practices.

67 5. Strategies appropriate for the instruction of English  
68 language learners.

69 6. Strategies appropriate for the instruction of students  
70 with disabilities.

71 7. Strategies to differentiate instruction based on student  
72 needs.

73 8. The use of character-based classroom management.

74 9. Strategies appropriate for the early identification of  
75 students in crisis or experiencing a mental health challenge and  
76 the referral of such student to a mental health professional for  
77 support.

78 10. Strategies to support the use of technology in  
79 education and distance learning.

80 (3) INITIAL STATE PROGRAM APPROVAL.—

81 (b) Each teacher preparation program approved by the  
82 Department of Education, as provided for by this section, shall  
83 require students to meet, at a minimum, the following  
84 requirements as prerequisites for admission into the program:

85 1. For admission into the program, have a grade point  
86 average of at least 2.5 on a 4.0 scale for the general education  
87 component of undergraduate studies or have completed the

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88 requirements for a baccalaureate degree with a minimum grade  
89 point average of 2.5 on a 4.0 scale from any college or  
90 university accredited by a regional accrediting association as  
91 defined by State Board of Education rule or any college or  
92 university otherwise approved pursuant to State Board of  
93 Education rule.

94 2. Demonstrate mastery of general knowledge ~~sufficient for~~  
95 ~~entry into the program~~, including the ability to read, write,  
96 and perform in mathematics, by passing the General Knowledge  
97 Test of the Florida Teacher Certification Examination by the  
98 time of graduation or, for a graduate level program, obtain a  
99 baccalaureate degree from an institution that is accredited or  
100 approved pursuant to the rules of the State Board of Education.

101 ~~Each teacher preparation program may waive these admissions~~  
102 ~~requirements for up to 10 percent of the students admitted.~~  
103 ~~Programs shall implement strategies to ensure that students~~  
104 ~~admitted under a waiver receive assistance to demonstrate~~  
105 ~~competencies to successfully meet requirements for certification~~  
106 ~~and shall annually report to the Department of Education the~~  
107 ~~status of each candidate admitted under such a waiver.~~

108 Section 2. Paragraph (a) of subsection (2) and paragraph  
109 (a) of subsection (3) of section 1004.85, Florida Statutes, are  
110 amended to read:

111 1004.85 Postsecondary educator preparation institutes.—

112 (2) (a) Postsecondary institutions that are accredited or  
113 approved as described in State Board of Education rule may seek  
114 approval from the Department of Education to create educator  
115 preparation institutes for the purpose of providing any or all  
116

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117 of the following:

- 118 1. Professional development instruction to assist teachers  
 119 in improving classroom instruction and in meeting certification  
 120 or recertification requirements.
- 121 2. Instruction to assist potential and existing substitute  
 122 teachers in performing their duties.
- 123 3. Instruction to assist paraprofessionals in meeting  
 124 education and training requirements.
- 125 4. Instruction for baccalaureate degree holders to become  
 126 certified teachers as provided in this section in order to  
 127 increase routes to the classroom for mid-career professionals  
 128 who hold a baccalaureate degree and college graduates who were  
 129 not education majors.
- 130 5. Instruction and professional development for part-time  
 131 and full-time nondegreed teachers of career programs under s.  
 132 1012.39(1)(c).
- 133 (3) Educator preparation institutes approved pursuant to  
 134 this section may offer competency-based certification programs  
 135 specifically designed for noneducation major baccalaureate  
 136 degree holders to enable program participants to meet the  
 137 educator certification requirements of s. 1012.56. An educator  
 138 preparation institute choosing to offer a competency-based  
 139 certification program pursuant to the provisions of this section  
 140 must implement a program previously approved by the Department  
 141 of Education for this purpose or a program developed by the  
 142 institute and approved by the department for this purpose.  
 143 Approved programs shall be available for use by other approved  
 144 educator preparation institutes.
- 145 (a) Within 90 days after receipt of a request for approval,

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- 146 the Department of Education shall approve a preparation program  
 147 pursuant to the requirements of this subsection or issue a  
 148 statement of the deficiencies in the request for approval. The  
 149 department shall approve a certification program if the  
 150 institute provides evidence of the institute's capacity to  
 151 implement a competency-based program that includes each of the  
 152 following:
- 153 1.a. Participant instruction and assessment in the Florida  
 154 Educator Accomplished Practices across content areas.
- 155 b. The use of state-adopted student content standards to  
 156 guide curriculum and instruction.
- 157 c. Scientifically researched and evidence-based reading  
 158 instructional strategies that improve reading performance for  
 159 all students, including explicit, systematic, and sequential  
 160 approaches to teaching phonemic awareness, phonics, vocabulary,  
 161 fluency, and text comprehension and multisensory intervention  
 162 strategies.
- 163 d. Content literacy and mathematical practices.
- 164 e. Strategies appropriate for instruction of English  
 165 language learners.
- 166 f. Strategies appropriate for instruction of students with  
 167 disabilities.
- 168 g. Strategies to differentiate instruction based on student  
 169 needs.
- 170 h. The use of character-based classroom management.
- 171 i. Strategies appropriate for the early identification of  
 172 students in crisis or experiencing a mental health challenge and  
 173 the referral of such students to a mental health professional  
 174 for support.

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175 j. Strategies to support the use of technology in education  
 176 and distance learning.

177 2. An educational plan for each participant to meet  
 178 certification requirements and demonstrate his or her ability to  
 179 teach the subject area for which the participant is seeking  
 180 certification, which is based on an assessment of his or her  
 181 competency in the areas listed in subparagraph 1.

182 3. Field experiences appropriate to the certification  
 183 subject area specified in the educational plan with a diverse  
 184 population of students in a variety of challenging environments,  
 185 including, but not limited to, high-poverty schools, urban  
 186 schools, and rural schools, under the supervision of qualified  
 187 educators.

188 4. A certification ombudsman to facilitate the process and  
 189 procedures required for participants who complete the program to  
 190 meet any requirements related to the background screening  
 191 pursuant to s. 1012.32 and educator professional or temporary  
 192 certification pursuant to s. 1012.56.

193 Section 3. Paragraph (c) of subsection (1) of section  
 194 1012.39, Florida Statutes, is amended to read:

195 1012.39 Employment of substitute teachers, teachers of  
 196 adult education, nondegreed teachers of career education, and  
 197 career specialists; students performing clinical field  
 198 experience.—

199 (1) Notwithstanding ss. 1012.32, 1012.55, 1012.56, and  
 200 1012.57, or any other provision of law or rule to the contrary,  
 201 each district school board shall establish the minimal  
 202 qualifications for:

203 (c) Part-time and full-time nondegreed teachers of career

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204 programs. Qualifications shall be established for nondegreed  
 205 teachers of career and technical education courses for program  
 206 clusters that are recognized in the state and are based  
 207 primarily on successful occupational experience rather than  
 208 academic training. The qualifications for such teachers shall  
 209 require:

210 1. The filing of a complete set of fingerprints in the same  
 211 manner as required by s. 1012.32. Faculty employed solely to  
 212 conduct postsecondary instruction may be exempted from this  
 213 requirement.

214 2. Documentation of education and successful occupational  
 215 experience including documentation of:

216 a. A high school diploma or the equivalent.

217 b. Completion of 6 years of full-time successful  
 218 occupational experience or the equivalent of part-time  
 219 experience in the teaching specialization area. The district  
 220 school board may establish alternative qualifications for  
 221 teachers with an industry certification in the career area in  
 222 which they teach.

223 c. Completion of career education training conducted  
 224 through the local school district inservice master plan or  
 225 through an educator preparation institute approved by the State  
 226 Board of Education pursuant to s. 1004.85.

227 d. For full-time teachers, completion of professional  
 228 education training in teaching methods, course construction,  
 229 lesson planning and evaluation, and teaching special needs  
 230 students. This training may be completed through coursework from  
 231 an accredited or approved institution or an approved district  
 232 teacher education program.

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233 e. Demonstration of successful teaching performance.  
 234 f. Documentation of industry certification when state or  
 235 national industry certifications are available and applicable.  
 236 Section 4. Subsection (3) and paragraph (a) of subsection  
 237 (7) of section 1012.56, Florida Statutes, are amended to read:  
 238 1012.56 Educator certification requirements.—  
 239 (3) MASTERY OF GENERAL KNOWLEDGE.—Acceptable means of  
 240 demonstrating mastery of general knowledge are:  
 241 (a) Achievement of passing scores on the general knowledge  
 242 examination required by state board rule;  
 243 (b) Documentation of a valid professional standard teaching  
 244 certificate issued by another state;  
 245 (c) Documentation of a valid certificate issued by the  
 246 National Board for Professional Teaching Standards or a national  
 247 educator credentialing board approved by the State Board of  
 248 Education;  
 249 (d) Documentation of two semesters of successful, full-time  
 250 or part-time teaching in a Florida College System institution,  
 251 state university, or private college or university that awards  
 252 an associate or higher degree and is an accredited institution  
 253 or an institution of higher education identified by the  
 254 Department of Education as having a quality program; ~~or~~  
 255 (e) Achievement of passing scores, identified in state  
 256 board rule, on national or international examinations that test  
 257 comparable content and relevant standards in verbal, analytical  
 258 writing, and quantitative reasoning skills, including, but not  
 259 limited to, the verbal, analytical writing, and quantitative  
 260 reasoning portions of the Graduate Record Examination. Passing  
 261 scores identified in state board rule must be at approximately

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262 the same level of rigor as is required to pass the general  
 263 knowledge examinations; or  
 264 (f) Documentation of receipt of a master's or higher degree  
 265 from an accredited postsecondary educational institution that  
 266 the Department of Education has identified as having a quality  
 267 program resulting in a baccalaureate degree or higher.  
 268  
 269 A school district that employs an individual who does not  
 270 achieve passing scores on any subtest of the general knowledge  
 271 examination must provide information regarding the availability  
 272 of state-level and district-level supports and instruction to  
 273 assist him or her in achieving a passing score. Such information  
 274 must include, but need not be limited to, state-level test  
 275 information guides, school district test preparation resources,  
 276 and preparation courses offered by state universities and  
 277 Florida College System institutions.  
 278 (7) TYPES AND TERMS OF CERTIFICATION.—  
 279 (a) The Department of Education shall issue a professional  
 280 certificate for a period not to exceed 5 years to any applicant  
 281 who fulfills one of the following:  
 282 1. Meets all the applicable requirements outlined in  
 283 subsection (2).  
 284 2. For a professional certificate covering grades 6 through  
 285 12:  
 286 a. Meets the applicable requirements of paragraphs (2)(a)-  
 287 (h).  
 288 b. Holds a master's or higher degree in the area of  
 289 science, technology, engineering, or mathematics.  
 290 c. Teaches a high school course in the subject of the

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291 advanced degree.

292 d. Is rated highly effective as determined by the teacher's  
293 performance evaluation under s. 1012.34, based in part on  
294 student performance as measured by a statewide, standardized  
295 assessment or an Advanced Placement, Advanced International  
296 Certificate of Education, or International Baccalaureate  
297 examination.

298 e. Achieves a passing score on the Florida professional  
299 education competency examination required by state board rule.

300 3. Meets the applicable requirements of paragraphs (2)(a)-  
301 (h) and completes a professional preparation and education  
302 competence program approved by the department pursuant to  
303 paragraph (8)(c) or an educator preparation institute approved  
304 by the department pursuant to s. 1004.85. An applicant who  
305 completes one of these programs ~~the program~~ and is rated highly  
306 effective as determined by his or her performance evaluation  
307 under s. 1012.34 is not required to take or achieve a passing  
308 score on the professional education competency examination in  
309 order to be awarded a professional certificate.

310  
311 Each temporary certificate is valid for 3 school fiscal years  
312 and is nonrenewable. At least 1 year before an individual's  
313 temporary certificate is set to expire, the department shall  
314 electronically notify the individual of the date on which his or  
315 her certificate will expire and provide a list of each method by  
316 which the qualifications for a professional certificate can be  
317 completed. The State Board of Education shall adopt rules to  
318 allow the department to extend the validity period of a  
319 temporary certificate for 2 years when the requirements for the

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320 professional certificate were not completed due to the serious  
321 illness or injury of the applicant, the military service of an  
322 applicant's spouse, other extraordinary extenuating  
323 circumstances, or if the certificateholder is rated highly  
324 effective in the immediate prior year's performance evaluation  
325 pursuant to s. 1012.34 or has completed a 2-year mentorship  
326 program pursuant to s. 1012.56(8). The department shall extend  
327 the temporary certificate upon approval by the Commissioner of  
328 Education. A written request for extension of the certificate  
329 shall be submitted by the district school superintendent, the  
330 governing authority of a university lab school, the governing  
331 authority of a state-supported school, or the governing  
332 authority of a private school.

333 Section 5. Section 1012.575, Florida Statutes, is amended  
334 to read:

335 1012.575 Alternative preparation programs for certified  
336 teachers to add additional coverage.—A district school board, or  
337 an organization of private schools or a consortium of charter  
338 schools with an approved professional development system as  
339 described in s. 1012.98(6), may design alternative teacher  
340 preparation programs to enable persons already certificated to  
341 add an additional coverage to their certificates. Each  
342 alternative teacher preparation program shall be reviewed and  
343 approved by the Department of Education to assure that persons  
344 who complete the program are competent in the necessary areas of  
345 subject matter specialization. Two or more school districts may  
346 jointly participate in an alternative preparation program for  
347 teachers.

348 Section 6. Subsections (1) and (2) of section 1012.986,

Page 12 of 14

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

581-02356-21

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349 Florida Statutes, are amended to read:

350 1012.986 William Cecil Golden Professional Development  
351 Program for School Leaders.—

352 (1) There is established the William Cecil Golden  
353 Professional Development Program for School Leaders to provide  
354 high-quality high standards and sustained support for  
355 educational principals as instructional leaders. For purposes of  
356 this section, "educational leader" means teacher leaders,  
357 assistant principals, principals, or school district leaders.

358 The program shall consist of a collaborative network of school  
359 districts, state-approved educational leadership programs,  
360 regional consortia, charter management organizations, and state  
361 and national professional leadership organizations to respond to  
362 educational instructional leadership needs throughout the state.

363 The network shall support the human-resource development needs  
364 of educational leaders principals, principal leadership teams,  
365 and candidates for principal leadership positions using the  
366 framework of leadership standards adopted by the State Board of  
367 Education, ~~the Southern Regional Education Board, and the~~  
368 ~~National Staff Development Council~~. The goal of the network  
369 leadership program is to:

370 (a) Provide resources to support and enhance the roles of  
371 educational leaders principal's role as the instructional  
372 leader.

373 (b) Maintain a clearinghouse and disseminate data-supported  
374 information related to the continued enhancement of enhanced  
375 student achievement and learning, civic education, coaching and  
376 mentoring, mental health awareness, technology in education,  
377 distance learning, and school safety, based on educational

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378 research and best practices.

379 (c) ~~Build the capacity to~~ Increase the quality and capacity  
380 of educational leadership development programs for preservice  
381 education for aspiring principals and inservice professional  
382 development for principals and principal leadership teams.

383 (d) Support evidence-based leadership best teaching and  
384 research-based instructional practices through dissemination and  
385 modeling at the preservice and inservice levels for educational  
386 leaders both teachers and principals.

387 (2) The Department of Education shall coordinate through  
388 the network identified in subsection (1) to offer the program  
389 components through multiple delivery systems, including:

390 (a) Approved school district training programs.

391 (b) Interactive technology-based instruction.

392 (c) Regional consortium service organizations pursuant to  
393 s. 1001.451.

394 (d) State, regional, university, or local educational  
395 leadership academies.

396 (e) Educational leadership coaching and mentoring.

397 Section 7. This act shall take effect July 1, 2021.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*  
Commerce and Tourism, *Vice Chair*  
Appropriations Subcommittee on Education  
Appropriations Subcommittee on Transportation, Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Finance and Tax  
Transportation

### SENATOR TOM A. WRIGHT

14th District

April 12, 2021

The Honorable Kelli Stargel  
420, Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: CS/Senate Bill 934 – Education

Dear Chair Stargel:

CS/Senate Bill 934, relating to Education has been referred to the Committee on Appropriations. I am requesting your consideration on placing CS/SB 934 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 blue ink, appearing to read "Tom A. Wright", enclosed within a large, stylized blue scribble or flourish.

Tom A. Wright, District 14

cc: Tim Sadberry, Staff Director of the Committee on Appropriations  
Jamie DeLoach, Deputy Staff Director of the Committee on Appropriations  
John Shettle, Deputy 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
- 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/21/21  
Meeting Date

RS for  
SB 934  
Bill Number (if applicable)  
894982  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Megan Fay

Job Title \_\_\_\_\_

Address 124 West. Jefferson

Phone (850) 222-9075

Street

Tallahassee

FL

32301

City

State

Zip

Email megan@cccfla.com

Speaking:  For  Against  Information

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

Representing Collier County School 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.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/21/2021  
Meeting Date

SB934  
Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Khanh-Lien ("Con Lynn") Banko

Job Title Treasurer

Address 1747 Orlando Central Parkway

Phone 407-855-7604

Orlando FL 32809  
City State Zip

Email treasurer@floridapta.org

Speaking:  For  Against  Information

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

Representing Florida PTA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

4/21/2021

*Meeting Date*

934

*Bill Number (if applicable)*

Topic Education

*Amendment Barcode (if applicable)*

Name Michael Barrett

Job Title Associate for Education

Address 201 W. Park Ave.

Phone (850) 205-6823

*Street*

Tallahassee

FL

32301

Email mbarrett@flaccb.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

Prepared By: The Professional Staff of the Committee on Appropriations

---

BILL: CS/CS/SB 938

INTRODUCER: Appropriations Committee; Education Committee; and Senator Wright

SUBJECT: Purple Star Campuses

DATE: April 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sagues</u>	<u>Bouck</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	<b>Favorable</b>
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<b>Fav/CS</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/CS/SB 938 establishes the Purple Star Campus Program to identify schools that support military-connected children, including public schools, charter schools, and schools participating in the Florida educational choice scholarship program. The bill requires the Department of Education to establish the Purple Star Campus Program to require a participating school to, at minimum:

- Designate a staff member as a military liaison.
- Maintain a webpage on a school's website which includes resources for military students and families.
- Maintain a student-led transition program to assist military students in transitioning into the school.
- Offer professional development training opportunities for staff members on issues relating to military students.
- Reserve at least five percent of controlled open enrollment seats for military-connected students.

The bill also authorizes a school to partner with a school district to procure digital, professional development, or other assistance necessary to implement the criteria of the Purple Star Campus program.

A fiscal impact is not anticipated.

The bill takes effect July 1, 2021.

## II. Present Situation:

### Military Personnel and Families

United States military personnel located worldwide number over 3.5 million.<sup>1</sup> A total of 1.2 million Department of Defense (DoD) active duty military members<sup>2</sup> are assigned to the 50 states and the District of Columbia. More than half of the military members located stateside are in California, Virginia, Texas, North Carolina, Georgia, and Florida.<sup>3</sup>

A total of 807,602 selected reservemembers are assigned to the 50 states and the District of Columbia. Approaching half, or 42.8 percent of selected reserve members in the United States are assigned to California, Texas, Florida, Pennsylvania, New York, Ohio, Georgia, Virginia, Illinois, North Carolina.<sup>4</sup>

Close to two-thirds, 62.8 percent or 1,644,456, of all DoD force family members are children. Over one-third, 36.8 percent, of family members are spouses. Overall, 38.1 percent of the total DoD force has children.<sup>5</sup>

Of military children, more than two-thirds are 11 years of age or younger:

- 37.8 percent or 622,295 children are 0-5 years of age.
- 32 percent or 526,411 children are 6-11 years of age.
- 23.7 percent or 390,448 children are 12-18 years of age.
- 6.4 percent or 105,302 children are 19-22 years of age.<sup>6</sup>

### Military Families in Florida

Florida has 22 military installations.<sup>7</sup> Florida is also home to a number of National Guard and Military Reserve Units.<sup>8</sup> The following chart breaks down the dependents of active duty military personnel located at Florida military bases:<sup>9</sup>

<sup>1</sup> Department of Defense, *2019 Demographics, Profile of the Military Community*, pg. iii (2019), available at <https://download.militaryonesource.mil/12038/MOS/Reports/2019-demographics-report.pdf> (last visited March 11, 2021).

<sup>2</sup> *Id.* Active duty service branches include DoD's Army, Navy, Marine Corps, and Air Force.

<sup>3</sup> *Id.* at iv.

<sup>4</sup> Reserve components include DoD's Army National Guard, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard and Air Force Reserve, and Department of Homeland Security's (DHS) Coast Guard Reserve. *Id.* at iv and v.

<sup>5</sup> Children include minor dependents age 20 or younger and dependents age 22 or younger enrolled as full-time students. *Id.* at 121 and 122.

<sup>6</sup> *Id.* at 123.

<sup>7</sup> Enterprise Florida, Florida Defense Alliance, *Military and Partners in Florida, Florida Military Installations*, <https://www.enterpriseflorida.com/floridadefense/military-in-florida/> (last visited March 12, 2021).

<sup>8</sup> Student Support Services Project, Florida Department of Education, *Interstate Military Compact Awareness* (2016), available at [https://sss.usf.edu/resources/format/pdf/2016\\_Charter\\_School\\_Presentation.pdf](https://sss.usf.edu/resources/format/pdf/2016_Charter_School_Presentation.pdf).

<sup>9</sup> Military bases include: Blount Island, Corry Station Naval Technical Training Center, Eglin Air Force Base (AFB), Homestead AFB, Hurlburt Field, Jacksonville Naval Air Station (NAS), Key West NAS, MacDill AFB, Mayport Naval Station, Naval Coastal Systems Center, Naval Hospital Pensacola, NSA Orlando, Patrick AFB, Pensacola NAS, Southern Command, Tyndall AFB, Whiting Field NAS, and "Other" bases with fewer than 100 active duty personnel. Department of Defense, *supra* note 1, at 176-177.



Florida Dependents of Active Duty Personnel								
Active Duty Personnel	Spouses	Children				Other Dependents	Total Dependents	Total
		Ages 0 to 5	Ages 6 to 11	Ages 12 to 18	Age 19+			
66,418	32,715	22,114	17,760	12,266	2,322	238	87,415	153,833

***Interstate Compact on Educational Opportunity for Military Children***

In 2008, the Florida Legislature enacted the Interstate Compact on Educational Opportunity for Military Children (compact).<sup>10</sup> The purpose of the compact is to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents.<sup>11</sup> Currently, all 50 states are members of the compact.<sup>12</sup>

The average military family is estimated to move three times more often than the average non-military family. Frequent moves may cause children to miss out on extracurricular activities and face challenges in meeting graduation requirements. In addition to moving frequently, students repeatedly adjust to new living environments, schools, and peer groups much more than their civilian counterparts.<sup>13</sup>

As a member of the compact and subject to compact rules,<sup>14</sup> Florida recognizes the need to provide support to students of military families. States participating in the compact work to coordinate graduation requirements, transfer of records and course placement, and other administrative policies.<sup>15</sup> The compact is designed to:

- Facilitate the timely enrollment of children of military families and ensure that children are not disadvantaged due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements.
- Facilitate the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.
- Facilitate the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.
- Facilitate the on-time graduation of children of military families.
- Provide for the adoption and enforcement of administrative rules implementing the compact.
- Provide for the uniform collection and sharing of information between and among member states, schools, and military families.

<sup>10</sup> Florida Department of Education, *Questions and Answers for Schools Concerning The Interstate compact on Educational Opportunities for Military Children* (2104), available at <http://www.fldoe.org/core/fileparse.php/7757/urlt/0082683-gamilitary.pdf>.

<sup>11</sup> Section 1000.36, F.S.

<sup>12</sup> Department of Defense Education Activity, *The Military Interstate Compact*, available at <https://www.dodea.edu/Partnership/interstateCompact.cfm#:~:text=Currently%20all%2050%20States%20and%20the%20Di strict%20of,times%20more%20often%20than%20the%20average%20non-military%20family> (last visited March 11, 2021).

<sup>13</sup> Florida Department of Education, *Military Family Resources*, available at <http://www.fldoe.org/academics/exceptional-student-edu/military-families/> (last visited March 11, 2021).

<sup>14</sup> Interstate Commission on Educational Opportunity for Military Children (2018), available at <https://mic3.net/assets/rules-2018-revised-9-nov--2018.pdf>.

<sup>15</sup> Department of Defense Education Activity, *supra* note 14.

- Promote coordination between compacts affecting military children.
- Promote flexibility and cooperation between the educational system, parents, and the student so that the student achieves educational success.<sup>16</sup>

### ***Other Educational Benefits***

In addition to benefits from the compact, Florida also provides other educational benefits to military families, including:

- In-state tuition rates and fee waivers.
- Required college credit for military training.
- Course withdrawal due to military service, without penalty.
- National Guard educational dollars for duty program.
- Accepting military permanent change of station orders that relocate a military family to any military installation within the state as proof of Florida residency.
- Accepting exit or end-of-course exams required for graduation from a sending state.
- Providing preferential treatment to dependent children of active duty military personnel who moved as a result of military orders in a school's controlled open enrollment process.<sup>17</sup>

### **Purple Star Campus Program**

The Purple Star Campus Program seeks to recognize exemplary schools that support military-connected children. Seven states currently participate in the program: Ohio, Virginia, Arkansas, South Carolina, Texas, Tennessee, and Georgia.<sup>18</sup>

The Purple Star Campus program requires that a school:

- Have a staff point of contact (POC), as a counselor, administrator, teacher, or other staff member, for military students and families. The POC serves as the primary link between the military family and the school.
- Maintain a dedicated page on its website featuring information and resources for military families.
- Maintain a student led transition program to include a student transition team coordinator.
- Provide professional development for additional staff on special considerations for military students and families.<sup>19</sup>

### **III. Effect of Proposed Changes:**

CS/SB 938 creates the Purple Star Campus program to support military-connected children. Specifically the bill:

- Defines a military student as a student enrolled in a school district, charter school, or a school or institution participating in a Florida educational choice scholarship program who is either:

---

<sup>16</sup> Section 1000.36, F.S.

<sup>17</sup> Enterprise Florida, *Florida's 2021 Military-Friendly Guide* (2021), available at <https://www.enterpriseflorida.com/wp-content/uploads/Florida-Military-Friendly-Guide.pdf>.

<sup>18</sup> Military Child Education Coalition, *Parent Programs, Hot Topic: Purple Star Campus* (2019), available at [https://www.militarychild.org/upload/images/Purple%20Star%20Schools/updated\\_Purple\\_Star\\_Campus.pdf](https://www.militarychild.org/upload/images/Purple%20Star%20Schools/updated_Purple_Star_Campus.pdf).

<sup>19</sup> *Id.*

- A dependent of an active-duty member of the United States military that is the Army, Navy, Air Force, Marine Corps, or Coast Guard, a reserve component of any of these branches of the military, or the Florida National Guard; or
- A dependent of a former member of the United States military that is the Army, Navy, Air Force, Marine Corps, or Coast Guard, a reserve component of any of these branches of the military, or the Florida National Guard.
- Requires the Department of Education to establish the Purple Star Campus Program that requires a participating school to at a minimum:
  - Designate a staff member as a military liaison.
  - Maintain a webpage on a school's website which includes resources for military students and families.
  - Maintain a student-led transition program that assists military students in transitioning into the school.
  - Offer professional development training opportunities for staff members on issues relating to military students.
  - Reserve at least five percent of controlled open enrollment seats for military-connected students.
- Authorizes the DOE to establish additional criteria to identify schools committed to supporting military families such as:
  - Hosting an annual military recognition event;
  - Partnering with a school liaison officer from a military installation;
  - Supporting projects that connect the school with the military community; and
  - Providing outreach for military parents and their children.

The bill also authorizes a school to partner with a school district to procure digital, professional development, or other assistance necessary to implement the criteria of the Purple Star Campus program.

The bill requires the State Board of Education to adopt rules to implement the Purple Star Campus program.

The bill takes effect July 1, 2021.

#### **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 Article VII, Section 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:**

Although a school may incur costs associated with operating as a Purple Star Campus, opt-in is permissive, rather than mandatory. The Department of Education anticipates a fiscal impact associated with maintaining a website and offering staff training on issues related to military students, but indicates that these costs can be absorbed by the department.<sup>20</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 1003.051 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 April 21, 2021:**

The committee substitute makes the following changes:

- Adds that participating schools must reserve at least five percent of controlled open enrollment seats for military-connected students.

<sup>20</sup> Department of Education, *2021 Agency Legislative Bill Analysis, CS/SB 938* (Feb. 1, 2021) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

- Adds that the DOE may establish additional criteria to identify schools committed to supporting military families such as:
  - Hosting an annual military recognition event;
  - Partnering with a school liaison officer from a military installation;
  - Supporting projects that connect the school with the military community; and
  - Providing outreach for military parents and their children.

**CS by Education on March 9, 2021:**

The committee substitute makes a technical change to authorize the State Board of Education to adopt rules rather than the Department of Education.

**B. Amendments:**

None.



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
	.	
	.	
	.	

---

The Committee on Appropriations (Wright) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 1003.051, Florida Statutes, is created  
to read:

1003.051 Purple Star Campuses.—

(1) As used in this section, the term "military student"  
means a student who is:

(a) Enrolled in a school district, a charter school, or any



11 school or educational institution participating in an  
12 educational choice scholarship program established pursuant to  
13 chapter 1002; and

14 (b) A dependent of a current member of the United States  
15 military serving on active duty in, or a former member of, the  
16 Army, Navy, Air Force, Marine Corps, or Coast Guard, a reserve  
17 component of any branch of the United States military, or the  
18 Florida National Guard.

19 (2) (a) The Department of Education shall establish the  
20 Purple Star Campus program. At a minimum, the program must  
21 require a participating school to:

- 22 1. Designate a staff member as a military liaison.
- 23 2. Maintain a webpage on the school's website which  
24 includes resources for military students and their families.
- 25 3. Maintain a student-led transition program that assists  
26 military students in transitioning into the school.
- 27 4. Offer professional development training opportunities  
28 for staff members on issues relating to military students.
- 29 5. Reserve at least 5 percent of controlled open enrollment  
30 seats for military students.

31 (b) The department may establish additional criteria to  
32 identify schools that demonstrate a commitment to or provide  
33 critical transition supports for military-connected families,  
34 such as hosting an annual military recognition event, partnering  
35 with a school liaison officer from a military installation,  
36 supporting projects that connect the school with the military  
37 community, and providing outreach for military parents and their  
38 children.

39 (3) A school may partner with a school district to procure



420898

40 digital, professional development, or other assistance necessary  
41 for the school to meet the criteria specified in subsection (2).

42 (4) The State Board of Education shall adopt rules to  
43 implement this section.

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

45

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

47 And the title is amended as follows:

48 Delete everything before the enacting clause  
49 and insert:

50 A bill to be entitled  
51 An act relating to Purple Star Campuses; creating s.  
52 1003.051, F.S.; defining the term "military student";  
53 requiring the Department of Education to establish the  
54 Purple Star Campus program; specifying program  
55 criteria for participating schools; authorizing  
56 schools to partner with school districts to meet such  
57 criteria; requiring the State Board of Education to  
58 adopt rules; providing an effective date.



By the Committee on Education; and Senator Wright

581-02635-21

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1 A bill to be entitled  
 2 An act relating to Purple Star Campuses; creating s.  
 3 1003.051, F.S.; defining the term "military student";  
 4 requiring the Department of Education to establish the  
 5 Purple Star Campus program; specifying program  
 6 criteria for participating schools; authorizing the  
 7 department to establish additional program eligibility  
 8 criteria; authorizing schools to partner with school  
 9 districts to meet such criteria; requiring the State  
 10 Board of Education to adopt rules; providing an  
 11 effective date.  
 12  
 13 Be It Enacted by the Legislature of the State of Florida:  
 14  
 15 Section 1. Section 1003.051, Florida Statutes, is created  
 16 to read:  
 17 1003.051 Purple Star Campuses.—  
 18 (1) As used in this section, the term "military student"  
 19 means a student who is:  
 20 (a) Enrolled in a school district, charter school, or any  
 21 school or educational institution participating in an  
 22 educational choice scholarship program established pursuant to  
 23 chapter 1002; and  
 24 (b) A dependent of a current member of the United States  
 25 military serving on active duty in, or a former member of, the  
 26 Army, Navy, Air Force, Marine Corps, or Coast Guard, a reserve  
 27 component of any branch of the United States military, or the  
 28 Florida National Guard.  
 29 (2) (a) The Department of Education shall establish the

Page 1 of 2

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

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30 Purple Star Campus program. At a minimum, the program must  
 31 require a participating school to:  
 32 1. Designate a staff member as a military liaison.  
 33 2. Maintain a webpage on the school's website which  
 34 includes resources for military students and their families.  
 35 3. Maintain a student-led transition program that assists  
 36 military students in transitioning into the school.  
 37 4. Offer professional development training opportunities  
 38 for staff members on issues relating to military students.  
 39 (b) The department may establish additional program  
 40 eligibility criteria by rule.  
 41 (3) A school may partner with a school district to procure  
 42 digital, professional development, or other assistance necessary  
 43 for the school to meet the criteria specified in subsection (2).  
 44 (4) The State Board of Education shall adopt rules to  
 45 implement this section.  
 46 Section 2. This act shall take effect July 1, 2021.

Page 2 of 2

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*  
Commerce and Tourism, *Vice Chair*  
Appropriations Subcommittee on Education  
Appropriations Subcommittee on Transportation, Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Finance and Tax  
Transportation

### SENATOR TOM A. WRIGHT

14th District

March 25, 2021

The Honorable Kelli Stargel  
420, Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 938 – Purple Star Campuses

Dear Chair Stargel:

Senate Bill 938, relating to Purple Star Campuses has been referred to the Committee on Appropriations. I am requesting your consideration on placing SB 938 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 blue ink, appearing to read "Tom A. Wright", with a large, sweeping flourish underneath.

Tom A. Wright, District 14

cc: Tim Sadberry, Staff Director of the Committee on Appropriations  
Jamie DeLoach, Deputy Staff Director of the Committee on Appropriations  
John Shettle, Deputy 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
- 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

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

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

4/21/2021

*Meeting Date*

938

*Bill Number (if applicable)*

Topic Purple Star Campuses

*Amendment Barcode (if applicable)*

Name Michael Barrett

Job Title Associate for Education

Address 201 W. Park Ave

Phone (850) 205-6823

*Street*

Tallahassee

FL

32301

Email mbarrett@flaccb.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/21/2021

Meeting Date

SB 938

Bill Number (if applicable)

Topic Purple Star Campuses

Amendment Barcode (if applicable)

Name Angie Gallo

Job Title Education Advocate

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 Alliance for 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.*

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/21/2021  
Meeting Date

SB 938  
Bill Number (if applicable)

Topic Purple Star Campuses

Amendment Barcode (if applicable)

Name Khank-Lien ("Con Lynn") Banto

Job Title Treasurer

Address 1747 Orlando Central Parkway

Phone 407-855-7604

Street

Orlando  
City

FL  
State

32809  
Zip

Email treasurer@floridapta.org

Speaking:  For  Against  Information

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

Representing Florida PTA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 996

INTRODUCER: Senators Garcia and Hutson

SUBJECT: Community Associations

DATE: April 21, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<b>Favorable</b>
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	<b>Favorable</b>
3.	<u>Gross</u>	<u>Sadberry</u>	<u>AP</u>	<b>Favorable</b>

---

## I. Summary:

SB 996 authorizes condominium and cooperative associations to represent the association's unit owners in court proceedings that occur as a result of a property appraiser who appeals a value adjustment board decision. An association must provide unit owners with notice of its intent to represent the unit owners' interests in the court proceedings and advise the unit owners that they may opt out of being represented by the association within 14 days of receiving the notice.

Current law permits a condominium, cooperative, and mobile homeowners' association to challenge the property appraiser's tax assessment on behalf of the unit owners as a single joint petition with the value adjustment board. Current law also permits associations to appeal the decision of the value adjustment board in circuit court on behalf of the unit owners. However, when the property appraiser appeals a value adjustment board decision, each unit owner must defend the appeal individually.

The Revenue Estimating Conference determined that the bill, in any given year, will result in either no impact or will reduce local government revenues by an indeterminate amount. However, over time, the bill will reduce local government revenue by an indeterminate amount.

The bill provides an effective date of July 1, 2021.

## II. Present Situation:

### Condominium Associations

A condominium is a "form of ownership of real property created under ch. 718, F.S."<sup>1</sup>  
Condominium unit owners are in a unique legal position because they are exclusive owners of

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<sup>1</sup> Section 718.103(11), F.S.

property within a community, joint owners of community common elements, and members of the condominium association.<sup>2</sup> For unit owners, membership in the association is an unalienable right and required condition of unit ownership.<sup>3</sup> A condominium is created by recording a declaration of the condominium in the public records of the county where the condominium is located.<sup>4</sup> A declaration is similar to a constitution in that it:

[S]trictly governs the relationships among condominium unit owners and the condominium association. Under the declaration, the Board of the condominium association has broad authority to enact rules for the benefit of the community.<sup>5</sup>

Condominium associations are creatures of statute and private contracts. Under the Florida Condominium Act, associations must be incorporated as a Florida for-profit corporation or a Florida not-for-profit corporation.<sup>6</sup> Although unit owners are considered shareholders of this corporate entity, like other corporations, a unit owner's role as a shareholder does not implicitly provide them any authority to act on behalf of the association.

A condominium association is administered by a board of directors referred to as a “board of administration.”<sup>7</sup> The board of administrators is comprised of individual unit owners elected by the members of a community to manage community affairs and represent the interests of the association. Association board members must enforce a community's governing documents and are responsible for maintaining a condominium's common elements, which are owned in undivided shares by unit owners.<sup>8</sup> In litigation, an association's board of directors is in charge of directing attorney actions.<sup>9</sup>

### **Cooperative Associations**

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative owner receives an exclusive right to occupy the unit based on their ownership interest in the cooperative entity as a whole. A cooperative owner is either a stockholder or member of a cooperative apartment corporation who is entitled, solely because of ownership of stock or membership in the corporation, to occupy an apartment in a building owned by the corporation.<sup>10</sup> The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.<sup>11</sup>

Section 719.103(12), F.S., defines a “cooperative” to mean:

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<sup>2</sup> See s. 718.103, F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Section 718.104(2), F.S.

<sup>5</sup> *Neuman v. Grandview at Emerald Hills*, 861 So. 2d 494, 496-97 (Fla. 4th DCA 2003) (internal citations omitted).

<sup>6</sup> Section 718.303(3), F.S.

<sup>7</sup> Section 718.103(4), F.S.

<sup>8</sup> Section 718.103(2), F.S.

<sup>9</sup> Section 718.103(30), F.S.

<sup>10</sup> See *Walters v. Agency for Health Care Administration*, 2019 WL 6691513, 44 Fla. L. Weekly D2898 (Fla. 3rd DCA 2019)

<sup>11</sup> See ss. 719.106(1)(g) and 719.107, F.S.

[T]hat form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

### **Homeowners' Associations in Mobile Home Parks**

Chapter 723, F.S., relates to mobile home park lot tenancies. In these communities, the homeowner does not own the real estate upon which the mobile home is located; the homeowner leases the real property (mobile home lot) from the mobile home park owner. Homeowners in these communities may form a homeowners' association.<sup>12</sup>

The mobile home park owner may pass on, at any time during the term of the lot rental agreement, ad valorem property taxes, non-ad valorem assessments, and utility charges, or increases of either, to the mobile home owner if such costs are not otherwise being collected in the remainder of the lot rental amount and the passing on of the costs was disclosed prior to tenancy.<sup>13</sup>

### **Tax Assessments**

Condominium and cooperative unit owners are assessed yearly ad valorem<sup>14</sup> taxes by the county property appraiser.<sup>15</sup> For condominium and cooperative parcels, ad valorem taxes are assessed on the parcels and not upon the condominium or cooperative property as a whole, and the common elements or area are divided and levied proportionally among individual parcel owners.<sup>16</sup>

Current law permits condominium, cooperative, and homeowners' associations defined in s. 723.075, F.S., (mobile homeowners' associations) to file a single joint petition to the value adjustment board (VAB) contesting the tax assessment of all units within the community.<sup>17</sup> The condominium, cooperative, or mobile homeowners' associations must provide the unit owner notice of its petition to the VAB and "provide at least 20 days for a unit owner to elect, in writing that his or her unit not be included in the petition."<sup>18</sup> Although the mobile homeowners' associations are entitled to petition the VAB, current law references only "unit owners" in the context of the notice and opt-out requirements for the petition to the VAB. There are no "unit owners" in a homeowners' association.

A decision by the VAB may only be appealed to the circuit court.<sup>19</sup> Current law allows a condominium, cooperative, or mobile homeowners' association to appeal, as a plaintiff, the VAB's decision.<sup>20</sup>

<sup>12</sup> See ss. 723.075 through 723.0791, F.S.

<sup>13</sup> Section 723.031(5)(c), F.S.

<sup>14</sup> Section 192.001(1), F.S., defines the term "ad valorem tax" to mean a tax based upon the assessed value of property.

<sup>15</sup> Section 194.011, F.S.

<sup>16</sup> Sections 718.120(1) and 719.114, F.S.

<sup>17</sup> Section 194.011(3)(e), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> Section 194.171(1), F.S.

<sup>20</sup> See ss. 194.181(1) and (2), F.S.



Under certain circumstances, a property appraiser may appeal a VAB decision to the circuit court.<sup>21</sup> In a recent decision, a Florida court found that if the property appraiser appeals a VAB decision, each unit owner must individually defend the suit if the unit owner so chooses; the association may not represent all unit owners in defending the property appraiser's appeal.<sup>22</sup>

### **III. Effect of Proposed Changes:**

#### **Value Adjustment Board Petitions**

The bill amends s. 194.011(3)(e), F.S., to provide that the association's notice of intent to file a joint petition with the VAB must also include a statement that by not opting out of the VAB petition the unit or parcel owners will also be represented by the association in related judicial proceedings, without the unit or parcel owners being named or joined as parties.

The notice must be hand delivered or sent to unit or parcel owners by certified mail, return receipt requested, except that such notice may be electronically transmitted to a unit or parcel owner who has expressly consented in writing to receiving such notices by electronic transmission.

Additionally, if the association is a condominium association or cooperative association, the notice must also be posted conspicuously on the condominium or cooperative property in the same manner as notices of board meetings.<sup>23</sup>

The bill also reduces from 20 days to 14 days the time an association must give unit or parcel owners to opt out of the association's petition.

The bill also clarifies that the treatment under the bill applies whether the individual property owner is referred to as a unit owner or parcel owner.

The bill provides that the ability of the association to represent the individual property owners in related judicial proceedings is intended to clarify existing law and applies to cases pending on July 1, 2021.

#### **Judicial Appeals**

The bill amends s. 194.181(2), F.S., to provide that, in any case brought by the property appraiser concerning a VAB decision on a single joint petition filed by a condominium or cooperative association, the association is the only required party defendant. The individual unit or parcel owners are not required to be named as parties.

The bill requires condominium and cooperative associations to provide unit or parcel owners a notice of the property appraiser's complaint. The notice must advise the parcel or unit owners that they may elect to:

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<sup>21</sup> See s. 194.036, F.S.

<sup>22</sup> *Central Carillon Beach Condominium Association, Inc., et al., v. Garcia, etc., et al.*, 245 So. 3d 869 (Fla. 3d DCA 2018).

<sup>23</sup> See ss. 718.112(2) and 719.106(1), F.S., for the manner in which board meetings must be noticed.

- Retain their own counsel to defend the appeal for their units or parcels;
- Choose not to defend the appeal; or
- Be represented by the association.

The notice of the property appraiser's complaint must be hand delivered or sent by certified mail, return receipt requested, except that such notice may be electronically transmitted to a unit or parcel owner who has expressly consented in writing to receiving such notices by electronic transmission. However, the notice must also be posted conspicuously on the condominium or cooperative property in the same manner for notice of board meetings.<sup>24</sup> An association must give unit or parcel owners 14 days to opt out of the association's representation. Unit or parcel owners who do not respond to the association's notice will be represented in the response or answer filed by the association.

Tax collectors will be required to accept payment of the estimated amount in controversy, as determined by the tax collector, as to a specific unit or parcel. Upon the payment, the unit or parcel would be released from any *lis pendens*<sup>25</sup> and the unit or parcel owner may elect to remain in or be dismissed from the action.

### **Condominium Association Powers**

The bill amends s. 718.111(3), F.S., to authorize condominium associations to defend actions pertaining to ad valorem taxation of commonly used facilities or units.

The bill creates s. 718.111(3)(d), F.S., to authorize a condominium association to, in its own name or on behalf of some or all unit owners, institute, file, protest, or maintain any administrative challenge, lawsuit, appeal, or other challenge to ad valorem taxes assessed on units, commonly used facilities, or common elements, including any subsequent proceeding, lawsuit, appeal, or other challenge brought by the property appraiser related to units that were the subject of a joint petition. It also provides that the association has the right to represent the interest of the unit owners and the unit owners are not necessary or indispensable parties to the action.

The bill also provides that the amendments related to condominium association powers are intended to clarify existing law and apply to cases pending on July 1, 2021.

### **Effective Date**

The bill provides an effective date of July 1, 2021.

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<sup>24</sup> *Supra* FN 23

<sup>25</sup> "Lis pendens" means a pending lawsuit or a recorded notice in the chain of title that the property is the subject of a matter on litigation. See BLACK'S LAW DICTIONARY (11<sup>th</sup> ed. 2019).

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

Not applicable. This bill does not require counties or municipalities to spend funds, limit their authority to raise revenue, or reduce the percentage of a state tax shared with them as specified in Art. 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:**

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

**E. Other Constitutional Issues:**

None.

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

The Revenue Estimating Conference determined that the bill, in any given year, will result in either no impact or will reduce local government revenues by an indeterminate amount. However, over time, the bill will reduce local government revenue by an indeterminate amount.

**B. Private Sector Impact:**

A condominium or cooperative association's ability to defend an appeal on behalf of its unit or parcel owners may reduce the burden to such owners who would no longer need to hire private counsel to defend the appeal.

**C. Government Sector Impact:**

Authorizing a property appraiser to only name the association as a party defendant on an appeal against a single joint petition from the VAB may reduce the case load of circuit courts.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 194.011, 194.181, and 718.111.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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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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By Senator Garcia

37-00991B-21

2021996\_\_

1 A bill to be entitled  
 2 An act relating to community associations; amending s.  
 3 194.011, F.S.; specifying requirements for the  
 4 contents, delivery, and posting of certain association  
 5 notices; providing that certain associations have the  
 6 right to seek judicial review, appeal decisions, and  
 7 represent unit or parcel owners in certain  
 8 proceedings; requiring certain associations to defend  
 9 unit or parcel owners in certain proceedings;  
 10 providing that property appraisers are not required to  
 11 name individual unit or parcel owners as defendants in  
 12 such proceedings; providing applicability; amending s.  
 13 194.181, F.S.; providing and revising the parties  
 14 considered as the defendants in a tax suit; specifying  
 15 requirements for the contents, delivery, and posting  
 16 of certain association notices; providing unit or  
 17 parcel owners' options for defending a tax suit;  
 18 imposing certain actions on unit or parcel owners who  
 19 fail to respond to a specified notice; specifying the  
 20 conditions for releasing a unit or parcel owner from a  
 21 lis pendens related to certain actions; amending s.  
 22 718.111, F.S.; providing that a condominium  
 23 association may take certain actions relating to a  
 24 challenge to ad valorem taxes in its own name or on  
 25 behalf of unit owners; providing applicability;  
 26 providing an effective date.

27  
 28 Be It Enacted by the Legislature of the State of Florida:  
 29

Page 1 of 7

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

37-00991B-21

2021996\_\_

30 Section 1. Paragraph (e) of subsection (3) of section  
 31 194.011, Florida Statutes, is amended to read:  
 32 194.011 Assessment notice; objections to assessments.—  
 33 (3) A petition to the value adjustment board must be in  
 34 substantially the form prescribed by the department.  
 35 Notwithstanding s. 195.022, a county officer may not refuse to  
 36 accept a form provided by the department for this purpose if the  
 37 taxpayer chooses to use it. A petition to the value adjustment  
 38 board must be signed by the taxpayer or be accompanied at the  
 39 time of filing by the taxpayer's written authorization or power  
 40 of attorney, unless the person filing the petition is listed in  
 41 s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a  
 42 petition with a value adjustment board without the taxpayer's  
 43 signature or written authorization by certifying under penalty  
 44 of perjury that he or she has authorization to file the petition  
 45 on behalf of the taxpayer. If a taxpayer notifies the value  
 46 adjustment board that a petition has been filed for the  
 47 taxpayer's property without his or her consent, the value  
 48 adjustment board may require the person filing the petition to  
 49 provide written authorization from the taxpayer authorizing the  
 50 person to proceed with the appeal before a hearing is held. If  
 51 the value adjustment board finds that a person listed in s.  
 52 194.034(1)(a) willfully and knowingly filed a petition that was  
 53 not authorized by the taxpayer, the value adjustment board shall  
 54 require such person to provide the taxpayer's written  
 55 authorization for representation to the value adjustment board  
 56 clerk before any petition filed by that person is heard, for 1  
 57 year after imposition of such requirement by the value  
 58 adjustment board. A power of attorney or written authorization

Page 2 of 7

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37-00991B-21

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59 is valid for 1 assessment year, and a new power of attorney or  
60 written authorization by the taxpayer is required for each  
61 subsequent assessment year. A petition shall also describe the  
62 property by parcel number and shall be filed as follows:

63 (e)1. A condominium association, ~~as defined in s. 718.103,~~  
64 a cooperative association as defined in s. 719.103, or any  
65 homeowners' association as defined in s. 723.075, with approval  
66 of its board of administration or directors, may file with the  
67 value adjustment board a single joint petition on behalf of any  
68 association members who own units or parcels of property which  
69 the property appraiser determines are substantially similar with  
70 respect to location, proximity to amenities, number of rooms,  
71 living area, and condition. The condominium association,  
72 cooperative association, or homeowners' association as defined  
73 in s. 723.075 shall provide the unit or parcel owners with  
74 notice of its intent to petition the value adjustment board. The  
75 notice must include a statement that by not opting out of the  
76 petition, the unit or parcel owner agrees that the association  
77 shall also represent the unit or parcel owner in any related  
78 proceedings, without the unit or parcel owners being named or  
79 joined as parties. Such notice must be hand delivered or sent by  
80 certified mail, return receipt requested, except that such  
81 notice may be electronically transmitted to a unit or parcel  
82 owner who has expressly consented in writing to receiving such  
83 notices by electronic transmission. If the association is a  
84 condominium association or cooperative association, the notice  
85 must also be posted conspicuously on the condominium or  
86 cooperative property in the same manner as notices of board  
87 meetings under ss. 718.112(2) and 719.106(1). Such notice must

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2021996\_\_

88 ~~and shall~~ provide at least 14 20 days for a unit or parcel owner  
89 to elect, in writing, that his or her unit or parcel not be  
90 included in the petition.

91 2. A condominium association as defined in s. 718.103 or a  
92 cooperative association as defined in s. 719.103 which has filed  
93 a single joint petition under this subsection has the right to  
94 seek judicial review or appeal a decision on the single joint  
95 petition and continue to represent the unit or parcel owners  
96 throughout any related proceedings. If the property appraiser  
97 seeks judicial review or appeals a decision on the single joint  
98 petition, the association shall defend the unit or parcel owners  
99 throughout any such related proceedings. The property appraiser  
100 is not required to name the individual unit or parcel owners as  
101 defendants in such proceedings. This subparagraph is intended to  
102 clarify existing law and applies to cases pending on July 1,  
103 2021.

104 Section 2. Subsection (2) of section 194.181, Florida  
105 Statutes, is amended to read:

106 194.181 Parties to a tax suit.—

107 (2) (a) In any case brought by a the taxpayer or a  
108 condominium or cooperative association, as defined in ss.  
109 718.103 and 719.103, respectively, on behalf of some or all unit  
110 or parcel owners, contesting the assessment of any property, the  
111 county property appraiser is a shall-be party defendant.

112 (b) Other than as provided in paragraph (c), in any case  
113 brought by the property appraiser under pursuant to s.  
114 194.036(1) (a) or (b), the taxpayer is a shall-be party  
115 defendant.

116 (c)1. In any case brought by the property appraiser under

Page 4 of 7

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117 s. 194.036(1) (a) or (b) relating to a value adjustment board  
 118 decision on a single joint petition filed by a condominium or  
 119 cooperative association under s. 194.011(3), the association is  
 120 the only required party defendant. The individual unit or parcel  
 121 owners are not required to be named as parties.

122 2. The condominium or cooperative association must provide  
 123 unit or parcel owners with notice of the property appraiser's  
 124 complaint and advise the unit or parcel owners that they may  
 125 elect to:

126 a. Retain their own counsel to defend the appeal for their  
 127 units or parcels;

128 b. Choose not to defend the appeal; or

129 c. Be represented by the association.

130 3. The notice required in subparagraph 2. must be hand  
 131 delivered or sent by certified mail, return receipt requested,  
 132 except that such notice may be electronically transmitted to a  
 133 unit or parcel owner who has expressly consented in writing to  
 134 receiving such notices through electronic transmission.  
 135 Additionally, the notice must be posted conspicuously on the  
 136 condominium or cooperative property, if applicable, in the same  
 137 manner as notices of board meetings under ss. 718.112(2) and  
 138 719.106(1). The association must provide at least 14 days for a  
 139 unit or parcel owner to respond to the notice. Any unit or  
 140 parcel owner who does not respond to the association's notice  
 141 will be represented by the association.

142 4. If requested by a unit or parcel owner, the tax  
 143 collector shall accept payment of the estimated amount in  
 144 controversy, as determined by the tax collector, as to that unit  
 145 or parcel, whereupon the unit or parcel shall be released from

37-00991B-21 2021996\_\_

146 any lis pendens and the unit or parcel owner may elect to remain  
 147 in or be dismissed from the action.

148 (d) In any case brought by the property appraiser under  
 149 pursuant to s. 194.036(1) (c), the value adjustment board is a  
 150 ~~shall be~~ party defendant.

151 Section 3. Subsection (3) of section 718.111, Florida  
 152 Statutes, is amended to read:

153 718.111 The association.—

154 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,  
 155 SUE, AND BE SUED; CONFLICT OF INTEREST.—

156 (a) The association may contract, sue, or be sued with  
 157 respect to the exercise or nonexercise of its powers. For these  
 158 purposes, the powers of the association include, but are not  
 159 limited to, the maintenance, management, and operation of the  
 160 condominium property.

161 (b) After control of the association is obtained by unit  
 162 owners other than the developer, the association may:

163 1. Institute, maintain, settle, or appeal actions or  
 164 hearings in its name on behalf of all unit owners concerning  
 165 matters of common interest to most or all unit owners,  
 166 including, but not limited to, the common elements; the roof and  
 167 structural components of a building or other improvements;  
 168 mechanical, electrical, and plumbing elements serving an  
 169 improvement or a building; and representations of the developer  
 170 pertaining to any existing or proposed commonly used facilities;

171 2. ~~Protest and protesting~~ ad valorem taxes on commonly used  
 172 facilities and on units; ~~and may~~

173 3. Defend actions pertaining to ad valorem taxation of  
 174 commonly used facilities or units or in eminent domain actions;

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~~and ex~~

4. Bring inverse condemnation actions.

(c) If the association has the authority to maintain a class action, the association may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the association could bring a class action.

(d) The association, in its own name or on behalf of some or all unit owners, may institute, file, protest, or maintain any administrative challenge, lawsuit, appeal, or other challenge to ad valorem taxes assessed on units, commonly used facilities, or common elements. In any subsequent proceeding, lawsuit, appeal, or other challenge brought by the property appraiser related to units that were the subject of a single joint petition filed under s. 194.011(3), the association has the right to represent the interest of the unit owners as provided in s. 194.011(3)(e)2., and the unit owners are not necessary or indispensable parties to such actions. This paragraph is intended to clarify existing law and applies to cases pending on July 1, 2021.

(e) This section does not limit ~~Nothing herein limits~~ any statutory or common-law right of any individual unit owner or class of unit owners to bring any action without participation by the association which may otherwise be available.

(f) An association may not hire an attorney who represents the management company of the association.

Section 4. This act shall take effect July 1, 2021.





The Florida Senate

## Committee Agenda Request

**To:** Senator Kelli Stargel, Chair  
Committee on Appropriations

**Subject:** Committee Agenda Request

**Date:** March 18, 2021

---

I respectfully request that **Senate Bill #996**, relating to Community Associations, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ileana Garcia".

---

Senator Ileana Garcia  
Florida Senate, District 37

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

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

4/21/2021

*Meeting Date*

996

*Bill Number (if applicable)*

Topic Community Associations

*Amendment Barcode (if applicable)*

Name Nelson Diaz

Job Title \_\_\_\_\_

Address 123 S. Adams Street

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FL

32301

Email diaz@thesoutherngroup.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Fairness in Taxation

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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 1082

INTRODUCER: Appropriations Committee; Transportation Committee; and Senator Albritton

SUBJECT: Diesel Exhaust Fluid

DATE: April 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	Fav/CS
2.	McAuliffe	Sadberry	AP	Fav/CS
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1082 addresses safety issues associated with airport use of diesel exhaust fluid (DEF). Airports and airport tenants use DEF in diesel-powered vehicles used in an aircraft support role, including aircraft fire-fighting equipment, life-saving equipment, and emergency generators. DEF is also used to help meet the emission control standards mandated by the Environmental Protection Agency. In recent years, a number of aircraft have experienced engine shutdowns and other engine operability issues due to the contamination of jet fuel as a result of the inadvertent filling of anti-icing injection systems in aircraft fuel trucks with DEF, instead of a product used as a fuel additive to address potential freezing of water within jet fuel in an aircraft at altitude.

The bill requires each public airport with specified uses of DEF to require a safety mitigation and exclusion plan for each fixed-base operator that performs onsite treatment of aviation fuel with a fuel system icing inhibitor and provides minimum requirements for the plan. By January 1, 2022, each airport must make the plan available for review during inspections by the Florida Department of Transportation (FDOT).

The bill requires the FDOT, by September 1, 2021, to convene a workgroup of public airport representatives to develop uniform industry standards based on a National Air Transportation Association (NATA) best practice relating to the handling of DEF, and authorizes the FDOT to adopt rules to develop a uniform industry standards form for the required plans based on the workgroup recommendations.

The fiscal impact of the bill is indeterminate. See the “Fiscal Impact Statement” for additional information.

The bill takes effect October 1, 2021.

## II. Present Situation:

### Emission Control Standards

Under the federal Clean Air Act of 1990, the Environmental Protection Agency (EPA) has mandated strengthened emission control standards for vehicle engines to reduce health and environmental issues caused by air pollution. With respect to diesel engines, nitrogen oxides (NO<sub>x</sub>) are a major contributor to that pollution, and the EPA has identified NO<sub>x</sub> in diesel engine emissions for drastic reduction.<sup>1</sup>

Vehicle and engine manufacturers have developed “aftertreatment” technologies to meet the strengthened EPA standards, such as Selective Catalytic Reduction (SCR). SCR reduces NO<sub>x</sub> emissions when DEF is injected directly into a catalytic converter<sup>2</sup> in the vehicle’s exhaust system. Heat from the exhaust helps to break DEF down into ammonia, which in the presence of the catalyst, reacts with the NO<sub>x</sub> in the exhaust to neutralize it, transforming it into harmless nitrogen gas and water.<sup>3</sup>

The EPA mandated emission standards for off-road diesel engines starting in 2014, which apply to airport support vehicles now equipped with SCR systems and therefore require DEF.<sup>4</sup>

According to the Federal Aviation Administration (FAA), DEF is not approved for use in jet fuel:

When mixed with jet fuel, DEF will react with certain jet fuel chemical components to form crystalline deposits in the fuel system. These deposits will flow through the aircraft fuel system and may accumulate on filters, fuel metering components, other fuel system components, or engine fuel nozzles. The deposits may also settle in the fuel tanks or other areas of the aircraft fuel system where they may potentially become dislodged over time and accumulate downstream in the fuel system as described above.<sup>5</sup>

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<sup>1</sup> Aircraft Diesel Exhaust Fluid Contamination Working Group, *A Collaborative Industry Report on the Hazard of Diesel Exhaust Fluid Contamination of Aircraft Fuel*, June 11, 2019, at p. 3, available at [https://download.aopa.org/advocacy/2019/2019\\_06\\_11\\_Aircraft\\_DEF\\_Contamination\\_Working\\_Group\\_Report\\_FINAL.pdf](https://download.aopa.org/advocacy/2019/2019_06_11_Aircraft_DEF_Contamination_Working_Group_Report_FINAL.pdf) (last visited April 20, 2021).

<sup>2</sup> Merriam-Webster defines the term “catalytic converter” to mean “an automobile exhaust-system component containing a catalyst that causes conversion of harmful gases (such as carbon monoxide and uncombusted hydrocarbons) into mostly harmless products (such as water and carbon dioxide).” Merriam-Webster, *catalytic converter*, available at <https://www.merriam-webster.com/dictionary/catalytic%20converter> (last visited April 20, 2021).

<sup>3</sup> *Supra* note 1.

<sup>4</sup> *Supra* note 1 at p. 4.

<sup>5</sup> U.S. Department of Transportation Federal Aviation Administration, *SAFO 1815, Jet Fuel Contaminated with Diesel Exhaust Fluid (DEF)*, November 13, 2018, available at [https://www.faa.gov/other\\_visit/aviation\\_industry/airline\\_operators/airline\\_safety/safo/all\\_safos/media/2018/SAFO18015.pdf](https://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/safo/all_safos/media/2018/SAFO18015.pdf) (last visited April 20, 2021).

## Use of DEF at Airports

Airports and airport tenants use DEF in diesel-powered vehicles used in an aircraft support role, including aircraft fire-fighting equipment, life-saving equipment, and emergency generators, and other fixed base operators (FBO)<sup>6</sup> that operate on airport grounds to provide services to the airport. DEF is also used to help meet the EPA-mandated emission control standards.<sup>7</sup> DEF is stored in separate tanks on vehicles having an installed SCR system, which treats the exhaust of those vehicle engines.<sup>8</sup>

In recent years, a number of aircraft have experienced engine shutdowns and other engine operability issues due to the contamination of jet fuel as a result of the inadvertent filling of anti-icing injection systems in aircraft fuel trucks with DEF, instead of fuel system icing inhibitor (FSII).<sup>9</sup> One use of FSII is to mitigate against possible freezing of any water within jet fuel contained in an aircraft when at altitude.<sup>10</sup> FSII injection systems require an FSII fluid reservoir mounted on the truck to supply the injecting system during aircraft refueling.<sup>11</sup> However, since the 2014 application of the EPA mandated emissions standards to off-road diesel engines such as airport refuelers, refueling trucks at airports are often equipped with two reservoirs, one for DEF and one for FSII.<sup>12</sup> According to an industry report on DEF contamination of aircraft fuel, difficulty arises in the fact that both DEF and FSII are clear liquids, resulting in confusion and the accidental mixing with or replacement of FSII.<sup>13</sup>

Between November 2017 and May 2019, there were three instances, two in Florida, in which multiple aircraft had jet fuel contaminated with DEF or were refueled using equipment exposed to DEF. In all three cases, the FAA notes the occurrences resulted from the inadvertent adding of DEF to the fuel truck anti-icing injection system reservoirs, instead of FSII.<sup>14</sup> Because of these instances, and others,<sup>15</sup> numerous aircraft had to perform emergency landings. The FAA conducted a hazard analysis and issued preliminary recommendations to address the problem, including additional training for ground support crews, adoption of best management practices, and dyeing either DEF or FSII so they can be distinguished from each other.<sup>16</sup>

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<sup>6</sup> The term “fixed base operator” refers to commercial businesses allowed to operate on airport grounds to provide services to the airport, such as fueling services, aircraft maintenance services, and baggage handling. See Presidential, *What is a Fixed Base Operator or FBO*, available at <https://www.presidential-aviation.com/fbo/> (last visited April 20, 2021).

<sup>7</sup> See email from Lisa Waters, President/CEO of the Florida Airports Council, to House staff, November 4, 2019 (on file in the Senate Transportation Committee).

<sup>8</sup> *Supra* note 4.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> FAA, *Safety Assessment for Jet Fuel Contamination with Diesel Exhaust Fluid (DEF)*, August 30, 2019, p. 4, available at [https://www.nata.aero/assets/Site\\_18/files/GIA/NATA\\_News/2019-08-30\\_Safety\\_Risk\\_Assessment\\_Report\\_DEF-Final.pdf](https://www.nata.aero/assets/Site_18/files/GIA/NATA_News/2019-08-30_Safety_Risk_Assessment_Report_DEF-Final.pdf) (last visited April 20, 2021).

<sup>12</sup> *Id.*

<sup>13</sup> *Supra* note 1 at p. 9.

<sup>14</sup> *Supra* note 10 at p. 1.

<sup>15</sup> See National Air Transportation Association, *DEF Contamination Awareness*, available at <https://www.nata.aero/advocacy/def-awareness> (last visited April 20, 2021). See also *supra* note 5.

<sup>16</sup> *Supra* note 10 at pp. 10-13.

## **Airport Best Management Standards**

In response to Florida incidents of fuel contamination from DEF, the Florida Airports Council (FAC) formed a working group to identify how best to educate airport managers and fuel service providers regarding DEF fuel contamination and promulgated a “Florida Statewide Diesel Exhaust Fluid Best Management Practices Plan and requested airport managers to implement the plan, working with fuel providers, to reduce the risk of fuel contamination.”<sup>17</sup>

Under the plan, if airport managers choose to implement it, each FBO that provides fueling services is responsible for implementing DEF handling and contamination prevention and is required to provide a copy of the FBO’s best management practices to the relevant airport manager for record keeping purposes. Airport managers are responsible for making the FBO practices available for review by the FDOT during routine airport inspection. The document provides other sources for FBOs and airport staff relative to DEF contamination, including information from the Federal Aviation Administration, the National Transportation Safety Board, the NATA, and a report from the FAC Aircraft Diesel Exhaust Fluid Contamination Working Group & Recommendations.<sup>18</sup>

## **NATA Operational Best Practice No. 36, DEF Handling and Contamination**

According to its website, “NATA is the leading national trade association representing the business interests of general aviation service companies on legislative and regulatory matters at the federal level, while also providing education, services, and benefits to our members to help ensure their long-term economic success.”<sup>19</sup> Its ground operational best practices were developed by its Safety Committee, made up of industry experts with years of aviation experience.<sup>20</sup>

NATA offers a free operational best practice on DEF Handling and Contamination and contamination prevention training.<sup>21</sup> Best practice No. 36, the purpose of which is “to reduce the risk of aircraft misfueling with Diesel Exhaust Fluid (DEF),” sets out recommended responsible airport personnel, aviation fuel additive storage and fluid handling policies, procedures for procurement and labeling of DEF and FSII, staff training, and auditing.<sup>22</sup>

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<sup>17</sup> See Florida Airports Council, *FAC initiates statewide effort to address aviation fuel contamination*, available at [Florida Airports Council](#) (last visited April 20, 2021).

<sup>18</sup> See Florida Airports Council, *Florida Statewide Diesel Exhaust Fluid Best Management Practices Plan (BMP) January 1, 2021 - Updated February 8, 2021*, available at [final-def-bmp-2\\_9\\_2021.pdf \(floridaairports.org\)](#) (last visited April 20, 2021).

<sup>19</sup> NATA, About, available at <https://www.nata.aero/about-nata> (last visited April 20, 2021).

<sup>20</sup> NATA, *Operational Best Practices*, available at [NATA | National Air Transportation Association - Operational Best Practices](#) (last visited April 20, 2021).

<sup>21</sup> NATA, *Diesel Exhaust Fluid (DEF) Contamination Risk Alert*, available at [National Air Transportation Association | DEF Contamination Awareness \(nata.aero\)](#) (last visited April 20, 2021).

<sup>22</sup> NATA, *Diesel Exhaust Fluid (DEF) Handling and Contamination Prevention No OBP-36*, revised August 31, 2020, available at [OBP 36-DEF Handling and Contamination Prevention \(nata.aero\)](#) (last visited April 20, 2021).

### **FDOT Airport Inspections**

The FDOT's rules, among other provisions, require a physical airport inspection as a condition of public airport licensing and an annual inspection for purposes of renewal of a public airport license.<sup>23</sup>

### **III. Effect of Proposed Changes:**

This bill creates s. 330.401, F.S., requiring each public airport (any publicly or privately owned airport open for public use<sup>24</sup>) to require a DEF safety mitigation and exclusion plan for each fixed-base operator that performs onsite treatment of aviation fuel with a FSII. The requirement applies to each such airport at which:

- Aviation fuels receive onsite treatment with FSII;
- Aviation fuel is delivered by a publicly or privately owned FBO; and
- Any aircraft fuel delivery vehicle or ground service equipment that uses DEF is operated within 150 feet of any aircraft.

This provision effectively allows each public airport to assume responsibility for developing the DEF plan or to delegate the responsibility to an FBO operating at the airport.

At a minimum, the plan must include:

- A full inventory of all the FBO's DEF on the airport premises.
- Designation of specific areas of the airport premises where the FBO's DEF may be stored. To the extent practicable, such areas may not be located within or on a vehicle operated for the fueling or servicing of aircraft or at any aviation fuel transfer facility or bulk aviation fuel storage facility.
- Designation of specific areas where DEF may be added to vehicles. These areas may not be located in aircraft operating areas.
- Incorporation of best practices for ensuring the proper labeling and storage of DEF.
- Incorporation of training in the proper use and storage of DEF and FSII for all employees of the FBO who may come into contact with DEF or FSII in the ordinary course of their duties.
- Designation of specific areas where the FBO's FSII may be stored on the airport premises.
- Incorporation of best practices for ensuring the proper labeling and storage of the FBO's fuel system icing inhibitor.
- Physical measures to secure FSII fill points on the FBO's aircraft fuel delivery vehicles, which measures must prevent the addition of any fluid to the FSII fill point by unauthorized personnel.

Each public airport<sup>25</sup> must, by January 1, 2022, make the plan for each FBO available for review during FDOT inspections. By September 1, 2021, the bill requires the FDOT to convene a

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<sup>23</sup> Rule 14-60.006, F.A.C.

<sup>24</sup> Section 330.27, F.S.

<sup>25</sup> Publicly owned airports in Florida operate under either a government department model (where the airport operates as a department of the local government) or an airport authority model (where the airport authority is created as either an independent or a dependent special district). Airport operation and administration is generally governed as part of the local government or special district that owns the airport. Privately owned airports open to public use may employ a variety of models for oversight of operations and maintenance, including, but not limited to, sole proprietorships, corporations, and

workgroup of public airport representatives to develop uniform industry standards based upon the minimal provisions required to be in a plan under the bill and on the NATA Operational Best Practice No. 36 relating to DEF Handling and Contamination, to ensure consistency of industry standards.

Lastly, the bill authorizes the FDOT to adopt rules to develop a uniform industry standards form for the DEF plan based on the workgroup's recommendations.

The bill fulfills an important state interest.

The bill takes effect October 1, 2021.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(a) of the Florida Constitution provides that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds, unless certain conditions are met. Section 18(d) exempts from this provision laws having insignificant fiscal impact. The bill requires each public airport to require a DEF plan for each specified FBO. If such airports develop their own DEF plans, expenses may be incurred. However, the bill may have an insignificant fiscal impact and may, therefore, be exempt from the cited provision 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 identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.



**B. Private Sector Impact:**

According to the FDOT, 129 public-use commercial service and general aviation airports currently operate in Florida. Owners of private airports open to public use at which aviation fuels receive onsite treatment with FSII, at which aviation fuel is delivered by a publicly or privately owned FBO, and at which any aircraft fuel delivery vehicle or ground service equipment that uses DEF is operated within 150 feet of any aircraft must require a DEF plan for each FBO and must make the plans available during FDOT inspections. If such an airport delegates responsibility for the DEF plan to an FBO, the FBO may incur expenses in unknown amounts. To the extent that such owners participate in the required workgroup of airport representatives, expenses may be incurred in unknown amounts. The fiscal impact to such owners is indeterminate but likely insignificant.

**C. Government Sector Impact:**

Publicly owned airports must require a DEF plan for each FBO and must make the plans available during FDOT inspections. If such an airport does not delegate responsibility for the DEF plan to an FBO, the airport may incur expenses in unknown amounts. To the extent that such airports participate in the required workgroup of airport representatives, expenses may be incurred in unknown amounts. The fiscal impact to such owners is indeterminate but likely insignificant.

The bill does not otherwise appear to present a fiscal impact to local government revenues or expenditures.

The FDOT will likely incur indeterminate expenses associated with convening the required workgroup and, if the FDOT adopts the authorized rules, will incur indeterminate expenses associated with rulemaking. These expenses are expected to be absorbed within existing resources. The bill does not otherwise appear to present a fiscal impact to state revenues or expenditures.

**VI. Technical Deficiencies:**

The bill is effective October 1, 2021. However, the bill requires the FDOT to convene a workgroup by September 1, 2021.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 330.401 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 April 21, 2021:**

The committee substitute adds a section to declare that the bill fulfills an important state interest. The committee substitute changes the effective date of the bill from July 1 to October 1, 2021.

**CS by Transportation on March 24, 2021:**

The committee substitute:

- Requires each public airport with the specified uses of DEF to require a DEF safety and mitigation plan for each FBO, rather than to create a plan, effectively authorizing such airports to delegate plan responsibility to an FBO.
- Requires each public airport to make the plans available for review during inspections by the FDOT.
- Requires the FDOT to convene a workgroup of public airport representatives, by September 1, 2021, to develop uniform industry standards.
- Authorizes the FDOT to adopt rules.

- B. **Amendments:**

None.



111502

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
	.	
	.	
	.	

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The Committee on Appropriations (Albritton) recommended the following:

**Senate Amendment**

Delete line 77  
and insert:  
Section 2. This act shall take effect October 1, 2021.



247654

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
	.	
	.	
	.	

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The Committee on Appropriations (Albritton) recommended the following:

**Senate Amendment**

Between lines 76 and 77

insert:

Section 2. The Legislature determines and declares that this act fulfills an important state interest.

By the Committee on Transportation; and Senator Albritton

596-03303-21

20211082c1

1 A bill to be entitled  
 2 An act relating to diesel exhaust fluid; creating s.  
 3 330.401, F.S.; requiring specified public airports to  
 4 require a diesel exhaust fluid safety mitigation and  
 5 exclusion plan for certain fixed-base operators;  
 6 specifying plan requirements; requiring public  
 7 airports to make such plans available for review  
 8 during inspections by the Department of Transportation  
 9 after a specified date; requiring the department to  
 10 convene a workgroup of public airport representatives  
 11 by a specified date to develop specified uniform  
 12 industry standards; authorizing the department to  
 13 adopt rules; providing an effective date.  
 14  
 15 Be It Enacted by the Legislature of the State of Florida:  
 16  
 17 Section 1. Section 330.401, Florida Statutes, is created to  
 18 read:  
 19 330.401 Diesel exhaust fluid safety mitigation and  
 20 exclusion plan.—  
 21 (1) (a) Each public airport as defined in s. 330.27 at  
 22 which:  
 23 1. Aviation fuels receive onsite treatment with fuel system  
 24 icing inhibitors;  
 25 2. Aviation fuel is delivered by a publicly or privately  
 26 owned fixed-base operator; and  
 27 3. Any aircraft fuel delivery vehicle or ground service  
 28 equipment that uses diesel exhaust fluid is operated within 150  
 29 feet of any aircraft,

Page 1 of 3

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

596-03303-21

20211082c1

30  
 31 shall require a diesel exhaust fluid safety mitigation and  
 32 exclusion plan for each fixed-base operator that performs onsite  
 33 treatment of aviation fuel with a fuel system icing inhibitor.  
 34 (b) The plan must include, at a minimum:  
 35 1. A full inventory of all the fixed-base operator's diesel  
 36 exhaust fluid on the premises of the airport.  
 37 2. Designation of specific areas where the fixed-base  
 38 operator's diesel exhaust fluid may be stored on the premises of  
 39 the airport. To the extent practicable, such areas may not be  
 40 located within or on a vehicle operated for the fueling or  
 41 servicing of aircraft or at any aviation fuel transfer facility  
 42 or bulk aviation fuel storage facility.  
 43 3. Designation of specific areas where diesel exhaust fluid  
 44 may be added to vehicles. Such areas may not be located in  
 45 aircraft operating areas.  
 46 4. Incorporation of best practices for ensuring the proper  
 47 labeling and storage of diesel exhaust fluid.  
 48 5. Incorporation of training in the proper use and storage  
 49 of diesel exhaust fluid for all employees of the fixed-base  
 50 operator who may come in contact with such fluid in the ordinary  
 51 course of their duties.  
 52 6. Designation of specific areas where the fixed-base  
 53 operator's fuel system icing inhibitor may be stored on the  
 54 premises of the airport.  
 55 7. Incorporation of best practices for ensuring the proper  
 56 labeling and storage of the fixed-base operator's fuel system  
 57 icing inhibitor.  
 58 8. Incorporation of training in the proper use and storage

Page 2 of 3

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

596-03303-21

20211082c1

59 of fuel system icing inhibitors for all employees of the fixed-  
60 base operator who may come in contact with fuel system icing  
61 inhibitors in the ordinary course of their duties.

62 (2) Each public airport must, by January 1, 2022, make the  
63 diesel exhaust fluid safety mitigation and exclusion plan for  
64 each fixed-based operator available for review during  
65 inspections by the Department of Transportation.

66 (3) The Department of Transportation shall, by September 1,  
67 2021, convene a workgroup of public airport representatives to  
68 develop uniform industry standards based upon the requirements  
69 of paragraph (1) (b) and NATA Operational Best Practice No. 36,  
70 DEF Handling and Contamination, to ensure consistency of  
71 industry standards.

72 (4) The Department of Transportation may adopt rules to  
73 develop a uniform industry standards form for the diesel exhaust  
74 fluid safety mitigation and exclusion plan based upon the  
75 recommendations provided by the workgroup pursuant to subsection  
76 (3).

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



*The Florida Senate*

## Committee Agenda Request

**To:** Senator Kelli Stargel, Chair  
Committee on Appropriations

**Subject:** Committee Agenda Request

**Date:** April 6, 2021

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I respectfully request that **Senate Bill #1082**, relating to Diesel Exhaust Fluid, 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".

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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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

---

BILL: CS/SB 1084

INTRODUCER: Health Policy Committee and Senator Pizzo and others

SUBJECT: Volunteer Ambulance Services

DATE: April 21, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	<b>Fav/CS</b>
2.	<u>Howard</u>	<u>Sadberry</u>	<u>AP</u>	<b>Favorable</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1084:

- Authorizes vehicles of certain faith-based volunteer ambulance services, as authorized by the chief of police of an incorporated city or any sheriff of any county, to display red lights and operate emergency lights and sirens while responding to an emergency.
- Authorizes privately owned vehicles belonging to medical staff physicians and technicians of certain faith-based volunteer ambulance services to use red lights on privately owned vehicles and to disregard specified traffic laws and ordinances while responding to an emergency.
- Exempts certain faith-based volunteer first responder agencies who have been operating in this state for at least 10 years from certificate of public convenience and necessity requirements.
- Prohibits county and municipal governments from:
  - Limiting, prohibiting, or preventing certain faith-based volunteer ambulance services from responding to emergencies or providing emergency medical services or transport.
  - Requiring certain faith-based volunteer ambulance services to obtain a license or certificate or pay a fee.

The bill has no fiscal impact on state revenues or state expenditures.

The bill takes effect on July 1, 2021.



## II. Present Situation:

### Emergency Vehicles

Chapter 316, F.S., is known as the “Florida Uniform Traffic Control Law”<sup>1</sup> that exists for the purpose of making uniform traffic laws and ordinances apply throughout the state.<sup>2</sup> For purposes of that chapter, an “authorized emergency vehicle” includes all of the following vehicles, as designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any of the various counties:

- Vehicles of the fire department (fire patrol);
- Police vehicles; and
- Such ambulances and emergency vehicles of:
  - Municipal departments;
  - Public service corporations operated by private corporations;
  - The Fish and Wildlife Conservation Commission;
  - The Department of Environmental Protection;
  - The Department of Health;
  - The Department of Transportation; and
  - The Department of Corrections.<sup>3</sup>

### *Traffic Laws and Ordinances – Privileges*

Section 316.072(5), F.S., authorizes the drivers of certain vehicles to exercise a privilege and disregard specified traffic laws and ordinances while responding to an emergency. Under that section, all of the following drivers may exercise the privilege:

- The driver of an “authorized emergency vehicle” when responding to an emergency call, when in the pursuit of an actual or suspected violator of the law, or when responding to a fire alarm, but not upon returning from a fire;
- A medical staff physician or technician of a medical facility licensed by the state when responding to an emergency in the line of duty in his or her privately owned vehicle, using red lights as authorized in s. 316.2398, F.S.; or  
The driver of an authorized law enforcement vehicle, when conducting a nonemergency escort, to warn the public of an approaching motorcade.

Under those conditions, and unless otherwise directed by a police officer, those drivers may:

- Park or stand, regardless of traffic laws or ordinances.
- Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
- Exceed the maximum speed limits, so long as the driver does not endanger life or property.
- Disregard regulations governing direction or movement or turning in specified directions, so long as the driver does not endanger life or property.

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<sup>1</sup> Section 316.001, F.S.

<sup>2</sup> Section 316.002, F.S.

<sup>3</sup> Section 316.003(1), F.S.

Under the conditions above, the driver has a duty to drive with due regard for the safety of all persons. The driver is not protected from the consequences of his or her reckless disregard for the safety of others.

#### ***Red Lights, Red and White Lights, Emergency Lights, Sirens***<sup>4</sup>

Under the Florida Uniform Traffic Control Law, a person may not drive or move or cause to be moved any vehicle or equipment upon any highway within this state with any lamp or device thereon showing or displaying certain colors of lights unless they are explicitly authorized. For example, only police vehicles and certain vehicles owned, operated, or leased by the Department of Corrections may show or display blue lights when responding to emergencies. Additionally, amber lights are reserved for wreckers, mosquito control fog and spray vehicles, and emergency vehicles of governmental departments or public service corporations; and green and amber lights are reserved for vehicles owned or leased by private security agencies.

Red or red and white lights may be shown or displayed by vehicles of the fire department and fire patrol, and by a privately owned vehicle belonging to an active firefighter member of a regularly organized volunteer firefighting company or association, while en route to the fire station for the purpose of proceeding to the scene of a fire or other emergency or while en route to the scene of a fire or other emergency in the line of duty as an active firefighter member of a regularly organized firefighting company or association.<sup>5</sup>

Red lights may be shown or displayed by privately owned vehicles of medical staff physicians or technicians of medical facilities licensed by the state while responding to an emergency in the line of duty, certain ambulances, and certain buses and taxicabs.<sup>6</sup>

Flashing red lights may be used by emergency response vehicles of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, and the Department of Health when responding to an emergency in the line of duty.

Under s. 316.271, F.S., every “authorized emergency vehicle” is required to be equipped with a siren that meets certain specifications. The siren may only be operated in an emergency.

#### **Basic and Advanced Life Support Services**

Part III of ch. 401, F.S., consisting of ss. 401.2101-401.465, F.S., provides for the regulation of emergency medical services by the Department of Health (DOH). The DOH website reflects that its Emergency Medical Services Section is responsible for the licensure and oversight of over 60,000 emergency medical technicians and paramedics, 270+ advanced and basic life support agencies, and over 4,500 EMS vehicles.<sup>7</sup> The DOH licenses three types of emergency medical services: air ambulance,<sup>8</sup> basic life support, and advanced life support services.

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<sup>4</sup> Section 316.2397, F.S.

<sup>5</sup> Section 316.2398, F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Florida Department of Health, Emergency Medical Services System, available at <http://www.floridahealth.gov/licensing-and-regulation/ems-system/index.html> (last visited Mar. 5, 2021).

<sup>8</sup> Sections 401.23(3) and (4) and 401.251, F.S.

A basic life support service is an emergency medical service that uses *only* basic life support techniques.<sup>9</sup> In contrast, an advanced life support service is an emergency medical transport or non-transport service that uses advanced life support techniques.<sup>10</sup> Similarly, an emergency medical technician (EMT) is certified to perform basic life support,<sup>11</sup> but a paramedic is certified to perform basic and advanced life support.<sup>12</sup>

“Basic life support” is the assessment or treatment through the use of techniques described in the EMT-Basic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation and approved by the DOH. The term includes the administration of oxygen and other techniques that have been approved by the DOH.<sup>13</sup> When transporting a person who is sick, injured, wounded, incapacitated, or helpless, each basic life support ambulance must be occupied by at least two persons:

- One patient attendant who is a certified emergency medical technician, certified paramedic, or licensed physician; and
- One ambulance driver who meets the requirements of s. 401.281, F.S.<sup>14</sup>

“Advanced life support” is the assessment or treatment through the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques described in the EMT-Paramedic National Standard Curriculum or the National EMS Education Standards, pursuant to the DOH rules.<sup>15</sup> When transporting a person who is sick, injured, wounded, incapacitated, or helpless, each advanced life support ambulance must be occupied by at least two persons:

- One certified paramedic or licensed physician; and
- One certified emergency medical technician, certified paramedic, or licensed physician who also meets the requirements of s. 401.281, F.S., for drivers.<sup>16</sup>

The person occupying the advanced life support ambulance with the highest medical certifications is in charge of patient care.<sup>17</sup>

Section 401.25, F.S., provides requirements for licensure as basic and advanced life support services. Every licensee must possess a valid permit for each vehicle in use.<sup>18</sup>

### ***Certificate of Public Convenience and Necessity Requirement***

Section 401.25(2)(d), F.S., requires an applicant for licensure to obtain a certificate of public convenience and necessity from each county that the applicant will operate. In issuing the certificate of public convenience and necessity, the governing body of each county must consider the recommendations of municipalities within its jurisdiction.

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<sup>9</sup> Section 401.23(8), F.S.

<sup>10</sup> Section 401.23(2), F.S.

<sup>11</sup> Section 401.23(11), F.S.

<sup>12</sup> Section 401.23(17), F.S.

<sup>13</sup> Section 401.23(7), F.S.

<sup>14</sup> Section 401.25(7)(a), F.S.

<sup>15</sup> Section 401.23(1), F.S.

<sup>16</sup> Section 401.25(7)(b), F.S.

<sup>17</sup> *Id.*

<sup>18</sup> Section 401.26, F.S.

DOH Rule 64J-1.001, Florida Administrative Code, defines a “certificate of public convenience and necessity” as “a written statement or document, issued by the governing board of a county, granting permission for an applicant or licensee to provide services authorized by a license issued under ch. 401, part III, F.S., for the benefit of the population of that county or the benefit of the population of some geographic area of that county. No certificate of public need from one county may interfere with the prerogatives asserted by another county regarding certificate of public need.”

### ***Insurance Requirement***

Section 401.25(2)(c), F.S., requires an applicant for licensure as a basic life support service or an advanced life support service to furnish evidence of adequate insurance coverage for claims arising out of injury to or death of persons and damage to the property of others resulting from any cause that the owner of such service would be liable. In lieu of such insurance, the applicant may furnish a certificate of self-insurance evidencing that the applicant has established an adequate self-insurance plan to cover such risks and that the plan has been approved by the Office of Insurance Regulation of the Financial Services Commission.

DOH Rule 64J-1.002, Florida Administrative Code, requires each non-government-operated ground ambulance vehicle to be insured for the sum of at least \$100,000 for injuries to or death of any one person arising out of any one accident; the sum of at least \$300,000 for injuries to or death of more than one person in any one accident; and, for the sum of at least \$50,000 for damage to property arising from any one accident. The rule requires government operated service vehicles to be insured for the sum of at least \$100,000 for any claim or judgment and the sum of \$200,000 total for all claims or judgments arising out of the same occurrence.

Some counties and municipal governments throughout the state have minimum insurance limits within their ordinances that exceed those required by the DOH rule.

### **III. Effect of Proposed Changes:**

**Section 1** of the bill amends s. 316.003, F.S., to define the term “volunteer ambulance services” for purposes of ch. 316, F.S., as a faith-based, not-for-profit corporation (registered under ch. 617, F.S.) that is licensed as a basic life support service or an advanced life support service and that has no for-profit subsidiaries, uses volunteers to provide services, is not operating for pecuniary profit or financial gain, and does not distribute to or inure to the benefit of its directors, members, or officers, any part of its assets or income.”

The bill expands the definition of the term “authorized emergency vehicles” to include volunteer ambulance services that are designated or authorized by the chief of police of an incorporated city or any sheriff of any of the various counties, for purposes of ch. 316, F.S.

A volunteer ambulance services vehicle that qualifies as an authorized emergency vehicle under the bill may disregard specified traffic laws and ordinances when responding to an emergency (pursuant to s. 316.072, F.S.) and may operate emergency lights and sirens that signal to the drivers of every other vehicle to yield the right of way to the emergency vehicle and to steer to the edge of the roadway when the authorized emergency vehicle is in motion, or to slow their speed and vacate the lane closest to the emergency vehicle, in accordance with s. 316.126, F.S.

**Section 2** of the bill amends s. 316.072, F.S., to authorize a medical staff physician or technician of a volunteer ambulance service when responding to an emergency in the line of duty in his or her privately owned vehicle and using red lights (as authorized in s. 316.2398, F.S., as amended by section 4 of the bill) to disregard specified traffic laws and ordinances. Under those conditions, and unless otherwise directed by a police officer, a medical staff physician or a technician of the volunteer ambulance service (and the driver of a volunteer ambulance service that meets the definition of an “authorized emergency vehicle”) may:

- Park or stand, regardless of traffic laws or ordinances.
- Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
- Exceed the maximum speed limits, so long as the driver does not endanger life or property.
- Disregard regulations governing direction or movement or turning in specified directions, so long as the driver does not endanger life or property.

The driver has a duty to drive with due regard to the safety of all persons. The driver is not protected from the consequences of his or her reckless disregard for the safety of others.

**Section 3** of the bill amends s. 316.2397, F.S., to authorize vehicles of medical staff physicians or a technician of a volunteer ambulance service, as authorized by s. 316.2398, F.S., as amended by section 4 of the bill, to show or display red lights. The bill authorizes ambulances and emergency service vehicles of volunteer ambulance services, as designated or authorized by the chief of police of an incorporated city or any sheriff of any county, to operate emergency lights and sirens in an emergency.

**Section 4** of the bill amends s. 316.2398, F.S., to authorize a privately owned vehicle belonging to a medical staff physician or a technician of a volunteer ambulance service to show or display or use red warning signals while responding to an emergency. The red warning signals must be visible from the front and from the rear of the vehicle. No more than two red or red and white warning signals may be displayed on the vehicle. No inscription of any kind may appear across the face of the lens of the red or red and white warning signal. The bill prohibits the medical staff physician or technician from operating the red warning signals except when responding to an emergency in the line of duty. Any violation of this section of statute is a nonmoving violation, punishable as provided in ch. 318, F.S.

**Section 5** of the bill amends s. 401.211, F.S., to provide a legislative finding that it is in the public interest to foster the development of emergency medical services that address religious sensitivities and to recognize, in accordance with the Florida Volunteer and Community Service Act of 2001, the value of augmenting existing county and municipal emergency medical services with those provided by volunteer service organizations.

**Section 6** of the bill amends s. 401.23, F.S., to define the term “volunteer ambulance service” for purposes of part III of ch. 401, F.S.

“Volunteer ambulance service” which is defined to mean a faith-based, not-for-profit corporation (registered under ch. 617, F.S.) that is licensed by the DOH as a basic life support service or an advanced life support service and that has no for-profit subsidiaries, uses volunteers to provide

services, is not operating for pecuniary profit or financial gain, and does not distribute to or inure to the benefit of its directors, members, or officers any part of its assets or income.

**Section 7** of the bill amends s. 401.25, F.S., to exempt a first responder agency<sup>19</sup> that is a faith-based, not-for-profit corporation (registered under ch. 617, F.S.) that has been operating in this state for at least 10 consecutive years, has no for-profit subsidiaries, uses volunteers to provide services, is not operating for pecuniary profit or financial gain, and does not distribute to or inure to the benefit of its directors, members, or officers any part of its assets or income, from needing to obtain a certificate of public convenience and necessity to be licensed as a basic life support service or as an advanced life support service.

The bill prohibits a county or municipal government from:

- Limiting, prohibiting, or preventing a volunteer ambulance service from responding to an emergency or from providing emergency medical services or transport within its jurisdiction.
- Requiring a volunteer ambulance service to obtain a license or a certificate or pay a fee to provide ambulance or air ambulance services within its jurisdiction, except that a county or municipal government may impose, collect, or enforce payment of any occupational license tax authorized by law.

**Section 8** of the bill amends s. 316.306, F.S., to conform a cross-reference.

**Section 9** of the bill takes effect on July 1, 2021.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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<sup>19</sup> Section 401.435(2), F.S., “First responder agency” includes a law enforcement agency, a fire service agency not licensed under this part, a lifeguard agency, and a volunteer organization that renders, as part of its routine functions, on-scene patient care before emergency medical technicians or paramedics arrive.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

The bill defines the term “volunteer ambulance service” as a certain faith-based, not-for-profit corporation. Other areas of the statutes<sup>20</sup> suggest that not all volunteer organizations providing ambulance services are faith-based. The terminology used in the bill could be misleading and an amendment should be considered to define these entities as “faith-based volunteer ambulance services.” It is unclear from the definition provided (and in line 230 pertaining to an exemption for certain first responder agencies) if *only* volunteers may be used to provide services.

**VII. Related Issues:**

The bill authorizes medical staff physicians and technicians of certain faith-based volunteer ambulance services to use red lights and warning signals and to disregard specified traffic laws and ordinances while responding to an emergency in their privately owned vehicles. The bill does not authorize these individuals to carry a permit or any identifiable means of verification, such as required for an active volunteer firefighter. For an active volunteer firefighter to display such red or red and white warning signals on his or her vehicle, s. 316.2398, F.S., requires the volunteer firefighter to secure a written permit from the chief executive officer of the firefighting organization to use the red or red and white warning signals, and to carry the permit at all times while the red or red and white warning signals are displayed. A volunteer firefighter who violates that section must be dismissed from the firefighting organization by the organization’s chief executive officer. The bill does not create a similar requirement for a medical staff physician or a technician of a volunteer ambulance service. This could present challenges for law enforcement at the local, state, and federal levels.

The bill may also present challenges for a county or municipal government (especially during a disaster or mass casualty event) because a volunteer ambulance service is not required to report to or communicate with the county or municipal government. The county or municipal government would have no ability to respond or control the scene in terms of traffic management and staging areas.

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<sup>20</sup> See s. 401.121, F.S.

Some counties and municipal governments have adopted ordinances requiring basic and advanced life support services to carry insurance in excess of what is required by the DOH rule.<sup>21</sup> This requirement does not apply to volunteer ambulance services within its jurisdiction. Changes made to s. 401.25, F.S., in section 7 of the bill could be interpreted to prevent the enforcement of such ordinances.

#### **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.072, 316.2397, 316.2398, 316.306, 401.211, 401.23, and 401.25.

#### **IX. Additional Information:**

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

**CS by Health Policy on March 10, 2021:**

The CS corrects technical deficiencies in the underlying bill regarding the licensure of basic and advanced life support services that are currently licensed by the DOH under part III of chapter 401, F.S., and clarifies that volunteer ambulance services must be licensed as basic or advanced life support services. The CS removes the definition of the term “volunteer first responder agency.”

- B. **Amendments:**

None.

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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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<sup>21</sup> See Section II of this analysis.



By the Committee on Health Policy; and Senators Pizzo and Book

588-02671-21

20211084c1

1 A bill to be entitled  
 2 An act relating to volunteer ambulance services;  
 3 amending s. 316.003, F.S.; revising the definition of  
 4 the term "authorized emergency vehicles" and defining  
 5 the term "volunteer ambulance service"; amending s.  
 6 316.072, F.S.; authorizing certain medical staff of a  
 7 volunteer ambulance service to use red lights on a  
 8 privately owned vehicle under certain circumstances;  
 9 amending s. 316.2397, F.S.; authorizing vehicles of  
 10 volunteer ambulance services to show or display red  
 11 lights and operate emergency lights and sirens under  
 12 certain circumstances; amending s. 316.2398, F.S.;  
 13 authorizing privately owned vehicles belonging to  
 14 certain medical staff of a volunteer ambulance service  
 15 to display or use red warning signals under certain  
 16 circumstances; conforming a provision to changes made  
 17 by the act; prohibiting certain medical staff of  
 18 volunteer ambulance services from operating red  
 19 warning signals when not responding to an emergency in  
 20 the line of duty; amending s. 401.211, F.S.; revising  
 21 legislative intent; amending s. 401.23, F.S.; defining  
 22 the term "volunteer ambulance service"; amending s.  
 23 401.25, F.S.; exempting certain first responder  
 24 agencies from certificate of public convenience and  
 25 necessity requirements; providing that county and  
 26 municipal governments may not limit, prohibit, or  
 27 prevent volunteer ambulance services from responding  
 28 to emergencies or providing emergency medical services  
 29 or transport within their respective jurisdictions;

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30 prohibiting county and municipal governments from  
 31 requiring volunteer ambulance services to obtain a  
 32 license or certificate or pay a fee to provide  
 33 ambulance or air ambulance services within their  
 34 respective jurisdictions, with an exception; amending  
 35 s. 316.306, F.S.; conforming a cross-reference;  
 36 providing an effective date.  
 37  
 38 Be It Enacted by the Legislature of the State of Florida:  
 39  
 40 Section 1. Present subsection (105) of section 316.003,  
 41 Florida Statutes, is redesignated as subsection (106), a new  
 42 subsection (105) is added to that section, and subsection (1) of  
 43 that section is amended, to read:  
 44 316.003 Definitions.—The following words and phrases, when  
 45 used in this chapter, shall have the meanings respectively  
 46 ascribed to them in this section, except where the context  
 47 otherwise requires:  
 48 (1) AUTHORIZED EMERGENCY VEHICLES.—Vehicles of the fire  
 49 department (fire patrol), police vehicles, and such ambulances  
 50 and emergency vehicles of municipal departments, volunteer  
 51 ambulance services, public service corporations operated by  
 52 private corporations, the Fish and Wildlife Conservation  
 53 Commission, the Department of Environmental Protection, the  
 54 Department of Health, the Department of Transportation, and the  
 55 Department of Corrections as are designated or authorized by  
 56 their respective ~~departments~~ department or the chief of police  
 57 of an incorporated city or any sheriff of any of the various  
 58 counties.

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59 (105) VOLUNTEER AMBULANCE SERVICE.—A faith-based, not-for-  
 60 profit corporation registered under chapter 617 which is  
 61 licensed under part III of chapter 401 as a basic life support  
 62 service or an advanced life support service and which has no  
 63 for-profit subsidiaries, uses volunteers to provide services, is  
 64 not operating for pecuniary profit or financial gain, and does  
 65 not distribute to or inure to the benefit of its directors,  
 66 members, or officers any part of its assets or income.

67 Section 2. Paragraph (a) of subsection (5) of section  
 68 316.072, Florida Statutes, is amended to read:

69 316.072 Obedience to and effect of traffic laws.—

70 (5) AUTHORIZED EMERGENCY VEHICLES.—

71 (a)1. The driver of an authorized emergency vehicle, when  
 72 responding to an emergency call, when in the pursuit of an  
 73 actual or suspected violator of the law, or when responding to a  
 74 fire alarm, but not upon returning from a fire;

75 2. A medical staff physician or technician of a medical  
 76 facility licensed by the state or of a volunteer ambulance  
 77 service when responding to an emergency in the line of duty in  
 78 his or her privately owned vehicle, using red lights as  
 79 authorized in s. 316.2398; or

80 3. The driver of an authorized law enforcement vehicle,  
 81 when conducting a nonemergency escort, to warn the public of an  
 82 approaching motorcade;

83 may exercise the privileges set forth in this section, but  
 84 subject to the conditions herein stated.

85 Section 3. Subsection (3) of section 316.2397, Florida  
 86 Statutes, is amended to read:  
 87

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88 316.2397 Certain lights prohibited; exceptions.—

89 (3) Vehicles of the fire department and fire patrol,  
 90 including vehicles of volunteer firefighters as permitted under  
 91 s. 316.2398, may show or display red or red and white lights.  
 92 Vehicles of medical staff physicians or technicians of medical  
 93 facilities licensed by the state or of volunteer ambulance  
 94 services as authorized under s. 316.2398, ambulances as  
 95 authorized under this chapter, and buses and taxicabs as  
 96 authorized under s. 316.2399 may show or display red lights.  
 97 Vehicles of the fire department, fire patrol, police vehicles,  
 98 and such ambulances and emergency vehicles of municipal and  
 99 county departments, volunteer ambulance services, public service  
 100 corporations operated by private corporations, the Fish and  
 101 Wildlife Conservation Commission, the Department of  
 102 Environmental Protection, the Department of Transportation, the  
 103 Department of Agriculture and Consumer Services, and the  
 104 Department of Corrections as are designated or authorized by  
 105 their respective department or the chief of police of an  
 106 incorporated city or any sheriff of any county may operate  
 107 emergency lights and sirens in an emergency. Wreckers, mosquito  
 108 control fog and spray vehicles, and emergency vehicles of  
 109 governmental departments or public service corporations may show  
 110 or display amber lights when in actual operation or when a  
 111 hazard exists provided they are not used going to and from the  
 112 scene of operation or hazard without specific authorization of a  
 113 law enforcement officer or law enforcement agency. Wreckers must  
 114 use amber rotating or flashing lights while performing  
 115 recoveries and loading on the roadside day or night, and may use  
 116 such lights while towing a vehicle on wheel lifts, slings, or

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117 under reach if the operator of the wrecker deems such lights  
 118 necessary. A flatbed, car carrier, or rollback may not use amber  
 119 rotating or flashing lights when hauling a vehicle on the bed  
 120 unless it creates a hazard to other motorists because of  
 121 protruding objects. Further, escort vehicles may show or display  
 122 amber lights when in the actual process of escorting  
 123 overdimensioned equipment, material, or buildings as authorized  
 124 by law. Vehicles owned or leased by private security agencies  
 125 may show or display green and amber lights, with either color  
 126 being no greater than 50 percent of the lights displayed, while  
 127 the security personnel are engaged in security duties on private  
 128 or public property.

129 Section 4. Subsections (1), (2), and (4) of section  
 130 316.2398, Florida Statutes, are amended to read:

131 316.2398 Display or use of red or red and white warning  
 132 signals; motor vehicles of volunteer firefighters or medical  
 133 staff.—

134 (1) A privately owned vehicle belonging to an active  
 135 firefighter member of a regularly organized volunteer  
 136 firefighting company or association, while en route to the fire  
 137 station for the purpose of proceeding to the scene of a fire or  
 138 other emergency or while en route to the scene of a fire or  
 139 other emergency in the line of duty as an active firefighter  
 140 member of a regularly organized firefighting company or  
 141 association, may display or use red or red and white warning  
 142 signals. A privately owned vehicle belonging to a medical staff  
 143 physician or technician of a medical facility licensed by the  
 144 state or of a volunteer ambulance service, while responding to  
 145 an emergency in the line of duty, may display or use red warning

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146 signals. Warning signals must be visible from the front and from  
 147 the rear of such vehicle, subject to the following restrictions  
 148 and conditions:

149 (a) No more than two red or red and white warning signals  
 150 may be displayed.

151 (b) No inscription of any kind may appear across the face  
 152 of the lens of the red or red and white warning signal.

153 (c) In order for an active volunteer firefighter to display  
 154 such red or red and white warning signals on his or her vehicle,  
 155 the volunteer firefighter must first secure a written permit  
 156 from the chief executive officers of the firefighting  
 157 organization to use the red or red and white warning signals,  
 158 and this permit must be carried by the volunteer firefighter at  
 159 all times while the red or red and white warning signals are  
 160 displayed.

161 (2) A person who is not an active firefighter member of a  
 162 regularly organized volunteer firefighting company or  
 163 association or a physician or technician of the medical staff of  
 164 a medical facility licensed by the state or of a volunteer  
 165 ambulance service may not display on any motor vehicle owned by  
 166 him or her, at any time, any red or red and white warning  
 167 signals as described in subsection (1).

168 (4) A physician or technician of the medical staff of a  
 169 medical facility licensed by the state or of a volunteer  
 170 ambulance service may not operate any red warning signals as  
 171 authorized in subsection (1), except when responding to an  
 172 emergency in the line of duty.

173 Section 5. Section 401.211, Florida Statutes, is amended to  
 174 read:

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175 401.211 Legislative intent.—The Legislature recognizes that  
 176 the systematic provision of emergency medical services saves  
 177 lives and reduces disability associated with illness and injury.  
 178 In addition, that system of care must be equally capable of  
 179 assessing, treating, and transporting children, adults, and  
 180 frail elderly persons. Further, it is the intent of the  
 181 Legislature to encourage the development and maintenance of  
 182 emergency medical services because such services are essential  
 183 to the health and well-being of all citizens of the state. The  
 184 Legislature finds that it is in the public interest to foster  
 185 the development of emergency medical services that address  
 186 religious sensitivities. In accordance with the Florida  
 187 Volunteer and Community Service Act of 2001, the Legislature  
 188 further recognizes the value of augmenting existing county and  
 189 municipal emergency medical services with those provided by  
 190 volunteer service organizations. The Legislature also recognizes  
 191 that the establishment of a comprehensive statewide injury-  
 192 prevention program supports state and community health systems  
 193 by further enhancing the total delivery system of emergency  
 194 medical services and reduces injuries for all persons. The  
 195 purpose of this part is to protect and enhance the public  
 196 health, welfare, and safety through the establishment of an  
 197 emergency medical services state plan, an advisory council, a  
 198 comprehensive statewide injury-prevention program, minimum  
 199 standards for emergency medical services personnel, vehicles,  
 200 services and medical direction, and the establishment of a  
 201 statewide inspection program created to monitor the quality of  
 202 patient care delivered by each licensed service and  
 203 appropriately certified personnel.

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204 Section 6. Subsection (22) is added to section 401.23,  
 205 Florida Statutes, to read:  
 206 401.23 Definitions.—As used in this part, the term:  
 207 (22) "Volunteer ambulance service" means a faith-based,  
 208 not-for-profit corporation registered under chapter 617 which is  
 209 licensed by the department as a basic life support service or an  
 210 advanced life support service and which has no for-profit  
 211 subsidiaries, uses volunteers to provide services, is not  
 212 operating for pecuniary profit or financial gain, and does not  
 213 distribute to or inure to the benefit of its directors, members,  
 214 or officers any part of its assets or income.  
 215 Section 7. Paragraph (d) of subsection (2) and subsection  
 216 (6) of section 401.25, Florida Statutes, are amended to read:  
 217 401.25 Licensure as a basic life support or an advanced  
 218 life support service.—  
 219 (2) The department shall issue a license for operation to  
 220 any applicant who complies with the following requirements:  
 221 (d) The applicant has obtained a certificate of public  
 222 convenience and necessity from each county in which the  
 223 applicant will operate. In issuing the certificate of public  
 224 convenience and necessity, the governing body of each county  
 225 shall consider the recommendations of municipalities within its  
 226 jurisdiction. An applicant that is a first responder agency is  
 227 exempt from this requirement if it is a faith-based, not-for-  
 228 profit corporation registered under chapter 617 which has been  
 229 operating in this state for at least 10 consecutive years, has  
 230 no for-profit subsidiaries, uses volunteers to provide services,  
 231 is not operating for pecuniary profit or financial gain, and  
 232 does not distribute to or inure to the benefit of its directors,

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233 members, or officers any part of its assets or income.

234 (6) (a) The governing body of each county may adopt  
 235 ordinances that provide reasonable standards for certificates of  
 236 public convenience and necessity for basic or advanced life  
 237 support services and air ambulance services. In developing  
 238 standards for certificates of public convenience and necessity,  
 239 the governing body of each county must consider state  
 240 guidelines, recommendations of the local or regional trauma  
 241 agency created under chapter 395, and the recommendations of  
 242 municipalities within its jurisdiction.

243 (b) A county or municipal government may not limit,  
 244 prohibit, or prevent a volunteer ambulance service from  
 245 responding to an emergency or from providing emergency medical  
 246 services or transport within its jurisdiction.

247 (c) A county or municipal government may not require a  
 248 volunteer ambulance service to obtain a license or certificate  
 249 or pay a fee to provide ambulance or air ambulance services  
 250 within its jurisdiction, except that a county or municipal  
 251 government may impose, collect, or enforce payment of any  
 252 occupational license tax authorized by law.

253 Section 8. Paragraph (a) of subsection (3) of section  
 254 316.306, Florida Statutes, is amended to read:

255 316.306 School and work zones; prohibition on the use of a  
 256 wireless communications device in a handheld manner.-

257 (3) (a) 1. A person may not operate a motor vehicle while  
 258 using a wireless communications device in a handheld manner in a  
 259 designated school crossing, school zone, or work zone area as  
 260 defined in s. 316.003(106) ~~s. 316.003(105)~~. This subparagraph  
 261 shall only be applicable to work zone areas if construction

588-02671-21 20211084c1

262 personnel are present or are operating equipment on the road or  
 263 immediately adjacent to the work zone area. For the purposes of  
 264 this paragraph, a motor vehicle that is stationary is not being  
 265 operated and is not subject to the prohibition in this  
 266 paragraph.

267 2.a. During the period from October 1, 2019, through  
 268 December 31, 2019, a law enforcement officer may stop motor  
 269 vehicles to issue verbal or written warnings to persons who are  
 270 in violation of subparagraph 1. for the purposes of informing  
 271 and educating such persons of this section. This sub-  
 272 subparagraph shall stand repealed on October 1, 2020.

273 b. Effective January 1, 2020, a law enforcement officer may  
 274 stop motor vehicles and issue citations to persons who are  
 275 driving while using a wireless communications device in a  
 276 handheld manner in violation of subparagraph 1.

277 Section 9. This act shall take effect July 1, 2021.



The Florida Senate

## Committee Agenda Request

**To:** Senator Kelli Stargel, Chair  
Committee on Appropriations

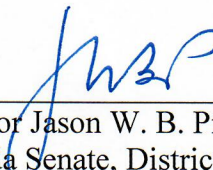
**Subject:** Committee Agenda Request

**Date:** March 12, 2021

---

I respectfully request that **CS/SB 1084**, relating to Volunteer Ambulance Services, be placed on the:

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

  
\_\_\_\_\_  
Senator Jason W. B. Pizzo  
Florida Senate, District 38

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

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

April 21, 2021

*Meeting Date*

SB 1084

*Bill Number (if applicable)*

Topic Volunteer Ambulance Services

*Amendment Barcode (if applicable)*

Name Chief Ray Colburn

Job Title Executive Director

Address 221 Pinewood Dr.

Phone 407-468-6622

*Street*

Tallahassee

FL

32303

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)

4/21

# THE FLORIDA SENATE APPEARANCE RECORD

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

1084

Meeting Date

Bill Number (if applicable)

Topic Volunteer Ambulances/CoPCV

Amendment Barcode (if applicable)

Name MARK JEFFRIES

Job Title \_\_\_\_\_

Address 201 S. Rosalind Ave

Phone 407-836-5909

Street

City

State

Zip

Orlando, FL 32801

Email mark.jeffries@ocfl.net

Speaking:  For  Against  Information

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

Representing Orange 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)



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

THE FLORIDA SENATE

APPEARANCE RECORD

4-21-21

Meeting Date

108A

Bill Number (if applicable)

Topic VOLUNTEER APPOINTMENT SERVICE

Amendment Barcode (if applicable)

Name Jess M. McCarty

Job Title Executive Assistant County Attorney

Address 111 NW First Street, Suite 2810

Phone 305-979-7110

Street

Miami

City

FL

State

33128

Zip

Email jmm2@miamidade.gov

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.

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SJR 1182

INTRODUCER: Senator Brandes

SUBJECT: Limitation on the Assessment of Real Property/Residential Purposes

DATE: April 21, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	<b>Favorable</b>
3.	<u>Gross</u>	<u>Sadberry</u>	<u>AP</u>	<b>Favorable</b>

---

**I. Summary:**

SJR 1182 proposes an amendment to the Florida Constitution to authorize the Legislature to prohibit an increase in the assessed value of residential property as a result of any change or improvement made to improve the property's resistance to flood damage.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2022.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2023.

The Revenue Estimating Conference determined that the joint resolution is not self-executing, and thus, does not have a fiscal impact. If the joint resolution is adopted by the electors, the implementing bill (CS/SB 1186) will reduce local government revenue by \$5.8 million beginning in Fiscal Year 2023-2024, with a recurring \$25.1 million reduction.

**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.<sup>1</sup> The property appraiser annually determines the “just value”<sup>2</sup> of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property,<sup>4</sup> and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup> For example, the Legislature may prohibit from increasing the assessed value of residential property those improvements made to enhance the property’s resistance to wind damage or installations of solar or renewable energy source devices.<sup>6</sup> Currently, the Legislature has implemented the assessment limitation for the installation of renewable energy source devices.<sup>7</sup>

### Resistance to Flood Damage

Hurricanes and severe storms cause flooding throughout Florida and sea-level rise may increase the potency of flood damage over time.<sup>8</sup> As of 2019, Florida held over one-third of the flood insurance policies issued by the National Flood Insurance Program (NFIP), a federal entity created in 1968 to provide standardized flood insurance.<sup>9</sup> According to the Federal Emergency Management Agency (FEMA), 1,719,376 properties in Florida are at risk of flooding in a 100-year storm.<sup>10</sup>

Flood damage can be mitigated via multiple strategies. These might include large structural mitigation public works projects, such as dams, seawalls, levees.<sup>11</sup> Mitigation can also include

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<sup>1</sup> Both real property and tangible personal property are 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.

<sup>2</sup> 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 (Fla. 1973).

<sup>3</sup> *See* s. 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>6</sup> FLA. CONST. art. VII, s. 4(i).

<sup>7</sup> Section 193.624, F.S.

<sup>8</sup> Rebecca Lindsey, *Climate Change: Global Sea Level*, National Oceanic and Atmospheric Administration, (Jan. 25, 2021), available at: <https://www.climate.gov/news-features/understanding-climate/climate-change-global-sea-level> (last visited April 8, 2021).

<sup>9</sup> *Facts + Statistics: Flood Insurance*, Insurance Information Institute, available at: <https://www.iii.org/fact-statistic/facts-statistics-flood-insurance> (last visited April 8, 2021).

<sup>10</sup> Emily Mahoney and Zachary Sampson, *Florida has thousands more properties with high flood risk than FEMA says, according to new study*, Tampa Bay Times, (Jun. 29, 2020) available at: <https://www.tampabay.com/news/environment/2020/06/29/florida-has-thousands-more-properties-with-high-flood-risk-than-fema-says-according-to-new-study/> (last visited April 9, 2021).

<sup>11</sup> Beverly Cigler, *U.S. Floods: The Necessity of Mitigation*, State and Local Government Review, Volume 49 Issue 2, (Sept. 22, 2017), available at: [https://www.napawash.org/uploads/Standing\\_Panel\\_Blogs/cigler-floods-and-mitigation-Sept-20172.pdf](https://www.napawash.org/uploads/Standing_Panel_Blogs/cigler-floods-and-mitigation-Sept-20172.pdf) (last visited April 9, 2021).

improvements made to individual properties, such as elevating structures, filling basements, and waterproofing.<sup>12</sup> They might also include non-structural mitigation as well, such as maintaining land to allow for storm water runoff, waterproofing basements, installing check valves capable of preventing water backup, and elevating furnaces, heaters, and electrical panels.<sup>13</sup>

### III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution to authorize the Legislature to prohibit an increase in the assessed value of residential property as a result of any change or improvement made to improve the property's resistance to flood damage.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2022.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2023.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The mandate provisions in Art. VII, s. 18 of the Florida 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 identified.

#### E. Other Constitutional Issues:

Article XI, s. 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, s. 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election<sup>14</sup> held more than 90 days after the proposal has been filed with the Secretary of State or at a

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Section 97.021(16), F.S., defines "general election" as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

special election held for that purpose. Constitutional amendments submitted to the electors must be printed in clear and unambiguous language on the ballot.<sup>15</sup>

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

Article XI, s. 5(e) of the Florida 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 as may be specified in the amendment.

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the joint resolution is not self-executing, and thus, does not have a fiscal impact. If the joint resolution is adopted by the electors, the implementing bill (CS/SB 1186) will reduce local government revenues by \$5.8 million beginning in Fiscal Year 2023-2024, with a \$25.1 million recurring reduction.<sup>16</sup>

### B. Private Sector Impact:

None.

### C. Government Sector Impact:

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

The Division of Elections (division) within the Department of State paid approximately \$351,834.45 to advertise six constitutional amendments in 2020.<sup>17</sup> Full publication costs for advertising a single constitutional amendment, on average, was approximately \$58,639.08. This cost was paid from non-recurring General Revenue funds.<sup>18</sup> Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are

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<sup>15</sup> Section 101.161(1), F.S.

<sup>16</sup> See Revenue Estimating Impact Conference, *Elevated Properties, CS/HB 1379*, (April 9, 2021), available at: [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/\\_pdf/page365-376.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page365-376.pdf) (last visited April 10, 2021).

<sup>17</sup> E-mail from Legislative Affairs Director, Department of State, to staff of Senate Committee on Health Policy (Feb. 1, 2021) (on file with Senate Committee on Finance and Tax).

<sup>18</sup> See Ch. 2020-111, Specific Appropriation 3132, Laws of Fla.

obtained from newspapers.<sup>19</sup> The statewide average cost to the division to advertise constitutional amendments, in English and Spanish,<sup>20</sup> in newspapers for the 2020 election cycle was \$86.85 per English word of the originating document.<sup>21</sup>

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement. Beginning in 2020, the summary of such financial information statements was also included as part of the booklets.<sup>22</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This resolution substantially amends section 4, Article VII of the Florida Constitution.

This resolution also creates section 42, Article XII of the Florida 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.

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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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<sup>19</sup> *Id.*

<sup>20</sup> Pursuant to Section 203 of the *Voting Rights Act* (52 U.S.C.A. § 10503).

<sup>21</sup> *Supra*, note 14.

<sup>22</sup> Section 100.371(13)(e)4., F.S. *See also* Chapter 2019-64, s. 3, Laws of Fla.

By Senator Brandes

24-01298-21

20211182\_\_

## Senate Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII and the creation of Section 42 of Article XII of the State Constitution, effective January 1, 2023, to authorize the Legislature, by general law, to prohibit the consideration of any change or improvement made to real property used for residential purposes to improve the property's resistance to flood damage in determining the assessed value of such property for ad valorem taxation purposes.

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

That the following amendment to Section 4 of Article VII and the creation of Section 42 of 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 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

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

24-01298-21

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(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general law and assessed solely on the basis of character or use.

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(d) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph (8) apply. Thereafter, the homestead shall be assessed as provided in this subsection.

(4) New homestead property shall be assessed at just value

Page 2 of 8

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59 as of January 1st of the year following the establishment of the  
60 homestead, unless the provisions of paragraph (8) apply. That  
61 assessment shall only change as provided in this subsection.

62 (5) Changes, additions, reductions, or improvements to  
63 homestead property shall be assessed as provided for by general  
64 law; provided, however, after the adjustment for any change,  
65 addition, reduction, or improvement, the property shall be  
66 assessed as provided in this subsection.

67 (6) In the event of a termination of homestead status, the  
68 property shall be assessed as provided by general law.

69 (7) The provisions of this amendment are severable. If any  
70 of the provisions of this amendment shall be held  
71 unconstitutional by any court of competent jurisdiction, the  
72 decision of such court shall not affect or impair any remaining  
73 provisions of this amendment.

74 (8)a. A person who establishes a new homestead as of  
75 January 1 and who has received a homestead exemption pursuant to  
76 Section 6 of this Article as of January 1 of any of the three  
77 years immediately preceding the establishment of the new  
78 homestead is entitled to have the new homestead assessed at less  
79 than just value. The assessed value of the newly established  
80 homestead shall be determined as follows:

81 1. If the just value of the new homestead is greater than  
82 or equal to the just value of the prior homestead as of January  
83 1 of the year in which the prior homestead was abandoned, the  
84 assessed value of the new homestead shall be the just value of  
85 the new homestead minus an amount equal to the lesser of  
86 \$500,000 or the difference between the just value and the  
87 assessed value of the prior homestead as of January 1 of the

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88 year in which the prior homestead was abandoned. Thereafter, the  
89 homestead shall be assessed as provided in this subsection.

90 2. If the just value of the new homestead is less than the  
91 just value of the prior homestead as of January 1 of the year in  
92 which the prior homestead was abandoned, the assessed value of  
93 the new homestead shall be equal to the just value of the new  
94 homestead divided by the just value of the prior homestead and  
95 multiplied by the assessed value of the prior homestead.  
96 However, if the difference between the just value of the new  
97 homestead and the assessed value of the new homestead calculated  
98 pursuant to this sub-subparagraph is greater than \$500,000, the  
99 assessed value of the new homestead shall be increased so that  
100 the difference between the just value and the assessed value  
101 equals \$500,000. Thereafter, the homestead shall be assessed as  
102 provided in this subsection.

103 b. By general law and subject to conditions specified  
104 therein, the legislature shall provide for application of this  
105 paragraph to property owned by more than one person.

106 (e) The legislature may, by general law, for assessment  
107 purposes and subject to the provisions of this subsection, allow  
108 counties and municipalities to authorize by ordinance that  
109 historic property may be assessed solely on the basis of  
110 character or use. Such character or use assessment shall apply  
111 only to the jurisdiction adopting the ordinance. The  
112 requirements for eligible properties must be specified by  
113 general law.

114 (f) A county may, in the manner prescribed by general law,  
115 provide for a reduction in the assessed value of homestead  
116 property to the extent of any increase in the assessed value of



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117 that property which results from the construction or  
 118 reconstruction of the property for the purpose of providing  
 119 living quarters for one or more natural or adoptive grandparents  
 120 or parents of the owner of the property or of the owner's spouse  
 121 if at least one of the grandparents or parents for whom the  
 122 living quarters are provided is 62 years of age or older. Such a  
 123 reduction may not exceed the lesser of the following:

124 (1) The increase in assessed value resulting from  
 125 construction or reconstruction of the property.

126 (2) Twenty percent of the total assessed value of the  
 127 property as improved.

128 (g) For all levies other than school district levies,  
 129 assessments of residential real property, as defined by general  
 130 law, which contains nine units or fewer and which is not subject  
 131 to the assessment limitations set forth in subsections (a)  
 132 through (d) shall change only as provided in this subsection.

133 (1) Assessments subject to this subsection shall be changed  
 134 annually on the date of assessment provided by law; but those  
 135 changes in assessments shall not exceed ten percent (10%) of the  
 136 assessment for the prior year.

137 (2) No assessment shall exceed just value.

138 (3) After a change of ownership or control, as defined by  
 139 general law, including any change of ownership of a legal entity  
 140 that owns the property, such property shall be assessed at just  
 141 value as of the next assessment date. Thereafter, such property  
 142 shall be assessed as provided in this subsection.

143 (4) Changes, additions, reductions, or improvements to such  
 144 property shall be assessed as provided for by general law;  
 145 however, after the adjustment for any change, addition,

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20211182\_\_

146 reduction, or improvement, the property shall be assessed as  
 147 provided in this subsection.

148 (h) For all levies other than school district levies,  
 149 assessments of real property that is not subject to the  
 150 assessment limitations set forth in subsections (a) through (d)  
 151 and (g) shall change only as provided in this subsection.

152 (1) Assessments subject to this subsection shall be changed  
 153 annually on the date of assessment provided by law; but those  
 154 changes in assessments shall not exceed ten percent (10%) of the  
 155 assessment for the prior year.

156 (2) No assessment shall exceed just value.

157 (3) The legislature must provide that such property shall  
 158 be assessed at just value as of the next assessment date after a  
 159 qualifying improvement, as defined by general law, is made to  
 160 such property. Thereafter, such property shall be assessed as  
 161 provided in this subsection.

162 (4) The legislature may provide that such property shall be  
 163 assessed at just value as of the next assessment date after a  
 164 change of ownership or control, as defined by general law,  
 165 including any change of ownership of the legal entity that owns  
 166 the property. Thereafter, such property shall be assessed as  
 167 provided in this subsection.

168 (5) Changes, additions, reductions, or improvements to such  
 169 property shall be assessed as provided for by general law;  
 170 however, after the adjustment for any change, addition,  
 171 reduction, or improvement, the property shall be assessed as  
 172 provided in this subsection.

173 (i) The legislature, by general law and subject to  
 174 conditions specified therein, may prohibit the consideration of

24-01298-21 20211182\_\_

175 the following in the determination of the assessed value of real  
176 property:

177 (1) Any change or improvement to real property used for  
178 residential purposes made to improve the property's resistance  
179 to wind damage or to flood damage.

180 (2) The installation of a solar or renewable energy source  
181 device.

182 (j)(1) The assessment of the following working waterfront  
183 properties shall be based upon the current use of the property:  
184 a. Land used predominantly for commercial fishing purposes.  
185 b. Land that is accessible to the public and used for  
186 vessel launches into waters that are navigable.  
187 c. Marinas and drystacks that are open to the public.  
188 d. Water-dependent marine manufacturing facilities,  
189 commercial fishing facilities, and marine vessel construction  
190 and repair facilities and their support activities.

191 (2) The assessment benefit provided by this subsection is  
192 subject to conditions and limitations and reasonable definitions  
193 as specified by the legislature by general law.

194 ARTICLE XII

195 SCHEDULE

196 SECTION 42. Limitation on the assessment of real property  
197 used for residential purposes.-This section and the amendment to  
198 Section 4 of Article VII, authorizing the legislature to  
199 prohibit an increase in the assessed value of real property used  
200 for residential purposes as a result of any change or  
201 improvement made to improve the property's resistance to flood  
202 damage, shall take effect January 1, 2023.

203 BE IT FURTHER RESOLVED that the following statement be

Page 7 of 8

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24-01298-21 20211182\_\_

204 placed on the ballot:

205 CONSTITUTIONAL AMENDMENT

206 ARTICLE VII, SECTION 4

207 ARTICLE XII, SECTION 42

208 LIMITATION ON THE ASSESSMENT OF REAL PROPERTY USED FOR  
209 RESIDENTIAL PURPOSES.-Proposing an amendment to the State  
210 Constitution, effective January 1, 2023, to authorize the  
211 Legislature, by general law, to prohibit the consideration of  
212 any change or improvement made to real property used for  
213 residential purposes to improve the property's resistance to  
214 flood damage in determining the assessed value of such property  
215 for ad valorem taxation purposes.

Page 8 of 8

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The Florida Senate

## Committee Agenda Request

**To:** Senator Kelli Stargel, Chair  
Committee on Appropriations

**Subject:** Committee Agenda Request

**Date:** April 14, 2021

---

I respectfully request that **Senate Bill #1182**, relating to Limitation on the Assessment of Real Property/Residential Purposes, 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**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/CS/SB 1186

INTRODUCER: Appropriations Committee; Finance and Tax Committee; Community Affairs Committee; and Senator Brandes

SUBJECT: Property Assessments for Elevated Properties

DATE: April 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	<u>Fav/CS</u>
3.	<u>Gross</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/CS/SB 1186 is the implementing bill for SJR 1182, which proposes an amendment to the Florida Constitution to authorize the Legislature to prohibit an increase in the assessed value of residential property as a result of any change or improvement made to improve the property's resistance to flood damage.

The bill provides that the assessed value of residential property may not increase if the property is voluntarily elevated to meet National Flood Insurance Program and Florida Building Code elevation requirements. Such property, at the time of elevation, may not have been deemed uninhabitable, and it cannot be subject to any unpaid property taxes, special assessments, county or municipal utility charges, or other government-imposed liens. Additionally, the assessment limitation will not apply to the property if, after voluntary elevation, the property classification changes.

The Revenue Estimating Conference has not analyzed the bill. However, the amendments incorporated into the current version of the bill are unlikely to significantly change the impact. The prior version of the bill was estimated to reduce local government revenues by \$5.8 million beginning in Fiscal Year 2023-2024, with a \$25.1 million recurring reduction.

The bill will take effect on the effective date of the amendment proposed by SJR 1182 or a similar joint resolution having substantially the same specific intent and purpose. If approved by

the electors, the proposed amendment (SJR 1182) and CS/CS/SB 1186 will take effect on January 1, 2023.

## 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.<sup>1</sup> The property appraiser annually determines the “just value”<sup>2</sup> of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property,<sup>4</sup> and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup> For example, the Legislature may prohibit from increasing the assessed value of residential property those improvements made to enhance the property’s resistance to wind damage or installations of solar or renewable energy source devices.<sup>6</sup> Currently, the Legislature has implemented the assessment limitation for the installation of renewable energy source devices.<sup>7</sup>

### Changes, Additions, and Improvements to Real Property

In general, changes, additions, or improvements to real property are assessed at just value as of the first January 1 after they are substantially completed.<sup>8</sup> However, when property is damaged or destroyed by calamity or misfortune, the property may be repaired or replaced without the change, addition, or improvement being assessed at just value; rather, the change, addition, or improvement is assigned the taxable value and other tax characteristics (i.e. assessment limitation) that the damaged or replaced property had before being damaged or destroyed. This treatment has certain limitations. For instance, the change, addition, or improvement may not exceed 110 percent of the square footage of the property before it was damaged or destroyed.<sup>9</sup> Any square footage greater than 110 percent of the replaced property is assessed at just value.

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<sup>1</sup> Both real property and tangible personal property are 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.

<sup>2</sup> 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 (Fla. 1973).

<sup>3</sup> *See* s. 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>6</sup> FLA. CONST. art. VII, s. 4(i).

<sup>7</sup> Section 193.624, F.S.

<sup>8</sup> Sections 193.155(4)(a), 193.1554(6)(a), and 193.1555(6)(a), F.S.

<sup>9</sup> Sections 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S.

For residential property, the 110 percent limitation does not apply if the change, addition, or improvement is made to property that is no larger than 1,500 square feet after it is repaired or replaced.<sup>10</sup>

Rebuilding of damaged property must commence within 3 years of the damage (or 5 years for damage caused by Hurricane Michael) to qualify for the assessment limitation described above.

### **Resistance to Flood Damage**

Hurricanes and severe storms cause flooding throughout Florida and sea-level rise may increase the potency of flood damage over time.<sup>11</sup> As of 2019, Florida held over one-third of the flood insurance policies issued by the National Flood Insurance Program (NFIP), a federal entity created in 1968 to provide standardized flood insurance.<sup>12</sup> According to the Federal Emergency Management Agency (FEMA), 1,719,376 properties in Florida are at risk of flooding in a 100-year storm.<sup>13</sup>

Flood damage can be mitigated via multiple strategies. These might include large structural mitigation public works projects, such as dams, seawalls, levees.<sup>14</sup> Mitigation can also include improvements made to individual properties, such as elevating structures, filling basements, and waterproofing.<sup>15</sup> They might also include non-structural mitigation as well, such as maintaining land to allow for storm water runoff, waterproofing basements, installing check valves capable of preventing water backup, and elevating furnaces, heaters, and electrical panels.<sup>16</sup>

### ***Voluntary Property Elevation***

Surveyors and architects use Flood Insurance Rate Maps, maps produced by FEMA which delineate base flood elevations,<sup>17</sup> to determine minimum building height. Buildings constructed before a community was under elevation regulations or before FEMA produced the area's first flood map may now be considered below safe elevation, and at high risk for flood damage.

Buildings may be raised after construction either by lifting an existing house and constructing a new foundation below, or by leaving the house in place and building an elevated floor within the

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<sup>10</sup> Sections 193.155(4)(b), F.S.

<sup>11</sup> Rebecca Lindsey, *Climate Change: Global Sea Level*, National Oceanic and Atmospheric Administration, (Jan. 25, 2021), available at: <https://www.climate.gov/news-features/understanding-climate/climate-change-global-sea-level> (last visited April 8, 2021).

<sup>12</sup> *Facts + Statistics: Flood Insurance*, Insurance Information Institute, available at: <https://www.iii.org/fact-statistic/facts-statistics-flood-insurance> (last visited April 8, 2021).

<sup>13</sup> Emily Mahoney and Zachary Sampson, *Florida has thousands more properties with high flood risk than FEMA says, according to new study*, Tampa Bay Times, (Jun. 29, 2020) available at: <https://www.tampabay.com/news/environment/2020/06/29/florida-has-thousands-more-properties-with-high-flood-risk-than-fema-says-according-to-new-study/> (last visited April 9, 2021).

<sup>14</sup> Beverly Cigler, *U.S. Floods: The Necessity of Mitigation*, State and Local Government Review, Volume 49 Issue 2, (Sept. 22, 2017), available at: [https://www.napawash.org/uploads/Standing\\_Panel\\_Blogs/cigler-floods-and-mitigation-Sept.-20172.pdf](https://www.napawash.org/uploads/Standing_Panel_Blogs/cigler-floods-and-mitigation-Sept.-20172.pdf) (last visited April 9, 2021).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> The “base flood elevation” is the elevation of surface water resulting from a flood that has a 1 percent chance of happening annually. See *Base Flood Elevation (BFE)*, FEMA, (Mar. 5, 2020), available at: <https://www.fema.gov/node/404233> (last visited April 8, 2021).

house or adding an upper story.<sup>18</sup> When a house is lifted, its new foundation may be made of continuous walls, or columns or pilings which would allow access to the area below the newly elevated house.<sup>19</sup>

### *NFIP Elevation Certificate*

An NFIP Elevation Certificate is a form produced by FEMA used to provide information which can ensure compliance with community floodplain ordinances, determine a property's insurance rate, and be used as evidence to have a FEMA flood plain map altered.<sup>20</sup> An elevation certificate must in most cases be completed by a licensed land surveyor, engineer, architect, or designated local official.<sup>21</sup> The completed document includes location and elevation data from the property, the corresponding Flood Insurance Rate Map, community information, and photographic proof elevation certificates that are typically required when new construction or substantial improvements occur on a property resting at least in part or below a limit set by local authorities. Nationwide, the average cost for having an elevation certificate completed is on average \$600.<sup>22</sup>

### *Florida Building Code Elevation Requirements*

The Florida Building Code requires the construction or reconstruction of residential properties follow specific guidelines to mitigate potential damage that might be caused by flood waters in areas designated as "flood hazard areas" and "coastal high-hazard areas." For example, buildings in flood hazard areas must have their lowest floors elevated above the base flood elevation plus one foot, or the design flood elevation, whichever is higher.<sup>23</sup>

## **III. Effect of Proposed Changes:**

**Sections 1 and 2** amend ss. 193.155 and 193.1554, F.S., respectively, to provide that the assessed value of a residential property may not increase if the property is voluntarily elevated to meet NFIP and Florida Building Code elevation requirements and the square footage of the property, as improved, does not exceed 110 percent of the original square footage.

The area below an elevated structure that is created as a result of elevating the property may not be included in the property's 110 percent calculation when it is solely designated for parking, storage, or access and does not exceed 110 percent of the original property's square footage.

In addition, the assessed value may not increase if the total square footage of the property as elevated does not exceed 1,500 square feet.

The portions of property in excess of these limits are subject to assessment at just value.

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<sup>18</sup> Chapter 5: *Elevating Your House*, Homeowner's Guide to Retrofitting, FEMA, available at: <https://www.fema.gov/pdf/rebuild/mat/sec5.pdf> (last visited April 8, 2021).

<sup>19</sup> *Id.*

<sup>20</sup> *Elevation Certificate and Instructions*, FEMA National Flood Insurance Program, available at: [https://www.pinellascounty.org/drs/PDF/FEMA\\_Elevation\\_Certificate\\_086-0-33.pdf](https://www.pinellascounty.org/drs/PDF/FEMA_Elevation_Certificate_086-0-33.pdf) (last visited April 8, 2021).

<sup>21</sup> *Id.*

<sup>22</sup> Josh Price, *What Does an Elevation Certificate Cost?*, MassiveCert.com, available at: <https://www.massivecert.com/blog/what-does-elevation-certificate-cost> (last visited April 8, 2021).

<sup>23</sup> International Code Council, Inc., *2020 Florida Building Code, Residential, 7th Edition*, (July 2020), Section 322.2.1, available at: [https://floridabuilding.org/bc/bc\\_default.aspx](https://floridabuilding.org/bc/bc_default.aspx) (last visited April 8, 2021).

To qualify for this assessment limitation, the owner must provide the property appraiser with elevation certificates for both the original and elevated property.

In addition, the property may not have been deemed uninhabitable, and it may not be subject to unpaid property tax assessments, special assessments, county or municipal utility charges, or other government-imposed liens at the time of elevation.

The assessment limitation will not apply to the property if, after voluntary elevation, the property classification changes. For example, a classification change from single family residential to multifamily residential.

The bill defines “voluntary elevation” to mean the elevation of an existing nonconforming property or the removal and rebuilding of a nonconforming property.

**Section 3** provides that the bill takes effect on the effective date of SJR 1182 or a similar joint resolution having substantially the same specific intent and purpose, if such amendment to the Florida Constitution is approved at the general election<sup>24</sup> held in November 2022, or at an earlier special election specifically authorized by law for that purpose.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

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 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,<sup>25, 26</sup> which for Fiscal Year 2021-2022 is forecast at approximately \$2.2 million.<sup>27</sup>

Staff estimates that the bill will reduce local government revenues by an amount in excess of \$2.2 million beginning in Fiscal Year 2023-2024. Therefore, this bill may be a mandate subject to the requirements of Art. VII, s. 18(b) of the Florida Constitution. *See* Section V. Fiscal Impact Statement.

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<sup>24</sup> Section 97.021(16), F.S., defines “general election” as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

<sup>25</sup> FLA. CONST. art. VII, s. 18(d).

<sup>26</sup> 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 Feb. 03, 2021).

<sup>27</sup> Based on the Demographic Estimating Conference’s April 1, 2021, estimated population adopted on Nov. 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 03, 2021).



**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

This bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

**E. Other Constitutional Issues:**

None identified.

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

The Revenue Estimating Conference has not analyzed the bill. However, the amendments incorporated into the current version of the bill are unlikely to significantly change the impact. The prior version of the bill was estimated to reduce local government revenues by \$5.8 million beginning in Fiscal Year 2023-2024, with a \$25.1 million recurring reduction.<sup>28</sup>

**B. Private Sector Impact:**

If the proposed amendment (SJR 1182) is approved by 60 percent of voters in November 2022, homeowners will be able to voluntarily elevate their residential property without increasing the property's assessed value.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>28</sup> Revenue Estimating Impact Conference, *Elevated Properties, CS/HB 1379*, (April 10, 2021), available at: [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/\\_pdf/page365-376.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page365-376.pdf) (last visited April 9, 2021).

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 193.155 and 193.1554.

This bill reenacts section 193.1557 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 April 21, 2021:**

The committee substitute:

- Provides that the property must not have been deemed uninhabitable at the time of voluntary elevation.
- Provides that all property taxes, special assessments, county or municipal utility charges, and other government-imposed liens must be paid at the time of voluntary elevation.
- Provides that the assessment limitation granted by the bill will not apply to the property if, after the voluntary elevation, there is a change in the classification of the property.
- Clarifies that the area beneath an elevated property in excess of 110 percent of the property's square footage as it existed before elevation is subject to tax at just value.

**CS/CS by Finance and Tax on April 14, 2021:**

The committee substitute:

- Removes the requirement that changes, additions, or improvements commence within 3 years of a voluntary elevation. This is a technical amendment needed because the new provisions of the bill are being inserted into a statute that currently applies to damaged property. Under current law, the repairs of damaged property must commence within 3 years of the damage (or 5 years for damage caused by Hurricane Michael). This "3-year" provision was inadvertently made applicable to voluntary elevations, but the intent of the bill is that those improvements can begin at any time.
- Makes conforming changes to the 5-year provision for damage caused by Hurricane Michael.

**CS by Community Affairs on March 10, 2021:**

The committee substitute inserts the bill number for the senate joint resolution to which this bill is linked.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
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The Committee on Appropriations (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (4) of section 193.155, Florida  
Statutes, is amended to read:

193.155 Homestead assessments.—Homestead property shall be  
assessed at just value as of January 1, 1994. Property receiving  
the homestead exemption after January 1, 1994, shall be assessed  
at just value as of January 1 of the year in which the property



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11 receives the exemption unless the provisions of subsection (8)  
12 apply.

13 (4) (a) Except as provided in paragraph (b) and s. 193.624,  
14 changes, additions, or improvements to homestead property shall  
15 be assessed at just value as of the first January 1 after the  
16 changes, additions, or improvements are substantially completed.

17 (b) 1. Changes, additions, or improvements that replace all  
18 or a portion of homestead property ~~damaged or destroyed by~~  
19 ~~misfortune or calamity~~ shall not increase the homestead  
20 property's assessed value when the square footage of the  
21 homestead property as changed or improved does not exceed 110  
22 percent of the square footage of the homestead property before  
23 the damage, ~~or~~ destruction, or voluntary elevation of the  
24 homestead property if:

25 a. The homestead property was damaged or destroyed by  
26 misfortune or calamity; or

27 b. At the time the voluntary elevation commenced:

28 (I) The homestead property was not deemed uninhabitable in  
29 part or in whole under state or local law;

30 (II) All ad valorem taxes, special assessments, county or  
31 municipal utility charges, and other government-imposed liens  
32 against the homestead property had been paid; and

33 (III) The homestead property did not comply with the  
34 Federal Emergency Management Agency's National Flood Insurance  
35 Program requirements and Florida Building Code elevation  
36 requirements and was elevated in compliance with such  
37 requirements. The property owner must provide elevation  
38 certificates for both the original and elevated homestead  
39 property. For purposes of this subsection, the term "voluntary



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40 elevation” or “voluntarily elevated” means the elevation of an  
41 existing nonconforming homestead property or the removal and  
42 rebuilding of a nonconforming homestead property. Conforming  
43 areas below an elevated structure designated only for parking,  
44 storage, or access may not be included in the 110 percent  
45 calculation unless the area exceeds 110 percent of the lowest  
46 level square footage before the voluntary elevation, in which  
47 case the area in excess of 110 percent of the lowest level  
48 square footage before the voluntary elevation shall be included  
49 in the 110 percent calculation.

50  
51 Additionally, the homestead property’s assessed value may ~~shall~~  
52 not increase if the total square footage of the homestead  
53 property as changed, ~~or~~ improved, or elevated does not exceed  
54 1,500 square feet.

55 2. This paragraph does not apply if, after completion of  
56 the voluntary elevation, there is a change in the classification  
57 of the property pursuant to s. 195.073(1).

58 (c) Changes, additions, or improvements that do not cause  
59 the total to exceed 110 percent of the total square footage of  
60 the homestead property before the qualifying damage, ~~or~~  
61 destruction, or voluntary elevation or that do not cause the  
62 total to exceed 1,500 total square feet shall be reassessed as  
63 provided under subsection (1). The homestead property’s assessed  
64 value shall be increased by the just value of that portion of  
65 the changed or improved homestead property which is in excess of  
66 110 percent of the square footage of the homestead property  
67 before the qualifying damage, ~~or~~ destruction, or voluntary  
68 elevation or of that portion exceeding 1,500 square feet.



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69 Homestead property damaged, ~~or~~ destroyed, or voluntarily  
70 elevated by misfortune or calamity which, after being changed or  
71 improved, has a square footage of less than 100 percent of the  
72 homestead property's total square footage before the qualifying  
73 damage, or destruction, or voluntary elevation shall be assessed  
74 pursuant to subsection (5).

75 (d) For changes, additions, or improvements made to replace  
76 property that was damaged or destroyed by misfortune or  
77 calamity, this subsection paragraph applies to the changes,  
78 additions, or improvements commenced within 3 years after the  
79 January 1 following the qualifying damage or destruction of the  
80 homestead property.

81 (e) ~~(e)~~ Changes, additions, or improvements that replace all  
82 or a portion of real property that was damaged, ~~or~~ destroyed, or  
83 voluntarily elevated by misfortune or calamity shall be assessed  
84 upon substantial completion as if such qualifying damage, ~~or~~  
85 destruction, or voluntary elevation had not occurred and in  
86 accordance with paragraph (b) if the owner of such property:

87 1. Was permanently residing on such property when the  
88 qualifying damage, ~~or~~ destruction, or voluntary elevation  
89 occurred;

90 2. Was not entitled to receive homestead exemption on such  
91 property as of January 1 of that year; and

92 3. Applies for and receives homestead exemption on such  
93 property the following year.

94 (f) ~~(d)~~ Changes, additions, or improvements include  
95 improvements made to common areas or other improvements made to  
96 property other than to the homestead property by the owner or by  
97 an owner association, which improvements directly benefit the



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98 homestead property. Such changes, additions, or improvements  
99 shall be assessed at just value, and the just value shall be  
100 apportioned among the parcels benefiting from the improvement.

101 Section 2. Subsection (6) of section 193.1554, Florida  
102 Statutes, is amended to read:

103 193.1554 Assessment of nonhomestead residential property.-

104 (6) (a) Except as provided in paragraph (b) and s. 193.624,  
105 changes, additions, or improvements to nonhomestead residential  
106 property shall be assessed at just value as of the first January  
107 1 after the changes, additions, or improvements are  
108 substantially completed.

109 (b) 1. Changes, additions, or improvements that replace all  
110 or a portion of nonhomestead residential property ~~damaged or~~  
111 ~~destroyed by misfortune or calamity~~ shall not increase the  
112 property's assessed value when the square footage of the  
113 property as changed or improved does not exceed 110 percent of  
114 the square footage of the property before ~~the damage,~~ ~~or~~  
115 destruction, or voluntary elevation of the property if:

116 a. The property was damaged or destroyed by misfortune or  
117 calamity; or

118 b. At the time the voluntary elevation commenced:

119 (I) The property was not deemed uninhabitable in part or in  
120 whole under state or local law;

121 (II) All ad valorem taxes, special assessments, county or  
122 municipal utility charges, and other government-imposed liens  
123 against the nonhomestead property had been paid; and

124 (III) The property did not comply with the Federal  
125 Emergency Management Agency's National Flood Insurance Program  
126 requirements and Florida Building Code elevation requirements



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127 and was elevated in compliance with such requirements. The  
128 property owner must provide elevation certificates for both the  
129 original and the elevated property. For purposes of this  
130 subsection, the term "voluntary elevation" or "voluntarily  
131 elevated" means the elevation of an existing nonconforming  
132 nonhomestead residential property or the removal and rebuilding  
133 of a nonconforming nonhomestead residential property. Conforming  
134 areas below an elevated structure designated only for parking,  
135 storage, or access may not be included in the 110 percent  
136 calculation unless the area exceeds 110 percent of the lowest  
137 level square footage before the voluntary elevation, in which  
138 case the area in excess of 110 percent of the lowest level  
139 square footage before the voluntary elevation shall be included  
140 in the 110 percent calculation.

141  
142 Additionally, the property's assessed value may ~~shall~~ not  
143 increase if the total square footage of the property as changed,  
144 ~~or~~ improved, or elevated does not exceed 1,500 square feet.

145 2. This paragraph does not apply if, after completion of  
146 the voluntary elevation, there is a change in the classification  
147 of the property pursuant to s. 195.073(1).

148 (c) Changes, additions, or improvements that do not cause  
149 the total to exceed 110 percent of the total square footage of  
150 the property before the qualifying damage, ~~or~~ destruction, or  
151 voluntary elevation or that do not cause the total to exceed  
152 1,500 total square feet shall be reassessed as provided under  
153 subsection (3). The property's assessed value shall be increased  
154 by the just value of that portion of the changed or improved  
155 property which is in excess of 110 percent of the square footage





156 of the property before the qualifying damage, ~~or~~ destruction, or  
157 voluntary elevation or of that portion exceeding 1,500 square  
158 feet. Property damaged, ~~or~~ destroyed, or voluntarily elevated by  
159 ~~misfortune or calamity~~ which, after being changed or improved,  
160 has a square footage of less than 100 percent of the property's  
161 total square footage before the qualifying damage, ~~or~~  
162 destruction, or voluntary elevation shall be assessed pursuant  
163 to subsection (8).

164 (d) For changes, additions, or improvements made to replace  
165 property that was damaged or destroyed by misfortune or  
166 calamity, this subsection ~~paragraph~~ applies to the changes,  
167 additions, or improvements commenced within 3 years after the  
168 January 1 following the qualifying damage or destruction of the  
169 property.

170 (e) ~~(e)~~ Changes, additions, or improvements include  
171 improvements made to common areas or other improvements made to  
172 property other than to the nonhomestead residential property by  
173 the owner or by an owner association, which improvements  
174 directly benefit the property. Such changes, additions, or  
175 improvements shall be assessed at just value, and the just value  
176 shall be apportioned among the parcels benefiting from the  
177 improvement.

178 Section 3. This act shall take effect on the effective date  
179 of the amendment to the State Constitution proposed by SJR 1182  
180 or a similar joint resolution having substantially the same  
181 specific intent and purpose, if such amendment to the State  
182 Constitution is approved at the general election held in  
183 November 2022 or at an earlier special election specifically  
184 authorized by law for that purpose.



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===== 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 property assessments for elevated  
properties; amending ss. 193.155 and 193.1554, F.S.;  
specifying that changes to elevate certain homestead  
and nonhomestead residential property, respectively,  
do not increase the assessed value of the property;  
requiring property owners to provide certification for  
such property; defining the term "voluntary elevation"  
or "voluntarily elevated"; prohibiting certain areas  
from being included in square footage calculation;  
providing an exception; providing applicability;  
making clarifying revisions; providing an effective  
date.

By the Committees on Finance and Tax; and Community Affairs; and  
Senator Brandes

593-04149-21

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A bill to be entitled

An act relating to property assessments for elevated properties; amending ss. 193.155 and 193.1554, F.S.; specifying that changes to elevate certain homestead and nonhomestead residential property, respectively, do not increase the assessed value of the property under certain circumstances; requiring property owners to provide certification for such property; defining the terms "voluntary elevation" and "voluntarily elevated"; prohibiting certain areas from being included in square footage calculation; revising applicability; making clarifying revisions; amending s. 193.1557, F.S.; revising applicability; providing a contingent effective date.

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

Section 1. Subsection (4) of section 193.155, Florida Statutes, is amended to read:

193.155 Homestead assessments.—Homestead property shall be assessed at just value as of January 1, 1994. Property receiving the homestead exemption after January 1, 1994, shall be assessed at just value as of January 1 of the year in which the property receives the exemption unless the provisions of subsection (8) apply.

(4) (a) Except as provided in paragraph (b) and s. 193.624, changes, additions, or improvements to homestead property shall be assessed at just value as of the first January 1 after the changes, additions, or improvements are substantially completed.

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

593-04149-21

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(b) Changes, additions, or improvements that replace all or a portion of homestead property ~~damaged or destroyed by misfortune or calamity~~ shall not increase the homestead property's assessed value when the square footage of the homestead property as changed or improved does not exceed 110 percent of the square footage of the homestead property before ~~the damage, or destruction, or voluntary elevation of the homestead property if:~~

1. The homestead property was damaged or destroyed by misfortune or calamity; or  
2. Before the voluntary elevation, the homestead property did not comply with the Federal Emergency Management Agency's National Flood Insurance Program requirements and Florida Building Code elevation requirements and was elevated in compliance with such requirements. The property owner shall provide elevation certificates for both the original and the elevated homestead property. For purposes of this subsection, the term "voluntary elevation" or "voluntarily elevated" means the elevation of an existing nonconforming homestead property or the removal and rebuilding of a nonconforming homestead property. Conforming areas below an elevated structure designated only for parking, storage, or access may not be included in the 110 percent calculation unless the area exceeds 110 percent of the square footage before the voluntary elevation.

Additionally, the homestead property's assessed value ~~may shall~~ not increase if the total square footage of the homestead property as changed, ~~or improved, or elevated~~ does not exceed

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59 1,500 square feet.

60 (c) Changes, additions, or improvements that do not cause  
 61 the total to exceed 110 percent of the total square footage of  
 62 the homestead property before the qualifying damage, ~~or~~  
 63 destruction, or voluntary elevation or that do not cause the  
 64 total to exceed 1,500 total square feet shall be reassessed as  
 65 provided under subsection (1). The homestead property's assessed  
 66 value shall be increased by the just value of that portion of  
 67 the changed or improved homestead property which is in excess of  
 68 110 percent of the square footage of the homestead property  
 69 before the qualifying damage, ~~or~~ destruction, or voluntary  
 70 elevation or of that portion exceeding 1,500 square feet.  
 71 Homestead property damaged, ~~or~~ destroyed, or voluntarily  
 72 elevated by misfortune or calamity which, after being changed or  
 73 improved, has a square footage of less than 100 percent of the  
 74 homestead property's total square footage before the qualifying  
 75 damage, ~~or~~ destruction, or voluntary elevation shall be assessed  
 76 pursuant to subsection (5).

77 (d) For changes, additions, or improvements made to replace  
 78 property that was damaged or destroyed by misfortune or  
 79 calamity, this subsection ~~paragraph~~ applies to the changes,  
 80 additions, or improvements commenced within 3 years after the  
 81 January 1 following the qualifying damage or destruction of the  
 82 homestead property.

83 (e) ~~(e)~~ Changes, additions, or improvements that replace all  
 84 or a portion of real property that was damaged, ~~or~~ destroyed, or  
 85 voluntarily elevated by misfortune or calamity shall be assessed  
 86 upon substantial completion as if such qualifying damage, ~~or~~  
 87 destruction, or voluntary elevation had not occurred and in

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20211186c2

88 accordance with paragraph (b) if the owner of such property:

89 1. Was permanently residing on such property when the  
 90 qualifying damage, ~~or~~ destruction, or voluntary elevation  
 91 occurred;

92 2. Was not entitled to receive homestead exemption on such  
 93 property as of January 1 of that year; and

94 3. Applies for and receives homestead exemption on such  
 95 property the following year.

96 (f) ~~(d)~~ Changes, additions, or improvements include  
 97 improvements made to common areas or other improvements made to  
 98 property other than to the homestead property by the owner or by  
 99 an owner association, which improvements directly benefit the  
 100 homestead property. Such changes, additions, or improvements  
 101 shall be assessed at just value, and the just value shall be  
 102 apportioned among the parcels benefiting from the improvement.

103 Section 2. Subsection (6) of section 193.1554, Florida  
 104 Statutes, is amended to read:

105 193.1554 Assessment of nonhomestead residential property.—  
 106 (6) (a) Except as provided in paragraph (b) and s. 193.624,  
 107 changes, additions, or improvements to nonhomestead residential  
 108 property shall be assessed at just value as of the first January  
 109 1 after the changes, additions, or improvements are  
 110 substantially completed.

111 (b) Changes, additions, or improvements that replace all or  
 112 a portion of nonhomestead residential property ~~damaged or~~  
 113 ~~destroyed by misfortune or calamity~~ shall not increase the  
 114 property's assessed value when the square footage of the  
 115 property as changed or improved does not exceed 110 percent of  
 116 the square footage of the property before ~~the~~ damage, ~~or~~

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117 destruction, or voluntary elevation of the property if:  
 118 1. The property was damaged or destroyed by misfortune or  
 119 calamity; or  
 120 2. Before the voluntary elevation, the property did not  
 121 comply with the Federal Emergency Management Agency's National  
 122 Flood Insurance Program requirements and Florida Building Code  
 123 elevation requirements and was elevated in compliance with such  
 124 requirements. The property owner must provide elevation  
 125 certificates for both the original and the elevated property.  
 126 For purposes of this subsection, the term "voluntary elevation"  
 127 or "voluntarily elevated" means the elevation of an existing  
 128 nonconforming nonhomestead residential property or the removal  
 129 and rebuilding of a nonconforming nonhomestead residential  
 130 property. Conforming areas below an elevated structure  
 131 designated only for parking, storage, or access may not be  
 132 included in the 110 percent calculation unless the area exceeds  
 133 110 percent of the square footage before the voluntary  
 134 elevation.

135

136 Additionally, the property's assessed value may ~~shall~~ not  
 137 increase if the total square footage of the property as changed,  
 138 ~~or improved, or elevated~~ does not exceed 1,500 square feet.

139 (c) Changes, additions, or improvements that do not cause  
 140 the total to exceed 110 percent of the total square footage of  
 141 the property before the qualifying damage, or ~~destruction, or~~  
 142 voluntary elevation or that do not cause the total to exceed  
 143 1,500 total square feet shall be reassessed as provided under  
 144 subsection (3). The property's assessed value shall be increased  
 145 by the just value of that portion of the changed or improved

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146 property which is in excess of 110 percent of the square footage  
 147 of the property before the qualifying damage, ~~or~~ destruction, or  
 148 voluntary elevation or of that portion exceeding 1,500 square  
 149 feet. Property damaged, ~~or~~ destroyed, or voluntarily elevated by  
 150 ~~misfortune or calamity~~ which, after being changed or improved,  
 151 has a square footage of less than 100 percent of the property's  
 152 total square footage before the qualifying damage, ~~or~~  
 153 destruction, or voluntary elevation shall be assessed pursuant  
 154 to subsection (8).

155 (d) For changes, additions, or improvements made to replace  
 156 property that was damaged or destroyed by misfortune or  
 157 calamity, this subsection ~~paragraph~~ applies to the changes,  
 158 additions, or improvements commenced within 3 years after the  
 159 January 1 following the qualifying damage or destruction of the  
 160 property.

161 (e)(e) Changes, additions, or improvements include  
 162 improvements made to common areas or other improvements made to  
 163 property other than to the nonhomestead residential property by  
 164 the owner or by an owner association, which improvements  
 165 directly benefit the property. Such changes, additions, or  
 166 improvements shall be assessed at just value, and the just value  
 167 shall be apportioned among the parcels benefiting from the  
 168 improvement.

169 Section 3. Section 193.1557, Florida Statutes, is amended  
 170 to read:  
 171 193.1557 Assessment of certain property damaged or  
 172 destroyed by Hurricane Michael.—For property damaged or  
 173 destroyed by Hurricane Michael in 2018, s. 193.155(4)(b),  
 174 Florida Statutes (2020), s. 193.1554(6)(b), Florida Statutes

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20211186c2

175 (2020), or s. 193.1555(6)(b), Florida Statutes (2020), applies  
176 to changes, additions, or improvements commenced within 5 years  
177 after January 1, 2019. This section applies to the 2019-2023 tax  
178 rolls and shall stand repealed on December 31, 2023.

179 Section 4. This act shall take effect on the effective date  
180 of the amendment to the State Constitution proposed by SJR 1182  
181 or a similar joint resolution having substantially the same  
182 specific intent and purpose, if such amendment to the State  
183 Constitution is approved at the general election held in  
184 November 2022 or at an earlier special election specifically  
185 authorized by law for that purpose.



The Florida Senate

## Committee Agenda Request

**To:** Senator Kelli Stargel, Chair  
Committee on Appropriations

**Subject:** Committee Agenda Request

**Date:** April 14, 2021

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I respectfully request that **Senate Bill #1186**, relating to Property Assessments for Elevated Properties, 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", written over a horizontal line.

---

Senator Jeff Brandes  
Florida Senate, District 24

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/SB 1256

INTRODUCER: Community Affairs Committee and Senator Polsky

SUBJECT: Homestead Exemption for Seniors 65 and Older

DATE: April 21, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<b>Fav/CS</b>
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	<b>Favorable</b>
3.	<u>Gross</u>	<u>Sadberry</u>	<u>AP</u>	<b>Favorable</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1256 amends the process by which a senior verifies his or her income for purposes of receiving certain income-based homestead property tax exemptions. Current law authorizes local governments to grant additional homestead exemptions for low-income persons over the age of 65 and requires the person to submit, annually, a sworn statement that his or her income still qualifies for the exemption. The bill removes the annual requirement to submit a sworn statement and requires the person to notify the property appraiser upon a change in income that may result in disqualification.

The Revenue Estimating Conference determined that the bill will have an indeterminate positive or negative impact on local property tax revenues beginning in Fiscal Year 2022-2023.

The bill takes effect July 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.<sup>1</sup> The property appraiser annually determines the assessed or “just value”<sup>2</sup> of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes<sup>4</sup> and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>6</sup> however, the Florida 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 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; land used for conservation purposes; historic properties when authorized by the county or municipality; and certain working waterfront property.<sup>7</sup>

## **Property Tax Exemptions for Homesteads**

### ***Statewide Homestead Exemption***

Every person having legal and 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.<sup>8</sup> An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000.<sup>9</sup> This exemption does not apply to ad valorem taxes levied by school districts.

### ***Additional Homestead Exemptions for Qualified Senior Citizens***

The Florida Constitution authorizes the Legislature to allow counties and municipalities to grant one or both of the following additional homestead property tax exemptions for persons

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<sup>1</sup> Both real property and tangible personal property are 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.

<sup>2</sup> 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 (Fla. 1973).

<sup>3</sup> *See* s. 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4.

<sup>8</sup> FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

<sup>9</sup> Section 196.031(1)(b), F.S.

aged 65 years or over who hold title to the property.<sup>10</sup> By adoption of an ordinance, a county or municipality may:

- Exempt up to \$50,000 of homestead value if the person's household income, for tax roll year 2021, does not exceed \$31,100.<sup>11</sup>
- Exempt the homestead entirely if the subject property's just value is less than \$250,000, the person has maintained the property as his or her permanent residence for at least 25 years, and whose income, for tax roll year 2021, does not exceed \$31,100.<sup>12</sup>

### ***Requirements for Ordinances Granting Additional Homestead Exemptions***

The ordinance granting an additional homestead exemption for low-income seniors must:

- Follow the typical procedures for adoption of a nonemergency ordinance. An ordinance granting a full exemption for homestead property valued less than \$250,000 must be approved by a super majority vote (majority plus one) of the members of the governing body.<sup>13</sup>
- Specify that the exemption applies only to taxes levied by the governmental entity granting the exemption.<sup>14</sup>
- Specify the amount of the exemption, which may not exceed the limits provided in statute.<sup>15</sup>
- Require the taxpayer claiming the exemption to submit to the property appraiser a sworn statement of household income each year.<sup>16</sup>

### ***Requirements for Sworn Statements of Household Income***

The Department of Revenue (department) must require the sworn statement to be supported by copies of federal income tax returns for the prior year, W-2 forms, any request for an extension of time to file such statement, and any other document the department finds necessary. The person's sworn statement must attest to the accuracy of such documents and the person must agree that the property appraiser may inspect such documents. Upon renewal of the exemption, the supporting documents are not required, unless requested by the property appraiser. In addition, the property appraiser may randomly audit such statements.<sup>17</sup>

### ***Failure to Comply***

A person who is found by the property appraiser to have improperly received an exemption in any year within the last ten years is subject to repayment of the taxes exempted plus a penalty of 50 percent of the unpaid taxes plus interest at a rate of 15 percent per year. If such penalty is not paid in 30 days, the property appraiser must record a notice of tax lien against any property in the

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<sup>10</sup> FLA. CONST. Art. VII, s. 6(d)(1) and (2).

<sup>11</sup> The original statutory income threshold of \$20,000 is adjusted annually by the percentage change in the average cost-of-living index. See s. 196.075(3), F.S. For the current income threshold, see: Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <https://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf> (last visited March 19, 2021).

<sup>12</sup> *Id.*

<sup>13</sup> Section 196.075(4)(a), F.S.

<sup>14</sup> Section 196.075(4)(b), F.S.

<sup>15</sup> Section 196.075(4)(c), F.S.

<sup>16</sup> Section 196.075(4)(d), F.S.

<sup>17</sup> Section 196.075(5), F.S.

county owned by that person, or property in other counties if that person no longer owns property in the appraiser's county.<sup>18</sup>

A person granted an exemption as a result of a clerical mistake or omission by the property appraiser may not be assessed a penalty or interest.<sup>19</sup>

### III. Effect of Proposed Changes:

The bill amends s. 196.075, F.S., to require that an ordinance enacted by a local government authorizing an additional homestead exemption for low-income seniors must require the taxpayer to submit a sworn statement of household income only when initially claiming the exemption, rather than annually.

The bill provides that the property appraiser must annually notify eligible taxpayers of the adjusted income limitation. The taxpayer must then notify the property appraiser by May 1 if his or her household income exceeds such income limitation.

The bill takes effect July 1, 2021.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

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 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 mandate requirements do not apply to laws having an insignificant fiscal impact,<sup>20, 21</sup> which for Fiscal Year 2021-2022 is forecast at approximately \$2.2 million.<sup>22</sup>

The Revenue Estimating Conference determined that the bill will have an indeterminate positive or negative impact on local property tax revenues beginning in Fiscal Year 2022-2023. Therefore, this bill is likely not a mandate subject to Art. VII, s. 18(b) of the Florida Constitution.

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<sup>18</sup> Section 196.075(9), F.S.

<sup>19</sup> *Id.*

<sup>20</sup> FLA. CONST. art. VII, s. 18(d).

<sup>21</sup> 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 Feb. 03, 2021).

<sup>22</sup> Based on the Demographic Estimating Conference's April 1, 2021, estimated population adopted on March 3, 2021. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 03, 2021).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

This bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

**E. Other Constitutional Issues:**

None identified.

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

The Revenue Estimating Conference determined that the bill will have an indeterminate positive or negative impact on local property tax revenues beginning in Fiscal Year 2022-2023.<sup>23</sup>

**B. Private Sector Impact:**

The bill amends the process by which an eligible senior verifies his or her income for purposes of receiving certain income-based homestead property tax exemptions, which may reduce the burden of submitting sworn statements annually.

**C. Government Sector Impact:**

Property appraisers may incur expenses as a result of implementing the new notification procedures required in the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>23</sup> Office of Economic and Demographic Research, Revenue Estimating Impact Conference, *Homestead Exemption for Seniors 65 and Older, CS for SB 1256*, 281-283, available at: [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/\\_pdf/page281-283.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page281-283.pdf) (last visited April 21, 2021).

**VIII. Statutes Affected:**

This bill substantially amends section 196.075 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 Community Affairs on March 16, 2021:**

The committee substitute:

- Deletes a provision in current law regarding the submission of supporting documentation when renewing a homestead exemption for low-income seniors.
- Moves the date by which a taxpayer must notify the property appraiser that their income has exceeded the income limitation from March 1 to May 1, annually.
- Removes duplicate reference to penalties for a taxpayer receiving an additional homestead exemption to which he or she is not entitled. With the amendment, taxpayers are still subject to such penalties under s. 196.075(9), F.S.

- B. **Amendments:**

None.

By the Committee on Community Affairs; and Senator Polsky

578-02925-21

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A bill to be entitled

An act relating to homestead exemption for seniors 65 and older; amending s. 196.075, F.S.; revising provisions to require certain taxpayers to submit a claim for homestead exemption only one time if certain conditions are met; requiring the property appraiser to provide specified information related to income limitations on an annual basis; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4) and subsection (5) of section 196.075, Florida Statutes, are amended to read:

196.075 Additional homestead exemption for persons 65 and older.-

(4) An ordinance granting an additional homestead exemption as authorized by this section must meet the following requirements:

(d) It must require that a taxpayer claiming the exemption for the first time annually submit to the property appraiser, not later than March 1, a sworn statement of household income on a form prescribed by the Department of Revenue.

(5) The department must require by rule that the filing of the statement be supported by copies of any federal income tax returns for the prior year, any wage and earnings statements (W-2 forms), any request for an extension of time to file returns, and any other documents it finds necessary, for each member of the household, to be submitted for inspection by the property

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appraiser. The taxpayer's sworn statement shall attest to the accuracy of the documents and grant permission to allow review of the documents if requested by the property appraiser. ~~Submission of supporting documentation is not required for the renewal of an exemption under this section unless the property appraiser requests such documentation.~~ Once the documents have been inspected by the property appraiser, they shall be returned to the taxpayer or otherwise destroyed. Annually, the property appraiser shall notify each taxpayer of the adjusted income limitation set forth in subsection (3). The taxpayer must notify the property appraiser by May 1 if his or her household income exceeds the most recent adjusted income limitation. The property appraiser may conduct ~~is authorized to generate~~ random audits of the taxpayers' sworn statements to ensure the accuracy of the household income reported. If ~~se~~ selected for audit, a taxpayer shall execute Internal Revenue Service Form 8821 or 4506, which authorizes the Internal Revenue Service to release tax information to the property appraiser's office. All reviews conducted in accordance with this section shall be completed on or before June 1. The property appraiser may not grant ~~or renew~~ the exemption if the required documentation requested is not provided.

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

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## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Agriculture  
Appropriations Subcommittee on Education  
Community Affairs  
Education  
Ethics and Elections  
Judiciary

### SENATOR TINA SCOTT POLSKY

29th District

March 26, 2021

Chair Kelli Stargel  
Committee on Appropriations  
201 The Capitol  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Chair Stargel,

I respectfully request that you place CS/SB 1256, relating to Homestead Exemption for Seniors 65 and Older, on the agenda of the Committee on Appropriations 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.

Kindest Regards,

A handwritten signature in black ink, appearing to read "Tina S. Polsky".

Senator Tina S. Polsky  
Florida Senate, District 29

cc: Tim Sadberry, Staff Director  
Alicia Weiss, Administrative Assistant

#### REPLY TO:

- 5301 North Federal Highway, Suite 135, Boca Raton, Florida 33487 (561) 443-8170
- 222 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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**BILL:** PCS/SB 1282 (112068)

**INTRODUCER:** Appropriations Committee; (Recommended by Appropriations Subcommittee on Education); and Senator Harrell

**SUBJECT:** Early Learning and Early Grade Success

**DATE:** April 21, 2021

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<b>Recommend: Fav/CS</b>
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<b>Pre-meeting</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

PCS/SB 1282 expands accountability and assessment requirements for Voluntary Prekindergarten Education Program (VPK) providers. Specifically, the bill requires:

- A coordinated screening and progress monitoring program (CSPM) for students in VPK through grade 3 to provide information on students' progress in mastering the appropriate grade-level standards to parents, teachers, and school and program administrators.
- Beginning in the 2022-2023 program year, a program assessment composite score for each VPK provider based on the results of a program assessment that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages 3 to 5 years, in each VPK classroom.
- A performance metric that provides a score to each VPK provider based on the results of the CSPM, including learning gains, and the program assessment, beginning in the 2022-2023 program year.
- The assignment of a performance designation for VPK providers beginning with the 2023-2024 program year.

The bill creates the Council for Early Grade Success within the Department of Education (DOE) to oversee the CSPM and requires the new screenings and assessments to be administered by qualified individuals.



The bill modifies the market rate schedule paid to school readiness providers to require a market rate schedule based on the prevailing market rate. The bill authorizes early learning coalitions to adopt an alternative payment schedule that has been approved by the federal Administration for Children and Families. The bill also transfers the Gold Seal Quality Care program to the Office of Early Learning (OEL) from the Department of Children and Families and adds standards for accrediting associations.

The bill will have a significant negative fiscal to the state to implement the new coordinated screening and progress monitoring program and to implement the VPK program assessment. See Section V.

The bill takes effect upon becoming a law.

## II. Present Situation:

### State Level Governance

#### *Department of Education*

The Department of Education (DOE) is the administrative and supervisory agency under the implementation direction of the State Board of Education (SBE).<sup>1</sup> The Commissioner of Education (commissioner) is appointed by the SBE and serves as the executive director of the DOE. The DOE includes the Office of Early Learning (OEL), which is administered by an executive director who is fully accountable to the commissioner.<sup>2</sup>

#### *Office of Early Learning*

The OEL administers the school readiness program and the Voluntary Prekindergarten Education Program (VPK)<sup>3</sup>—and an annual budget of \$1.37 billion.<sup>4</sup> The OEL is the lead agency in Florida for administering the federal Child Care and Development Block Grant Trust Fund (CCDF).<sup>5</sup> The OEL adopts rules as required for the establishment and operation of the school readiness program and the VPK program.<sup>6</sup> The executive director of the OEL is responsible for administering early learning programs at the state level. The OEL administers statewide the child care resource and referral (CCR&R) network, which provides information about state-funded early learning programs, provides families with a customized listing of child care providers, is used to document requests for services, and provides technical assistance to providers.<sup>7</sup>

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<sup>1</sup> Section 1001.20(1), F.S.

<sup>2</sup> Section 20.15, F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Early Learning Services Program Total, s. 2, ch. 2020-111, L.O.F.

<sup>5</sup> Section 1002.82(1), F.S.

<sup>6</sup> The OEL is required to submit the rules to the State Board of Education for approval or disapproval. If the state board does not act on a rule within 60 days after receipt, the rule shall be immediately filed with the Department of State. Section 1001.213, F.S.

<sup>7</sup> See ss. 1001.213(5), 1002.82(2)(f)1.b., and 1002.92(1) and (3), F.S.; Florida Office of Early Learning, *Welcome to Florida's Early Learning Family Portal*, <https://familyservices.floridaearlylearning.com/> (last visited Mar. 19, 2021); see also Florida's Office of Early Learning, *Family Resources: Find Quality Child Care*, <http://www.floridaearlylearning.com/family-resources/find-quality-child-care/locate-a-child-care-resource-referral-service> (last visited Mar. 19, 2021).

The OEL employs an inspector general, as required by law, to promote accountability, integrity, and efficiency in the administration of early learning programs. Statutory duties of the inspector general include the duty to advise the OEL in the development of performance measures, standards, and procedures employed by the OEL.<sup>8</sup>

### ***Early Learning Coalitions***

The OEL governs the day-to-day operations of statewide early learning programs and administers federal and state child care funds. Across the state, 30 regional early learning coalitions (ELCs) and the Redlands Christian Migrant Association are responsible for delivering local services, including the VPK program and the school readiness program.<sup>9</sup> Each ELC is governed by a board of directors comprised of various stakeholders and community representatives.<sup>10</sup> The SBE does not have authority over ELCs, and early learning data is not collected in the K-20 student database as part of the management information databases governed by the SBE.<sup>11</sup>

### ***Child Care Executive Partnership Program***

A body politic and corporate known as the Child Care Executive Partnership governs the Child Care Executive Partnership (CCEP) Program. The purpose of the CCEP Program is to use state and federal funds as incentives for matching local funds derived from local governments, employers, charitable foundations, and other sources so that Florida communities may create local flexible partnerships with employers. The CCEP Program funds are used at the discretion of local communities to meet the needs of working parents.<sup>12</sup> The CCEP Program was not funded in the 2020 fiscal year.<sup>13</sup>

### ***Florida Civil Rights Act***

Title VI, 42 U.S.C. s. 2000d, et seq., was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.<sup>14</sup> The 1992 Florida Legislature enacted the Florida Civil Rights Act (FCRA) to protect persons from discrimination in education, employment, housing, and public accommodations. In addition to the classes of race, color, religion, sex, and national origin protected in federal law, the FCRA includes age, handicap, and marital status as protected classes.<sup>15</sup> The FCRA applies to employers who employ 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person.<sup>16</sup>

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<sup>8</sup> Section 20.055(1), F.S.

<sup>9</sup> The Office of Early Learning, *Coalitions*, <http://www.floridaearlylearning.com/coalitions.aspx> (last visited Mar. 19, 2021). See also 1002.83(1), F.S.

<sup>10</sup> Section 1002.83(3), F.S.

<sup>11</sup> Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013* (2020), at 13.

<sup>12</sup> Section 1002.94, F.S.

<sup>13</sup> Chapter 2020-111, L.O.F.

<sup>14</sup> U.S. Department of Justice, *Title VI of the Civil Rights Act of 1964 42 U.S.C. § 2000d et seq.*, available at <https://www.justice.gov/crt/fcs/TitleVI-Overview> (last visited Apr. 8, 2021).

<sup>15</sup> Section 760.10(1)(a), F.S.

<sup>16</sup> Section 760.02(7), F.S.

## The Voluntary Prekindergarten Education Program

The Florida Constitution requires the State to provide every four-year old child a high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program which must be voluntary, high quality, free, and delivered according to professionally accepted standards.<sup>17</sup> In 2004, the State established a free Voluntary Prekindergarten (VPK) program offered to eligible four-year-old children.<sup>18</sup> Parents may choose either a school-year or summer program offered by either a public or private school.<sup>19</sup> For the 2020-2021 year, \$412.2 million was appropriated from General Revenue for the VPK program in the 2020 General Appropriations Act.<sup>20</sup> During the 2019-2020 academic year, the VPK program served 156,956 students.<sup>21</sup>

ELCs and school districts administer the VPK program at the county or regional level. Each ELC is the single point of entry for VPK program registration and enrollment in the coalition's service area. A local ELC must coordinate with the local school district in the ELC's service area to develop procedures for enrolling children in public school VPK programs.<sup>22</sup>

The OEL adopts procedures governing the administration of the VPK program for ELCs and school districts, including procedures for:

- Enrolling children and documenting and certifying student enrollment and student attendance.
- Providing parents with profiles of VPK providers.
- Registering private prekindergarten providers and public schools to deliver the program.
- Determining the eligibility of private prekindergarten providers to deliver the program and streamlining the process of provider eligibility whenever possible.
- Verifying the compliance and removing VPK providers from eligibility to deliver the program due to noncompliance or misconduct.
- Placing schools on probation and requiring corrective actions.
- Paying VPK providers.
- Reconciling advance payments in accordance with the uniform attendance policy.
- Reenrolling students dismissed by a VPK provider for noncompliance with the VPK provider's attendance policy.
- Approving improvement plans.
- Approving and paying specialized instructional services providers.<sup>23</sup>

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<sup>17</sup> Art. IX, s. 1(b), Fla. Const. An early childhood development and education program means an organized program designed to address and enhance each child's ability to make age appropriate progress in an appropriate range of settings in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities through education in basic skills and such other skills as the Legislature may determine to be appropriate.

<sup>18</sup> Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; *see also* Art. IX, s. 1(b)-(c), Fla. Const.

<sup>19</sup> Section 1002.53(3), F.S.

<sup>20</sup> Specific Appropriation 88, s. 2, ch. 2020-111, L.O.F.

<sup>21</sup> Florida Office of Early Learning, *2019-20 Annual Report*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 8 (last visited Mar. 19, 2021).

<sup>22</sup> Section 1002.53(4), F.S.

<sup>23</sup> Section 1002.75(2), F.S.

The OEL consults with the DOE regarding procedures implemented by ELCs and school districts for administering corrective action to VPK providers and administering the VPK program for specialized instructional services for children with disabilities.<sup>24</sup>

***VPK Instructor Requirements***

A VPK provider offering a school-year VPK program must have, for each class, at least one instructor with:

- A Child Development Associate (CDA) issued by the National Credentialing Program of the Council for Professional Recognition; or
- A credential approved by the Department of Children and Families (DCF) as being equivalent to or greater than the CDA; and
- Five clock hours of training in emergent literacy and successful completion of a student performance standards training course.<sup>25</sup>

An instructor in a school-year VPK program implemented by a public school district must meet the same qualifications that are required of a private VPK program instructor, in addition to standard employment requirements for all instructional personnel in public schools.<sup>26</sup> A school-year VPK provider must have a second adult instructor for each class of 12 or more students; however, the second instructor is not required to meet the same qualifications as the lead instructor.<sup>27</sup>

In lieu of the minimum credentials listed above, a private VPK program instructor may hold:

- An associate's or higher degree in child development;
- An associate's or higher degree in an unrelated field, at least six credit hours in early childhood education or child development, and at least 480 hours of teaching or providing child care services for children any age from birth through eight years of age;
- A bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science;
- A bachelor's or higher degree in elementary education, if the instructor has been certified to teach children any age from birth through grade 6, regardless of whether the educator certificate is current; or
- An educational credential approved by the OEL as being equivalent to or greater than any of these educational credentials.<sup>28</sup>

The OEL sets minimum standards for emergent literacy training courses for VPK instructors. Each course must be at least five clock hours long and provide strategies and techniques regarding the age-appropriate progress of prekindergarten students in developing emergent

<sup>24</sup> Section 1002.67(3), F.S.; *see also* s. 1002.66, F.S.

<sup>25</sup> Sections 1002.55(3)(c)1.a. and 2., 1002.59, and 1002.63(4), F.S. An active Birth Through Five Child Care Credential awarded as a Florida Child Care Professional Credential, Florida Department of Education Child Care Apprenticeship Certificate, or Early Childhood Professional Certificate satisfies the staff credential requirement. Florida Department of Children and Families, *Child Care Facility Handbook* (2019), *incorporated by reference in* Rule 65C-22.001(7), F.A.C.

<sup>26</sup> Sections 1002.63(5)-(6), F.S.; *see also* Florida Department of Education, *Technical Assistance Paper: VPK Instructor Qualifications #07-01*, at 2 (Jan. 2007), available at <https://info.fl DOE.org/docushare/dsweb/Get/Document-4196/07-02att1.pdf>.

<sup>27</sup> Sections 1002.55(3)(f) and 1002.63(7), F.S.

<sup>28</sup> Section 1002.55(4), F.S.

literacy skills. Each emergent literacy course must also provide strategies for helping students with disabilities and other special needs maximize their benefit from the VPK program. Each course on performance standards must be at least three clock hours, provide instruction in strategies and techniques to address age-appropriate progress of each child in attaining the standards, and be available online.<sup>29</sup>

### ***VPK Performance Standards***

The OEL develops and adopts performance standards for students in VPK programs. The performance standards must address the age-appropriate progress of students in the development of:

- The capabilities, capacities, and skills required in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities.
- Emergent literacy skills, including oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development.<sup>30</sup>

Each VPK provider's curriculum must be developmentally appropriate, designed to prepare a student for early literacy, enhance age-appropriate student progress in attaining state-adopted performance standards, and prepare students to be ready for kindergarten based on the statewide kindergarten screening.<sup>31</sup>

### ***Statewide Kindergarten Readiness Screening***

The DOE has adopted a statewide kindergarten readiness screening, the Florida Kindergarten Readiness Screener (FLKRS),<sup>32</sup> and requires each school district to administer the statewide kindergarten readiness screening within the first 30 days of each school year.<sup>33</sup> The screening measures a child's readiness for kindergarten in eight domains: physical development; approaches to learning; social and emotional development; language and literacy; mathematical thinking; scientific inquiry; social studies; and creative expression through the arts.<sup>34</sup>

Kindergarten student scores must demonstrate a score of at least 500 on the screening assessment to be considered "ready for kindergarten." For the fall 2019 administration of the screening assessment, 53 percent of 190,805 kindergarten students were designated as "ready for kindergarten."<sup>35</sup>

<sup>29</sup> Section 1002.59(1) and (2), F.S.

<sup>30</sup> Section 1002.67, F.S.; Art. IX, s. 1(b), Fla. Const.

<sup>31</sup> Section 1002.67(1)(b), F.S.

<sup>32</sup> The DOE selected the Star Early Literacy Assessment, developed by Renaissance Learning, Inc., as the Florida Kindergarten Readiness Screener (FLKRS). Rule 6M-8.601(3)(b)1., F.A.C.; see also FDOE, *Florida Kindergarten Readiness Screener*, <http://www.fldoe.org/accountability/assessments/k-12-student-assessment/flkrs/> (last visited Mar. 13, 2021).

<sup>33</sup> Sections 1002.69(1)-(3) and 1002.73, F.S.

<sup>34</sup> See s. 1002.67(1), F.S. See also Florida's Office of Early Learning, *Early Learning and Developmental Standards: 4 Years Old to Kindergarten* (2017) at 1, incorporated by reference in rule 6M-8.602, F.A.C.

<sup>35</sup> Florida Office of Early Learning, *2019-20 Annual Report*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 46 (last visited Mar. 19, 2021).

### ***Kindergarten Readiness Rate***

The OEL annually calculates a kindergarten readiness rate for each VPK provider based on results of the annual screening.<sup>36</sup> The readiness rates are expressed as the percentage of children whose scores demonstrate readiness for kindergarten.<sup>37</sup> The methodology for calculating the readiness rate must include student learning gains, when available, based on a VPK preassessment and postassessment, known as the “Florida VPK Assessment.” The OEL must determine learning gains using a value-added measure based on growth demonstrated by the results of the Florida VPK Assessment from at least two successive years of administration.<sup>38</sup>

Beginning in January 2021, and continuing through the 2021-2022 school year, the DOE launched a VPK progress monitoring pilot program by permitting up to 1,900 VPK providers to administer the assessment used for the statewide kindergarten screening. The DOE allocated \$2.9 million from the CARES Act funds for the program.<sup>39</sup>

The DOE allocated \$18 million of the Child Care Development and Block Grant Fund from the CARES Act to implement summer programs for rising kindergarten students identified with limited language and emergent literacy skills as determined by the VPK assessments and teacher recommendations.<sup>40</sup>

### ***VPK Provider Probation and Corrective Action***

At least 60 percent of a VPK provider’s students must meet the “ready for kindergarten” score on the screening in order for the provider to avoid probationary status.<sup>41</sup> Providers that do not meet the minimum readiness rate are placed on probation. An ELC or school district must require a VPK provider that falls below the minimum kindergarten readiness rate to:

- Submit for approval and implement an improvement plan;
- Place the provide or school on probation; and
- Take certain corrective actions, including the use of an OEL-approved curriculum or an OEL approved staff development plan to strengthen instruction in language development and phonological awareness.<sup>42</sup>

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<sup>36</sup> Rule 6M-8.601(3)(b), F.A.C.

<sup>37</sup> Sections 1002.69(5)-(6), F.S.; To be considered “ready for kindergarten,” a student must achieve a score of 500 or higher on the Star Early Literacy assessment. Rule 6M-8.601, F.A.C.

<sup>38</sup> Section 1002.69(5), F.S.; Rule 6A-1.09433(1)(b), F.A.C and Rule 6M-8.601(3)(b), F.A.C.

<sup>39</sup> Florida Department of Education, *Progress Monitoring: Building Effective, Data-Informed Strategies to Close Achievement Gaps* (Nov. 18, 2020), available at <https://www.fldoe.org/core/fileparse.php/19925/urlt/2-3.pdf> at 6, (last visited Mar. 13, 2021).

<sup>40</sup> Florida Department of Education, *Reopening Florida’s Schools and the CARES Act*, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FLDOEReopeningCARESAct.pdf> at 98, (last visited Mar. 13, 2021).

<sup>41</sup> *Id.*

<sup>42</sup> Section 1002.67(4), F.S.



Out of 126,238 students who completed the VPK program, 63 percent were “ready for kindergarten” in the fall of 2019. Of 6,611 rated VPK providers, 2,175 failed to meet the minimum rate. Of these 2,175 providers, 2,201 remained on probation.<sup>43</sup>

A VPK provider on probation and failing to meet the minimum readiness rate for two consecutive years must be removed from eligibility to provide the VPK program for 5 years; unless the provider receives from the OEL a good cause exemption.<sup>44</sup>

### ***Good Cause Exemption***

A VPK provider on probation and failing to meet the minimum readiness rate for two consecutive years must be removed from eligibility to provide the VPK program for 5 years; unless the provider receives a good cause exemption. A VPK provider must submit a request for a good cause exemption to OEL for review and approval. The request must include:

- Data which documents student achievement and learning gains, as measured by a state-approved pre- and post-assessment.
- Data available from the respective ELC or district school board, the DCF, local licensing authority, or an accrediting association, as applicable, relating to the provider’s compliance with state and local health and safety standards.
- Data available to the OEL on the performance of the children served and the calculation of the provider’s kindergarten readiness rate.<sup>45</sup>

A VPK provider that receives a good cause exemption must continue to implement its improvement plan and take corrective actions until the provider meets the minimum kindergarten readiness rate. The OEL must notify the applicable ELC of the good cause exemption, which remains valid for one year, and may be renewed upon request by the VPK provider.<sup>46</sup>

A good cause exemption may not be granted to any VPK provider that has any class I violations or two or more class II violations within the two years preceding the provider’s request for an exemption.<sup>47</sup> Additionally, if a provider refuses to comply with program requirements or engages in misconduct, the OEL must require the ELC or district school board to remove the provider from eligibility to deliver the VPK program for a period of five years.<sup>48</sup>

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<sup>43</sup> Florida Office of Early Learning, *2019-20 Annual Report*, available at

[http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 46 (last visited Mar. 19, 2021).

<sup>44</sup> Section 1002.67(4)(c)3., F.S. A VPK provider must submit a request for a good cause exemption to the OEL for review and approval and include specified data. Section 1002.69(7)(b)-(c), F.S. A VPK provider that receives a good cause exemption must continue to implement its improvement plan and take corrective actions until the provider meets the minimum kindergarten readiness rate. Sections 1002.69(7)(e) and 1002.67(3)(c)2., F.S.

<sup>45</sup> Section 1002.69(4)(c)3. and (7)(b)-(c), F.S.

<sup>46</sup> Sections 1002.69(7) and 1002.67(3)(c)2., F.S.

<sup>47</sup> Section 1002.69(7)(d), F.S. DCF classifies licensing violations as class I, II, and III violations. Class I violations consist of conduct posing an imminent threat to a child. Class II violations pose a threat to the health, safety or well-being of a child, although the threat is not imminent. Rule 65C-22.010(1)(d), F.A.C.

<sup>48</sup> Section 1002.67(4)(b), F.S.

## The School Readiness Program

The school readiness program provides subsidies for child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.<sup>49</sup> The school readiness program offers financial assistance for child care to support working families and children to develop skills for success in school and provides developmental screening and referrals to health and education specialists where needed.<sup>50</sup> To participate in the school readiness program, a provider must execute a school readiness contract.<sup>51</sup> During the 2019-2020 academic year, 6,932 school readiness providers served 211,711 children enrolled in a school readiness program.<sup>52</sup>

### *Program Assessment*

The OEL is required to adopt a program assessment for school readiness program providers that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages birth to five years.<sup>53</sup> The OEL has selected the Teachstone Classroom Assessment Scoring System (CLASS) Assessment Tool as the program assessment, with the associated requirements for observations and observers provided in the Program Assessment Requirements Handbook.<sup>54</sup> CLASS observations must be conducted annually by observers who must be certified for the age group of the classroom being observed. Certification is achieved by completing and passing all trainings and assessments required by Teachstone to conduct a CLASS observation, only ELC staff, OEL vendors, or ELC designees may conduct an observation.<sup>55</sup>

All school readiness providers must receive an annual program assessment and meet the required minimum program assessment composite score prior to executing a school readiness contract.<sup>56</sup> No providers failed to earn the minimum program assessment score for eligibility to contract to deliver the school readiness program for the 2019-2020 program year.<sup>57</sup>

The OEL has adopted a differential payment program based on quality measures of school readiness providers.<sup>58</sup> The differential payment may not exceed a total of 15 percent for each care level and unit of child care for a child care provider. No more than five percent of the 15 percent total differential may be provided to providers who submit valid and reliable data to the

<sup>49</sup> Section 1002.87, F.S.

<sup>50</sup> Section 1002.86, F.S.

<sup>51</sup> Rule 6M-4.610, F.A.C. Form OEL-SR 20, *Statewide School Readiness Provider Contract*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/FormOEL-SR20StatewideSRProviderContract\\_7-8-20\\_ADA\\_final.pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/FormOEL-SR20StatewideSRProviderContract_7-8-20_ADA_final.pdf).

<sup>52</sup> Florida Office of Early Learning, *2019-20 Annual Report*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 20 (last visited Mar. 19, 2021).

<sup>53</sup> Section 1002.82(2)(n), F.S.

<sup>54</sup> See Form OEL-SR 740, *incorporated by reference in rule 6M-4.740, F.A.C.*; Florida's Office of Early Learning, *Classroom Assessment Scoring System* (2018), available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/CLASS%20FAQ\\_ADA.pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/CLASS%20FAQ_ADA.pdf).

<sup>55</sup> See Form OEL-SR 740 at 1, *incorporated by reference in rule 6M-4.740, F.A.C.*

<sup>56</sup> Rule 6M-4.741, F.A.C.

<sup>57</sup> Email, Florida Department of Education (Dec. 15, 2020) (on file with the Senate Committee on Education).

<sup>58</sup> Rule 6M-4.500, F.A.C.



statewide information system in the domains of language and executive functioning using a child assessment. Providers who fail to attain a minimum composite score on the program assessment are ineligible for a differential payment.<sup>59</sup>

### ***School Readiness Funding***

Funding for the school readiness program is allocated among the ELCs according to law and the General Appropriations Act.<sup>60</sup> The school readiness program is funded primarily by the CCDF block grant.<sup>61</sup> States administering funds from the CCDF are required to conduct a statistically valid and reliable survey of the market rates for child care services or an alternative methodology, such as a cost estimation model, that has been pre-approved by the U.S. Administration for Children and Families (ACF) and approved by the lead state agency.<sup>62</sup>

Many child care providers report that they are unable to set published prices that reflect the full cost of providing quality services because parents would be unable to pay these prices. As a result, the published prices reflected in market rate surveys are not always adequate to cover providers' full costs, particularly for high-quality care. A cost estimation model is an alternative methodology that accounts for key factors in determining the payment schedule. Key factors account for costs that vary across submarkets, such as age and sparsity, and include, for example:

- Staff salaries and benefits.
- Training and professional development
- Curricula and supplies
- Group size of children and staff-child ratios
- Enrollment levels.
- Program size.
- Facility costs.<sup>63</sup>

State, federal, and local matching funds provided to an ELC for purposes of the school readiness program must be used for implementation of its approved school readiness program plan, including the hiring of staff to effectively operate the school readiness program.<sup>64</sup>

For Fiscal Year 2020-2021, a total of \$895.9 million was appropriated for the school readiness program from state and federal funds.<sup>65</sup>

### ***Contracted Slots***

The OEL is required to adopt a standard statewide provider contract to be used with each school readiness program provider. The standard statewide contract must include minimum statutory

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<sup>59</sup> Section 1002.82(2)(o), F.S.

<sup>60</sup> Section 1002.89(1), F.S.

<sup>61</sup> The Office of Early Learning, *2019-2021 Child Care Development Fund State Plan*, [http://www.floridaearlylearning.com/oel\\_resources/ccdf\\_plan.aspx](http://www.floridaearlylearning.com/oel_resources/ccdf_plan.aspx) (last visited Mar. 19, 2021).

<sup>62</sup> 45 C.F.R. s. 98.45.

<sup>63</sup> U.S. Office of Child Care, Early Childhood Training and Technical Assistance System, *Market Rates and Costs*, available at [https://childcareta.acf.hhs.gov/ccdf-fundamentals/occ-approved-alternative-methodology#\\_ednref2](https://childcareta.acf.hhs.gov/ccdf-fundamentals/occ-approved-alternative-methodology#_ednref2) (last visited Apr. 8, 2021).

<sup>64</sup> Section 1002.89(5), F.S.

<sup>65</sup> Specific Appropriation 85, s. 2, ch. 2020-111, L.O.F.

requirements, such as contracted slots and provisions for provider probation and termination.<sup>66</sup> A school readiness child care slot is the number of school readiness paid child care slots filled during a month of service.<sup>67</sup> The standard statewide provider contract provides an option for school readiness providers to participate in a Contracted Slots Program whereby a provider agrees to reserve a specified number of slots determined necessary by the ELC in return for a higher reimbursement rate.<sup>68</sup>

If an ELC participates in the Contracted Slots Program, and the ELC determines a provider is eligible for the program, then the coalition may reimburse the provider up to ten percent above the 75th percentile of the market rate.<sup>69</sup>

### ***Gold Seal Quality Care Program***

The DCF is responsible for enforcing compliance with licensing standards by child care facilities, including large family child care homes and family day care homes.<sup>70</sup>

The DCF also adopts rules to administer the Gold Seal Quality Care Program (GSQC Program).<sup>71</sup> A GSQC designation entitles a school readiness provider to a rate differential at 20 percent above the ELC's approved reimbursement rate.<sup>72</sup> The law disqualifies child care facilities from accreditation if they receive a specified maximum number of Class I, II, or III violations within the two-year period preceding the application for accreditation.<sup>73</sup>

Educational materials, such as glue, paper, paints, crayons, unique craft items, scissors, books, and educational toys purchased by a licensed child care facility that meets minimum statutory standards, holds a current GSQC designation, and provides basic health insurance to all employees are exempt from sales, rental, use, consumption, distribution, and storage tax.<sup>74</sup> A licensed or legally exempt child care facility that achieves GSQC status is an educational institution exempt from ad valorem tax.<sup>75</sup>

Currently, 1,883 child care facilities, large family child care homes, and family day care homes possess a GSQC designation.<sup>76</sup>

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<sup>66</sup> Section 1002.82(2)(m), F.S.

<sup>67</sup> Rule 6M-4.740, F.A.C.

<sup>68</sup> Rule 6M-4.610, F.A.C., Form OEL-SR 20 (July 2019).

<sup>69</sup> Rule 6M-4.500, F.A.C.

<sup>70</sup> Section 402.305, F.S. Certain child care facilities which are an integral part of a church or specified parochial school are exempt from licensing standards. Section 402.316, F.S.

<sup>71</sup> Section 402.281, F.S.

<sup>72</sup> Rule 6M-4.500, F.A.C.

<sup>73</sup> Section 402.281, F.S. DCF rules governing child care facilities define Class I, II, and III violations, which are designated in ascending order of severity, for noncompliance with minimum licensing standards of child care facilities. Rule 65C-20.012, F.A.C.

<sup>74</sup> Section 212.08, F.S.

<sup>75</sup> Section 402.26, F.S.

<sup>76</sup> Florida Department of Children and Families, *Gold Seal Quality Care Summary and Detail Data* (Dec. 2020), available at <https://www.myflfamilies.com/service-programs/child-care/docs/gold-seal/Summary%20Dec%202020.pdf>.

***Market Rate***

The OEL is required to establish procedures for the adoption of a market rate schedule for the school readiness program. The schedule must include, at a minimum, county-by-county rates, differentiated by type of child care provider and the type of child care services provided. Rates must be differentiated for the types of providers by:

- The minimum and the maximum rates for child care providers that hold a Gold Seal Quality Care (GSQC) designation.
- Child care providers that do not hold a GSQC designation.
- Licensed child care facilities.
- Public or nonpublic schools exempt from licensure.
- Faith-based child care facilities exempt from licensure.
- Licensed large family child care homes.
- Licensed or registered family day care homes.<sup>77</sup>

The market rate schedule must also differentiate rate by the type of child care services provided, including services provided for:

- Children with special needs or risk categories.
- Infants, toddlers, preschool-age children, and school-age children.
- Full-time and part-time child care.<sup>78</sup>

Reimbursement rates for school readiness providers are paid based on a child's care level and unit of care as defined by the ELC's approved provider rate schedule for the county in which the provider's facility is located.<sup>79</sup> ELCs are required to consider the market rate schedule in the adoption of a payment schedule.

The payment schedule must consider the average market rate, include the projected number of children to be served, and be submitted for approval by the OEL. Informal child care arrangements may be reimbursed at no more than 50 percent of the rate adopted for a family day care home.<sup>80</sup>

The 2019 market rate report includes a state summary that reflects market rates by provider type and service type. For example, the average market rate in the state for GSQC designated private child care centers was \$42.01 for services provided to infants. The 75<sup>th</sup> percentile rate for the same services was \$48.26. The reimbursement rate for GSQC designated private centers was \$36.00. For private centers without a GSQC designation, the average market rate was \$36.71 for services provided to infants, and the 75<sup>th</sup> percentile rate was \$40.00, and the reimbursement rate was \$30.00.<sup>81</sup>

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<sup>77</sup> Section 1002.895, F.S.

<sup>78</sup> *Id.*

<sup>79</sup> Rule 6M-4.500, F.A.C.

<sup>80</sup> Section 1002.895, F.S.

<sup>81</sup> Office of Early Learning, *2019 Market Rate Report: State Summary*, available at

<http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/Market%20Rate%20FY1920%20Report%20Full%20Time%20Statewide%20Summary-ADA-Final.pdf>.

### **Research-Based Reading Allocation**

The state allocates funding to school districts for research-based reading instruction to students in kindergarten through grade 12.<sup>82</sup> Funds must be used to provide a system of comprehensive reading instruction to students enrolled in kindergarten through grade 12, including:<sup>83</sup>

- An additional hour of intensive reading instruction beyond the normal school day for students in the 300 lowest-performing elementary schools.
- Reading intervention teachers and reading coaches.
- Professional development for teachers to earn a certification or an endorsement in reading.
- Summer reading camps for students in kindergarten through grade 5 who exhibit certain reading deficiencies, depending on grade level.<sup>84</sup>
- Supplemental instructional materials that are grounded in scientifically based reading research as identified by the Just Read, Florida! Office (JRFO).
- Intensive interventions for students in kindergarten through grade 12 who have been identified as having a reading deficiency or who are reading below grade level as determined by the statewide, standardized ELA assessment.

District school boards must develop reading plans which detail the specific uses of the research-based reading instruction allocation. The plans must be annually submitted to the DOE for approval and provide for intensive reading interventions through integrated curricula that incorporate strategies identified by the JRFO and are delivered by a teacher who is certified or endorsed in reading. The DOE monitors and tracks the implementation of each district plan and collects specific data on expenditures and reading improvement results. By February 1 of each year, the DOE reports its findings to the Legislature.<sup>85</sup>

### **III. Effect of Proposed Changes:**

The bill expands accountability and assessment requirements for Voluntary Prekindergarten Education Program (VPK) providers. Specifically, the bill requires:

- A coordinated screening and progress monitoring program (CSPM) for students in VPK through grade 3 to provide information on students' progress in mastering the appropriate grade-level standards to parents, teachers, and school and program administrators.
- Beginning in the 2022-2023 program year, a program assessment composite score for each VPK provider based on the results of a program assessment that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages 3 to 5 years, in each VPK classroom.
- A performance metric that provides a score to each VPK provider based on the results of the CSPM, including learning gains, and the program assessment, beginning in the 2022-2023 program year.

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<sup>82</sup> Section 1011.62(9), F.S. The state appropriated \$130 million to school districts for the research-based reading instruction allocation for the 2020-2021 fiscal year. Specific Appropriations 8 and 92, s. 2, ch. 2020-111, L.O.F.

<sup>83</sup> Section 1011.62(9)(c), F.S.

<sup>84</sup> All students in kindergarten through grade 2 who demonstrate a reading deficiency as determined by district and state assessments, and students in grades 3 through 5 who score at Level 1 on the statewide, standardized English Language Arts assessment. Section 1011.62(9)(c)5., F.S.

<sup>85</sup> Section 1011.62(9)(d)1., F.S.

- The assignment of a performance designation for VPK providers beginning with the 2023-2024 program year.

The bill creates the Council for Early Grade Success within the Department of Education (DOE) to oversee the CSPM and requires the new screenings and assessments to be administered by qualified individuals.

The bill modifies the market rate schedule paid to school readiness providers to require a market rate schedule based on the prevailing market rate. The bill authorizes early learning coalitions to adopt an alternative payment schedule that has been approved by the federal Administration for Children and Families. The bill also transfers the Gold Seal Quality Care program to the Office of Early Learning (OEL) from the Department of Children and Families and adds standards for accrediting associations.

### Early Learning Coalitions

The bill makes early learning coalitions (ELCs) responsible for ensuring that public schools delivering the VPK program comply with VPK program requirements. The bill also requires ELCs to be evaluated on performance through deployment of customer service surveys.

Specifically, the bill:

- Requires the results of the customer service surveys of ELCs to be based on a statistically significant sample size and calculated annually for each ELC and included in the DOE's annual report.
- Requires the OEL, beginning in 2023-2024 fiscal year, to place an ELC on a one-year corrective action plan if its customer satisfaction survey results fall below 60 percent, and authorizes the OEL to remove the ELC's eligibility, contract out, or merge the ELC to administer early learning programs if the ELC does not improve through corrective action.
- Requires the DOE to adopt procedures for merging ELCs for failure to meet the requirements for delivering early learning programs, including procedures for the consolidation of merging coalitions that minimizes duplication of programs and services due to the merger, and for the early termination of the terms of the coalition members which are necessary to accomplish the mergers.

The bill also modifies the membership requirements of ELCs. Specifically, the bill:

- Removes the requirement that ELCs appoint a central agency administrator, where applicable.
- Authorizes, in the absence of a governor-appointed chair, the commissioner to appoint an interim chair from the current ELC board membership.
- Adds to the requirement of existing law that each ELC include a children's services council or juvenile welfare board chair or executive director to additionally require that each ELC must include a children's services council or juvenile welfare board chair or executive director from each county within the ELC's jurisdiction.
- Clarifies that a Department of Children and Families (DCF) child care regulation representative may serve as an alternative to the required member who also serves as an agency head.

- Authorizes an ELC to request an alternate ELC member who meets the same qualifications or membership requirements of a member who the ELC determines is not participating.
- Authorizes ELCs to appoint additional members who are independent private sector business members.
- Requires each ELC to complete an annual evaluation of the ELC's executive director or chief executive officer on forms adopted by the DOE. The annual evaluation must be submitted to the commissioner by June 30 of each year.

### **The Voluntary Prekindergarten Education Program**

The bill modifies performance standards for VPK providers, instructors, and students. The bill requires VPK providers to comply with the Florida Civil Rights Act of 1992. The bill also adds to the list of eligible VPK providers:

- A nationally accredited child development program operating on a certified military installation, which may also demonstrate required liability coverage by affirming that it is subject to jurisdiction under the federal Tort Claims Act.<sup>86</sup>
- A private prekindergarten provider with a provisional child care facility license.

### ***VPK Instructor Requirements***

The bill modifies requirements for VPK instructors and administrators by adding to the requirement that school districts give priority to teachers who have experience or coursework in early childhood education that the teachers must also have completed emergent literacy and performance standards courses. The bill also provides that:

- A VPK instructor in a class of 11 or less children must complete two additional emergent literacy training courses, for a total of three, and adds that they must include developmentally appropriate and experiential learning practices for children.
- Completion of the course must be part of the informal early learning career pathway and be available online or in person.
- A prekindergarten director credential must include training in the implementation of curriculum and usage of student level data to inform the delivery of instruction.
- The possession of a child care facility director credential completed before the later of the establishment of the prekindergarten director credential or July 1, 2006, no longer satisfies the requirement that a private VPK provider have a prekindergarten director who has a prekindergarten director credential.
- A certificate in educational leadership issued by the OEL to a private school administrator satisfies the requirement for a prekindergarten director credential.
- VPK curricula must support student learning gains through differentiated instruction as measured by the CSPM.

The bill modifies requirements for professional development training courses to require the DOE to make professional development courses available that train prekindergarten instructors and increase the competency of teacher-child interactions. Each course must be comprised of at least eight clock hours and be available online.

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<sup>86</sup> 28 U.S.C. s. 2671.

### ***VPK Performance Standards***

The bill modifies the performance standards for students in the VPK program and adds mathematical thinking and early math skills to the list of student skills required to be addressed in performance standards adopted by the OEL for the VPK program. The bill also:

- Adds early math skills to the required curricula of a VPK provider and the training courses that the OEL must adopt procedures for approving.
- Removes the requirement that performance standards be tied to the statewide kindergarten screening.
- Modifies the existing requirement that the OEL periodically review and revise the performance standards to require the OEL to review and revise the standards at least once every three years.

The bill repeals the existing statewide kindergarten readiness screening, but requires public schools to administer a statewide kindergarten screening in the 2021-2022 academic year within the first 30 school days and authorizes private schools to administer the statewide kindergarten screening.

### ***Coordinated Screening and Progress Monitoring***

The bill requires the Commissioner of Education (commissioner) to design a statewide, standardized CSPM to assess early literacy, dyslexia, and mathematics skills, and the English Language Arts and mathematics standards established in law.

Beginning in the 2022-2023 academic year, the bill requires all VPK and public school kindergarten students to participate in the CSPM within the first 30 days of enrollment, midyear, and within the last 30 days of the school year. The bill requires each parent who enrolls a child in VPK to allow the child to participate in the CSPM.

The bill establishes the purposes of the CSPM. Specifically, the bill requires the CSPM to:

- Provide interval level and norm-referenced data that measures equivalent levels of growth;
- Be a developmentally appropriate, valid and reliable direct assessment;
- Be able to capture data on students who may be performing below grade or developmental level and which may enable the identification of early indicators of dyslexia or other developmental delays;
- Accurately measure the core content in the applicable grade level standards;
- Document learning gains for the achievement of these standards; and
- Provide teachers with progress monitoring supports and materials that enhance differentiated instruction and parent communication.

The bill provides requirements for the use of data obtained from the administration of the CSPM. Specifically, the bill provides that the data from the CSPM must be used by VPK providers and school districts to improve instruction. The data must also be used by teachers to guide learning objectives and provide timely and appropriate supports and interventions to students not meeting grade level expectations.

The bill requires the results of the CSPM to be reported to the DOE for inclusion in the educational data warehouse and requires the OEL to use the data to:

- Identify student learning gains;
- Index development learning outcomes upon program completion relative to performance standards and representative norms; and
- Inform a provider's performance metric.

The bill requires each VPK provider and public school to provide parents with screening or progress monitoring results within seven days.

#### Research-Based Reading Allocation

The bill requires any VPK student with a substantial early literacy deficiency to be referred to the local school district. The local school district may provide the student intensive reading intervention using the research-based reading allocation before the student's participation in kindergarten. The bill also requires ELCs and school district representatives to meet annually to develop strategies to transition students from VPK to kindergarten.

The bill modifies the research-based reading instruction allocation to require intensive reading instruction provided under the allocation to be evidence-based and supplemental instructional materials to be scientifically-researched and evidence-based. The bill defines "evidence-based" as demonstrating a statistically significant effect on improving student outcomes or other relevant outcomes.

#### Council for Early Grade Success

The bill creates the Council for Early Grade Success (Council) and requires the commissioner to coordinate with the Council to develop a plan for implementation of the CSPM in consideration of the timelines for implementing new early literacy and mathematics skills and the English Language Arts and mathematics standards and the VPK program standards. The bill requires the commissioner to provide data, reports, and information as requested to the Council. The bill also provides that the Council be composed of 17 members, who must all be residents of the state, and include:

- Three members appointed by the Governor, to include:
  - One representative from the DOE.
  - One parent of a child who is four to nine years of age.
  - One representative who is a school principal.
- Seven members appointed jointly by the President of the Senate, as follows:
  - One senator who serves at the pleasure of the President of the Senate.
  - One representative of an urban school district.
  - One representative of a rural early learning coalition.
  - One representative of a faith-based early learning provider that offers the Voluntary Prekindergarten Education Program.
  - One representative who is a second grade teacher with at least 5 years of teaching experience.
  - Two representatives with subject matter expertise in early learning, early grade success, or child assessments.



- Seven members appointed by the Speaker of the House of Representatives, as follows:
  - One member of the House of Representatives who serves at the pleasure of the Speaker of the House.
  - One representative of a rural school district.
  - One representative of an urban early learning coalition.
  - One representative of an early learning provider that offers the Voluntary Prekindergarten Education Program.
  - One member who is a kindergarten teacher with at least 5 years of teaching experience.
  - Two representatives with subject matter expertise in early learning, early grade success, or child assessment.

The bill requires the Council to elect a chair and vice chair. The chair must be one of the four members with subject matter expertise and the vice chair must be a member appointed by the President of the Senate and Speaker of the House. The bill requires the Council to meet at least bi-annually in person or by teleconference to:

- Review the implementation of, training for, and outcomes of the CSPM and provide recommendations to the DOE to support grade-level reading by grade three.
- Identify appropriate personnel, processes, and procedures for administration of the CSPM.
- Continually review data and inform the DOE on recommendations to achieve grade level proficiency by grade three.
- Make recommendations to the DOE regarding the:
  - Methodology for calculating the performance metric and grading system for VPK providers.
  - Methodology for determining kindergarten readiness.
  - Age-appropriate learning gains by grade level required to demonstrate proficiency by grade 3.

### ***Performance Metric***

The bill requires the OEL to adopt a performance metric to measure the effectiveness of a VPK provider. For the 2020-2021 program year, the OEL must calculate the kindergarten readiness rate for each VPK provider based upon learning gains and the percentage of students who are assessed as ready for kindergarten.

The OEL must adopt a methodology for the performance metric beginning in the 2022-2023 program year. The performance metric must include:

- Program assessment composite scores weighted at no less than 50 percent.
- Learning gains from the initial and final progress monitoring results. The learning gains must be determined using a value-added measure based on growth demonstrated by the results of the pre-and post-assessment in use before the 2021-2022 program year.
- Norm-referenced developmental learning outcomes.

The bill requires the methodology for calculating the performance metric to include only prekindergarten students who have attended at least 85 percent of a VPK provider's program as opposed to the current 75 percent attendance rate required for inclusion in the kindergarten readiness rate.

The methodology must also include a statistical latent profile analysis that has been conducted by an expert. The bill requires the contracted expert to:

- Have experience in relevant quantitative analysis, early childhood assessment, and designing state-level accountability systems.
- Produce an analysis that includes a limited number of program performance metric profiles that summarize all programs' profiles that inform the assignment of designations of "unsatisfactory," "emerging proficiency," "proficient," "highly proficient," and "excellent" or comparable terminology determined by the OEL, which may not include letter grades. The designation must be displayed as associated with delivery of the VPK program in the provider's performance profile and accessible through the CCR&R.
- Confer with the Council in the development of the methodology.
- Also develop a methodology for determining a student's readiness for kindergarten that must be assessed by the CSPM.
- Not have had a stake or financial interest in the design or delivery of the VPK program or public school system within the last five years.

Beginning in the 2023-2024 academic year, the OEL must calculate each VPK provider's performance metric and designation within 45 days of the conclusion of the delivered school year or summer program.

The bill specifies that the grading system adopted by the OEL must provide for a differential payment to VPK providers based on program performance, and subject to appropriation. The maximum differential payment may not exceed 15 percent of the base student allocation per full-time equivalent student. A VPK provider may not receive a differential payment if it is assigned a designation of "proficient" or below.

The bill adds the performance metric of a VPK provider to the information that the OEL must publish and provide to each parent enrolling a child in the VPK program.

### ***Probation***

The bill specifies that a designation of "proficient" or better demonstrate satisfactory delivery of the VPK program. A provider who fails to meet the minimum kindergarten readiness rate for the 2020-2021 program year must be placed on probation. If a VPK provider fails to meet the minimum program assessment composite score, the provider may not participate in the VPK program until the provider meets the minimum composite score for contracting. The bill authorizes VPK providers to request an additional program assessment in order to requalify for the same program year.

If a VPK provider fails to meet the minimum performance metric or designation, the bill requires the applicable ELC to place the VPK provider on probation and requires the provider to:

- Submit an improvement plan for approval by the ELC and implement the plan; and
- Implement a curriculum approved by the OEL; or
- Implement a staff development plan to strengthen instructional practices in emotional support, classroom organization, instructional support, language development, phonological awareness, alphabet knowledge, and mathematical thinking.

The probation period lasts until the VPK provider attains the minimum required performance metric or grade. The bill requires an annual notification by the OEL to any providers who have been placed on probation and continue to fail to meet the minimum performance metric. The failure to comply with the probation or attain the minimum performance metric after two years of probation must result in the VPK provider's suspension from the program for a period of two to five years, as determined by the applicable ELC.

The bill also prohibits a VPK provider from delivering the VPK program if the provider's license has been converted to a probation-status license by the DCF.

### *Good Cause Exemption*

The bill authorizes the OEL to grant a VPK provider a good cause exemption from being determined ineligible to deliver the VPK program and receive state funds for the program. The exemption is valid for one year and is renewable. A request for a good cause exemption must include data from:

- The VPK provider which documents the achievement and progress of the children served, as measured by any required screenings or assessments.
- Program assessments which demonstrates effective teaching practices as recognized by the tool developer.
- The ELC or district school board, the DCF, or the local licensing authority reflecting compliance with state and local health and safety standards.

The bill requires the DOE to adopt criteria to consider when determining whether to grant a request for an exemption. The criteria must include:

- Child demographic data that evidences a VPK provider serves a statistically significant population of children with special needs who have individual education plans and can demonstrate progress toward meeting the goals outlined in the student's individual education plans.
- Learning gains of children served in the VPK program on an alternative measure that has comparable validity and reliability of the screening and progress monitoring program.
- Program assessment data which demonstrates effective teaching practices as recognized by the contracted expert.
- Verification that local and state health and safety requirements are met.

The bill prohibits the OEL from granting a good cause exemption to any VPK provider that has any class I violations involving an imminent threat to the health, safety, or welfare of a student or two or more class II<sup>87</sup> violations involving an unreasonable risk to the health, safety, or welfare of a student within the two years preceding the provider's request for an exemption. The DOE is required to inform the applicable ELC if an exemption is granted to a VPK provider that remains on probation for two consecutive years.

The bill requires each ELC to verify VPK provider compliance with the statutory requirements for delivering the VPK. The OEL must require each applicable ELC to suspend a provider who

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<sup>87</sup> Class I and Class II violations are defined in s. 402.281(4), F.S.

refuses to comply with VPK requirements or commits misconduct. The ELC must suspend the provider's eligibility to provide VPK for a period of two to five years.

The bill incorporates the number of good cause exemptions and justifications into the annual reporting requirements of the OEL.

The bill provides additional transparency of VPK and School Readiness program providers by requiring the following additional information be accessible through the CCR&R:

- Whether the provider participates in the Child Care Food Program.
- A link to licensing inspection reports.
- A VPK provider's performance metric, including its program assessment composite score, learning gains score, achievement score, and its designations.
- A School Readiness provider's program assessment composite score, including care-level composite scores delineated by infant, toddler, and preschool classrooms.
- Whether a School Readiness program participates in child observation assessments.
- Whether the provider holds a GSQC designation.
- Whether the provider implements an OEL-approved curriculum and the name of the curriculum.

### **The School Readiness Program**

The bill modifies requirements for regulating the school readiness program. Specifically, the bill:

- Modifies the requirement that the OEL adopt rules for ELCs in the implementation of statewide procedures. The bill instead requires the OEL to provide technical support to ELCs to facilitate the use of a standard statewide provider contract adopted by the OEL.
- Requires the OEL to monitor the alignment and consistency of the standards and benchmarks that address the age-appropriate progress of children in the development of school readiness skills. This requirement modifies existing law which only requires the OEL to develop and adopt the standards and benchmarks.
- Requires the minimum program assessment composite score adopted by the OEL to align with the minimum program assessment composite score for VPK providers and requires the independent expert who conducted the statistical latent profile analysis for the methodology for calculation of the performance metric for VPK providers to review the minimum program assessment composite score.
- Requires the OEL to evaluate ELCs in the administration of school readiness programs at least biennially.

The bill modifies requirements for school readiness providers. Specifically, the bill:

- Exempts a qualified provider at a military installation from child care facility licensing requirements, health and safety and immunization requirements, and liability coverage requirements.
- Authorizes provisionally licensed child care facilities or homes to deliver the school readiness program.
- Prohibits a child care facility or home from delivering the school readiness program while its license is on a probation status.

- Provides that the OEL and the ELCs may not require a school readiness provider to administer a VPK program assessment.
- Clarifies that a contract with a qualified entity to administer a regional school readiness program in the place of a noncompliant ELC lasts until the OEL reestablishes or merges the ELC and a new school readiness plan is approved.
- Adds a parent's participation in an Early Head Start or Head Start Program to the list of circumstances that qualify for waiver of a school readiness program copayment.

### ***Market Rate***

The bill modifies the market rate to be paid to school readiness providers by the OEL. Specifically, the bill:

- Redefines the average market rate as the “prevailing market rate” to mean the biennially determined 75<sup>th</sup> percentile of a reasonable frequency distribution of the market rate by program level and provider type in a geographical market at which child care providers charge a person for child care services.
- Modifies the requirement that the market rate include minimum and maximum rates for GSQC providers to clarify that the GSQC providers included in the determination of rates must also adhere to the teacher to child ratios and group size requirements of their respective accrediting associations.
- Clarifies that the payment schedule must account for the prevailing market rate and the projected number of children served in each county.
- Removes the requirement for each ELC to consider the market rate schedule.
- Removes the requirement that informal child care arrangements be reimbursed at 50 percent or less than the rate adopted for a family day care home.
- Authorizes the OEL to establish, and ELCs to adopt, an alternative model for determining payments to providers for delivering the school readiness program.

### ***Contracted Slots***

The bill requires, by July 1, 2022, the OEL to develop and adopt requirements for the implementation of a program designed to make available contracted slots to serve children at the greatest risk of school failure as determined by being located in an area that has been designated as a poverty area tract according to the latest census data.

The bill also provides that the contracted slot program may be used to increase the availability of child care capacity based on the assessment of local priorities within the county or multicounty region based on the needs of families and provider capacity using available community data.

### ***Gold Seal Quality Care Program***

The bill provides for a type two transfer<sup>88</sup> of the GSQC program from the DCF to the OEL and requires the OEL to adopt rules establishing GSQC accreditation standards using nationally recognized accrediting standards as well as input from accrediting associations. The bill requires the OEL to adopt rules to provide criteria for reviewing and approving accrediting associations

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<sup>88</sup> A program transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred. Section 20.06, F.S.

and for conferring and revoking GSQC status. The transfer of power includes only contracts that were in existence prior to July 1, 2020.

The bill codifies and specifies standards for approval of accrediting associations by the DOE for participation in the GSQC Program. In order to be approved by the DOE, an accrediting association must apply to the DOE and demonstrate that it is operational and:

- Is a recognized accrediting association.<sup>89</sup>
- Meets or exceeds State Board of Education (SBE) standards.<sup>90</sup>
- Is a registered corporation with the Department of State.
- Accreditation requirements that include clearly defined accreditation prerequisites and procedures for:
  - Completion of a self-study and comprehensive onsite verification for each classroom that documents compliance with standards.
  - Training for accreditation verifiers to ensure inter-rater reliability.
  - Ongoing compliance to include the filing of an annual report with the accrediting association;
  - Renewal requiring onsite verification at least every five years.
  - Verifying compliance upon transfer of ownership.
  - Revoking accreditation.
  - Communicating issues to state agencies with oversight.

The bill requires the OEL to review and recommend to the SBE the termination of an accrediting association that fails to cure within 30 days any deficiencies noted by the OEL in the processes and procedures submitted to and approved by the OEL. The OEL must remove a noncompliant accrediting association for a period of two to five years. The bill provides one year for a child care provider that was accredited by a noncompliant accrediting association to obtain a new accreditation from an approved accrediting association.

If a child care provider is ineligible for GSQC status because of a class I violation, the bill authorizes the OEL to recommend to the OEL to maintain the GSQC designation if the provider has been in business for five years with no other class I violations. The bill requires licensed or legally exempt child care facilities that participate in the school readiness program and achieve GSQC status to receive at least a 20 percent rate differential for each enrolled school readiness child by care level and unit of child care. An accrediting association is liable under the bill for the repayment of any rate differentials paid to a facility as a result of a GSQC designation if the accrediting association fraudulently granted the designation.

The bill takes effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>89</sup> This is an existing statutory requirement of the DCF GSQC Program.

<sup>90</sup> This is an existing statutory requirement of the DCF GSQC Program.

**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:**

Private providers may incur costs associated with having their VPK instructors complete at least three qualifying emergent literacy training courses by July 1, 2021.

In addition, private providers may incur costs associated with computer equipment needed to administer the new coordinated screening and progress monitoring system.

**C. Government Sector Impact:**

The DOE estimated the cost at \$1.5 million per grade level to annually administer the progress monitoring assessment.<sup>91</sup> In order to administer the assessment a minimum of three times per year for grade levels PK-3, the total recurring cost is estimated to be \$22.5 million. These costs would be offset, in part, by the elimination of the current VPK assessment and kindergarten screening in fiscal year 2022-2023. To assist with the procurement of the new system and its ongoing management, the department anticipates needing one additional Program Specialist IV position, at a cost of \$87,075 annually. School districts may also incur costs associated with computer equipment needed to administer the new assessments.

The DOE estimated a cost of \$5 million to implement the VPK program assessment requirements associated with teacher training and support; technology system to capture results from CLASS observations; technology system to track data by provider and

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<sup>91</sup> E-mail from Bethany Swanson, Deputy Chief of Staff, Florida Department of Education (March 10, 2021) (on file with the Senate Appropriations Subcommittee on Education).

includes improvement plans/processes; and costs associated with conducting the observations.<sup>92</sup>

The potential impact of the requirement to provide for a differential payment to VPK providers will not be known until after new performance metrics are developed in the 2022-2023 program year. Any additional funding for this provision is subject to an appropriation.

#### **VI. Technical Deficiencies:**

The bill provides that a certificate in educational leadership issued by the Office of Early Learning to a private school administrator satisfies the requirement for a prekindergarten director credential. The Department of Education, however, is the agency that issues the certificate in educational leadership.<sup>93</sup>

#### **VII. Related Issues:**

None.

#### **VIII. Statutes Affected:**

The bill substantially amends the following sections of the Florida Statutes: 39.604, 212.08, 402.26, 402.315, 1001.213, 1001.215, 1001.23, 1002.32, 1002.53, 1002.55, 1002.57, 1002.59, 1002.61, 1002.63, 1002.67, 1002.73, 1002.79, 1002.81, 1002.82, 1002.83, 1002.84, 1002.85, 1002.88, 1002.895, 1002.92, 1008.25, and 1011.62.

The bill repeals the following sections of the Florida Statutes: 1002.69, and 1002.75.

The bill creates the following sections of the Florida Statutes: 1002.68, and 1008.2125.

The bill transfers and renumbers section 402.281 of the Florida Statutes as section 1002.945.

#### **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 the Appropriations Subcommittee on Education on April 8, 2021:**

The committee substitute:

- Removes provisions of the bill consolidating authority and oversight of early learning programs within the State Board of Education. However, the amendment retains the transfer from the Department of Children and Families to the Office of Early Learning (OEL) the administration of the Gold Seal Quality Care Program for child care facilities. The committee substitute also limits the transfer to contracts that were in existence before July 1, 2020. The committee substitute also:

<sup>92</sup> *Id.*

<sup>93</sup> Rule 6A-4.082, F.A.C.



- Requires VPK providers to comply with the Florida Civil Rights Act of 1992 instead of the antidiscrimination requirements of 42 U.S.C. s. 2000d.
- Advances to July 1, 2021, the requirement for prekindergarten instructors to complete additional emergent literacy training courses.
- Removes the requirement for the DOE to calculate a program assessment composite score threshold for the 2021-2022 program year that VPK providers must meet. The amendment retains language that removes VPK providers from eligibility to deliver the VPK program for failing to attain the minimum program assessment composite score.
- Authorizes VPK providers to request one program assessment per program year in order to requalify for participation in the VPK program. If a VPK provider would like an additional program assessment completed within the same program year, the VPK provider will be responsible for the cost of the program assessment.
- Authorizes the OEL to establish an alternative model of payments to school readiness providers that has been approved by the Administration for Children and Families pursuant to federal law.
- Requires the OEL to establish procedures for an alternative model of calculating reimbursements to school readiness providers when an alternative model has been approved by the Administration for Children and Families pursuant to federal law.
- Requires early learning coalitions to adopt an alternative model, that has been approved by the Administration for Children and Families pursuant to federal law, for a payment schedule to school readiness providers.
- Specifies that the customer service surveys established in the bill to determine performance of early learning coalitions must be statistically valid and conducted by a state university or other independent researcher with specific expertise in customer service survey development. The committee substitute postpones from 2022-2023 to the 2023-2024 program year the deployment of the survey.
- Modifies the membership of the Council for Early Grade Success created in the bill. The amendment removes the thirteen joint appointments and requires seven appointments each from the Senate President and the House Speaker, and adds one appointment from the Governor.
- Restores the Child Care Executive Partnership Program which was repealed in the bill.
- Removes the appropriations provided for by the bill.

**B. Amendments:**

None.



923476

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
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The Committee on Appropriations (Harrell) recommended the following:

**Senate Amendment (with directory amendment)**

Delete lines 394 - 402.

===== **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 lines 372 - 373

and insert:

Section 10. Subsection (5) of section 1002.53, Florida Statutes, is amended, and



657762

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
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The Committee on Appropriations (Harrell) recommended the following:

**Senate Amendment**

Delete lines 660 - 661  
and insert:  
part or engages in misconduct, the office must require the  
district school board to remove the school from eligibility to



693470

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
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The Committee on Appropriations (Harrell) recommended the following:

**Senate Amendment**

Delete lines 1438 - 1445  
and insert:  
improvement through an improvement plan.



346066

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
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The Committee on Appropriations (Harrell) recommended the following:

**Senate Amendment**

Delete lines 1715 - 1717  
and insert:  
director or chief executive officer. The annual evaluation must  
be submitted to the Executive Director of the Office of Early  
Learning by August 30 of each year



260284

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
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The Committee on Appropriations (Harrell) recommended the following:

**Senate Amendment**

Delete lines 2213 - 2297  
and insert:

(2) (a). The methodology for determining a student's readiness for kindergarten shall be developed by the department and aligned to the methodology adopted by the Office of Early Learning in s. 1002.68(4).

(d) Identify the educational strengths and needs of students in the Voluntary Prekindergarten Education Program



11 through grade 3.

12 (e) Provide teachers with progress monitoring data to  
13 provide timely interventions and supports pursuant to s.  
14 1008.25(4).

15 (f) Assess how well educational goals and curricular  
16 standards are met at the provider, school, district, and state  
17 levels.

18 (g) Provide information to aid in the evaluation and  
19 development of educational programs and policies.

20 (2) The Commissioner of Education shall design a statewide,  
21 standardized coordinated screening and progress monitoring  
22 program to assess early literacy and mathematics skills and the  
23 English Language Arts and mathematics standards established in  
24 ss. 1002.67(1)(a) and 1003.41, respectively. The coordinated  
25 screening and progress monitoring program must provide interval  
26 level and norm-referenced data that measures equivalent levels  
27 of growth; be a developmentally appropriate, valid, and reliable  
28 direct assessment; be able to capture data on students who may  
29 be performing below grade or developmental level and which may  
30 enable the identification of early indicators of dyslexia or  
31 other developmental delays; accurately measure the core content  
32 in the applicable grade level standards; document learning gains  
33 for the achievement of these standards; and provide teachers  
34 with progress monitoring supports and materials that enhance  
35 differentiated instruction and parent communication.

36 Participation in the coordinated screening and progress  
37 monitoring program is mandatory for all students in the  
38 Voluntary Prekindergarten Education Program and enrolled in a  
39 public school in kindergarten through grade 3. The coordinated



40 screening and progress monitoring program shall be implemented  
41 beginning in the 2022-2023 school year for students in the  
42 Voluntary Prekindergarten Education Program and kindergarten  
43 students, as follows:

44 (a) The coordinated screening and progress monitoring  
45 program shall be administered within the first 30 days after  
46 enrollment, midyear, and within the last 30 days of the program  
47 or school year, in accordance with the rules adopted by the  
48 State Board of Education. The state board may adopt alternate  
49 timeframes to address nontraditional school year calendars or  
50 summer programs to ensure administration of the coordinated  
51 screening and progress monitoring program is administered a  
52 minimum of 3 times within a year or program.

53 (b) The results of the coordinated screening and progress  
54 monitoring program shall be reported to the department, in  
55 accordance with the rules adopted by the state board, and  
56 maintained in the department's educational data warehouse.

57 (3) The Commissioner of Education shall:

58 (a) Develop a plan, in coordination with the Council for  
59 Early Grade Success, for implementing the coordinated screening  
60 and progress monitoring program in consideration of timelines  
61 for implementing new early literacy and mathematics skills and  
62 the English Language Arts and mathematics standards established  
63 in ss. 1002.67(1) (a) and 1003.41, as appropriate.

64 (b) Provide data, reports, and information as requested to  
65 the Council for Early Grade Success.

66 (4) The Council for Early Grade Success, a council as  
67 defined in s. 20.03(7), is created within the Department of  
68 Education to oversee the coordinated screening and progress





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69 monitoring program and, except as otherwise provided in this  
70 section, shall operate consistent with s. 20.052.

71 (a) The council shall be responsible for reviewing the  
72 implementation of, training for, and outcomes from the  
73 coordinated screening and progress monitoring program to provide  
74 recommendations to the department that support grade 3 students  
75 reading at or above grade level. The council, at a minimum,  
76 shall:

77 1. Provide recommendations on the implementation of the  
78 coordinated screening and progress monitoring program, including  
79 reviewing any procurement solicitation documents and criteria  
80 before being published.

81 2. Develop training plans and timelines for such training.

82 3. Identify appropriate personnel, processes, and  
83 procedures required for the administration of the coordinated  
84 screening and progress monitoring program.

85 4. Provide input on the methodology for calculating a  
86 provider's or school's performance metric and designations under  
87 s. 1002.68(4).

88 5. Work with the department to review the methodology for  
89 determining a child's kindergarten readiness.



961452

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
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The Committee on Appropriations (Harrell) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 821 - 924

and insert:

(3) (a) For the 2020-2021 program year, the office shall calculate a kindergarten readiness rate for each private prekindergarten provider and public school participating in the Voluntary Prekindergarten Education Program based upon learning gains and the percentage of students assessed as ready for kindergarten. The department shall require that each school



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11 district administer the statewide kindergarten screening in use  
12 before the 2021-2022 school year to each kindergarten student in  
13 the school district within the first 30 school days of the 2021-  
14 2022 school year. Private schools may administer the statewide  
15 kindergarten screening to each kindergarten student in a private  
16 school who was enrolled in the Voluntary Prekindergarten  
17 Education Program. Learning gains shall be determined using a  
18 value-added measure based on growth demonstrated by the results  
19 of the pre- and post-assessment in use before the 2021-2022  
20 program year. However, a provider may not be newly placed on  
21 probationary status; a provider that is already on probationary  
22 status but earns the minimum rate determined pursuant to  
23 subsection (5) may be removed from probation; and a provider  
24 that is already on probationary status but does not meet the  
25 minimum rate determined pursuant to subsection (5) must remain  
26 on probation in their existing status. The methodology for  
27 calculating a provider's readiness rate may not include students  
28 who are not administered the statewide kindergarten screening.

29 (b) For the 2021-2022 program year, kindergarten screening  
30 results may not be used in the calculation of readiness rates.  
31 Any private prekindergarten provider or public school  
32 participating in the Voluntary Prekindergarten Education Program  
33 which fails to meet the minimum kindergarten readiness rate for  
34 the 2021-2022 program year is subject to the probation  
35 requirements of subsection (5).

36 (4) (a) Beginning with the 2022-2023 program year, the  
37 office shall adopt a methodology for calculating each private  
38 prekindergarten provider's and public school provider's  
39 performance metric, which must be based on a combination of the



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40 following:

41 1. Program assessment composite scores under subsection  
42 (2), which must be weighted at no less than 50 percent.

43 2. Learning gains operationalized as change-in-ability  
44 scores from the initial and final progress monitoring results  
45 described in subsection (1).

46 3. Norm-referenced developmental learning outcomes  
47 described in subsection (1).

48 (b) The methodology for calculating a provider's  
49 performance metric may not include students who are not  
50 administered the coordinated screening and progress monitoring  
51 program under s. 1008.2125.

52 (c) The program assessment composite score and performance  
53 metric must be calculated for each private prekindergarten or  
54 public school site.

55 (d) The methodology shall include a statistical latent  
56 profile analysis developed by the office that must be able to  
57 produce a limited number of performance metric profiles that  
58 summarize the profiles of all sites that must be used to inform  
59 the following designations: "unsatisfactory," "emerging  
60 proficiency," "proficient," "highly proficient," and "excellent"  
61 or comparable terminology determined by the office which may not  
62 include letter grades.

63 (e) Subject to an appropriation, the office shall provide  
64 for a differential payment to a private prekindergarten provider  
65 and public school based on the provider's designation. The  
66 maximum differential payment may not exceed a total of 15  
67 percent of the base student allocation per full-time equivalent  
68 student under s. 1002.71 attending in the consecutive program



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69 year for that program. A private prekindergarten provider or  
70 public school may not receive a differential payment if it  
71 receives a designation of "proficient" or lower. Before the  
72 adoption of the methodology, the office shall confer with the  
73 Council for Early Grade Success under s. 1008.2125 before  
74 receiving approval from the office for the final recommendations  
75 on the designation system and differential payments.

76 (f) The office shall adopt procedures to annually calculate  
77 each private prekindergarten provider's and public school's  
78 performance metric, based on the methodology adopted in  
79 paragraphs (a) and (b), and assign a designation under paragraph  
80 (d). Beginning with the 2023-2024 program year, each private  
81 prekindergarten provider or public school shall be assigned a  
82 designation within 45 days after the conclusion of the school-  
83 year Voluntary Prekindergarten Education Program delivered by  
84 all participating private prekindergarten providers or public  
85 schools and within 45 days after the conclusion of the summer  
86 Voluntary Prekindergarten Education Program delivered by all  
87 participating private prekindergarten providers or public  
88 schools.

89 (g) A private prekindergarten provider or public school  
90 designated "proficient," "highly proficient," or "excellent"  
91 demonstrates the provider's or school's satisfactory delivery of  
92 the Voluntary Prekindergarten Education Program.

93 (h) The designations shall be displayed in the early  
94 learning provider performance profiles required under s.  
95 1002.92 (3).

96 (5) (a) If a public school's or private prekindergarten  
97 provider's program assessment composite score for its



98 prekindergarten classrooms fails to meet the minimum program  
99 assessment composite score for contracting adopted by the  
100 office, the private prekindergarten provider or public school  
101 may not participate in the Voluntary Prekindergarten Education  
102 Program beginning in the consecutive program year and thereafter  
103 until the public school or private prekindergarten provider  
104 meets the minimum composite score for contracting. A public  
105 school or private prekindergarten provider may request one  
106 program assessment per program year in order to requalify for  
107 participation in the Voluntary Prekindergarten Education  
108 Program, provided that the public school or private  
109 prekindergarten provider is not excluded from participation  
110 under ss. 1002.55(6), 1002.61(10)(b), 1002.63(9)(b), or  
111 paragraph (5)(b) of this section. If a public school or private  
112 prekindergarten provider would like an additional program  
113 assessment completed within the same program year, the public  
114 school or private prekindergarten provider shall be responsible  
115 for the cost of the program assessment.

116  
117 ===== T I T L E A M E N D M E N T =====

118 And the title is amended as follows:

119 Delete lines 89 - 94

120 and insert:

121 Assessments; requiring the office to calculate a  
122 kindergarten readiness rate for private and public  
123 providers during a certain program year; providing the  
124 criteria for the calculation; requiring the department  
125 to require that each school district administer  
126 certain screens for a specified school year;



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127 authorizing private schools to administer the  
128 screening; specifying the means for determining  
129 learning gains; prohibiting a providing from being  
130 placed on probationary status; providing an exception;  
131 authorizing a provider to be removed from probationary  
132 status under certain circumstances; prohibiting  
133 kindergarten screening results from being used in the  
134 calculation of readiness rates; requiring the office  
135 to adopt a methodology for calculating certain  
136 performance metrics; providing criteria for the  
137 methodology; requiring the office to provide for a  
138 differential payment to a private prekindergarten  
139 provider and public school based on the provider's  
140 designation, subject to appropriation; requiring the  
141 office to adopt procedures; providing criteria for the  
142 procedures; requiring designations to be displayed in  
143 certain profiles; providing



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576-03912-21

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

A bill to be entitled

An act relating to early learning and early grade success; amending s. 39.604, F.S.; revising approved child care or early education settings for the placement of certain children; conforming cross-references; amending ss. 212.08 and 402.26, F.S.; conforming provisions and cross-references to changes made by the act; providing for a type two transfer of the Gold Seal Quality Care program in the Department of Children and Families to the Office of Early Learning; providing for the continuation of certain contracts and interagency agreements; amending ss. 402.315 and 1001.213, F.S.; conforming cross-references; amending ss. 1001.215 and 1001.23, F.S.; conforming provisions to changes made by the act; amending s. 1002.53, F.S.; revising the requirements for certain program provider profiles; requiring each parent who enrolls his or her child in the Voluntary Prekindergarten Education Program to allow his or her child to participate in a specified screening and progress monitoring program; amending s. 1002.32, F.S.; conforming cross-references; amending s. 1002.55, F.S.; authorizing certain child development programs operating on a military installation to be private prekindergarten providers within the Voluntary Prekindergarten Education Program; providing that a private prekindergarten provider is ineligible for



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participation in the program under certain circumstances; revising requirements for prekindergarten instructors; revising requirements for specified courses for prekindergarten instructors; providing that a private school administrator who holds a specified certificate meets certain credential requirements; providing liability insurance requirements for child development programs operating on a military installation participating in the program; requiring early learning coalitions to verify private prekindergarten provider compliance with specified provisions; requiring such coalitions to remove a provider's eligibility under specified circumstances; conforming provisions to changes made by the act; amending s. 1002.57, F.S.; revising the minimum standards for a credential for certain prekindergarten directors; amending s. 1002.59, F.S.; revising requirements for emergent literacy and performance standards training courses for prekindergarten instructors; requiring the department to make certain courses available online; amending s. 1002.61, F.S.; authorizing certain child development programs operating on a military installation to be private prekindergarten providers within the summer Voluntary Prekindergarten Education Program; conforming a provision to changes made by the act; revising the criteria for a teacher to receive priority for the summer program in a school district; requiring a child development program operating on a





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57 military installation to comply with specified  
58 criteria; requiring early learning coalitions to  
59 verify specified information; providing for the  
60 removal of a program provider or public school from  
61 eligibility under certain circumstances; amending s.  
62 1002.63, F.S.; conforming a provision to changes made  
63 by the act; requiring early learning coalitions to  
64 verify specified information; providing for the  
65 removal of public schools from the program under  
66 certain circumstances; amending s. 1002.67, F.S.;  
67 revising the performance standards for the Voluntary  
68 Prekindergarten Education Program; requiring the  
69 department to review and revise performance standards  
70 on a specified schedule; revising curriculum  
71 requirements for the program; conforming a provision  
72 to changes made by the act; requiring the office to  
73 adopt procedures for the review and approval of  
74 curricula for the program; deleting a required  
75 preassessment and postassessment for the program;  
76 creating s. 1002.68, F.S.; requiring providers of the  
77 Voluntary Prekindergarten Education Program to  
78 participate in a specified screening and progress  
79 monitoring program; providing specified uses for the  
80 results of such program; requiring certain portions of  
81 the screening and progress monitoring program to be  
82 administered by individuals who meet specified  
83 criteria; requiring the results of the screening and  
84 monitoring to be reported to the parents of  
85 participating students; requiring providers to



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86 participate in a program assessment; providing  
87 requirements for such assessments; providing office  
88 duties and responsibilities relating to such  
89 assessments; providing requirements for a specified  
90 methodology used to calculate the results of such  
91 assessments; requiring the department to establish a  
92 designation system for program providers; providing  
93 for the adoption of a minimum performance metric or  
94 designation for program participation; providing  
95 procedures for a provider whose score or designation  
96 falls below the minimum requirement; providing for the  
97 revocation of program eligibility for a provider;  
98 authorizing the department to grant good cause  
99 exemptions to providers under certain circumstances;  
100 providing office and provider requirements for such  
101 exemptions; requiring an annual meeting of  
102 representatives from specified entities to develop  
103 certain strategies; repealing s. 1002.69, F.S.,  
104 relating to statewide kindergarten screening and  
105 readiness rates; amending s. 1002.73, F.S.; requiring  
106 the office to adopt a statewide provider contract;  
107 requiring such contract to be published on the  
108 office's website; providing requirements for such  
109 contract; prohibiting providers from offering services  
110 during an appeal of termination from the program;  
111 providing applicability; requiring the office to adopt  
112 specified procedures relating to the Voluntary  
113 Prekindergarten Education Program; providing duties of  
114 the office relating to such program; repealing s.



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115 1002.75, F.S., relating to the powers and duties of  
116 the Office of Early Learning; amending 1002.81, F.S.;  
117 conforming provisions and cross-references to changes  
118 made by the act; amending s. 1002.82, F.S.; providing  
119 duties of the office relating to early learning;  
120 authorizing an alternative model for the calculation  
121 of prevailing market rate; exempting certain child  
122 development programs operating on a military  
123 installation from specified inspection requirements;  
124 requiring the office to monitor specified standards  
125 and benchmarks for certain purposes; revising the age  
126 range used for specified standards; requiring the  
127 office to provide specified technical support;  
128 revising requirements for a specified assessment  
129 program; requiring the office to adopt requirements to  
130 make certain contracted slots available to serve  
131 specified populations; requiring the office to adopt  
132 certain standards and outcome measures including  
133 specified surveys; requiring the office to adopt  
134 procedures for the merging of early learning  
135 coalitions; revising the requirements for a specified  
136 report; amending s. 1002.83, F.S.; revising the number  
137 of authorized early learning coalitions; revising the  
138 number of and requirements for members of an early  
139 learning coalition; revising and adding requirements  
140 for such coalitions; amending s. 1002.84, F.S.;  
141 revising early learning coalition responsibilities and  
142 duties; conforming a cross-reference; revising  
143 requirements for the waiver of specified copayments;



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144 amending s. 1002.85, F.S.; revising the requirements  
145 for school readiness program plans; amending s.  
146 1002.88, F.S.; authorizing certain child development  
147 programs operating on military installations to  
148 participate in the school readiness program; revising  
149 requirements to deliver such program; providing that a  
150 specified annual inspection for a child development  
151 program participating in the school readiness program  
152 meets certain provider requirements; providing  
153 requirements for a child development program to meet  
154 certain liability requirements; amending s. 1002.895,  
155 F.S.; requiring the office to adopt certain procedures  
156 until a specified event; conforming provisions to  
157 changes made by the act; amending s. 1002.92, F.S.;  
158 conforming a cross-reference; revising the  
159 requirements for specified services that child care  
160 resource and referral agencies must provide;  
161 transferring, renumbering, and amending s. 402.281,  
162 F.S.; revising the requirements of the Gold Seal  
163 Quality Care program; requiring the Office of Early  
164 Learning to adopt specified rules; revising  
165 accrediting association requirements; providing  
166 requirements for accrediting associations; requiring  
167 the department to establish a specified process;  
168 providing requirements for such process; deleting a  
169 requirement for the department to consult certain  
170 entities for specified purposes; providing  
171 requirements for certain providers to maintain Gold  
172 Seal Quality Care status; providing exemptions to



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173 certain ad valorem taxes; providing rate differentials  
174 to certain providers; creating s. 1008.2125, F.S.;  
175 creating the coordinated screening and progress  
176 monitoring program within the department for specified  
177 purposes; requiring the Commissioner of Education to  
178 design such program; providing requirements for the  
179 administration of such program and the use of results  
180 from the program; providing requirements for the  
181 commissioner; creating the Council for Early Grade  
182 Success within the department; providing duties of the  
183 council; providing membership of the council;  
184 requiring the council to elect a chair and a vice  
185 chair; providing requirements for such appointments;  
186 providing for per diem for members of the council;  
187 providing meeting requirements for the council;  
188 providing for a quorum of the council; amending s.  
189 1008.25, F.S.; authorizing certain students enrolled  
190 in the Voluntary Prekindergarten Education Program to  
191 receive intensive reading interventions using  
192 specified funds; amending s. 1011.62, F.S.; revising  
193 the research-based reading instruction allocation to  
194 authorize the use of such funds for certain intensive  
195 reading interventions for certain students; revising  
196 the requirements for specified reading instruction and  
197 interventions; defining the term "evidence-based";  
198 providing an effective date.

200 Be It Enacted by the Legislature of the State of Florida:  
201



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202 Section 1. Paragraph (b) of subsection (5) of section  
203 39.604, Florida Statutes, is amended to read:  
204 39.604 Rilya Wilson Act; short title; legislative intent;  
205 child care; early education; preschool.—  
206 (5) EDUCATIONAL STABILITY.—Just as educational stability is  
207 important for school-age children, it is also important to  
208 minimize disruptions to secure attachments and stable  
209 relationships with supportive caregivers of children from birth  
210 to school age and to ensure that these attachments are not  
211 disrupted due to placement in out-of-home care or subsequent  
212 changes in out-of-home placement.  
213 (b) If it is not in the best interest of the child for him  
214 or her to remain in his or her child care or early education  
215 setting upon entry into out-of-home care, the caregiver must  
216 work with the case manager, guardian ad litem, child care and  
217 educational staff, and educational surrogate, if one has been  
218 appointed, to determine the best setting for the child. Such  
219 setting may be a child care provider that receives a Gold Seal  
220 Quality Care designation pursuant to s. 1002.945 ~~s. 402.281~~, a  
221 ~~provider participating in a quality rating system~~, a licensed  
222 child care provider, a public school provider, or a license-  
223 exempt child care provider, including religious-exempt and  
224 registered providers, and nonpublic schools.  
225 Section 2. Paragraph (m) of subsection (5) of section  
226 212.08, Florida Statutes, is amended to read:  
227 212.08 Sales, rental, use, consumption, distribution, and  
228 storage tax; specified exemptions.—The sale at retail, the  
229 rental, the use, the consumption, the distribution, and the  
230 storage to be used or consumed in this state of the following



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231 are hereby specifically exempt from the tax imposed by this  
232 chapter.

233 (5) EXEMPTIONS; ACCOUNT OF USE.—

234 (m) *Educational materials purchased by certain child care*  
235 *facilities.*—Educational materials, such as glue, paper, paints,  
236 crayons, unique craft items, scissors, books, and educational  
237 toys, purchased by a child care facility that meets the  
238 standards delineated in s. 402.305, is licensed under s.

239 402.308, holds a current Gold Seal Quality Care designation  
240 pursuant to s. 1002.945 ~~s. 402.281~~, and provides basic health  
241 insurance to all employees are exempt from the taxes imposed by  
242 this chapter. For purposes of this paragraph, the term “basic  
243 health insurance” shall be defined and promulgated in rules  
244 developed jointly by the Office of Early Learning ~~Department of~~  
245 ~~Children and Families~~, the Agency for Health Care  
246 Administration, and the Financial Services Commission.

247 Section 3. Subsection (6) of section 402.26, Florida  
248 Statutes, is amended to read:

249 402.26 Child care; legislative intent.—

250 ~~(6) It is the intent of the Legislature that a child care~~  
251 ~~facility licensed pursuant to s. 402.305 or a child care~~  
252 ~~facility exempt from licensing pursuant to s. 402.316, that~~  
253 ~~achieves Gold Seal Quality status pursuant to s. 402.281, be~~  
254 ~~considered an educational institution for the purpose of~~  
255 ~~qualifying for exemption from ad valorem tax pursuant to s.~~  
256 ~~196.198.~~

257 Section 4. Type two transfer from the Department of  
258 Children and Families.—

259 (1) All powers, duties, functions, records, offices,



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260 personnel, associated administrative support positions,  
261 property, pending issues, existing contracts, administrative  
262 authority, administrative rules, and unexpended balances of  
263 appropriations, allocations, and other funds relating to the  
264 Gold Seal Quality Care program within the Department of Children  
265 and Families are transferred by a type two transfer, as defined  
266 in s. 20.06(2), Florida Statutes, to the Office of Early  
267 Learning.

268 (2) Any binding contract or interagency agreement existing  
269 before July 1, 2020, between the Department of Children and  
270 Families, or an entity or agent of the department, and any other  
271 agency, entity, or person relating to the Gold Seal Quality Care  
272 program shall continue as a binding contract or agreement for  
273 the remainder of the term of such contract or agreement on the  
274 successor entity responsible for the program, activity, or  
275 functions relative to the contract or agreement.

276 Section 5. Subsection (5) of section 402.315, Florida  
277 Statutes, is amended to read:

278 402.315 Funding; license fees.—

279 (5) All moneys collected by the department for child care  
280 licensing shall be held in a trust fund of the department to be  
281 reallocated to the department during the following fiscal year  
282 to fund child care licensing activities, including the Gold Seal  
283 Quality Care program created pursuant to s. 1002.945 ~~s. 402.281~~.

284 Section 6. Subsection (4) of section 1001.213, Florida  
285 Statutes, is amended to read:

286 1001.213 Office of Early Learning.—There is created within  
287 the Office of Independent Education and Parental Choice the  
288 Office of Early Learning, as required under s. 20.15, which



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289 shall be administered by an executive director. The office shall  
290 be fully accountable to the Commissioner of Education but shall:

291 (4) In compliance with parts V and VI of chapter 1002 and  
292 its powers and duties under s. 1002.73 ~~s. 1002.75~~, administer  
293 the Voluntary Prekindergarten Education Program at the state  
294 level.

295 Section 7. Subsection (7) of section 1001.215, Florida  
296 Statutes, is amended to read:

297 1001.215 Just Read, Florida! Office.—There is created in  
298 the Department of Education the Just Read, Florida! Office. The  
299 office is fully accountable to the Commissioner of Education and  
300 shall:

301 (7) Review, evaluate, and provide technical assistance to  
302 school districts' implementation of the ~~K-12~~ comprehensive  
303 reading plan required in s. 1011.62(9).

304 Section 8. Subsection (1) of section 1001.23, Florida  
305 Statutes, is amended to read:

306 1001.23 Specific powers and duties of the Department of  
307 Education.—In addition to all other duties assigned to it by law  
308 or by rule of the State Board of Education, the department  
309 shall:

310 ~~(1) Adopt the statewide kindergarten screening in  
311 accordance with s. 1002.69.~~

312 Section 9. Subsections (3) and (10) of section 1002.32,  
313 Florida Statutes, are amended to read:

314 1002.32 Developmental research (laboratory) schools.—

315 (3) MISSION.—The mission of a lab school shall be the  
316 provision of a vehicle for the conduct of research,  
317 demonstration, and evaluation regarding management, teaching,



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318 and learning. Programs to achieve the mission of a lab school  
319 shall embody the goals and standards established pursuant to ss.  
320 1000.03(5) and 1001.23(1) ~~1001.23(2)~~ and shall ensure an  
321 appropriate education for its students.

322 (a) Each lab school shall emphasize mathematics, science,  
323 computer science, and foreign languages. The primary goal of a  
324 lab school is to enhance instruction and research in such  
325 specialized subjects by using the resources available on a state  
326 university campus, while also providing an education in  
327 nonspecialized subjects. Each lab school shall provide  
328 sequential elementary and secondary instruction where  
329 appropriate. A lab school may not provide instruction at grade  
330 levels higher than grade 12 without authorization from the State  
331 Board of Education. Each lab school shall develop and implement  
332 a school improvement plan pursuant to s. 1003.02(3).

333 (b) Research, demonstration, and evaluation conducted at a  
334 lab school may be generated by the college of education and  
335 other colleges within the university with which the school is  
336 affiliated.

337 (c) Research, demonstration, and evaluation conducted at a  
338 lab school may be generated by the State Board of Education.  
339 Such research shall respond to the needs of the education  
340 community at large, rather than the specific needs of the  
341 affiliated college.

342 (d) Research, demonstration, and evaluation conducted at a  
343 lab school may consist of pilot projects to be generated by the  
344 affiliated college, the State Board of Education, or the  
345 Legislature.

346 (e) The exceptional education programs offered at a lab



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347 school shall be determined by the research and evaluation goals  
348 and the availability of students for efficiently sized programs.  
349 The fact that a lab school offers an exceptional education  
350 program in no way lessens the general responsibility of the  
351 local school district to provide exceptional education programs.

352 (10) EXCEPTIONS TO LAW.—To encourage innovative practices  
353 and facilitate the mission of the lab schools, in addition to  
354 the exceptions to law specified in s. 1001.23(1) ~~s. 1001.23(2)~~,  
355 the following exceptions shall be permitted for lab schools:

356 (a) The methods and requirements of the following statutes  
357 shall be held in abeyance: ss. 316.75; 1001.30; 1001.31;  
358 1001.32; 1001.33; 1001.34; 1001.35; 1001.36; 1001.361; 1001.362;  
359 1001.363; 1001.37; 1001.371; 1001.372; 1001.38; 1001.39;  
360 1001.395; 1001.40; 1001.41; 1001.44; 1001.453; 1001.46;  
361 1001.461; 1001.462; 1001.463; 1001.464; 1001.47; 1001.48;  
362 1001.49; 1001.50; 1001.51; 1006.12(2); 1006.21(3), (4); 1006.23;  
363 1010.07(2); 1010.40; 1010.41; 1010.42; 1010.43; 1010.44;  
364 1010.45; 1010.46; 1010.47; 1010.48; 1010.49; 1010.50; 1010.51;  
365 1010.52; 1010.53; 1010.54; 1010.55; 1011.02(1)-(3), (5);  
366 1011.04; 1011.20; 1011.21; 1011.22; 1011.23; 1011.71; 1011.72;  
367 1011.73; and 1011.74.

368 (b) With the exception of s. 1001.42(18), s. 1001.42 shall  
369 be held in abeyance. Reference to district school boards in s.  
370 1001.42(18) shall mean the president of the university or the  
371 president's designee.

372 Section 10. Subsection (5) and paragraph (c) of subsection  
373 (6) of section 1002.53, Florida Statutes, are amended, and  
374 paragraph (d) is added to subsection (6) of that section, to  
375 read:



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376 1002.53 Voluntary Prekindergarten Education Program;  
377 eligibility and enrollment.—

378 (5) The early learning coalition shall provide each parent  
379 enrolling a child in the Voluntary Prekindergarten Education  
380 Program with a profile of every private prekindergarten provider  
381 and public school delivering the program within the county where  
382 the child is being enrolled. The profiles shall be provided to  
383 parents in a format prescribed by the Office of Early Learning  
384 in accordance with s. 1002.92(3). ~~The profiles must include, at~~  
385 ~~a minimum, the following information about each provider and~~  
386 ~~school:~~

387 ~~(a) The provider's or school's services, curriculum,~~  
388 ~~instructor credentials, and instructor-to-student ratio; and~~

389 ~~(b) The provider's or school's kindergarten readiness rate~~  
390 ~~calculated in accordance with s. 1002.69, based upon the most~~  
391 ~~recent available results of the statewide kindergarten~~  
392 ~~screening.~~

393 (6)  
394 (c) Each private prekindergarten provider and public school  
395 must comply with the Florida Civil Rights Act of 1992 in  
396 accordance with chapter 760 antidiscrimination requirements of  
397 42 U.S.C. s. 2000d, regardless of whether the provider or school  
398 receives federal financial assistance. A private prekindergarten  
399 provider or public school may not discriminate against a parent  
400 or child, including the refusal to admit a child for enrollment  
401 in the Voluntary Prekindergarten Education Program, in violation  
402 of chapter 760 these antidiscrimination requirements.

403 (d) Each parent who enrolls his or her child in the  
404 Voluntary Prekindergarten Education Program must allow his or



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405 her child to participate in the coordinated screening and  
406 progress monitoring program under s. 1008.2125.

407 Section 11. Paragraphs (a), (b), (c), (g), (i), and (l) of  
408 subsection (3), subsection (4), and paragraph (b) of subsection  
409 (5) of section 1002.55, Florida Statutes, are amended, and  
410 subsection (6) is added to that section, to read:

411 1002.55 School-year prekindergarten program delivered by  
412 private prekindergarten providers.—

413 (3) To be eligible to deliver the prekindergarten program,  
414 a private prekindergarten provider must meet each of the  
415 following requirements:

416 (a) The private prekindergarten provider must be a child  
417 care facility licensed under s. 402.305, family day care home  
418 licensed under s. 402.313, large family child care home licensed  
419 under s. 402.3131, nonpublic school exempt from licensure under  
420 s. 402.3025(2), ~~or~~ faith-based child care provider exempt from  
421 licensure under s. 402.316, child development program accredited  
422 by a national accrediting body and operating on a military  
423 installation certified by the United States Department of  
424 Defense, or private prekindergarten provider issued a  
425 provisional license under s. 402.309. A private prekindergarten  
426 provider may not deliver the program while holding a probation-  
427 status license under s. 402.310.

428 (b) The private prekindergarten provider must:

429 1. Be accredited by an accrediting association that is a  
430 member of the National Council for Private School Accreditation,  
431 or the Florida Association of Academic Nonpublic Schools, or be  
432 accredited by the Southern Association of Colleges and Schools,  
433 or Western Association of Colleges and Schools, or North Central



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434 Association of Colleges and Schools, or Middle States  
435 Association of Colleges and Schools, or New England Association  
436 of Colleges and Schools; and have written accreditation  
437 standards that meet or exceed the state's licensing requirements  
438 under s. 402.305, s. 402.313, or s. 402.3131 and require at  
439 least one onsite visit to the provider or school before  
440 accreditation is granted;

441 2. Hold a current Gold Seal Quality Care designation under  
442 s. 1002.945 ~~s. 402.281~~; or

443 3. Be licensed under s. 402.305, s. 402.313, or s. 402.3131  
444 and demonstrate, before delivering the Voluntary Prekindergarten  
445 Education Program, as verified by the early learning coalition,  
446 that the provider meets each of the requirements of the program  
447 under this part, including, but not limited to, the requirements  
448 for credentials and background screenings of prekindergarten  
449 instructors under paragraphs (c) and (d), minimum and maximum  
450 class sizes under paragraph (f), prekindergarten director  
451 credentials under paragraph (g), and a developmentally  
452 appropriate curriculum under s. 1002.67(2)(b).

453 (c) The private prekindergarten provider must have, for  
454 each prekindergarten class of 11 children or fewer, at least one  
455 prekindergarten instructor who meets each of the following  
456 requirements:

457 1. The prekindergarten instructor must hold, at a minimum,  
458 one of the following credentials:

459 a. A child development associate credential issued by the  
460 National Credentialing Program of the Council for Professional  
461 Recognition; or

462 b. A credential approved by the Department of Children and



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463 Families as being equivalent to or greater than the credential  
464 described in sub-subparagraph a.

465  
466 The Department of Children and Families may adopt rules under  
467 ss. 120.536(1) and 120.54 which provide criteria and procedures  
468 for approving equivalent credentials under sub-subparagraph b.

469 2. The prekindergarten instructor must successfully  
470 complete at least three ~~an~~ emergent literacy training courses  
471 that include developmentally appropriate and experiential  
472 learning practices for children ~~course~~ and a student performance  
473 standards training course approved by the office as meeting or  
474 exceeding the minimum standards adopted under s. 1002.59, and be  
475 recognized as part of the informal early learning career pathway  
476 identified by the office under s. 1002.995(1)(b). The  
477 requirement for completion of the standards training course  
478 shall take effect July 1, 2021. ~~Such 2014, and the~~ course shall  
479 be available online or in person.

480 (g) The private prekindergarten provider must have a  
481 prekindergarten director who has a prekindergarten director  
482 credential that is approved by the office as meeting or  
483 exceeding the minimum standards adopted under s. 1002.57. A  
484 private school administrator who holds a valid certificate in  
485 educational leadership issued by the office satisfies the  
486 requirement for a prekindergarten director credential under s.  
487 1002.57 ~~Successful completion of a child care facility director~~  
488 ~~credential under s. 402.305(2)(g) before the establishment of~~  
489 ~~the prekindergarten director credential under s. 1002.57 or July~~  
490 ~~1, 2006, whichever occurs later, satisfies the requirement for a~~  
491 ~~prekindergarten director credential under this paragraph.~~



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492 (i) The private prekindergarten provider must execute the  
493 statewide provider contract prescribed under s. 1002.73 ~~or~~  
494 ~~1002.75~~, except that an individual who owns or operates multiple  
495 private prekindergarten sites ~~providers~~ within a coalition's  
496 service area may execute a single agreement with the coalition  
497 on behalf of each site ~~provider~~.

498 (l) Notwithstanding paragraph (j), for a private  
499 prekindergarten provider that is a state agency or a subdivision  
500 thereof, as defined in s. 768.28(2), the provider must agree to  
501 notify the coalition of any additional liability coverage  
502 maintained by the provider in addition to that otherwise  
503 established under s. 768.28. The provider shall indemnify the  
504 coalition to the extent permitted by s. 768.28. Notwithstanding  
505 paragraph (j), for a child development program accredited by a  
506 national accrediting body and operating on a military  
507 installation certified by the United States Department of  
508 Defense, the provider may demonstrate liability coverage by  
509 affirming that it is subject to the Federal Tort Claims Act, 28  
510 U.S.C. s. 2671 et seq.

511 (4) A prekindergarten instructor, in lieu of the minimum  
512 credentials ~~and courses~~ required under paragraph (3)(c), may  
513 hold one of the following educational credentials:

514 (a) A bachelor's or higher degree in early childhood  
515 education, prekindergarten or primary education, preschool  
516 education, or family and consumer science;

517 (b) A bachelor's or higher degree in elementary education,  
518 if the prekindergarten instructor has been certified to teach  
519 children any age from birth through 6th grade, regardless of  
520 whether the instructor's educator certificate is current, and if





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521 the instructor is not ineligible to teach in a public school  
522 because his or her educator certificate is suspended or revoked;

523 (c) An associate's or higher degree in child development;

524 (d) An associate's or higher degree in an unrelated field,  
525 at least 6 credit hours in early childhood education or child  
526 development, and at least 480 hours of experience in teaching or  
527 providing child care services for children any age from birth  
528 through 8 years of age; or

529 (e) An educational credential approved by the department as  
530 being equivalent to or greater than an educational credential  
531 described in this subsection. The department may adopt criteria  
532 and procedures for approving equivalent educational credentials  
533 under this paragraph.

534 (5)

535 (b) Notwithstanding any other ~~provision of law~~, if a  
536 private prekindergarten provider has been cited for a class I  
537 violation, as defined by rule of the Child Care Services Program  
538 Office of the Department of Children and Families, the coalition  
539 may refuse to contract with the provider.

540 (6) Each early learning coalition must verify that each  
541 private prekindergarten provider delivering the Voluntary  
542 Prekindergarten Education Program within the coalition's county  
543 or multicounty region complies with this part. If a private  
544 prekindergarten provider fails or refuses to comply with this  
545 part or engages in misconduct, the office must require the early  
546 learning coalition to remove the provider from eligibility to  
547 deliver the program or to receive state funds under this part  
548 for a period of at least 2 years but no more than 5 years.

549 Section 12. Present paragraphs (b) and (c) of subsection



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550 (2) of section 1002.57, Florida Statutes, are redesignated as  
551 paragraphs (c) and (d), respectively, and a new paragraph (b) is  
552 added to that subsection, to read:

553 1002.57 Prekindergarten director credential.—

554 (2) The educational requirements must include training in  
555 the following:

556 (b) Implementation of curriculum and usage of student-level  
557 data to inform the delivery of instruction;

558 Section 13. Section 1002.59, Florida Statutes, is amended  
559 to read:

560 1002.59 Emergent literacy and performance standards  
561 training courses.—

562 (1) The office shall adopt minimum standards for ~~one or~~  
563 ~~more training~~ courses in emergent literacy for prekindergarten  
564 instructors. Each course must comprise 5 clock hours and provide  
565 instruction in strategies and techniques to address the age-  
566 appropriate progress of prekindergarten students in developing  
567 emergent literacy skills, including oral communication,  
568 knowledge of print and letters, phonemic and phonological  
569 awareness, and vocabulary and comprehension development. Each  
570 course must also provide resources containing strategies that  
571 allow students with disabilities and other special needs to  
572 derive maximum benefit from the Voluntary Prekindergarten  
573 Education Program. Successful completion of an emergent literacy  
574 training course approved under this section satisfies  
575 requirements for approved training in early literacy and  
576 language development under ss. 402.305(2)(e)5., 402.313(6), and  
577 402.3131(5).

578 (2) The office shall adopt minimum standards for ~~one or~~



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579 ~~more training~~ courses on the performance standards adopted under  
580 s. 1002.67(1). Each course must comprise at least 3 clock hours,  
581 provide instruction in strategies and techniques to address age-  
582 appropriate progress of each child in attaining the standards,  
583 and be available online.

584 (3) The office shall make available online professional  
585 development and training courses consisting of at least 8 clock  
586 hours that support prekindergarten instructors in increasing the  
587 competency of teacher-child interactions.

588 Section 14. Present subsections (6), (7), and (8) of  
589 section 1002.61, Florida Statutes, are redesignated as  
590 subsections (7), (8), and (9), respectively, a new subsection  
591 (6) and subsection (10) are added to that section, and paragraph  
592 (b) of subsection (1), paragraph (b) of subsection (3), and  
593 subsection (4) of that section are amended, to read:

594 1002.61 Summer prekindergarten program delivered by public  
595 schools and private prekindergarten providers.—

596 (1)

597 (b) Each early learning coalition shall administer the  
598 Voluntary Prekindergarten Education Program at the county or  
599 regional level for students enrolled under s. 1002.53(3)(b) in a  
600 summer prekindergarten program delivered by a private  
601 prekindergarten provider. A child development program accredited  
602 by a national accrediting body and operating on a military  
603 installation certified by the United States Department of  
604 Defense may administer the summer prekindergarten program as a  
605 private prekindergarten provider.

606 (3)

607 (b) Each public school delivering the summer



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608 prekindergarten program must execute the statewide provider  
609 contract prescribed under ~~s. 1002.73~~ ~~s. 1002.75~~, except that the  
610 school district may execute a single agreement with the early  
611 learning coalition on behalf of all district schools.

612 (4) Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(4),  
613 each public school and private prekindergarten provider must  
614 have, for each prekindergarten class, at least one  
615 prekindergarten instructor who is a certified teacher or holds  
616 one of the educational credentials specified in s. 1002.55(4)(a)  
617 or (b). As used in this subsection, the term "certified teacher"  
618 means a teacher holding a valid Florida educator certificate  
619 under s. 1012.56 who has the qualifications required by the  
620 district school board to instruct students in the summer  
621 prekindergarten program. In selecting instructional staff for  
622 the summer prekindergarten program, each school district shall  
623 give priority to teachers who have experience or coursework in  
624 early childhood education and have completed emergent literacy  
625 and performance standards courses, as described in s.  
626 1002.55(3)(c)2.

627 (6) A child development program accredited by a national  
628 accrediting body and operating on a military installation  
629 certified by the United States Department of Defense shall  
630 comply with the requirements of a private prekindergarten  
631 provider in this section.

632 (10)(a) Each early learning coalition shall verify that  
633 each private prekindergarten provider and public school  
634 delivering the Voluntary Prekindergarten Education Program  
635 within the coalition's county or multicounty region complies  
636 with this part.



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637 (b) If a private prekindergarten provider or public school  
638 fails or refuses to comply with this part or engages in  
639 misconduct, the office must require the early learning coalition  
640 to remove the provider or school from eligibility to deliver the  
641 Voluntary Prekindergarten Education Program or to receive state  
642 funds under this part for a period of at least 2 years but no  
643 more than 5 years.

644 Section 15. Paragraph (b) of subsection (3) of section  
645 1002.63, Florida Statutes, is amended, and subsection (9) is  
646 added to that section, to read:

647 1002.63 School-year prekindergarten program delivered by  
648 public schools.—

649 (3)

650 (b) Each public school delivering the school-year  
651 prekindergarten program must execute the statewide provider  
652 contract prescribed under s. 1002.73 ~~s. 1002.75~~, except that the  
653 school district may execute a single agreement with the early  
654 learning coalition on behalf of all district schools.

655 (9) (a) Each early learning coalition shall verify that each  
656 public school delivering the Voluntary Prekindergarten Education  
657 Program within the coalition's service area complies with this  
658 part.

659 (b) If a public school fails or refuses to comply with this  
660 part or engages in misconduct, the office must require the early  
661 learning coalition to remove the school from eligibility to  
662 deliver the Voluntary Prekindergarten Education Program or to  
663 receive state funds under this part for a period of at least 2  
664 years but no more than 5 years.

665 Section 16. Section 1002.67, Florida Statutes, is amended



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666 to read:

667 1002.67 Performance standards ~~and~~ curricula and  
668 accountability.—

669 (1) (a) The office shall develop and adopt performance  
670 standards for students in the Voluntary Prekindergarten  
671 Education Program. The performance standards must address the  
672 age-appropriate progress of students in the development of:

673 1. The capabilities, capacities, and skills required under  
674 s. 1(b), Art. IX of the State Constitution; ~~and~~

675 2. Emergent literacy skills, including oral communication,  
676 knowledge of print and letters, phonemic and phonological  
677 awareness, and vocabulary and comprehension development; and

678 3. Mathematical thinking and early math skills.

679

680 ~~By October 1, 2013, the office shall examine the existing~~  
681 ~~performance standards in the area of mathematical thinking and~~  
682 ~~develop a plan to make appropriate professional development and~~  
683 ~~training courses available to prekindergarten instructors.~~

684 (b) At least every 3 years, the office shall periodically  
685 review and, if necessary, revise the performance standards  
686 established under this section ~~for the statewide kindergarten~~  
687 ~~screening administered under s. 1002.69~~ and align the standards  
688 to the standards established by the state board for student  
689 performance on the statewide assessments administered pursuant  
690 to s. 1008.22.

691 (2) (a) Each private prekindergarten provider and public  
692 school may select or design the curriculum that the provider or  
693 school uses to implement the Voluntary Prekindergarten Education  
694 Program, except as otherwise required for a provider or school



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695 that is placed on probation under s. 1002.68 paragraph (4)(c).

696 (b) Each private prekindergarten provider's and public  
697 school's curriculum must be developmentally appropriate and  
698 must:

699 1. Be designed to prepare a student for early literacy and  
700 provide for instruction in early math skills;

701 2. Enhance the age-appropriate progress of students in  
702 attaining the performance standards adopted by the department  
703 under subsection (1); and

704 3. Support student learning gains through differentiated  
705 instruction that shall be measured by the coordinated screening  
706 and progress monitoring program under s. 1008.2125 Prepare  
707 students to be ready for kindergarten based upon the statewide  
708 kindergarten screening administered under s. 1002.69.

709 (c) The office shall adopt procedures for the review and  
710 approval of approve curricula for use by private prekindergarten  
711 providers and public schools that are placed on probation under  
712 s. 1002.68 paragraph (4)(c). The office shall administer the  
713 review and approval process and maintain a list of the curricula  
714 approved under this paragraph. Each approved curriculum must  
715 meet the requirements of paragraph (b).

716 ~~(3)(a) Contingent upon legislative appropriation, each~~  
717 ~~private prekindergarten provider and public school in the~~  
718 ~~Voluntary Prekindergarten Education Program must implement an~~  
719 ~~evidence-based pre- and post-assessment that has been approved~~  
720 ~~by rule of the State Board of Education.~~

721 ~~(b) In order to be approved, the assessment must be valid,~~  
722 ~~reliable, developmentally appropriate, and designed to measure~~  
723 ~~student progress on domains which must include, but are not~~



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724 ~~limited to, early literacy, numeracy, and language.~~

725 ~~(c) The pre- and post-assessment must be administered by~~  
726 ~~individuals meeting requirements established by rule of the~~  
727 ~~State Board of Education.~~

728 ~~(4)(a) Each early learning coalition shall verify that each~~  
729 ~~private prekindergarten provider delivering the Voluntary~~  
730 ~~Prekindergarten Education Program within the coalition's county~~  
731 ~~or multicounty region complies with this part. Each district~~  
732 ~~school board shall verify that each public school delivering the~~  
733 ~~program within the school district complies with this part.~~

734 ~~(b) If a private prekindergarten provider or public school~~  
735 ~~fails or refuses to comply with this part, or if a provider or~~  
736 ~~school engages in misconduct, the office shall require the early~~  
737 ~~learning coalition to remove the provider and require the school~~  
738 ~~district to remove the school from eligibility to deliver the~~  
739 ~~Voluntary Prekindergarten Education Program and receive state~~  
740 ~~funds under this part for a period of 5 years.~~

741 ~~(c)1. If the kindergarten readiness rate of a private~~  
742 ~~prekindergarten provider or public school falls below the~~  
743 ~~minimum rate adopted by the office as satisfactory under s.~~  
744 ~~1002.69(6), the early learning coalition or school district, as~~  
745 ~~applicable, shall require the provider or school to submit an~~  
746 ~~improvement plan for approval by the coalition or school~~  
747 ~~district, as applicable, and to implement the plan; shall place~~  
748 ~~the provider or school on probation; and shall require the~~  
749 ~~provider or school to take certain corrective actions, including~~  
750 ~~the use of a curriculum approved by the office under paragraph~~  
751 ~~(2)(c) or a staff development plan to strengthen instruction in~~  
752 ~~language development and phonological awareness approved by the~~



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753 ~~office.~~

754 ~~2. A private prekindergarten provider or public school that~~  
755 ~~is placed on probation must continue the corrective actions~~  
756 ~~required under subparagraph 1., including the use of a~~  
757 ~~curriculum or a staff development plan to strengthen instruction~~  
758 ~~in language development and phonological awareness approved by~~  
759 ~~the office, until the provider or school meets the minimum rate~~  
760 ~~adopted by the office as satisfactory under s. 1002.69(6).~~  
761 ~~Failure to implement an approved improvement plan or staff~~  
762 ~~development plan shall result in the termination of the~~  
763 ~~provider's contract to deliver the Voluntary Prekindergarten~~  
764 ~~Education Program for a period of 5 years.~~

765 ~~3. If a private prekindergarten provider or public school~~  
766 ~~remains on probation for 2 consecutive years and fails to meet~~  
767 ~~the minimum rate adopted by the office as satisfactory under s.~~  
768 ~~1002.69(6) and is not granted a good cause exemption by the~~  
769 ~~office pursuant to s. 1002.69(7), the office shall require the~~  
770 ~~early learning coalition or the school district to remove, as~~  
771 ~~applicable, the provider or school from eligibility to deliver~~  
772 ~~the Voluntary Prekindergarten Education Program and receive~~  
773 ~~state funds for the program for a period of 5 years.~~

774 ~~(d) Each early learning coalition and the office shall~~  
775 ~~coordinate with the Child Care Services Program Office of the~~  
776 ~~Department of Children and Families to minimize interagency~~  
777 ~~duplication of activities for monitoring private prekindergarten~~  
778 ~~providers for compliance with requirements of the Voluntary~~  
779 ~~Prekindergarten Education Program under this part, the school~~  
780 ~~readiness program under part VI of this chapter, and the~~  
781 ~~licensing of providers under ss. 402.301-402.319.~~



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782 Section 17. Section 1002.68, Florida Statutes, is created  
783 to read:

784 1002.68 Voluntary Prekindergarten Education Program  
785 accountability.—

786 (1) (a) Beginning with the 2022-2023 program year, each  
787 private prekindergarten provider and public school participating  
788 in the Voluntary Prekindergarten Education Program must  
789 participate in the coordinated screening and progress monitoring  
790 program in accordance with s. 1008.2125. The coordinated  
791 screening and progress monitoring program results shall be used  
792 by the office to identify student learning gains, index  
793 development learning outcomes upon program completion relative  
794 to the performance standards established under s. 1002.67 and  
795 representative norms, and inform a private prekindergarten  
796 provider's and public school's performance metric.

797 (b) At a minimum, the initial and final progress monitoring  
798 or screening must be administered by individuals meeting  
799 requirements adopted by the department pursuant to s. 1008.2125.

800 (c) Each private prekindergarten provider and public school  
801 participating in the Voluntary Prekindergarten Education Program  
802 must provide a student's performance results from the  
803 coordinated screening and progress monitoring to the student's  
804 parents within 7 days after the administration of such  
805 coordinated screening and progress monitoring.

806 (2) Beginning with the 2022-2023 program year, each private  
807 prekindergarten provider and public school participating in the  
808 Voluntary Prekindergarten Education Program must participate in  
809 a program assessment of each voluntary prekindergarten education  
810 classroom. The program assessment shall measure the quality of



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811 teacher-child interactions, including emotional support,  
812 classroom organization, and instructional support for children  
813 ages 3 to 5 years. Each private prekindergarten provider and  
814 public school participating in the Voluntary Prekindergarten  
815 Education Program shall receive from the office the results of  
816 the program assessment for each classroom within 14 days after  
817 the observation. Each early learning coalition shall be  
818 responsible for the administration of the program assessments,  
819 which must be conducted by individuals qualified to conduct  
820 program assessments under s. 1002.82(2)(n).

821 (3) For the 2020-2021 program year, the office shall  
822 calculate a kindergarten readiness rate for each private  
823 prekindergarten provider and public school participating in the  
824 Voluntary Prekindergarten Education Program based upon learning  
825 gains and the percentage of students assessed as ready for  
826 kindergarten. The department shall require that each school  
827 district administer the statewide kindergarten screening in use  
828 before the 2021-2022 school year to each kindergarten student in  
829 the school district within the first 30 school days of the 2021-  
830 2022 school year. Private schools may administer the statewide  
831 kindergarten screening to each kindergarten student in a private  
832 school who was enrolled in the Voluntary Prekindergarten  
833 Education Program. Learning gains shall be determined using a  
834 value-added measure based on growth demonstrated by the results  
835 of the preassessment and postassessment in use before the 2021-  
836 2022 program year. Any private prekindergarten provider or  
837 public school participating in the Voluntary Prekindergarten  
838 Education Program which fails to meet the minimum kindergarten  
839 readiness rate for the 2020-2021 program year is subject to the



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840 probation requirements of subsection (5).  
841 (4) (a) Beginning with the 2022-2023 program year, the  
842 office shall adopt a methodology for calculating each private  
843 prekindergarten provider's and public school provider's  
844 performance metric, which must be based on a combination of the  
845 following:  
846 1. Program assessment composite scores under subsection  
847 (2), which must be weighted at no less than 50 percent.  
848 2. Learning gains operationalized as change-in-ability  
849 scores from the initial and final progress monitoring results  
850 described in subsection (1).  
851 3. Norm-referenced developmental learning outcomes  
852 described in subsection (1).  
853 (b) The methodology for calculating a provider's  
854 performance metric may only include prekindergarten students who  
855 have attended at least 85 percent of a private prekindergarten  
856 provider's or public school's program.  
857 (c) The program assessment composite score and performance  
858 metric must be calculated for each private prekindergarten or  
859 public school site.  
860 (d) The methodology shall include a statistical latent  
861 profile analysis that has been conducted by an independent  
862 expert with experience in relevant quantitative analysis, early  
863 childhood assessment, and designing state-level accountability  
864 systems. The independent expert shall be able to produce a  
865 limited number of performance metric profiles that summarize the  
866 profiles of all sites that must be used to inform the following  
867 designations: "unsatisfactory," "emerging proficiency,"  
868 "proficient," "highly proficient," and "excellent" or comparable



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869 terminology determined by the office which may not include  
870 letter grades. The independent expert may not be a direct  
871 stakeholder or have had a financial interest in the design or  
872 delivery of the Voluntary Prekindergarten Education Program or  
873 public school system within the last 5 years.

874 (e) Subject to an appropriation, the office shall provide  
875 for a differential payment to a private prekindergarten provider  
876 and public school based on the provider's designation. The  
877 maximum differential payment may not exceed a total of 15  
878 percent of the base student allocation per full-time equivalent  
879 student under s. 1002.71 attending in the consecutive program  
880 year for that program. A private prekindergarten provider or  
881 public school may not receive a differential payment if it  
882 receives a designation of "proficient" or lower. Before the  
883 adoption of the methodology, the office and the independent  
884 expert shall confer with the Council for Early Grade Success  
885 under s. 1008.2125 before receiving approval from the office for  
886 the final recommendations on the designation system and  
887 differential payments.

888 (f) The office shall adopt procedures to annually calculate  
889 each private prekindergarten provider's and public school's  
890 performance metric, based on the methodology adopted in  
891 paragraphs (a) and (b), and assign a designation under paragraph  
892 (d). Beginning with the 2023-2024 program year, each private  
893 prekindergarten provider or public school shall be assigned a  
894 designation within 45 days after the conclusion of the school-  
895 year Voluntary Prekindergarten Education Program delivered by  
896 all participating private prekindergarten providers or public  
897 schools and within 45 days after the conclusion of the summer



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898 Voluntary Prekindergarten Education Program delivered by all  
899 participating private prekindergarten providers or public  
900 schools.

901 (g) A private prekindergarten provider or public school  
902 designated "proficient," "highly proficient," or "excellent"  
903 demonstrates the provider's or school's satisfactory delivery of  
904 the Voluntary Prekindergarten Education Program.

905 (h) The designations shall be displayed in the early  
906 learning provider performance profiles required under s.  
907 1002.92(3).

908 (5) (a) If a public school's or private prekindergarten  
909 provider's program assessment composite score for its  
910 prekindergarten classrooms fails to meet the minimum program  
911 assessment composite score for contracting established by the  
912 office pursuant to s. 1002.82(2)(n), the private prekindergarten  
913 provider or public school may not participate in the Voluntary  
914 Prekindergarten Education Program beginning in the consecutive  
915 program year and thereafter until the public school or private  
916 prekindergarten provider meets the minimum composite score for  
917 contracting. A public school or private prekindergarten provider  
918 may request one program assessment per program year in order to  
919 requalify for participation in the Voluntary Prekindergarten  
920 Education Program. If a public school or private prekindergarten  
921 provider would like an additional program assessment completed  
922 within the same program year, the public school or private  
923 prekindergarten provider shall be responsible for the cost of  
924 the program assessment.

925 (b) If a private prekindergarten provider's or public  
926 school's performance metric or designation falls below the



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927 minimum performance metric or designation, the early learning  
928 coalition shall:  
929 1. Require the provider or school to submit for approval to  
930 the early learning coalition an improvement plan and implement  
931 the plan.  
932 2. Place the provider or school on probation.  
933 3. Require the provider or school to take certain  
934 corrective actions, including the use of a curriculum approved  
935 by the office under s. 1002.67(2)(c) and a staff development  
936 plan approved by the office to strengthen instructional  
937 practices in emotional support, classroom organization,  
938 instructional support, language development, phonological  
939 awareness, alphabet knowledge, and mathematical thinking.  
940 (c) A private prekindergarten provider or public school  
941 placed on probation must continue the corrective actions  
942 required under paragraph (b) until the provider or school meets  
943 the minimum performance metric or designation adopted by the  
944 office. Failure to meet the requirements of subparagraphs (b)1.  
945 and 3. shall result in the termination of the provider's or  
946 school's contract to deliver the Voluntary Prekindergarten  
947 Education Program for a period of at least 2 years but no more  
948 than 5 years.  
949 (d) If a private prekindergarten provider or public school  
950 remains on probation for 2 consecutive years and fails to meet  
951 the minimum performance metric or designation, or is not granted  
952 a good cause exemption by the office, the office shall require  
953 the early learning coalition to revoke the provider's or  
954 school's eligibility to deliver the Voluntary Prekindergarten  
955 Education Program or to receive state funds for the program for



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956 a period of at least 2 years but no more than 5 years.  
957 (6) (a) The office, upon the request of a private  
958 prekindergarten provider or public school that remains on  
959 probation for at least 2 consecutive years and subsequently  
960 fails to meet the minimum performance metric or designation, and  
961 for good cause shown, may grant to the provider or school an  
962 exemption from being determined ineligible to deliver the  
963 Voluntary Prekindergarten Education Program or to receive state  
964 funds for the program. Such exemption is valid for 1 year and,  
965 upon the request of the private prekindergarten provider or  
966 public school and for good cause shown, may be renewed.  
967 (b) A private prekindergarten provider's or public school's  
968 request for a good cause exemption, or renewal of such an  
969 exemption, must be submitted to the office in the manner and  
970 within the timeframes prescribed by the office and must include  
971 the following:  
972 1. Data from the private prekindergarten provider or public  
973 school which documents the achievement and progress of the  
974 children served, as measured by any required screenings or  
975 assessments.  
976 2. Data from the program assessment required under  
977 subsection (2) which demonstrates effective teaching practices  
978 as recognized by the tool developer.  
979 3. Data from the early learning coalition or district  
980 school board, as applicable, the Department of Children and  
981 Families, the local licensing authority, or an accrediting  
982 association, as applicable, relating to the private  
983 prekindergarten provider's or public school's compliance with  
984 state and local health and safety standards.





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985 (c) The office shall adopt criteria for granting good cause  
986 exemptions. Such criteria must include, but are not limited to,  
987 all of the following:

988 1. Child demographic data that evidences a private  
989 prekindergarten provider or public school serves a statistically  
990 significant population of children with special needs who have  
991 individual education plans and can demonstrate progress toward  
992 meeting the goals outlined in the students' individual education  
993 plans.

994 2. Learning gains of children served in the Voluntary  
995 Prekindergarten Education Program by the private prekindergarten  
996 provider or public school on an alternative measure that has  
997 comparable validity and reliability of the coordinated screening  
998 and progress monitoring program in accordance with s. 1008.2125.

999 3. Program assessment data under subsection (2) which  
1000 demonstrates effective teaching practices as recognized by the  
1001 tool developer.

1002 4. Verification that local and state health and safety  
1003 requirements are met.

1004 (d) A good cause exemption may not be granted to any  
1005 private prekindergarten provider or public school that has any  
1006 class I violations or two or more class II violations, as  
1007 defined by rule of the Department of Children and Families,  
1008 within the 2 years preceding the provider's or school's request  
1009 for the exemption.

1010 (e) A private prekindergarten provider or public school  
1011 granted a good cause exemption shall continue to implement its  
1012 improvement plan and continue the corrective actions required  
1013 under paragraph (5) (b) until the provider or school meets the



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1014 minimum performance metric.

1015 (f) If a good cause exemption is granted to a private  
1016 prekindergarten provider or public school that remains on  
1017 probation for 2 consecutive years and if the provider meets all  
1018 other applicable requirements of this part, the office must  
1019 notify the early learning coalition of the good cause exemption  
1020 and direct that the early learning coalition not remove the  
1021 provider from eligibility to deliver the Voluntary  
1022 Prekindergarten Education Program or to receive state funds for  
1023 the program.

1024 (g) The office shall report the number of private  
1025 prekindergarten providers or public schools that have received a  
1026 good cause exemption and the reasons for the exemptions as part  
1027 of its annual reporting requirements under s. 1002.82(7).

1028 (7) Representatives from each school district and  
1029 corresponding early learning coalitions must meet annually to  
1030 develop strategies to transition students from the Voluntary  
1031 Prekindergarten Education Program to kindergarten.

1032 Section 18. Section 1002.69, Florida Statutes, is repealed.

1033 Section 19. Section 1002.73, Florida Statutes, is amended  
1034 to read:

1035 1002.73 Office of Early Learning Department of Education;  
1036 powers and duties; accountability requirements.-

1037 (1) The office department shall adopt by rule a standard  
1038 statewide provider contract to be used with each Voluntary  
1039 Prekindergarten Education Program provider, with standardized  
1040 attachments by provider type. The office shall publish a copy of  
1041 the standard statewide provider contract on its website. The  
1042 standard statewide provider contract shall include, at a



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1043 minimum, provisions for provider probation, termination for  
1044 cause, and emergency termination for actions or inactions of a  
1045 provider that pose an immediate and serious danger to the  
1046 health, safety, or welfare of children. The standard statewide  
1047 provider contract shall also include appropriate due process  
1048 procedures. During the pendency of an appeal of a termination,  
1049 the provider may not continue to offer its services. Any  
1050 provision imposed upon a provider that is inconsistent with, or  
1051 prohibited by, law is void and unenforceable administer the  
1052 accountability requirements of the Voluntary Prekindergarten  
1053 Education Program at the state level.  
1054 (2) The office department shall adopt procedures for its:  
1055 (a) The approval of prekindergarten director credentials  
1056 under ss. 1002.55 and 1002.57.  
1057 (b) The approval of emergent literacy and early mathematics  
1058 skills training courses under ss. 1002.55 and 1002.59.  
1059 (c) Annually notifying private prekindergarten providers  
1060 and public schools placed on probation for not meeting the  
1061 minimum performance metric or designation as required by s.  
1062 1002.68 of the high-quality professional development  
1063 opportunities developed or supported by the office.  
1064 (d) The administration of the Voluntary Prekindergarten  
1065 Education Program by the early learning coalitions, including,  
1066 but not limited to, procedures for:  
1067 1. Enrolling children in and determining the eligibility of  
1068 children for the Voluntary Prekindergarten Education Program  
1069 under s. 1002.53, which shall include the enrollment of children  
1070 by public schools and private providers that meet specified  
1071 requirements.



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1072 2. Providing parents with profiles of private  
1073 prekindergarten providers and public schools under s. 1002.53.  
1074 3. Registering private prekindergarten providers and public  
1075 schools to deliver the program under ss. 1002.55, 1002.61, and  
1076 1002.63.  
1077 4. Determining the eligibility of private prekindergarten  
1078 providers to deliver the program under ss. 1002.55 and 1002.61  
1079 and streamlining the process of determining provider eligibility  
1080 whenever possible.  
1081 5. Verifying the compliance of private prekindergarten  
1082 providers and public schools and removing providers or schools  
1083 from eligibility to deliver the program due to noncompliance or  
1084 misconduct as provided in s. 1002.67.  
1085 6. Paying private prekindergarten providers and public  
1086 schools under s. 1002.71.  
1087 7. Documenting and certifying student enrollment and  
1088 student attendance under s. 1002.71.  
1089 8. Reconciling advance payments in accordance with the  
1090 uniform attendance policy under s. 1002.71.  
1091 9. Reenrolling students dismissed by a private  
1092 prekindergarten provider or public school for noncompliance with  
1093 the provider's or school district's attendance policy under s.  
1094 1002.71.  
1095 (3) The office shall administer the accountability  
1096 requirements of the Voluntary Prekindergarten Education Program  
1097 at the state level.  
1098 (4) The office shall adopt procedures governing the  
1099 administration of the Voluntary Prekindergarten Education  
1100 Program by the early learning coalitions for:



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- 1101 (a) Approving improvement plans of private prekindergarten
- 1102 providers and public schools under s. 1002.68.
- 1103 (b) Placing private prekindergarten providers and public
- 1104 schools on probation and requiring corrective actions under s.
- 1105 1002.68.
- 1106 (c) Removing a private prekindergarten provider or public
- 1107 school from eligibility to deliver the program due to the
- 1108 provider's or school's remaining on probation beyond the time
- 1109 permitted under s. 1002.68. Notwithstanding any other law, if a
- 1110 private prekindergarten provider has been cited for a class I
- 1111 violation, as defined by rule of the Child Care Services Program
- 1112 Office of the Department of Children and Families, the coalition
- 1113 may refuse to contract with the provider or revoke the
- 1114 provider's eligibility to deliver the Voluntary Prekindergarten
- 1115 Education Program.
- 1116 (d) Enrolling children in and determining the eligibility
- 1117 of children for the Voluntary Prekindergarten Education Program
- 1118 under s. 1002.66.
- 1119 (e) Paying specialized instructional services providers
- 1120 under s. 1002.66.
- 1121 ~~(e) Administration of the statewide kindergarten screening~~
- 1122 ~~and calculation of kindergarten readiness rates under s.~~
- 1123 ~~1002.69.~~
- 1124 ~~(d) Implementation of, and determination of costs~~
- 1125 ~~associated with, the state-approved prekindergarten enrollment~~
- 1126 ~~screening and the standardized postassessment approved by the~~
- 1127 ~~department, and determination of the learning gains of students~~
- 1128 ~~who complete the state-approved prekindergarten enrollment~~
- 1129 ~~screening and the standardized postassessment approved by the~~



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- 1130 ~~department.~~
- 1131 ~~(f)(e) Approving Approval of specialized instructional~~
- 1132 ~~services providers under s. 1002.66.~~
- 1133 ~~(f) Annual reporting of the percentage of kindergarten~~
- 1134 ~~students who meet all state readiness measures.~~
- 1135 (g) Granting of a private prekindergarten provider's or
- 1136 public school's request for a good cause exemption under s.
- 1137 1002.68 ~~s. 1002.69(7).~~
- 1138 (5) The office shall adopt procedures for the distribution
- 1139 of funds to early learning coalitions under s. 1002.71.
- 1140 (6)(3) Except as provided by law, the office department may
- 1141 not impose requirements on a private prekindergarten provider or
- 1142 public school that does not deliver the Voluntary
- 1143 Prekindergarten Education Program or receive state funds under
- 1144 this part.
- 1145 Section 20. Section 1002.75, Florida Statutes, is repealed.
- 1146 Section 21. Section 1002.81, Florida Statutes, is reordered
- 1147 and amended to read:
- 1148 1002.81 Definitions.—Consistent with the requirements of 45
- 1149 C.F.R. parts 98 and 99 and as used in this part, the term:
- 1150 (1) "At-risk child" means:
- 1151 (a) A child from a family under investigation by the
- 1152 Department of Children and Families or a designated sheriff's
- 1153 office for child abuse, neglect, abandonment, or exploitation.
- 1154 (b) A child who is in a diversion program provided by the
- 1155 Department of Children and Families or its contracted provider
- 1156 and who is from a family that is actively participating and
- 1157 complying in department-prescribed activities, including
- 1158 education, health services, or work.



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1159 (c) A child from a family that is under supervision by the  
1160 Department of Children and Families or a contracted service  
1161 provider for abuse, neglect, abandonment, or exploitation.

1162 (d) A child placed in court-ordered, long-term custody or  
1163 under the guardianship of a relative or nonrelative after  
1164 termination of supervision by the Department of Children and  
1165 Families or its contracted provider.

1166 (e) A child in the custody of a parent who is considered a  
1167 victim of domestic violence and is receiving services through a  
1168 certified domestic violence center.

1169 (f) A child in the custody of a parent who is considered  
1170 homeless as verified by a Department of Children and Families  
1171 certified homeless shelter.

1172 (2) "Authorized hours of care" means the hours of care that  
1173 are necessary to provide protection, maintain employment, or  
1174 complete work activities or eligible educational activities,  
1175 including reasonable travel time.

1176 ~~(13)-(3)~~ "Prevailing Average market rate" means the  
1177 biennially determined 75th percentile of a reasonable frequency  
1178 distribution average of the market rate by program care level  
1179 and provider type in a predetermined geographic market at which  
1180 child care providers charge a person for child care services.

1181 ~~(3)-(4)~~ "Direct enhancement services" means services for  
1182 families and children that are in addition to payments for the  
1183 placement of children in the school readiness program. Direct  
1184 enhancement services for families and children may include  
1185 supports for providers, parent training and involvement  
1186 activities, and strategies to meet the needs of unique  
1187 populations and local eligibility priorities. Direct enhancement



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1188 services offered by an early learning coalition shall be  
1189 consistent with the activities prescribed in s. 1002.89(6)(b).

1190 ~~(4)-(5)~~ "Disenrollment" means the removal, either temporary  
1191 or permanent, of a child from participation in the school  
1192 readiness program. Removal of a child from the school readiness  
1193 program may be based on the following events: a reduction in  
1194 available school readiness program funding, participant's  
1195 failure to meet eligibility or program participation  
1196 requirements, fraud, or a change in local service priorities.

1197 ~~(5)-(6)~~ "Earned income" means gross remuneration derived  
1198 from work, professional service, or self-employment. The term  
1199 includes commissions, bonuses, back pay awards, and the cash  
1200 value of all remuneration paid in a medium other than cash.

1201 ~~(6)-(7)~~ "Economically disadvantaged" means having a family  
1202 income that does not exceed 150 percent of the federal poverty  
1203 level and includes being a child of a working migratory family  
1204 as defined by 34 C.F.R. s. 200.81(d) or (f) or an agricultural  
1205 worker who is employed by more than one agricultural employer  
1206 during the course of a year, and whose income varies according  
1207 to weather conditions and market stability.

1208 ~~(7)-(8)~~ "Family income" means the combined gross income,  
1209 whether earned or unearned, that is derived from any source by  
1210 all family or household members who are 18 years of age or older  
1211 who are currently residing together in the same dwelling unit.  
1212 The term does not include income earned by a currently enrolled  
1213 high school student who, since attaining the age of 18 years, or  
1214 a student with a disability who, since attaining the age of 22  
1215 years, has not terminated school enrollment or received a high  
1216 school diploma, high school equivalency diploma, special



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1217 diploma, or certificate of high school completion. The term also  
1218 does not include food stamp benefits or federal housing  
1219 assistance payments issued directly to a landlord or the  
1220 associated utilities expenses.

1221 ~~(8)(9)~~ "Family or household members" means spouses, former  
1222 spouses, persons related by blood or marriage, persons who are  
1223 parents of a child in common regardless of whether they have  
1224 been married, and other persons who are currently residing  
1225 together in the same dwelling unit as if a family.

1226 ~~(9)(10)~~ "Full-time care" means at least 6 hours, but not  
1227 more than 11 hours, of child care or early childhood education  
1228 services within a 24-hour period.

1229 ~~(10)(11)~~ "Market rate" means the price that a child care or  
1230 early childhood education provider charges for full-time or  
1231 part-time daily, weekly, or monthly child care or early  
1232 childhood education services.

1233 ~~(11)(12)~~ "Office" means the Office of Early Learning of the  
1234 Department of Education.

1235 ~~(12)(13)~~ "Part-time care" means less than 6 hours of child  
1236 care or early childhood education services within a 24-hour  
1237 period.

1238 (14) "Single point of entry" means an integrated  
1239 information system that allows a parent to enroll his or her  
1240 child in the school readiness program or the Voluntary  
1241 Prekindergarten Education Program at various locations  
1242 throughout a county, that may allow a parent to enroll his or  
1243 her child by telephone or through a website, and that uses a  
1244 uniform waiting list to track eligible children waiting for  
1245 enrollment in the school readiness program.



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1246 (15) "Unearned income" means income other than earned  
1247 income. The term includes, but is not limited to:

1248 (a) Documented alimony and child support received.

1249 (b) Social security benefits.

1250 (c) Supplemental security income benefits.

1251 (d) Workers' compensation benefits.

1252 (e) Reemployment assistance or unemployment compensation  
1253 benefits.

1254 (f) Veterans' benefits.

1255 (g) Retirement benefits.

1256 (h) Temporary cash assistance under chapter 414.

1257 (16) "Working family" means:

1258 (a) A single-parent family in which the parent with whom  
1259 the child resides is employed or engaged in eligible work or  
1260 education activities for at least 20 hours per week;

1261 (b) A two-parent family in which both parents with whom the  
1262 child resides are employed or engaged in eligible work or  
1263 education activities for a combined total of at least 40 hours  
1264 per week; or

1265 (c) A two-parent family in which one of the parents with  
1266 whom the child resides is exempt from work requirements due to  
1267 age or disability, as determined and documented by a physician  
1268 licensed under chapter 458 or chapter 459, and one parent is  
1269 employed or engaged in eligible work or education activities at  
1270 least 20 hours per week.

1271 Section 22. Section 1002.82, Florida Statutes, is amended  
1272 to read:

1273 1002.82 Office of Early Learning; powers and duties.—

1274 (1) For purposes of administration of the Child Care and



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1275 Development Block Grant Trust Fund, pursuant to 45 C.F.R. parts  
1276 98 and 99, the Office of Early Learning is designated as the  
1277 lead agency and must comply with lead agency responsibilities  
1278 pursuant to federal law. The office may apply to the Governor  
1279 and Cabinet for a waiver of, and the Governor and Cabinet may  
1280 waive, any provision of ss. 411.223 and 1003.54 if the waiver is  
1281 necessary for implementation of the school readiness program.  
1282 Section 125.901(2)(a)3. does not apply to the school readiness  
1283 program.

1284 (2) The office shall:

1285 (a) Focus on improving the educational quality delivered by  
1286 all providers participating in the school readiness program.

1287 (b) Preserve parental choice by permitting parents to  
1288 choose from a variety of child care categories, including  
1289 center-based care, family child care, and informal child care to  
1290 the extent authorized in the state's Child Care and Development  
1291 Fund Plan as approved by the United States Department of Health  
1292 and Human Services pursuant to 45 C.F.R. s. 98.18. Care and  
1293 curriculum by a faith-based provider may not be limited or  
1294 excluded in any of these categories.

1295 (c) Be responsible for the prudent use of all public and  
1296 private funds in accordance with all legal and contractual  
1297 requirements, safeguarding the effective use of federal, state,  
1298 and local resources to achieve the highest practicable level of  
1299 school readiness for the children described in s. 1002.87,  
1300 including:

1301 1. The adoption of a uniform chart of accounts for  
1302 budgeting and financial reporting purposes that provides  
1303 standardized definitions for expenditures and reporting,



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1304 consistent with the requirements of 45 C.F.R. part 98 and s.  
1305 1002.89 for each of the following categories of expenditure:

- 1306 a. Direct services to children.
- 1307 b. Administrative costs.
- 1308 c. Quality activities.
- 1309 d. Nondirect services.

1310 2. Coordination with other state and federal agencies to  
1311 perform data matches on children participating in the school  
1312 readiness program and their families in order to verify the  
1313 children's eligibility pursuant to s. 1002.87.

1314 (d) Establish procedures for the biennial calculation of  
1315 the prevailing average market rate or an alternative model  
1316 approved by the Administration for Children and Families  
1317 pursuant to 45 C.F.R. s. 98.45(c).

1318 (e) Review each early learning coalition's school readiness  
1319 program plan every 2 years and provide final approval of the  
1320 plan and any amendments submitted.

1321 (f) Establish a unified approach to the state's efforts to  
1322 coordinate a comprehensive early learning program. In support of  
1323 this effort, the office:

1324 1. Shall adopt specific program support services that  
1325 address the state's school readiness program, including:  
1326 a. Statewide data information program requirements that  
1327 include:

- 1328 (I) Eligibility requirements.
- 1329 (II) Financial reports.
- 1330 (III) Program accountability measures.
- 1331 (IV) Child progress reports.
- 1332 b. Child care resource and referral services.



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- 1333 c. A single point of entry and uniform waiting list.  
1334 2. May provide technical assistance and guidance on  
1335 additional support services to complement the school readiness  
1336 program, including:  
1337 ~~a. Rating and improvement systems.~~  
1338 ~~a.b.~~ Warm-Line services.  
1339 ~~b.e.~~ Anti-fraud plans.  
1340 ~~d. School readiness program standards.~~  
1341 ~~e. Child screening and assessments.~~  
1342 ~~c.f.~~ Training and support for parental involvement in  
1343 children's early education.  
1344 ~~d.g.~~ Family literacy activities and services.  
1345 (g) Provide technical assistance to early learning  
1346 coalitions.  
1347 (h) In cooperation with the early learning coalitions,  
1348 coordinate with the Child Care Services Program Office of the  
1349 Department of Children and Families to reduce paperwork and to  
1350 avoid duplicating interagency activities, health and safety  
1351 monitoring, and acquiring and composing data pertaining to child  
1352 care training and credentialing.  
1353 (i) Enter into a memorandum of understanding with local  
1354 licensing agencies and the Child Care Services Program Office of  
1355 the Department of Children and Families for inspections of  
1356 school readiness program providers to monitor and verify  
1357 compliance with s. 1002.88 and the health and safety checklist  
1358 adopted by the office. The provider contract of a school  
1359 readiness program provider that refuses permission for entry or  
1360 inspection shall be terminated. The health and safety checklist  
1361 may not exceed the requirements of s. 402.305 and the Child Care



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- 1362 and Development Fund pursuant to 45 C.F.R. part 98. A child  
1363 development program accredited by a national accrediting body  
1364 and operating on a military installation certified by the United  
1365 States Department of Defense is exempted from the inspection  
1366 requirements under s. 1002.88.  
1367 (j) Monitor the alignment and consistency of the Develop  
1368 and adopt standards and benchmarks developed and adopted by the  
1369 office that address the age-appropriate progress of children in  
1370 the development of school readiness skills. The standards for  
1371 children from birth to kindergarten entry 5-years-of-age in the  
1372 school readiness program must be aligned with the performance  
1373 standards adopted for children in the Voluntary Prekindergarten  
1374 Education Program and must address the following domains:  
1375 1. Approaches to learning.  
1376 2. Cognitive development and general knowledge.  
1377 3. Numeracy, language, and communication.  
1378 4. Physical development.  
1379 5. Self-regulation.  
1380 (k) Identify observation-based child assessments that are  
1381 valid, reliable, and developmentally appropriate for use at  
1382 least three times a year. The assessments must:  
1383 1. Provide interval level and ~~norm-referenced criterion-~~  
1384 ~~referenced~~ data that measures equivalent levels of growth across  
1385 the core domains of early childhood development and that can be  
1386 used for determining developmentally appropriate learning gains.  
1387 2. Measure progress in the performance standards adopted  
1388 pursuant to paragraph (j).  
1389 3. Provide for appropriate accommodations for children with  
1390 disabilities and English language learners and be administered



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1391 by qualified individuals, consistent with the developer's  
1392 instructions.

1393 4. Coordinate with the performance standards adopted by the  
1394 department under s. 1002.67(1) for the Voluntary Prekindergarten  
1395 Education Program.

1396 5. Provide data in a format for use in the single statewide  
1397 information system to meet the requirements of paragraph (q)  
1398 ~~(p)~~.

1399 (l) Adopt a list of approved curricula that meet the  
1400 performance standards for the school readiness program and  
1401 establish a process for the review and approval of a provider's  
1402 curriculum that meets the performance standards.

1403 (m) Provide technical support to an early learning  
1404 coalition to facilitate the use of ~~Adopt by rule~~ a standard  
1405 statewide provider contract adopted by the office to be used  
1406 with each school readiness program provider, with standardized  
1407 attachments by provider type. The office shall publish a copy of  
1408 the standard statewide provider contract on its website. The  
1409 standard statewide contract shall include, at a minimum,  
1410 contracted slots, if applicable, in accordance with the Child  
1411 Care and Development Block Grant Act of 2014, 45 C.F.R. parts 98  
1412 and 99; quality improvement strategies, if applicable; program  
1413 assessment requirements; and provisions for provider probation,  
1414 termination for cause, and emergency termination for those  
1415 actions or inactions of a provider that pose an immediate and  
1416 serious danger to the health, safety, or welfare of the  
1417 children. The standard statewide provider contract shall also  
1418 include appropriate due process procedures. During the pendency  
1419 of an appeal of a termination, the provider may not continue to



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1420 offer its services. Any provision imposed upon a provider that  
1421 is inconsistent with, or prohibited by, law is void and  
1422 unenforceable. Provisions for termination for cause must also  
1423 include failure to meet the minimum quality measures established  
1424 under paragraph (n) for a period of up to 5 years, unless the  
1425 coalition determines that the provider is essential to meeting  
1426 capacity needs based on the assessment under s. 1002.85(2)(j)  
1427 and the provider has an active improvement plan pursuant to  
1428 paragraph (n).

1429 (n) Adopt a program assessment for school readiness program  
1430 providers that measures the quality of teacher-child  
1431 interactions, including emotional and behavioral support,  
1432 engaged support for learning, classroom organization, and  
1433 instructional support for children ages birth to 5 years. The  
1434 implementation of the program assessment must ~~also~~ include the  
1435 following components adopted by the office:

1436 1. Quality measures, including a minimum program assessment  
1437 composite score threshold for contracting purposes and program  
1438 improvement through an improvement plan. The minimum program  
1439 assessment composite score required for the Voluntary  
1440 Prekindergarten Education Program contracting threshold must be  
1441 the same as the minimum program assessment composite score  
1442 required for contracting for the school readiness program. The  
1443 methodology for the calculation of the minimum program  
1444 assessment composite score shall be reviewed by the independent  
1445 expert identified in s. 1002.68(4)(d).

1446 2. Requirements for program participation, frequency of  
1447 program assessment, and exemptions.

1448 (o) No later than July 1, 2019, develop a differential





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1449 payment program based on the quality measures adopted by the  
1450 office under paragraph (n). The differential payment may not  
1451 exceed a total of 15 percent for each care level and unit of  
1452 child care for a child care provider. No more than 5 percent of  
1453 the 15 percent total differential may be provided to providers  
1454 who submit valid and reliable data to the statewide information  
1455 system in the domains of language and executive functioning  
1456 using a child assessment identified pursuant to paragraph (k).  
1457 Providers below the minimum program assessment score adopted  
1458 ~~threshold~~ for contracting purposes are ineligible for such  
1459 payment.

1460 (p) No later than July 1, 2022, develop and adopt  
1461 requirements for the implementation of a program designed to  
1462 make available contracted slots to serve children at the  
1463 greatest risk of school failure as determined by such children  
1464 being located in an area that has been designated as a poverty  
1465 area tract according to the latest census data. The contracted  
1466 slot program may also be used to increase the availability of  
1467 child care capacity based on the assessment under s.  
1468 1002.85(2)(j).

1469 (q) ~~(p)~~ Establish a single statewide information system that  
1470 each coalition must use for the purposes of managing the single  
1471 point of entry, tracking children's progress, coordinating  
1472 services among stakeholders, determining eligibility of  
1473 children, tracking child attendance, and streamlining  
1474 administrative processes for providers and early learning  
1475 coalitions. By July 1, 2019, the system, subject to ss. 1002.72  
1476 and 1002.97, shall:

1477 1. Allow a parent to monitor the development of his or her



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1478 child as the child moves among programs within the state.

1479 2. Enable analysis at the state, regional, and local level  
1480 to measure child growth over time, program impact, and quality  
1481 improvement and investment decisions.

1482 (r) ~~(q)~~ Provide technical support to coalitions to  
1483 facilitate the use of ~~Adopt by rule~~ standardized procedures  
1484 adopted by the office for early learning coalitions to use when  
1485 monitoring the compliance of school readiness program providers  
1486 with the terms of the standard statewide provider contract.

1487 (s) ~~(r)~~ At least biennially provide fiscal and programmatic  
1488 monitoring to Monitor and evaluate the performance of each early  
1489 learning coalition in administering the school readiness  
1490 program, ensuring proper payments for school readiness program  
1491 services, implementing the coalition's school readiness program  
1492 plan, and administering the Voluntary Prekindergarten Education  
1493 Program. These monitoring and performance evaluations must  
1494 include, at a minimum, onsite monitoring of each coalition's  
1495 finances, management, operations, and programs.

1496 (t) ~~(s)~~ Work in conjunction with the Bureau of Federal  
1497 Education Programs within the Department of Education to  
1498 coordinate readiness and voluntary prekindergarten services to  
1499 the populations served by the bureau.

1500 (u) ~~(t)~~ Administer a statewide toll-free Warm-Line to  
1501 provide assistance and consultation to child care facilities and  
1502 family day care homes regarding health, developmental,  
1503 disability, and special needs issues of the children they are  
1504 servicing, particularly children with disabilities and other  
1505 special needs. The office shall:

1506 1. Annually inform child care facilities and family day



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1507 care homes of the availability of this service through the child  
1508 care resource and referral network under s. 1002.92.

1509 2. Expand or contract for the expansion of the Warm-Line to  
1510 maintain at least one Warm-Line in each early learning coalition  
1511 service area.

1512 (v)~~(u)~~ Develop and implement strategies to increase the  
1513 supply and improve the quality of child care services for  
1514 infants and toddlers, children with disabilities, children who  
1515 receive care during nontraditional hours, children in  
1516 underserved areas, and children in areas that have significant  
1517 concentrations of poverty and unemployment.

1518 (w)~~(v)~~ Establish preservice and inservice training  
1519 requirements that address, at a minimum, school readiness child  
1520 development standards, health and safety requirements, and  
1521 social-emotional behavior intervention models, which may include  
1522 positive behavior intervention and support models, including the  
1523 integration of early learning professional development pathways  
1524 established in s. 1002.995.

1525 (x)~~(w)~~ Establish standards for emergency preparedness plans  
1526 for school readiness program providers.

1527 (y)~~(x)~~ Establish group sizes.

1528 (z)~~(y)~~ Establish staff-to-children ratios that do not  
1529 exceed the requirements of s. 402.302(8) or (11) or s.  
1530 402.305(4), as applicable, for school readiness program  
1531 providers.

1532 (aa)~~(z)~~ Establish eligibility criteria, including  
1533 limitations based on income and family assets, in accordance  
1534 with s. 1002.87 and federal law.

1535 (3) (a) The office shall adopt performance standards and



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1536 outcome measures for early learning coalitions that, at a  
1537 minimum, include the development of objective and statistically  
1538 valid customer service surveys by a state university or other  
1539 independent researcher with specific expertise in customer  
1540 service survey development. The survey shall be deployed  
1541 beginning in fiscal year 2023-2024 and be distributed to:

1542 1. Customers who use the services in s. 1002.92 upon the  
1543 completion of a referral inquiry.

1544 2. Parents annually at the time of eligibility  
1545 determination.

1546 3. Child care providers that participate in the school  
1547 readiness program or the Voluntary Prekindergarten Education  
1548 Program at the time of execution of the statewide provider  
1549 contract.

1550 4. Board members required under s. 1002.83.

1551 (b) Results of the survey shall be based on a statistically  
1552 significant sample size of completed surveys and calculated  
1553 annually for each early learning coalition and included in the  
1554 department's annual report under subsection (7). If an early  
1555 learning coalition's customer satisfaction survey results are  
1556 below 60 percent, the coalition shall be placed on a 1-year  
1557 corrective action plan that outlines specific steps the  
1558 coalition shall take to improve the results of the customer  
1559 service surveys, including, but not limited to, technical  
1560 assistance, staff professional development or coaching.

1561 (4)~~(3)~~ If the office determines during the review of school  
1562 readiness program plans, or through monitoring and performance  
1563 evaluations conducted under s. 1002.85, that an early learning  
1564 coalition has not substantially implemented its plan, has not



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1565 substantially met the performance standards and outcome measures  
1566 adopted by the office or the terms of a customer service  
1567 corrective action plan, or has not effectively administered the  
1568 school readiness program or Voluntary Prekindergarten Education  
1569 Program, the office may remove the coalition from eligibility to  
1570 administer early learning programs and temporarily contract with  
1571 a qualified entity to continue school readiness program and  
1572 prekindergarten services in the coalition's county or  
1573 multicounty region until the office reestablishes or merges the  
1574 coalition and a new school readiness program plan is approved in  
1575 accordance with the rules adopted by the office.

1576 (5) The office shall adopt procedures for merging early  
1577 learning coalitions for failure to meet the requirements of  
1578 subsection (3) or subsection (4), including procedures for the  
1579 consolidation of merging coalitions that minimizes duplication  
1580 of programs and services due to the merger, and for the early  
1581 termination of the terms of the coalition members which are  
1582 necessary to accomplish the mergers.

1583 (6)-(4) The office may request the Governor to apply for a  
1584 waiver to allow a coalition to administer the Head Start Program  
1585 to accomplish the purposes of the school readiness program.

1586 (7)-(5) By January 1 of each year, the office shall annually  
1587 publish on its website a report of its activities conducted  
1588 under this section. The report must include a summary of the  
1589 coalitions' annual reports, a statewide summary, and the  
1590 following:

1591 (a) An analysis of early learning activities throughout the  
1592 state, including the school readiness program and the Voluntary  
1593 Prekindergarten Education Program.



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1594 1. The total and average number of children served in the  
1595 school readiness program, enumerated by age, eligibility  
1596 priority category, and coalition, and the total number of  
1597 children served in the Voluntary Prekindergarten Education  
1598 Program.

1599 2. A summary of expenditures by coalition, by fund source,  
1600 including a breakdown by coalition of the percentage of  
1601 expenditures for administrative activities, quality activities,  
1602 nondirect services, and direct services for children.

1603 3. A description of the office's and each coalition's  
1604 expenditures by fund source for the quality and enhancement  
1605 activities described in s. 1002.89(6)(b).

1606 4. A summary of annual findings and collections related to  
1607 provider fraud and parent fraud.

1608 5. Data regarding the coalitions' delivery of early  
1609 learning programs.

1610 6. The total number of children disenrolled statewide and  
1611 the reason for disenrollment.

1612 7. The total number of providers by provider type.

1613 8. The number of school readiness program providers who  
1614 have completed the program assessment required under paragraph  
1615 (2)(n); the number of providers who have not met the minimum  
1616 program assessment composite score threshold for contracting  
1617 established under paragraph (2)(n); and the number of providers  
1618 that have an active improvement plan based on the results of the  
1619 program assessment under paragraph (2)(n).

1620 9. The total number of provider contracts revoked and the  
1621 reasons for revocation.

1622 (b) A detailed summary of the analysis compiled using the



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1623 single statewide information system established in subsection  
1624 (2) activities and detailed expenditures related to the Child  
1625 Care Executive Partnership Program.

1626 (8) (a) (6) (a) Parental choice of child care providers,  
1627 including private and faith-based providers, shall be  
1628 established to the maximum extent practicable in accordance with  
1629 45 C.F.R. s. 98.30.

1630 (b) As used in this subsection, the term "payment  
1631 certificate" means a child care certificate as defined in 45  
1632 C.F.R. s. 98.2.

1633 (c) The school readiness program shall, in accordance with  
1634 45 C.F.R. s. 98.30, provide parental choice through a payment  
1635 certificate that provides, to the maximum extent possible,  
1636 flexibility in the school readiness program and payment  
1637 arrangements. The payment certificate must bear the names of the  
1638 beneficiary and the program provider and, when redeemed, must  
1639 bear the signatures of both the beneficiary and an authorized  
1640 representative of the provider.

1641 (d) If it is determined that a provider has given any cash  
1642 or other consideration to the beneficiary in return for  
1643 receiving a payment certificate, the early learning coalition or  
1644 its fiscal agent shall refer the matter to the Department of  
1645 Financial Services pursuant to s. 414.411 for investigation.

1646 (9) (7) Participation in the school readiness program does  
1647 not expand the regulatory authority of the state, its officers,  
1648 or an early learning coalition to impose any additional  
1649 regulation on providers beyond those necessary to enforce the  
1650 requirements set forth in this part and part V of this chapter.

1651 Section 23. Present subsections (5) through (14) of section



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1652 1002.83, Florida Statutes, are redesignated as subsections (6)  
1653 through (15), respectively, a new subsection (5) is added to  
1654 that section, and subsections (1) and (3), paragraphs (e), (f),  
1655 and (m) of subsection (4), and present subsections (5), (11),  
1656 and (13) of that section are amended, to read:

1657 1002.83 Early learning coalitions.—

1658 (1) Thirty ~~Thirty-one~~ or fewer early learning coalitions  
1659 are established and shall maintain direct enhancement services  
1660 at the local level and provide access to such services in all 67  
1661 counties. Two or more early learning coalitions may join for  
1662 purposes of planning and implementing a school readiness program  
1663 and the Voluntary Prekindergarten Education Program.

1664 (3) The Governor shall appoint the chair and two other  
1665 members of each early learning coalition, who must each meet the  
1666 ~~same~~ qualifications of a private sector business member  
1667 ~~members appointed by the coalition~~ under subsection (6) ~~(5)~~. In  
1668 the absence of a governor-appointed chair, the Executive  
1669 Director of the Office of Early Learning may appoint an interim  
1670 chair from the current early learning coalition board  
1671 membership.

1672 (4) Each early learning coalition must include the  
1673 following member positions; however, in a multicounty coalition,  
1674 each ex officio member position may be filled by multiple  
1675 nonvoting members but no more than one voting member shall be  
1676 seated per member position. If an early learning coalition has  
1677 more than one member representing the same entity, only one of  
1678 such members may serve as a voting member:

1679 (e) A children's services council or juvenile welfare board  
1680 chair or executive director from each county, if applicable.



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1681 (f) A Department of Children and Families child care  
1682 regulation representative or an agency head of a local licensing  
1683 agency as defined in s. 402.302, where applicable.

1684 ~~(m) A central agency administrator, where applicable.~~

1685 (5) If members of the board are found to be  
1686 nonparticipating according to the early learning coalition  
1687 bylaws, the early learning coalition may request an alternate  
1688 designee who meets the same qualifications or membership  
1689 requirements of the nonparticipating member.

1690 ~~(6)(5) The early learning coalition may appoint additional~~  
1691 ~~including the members who appointed by the Governor under~~  
1692 ~~subsection (3), more than one-third of the members of each early~~  
1693 ~~learning coalition must be private sector business members,~~  
1694 ~~either for-profit or nonprofit, who do not have, and none of~~  
1695 ~~whose relatives as defined in s. 112.3143 has, a substantial~~  
1696 ~~financial interest in the design or delivery of the Voluntary~~  
1697 ~~Prekindergarten Education Program created under part V of this~~  
1698 ~~chapter or the school readiness program. To meet this~~  
1699 ~~requirement, an early learning coalition must appoint additional~~  
1700 ~~members. The office shall establish criteria for appointing~~  
1701 ~~private sector business members. These criteria must include~~  
1702 ~~standards for determining whether a member or relative has a~~  
1703 ~~substantial financial interest in the design or delivery of the~~  
1704 ~~Voluntary Prekindergarten Education Program or the school~~  
1705 ~~readiness program.~~

1706 ~~(12)(11) Each early learning coalition shall establish~~  
1707 ~~terms for all appointed members of the coalition. The terms must~~  
1708 ~~be staggered and must be a uniform length that does not exceed 4~~  
1709 ~~years per term. Coalition chairs shall be appointed for 4 years~~



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1710 ~~pursuant to s. 20.052.~~ Appointed members may serve a maximum of  
1711 two consecutive terms. When a vacancy occurs in an appointed  
1712 position, the coalition must advertise the vacancy.

1713 ~~(14)(13) Each early learning coalition shall complete an~~  
1714 ~~annual evaluation of the early learning coalition's executive~~  
1715 ~~director or chief executive officer on forms adopted by the~~  
1716 ~~office. The annual evaluation must be submitted to the Executive~~  
1717 ~~Director of the Office of Early Learning by June 30 of each year~~  
1718 ~~use a coordinated professional development system that supports~~  
1719 ~~the achievement and maintenance of core competencies by school~~  
1720 ~~readiness program teachers in helping children attain the~~  
1721 ~~performance standards adopted by the office.~~

1722 Section 24. Present subsections (7) through (20) of section  
1723 1002.84, Florida Statutes, are redesignated as subsections (8)  
1724 through (21), respectively, a new subsection (7) is added to  
1725 that section, and subsection (4), present subsections (8) and  
1726 (16), paragraph (a) of present subsection (18), and present  
1727 subsection (20) of that section are amended, to read:

1728 1002.84 Early learning coalitions; school readiness powers  
1729 and duties.—Each early learning coalition shall:

1730 (4) Establish a regional Warm-Line as directed by the  
1731 office pursuant to s. 1002.82(2)(u) ~~s. 1002.82(2)(t)~~. Regional  
1732 Warm-Line staff shall provide onsite technical assistance, when  
1733 requested, to assist child care facilities and family day care  
1734 homes with inquiries relating to the strategies, curriculum, and  
1735 environmental adaptations the child care facilities and family  
1736 day care homes may need as they serve children with disabilities  
1737 and other special needs.

1738 (7) Use a coordinated professional development system that



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1739 supports the achievement and maintenance of core competencies by  
1740 school readiness program teachers in helping children attain the  
1741 performance standards adopted by the office.

1742 ~~(9)(8)~~ Establish a parent sliding fee scale that provides  
1743 for a parent copayment that is not a barrier to families  
1744 receiving school readiness program services. ~~Providers are~~  
1745 ~~required to collect the parent's copayment.~~ A coalition may, ~~on~~  
1746 ~~a case-by-case basis,~~ waive the copayment for an at-risk child  
1747 or temporarily waive the copayment for a child whose family's  
1748 income is at or below the federal poverty level or ~~and~~ whose  
1749 family experiences a natural disaster or an event that limits  
1750 the parent's ability to pay, such as incarceration, placement in  
1751 residential treatment, or becoming homeless, or an emergency  
1752 situation such as a household fire or burglary, or while the  
1753 parent is participating in parenting classes or participating in  
1754 an Early Head Start program or the Head Start Program. A parent  
1755 may not transfer school readiness program services to another  
1756 school readiness program provider until the parent has submitted  
1757 documentation from the current school readiness program provider  
1758 to the early learning coalition stating that the parent has  
1759 satisfactorily fulfilled the copayment obligation.

1760 ~~(17)(16)~~ Adopt a payment schedule that encompasses all  
1761 programs funded under this part and part V of this chapter. The  
1762 payment schedule must take into consideration the prevailing  
1763 average market rate or an alternative model that has been  
1764 approved by the Administration for Children and Families  
1765 pursuant to 45 C.F.R. 98.45(c), include the projected number of  
1766 children to be served, and be submitted for approval by the  
1767 ~~office.~~ Informal child care arrangements shall be reimbursed at



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1768 not more than 50 percent of the rate adopted for a family day  
1769 care home.

1770 ~~(19)(18)~~ By October 1 of each year, submit an annual report  
1771 to the office. The report shall conform to the format adopted by  
1772 the office and must include:

1773 (a) Segregation of school readiness program funds,  
1774 Voluntary Prekindergarten Education Program funds, ~~Child Care~~  
1775 ~~Executive Partnership Program funds,~~ and other local revenues  
1776 available to the coalition.

1777 ~~(21)(a)(20)~~ To increase transparency and accountability,  
1778 comply with the requirements of this section before contracting  
1779 with one or more of the following persons or business entities  
1780 which employs, has a contractual relationship with, or is owned  
1781 by the following persons:

1782 1. A member of the coalition appointed pursuant to s.  
1783 1002.83(4);

1784 2. A board member of any other early learning subrecipient  
1785 entity;

1786 3. A coalition employee; or

1787 4. A relative, as defined in s. 112.3143(1)(c), of any  
1788 person listed in subparagraphs 1.-3 ~~a coalition member or of an~~  
1789 ~~employee of the coalition.~~

1790 ~~(b)~~ Such contracts may not be executed without the approval  
1791 of the office. Such contracts, as well as documentation  
1792 demonstrating adherence to this section by the coalition, must  
1793 be approved by a two-thirds vote of the coalition, a quorum  
1794 having been established; all conflicts of interest must be  
1795 disclosed before the vote; and any member who may benefit from  
1796 the contract, or whose relative may benefit from the contract,



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1797 must abstain from the vote. A contract under \$25,000 ~~between an~~  
1798 ~~early learning coalition and a member of that coalition or~~  
1799 ~~between a relative, as defined in s. 112.3143(1)(c), of a~~  
1800 ~~coalition member or of an employee of the coalition is not~~  
1801 required to have the prior approval of the office but must be  
1802 approved by a two-thirds vote of the coalition, a quorum having  
1803 been established, and must be reported to the office within 30  
1804 days after approval. If a contract cannot be approved by the  
1805 office, a review of the decision to disapprove the contract may  
1806 be requested by the early learning coalition or other parties to  
1807 the disapproved contract.

1808 Section 25. Paragraphs (c) and (f) of subsection (2) of  
1809 section 1002.85, Florida Statutes, are amended to read:

1810 1002.85 Early learning coalition plans.-

1811 (2) Each early learning coalition must biennially submit a  
1812 school readiness program plan to the office before the  
1813 expenditure of funds. A coalition may not implement its school  
1814 readiness program plan until it receives approval from the  
1815 office. A coalition may not implement any revision to its school  
1816 readiness program plan until the coalition submits the revised  
1817 plan to and receives approval from the office. If the office  
1818 rejects a plan or revision, the coalition must continue to  
1819 operate under its previously approved plan. The plan must  
1820 include, but is not limited to:

1821 (c) The coalition's procedures for implementing the  
1822 requirements of this part, including:

- 1823 1. Single point of entry.
- 1824 2. Uniform waiting list.
- 1825 3. Eligibility and enrollment processes and local



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1826 eligibility priorities for children pursuant to s. 1002.87.

1827 4. Parent access and choice.

1828 5. Sliding fee scale and policies on applying the waiver or  
1829 reduction of fees in accordance with s. 1002.84(9) ~~s.~~  
1830 ~~1002.84(8)~~.

1831 6. Use of preassessments and postassessments, as  
1832 applicable.

1833 7. Payment rate schedule.

1834 8. Use of contracted slots, as applicable, based on the  
1835 results of the assessment required under paragraph (j).

1836 (f) A detailed accounting, in the format prescribed by the  
1837 office, of all revenues and expenditures during the previous  
1838 state fiscal year. Revenue sources should be identifiable, and  
1839 expenditures should be reported by two ~~three~~ categories: state  
1840 and federal funds and, local matching funds, ~~and Child Care~~  
1841 ~~Executive Partnership Program funds~~.

1842 Section 26. Paragraphs (a), (c), and (p) of subsection (1)  
1843 of section 1002.88, Florida Statutes, are amended, and paragraph  
1844 (s) is added to that subsection, to read:

1845 1002.88 School readiness program provider standards;  
1846 eligibility to deliver the school readiness program.-

1847 (1) To be eligible to deliver the school readiness program,  
1848 a school readiness program provider must:

- 1849 (a) Be a child care facility licensed under s. 402.305, a  
1850 family day care home licensed or registered under s. 402.313, a  
1851 large family child care home licensed under s. 402.3131, a  
1852 public school or nonpublic school exempt from licensure under s.  
1853 402.3025, a faith-based child care provider exempt from  
1854 licensure under s. 402.316, a before-school or after-school



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1855 program described in s. 402.305(1)(c), a child development  
1856 program accredited by a national accrediting body and operating  
1857 on a military installation certified by the United States  
1858 Department of Defense, ~~or~~ an informal child care provider to the  
1859 extent authorized in the state's Child Care and Development Fund  
1860 Plan as approved by the United States Department of Health and  
1861 Human Services pursuant to 45 C.F.R. s. 98.18, or a provider who  
1862 has been issued a provisional license pursuant to s. 402.309. A  
1863 provider may not deliver the program while holding a probation-  
1864 status license under s. 402.310.

1865 (c) Provide basic health and safety of its premises and  
1866 facilities and compliance with requirements for age-appropriate  
1867 immunizations of children enrolled in the school readiness  
1868 program.

1869 1. For a provider that is licensed, compliance with s.  
1870 402.305, s. 402.3131, or s. 402.313 and this subsection, as  
1871 verified pursuant to s. 402.311, satisfies this requirement.

1872 2. For a provider that is a registered family day care home  
1873 or is not subject to licensure or registration by the Department  
1874 of Children and Families, compliance with this subsection, as  
1875 verified pursuant to s. 402.311, satisfies this requirement.  
1876 Upon verification pursuant to s. 402.311, the provider shall  
1877 annually post the health and safety checklist adopted by the  
1878 office prominently on its premises in plain sight for visitors  
1879 and parents and shall annually submit the checklist to its local  
1880 early learning coalition.

1881 3. For a child development program accredited by a national  
1882 accrediting body and operating on a military installation  
1883 certified by the United States Department of Defense, the



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1884 submission and verification of annual inspections pursuant to  
1885 United States Department of Defense Instructions 6060.2 and  
1886 1402.05 satisfies this requirement.

1887 (p) Notwithstanding paragraph (m), for a provider that is a  
1888 state agency or a subdivision thereof, as defined in s.  
1889 768.28(2), agree to notify the coalition of any additional  
1890 liability coverage maintained by the provider in addition to  
1891 that otherwise established under s. 768.28. The provider shall  
1892 indemnify the coalition to the extent permitted by s. 768.28.  
1893 Notwithstanding paragraph (m), for a child development program  
1894 accredited by a national accrediting body and operating on a  
1895 military installation certified by the United States Department  
1896 of Defense, the provider may demonstrate liability coverage by  
1897 affirming that it is subject to the Federal Tort Claims Act, 28  
1898 U.S.C. ss. 2671 et seq.

1899 (s) Collect all parent copayment fees unless a waiver has  
1900 been granted under s. 1002.84(9).

1901 Section 27. Paragraph (a) of subsection (1), paragraph (a)  
1902 of subsection (2), and subsections (4) and (6) of section  
1903 1002.895, Florida Statutes, are amended to read:

1904 1002.895 Market rate schedule.—The school readiness program  
1905 market rate schedule shall be implemented as follows:

1906 (1) The office shall establish procedures for the adoption  
1907 of a market rate schedule until an alternative model that has  
1908 been approved by the Administration for Children and Families  
1909 pursuant to 45 C.F.R. s. 98.45(c) is available for adoption. The  
1910 schedule must include, at a minimum, county-by-county rates:

1911 (a) The market rate, including the minimum and the maximum  
1912 rates for child care providers that hold a Gold Seal Quality





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1913 Care designation under s. 1002.945 and adhere to its accrediting  
1914 association's teacher-to-child ratios and group size  
1915 requirements ~~s. 402.281~~.

1916 (2) The market rate schedule, at a minimum, must:

1917 (a) Differentiate rates by type, including, but not limited  
1918 to, a child care provider that holds a Gold Seal Quality Care  
1919 designation under s. 1002.945 and adheres to its accrediting  
1920 association's teacher-to-child ratios and group size  
1921 requirements ~~s. 402.281~~, a child care facility licensed under s.  
1922 402.305, a public or nonpublic school exempt from licensure  
1923 under s. 402.3025, a faith-based child care facility exempt from  
1924 licensure under s. 402.316 that does not hold a Gold Seal  
1925 Quality Care designation, a large family child care home  
1926 licensed under s. 402.3131, or a family day care home licensed  
1927 or registered under s. 402.313.

1928 (4) The market rate schedule shall be considered by an  
1929 early learning coalition in the adoption of a payment schedule.  
1930 The payment schedule must take into consideration the prevailing  
1931 average market rate ~~and~~, include the projected number of  
1932 children to be served by each county, and be submitted for  
1933 approval by the office. Informal child care arrangements shall  
1934 be reimbursed at not more than 50 percent of the rate adopted  
1935 for a family day care home.

1936 (6) The office may adopt rules for establishing procedures  
1937 for the collection of child care providers' market rate, the  
1938 calculation of the prevailing average market rate by program  
1939 care level and provider type in a predetermined geographic  
1940 market, and the publication of the market rate schedule.

1941 Section 28. Subsection (1) and paragraphs (a), (c), and (d)



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1942 of subsection (3) of section 1002.92, Florida Statutes, are  
1943 amended to read:

1944 1002.92 Child care and early childhood resource and  
1945 referral.—

1946 (1) As a part of the school readiness program, the office  
1947 shall establish a statewide child care resource and referral  
1948 network that is unbiased and provides referrals to families for  
1949 child care and information on available community resources.  
1950 Preference shall be given to using early learning coalitions as  
1951 the child care resource and referral agencies. If an early  
1952 learning coalition cannot comply with the requirements to offer  
1953 the resource information component or does not want to offer  
1954 that service, the early learning coalition shall select the  
1955 resource and referral agency for its county or multicounty  
1956 region based upon the procurement requirements of s. 1002.84(13)  
1957 ~~s. 1002.84(12)~~.

1958 (3) Child care resource and referral agencies shall provide  
1959 the following services:

1960 (a) Identification of existing public and private child  
1961 care and early childhood education services, including child  
1962 care services by public and private employers, and the  
1963 development of an early learning provider performance profile ~~a~~  
1964 ~~resource file~~ of those services through the single statewide  
1965 information system developed by the office under s.  
1966 1002.82(2)(q) ~~s. 1002.82(2)(p)~~. These services may include  
1967 family day care, public and private child care programs, the  
1968 Voluntary Prekindergarten Education Program, Head Start, the  
1969 school readiness program, special education programs for  
1970 prekindergarten children with disabilities, services for



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1971 children with developmental disabilities, full-time and part-  
 1972 time programs, before-school and after-school programs, and  
 1973 vacation care programs, ~~parent education, the temporary cash~~  
 1974 ~~assistance program, and related family support services.~~ The  
 1975 early learning provider performance profile resource file shall  
 1976 include, but not be limited to:

- 1977 1. Type of program.
- 1978 2. Hours of service.
- 1979 3. Ages of children served.
- 1980 4. Number of children served.
- 1981 5. Program information.
- 1982 6. Fees and eligibility for services.
- 1983 7. Availability of transportation.
- 1984 8. Participation in the Child Care Food Program, if  
 1985 applicable.
- 1986 9. A link to licensing inspection reports, if applicable.
- 1987 10. The components of the Voluntary Prekindergarten  
 1988 Education Program performance metric calculated under s. 1002.68  
 1989 that must consist of the program assessment composite score,  
 1990 learning gains score, achievement score, and its designations,  
 1991 if applicable.
- 1992 11. The school readiness program assessment composite score  
 1993 and program assessment care level composite score results  
 1994 delineated by infant classrooms, toddler classrooms, and  
 1995 preschool classrooms results under s. 1002.82, if applicable.
- 1996 12. Gold Seal Quality Care designation under s. 1002.945,  
 1997 if applicable.
- 1998 13. Indication of whether the provider implements a  
 1999 curriculum approved by the office and the name of the



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2000 curriculum, if applicable.

2001 14. Participation in school readiness child assessment  
 2002 under s. 1002.82.

2003 (c) Maintenance of ongoing documentation of requests for  
 2004 service tabulated through the internal referral process through  
 2005 the single statewide information system. The following  
 2006 documentation of requests for service shall be maintained by the  
 2007 child care resource and referral network:

- 2008 1. Number of calls and contacts to the child care resource  
 2009 information and referral network component by type of service  
 2010 requested.
- 2011 2. Ages of children for whom service was requested.
- 2012 3. Time category of child care requests for each child.
- 2013 4. Special time category, such as nights, weekends, and  
 2014 swing shift.
- 2015 5. Reason that the child care is needed.
- 2016 6. Customer service survey data required under s.  
 2017 1002.82(3) Name of the employer and primary focus of the  
 2018 business for an employer-based child care program.

2019 (d) Assistance to families which connects them to parent  
 2020 education opportunities, the temporary cash assistance program,  
 2021 or social services programs that support families with children,  
 2022 and related child development support services ~~Provision of~~  
 2023 ~~technical assistance to existing and potential providers of~~  
 2024 ~~child care services. This assistance may include:~~

- 2025 1. ~~Information on initiating new child care services,~~  
 2026 ~~zoning, and program and budget development and assistance in~~  
 2027 ~~finding such information from other sources.~~
- 2028 2. ~~Information and resources which help existing child care~~



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2029 ~~services providers to maximize their ability to serve children~~  
2030 ~~and parents in their community.~~

2031 ~~3. Information and incentives that may help existing or~~  
2032 ~~planned child care services offered by public or private~~  
2033 ~~employers seeking to maximize their ability to serve the~~  
2034 ~~children of their working parent employees in their community,~~  
2035 ~~through contractual or other funding arrangements with~~  
2036 ~~businesses.~~

2037 Section 29. Section 402.281, Florida Statutes, is  
2038 transferred, renumbered as section 1002.945, Florida Statutes,  
2039 and amended to read:

2040 1002.945 402.281 Gold Seal Quality Care program.—

2041 (1) (a) There is established within the Office of Early  
2042 Learning department the Gold Seal Quality Care Program.

2043 (b) A child care facility, large family child care home, or  
2044 family day care home that is accredited by an accrediting  
2045 association approved by the office department under subsection  
2046 (3) and meets all other requirements shall, upon application to  
2047 the department, receive a separate "Gold Seal Quality Care"  
2048 designation.

2049 (2) The office department shall adopt rules establishing  
2050 Gold Seal Quality Care accreditation standards using nationally  
2051 recognized accrediting standards and input from accrediting  
2052 associations based on the applicable accrediting standards of  
2053 the National Association for the Education of Young Children  
2054 (NAEYC), the National Association of Family Child Care, and the  
2055 National Early Childhood Program Accreditation Commission.

2056 (3) (a) In order to be approved by the office department for  
2057 participation in the Gold Seal Quality Care program, an



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2058 accrediting association must apply to the office department and  
2059 demonstrate that it:

2060 1. Is a recognized accrediting association.

2061 2. Has accrediting standards that substantially meet or  
2062 exceed the Gold Seal Quality Care standards adopted by the  
2063 office department under subsection (2).

2064 3. Is a registered corporation with the Department of  
2065 State.

2066 4. Can provide evidence that the process for accreditation  
2067 has, at a minimum, all of the following components:

2068 a. Clearly defined prerequisites that a child care provider  
2069 must meet before beginning the accreditation process. However,  
2070 accreditation may not be granted to a child care facility, large  
2071 family child care home, or family day care home before the site  
2072 is operational and is attended by children.

2073 b. Procedures for completion of a self-study and  
2074 comprehensive onsite verification process for each classroom  
2075 that documents compliance with accrediting standards.

2076 c. A training process for accreditation verifiers to ensure  
2077 inter-rater reliability.

2078 d. Ongoing compliance procedures that include requiring  
2079 each accredited child care facility, large family child care  
2080 home, and family day care home to file an annual report with the  
2081 accrediting association and risk-based, onsite auditing  
2082 protocols for accredited child care facilities, large family  
2083 child care homes, and family day care homes.

2084 e. Procedures for the revocation of accreditation due to  
2085 failure to maintain accrediting standards as evidenced by sub-  
2086 paragraph d. or any other relevant information received by



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2087 the accrediting association.

2088 f. Accreditation renewal procedures that include an onsite  
2089 verification occurring at least every 5 years.

2090 g. A process for verifying continued accreditation  
2091 compliance in the event of a transfer of ownership of  
2092 facilities.

2093 h. A process to communicate issues that arise during the  
2094 accreditation period with governmental entities that have a  
2095 vested interest in the Gold Seal Quality Care Program, including  
2096 the office, the Department of Children and Families, the  
2097 Department of Health, local licensing entities if applicable,  
2098 and the early learning coalition.

2099 (b) The office shall establish a process that verifies that  
2100 the accrediting association meets the provisions of paragraph  
2101 (a), which must include an auditing program and any other  
2102 procedures that may reasonably determine an accrediting  
2103 association's compliance with this section. If an accrediting  
2104 association is not in compliance and fails to cure its  
2105 deficiencies within 30 days, the office shall recommend to the  
2106 state board termination of the accrediting association's  
2107 participation as an accrediting association in the program for a  
2108 period of at least 2 years but no more than 5 years. If an  
2109 accrediting association is removed from being an approved  
2110 accrediting association, each child care provider accredited by  
2111 that association shall have up to 1 year to obtain a new  
2112 accreditation from an office approved accreditation association.

2113 (c) If an accrediting association has granted accreditation  
2114 to a child care facility, large family child care home, or  
2115 family day care under fraudulent terms or failed to conduct



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2116 onsite verifications, the accrediting association shall be  
2117 liable for the repayment of any rate differentials paid under  
2118 subsection (6).

2119 ~~(b) In approving accrediting associations, the department~~  
2120 ~~shall consult with the Department of Education, the Florida Head~~  
2121 ~~Start Directors Association, the Florida Association of Child~~  
2122 ~~Care Management, the Florida Family Child Care Home Association,~~  
2123 ~~the Florida Children's Forum, the Florida Association for the~~  
2124 ~~Education of the Young, the Child Development Education~~  
2125 ~~Alliance, the Florida Association of Academic Nonpublic Schools,~~  
2126 ~~the Association of Early Learning Coalitions, providers~~  
2127 ~~receiving exemptions under s. 402.316, and parents.~~

2128 (4) In order to obtain and maintain a designation as a Gold  
2129 Seal Quality Care provider, a child care facility, large family  
2130 child care home, or family day care home must meet the following  
2131 additional criteria:

2132 (a) The child care provider must not have had any class I  
2133 violations, as defined by rule of the Department of Children and  
2134 Families, within the 2 years preceding its application for  
2135 designation as a Gold Seal Quality Care provider. Commission of  
2136 a class I violation shall be grounds for termination of the  
2137 designation as a Gold Seal Quality Care provider until the  
2138 provider has no class I violations for a period of 2 years.

2139 (b) The child care provider must not have had three or more  
2140 class II violations, as defined by rule of the Department of  
2141 Children and Families, within the 2 years preceding its  
2142 application for designation as a Gold Seal Quality Care  
2143 provider. Commission of three or more class II violations within  
2144 a 2-year period shall be grounds for termination of the



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2145 designation as a Gold Seal Quality Care provider until the  
2146 provider has no class II violations for a period of 1 year.

2147 (c) The child care provider must not have been cited for  
2148 the same class III violation, as defined by rule of the  
2149 Department of Children and Families, three or more times and  
2150 failed to correct the violation within 1 year after the date of  
2151 each citation, within the 2 years preceding its application for  
2152 designation as a Gold Seal Quality Care provider. Commission of  
2153 the same class III violation three or more times and failure to  
2154 correct within the required time during a 2-year period may be  
2155 grounds for termination of the designation as a Gold Seal  
2156 Quality Care provider until the provider has no class III  
2157 violations for a period of 1 year.

2158 (d) Notwithstanding paragraph (a), if the office determines  
2159 through a formal process that a provider has been in business  
2160 for at least 5 years and has no other class I violations  
2161 recorded, the office may recommend to the state board that the  
2162 provider maintain its Gold Seal Quality Care status. The state  
2163 board's determination regarding such provider's status is final.

2164 (5) A child care facility licensed pursuant to s. 402.305  
2165 or a child care facility exempt from licensing pursuant to s.  
2166 402.316 which achieves Gold Seal Quality Care status under this  
2167 section shall be considered an educational institution for the  
2168 purpose of qualifying for exemption from ad valorem tax under s.  
2169 196.198.

2170 (6) A child care facility licensed pursuant to s. 402.305  
2171 or a child care facility exempt from licensing pursuant to s.  
2172 402.316 which achieves Gold Seal Quality Care status under this  
2173 section and which participates in the school readiness program



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2174 shall receive a minimum of a 20 percent rate differential for  
2175 each enrolled school readiness child by care level and unit of  
2176 child care.

2177 ~~(7)(5) The office Department of Children and Families shall~~  
2178 ~~adopt rules under ss. 120.536(1) and 120.54 which provide~~  
2179 ~~criteria and procedures for reviewing and approving accrediting~~  
2180 ~~associations for participation in the Gold Seal Quality Care~~  
2181 ~~program and, conferring and revoking designations of Gold Seal~~  
2182 ~~Quality Care providers, and classifying violations.~~

2183 Section 30. Section 1008.2125, Florida Statutes, is created  
2184 to read:

2185 1008.2125 Coordinated screening and progress monitoring  
2186 program for students in the Voluntary Prekindergarten Education  
2187 Program through grade 3.-

2188 (1) The primary purpose of the coordinated screening and  
2189 progress monitoring program for students in the Voluntary  
2190 Prekindergarten Education Program through grade 3 is to provide  
2191 information on students' progress in mastering the appropriate  
2192 grade level standards and to provide information on their  
2193 progress to parents, teachers, and school and program  
2194 administrators. Data shall be used by Voluntary Prekindergarten  
2195 Education Program providers and school districts to improve  
2196 instruction, by parents and teachers to guide learning  
2197 objectives and provide timely and appropriate supports and  
2198 interventions to students not meeting grade level expectations,  
2199 and by the public to assess the cost benefit of the expenditure  
2200 of taxpayer dollars. The coordinated screening and progress  
2201 monitoring program must:

2202 (a) Assess the progress of students in the Voluntary



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2203 Prekindergarten Education Program through grade 3 in meeting the  
2204 appropriate expectations in early literacy and math skills and  
2205 in English Language Arts and mathematics, as required by ss.  
2206 1002.67(1)(a) and 1003.41.

2207 (b) Provide data for accountability of the Voluntary  
2208 Prekindergarten Education Program, as required by s. 1002.68.

2209 (c) Provide baseline data to the department of each  
2210 student's readiness for kindergarten, which must be based on  
2211 each kindergarten student's progress monitoring results within  
2212 the first 30 days of enrollment in accordance with paragraph  
2213 (2)(a). The methodology for determining a student's readiness  
2214 for kindergarten shall be developed by the same independent  
2215 expert identified in s. 1002.68(4)(d).

2216 (d) Identify the educational strengths and needs of  
2217 students in the Voluntary Prekindergarten Education Program  
2218 through grade 3.

2219 (e) Provide teachers with progress monitoring data to  
2220 provide timely interventions and supports pursuant to s.  
2221 1008.25(4).

2222 (f) Assess how well educational goals and curricular  
2223 standards are met at the provider, school, district, and state  
2224 levels.

2225 (g) Provide information to aid in the evaluation and  
2226 development of educational programs and policies.

2227 (2) The Commissioner of Education shall design a statewide,  
2228 standardized coordinated screening and progress monitoring  
2229 program to assess early literacy and mathematics skills and the  
2230 English Language Arts and mathematics standards established in  
2231 ss. 1002.67(1)(a) and 1003.41, respectively. The coordinated



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2232 screening and progress monitoring program must provide interval  
2233 level and norm-referenced data that measures equivalent levels  
2234 of growth; be a developmentally appropriate, valid, and reliable  
2235 direct assessment; be able to capture data on students who may  
2236 be performing below grade or developmental level and which may  
2237 enable the identification of early indicators of dyslexia or  
2238 other developmental delays; accurately measure the core content  
2239 in the applicable grade level standards; document learning gains  
2240 for the achievement of these standards; and provide teachers  
2241 with progress monitoring supports and materials that enhance  
2242 differentiated instruction and parent communication.  
2243 Participation in the coordinated screening and progress  
2244 monitoring program is mandatory for all students in the  
2245 Voluntary Prekindergarten Education Program and enrolled in a  
2246 public school in kindergarten through grade 3. The coordinated  
2247 screening and progress monitoring program shall be implemented  
2248 beginning in the 2022-2023 school year for students in the  
2249 Voluntary Prekindergarten Education Program and kindergarten  
2250 students, as follows:

2251 (a) The coordinated screening and progress monitoring  
2252 program shall be administered within the first 30 days after  
2253 enrollment, midyear, and within the last 30 days of the program  
2254 or school year, in accordance with the rules adopted by the  
2255 State Board of Education. The state board may adopt alternate  
2256 timeframes to address nontraditional school year calendars or  
2257 summer programs to ensure administration of the coordinated  
2258 screening and progress monitoring program is administered a  
2259 minimum of 3 times within a year or program.

2260 (b) The results of the coordinated screening and progress



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2261 monitoring program shall be reported to the department, in  
 2262 accordance with the rules adopted by the state board, and  
 2263 maintained in the department's educational data warehouse.  
 2264 (3) The Commissioner of Education shall:  
 2265 (a) Develop a plan, in coordination with the Council for  
 2266 Early Grade Success, for implementing the coordinated screening  
 2267 and progress monitoring program in consideration of timelines  
 2268 for implementing new early literacy and mathematics skills and  
 2269 the English Language Arts and mathematics standards established  
 2270 in ss. 1002.67(1)(a) and 1003.41, as appropriate.  
 2271 (b) Provide data, reports, and information as requested to  
 2272 the Council for Early Grade Success.  
 2273 (4) The Council for Early Grade Success, a council as  
 2274 defined in s. 20.03(7), is created within the Department of  
 2275 Education to oversee the coordinated screening and progress  
 2276 monitoring program and, except as otherwise provided in this  
 2277 section, shall operate consistent with s. 20.052.  
 2278 (a) The council shall be responsible for reviewing the  
 2279 implementation of, training for, and outcomes from the  
 2280 coordinated screening and progress monitoring program to provide  
 2281 recommendations to the department that support grade 3 students  
 2282 reading at or above grade level. The council, at a minimum,  
 2283 shall:  
 2284 1. Provide recommendations on the implementation of the  
 2285 coordinated screening and progress monitoring program, including  
 2286 reviewing any procurement solicitation documents and criteria  
 2287 before being published.  
 2288 2. Develop training plans and timelines for such training.  
 2289 3. Identify appropriate personnel, processes, and



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2290 procedures required for the administration of the coordinated  
 2291 screening and progress monitoring program.  
 2292 4. Provide input on the methodology for calculating a  
 2293 provider's or school's performance metric and designations under  
 2294 s. 1002.68.  
 2295 5. Work with the department's independent expert under s.  
 2296 1002.68(4)(d) to review the methodology for determining a  
 2297 child's kindergarten readiness.  
 2298 6. Review data on age-appropriate learning gains by grade  
 2299 level that a student would need to attain in order to  
 2300 demonstrate proficiency in reading by grade 3.  
 2301 7. Continually review anonymized data from the results of  
 2302 the coordinated screening and progress monitoring program for  
 2303 students in the Voluntary Prekindergarten Education Program  
 2304 through grade 3 to help inform recommendations to the department  
 2305 that support practices that will enable grade 3 students to read  
 2306 at or above grade level.  
 2307 (b) The council shall be composed of 17 members who are  
 2308 residents of this state and appointed, as follows:  
 2309 1. Three members appointed by the Governor, as follows:  
 2310 a. One representative from the Department of Education.  
 2311 b. One parent of a child who is 4 to 9 years of age.  
 2312 c. One representative who is a school principal.  
 2313 2. Seven members appointed by the President of the Senate,  
 2314 as follows:  
 2315 a. One senator who serves at the pleasure of the President  
 2316 of the Senate.  
 2317 b. One representative of an urban school district.  
 2318 c. One representative of a rural early learning coalition.



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2319 d. One representative of a faith-based early learning  
2320 provider that offers the Voluntary Prekindergarten Education  
2321 Program.  
2322 e. One representative who is a second grade teacher with at  
2323 least 5 years of teaching experience.  
2324 f. Two representatives with subject matter expertise in  
2325 early learning, early grade success, or child assessments.  
2326 3. Seven members appointed by the Speaker of the House of  
2327 Representatives, as follows:  
2328 a. One member of the House of Representatives who serves at  
2329 the pleasure of the Speaker of the House.  
2330 b. One representative of a rural school district.  
2331 c. One representative of an urban early learning coalition.  
2332 d. One representative of an early learning provider that  
2333 offers the Voluntary Prekindergarten Education Program.  
2334 e. One member who is a kindergarten teacher with at least 5  
2335 years of teaching experience.  
2336 f. Two representatives with subject matter expertise in  
2337 early learning, early grade success, or child assessment.  
2338 (5) The four representatives with subject matter expertise  
2339 in sub-subparagraphs (4)(b)2.f. and (4)(b)3.f. may not be direct  
2340 stakeholders within the early learning or public school systems  
2341 or potential recipients of a contract resulting from the  
2342 council's recommendations.  
2343 (6) The council shall elect a chair and vice chair, one of  
2344 whom must be a member who has subject matter expertise in early  
2345 learning, early grade success, or child assessments. The vice  
2346 chair must be a member appointed by the President of the Senate  
2347 or the Speaker of the House of Representatives who is not one of



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2348 the four members with subject matter expertise in early  
2349 learning, early grade success, or child assessments. Members of  
2350 the council shall serve without compensation but are entitled to  
2351 reimbursement for per diem and travel expenses pursuant to s.  
2352 112.061.  
2353 (7) The council must meet at least biannually and may meet  
2354 by teleconference or other electronic means, if possible, to  
2355 reduce costs.  
2356 (8) A majority of the members constitutes a quorum.  
2357 Section 31. Present paragraphs (b) and (c) of subsection  
2358 (5) of section 1008.25, Florida Statutes, are redesignated as  
2359 paragraphs (c) and (d), respectively, a new paragraph (b) is  
2360 added to that subsection, and paragraph (b) of subsection (6),  
2361 subsection (7), and paragraph (a) of subsection (8) are amended,  
2362 to read:  
2363 1008.25 Public school student progression; student support;  
2364 reporting requirements.—  
2365 (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—  
2366 (b) Any Voluntary Prekindergarten Education Program student  
2367 who exhibits a substantial deficiency in early literacy in  
2368 accordance with the standards under s. 1002.67(1)(a) and based  
2369 upon the results of the administration of the final coordinated  
2370 screening and progress monitoring under s. 1008.2125 shall be  
2371 referred to the local school district and may be eligible to  
2372 receive intensive reading interventions before participating in  
2373 kindergarten. Such intensive reading interventions shall be paid  
2374 for using funds from the district's research-based reading  
2375 instruction allocation in accordance with s. 1011.62(9).  
2376 (6) ELIMINATION OF SOCIAL PROMOTION.—





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2377 (b) The district school board may only exempt students from  
2378 mandatory retention, as provided in paragraph (5)(c) ~~(5)(b)~~, for  
2379 good cause. A student who is promoted to grade 4 with a good  
2380 cause exemption shall be provided intensive reading instruction  
2381 and intervention that include specialized diagnostic information  
2382 and specific reading strategies to meet the needs of each  
2383 student so promoted. The school district shall assist schools  
2384 and teachers with the implementation of explicit, systematic,  
2385 and multisensory reading instruction and intervention strategies  
2386 for students promoted with a good cause exemption which research  
2387 has shown to be successful in improving reading among students  
2388 who have reading difficulties. Good cause exemptions are limited  
2389 to the following:

2390 1. Limited English proficient students who have had less  
2391 than 2 years of instruction in an English for Speakers of Other  
2392 Languages program based on the initial date of entry into a  
2393 school in the United States.

2394 2. Students with disabilities whose individual education  
2395 plan indicates that participation in the statewide assessment  
2396 program is not appropriate, consistent with the requirements of  
2397 s. 1008.212.

2398 3. Students who demonstrate an acceptable level of  
2399 performance on an alternative standardized reading or English  
2400 Language Arts assessment approved by the State Board of  
2401 Education.

2402 4. A student who demonstrates through a student portfolio  
2403 that he or she is performing at least at Level 2 on the  
2404 statewide, standardized English Language Arts assessment.

2405 5. Students with disabilities who take the statewide,



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2406 standardized English Language Arts assessment and who have an  
2407 individual education plan or a Section 504 plan that reflects  
2408 that the student has received intensive instruction in reading  
2409 or English Language Arts for more than 2 years but still  
2410 demonstrates a deficiency and was previously retained in  
2411 kindergarten, grade 1, grade 2, or grade 3.

2412 6. Students who have received intensive reading  
2413 intervention for 2 or more years but still demonstrate a  
2414 deficiency in reading and who were previously retained in  
2415 kindergarten, grade 1, grade 2, or grade 3 for a total of 2  
2416 years. A student may not be retained more than once in grade 3.

2417 (7) SUCCESSFUL PROGRESSION FOR RETAINED THIRD GRADE  
2418 STUDENTS.-

2419 (a) Students retained under paragraph (5)(c) ~~(5)(b)~~ must be  
2420 provided intensive interventions in reading to ameliorate the  
2421 student's specific reading deficiency and prepare the student  
2422 for promotion to the next grade. These interventions must  
2423 include:

2424 1. Evidence-based, explicit, systematic, and multisensory  
2425 reading instruction in phonemic awareness, phonics, fluency,  
2426 vocabulary, and comprehension and other strategies prescribed by  
2427 the school district.

2428 2. Participation in the school district's summer reading  
2429 camp, which must incorporate the instructional and intervention  
2430 strategies under subparagraph 1.

2431 3. A minimum of 90 minutes of daily, uninterrupted reading  
2432 instruction incorporating the instructional and intervention  
2433 strategies under subparagraph 1. This instruction may include:

2434 a. Integration of content-rich texts in science and social



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2435 studies within the 90-minute block.  
2436       b. Small group instruction.  
2437       c. Reduced teacher-student ratios.  
2438       d. More frequent progress monitoring.  
2439       e. Tutoring or mentoring.  
2440       f. Transition classes containing 3rd and 4th grade  
2441 students.  
2442       g. Extended school day, week, or year.  
2443       (b) Each school district shall:  
2444           1. Provide written notification to the parent of a student  
2445 who is retained under paragraph (5)(c) ~~(5)(b)~~ that his or her  
2446 child has not met the proficiency level required for promotion  
2447 and the reasons the child is not eligible for a good cause  
2448 exemption as provided in paragraph (6)(b). The notification must  
2449 comply with paragraph (5)(d) ~~(5)(e)~~ and must include a  
2450 description of proposed interventions and supports that will be  
2451 provided to the child to remediate the identified areas of  
2452 reading deficiency.  
2453           2. Implement a policy for the midyear promotion of a  
2454 student retained under paragraph (5)(c) ~~(5)(b)~~ who can  
2455 demonstrate that he or she is a successful and independent  
2456 reader and performing at or above grade level in reading or,  
2457 upon implementation of English Language Arts assessments,  
2458 performing at or above grade level in English Language Arts.  
2459 Tools that school districts may use in reevaluating a student  
2460 retained may include subsequent assessments, alternative  
2461 assessments, and portfolio reviews, in accordance with rules of  
2462 the State Board of Education. Students promoted during the  
2463 school year after November 1 must demonstrate proficiency levels



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2464 in reading equivalent to the level necessary for the beginning  
2465 of grade 4. The rules adopted by the State Board of Education  
2466 must include standards that provide a reasonable expectation  
2467 that the student's progress is sufficient to master appropriate  
2468 grade 4 level reading skills.  
2469       3. Provide students who are retained under paragraph (5)(c)  
2470 ~~(5)(b)~~, including students participating in the school  
2471 district's summer reading camp under subparagraph (a)2., with a  
2472 highly effective teacher as determined by the teacher's  
2473 performance evaluation under s. 1012.34, and, beginning July 1,  
2474 2020, the teacher must also be certified or endorsed in reading.  
2475       4. Establish at each school, when applicable, an intensive  
2476 reading acceleration course for any student retained in grade 3  
2477 who was previously retained in kindergarten, grade 1, or grade  
2478 2. The intensive reading acceleration course must provide the  
2479 following:  
2480           a. Uninterrupted reading instruction for the majority of  
2481 student contact time each day and opportunities to master the  
2482 grade 4 Next Generation Sunshine State Standards in other core  
2483 subject areas through content-rich texts.  
2484           b. Small group instruction.  
2485           c. Reduced teacher-student ratios.  
2486           d. The use of explicit, systematic, and multisensory  
2487 reading interventions, including intensive language, phonics,  
2488 and vocabulary instruction, and use of a speech-language  
2489 therapist if necessary, that have proven results in accelerating  
2490 student reading achievement within the same school year.  
2491           e. A read-at-home plan.  
2492       (8) ANNUAL REPORT.—



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2493 (a) In addition to the requirements in paragraph (5) (c)  
2494 ~~(5) (b)~~, each district school board must annually report to the  
2495 parent of each student the progress of the student toward  
2496 achieving state and district expectations for proficiency in  
2497 English Language Arts, science, social studies, and mathematics.  
2498 The district school board must report to the parent the  
2499 student's results on each statewide, standardized assessment.  
2500 The evaluation of each student's progress must be based upon the  
2501 student's classroom work, observations, tests, district and  
2502 state assessments, response to intensive interventions provided  
2503 under paragraph (5) (a), and other relevant information. Progress  
2504 reporting must be provided to the parent in writing in a format  
2505 adopted by the district school board.

2506 Section 32. Subsection (9) of section 1011.62, Florida  
2507 Statutes, is amended to read:

2508 1011.62 Funds for operation of schools.—If the annual  
2509 allocation from the Florida Education Finance Program to each  
2510 district for operation of schools is not determined in the  
2511 annual appropriations act or the substantive bill implementing  
2512 the annual appropriations act, it shall be determined as  
2513 follows:

2514 (9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—

2515 (a) The research-based reading instruction allocation is  
2516 created to provide comprehensive reading instruction to students  
2517 in kindergarten through grade 12, including certain students who  
2518 exhibit a substantial deficiency in early literacy and who  
2519 completed the Voluntary Prekindergarten Education Program  
2520 pursuant to s. 1008.25(5)(b). Each school district that has one  
2521 or more of the 300 lowest-performing elementary schools based on



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2522 a 3-year average of the state reading assessment data must use  
2523 the school's portion of the allocation to provide an additional  
2524 hour per day of intensive reading instruction for the students  
2525 in each school. The additional hour may be provided within the  
2526 school day. Students enrolled in these schools who earned a  
2527 level 4 or level 5 score on the statewide, standardized English  
2528 Language Arts assessment for the previous school year may  
2529 participate in the additional hour of instruction. Exceptional  
2530 student education centers may not be included in the 300  
2531 schools. The intensive reading instruction delivered in this  
2532 additional hour shall include: research-based reading  
2533 instruction that has been proven to accelerate progress of  
2534 students exhibiting a reading deficiency; differentiated  
2535 instruction based on screening, diagnostic, progress monitoring,  
2536 or student assessment data to meet students' specific reading  
2537 needs; explicit and systematic reading strategies to develop  
2538 phonemic awareness, phonics, fluency, vocabulary, and  
2539 comprehension, with more extensive opportunities for guided  
2540 practice, error correction, and feedback; and the integration of  
2541 social studies, science, and mathematics-text reading, text  
2542 discussion, and writing in response to reading.

2543 (b) Funds for comprehensive, research-based reading  
2544 instruction shall be allocated annually to each school district  
2545 in the amount provided in the General Appropriations Act. Each  
2546 eligible school district shall receive the same minimum amount  
2547 as specified in the General Appropriations Act, and any  
2548 remaining funds shall be distributed to eligible school  
2549 districts based on each school district's proportionate share of  
2550 K-12 base funding.



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2551 (c) Funds allocated under this subsection must be used to  
2552 provide a system of comprehensive reading instruction to  
2553 students enrolled in the K-12 programs and certain students who  
2554 exhibit a substantial deficiency in early literacy and who  
2555 completed the Voluntary Prekindergarten Education Program  
2556 pursuant to s. 1008.25(5)(b), which may include the following:

2557 1. An additional hour per day of evidence-based intensive  
2558 reading instruction to students in the 300 lowest-performing  
2559 elementary schools by teachers and reading specialists who have  
2560 demonstrated effectiveness in teaching reading as required in  
2561 paragraph (a).

2562 2. Kindergarten through grade 5 evidence-based reading  
2563 intervention teachers to provide intensive reading interventions  
2564 provided by reading intervention teachers ~~intervention~~ during  
2565 the school day and in the required extra hour for students  
2566 identified as having a reading deficiency.

2567 3. Highly qualified reading coaches to specifically support  
2568 teachers in making instructional decisions based on student  
2569 data, and improve teacher delivery of effective reading  
2570 instruction, intervention, and reading in the content areas  
2571 based on student need.

2572 4. Professional development for school district teachers in  
2573 scientifically based reading instruction, including strategies  
2574 to teach reading in content areas and with an emphasis on  
2575 technical and informational text, to help school district  
2576 teachers earn a certification or an endorsement in reading.

2577 5. Summer reading camps, using only teachers or other  
2578 district personnel who are certified or endorsed in reading  
2579 consistent with s. 1008.25(7)(b)3., for all students in



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2580 kindergarten through grade 2 who demonstrate a reading  
2581 deficiency as determined by district and state assessments, ~~and~~  
2582 students in grades 3 through 5 who score at Level 1 on the  
2583 statewide, standardized English Language Arts assessment, and  
2584 certain students who exhibit a substantial deficiency in early  
2585 literacy and who completed the Voluntary Prekindergarten  
2586 Education Program pursuant to s. 1008.25(5)(b).

2587 6. Scientifically researched and evidence-based  
2588 supplemental instructional materials ~~that are grounded in~~  
2589 ~~scientifically based reading research~~ as identified by the Just  
2590 Read, Florida! Office pursuant to s. 1001.215(8).

2591 7. Evidence-based intensive interventions for students in  
2592 kindergarten through grade 12 who have been identified as having  
2593 a reading deficiency or who are reading below grade level as  
2594 determined by the statewide, standardized English Language Arts  
2595 assessment or for certain students who exhibit a substantial  
2596 deficiency in early literacy and who completed the Voluntary  
2597 Prekindergarten Education Program pursuant to s. 1008.25(5)(b).

2598 (d)1. Annually, by a date determined by the Department of  
2599 Education but before May 1, school districts shall submit a ~~K-12~~  
2600 comprehensive reading plan for the specific use of the research-  
2601 based reading instruction allocation in the format prescribed by  
2602 the department for review and approval by the Just Read,  
2603 Florida! Office created pursuant to s. 1001.215. The plan  
2604 annually submitted by school districts shall be deemed approved  
2605 unless the department rejects the plan on or before June 1. If a  
2606 school district and the Just Read, Florida! Office cannot reach  
2607 agreement on the contents of the plan, the school district may  
2608 appeal to the State Board of Education for resolution. School



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2609 districts shall be allowed reasonable flexibility in designing  
2610 their plans and shall be encouraged to offer reading  
2611 intervention through innovative methods, including career  
2612 academies. The plan format shall be developed with input from  
2613 school district personnel, including teachers and principals,  
2614 and shall provide for intensive reading interventions through  
2615 integrated curricula, provided that, beginning with the 2020-  
2616 2021 school year, the interventions are delivered by a teacher  
2617 who is certified or endorsed in reading. Such interventions must  
2618 incorporate evidence-based strategies identified by the Just  
2619 Read, Florida! Office pursuant to s. 1001.215(8). No later than  
2620 July 1 annually, the department shall release the school  
2621 district's allocation of appropriated funds to those districts  
2622 having approved plans. A school district that spends 100 percent  
2623 of this allocation on its approved plan shall be deemed to have  
2624 been in compliance with the plan. The department may withhold  
2625 funds upon a determination that reading instruction allocation  
2626 funds are not being used to implement the approved plan. The  
2627 department shall monitor and track the implementation of each  
2628 district plan, including conducting site visits and collecting  
2629 specific data on expenditures and reading improvement results.  
2630 By February 1 of each year, the department shall report its  
2631 findings to the Legislature.

2632 2. Each school district that has a school designated as one  
2633 of the 300 lowest-performing elementary schools as specified in  
2634 paragraph (a) shall specifically delineate in the comprehensive  
2635 reading plan, or in an addendum to the comprehensive reading  
2636 plan, the implementation design and reading intervention  
2637 strategies that will be used for the required additional hour of



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2638 reading instruction. The term "reading intervention" includes  
2639 evidence-based strategies frequently used to remediate reading  
2640 deficiencies and also includes individual instruction, tutoring,  
2641 mentoring, or the use of technology that targets specific  
2642 reading skills and abilities.

2643  
2644 For purposes of this subsection, the term "evidence-based" means  
2645 demonstrating a statistically significant effect on improving  
2646 student outcomes or other relevant outcomes.

2647 Section 33. This act shall take effect July 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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/SB 1282

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); and Senator Harrell

SUBJECT: Early Learning and Early Grade Success

DATE: April 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<b>Recommend: Fav/CS</b>
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<b>Fav/CS</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1282 expands accountability and assessment requirements for Voluntary Prekindergarten Education Program (VPK) providers. Specifically, the bill requires:

- A coordinated screening and progress monitoring program (CSPM) for students in VPK through grade 3 to provide information on students' progress in mastering the appropriate grade-level standards to parents, teachers, and school and program administrators.
- Beginning in the 2022-2023 program year, a program assessment composite score for each VPK provider based on the results of a program assessment that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages 3 to 5 years, in each VPK classroom.
- A performance metric that provides a score to each VPK provider based on the results of the CSPM, including learning gains, and the program assessment, beginning in the 2022-2023 program year.
- The assignment of a performance designation for VPK providers beginning with the 2023-2024 program year.

The bill creates the Council for Early Grade Success within the Department of Education (DOE) to oversee the CSPM and requires the new screenings and assessments to be administered by qualified individuals.

The bill modifies the market rate schedule paid to school readiness providers to require a market rate schedule based on the prevailing market rate. The bill authorizes early learning coalitions to adopt an alternative payment schedule that has been approved by the federal Administration for Children and Families. The bill also transfers the Gold Seal Quality Care program to the Office of Early Learning (OEL) from the Department of Children and Families and adds standards for accrediting associations.

The bill will have a significant negative fiscal to the state to implement the new coordinated screening and progress monitoring program and to implement the VPK program assessment. See Section V.

The bill takes effect upon becoming a law.

## II. Present Situation:

### State Level Governance

#### *Department of Education*

The Department of Education (DOE) is the administrative and supervisory agency under the implementation direction of the State Board of Education (SBE).<sup>1</sup> The Commissioner of Education (commissioner) is appointed by the SBE and serves as the executive director of the DOE. The DOE includes the Office of Early Learning (OEL), which is administered by an executive director who is fully accountable to the commissioner.<sup>2</sup>

#### *Office of Early Learning*

The OEL administers the school readiness program and the Voluntary Prekindergarten Education Program (VPK)<sup>3</sup>—and an annual budget of \$1.37 billion.<sup>4</sup> The OEL is the lead agency in Florida for administering the federal Child Care and Development Block Grant Trust Fund (CCDF).<sup>5</sup> The OEL adopts rules as required for the establishment and operation of the school readiness program and the VPK program.<sup>6</sup> The executive director of the OEL is responsible for administering early learning programs at the state level. The OEL administers statewide the child care resource and referral (CCR&R) network, which provides information about state-funded early learning programs, provides families with a customized listing of child care providers, is used to document requests for services, and provides technical assistance to providers.<sup>7</sup>

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<sup>1</sup> Section 1001.20(1), F.S.

<sup>2</sup> Section 20.15, F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Early Learning Services Program Total, s. 2, ch. 2020-111, L.O.F.

<sup>5</sup> Section 1002.82(1), F.S.

<sup>6</sup> The OEL is required to submit the rules to the State Board of Education for approval or disapproval. If the state board does not act on a rule within 60 days after receipt, the rule shall be immediately filed with the Department of State. Section 1001.213, F.S.

<sup>7</sup> See ss. 1001.213(5), 1002.82(2)(f)1.b., and 1002.92(1) and (3), F.S.; Florida Office of Early Learning, *Welcome to Florida's Early Learning Family Portal*, <https://familyservices.floridaearlylearning.com/> (last visited Mar. 19, 2021); see also Florida's Office of Early Learning, *Family Resources: Find Quality Child Care*, <http://www.floridaearlylearning.com/family-resources/find-quality-child-care/locate-a-child-care-resource-referral-service> (last visited Mar. 19, 2021).

The OEL employs an inspector general, as required by law, to promote accountability, integrity, and efficiency in the administration of early learning programs. Statutory duties of the inspector general include the duty to advise the OEL in the development of performance measures, standards, and procedures employed by the OEL.<sup>8</sup>

### ***Early Learning Coalitions***

The OEL governs the day-to-day operations of statewide early learning programs and administers federal and state child care funds. Across the state, 30 regional early learning coalitions (ELCs) and the Redlands Christian Migrant Association are responsible for delivering local services, including the VPK program and the school readiness program.<sup>9</sup> Each ELC is governed by a board of directors comprised of various stakeholders and community representatives.<sup>10</sup> The SBE does not have authority over ELCs, and early learning data is not collected in the K-20 student database as part of the management information databases governed by the SBE.<sup>11</sup>

### ***Child Care Executive Partnership Program***

A body politic and corporate known as the Child Care Executive Partnership governs the Child Care Executive Partnership (CCEP) Program. The purpose of the CCEP Program is to use state and federal funds as incentives for matching local funds derived from local governments, employers, charitable foundations, and other sources so that Florida communities may create local flexible partnerships with employers. The CCEP Program funds are used at the discretion of local communities to meet the needs of working parents.<sup>12</sup> The CCEP Program was not funded in the 2020 fiscal year.<sup>13</sup>

### ***The Voluntary Prekindergarten Education Program***

The Florida Constitution requires the State to provide every four-year old child a high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program which must be voluntary, high quality, free, and delivered according to professionally accepted standards.<sup>14</sup> In 2004, the State established a free Voluntary Prekindergarten (VPK) program offered to eligible four-year-old children.<sup>15</sup> Parents may choose either a school-year or summer program offered by either a public or private school.<sup>16</sup> For the 2020-2021 year, \$412.2 million was appropriated from General Revenue for the VPK program in

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<sup>8</sup> Section 20.055(1), F.S.

<sup>9</sup> The Office of Early Learning, *Coalitions*, <http://www.floridaearlylearning.com/coalitions.aspx> (last visited Mar. 19, 2021). See also 1002.83(1), F.S.

<sup>10</sup> Section 1002.83(3), F.S.

<sup>11</sup> Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013* (2020), at 13.

<sup>12</sup> Section 1002.94, F.S.

<sup>13</sup> Chapter 2020-111, L.O.F.

<sup>14</sup> Art. IX, s. 1(b), Fla. Const. An early childhood development and education program means an organized program designed to address and enhance each child's ability to make age appropriate progress in an appropriate range of settings in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities through education in basic skills and such other skills as the Legislature may determine to be appropriate.

<sup>15</sup> Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; see also Art. IX, s. 1(b)-(c), Fla. Const.

<sup>16</sup> Section 1002.53(3), F.S.



the 2020 General Appropriations Act.<sup>17</sup> During the 2019-2020 academic year, the VPK program served 156,956 students.<sup>18</sup>

ELCs and school districts administer the VPK program at the county or regional level. Each ELC is the single point of entry for VPK program registration and enrollment in the coalition's service area. A local ELC must coordinate with the local school district in the ELC's service area to develop procedures for enrolling children in public school VPK programs.<sup>19</sup>

The OEL adopts procedures governing the administration of the VPK program for ELCs and school districts, including procedures for:

- Enrolling children and documenting and certifying student enrollment and student attendance.
- Providing parents with profiles of VPK providers.
- Registering private prekindergarten providers and public schools to deliver the program.
- Determining the eligibility of private prekindergarten providers to deliver the program and streamlining the process of provider eligibility whenever possible.
- Verifying the compliance and removing VPK providers from eligibility to deliver the program due to noncompliance or misconduct.
- Placing schools on probation and requiring corrective actions.
- Paying VPK providers.
- Reconciling advance payments in accordance with the uniform attendance policy.
- Reenrolling students dismissed by a VPK provider for noncompliance with the VPK provider's attendance policy.
- Approving improvement plans.
- Approving and paying specialized instructional services providers.<sup>20</sup>

The OEL consults with the DOE regarding procedures implemented by ELCs and school districts for administering corrective action to VPK providers and administering the VPK program for specialized instructional services for children with disabilities.<sup>21</sup>

### ***VPK Instructor Requirements***

A VPK provider offering a school-year VPK program must have, for each class, at least one instructor with:

- A Child Development Associate (CDA) issued by the National Credentialing Program of the Council for Professional Recognition; or
- A credential approved by the Department of Children and Families (DCF) as being equivalent to or greater than the CDA; and

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<sup>17</sup> Specific Appropriation 88, s. 2, ch. 2020-111, L.O.F.

<sup>18</sup> Florida Office of Early Learning, *2019-20 Annual Report*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 8 (last visited Mar. 19, 2021).

<sup>19</sup> Section 1002.53(4), F.S.

<sup>20</sup> Section 1002.75(2), F.S.

<sup>21</sup> Section 1002.67(3), F.S.; *see also* s. 1002.66, F.S.

- Five clock hours of training in emergent literacy and successful completion of a student performance standards training course.<sup>22</sup>

An instructor in a school-year VPK program implemented by a public school district must meet the same qualifications that are required of a private VPK program instructor, in addition to standard employment requirements for all instructional personnel in public schools.<sup>23</sup> A school-year VPK provider must have a second adult instructor for each class of 12 or more students; however, the second instructor is not required to meet the same qualifications as the lead instructor.<sup>24</sup>

In lieu of the minimum credentials listed above, a private VPK program instructor may hold:

- An associate's or higher degree in child development;
- An associate's or higher degree in an unrelated field, at least six credit hours in early childhood education or child development, and at least 480 hours of teaching or providing child care services for children any age from birth through eight years of age;
- A bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science;
- A bachelor's or higher degree in elementary education, if the instructor has been certified to teach children any age from birth through grade 6, regardless of whether the educator certificate is current; or
- An educational credential approved by the OEL as being equivalent to or greater than any of these educational credentials.<sup>25</sup>

The OEL sets minimum standards for emergent literacy training courses for VPK instructors. Each course must be at least five clock hours long and provide strategies and techniques regarding the age-appropriate progress of prekindergarten students in developing emergent literacy skills. Each emergent literacy course must also provide strategies for helping students with disabilities and other special needs maximize their benefit from the VPK program. Each course on performance standards must be at least three clock hours, provide instruction in strategies and techniques to address age-appropriate progress of each child in attaining the standards, and be available online.<sup>26</sup>

### ***VPK Performance Standards***

The OEL develops and adopts performance standards for students in VPK programs. The performance standards must address the age-appropriate progress of students in the development of:

<sup>22</sup> Sections 1002.55(3)(c)1.a. and 2., 1002.59, and 1002.63(4), F.S. An active Birth Through Five Child Care Credential awarded as a Florida Child Care Professional Credential, Florida Department of Education Child Care Apprenticeship Certificate, or Early Childhood Professional Certificate satisfies the staff credential requirement. Florida Department of Children and Families, *Child Care Facility Handbook* (2019), incorporated by reference in Rule 65C-22.001(7), F.A.C.

<sup>23</sup> Sections 1002.63(5)-(6), F.S.; see also Florida Department of Education, *Technical Assistance Paper: VPK Instructor Qualifications #07-01*, at 2 (Jan. 2007), available at <https://info.fldoe.org/docushare/dsweb/Get/Document-4196/07-02att1.pdf>.

<sup>24</sup> Sections 1002.55(3)(f) and 1002.63(7), F.S.

<sup>25</sup> Section 1002.55(4), F.S.

<sup>26</sup> Section 1002.59(1) and (2), F.S.

- The capabilities, capacities, and skills required in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities.
- Emergent literacy skills, including oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development.<sup>27</sup>

Each VPK provider's curriculum must be developmentally appropriate, designed to prepare a student for early literacy, enhance age-appropriate student progress in attaining state-adopted performance standards, and prepare students to be ready for kindergarten based on the statewide kindergarten screening.<sup>28</sup>

### ***Statewide Kindergarten Readiness Screening***

The DOE has adopted a statewide kindergarten readiness screening, the Florida Kindergarten Readiness Screener (FLKRS),<sup>29</sup> and requires each school district to administer the statewide kindergarten readiness screening within the first 30 days of each school year.<sup>30</sup> The screening measures a child's readiness for kindergarten in eight domains: physical development; approaches to learning; social and emotional development; language and literacy; mathematical thinking; scientific inquiry; social studies; and creative expression through the arts.<sup>31</sup>

Kindergarten student scores must demonstrate a score of at least 500 on the screening assessment to be considered "ready for kindergarten." For the fall 2019 administration of the screening assessment, 53 percent of 190,805 kindergarten students were designated as "ready for kindergarten."<sup>32</sup>

### ***Kindergarten Readiness Rate***

The OEL annually calculates a kindergarten readiness rate for each VPK provider based on results of the annual screening.<sup>33</sup> The readiness rates are expressed as the percentage of children whose scores demonstrate readiness for kindergarten.<sup>34</sup> The methodology for calculating the readiness rate must include student learning gains, when available, based on a VPK preassessment and postassessment, known as the "Florida VPK Assessment." The OEL must determine learning gains using a value-added measure based on growth demonstrated by the results of the Florida VPK Assessment from at least two successive years of administration.<sup>35</sup>

<sup>27</sup> Section 1002.67, F.S.; Art. IX, s. 1(b), Fla. Const.

<sup>28</sup> Section 1002.67(1)(b), F.S.

<sup>29</sup> The DOE selected the Star Early Literacy Assessment, developed by Renaissance Learning, Inc., as the Florida Kindergarten Readiness Screener (FLKRS). Rule 6M-8.601(3)(b)1., F.A.C.; *see also* FDOE, *Florida Kindergarten Readiness Screener*, <http://www.fldoe.org/accountability/assessments/k-12-student-assessment/flkrs/> (last visited Mar. 13, 2021).

<sup>30</sup> Sections 1002.69(1)-(3) and 1002.73, F.S.

<sup>31</sup> *See* s. 1002.67(1), F.S. *See also* Florida's Office of Early Learning, *Early Learning and Developmental Standards: 4 Years Old to Kindergarten* (2017) at 1, *incorporated by reference* in rule 6M-8.602, F.A.C.

<sup>32</sup> Florida Office of Early Learning, *2019-20 Annual Report*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 46 (last visited Mar. 19, 2021).

<sup>33</sup> Rule 6M-8.601(3)(b), F.A.C.

<sup>34</sup> Sections 1002.69(5)-(6), F.S.; To be considered "ready for kindergarten," a student must achieve a score of 500 or higher on the Star Early Literacy assessment. Rule 6M-8.601, F.A.C.

<sup>35</sup> Section 1002.69(5), F.S.; Rule 6A-1.09433(1)(b), F.A.C. and Rule 6M-8.601(3)(b), F.A.C.

Beginning in January 2021, and continuing through the 2021-2022 school year, the DOE launched a VPK progress monitoring pilot program by permitting up to 1,900 VPK providers to administer the assessment used for the statewide kindergarten screening. The DOE allocated \$2.9 million from the CARES Act funds for the program.<sup>36</sup>

The DOE allocated \$18 million of the Child Care Development and Block Grant Fund from the CARES Act to implement summer programs for rising kindergarten students identified with limited language and emergent literacy skills as determined by the VPK assessments and teacher recommendations.<sup>37</sup>

### ***VPK Provider Probation and Corrective Action***

At least 60 percent of a VPK provider's students must meet the "ready for kindergarten" score on the screening in order for the provider to avoid probationary status.<sup>38</sup> Providers that do not meet the minimum readiness rate are placed on probation. An ELC or school district must require a VPK provider that falls below the minimum kindergarten readiness rate to:

- Submit for approval and implement an improvement plan;
- Place the provide or school on probation; and
- Take certain corrective actions, including the use of an OEL-approved curriculum or an OEL approved staff development plan to strengthen instruction in language development and phonological awareness.<sup>39</sup>

Out of 126,238 students who completed the VPK program, 63 percent were "ready for kindergarten" in the fall of 2019. Of 6,611 rated VPK providers, 2,175 failed to meet the minimum rate. Of these 2,175 providers, 2,201 remained on probation.<sup>40</sup>

A VPK provider on probation and failing to meet the minimum readiness rate for two consecutive years must be removed from eligibility to provide the VPK program for 5 years; unless the provider receives from the OEL a good cause exemption.<sup>41</sup>

### ***Good Cause Exemption***

A VPK provider on probation and failing to meet the minimum readiness rate for two consecutive years must be removed from eligibility to provide the VPK program for 5 years;

<sup>36</sup> Florida Department of Education, *Progress Monitoring: Building Effective, Data-Informed Strategies to Close Achievement Gaps* (Nov. 18, 2020), available at <https://www.fldoe.org/core/fileparse.php/19925/urlt/2-3.pdf> at 6, (last visited Mar. 13, 2021).

<sup>37</sup> Florida Department of Education, *Reopening Florida's Schools and the CARES Act*, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FLDOEReopeningCARESAct.pdf> at 98, (last visited Mar. 13, 2021).

<sup>38</sup> *Id.*

<sup>39</sup> Section 1002.67(4), F.S.

<sup>40</sup> Florida Office of Early Learning, *2019-20 Annual Report*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 46 (last visited Mar. 19, 2021).

<sup>41</sup> Section 1002.67(4)(c)3., F.S. A VPK provider must submit a request for a good cause exemption to the OEL for review and approval and include specified data. Section 1002.69(7)(b)-(c), F.S. A VPK provider that receives a good cause exemption must continue to implement its improvement plan and take corrective actions until the provider meets the minimum kindergarten readiness rate. Sections 1002.69(7)(e) and 1002.67(3)(c)2., F.S.

unless the provider receives a good cause exemption. A VPK provider must submit a request for a good cause exemption to OEL for review and approval. The request must include:

- Data which documents student achievement and learning gains, as measured by a state-approved pre- and post-assessment.
- Data available from the respective ELC or district school board, the DCF, local licensing authority, or an accrediting association, as applicable, relating to the provider's compliance with state and local health and safety standards.
- Data available to the OEL on the performance of the children served and the calculation of the provider's kindergarten readiness rate.<sup>42</sup>

A VPK provider that receives a good cause exemption must continue to implement its improvement plan and take corrective actions until the provider meets the minimum kindergarten readiness rate. The OEL must notify the applicable ELC of the good cause exemption, which remains valid for one year, and may be renewed upon request by the VPK provider.<sup>43</sup>

A good cause exemption may not be granted to any VPK provider that has any class I violations or two or more class II violations within the two years preceding the provider's request for an exemption.<sup>44</sup> Additionally, if a provider refuses to comply with program requirements or engages in misconduct, the OEL must require the ELC or district school board to remove the provider from eligibility to deliver the VPK program for a period of five years.<sup>45</sup>

### **The School Readiness Program**

The school readiness program provides subsidies for child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.<sup>46</sup> The school readiness program offers financial assistance for child care to support working families and children to develop skills for success in school and provides developmental screening and referrals to health and education specialists where needed.<sup>47</sup> To participate in the school readiness program, a provider must execute a school readiness contract.<sup>48</sup> During the 2019-2020 academic year, 6,932 school readiness providers served 211,711 children enrolled in a school readiness program.<sup>49</sup>

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<sup>42</sup> Section 1002.69(4)(c)3. and (7)(b)-(c), F.S.

<sup>43</sup> Sections 1002.69(7) and 1002.67(3)(c)2., F.S.

<sup>44</sup> Section 1002.69(7)(d), F.S. DCF classifies licensing violations as class I, II, and III violations. Class I violations consist of conduct posing an imminent threat to a child. Class II violations pose a threat to the health, safety or well-being of a child, although the threat is not imminent. Rule 65C-22.010(1)(d), F.A.C.

<sup>45</sup> Section 1002.67(4)(b), F.S.

<sup>46</sup> Section 1002.87, F.S.

<sup>47</sup> Section 1002.86, F.S.

<sup>48</sup> Rule 6M-4.610, F.A.C. Form OEL-SR 20, *Statewide School Readiness Provider Contract*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/FormOEL-SR20StatewideSRProviderContract\\_7-8-20\\_ADA\\_final.pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/FormOEL-SR20StatewideSRProviderContract_7-8-20_ADA_final.pdf).

<sup>49</sup> Florida Office of Early Learning, *2019-20 Annual Report*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 20 (last visited Mar. 19, 2021).

### ***Program Assessment***

The OEL is required to adopt a program assessment for school readiness program providers that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages birth to five years.<sup>50</sup> The OEL has selected the Teachstone Classroom Assessment Scoring System (CLASS) Assessment Tool as the program assessment, with the associated requirements for observations and observers provided in the Program Assessment Requirements Handbook.<sup>51</sup> CLASS observations must be conducted annually by observers who must be certified for the age group of the classroom being observed. Certification is achieved by completing and passing all trainings and assessments required by Teachstone to conduct a CLASS observation, only ELC staff, OEL vendors, or ELC designees may conduct an observation.<sup>52</sup>

All school readiness providers must receive an annual program assessment and meet the required minimum program assessment composite score prior to executing a school readiness contract.<sup>53</sup> No providers failed to earn the minimum program assessment score for eligibility to contract to deliver the school readiness program for the 2019-2020 program year.<sup>54</sup>

The OEL has adopted a differential payment program based on quality measures of school readiness providers.<sup>55</sup> The differential payment may not exceed a total of 15 percent for each care level and unit of child care for a child care provider. No more than five percent of the 15 percent total differential may be provided to providers who submit valid and reliable data to the statewide information system in the domains of language and executive functioning using a child assessment. Providers who fail to attain a minimum composite score on the program assessment are ineligible for a differential payment.<sup>56</sup>

### ***School Readiness Funding***

Funding for the school readiness program is allocated among the ELCs according to law and the General Appropriations Act.<sup>57</sup> The school readiness program is funded primarily by the CCDF block grant.<sup>58</sup> States administering funds from the CCDF are required to conduct a statistically valid and reliable survey of the market rates for child care services or an alternative methodology, such as a cost estimation model, that has been pre-approved by the U.S. Administration for Children and Families (ACF) and approved by the lead state agency.<sup>59</sup>

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<sup>50</sup> Section 1002.82(2)(n), F.S.

<sup>51</sup> See Form OEL-SR 740, *incorporated by reference* in rule 6M-4.740, F.A.C.; Florida's Office of Early Learning, *Classroom Assessment Scoring System* (2018), available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/CLASS%20FAQ\\_ADA.pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/CLASS%20FAQ_ADA.pdf).

<sup>52</sup> See Form OEL-SR 740 at 1, *incorporated by reference* in rule 6M-4.740, F.A.C.

<sup>53</sup> Rule 6M-4.741, F.A.C.

<sup>54</sup> Email, Florida Department of Education (Dec. 15, 2020) (on file with the Senate Committee on Education).

<sup>55</sup> Rule 6M-4.500, F.A.C.

<sup>56</sup> Section 1002.82(2)(o), F.S.

<sup>57</sup> Section 1002.89(1), F.S.

<sup>58</sup> The Office of Early Learning, *2019-2021 Child Care Development Fund State Plan*, [http://www.floridaearlylearning.com/oel\\_resources/ccdf\\_plan.aspx](http://www.floridaearlylearning.com/oel_resources/ccdf_plan.aspx) (last visited Mar. 19, 2021).

<sup>59</sup> 45 C.F.R. s. 98.45.



Many child care providers report that they are unable to set published prices that reflect the full cost of providing quality services because parents would be unable to pay these prices. As a result, the published prices reflected in market rate surveys are not always adequate to cover providers' full costs, particularly for high-quality care. A cost estimation model is an alternative methodology that accounts for key factors in determining the payment schedule. Key factors account for costs that vary across submarkets, such as age and sparsity, and include, for example:

- Staff salaries and benefits.
- Training and professional development
- Curricula and supplies
- Group size of children and staff-child ratios
- Enrollment levels.
- Program size.
- Facility costs.<sup>60</sup>

State, federal, and local matching funds provided to an ELC for purposes of the school readiness program must be used for implementation of its approved school readiness program plan, including the hiring of staff to effectively operate the school readiness program.<sup>61</sup>

For Fiscal Year 2020-2021, a total of \$895.9 million was appropriated for the school readiness program from state and federal funds.<sup>62</sup>

### ***Contracted Slots***

The OEL is required to adopt a standard statewide provider contract to be used with each school readiness program provider. The standard statewide contract must include minimum statutory requirements, such as contracted slots and provisions for provider probation and termination.<sup>63</sup> A school readiness child care slot is the number of school readiness paid child care slots filled during a month of service.<sup>64</sup> The standard statewide provider contract provides an option for school readiness providers to participate in a Contracted Slots Program whereby a provider agrees to reserve a specified number of slots determined necessary by the ELC in return for a higher reimbursement rate.<sup>65</sup>

If an ELC participates in the Contracted Slots Program, and the ELC determines a provider is eligible for the program, then the coalition may reimburse the provider up to ten percent above the 75th percentile of the market rate.<sup>66</sup>

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<sup>60</sup> U.S. Office of Child Care, Early Childhood Training and Technical Assistance System, *Market Rates and Costs*, available at [https://childcareta.acf.hhs.gov/ccdf-fundamentals/occ-approved-alternative-methodology#\\_ednref2](https://childcareta.acf.hhs.gov/ccdf-fundamentals/occ-approved-alternative-methodology#_ednref2) (last visited Apr. 8, 2021).

<sup>61</sup> Section 1002.89(5), F.S.

<sup>62</sup> Specific Appropriation 85, s. 2, ch. 2020-111, L.O.F.

<sup>63</sup> Section 1002.82(2)(m), F.S.

<sup>64</sup> Rule 6M-4.740, F.A.C.

<sup>65</sup> Rule 6M-4.610, F.A.C., Form OEL-SR 20 (July 2019).

<sup>66</sup> Rule 6M-4.500, F.A.C.

### ***Gold Seal Quality Care Program***

The DCF is responsible for enforcing compliance with licensing standards by child care facilities, including large family child care homes and family day care homes.<sup>67</sup>

The DCF also adopts rules to administer the Gold Seal Quality Care Program (GSQC Program).<sup>68</sup> A GSQC designation entitles a school readiness provider to a rate differential at 20 percent above the ELC's approved reimbursement rate.<sup>69</sup> The law disqualifies child care facilities from accreditation if they receive a specified maximum number of Class I, II, or III violations within the two-year period preceding the application for accreditation.<sup>70</sup>

Educational materials, such as glue, paper, paints, crayons, unique craft items, scissors, books, and educational toys purchased by a licensed child care facility that meets minimum statutory standards, holds a current GSQC designation, and provides basic health insurance to all employees are exempt from sales, rental, use, consumption, distribution, and storage tax.<sup>71</sup> A licensed or legally exempt child care facility that achieves GSQC status is an educational institution exempt from ad valorem tax.<sup>72</sup>

Currently, 1,883 child care facilities, large family child care homes, and family day care homes possess a GSQC designation.<sup>73</sup>

### ***Market Rate***

The OEL is required to establish procedures for the adoption of a market rate schedule for the school readiness program. The schedule must include, at a minimum, county-by-county rates, differentiated by type of child care provider and the type of child care services provided. Rates must be differentiated for the types of providers by:

- The minimum and the maximum rates for child care providers that hold a Gold Seal Quality Care (GSQC) designation.
- Child care providers that do not hold a GSQC designation.
- Licensed child care facilities.
- Public or nonpublic schools exempt from licensure.
- Faith-based child care facilities exempt from licensure.
- Licensed large family child care homes.
- Licensed or registered family day care homes.<sup>74</sup>

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<sup>67</sup> Section 402.305, F.S. Certain child care facilities which are an integral part of a church or specified parochial school are exempt from licensing standards. Section 402.316, F.S.

<sup>68</sup> Section 402.281, F.S.

<sup>69</sup> Rule 6M-4.500, F.A.C.

<sup>70</sup> Section 402.281, F.S. DCF rules governing child care facilities define Class I, II, and III violations, which are designated in ascending order of severity, for noncompliance with minimum licensing standards of child care facilities. Rule 65C-20.012, F.A.C.

<sup>71</sup> Section 212.08, F.S.

<sup>72</sup> Section 402.26, F.S.

<sup>73</sup> Florida Department of Children and Families, *Gold Seal Quality Care Summary and Detail Data* (Dec. 2020), available at <https://www.myflfamilies.com/service-programs/child-care/docs/gold-seal/Summary%20Dec%202020.pdf>.

<sup>74</sup> Section 1002.895, F.S.



The market rate schedule must also differentiate rate by the type of child care services provided, including services provided for:

- Children with special needs or risk categories.
- Infants, toddlers, preschool-age children, and school-age children.
- Full-time and part-time child care.<sup>75</sup>

Reimbursement rates for school readiness providers are paid based on a child's care level and unit of care as defined by the ELC's approved provider rate schedule for the county in which the provider's facility is located.<sup>76</sup> ELCs are required to consider the market rate schedule in the adoption of a payment schedule.

The payment schedule must consider the average market rate, include the projected number of children to be served, and be submitted for approval by the OEL. Informal child care arrangements may be reimbursed at no more than 50 percent of the rate adopted for a family day care home.<sup>77</sup>

The 2019 market rate report includes a state summary that reflects market rates by provider type and service type. For example, the average market rate in the state for GSQC designated private child care centers was \$42.01 for services provided to infants. The 75<sup>th</sup> percentile rate for the same services was \$48.26. The reimbursement rate for GSQC designated private centers was \$36.00. For private centers without a GSQC designation, the average market rate was \$36.71 for services provided to infants, and the 75<sup>th</sup> percentile rate was \$40.00, and the reimbursement rate was \$30.00.<sup>78</sup>

### **Research-Based Reading Allocation**

The state allocates funding to school districts for research-based reading instruction to students in kindergarten through grade 12.<sup>79</sup> Funds must be used to provide a system of comprehensive reading instruction to students enrolled in kindergarten through grade 12, including:<sup>80</sup>

- An additional hour of intensive reading instruction beyond the normal school day for students in the 300 lowest-performing elementary schools.
- Reading intervention teachers and reading coaches.
- Professional development for teachers to earn a certification or an endorsement in reading.
- Summer reading camps for students in kindergarten through grade 5 who exhibit certain reading deficiencies, depending on grade level.<sup>81</sup>

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<sup>75</sup> *Id.*

<sup>76</sup> Rule 6M-4.500, F.A.C.

<sup>77</sup> Section 1002.895, F.S.

<sup>78</sup> Office of Early Learning, *2019 Market Rate Report: State Summary*, available at

<http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/Market%20Rate%20FY1920%20Report%20Full%20Time%20Statewide%20Summary-ADA-Final.pdf>.

<sup>79</sup> Section 1011.62(9), F.S. The state appropriated \$130 million to school districts for the research-based reading instruction allocation for the 2020-2021 fiscal year. Specific Appropriations 8 and 92, s. 2, ch. 2020-111, L.O.F.

<sup>80</sup> Section 1011.62(9)(c), F.S.

<sup>81</sup> All students in kindergarten through grade 2 who demonstrate a reading deficiency as determined by district and state assessments, and students in grades 3 through 5 who score at Level 1 on the statewide, standardized English Language Arts assessment. Section 1011.62(9)(c)5., F.S.

- Supplemental instructional materials that are grounded in scientifically based reading research as identified by the Just Read, Florida! Office (JRFO).
- Intensive interventions for students in kindergarten through grade 12 who have been identified as having a reading deficiency or who are reading below grade level as determined by the statewide, standardized ELA assessment.

District school boards must develop reading plans which detail the specific uses of the research-based reading instruction allocation. The plans must be annually submitted to the DOE for approval and provide for intensive reading interventions through integrated curricula that incorporate strategies identified by the JRFO and are delivered by a teacher who is certified or endorsed in reading. The DOE monitors and tracks the implementation of each district plan and collects specific data on expenditures and reading improvement results. By February 1 of each year, the DOE reports its findings to the Legislature.<sup>82</sup>

### III. Effect of Proposed Changes:

The bill expands accountability and assessment requirements for Voluntary Prekindergarten Education Program (VPK) providers. Specifically, the bill requires:

- A coordinated screening and progress monitoring program (CSPM) for students in VPK through grade 3 to provide information on students' progress in mastering the appropriate grade-level standards to parents, teachers, and school and program administrators.
- Beginning in the 2022-2023 program year, a program assessment composite score for each VPK provider based on the results of a program assessment that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages 3 to 5 years, in each VPK classroom.
- A performance metric that provides a score to each VPK provider based on the results of the CSPM, including learning gains, and the program assessment, beginning in the 2022-2023 program year.
- The assignment of a performance designation for VPK providers beginning with the 2023-2024 program year.

The bill creates the Council for Early Grade Success within the Department of Education (DOE) to oversee the CSPM and requires the new screenings and assessments to be administered by qualified individuals.

The bill modifies the market rate schedule paid to school readiness providers to require a market rate schedule based on the prevailing market rate. The bill authorizes early learning coalitions to adopt an alternative payment schedule that has been approved by the federal Administration for Children and Families. The bill also transfers the Gold Seal Quality Care program to the Office of Early Learning (OEL) from the Department of Children and Families and adds standards for accrediting associations.

#### Early Learning Coalitions

<sup>82</sup> Section 1011.62(9)(d)1., F.S.

The bill makes early learning coalitions (ELCs) responsible for ensuring that public schools delivering the VPK program comply with VPK program requirements. The bill also requires ELCs to be evaluated on performance through deployment of customer service surveys.

Specifically, the bill:

- Requires the results of the customer service surveys of ELCs to be based on a statistically significant sample size and calculated annually for each ELC and included in the DOE's annual report.
- Requires the OEL, beginning in 2023-2024 fiscal year, to place an ELC on a one-year corrective action plan if its customer satisfaction survey results fall below 60 percent, and authorizes the OEL to remove the ELC's eligibility, contract out, or merge the ELC to administer early learning programs if the ELC does not improve through corrective action.
- Requires the DOE to adopt procedures for merging ELCs for failure to meet the requirements for delivering early learning programs, including procedures for the consolidation of merging coalitions that minimizes duplication of programs and services due to the merger, and for the early termination of the terms of the coalition members which are necessary to accomplish the mergers.

The bill also modifies the membership requirements of ELCs. Specifically, the bill:

- Removes the requirement that ELCs appoint a central agency administrator, where applicable.
- Authorizes, in the absence of a governor-appointed chair, the commissioner to appoint an interim chair from the current ELC board membership.
- Adds to the requirement of existing law that each ELC include a children's services council or juvenile welfare board chair or executive director to additionally require that each ELC must include a children's services council or juvenile welfare board chair or executive director from each county within the ELC's jurisdiction.
- Clarifies that a Department of Children and Families (DCF) child care regulation representative may serve as an alternative to the required member who also serves as an agency head.
- Authorizes an ELC to request an alternate ELC member who meets the same qualifications or membership requirements of a member who the ELC determines is not participating.
- Authorizes ELCs to appoint additional members who are independent private sector business members.
- Requires each ELC to complete an annual evaluation of the ELC's executive director or chief executive officer. The annual evaluation must be submitted to the commissioner by August 30 of each year.

### **The Voluntary Prekindergarten Education Program**

The bill modifies performance standards for VPK providers, instructors, and students. The bill also adds to the list of eligible VPK providers:

- A nationally accredited child development program operating on a certified military installation, which may also demonstrate required liability coverage by affirming that it is subject to jurisdiction under the federal Tort Claims Act.<sup>83</sup>

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<sup>83</sup> 28 U.S.C. s. 2671.

- A private prekindergarten provider with a provisional child care facility license.

### ***VPK Instructor Requirements***

The bill modifies requirements for VPK instructors and administrators by adding to the requirement that school districts give priority to teachers who have experience or coursework in early childhood education that the teachers must also have completed emergent literacy and performance standards courses. The bill also provides that:

- A VPK instructor in a class of 11 or less children must complete two additional emergent literacy training courses, for a total of three, and adds that they must include developmentally appropriate and experiential learning practices for children.
- Completion of the course must be part of the informal early learning career pathway and be available online or in person.
- A prekindergarten director credential must include training in the implementation of curriculum and usage of student level data to inform the delivery of instruction.
- The possession of a child care facility director credential completed before the later of the establishment of the prekindergarten director credential or July 1, 2006, no longer satisfies the requirement that a private VPK provider have a prekindergarten director who has a prekindergarten director credential.
- A certificate in educational leadership issued by the OEL to a private school administrator satisfies the requirement for a prekindergarten director credential.
- VPK curricula must support student learning gains through differentiated instruction as measured by the CSPM.

The bill modifies requirements for professional development training courses to require the DOE to make professional development courses available that train prekindergarten instructors and increase the competency of teacher-child interactions. Each course must be comprised of at least eight clock hours and be available online.

### ***VPK Performance Standards***

The bill modifies the performance standards for students in the VPK program and adds mathematical thinking and early math skills to the list of student skills required to be addressed in performance standards adopted by the OEL for the VPK program. The bill also:

- Adds early math skills to the required curricula of a VPK provider and the training courses that the OEL must adopt procedures for approving.
- Removes the requirement that performance standards be tied to the statewide kindergarten screening.
- Modifies the existing requirement that the OEL periodically review and revise the performance standards to require the OEL to review and revise the standards at least once every three years.

The bill repeals the existing statewide kindergarten readiness screening, but requires public schools to administer a statewide kindergarten screening in the 2021-2022 academic year within the first 30 school days and authorizes private schools to administer the statewide kindergarten screening.

### *Coordinated Screening and Progress Monitoring*

The bill requires the Commissioner of Education (commissioner) to design a statewide, standardized CSPM to assess early literacy, dyslexia, and mathematics skills, and the English Language Arts and mathematics standards established in law.

Beginning in the 2022-2023 academic year, the bill requires all VPK and public school kindergarten students to participate in the CSPM within the first 30 days of enrollment, midyear, and within the last 30 days of the school year. The bill requires each parent who enrolls a child in VPK to allow the child to participate in the CSPM.

The bill establishes the purposes of the CSPM. Specifically, the bill requires the CSPM to:

- Provide interval level and norm-referenced data that measures equivalent levels of growth;
- Be a developmentally appropriate, valid and reliable direct assessment;
- Be able to capture data on students who may be performing below grade or developmental level and which may enable the identification of early indicators of dyslexia or other developmental delays;
- Accurately measure the core content in the applicable grade level standards;
- Document learning gains for the achievement of these standards; and
- Provide teachers with progress monitoring supports and materials that enhance differentiated instruction and parent communication.

The bill provides requirements for the use of data obtained from the administration of the CSPM. Specifically, the bill provides that the data from the CSPM must be used by VPK providers and school districts to improve instruction. The data must also be used by teachers to guide learning objectives and provide timely and appropriate supports and interventions to students not meeting grade level expectations.

The bill requires the results of the CSPM to be reported to the DOE for inclusion in the educational data warehouse and requires the OEL to use the data to:

- Identify student learning gains;
- Index development learning outcomes upon program completion relative to performance standards and representative norms; and
- Inform a provider's performance metric.

The bill requires each VPK provider and public school to provide parents with screening or progress monitoring results within seven days.

### Research-Based Reading Allocation

The bill requires any VPK student with a substantial early literacy deficiency to be referred to the local school district. The local school district may provide the student intensive reading intervention using the research-based reading allocation before the student's participation in kindergarten. The bill also requires ELCs and school district representatives to meet annually to develop strategies to transition students from VPK to kindergarten.

The bill modifies the research-based reading instruction allocation to require intensive reading instruction provided under the allocation to be evidence-based and supplemental instructional materials to be scientifically-researched and evidence-based. The bill defines “evidence-based” as demonstrating a statistically significant effect on improving student outcomes or other relevant outcomes.

#### Council for Early Grade Success

The bill creates the Council for Early Grade Success (Council) and requires the commissioner to coordinate with the Council to develop a plan for implementation of the CSPM in consideration of the timelines for implementing new early literacy and mathematics skills and the English Language Arts and mathematics standards and the VPK program standards. The bill requires the commissioner to provide data, reports, and information as requested to the Council. The bill also provides that the Council be composed of 17 members, who must all be residents of the state, and include:

- Three members appointed by the Governor, to include:
  - One representative from the DOE.
  - One parent of a child who is four to nine years of age.
  - One representative who is a school principal.
- Seven members appointed jointly by the President of the Senate, as follows:
  - One senator who serves at the pleasure of the President of the Senate.
  - One representative of an urban school district.
  - One representative of a rural early learning coalition.
  - One representative of a faith-based early learning provider that offers the Voluntary Prekindergarten Education Program.
  - One representative who is a second grade teacher with at least 5 years of teaching experience.
  - Two representatives with subject matter expertise in early learning, early grade success, or child assessments.
- Seven members appointed by the Speaker of the House of Representatives, as follows:
  - One member of the House of Representatives who serves at the pleasure of the Speaker of the House.
  - One representative of a rural school district.
  - One representative of an urban early learning coalition.
  - One representative of an early learning provider that offers the Voluntary Prekindergarten Education Program.
  - One member who is a kindergarten teacher with at least 5 years of teaching experience.
  - Two representatives with subject matter expertise in early learning, early grade success, or child assessment.

The bill requires the Council to elect a chair and vice chair. The chair must be one of the four members with subject matter expertise and the vice chair must be a member appointed by the President of the Senate and Speaker of the House. The bill requires the Council to meet at least bi-annually in person or by teleconference to:

- Review the implementation of, training for, and outcomes of the CSPM and provide recommendations to the DOE to support grade-level reading by grade three.
- Identify appropriate personnel, processes, and procedures for administration of the CSPM.

- Continually review data and inform the DOE on recommendations to achieve grade level proficiency by grade three.
- Make recommendations to the DOE regarding the:
  - Methodology for calculating the performance metric and grading system for VPK providers.
  - Methodology for determining kindergarten readiness.
  - Age-appropriate learning gains by grade level required to demonstrate proficiency by grade 3.

### ***Performance Metric***

The bill requires the OEL to adopt a performance metric to measure the effectiveness of a VPK provider. For the 2020-2021 program year, the OEL must calculate the kindergarten readiness rate for each VPK provider based upon learning gains and the percentage of students who are assessed as ready for kindergarten.

The OEL must adopt a methodology for the performance metric beginning in the 2022-2023 program year. The performance metric must include:

- Program assessment composite scores weighted at no less than 50 percent.
- Learning gains from the initial and final progress monitoring results. The learning gains must be determined using a value-added measure based on growth demonstrated by the results of the pre-and post-assessment in use before the 2021-2022 program year.
- Norm-referenced developmental learning outcomes.

The bill requires the methodology for calculating the performance metric to include only prekindergarten students who have attended at least 85 percent of a VPK provider's program as opposed to the current 75 percent attendance rate required for inclusion in the kindergarten readiness rate.

The methodology must also include a statistical latent profile analysis that must be able to produce a limited number of program performance metric profiles that summarize all programs' profiles that inform the assignment of designations of "unsatisfactory," "emerging proficiency," "proficient," "highly proficient," and "excellent" or comparable terminology determined by the OEL, which may not include letter grades. The designation must be displayed as associated with delivery of the VPK program in the provider's performance profile and accessible through the CCR&R.

Beginning in the 2023-2024 academic year, the OEL must calculate each VPK provider's performance metric and designation within 45 days of the conclusion of the delivered school year or summer program.

The bill specifies that the grading system adopted by the OEL must provide for a differential payment to VPK providers based on program performance, and subject to appropriation. The maximum differential payment may not exceed 15 percent of the base student allocation per full-time equivalent student. A VPK provider may not receive a differential payment if it is assigned a designation of "proficient" or below.

The bill adds the performance metric of a VPK provider to the information that the OEL must publish and provide to each parent enrolling a child in the VPK program.

### ***Probation***

The bill specifies that a designation of “proficient” or better demonstrate satisfactory delivery of the VPK program. If a VPK provider fails to meet the minimum program assessment composite score, the provider may not participate in the VPK program until the provider meets the minimum composite score for contracting. The bill authorizes VPK providers to request an additional program assessment in order to requalify for the same program year.

If a VPK provider fails to meet the minimum performance metric or designation, the bill requires the applicable ELC to place the VPK provider on probation and requires the provider to:

- Submit an improvement plan for approval by the ELC and implement the plan; and
- Implement a curriculum approved by the OEL; or
- Implement a staff development plan to strengthen instructional practices in emotional support, classroom organization, instructional support, language development, phonological awareness, alphabet knowledge, and mathematical thinking.

The probation period lasts until the VPK provider attains the minimum required performance metric or grade. The bill requires an annual notification by the OEL to any providers who have been placed on probation and continue to fail to meet the minimum performance metric. The failure to comply with the probation or attain the minimum performance metric after two years of probation must result in the VPK provider’s suspension from the program for a period of two to five years, as determined by the applicable ELC.

The bill also prohibits a VPK provider from delivering the VPK program if the provider’s license has been converted to a probation-status license by the DCF.

### ***Good Cause Exemption***

The bill authorizes the OEL to grant a VPK provider a good cause exemption from being determined ineligible to deliver the VPK program and receive state funds for the program. The exemption is valid for one year and is renewable. A request for a good cause exemption must include data from:

- The VPK provider which documents the achievement and progress of the children served, as measured by any required screenings or assessments.
- Program assessments which demonstrates effective teaching practices as recognized by the tool developer.
- The ELC or district school board, the DCF, or the local licensing authority reflecting compliance with state and local health and safety standards.

The bill requires the OEL to adopt criteria to consider when determining whether to grant a request for an exemption. The criteria must include:

- Child demographic data that evidences a VPK provider serves a statistically significant population of children with special needs who have individual education plans and can demonstrate progress toward meeting the goals outlined in the student's individual education plans.



- Learning gains of children served in the VPK program on an alternative measure that has comparable validity and reliability of the screening and progress monitoring program.
- Program assessment data which demonstrates effective teaching practices as recognized by the contracted expert.
- Verification that local and state health and safety requirements are met.

The bill prohibits the OEL from granting a good cause exemption to any VPK provider that has any class I violations involving an imminent threat to the health, safety, or welfare of a student or two or more class II<sup>84</sup> violations involving an unreasonable risk to the health, safety, or welfare of a student within the two years preceding the provider's request for an exemption. The OEL is required to inform the applicable ELC if an exemption is granted to a VPK provider that remains on probation for two consecutive years.

The bill requires each ELC to verify VPK provider compliance with the statutory requirements for delivering the VPK. The OEL must require each applicable ELC or school district, as appropriate, to suspend a provider who refuses to comply with VPK requirements or commits misconduct. The ELC or school district must suspend the provider's eligibility to provide VPK for a period of two to five years.

The bill incorporates the number of good cause exemptions and justifications into the annual reporting requirements of the OEL.

The bill provides additional transparency of VPK and School Readiness program providers by requiring the following additional information be accessible through the CCR&R:

- Whether the provider participates in the Child Care Food Program.
- A link to licensing inspection reports.
- A VPK provider's performance metric, including its program assessment composite score, learning gains score, achievement score, and its designations.
- A School Readiness provider's program assessment composite score, including care-level composite scores delineated by infant, toddler, and preschool classrooms.
- Whether a School Readiness program participates in child observation assessments.
- Whether the provider holds a GSQC designation.
- Whether the provider implements an OEL-approved curriculum and the name of the curriculum.

### **The School Readiness Program**

The bill modifies requirements for regulating the school readiness program. Specifically, the bill:

- Modifies the requirement that the OEL adopt rules for ELCs in the implementation of statewide procedures. The bill instead requires the OEL to provide technical support to ELCs to facilitate the use of a standard statewide provider contract adopted by the OEL.
- Requires the OEL to monitor the alignment and consistency of the standards and benchmarks that address the age-appropriate progress of children in the development of school readiness

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<sup>84</sup> Class I and Class II violations are defined in s. 402.281(4), F.S.

skills. This requirement modifies existing law which only requires the OEL to develop and adopt the standards and benchmarks.

- Requires the OEL to evaluate ELCs in the administration of school readiness programs at least biennially.

The bill modifies requirements for school readiness providers. Specifically, the bill:

- Exempts a qualified provider at a military installation from child care facility licensing requirements, health and safety and immunization requirements, and liability coverage requirements.
- Authorizes provisionally licensed child care facilities or homes to deliver the school readiness program.
- Prohibits a child care facility or home from delivering the school readiness program while its license is on a probation status.
- Provides that the OEL and the ELCs may not require a school readiness provider to administer a VPK program assessment.
- Clarifies that a contract with a qualified entity to administer a regional school readiness program in the place of a noncompliant ELC lasts until the OEL reestablishes or merges the ELC and a new school readiness plan is approved.
- Adds a parent's participation in an Early Head Start or Head Start Program to the list of circumstances that qualify for waiver of a school readiness program copayment.

### ***Market Rate***

The bill modifies the market rate to be paid to school readiness providers by the OEL. Specifically, the bill:

- Redefines the average market rate as the “prevailing market rate” to mean the biennially determined 75<sup>th</sup> percentile of a reasonable frequency distribution of the market rate by program level and provider type in a geographical market at which child care providers charge a person for child care services.
- Modifies the requirement that the market rate include minimum and maximum rates for GSQC providers to clarify that the GSQC providers included in the determination of rates must also adhere to the teacher to child ratios and group size requirements of their respective accrediting associations.
- Clarifies that the payment schedule must account for the prevailing market rate and the projected number of children served in each county.
- Removes the requirement for each ELC to consider the market rate schedule.
- Removes the requirement that informal child care arrangements be reimbursed at 50 percent or less than the rate adopted for a family day care home.
- Authorizes the OEL to establish, and ELCs to adopt, an alternative model for determining payments to providers for delivering the school readiness program.

### ***Contracted Slots***

The bill requires, by July 1, 2022, the OEL to develop and adopt requirements for the implementation of a program designed to make available contracted slots to serve children at the greatest risk of school failure as determined by being located in an area that has been designated as a poverty area tract according to the latest census data.

The bill also provides that the contracted slot program may be used to increase the availability of child care capacity based on the assessment of local priorities within the county or multicounty region based on the needs of families and provider capacity using available community data.

### ***Gold Seal Quality Care Program***

The bill provides for a type two transfer<sup>85</sup> of the GSQC program from the DCF to the OEL and requires the OEL to adopt rules establishing GSQC accreditation standards using nationally recognized accrediting standards as well as input from accrediting associations. The bill requires the OEL to adopt rules to provide criteria for reviewing and approving accrediting associations and for conferring and revoking GSQC status. The transfer of power includes only contracts that were in existence prior to July 1, 2020.

The bill codifies and specifies standards for approval of accrediting associations by the DOE for participation in the GSQC Program. In order to be approved by the DOE, an accrediting association must apply to the DOE and demonstrate that it is operational and:

- Is a recognized accrediting association.<sup>86</sup>
- Meets or exceeds State Board of Education (SBE) standards.<sup>87</sup>
- Is a registered corporation with the Department of State.
- Accreditation requirements that include clearly defined accreditation prerequisites and procedures for:
  - Completion of a self-study and comprehensive onsite verification for each classroom that documents compliance with standards.
  - Training for accreditation verifiers to ensure inter-rater reliability.
  - Ongoing compliance to include the filing of an annual report with the accrediting association;
  - Renewal requiring onsite verification at least every five years.
  - Verifying compliance upon transfer of ownership.
  - Revoking accreditation.
  - Communicating issues to state agencies with oversight.

The bill requires the OEL to review and recommend to the SBE the termination of an accrediting association that fails to cure within 30 days any deficiencies noted by the OEL in the processes and procedures submitted to and approved by the OEL. The OEL must remove a noncompliant accrediting association for a period of two to five years. The bill provides one year for a child care provider that was accredited by a noncompliant accrediting association to obtain a new accreditation from an approved accrediting association.

If a child care provider is ineligible for GSQC status because of a class I violation, the bill authorizes the OEL to recommend to the OEL to maintain the GSQC designation if the provider has been in business for five years with no other class I violations. The bill requires licensed or legally exempt child care facilities that participate in the school readiness program and achieve

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<sup>85</sup> A program transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred. Section 20.06, F.S.

<sup>86</sup> This is an existing statutory requirement of the DCF GSQC Program.

<sup>87</sup> This is an existing statutory requirement of the DCF GSQC Program.

GSQC status to receive at least a 20 percent rate differential for each enrolled school readiness child by care level and unit of child care. An accrediting association is liable under the bill for the repayment of any rate differentials paid to a facility as a result of a GSQC designation if the accrediting association fraudulently granted the designation.

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:

Private providers may incur costs associated with having their VPK instructors complete at least three qualifying emergent literacy training courses by July 1, 2021.

In addition, private providers may incur costs associated with computer equipment needed to administer the new coordinated screening and progress monitoring system.

C. Government Sector Impact:

The DOE estimated the cost at \$1.5 million per grade level to annually administer the progress monitoring assessment.<sup>88</sup> In order to administer the assessment a minimum of

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<sup>88</sup> E-mail from Bethany Swanson, Deputy Chief of Staff, Florida Department of Education (March 10, 2021) (on file with the Senate Appropriations Subcommittee on Education).

three times per year for grade levels PK-3, the total recurring cost is estimated to be \$22.5 million. These costs would be offset, in part, by the elimination of the current VPK assessment and kindergarten screening in fiscal year 2022-2023. To assist with the procurement of the new system and its ongoing management, the department anticipates needing one additional Program Specialist IV position, at a cost of \$87,075 annually. School districts may also incur costs associated with computer equipment needed to administer the new assessments.

The DOE estimated a cost of \$5 million to implement the VPK program assessment requirements associated with teacher training and support; technology system to capture results from CLASS observations; technology system to track data by provider and includes improvement plans/processes; and costs associated with conducting the observations.<sup>89</sup>

The potential impact of the requirement to provide for a differential payment to VPK providers will not be known until after new performance metrics are developed in the 2022-2023 program year. Any additional funding for this provision is subject to an appropriation.

#### **VI. Technical Deficiencies:**

The bill provides that a certificate in educational leadership issued by the Office of Early Learning to a private school administrator satisfies the requirement for a prekindergarten director credential. The Department of Education, however, is the agency that issues the certificate in educational leadership.<sup>90</sup>

#### **VII. Related Issues:**

None.

#### **VIII. Statutes Affected:**

The bill substantially amends the following sections of the Florida Statutes: 39.604, 212.08, 402.26, 402.315, 1001.213, 1001.215, 1001.23, 1002.32, 1002.53, 1002.55, 1002.57, 1002.59, 1002.61, 1002.63, 1002.67, 1002.73, 1002.79, 1002.81, 1002.82, 1002.83, 1002.84, 1002.85, 1002.88, 1002.895, 1002.92, 1008.25, and 1011.62.

The bill repeals the following sections of the Florida Statutes: 1002.69, and 1002.75.

The bill creates the following sections of the Florida Statutes: 1002.68, and 1008.2125.

The bill transfers and renumbers section 402.281 of the Florida Statutes as section 1002.945.

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<sup>89</sup> *Id.*

<sup>90</sup> Rule 6A-4.082, F.A.C.

**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 April 21, 2021:**

The committee substitute:

- Removes provisions of the bill consolidating authority and oversight of early learning programs within the State Board of Education. However, the amendment retains the transfer from the Department of Children and Families to the Office of Early Learning (OEL) the administration of the Gold Seal Quality Care Program for child care facilities. The committee substitute also limits the transfer to contracts that were in existence before July 1, 2020. The committee substitute also:
  - Advances to July 1, 2021, the requirement for prekindergarten instructors to complete additional emergent literacy training courses.
  - Removes the requirement for the DOE to calculate a program assessment composite score threshold for the 2021-2022 program year that VPK providers must meet. Authorizes VPK providers to request one program assessment per program year in order to requalify for participation in the VPK program. If a VPK provider would like an additional program assessment completed within the same program year, the VPK provider will be responsible for the cost of the program assessment.
  - Authorizes the OEL to establish an alternative model of payments to school readiness providers that has been approved by the Administration for Children and Families pursuant to federal law.
  - Requires the OEL to establish procedures for an alternative model of calculating reimbursements to school readiness providers when an alternative model has been approved by the Administration for Children and Families pursuant to federal law.
  - Requires early learning coalitions to adopt an alternative model that has been approved by the Administration for Children and Families pursuant to federal law, for a payment schedule to school readiness providers.
  - Specifies that the customer service surveys established in the bill to determine performance of early learning coalitions must be statistically valid and conducted by a state university or other independent researcher with specific expertise in customer service survey development. The committee substitute postpones from 2022-2023 to the 2023-2024 program year the deployment of the survey.
  - Modifies the membership of the Council for Early Grade Success created in the bill. The amendment removes the thirteen joint appointments and requires seven appointments each from the Senate President and the House Speaker, and adds one appointment from the Governor.
  - Restores the Child Care Executive Partnership Program which was repealed in the bill.
  - Removes the appropriations provided for by the bill.
- Removes the requirement of the bill that the annual evaluation by the ELC of the director or be completed on forms adopted by the Office of Early Learning and shifts the deadline for the submission of the evaluations from June 30 to August 30.
- Specifies that, for the 2021-2022 program year:

- A provider may not be newly placed on probationary status.
- A provider that is already on probationary status but earns the minimum rate may be removed from probation.
- A provider that is already on probationary status but does not meet the minimum rate must remain on probation in their existing status.
- The methodology for calculating a provider's readiness rate may not include students who are not administered the statewide kindergarten screening.
- Kindergarten screening results may not be used in the calculation of readiness rates.
- Removes the requirement of the bill:
  - That would have removed students from the performance metric methodology if they attended less than 85% of a program. The amendment removes from the performance metric calculations students who are not administered the coordinated screening and progress monitoring.
  - That the performance metric methodology be developed by an independent expert and instead requires the Office of Early Learning to develop the methodology.
- Includes a technical clarification that a VPK program is not entitled to a second chance at passing a program assessment if the program is otherwise ineligible to deliver the program.
- Removes from the bill the requirement for an independent expert to develop the methodology for determining kindergarten readiness rates and instead requires the DOE to develop the methodology and requires alignment to the methodology adopted by the OEL.
- Removes the provision of the bill that would have required ELCs to remove a public school VPK provider from eligibility to deliver VPK for reasons related to misconduct, but retains other provisions that require ELCs to monitor the compliance of public school VPK providers.
- Removes the requirement of the bill that would have required that VPK providers meet the same minimum program assessment composite score required of school readiness providers.

**B. Amendments:**

None.

By Senator Harrell

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1 A bill to be entitled  
 2 An act relating to early learning and early grade  
 3 success; amending s. 20.055, F.S.; conforming  
 4 provisions to changes made by the act; amending s.  
 5 20.15, F.S.; deleting the Office of Early Learning  
 6 from within the Office of Independent Education and  
 7 Parental Choice of the Department of Education;  
 8 establishing the Division of Early Learning within the  
 9 department; amending s. 39.202, F.S.; conforming  
 10 provisions to changes made by the act; amending s.  
 11 39.604, F.S.; revising approved child care or early  
 12 education settings for the placement of certain  
 13 children; conforming a cross-reference to changes made  
 14 by the act; amending s. 212.08, F.S.; conforming  
 15 provisions and cross-references to changes made by the  
 16 act; ss. 216.136, 383.14, 391.308, and 402.26, F.S.;  
 17 conforming provisions to changes made by the act;  
 18 transferring, renumbering, and amending s. 402.281,  
 19 F.S.; revising the requirements of the Gold Seal  
 20 Quality Care program; requiring the State Board of  
 21 Education to adopt specified rules; revising  
 22 accrediting association requirements; providing  
 23 requirements for accrediting associations; requiring  
 24 the department to establish a specified process;  
 25 providing requirements for such process; deleting a  
 26 requirement for the department to consult certain  
 27 entities for specified purposes; providing  
 28 requirements for certain providers to maintain Gold  
 29 Seal Quality Care status; providing exemptions to

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30 certain ad valorem taxes; providing rate differentials  
 31 to certain providers; providing for a type two  
 32 transfer of the Gold Seal Quality Care program in the  
 33 Department of Children and Families to the Department  
 34 of Education; providing for the continuation of  
 35 certain contracts and interagency agreements; amending  
 36 s. 402.315, F.S.; conforming a cross-reference;  
 37 amending s. 402.56, F.S.; revising the membership of  
 38 the Children and Youth Cabinet; amending ss. 411.227,  
 39 414.295, 1000.01, 1000.02, 1000.03, 1000.04, 1000.21,  
 40 1001.02, 1001.03, 1001.10, and 1001.11, F.S.;  
 41 conforming provisions to changes made by the act;  
 42 repealing s. 1001.213, F.S., relating to the Office of  
 43 Early Learning; amending ss. 1001.215, 1001.23,  
 44 1001.70, 1001.706, F.S.; conforming provisions to  
 45 changes made by the act; amending ss. 1002.22,  
 46 1002.32, F.S.; conforming cross-references; amending  
 47 ss. 1002.34, and 1002.36, F.S.; conforming provisions  
 48 and to changes made by the act; amending s. 1002.53,  
 49 F.S.; revising the requirements for certain program  
 50 provider profiles; requiring each parent who enrolls  
 51 his or her child in the Voluntary Prekindergarten  
 52 Education Program to allow his or her child to  
 53 participate in a specified screening and progress  
 54 monitoring program; amending s. 1002.55, F.S.;  
 55 authorizing certain child development programs  
 56 operating on a military installation to be private  
 57 prekindergarten providers within the Voluntary  
 58 Prekindergarten Education Program; providing that a

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59 private prekindergarten provider is ineligible for  
 60 participation in the program under certain  
 61 circumstances; revising requirements for  
 62 prekindergarten instructors; revising requirements for  
 63 specified courses for prekindergarten instructors;  
 64 providing that a private school administrator who  
 65 holds a specified certificate meets certain credential  
 66 requirements; providing liability insurance  
 67 requirements for child development programs operating  
 68 on a military installation participating in the  
 69 program; requiring early learning coalitions to verify  
 70 private prekindergarten provider compliance with  
 71 specified provisions; requiring such coalitions to  
 72 remove a provider from eligibility under specified  
 73 circumstances; amending s. 1002.57, F.S.; revising the  
 74 minimum standards for a credential for certain  
 75 prekindergarten directors; amending s. 1002.59, F.S.;  
 76 revising requirements for emergent literacy and  
 77 performance standards training courses for  
 78 prekindergarten instructors; requiring the department  
 79 to make certain courses available; amending s.  
 80 1002.61, F.S.; authorizing certain child development  
 81 programs operating on a military installation to be  
 82 private prekindergarten providers within the summer  
 83 Voluntary Prekindergarten Education Program; revising  
 84 the criteria for a teacher to receive priority for the  
 85 summer program in school district; requiring a child  
 86 development program operating on a military  
 87 installation to comply with specified criteria;

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88 requiring early learning coalitions to verify  
 89 specified information; providing for the removal of a  
 90 program provider or public school from eligibility  
 91 under certain circumstances; amending s. 1002.63,  
 92 F.S.; requiring early learning coalitions to verify  
 93 specified information; providing for the removal of  
 94 public schools from the program under certain  
 95 circumstances; amending s. 1002.67, F.S.; revising the  
 96 performance standards for the Voluntary  
 97 Prekindergarten Education Program; requiring the  
 98 department to review and revise performance standards  
 99 on a specified schedule; revising curriculum  
 100 requirements for the program; requiring the department  
 101 to adopt procedures for the review and approval of  
 102 curricula for the program; deleting a required  
 103 preassessment and postassessment for the program;  
 104 creating s. 1002.68, F.S.; requiring providers of the  
 105 Voluntary Prekindergarten Education Program to  
 106 participate in a specified screening and progress  
 107 monitoring program; providing specified uses for the  
 108 results of such program; requiring certain portions of  
 109 the screening and progress monitoring program to be  
 110 administered by individuals who meet specified  
 111 criteria; requiring the results of specified  
 112 assessments to be reported to the parents of  
 113 participating students; providing requirements for  
 114 assessments of voluntary prekindergarten education  
 115 classrooms; providing department duties and  
 116 responsibilities relating to such assessments;

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117 providing requirements for a specified methodology  
 118 used to calculate the results of such assessments;  
 119 requiring the department to establish a designation  
 120 system for program providers; providing for the  
 121 adoption of a minimum performance metric or  
 122 designation for program participation; providing  
 123 procedures for a provider whose score or designation  
 124 falls below the minimum requirement; providing for the  
 125 revocation of program eligibility for a provider;  
 126 authorizing the department to grant good cause  
 127 exemptions to providers under certain circumstances;  
 128 providing department and provider requirements for  
 129 such exemptions; requiring an annual meeting of  
 130 representatives from specified entities to develop  
 131 certain strategies; repealing s. 1002.69, F.S.,  
 132 relating to statewide kindergarten screening and  
 133 readiness rates; amending ss. 1002.71 and 1002.72,  
 134 F.S.; conforming provisions to changes made by the  
 135 act; amending s. 1002.73, F.S.; requiring the  
 136 department to adopt a standard statewide provider  
 137 contract; requiring such contract to be published on  
 138 the department's website; providing requirements for  
 139 such contract; prohibiting providers from offering  
 140 services during an appeal of termination from the  
 141 program; providing applicability; requiring the  
 142 department to adopt specified procedures relating to  
 143 the Voluntary Prekindergarten Education Program;  
 144 providing duties of the department relating to such  
 145 program; repealing s. 1002.75, F.S., relating to the

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146 powers and duties of the Office of Early Learning;  
 147 amending ss. 1002.79 and 1002.81, F.S.; conforming  
 148 provisions and cross-references to changes made by the  
 149 act; amending s. 1002.82, F.S.; providing duties of  
 150 the department relating to early learning; exempting  
 151 certain child development programs operating on a  
 152 military installation from specified inspection  
 153 requirements; requiring the department to monitor  
 154 specified standards and benchmarks for certain  
 155 purposes; revising the age range used for specified  
 156 standards; requiring the department to provide  
 157 specified technical support; revising requirements for  
 158 a specified assessment program; requiring the  
 159 department to adopt requirements to make certain  
 160 contracted slots available to serve specified  
 161 populations; requiring the department adopt certain  
 162 standards and outcome measures including specified  
 163 surveys; requiring the department to adopt procedures  
 164 for the merging of early learning coalitions; revising  
 165 the requirements for a specified report; amending s.  
 166 1002.83, F.S.; revising the number of authorized early  
 167 learning coalitions; revising the number of and  
 168 requirements for members of an early learning  
 169 coalition; revising and adding requirements for such  
 170 coalitions; amending s. 1002.84, F.S.; revising early  
 171 learning coalition responsibilities and duties;  
 172 revising requirements for the waiver of specified  
 173 copayments; amending s. 1002.85, F.S.; revising the  
 174 requirements for school readiness program plans;

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175 amending s. 1002.88, F.S.; authorizing certain child  
 176 development programs operating on military  
 177 installations to participate in the school readiness  
 178 program; revising requirements to deliver such  
 179 program; providing that a specified annual inspection  
 180 for a child development program participating in the  
 181 school readiness program meets certain provider  
 182 requirements; providing requirements for a child  
 183 development program to meet certain liability  
 184 requirements; amending ss. 1002.89, 1002.895, and  
 185 1002.91, F.S.; conforming provisions and cross-  
 186 references to changes made by the act; amending s.  
 187 1002.92, F.S.; revising the requirements for specified  
 188 services that child care resources and referral  
 189 agencies must provide; amending s. 1002.93, F.S.;  
 190 conforming provisions to changes made by the act;  
 191 repealing s. 1002.94, F.S., relating to the Child Care  
 192 Executive Partnership Program; amending ss. 1002.95,  
 193 1002.96, 1002.97, 1002.995, and 1007.01, F.S.;  
 194 conforming provisions to changes made by the act;  
 195 creating s. 1008.2125, F.S.; creating the coordinated  
 196 screening and progress monitoring program within the  
 197 department for specified purposes; requiring the  
 198 Commissioner of Education to design such program;  
 199 providing requirements for the administration of such  
 200 program and the use of results from the program;  
 201 providing requirements for the commissioner; creating  
 202 the Council for Early Grade Success; providing duties  
 203 of the council; providing membership of the council;

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204 requiring the council to elect a chair and a vice  
 205 chair; providing requirements for such appointments;  
 206 providing for per diem for members of the council;  
 207 providing meeting requirements for the council;  
 208 providing for a quorum of the council; amending s.  
 209 1008.25, F.S.; authorizing certain students who  
 210 enrolled in the Voluntary Prekindergarten Education  
 211 Program to receive intensive reading interventions  
 212 using specified funds; amending ss. 1008.31, 1008.32,  
 213 and 1008.33, F.S.; conforming provisions to changes  
 214 made by the act; amending s. 1011.62, F.S.; revising  
 215 the research-based reading instruction allocation to  
 216 authorize the use of such funds for certain intensive  
 217 reading interventions for certain students; revising  
 218 the requirements for specified reading instruction and  
 219 interventions; defining the term "evidence-based";  
 220 providing appropriations; providing requirements for  
 221 the use of such funds; providing an effective date.

222  
 223 Be It Enacted by the Legislature of the State of Florida:

224  
 225 Section 1. Paragraphs (a) and (d) of subsection (1) of  
 226 section 20.055, Florida Statutes, are amended to read:

227 20.055 Agency inspectors general.—

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

229 (a) "Agency head" means the Governor, a Cabinet officer, or  
 230 a secretary or executive director as those terms are defined in  
 231 s. 20.03, the chair of the Public Service Commission, the  
 232 Director of the Office of Insurance Regulation of the Financial

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233 Services Commission, the Director of the Office of Financial  
 234 Regulation of the Financial Services Commission, the board of  
 235 directors of the Florida Housing Finance Corporation, ~~the~~  
 236 ~~executive director of the Office of Early Learning,~~ and the  
 237 Chief Justice of the State Supreme Court.

238 (d) "State agency" means each department created pursuant  
 239 to this chapter and the Executive Office of the Governor, the  
 240 Department of Military Affairs, the Fish and Wildlife  
 241 Conservation Commission, the Office of Insurance Regulation of  
 242 the Financial Services Commission, the Office of Financial  
 243 Regulation of the Financial Services Commission, the Public  
 244 Service Commission, the Board of Governors of the State  
 245 University System, the Florida Housing Finance Corporation, ~~the~~  
 246 ~~Office of Early Learning,~~ and the state courts system.

247 Section 2. Present paragraphs (c) through (j) of subsection  
 248 (3) of section 20.15, Florida Statutes, are redesignated as  
 249 paragraphs (d) through (k), respectively, a new paragraph (c) is  
 250 added to that subsection, and present paragraph (i) of  
 251 subsection (3) and subsection (5) of that section are amended,  
 252 to read:

253 20.15 Department of Education.—There is created a  
 254 Department of Education.

255 (3) DIVISIONS.—The following divisions of the Department of  
 256 Education are established:

257 (c) Division of Early Learning.

258 (j)(i) The Office of Independent Education and Parental  
 259 Choice, which must include ~~the following offices:~~

260 ~~1. The Office of Early Learning, which shall be~~  
 261 ~~administered by an executive director who is fully accountable~~

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262 ~~to the Commissioner of Education. The executive director shall,~~  
 263 ~~pursuant to s. 1001.213, administer the early learning programs,~~  
 264 ~~including the school readiness program and the Voluntary~~  
 265 ~~Prekindergarten Education Program at the state level.~~

266 ~~2.~~ the Office of K-12 School Choice, which shall be  
 267 administered by an executive director who is fully accountable  
 268 to the Commissioner of Education.

269 (5) POWERS AND DUTIES.—The State Board of Education and the  
 270 Commissioner of Education shall assign to the divisions such  
 271 powers, duties, responsibilities, and functions as are necessary  
 272 to ensure the greatest possible coordination, efficiency, and  
 273 effectiveness of education for students in Early Learning-20 ~~K-~~  
 274 ~~20~~ education under the jurisdiction of the State Board of  
 275 Education.

276 Section 3. Paragraph (a) of subsection (2) of section  
 277 39.202, Florida Statutes, is amended to read:

278 39.202 Confidentiality of reports and records in cases of  
 279 child abuse or neglect.—

280 (2) Except as provided in subsection (4), access to such  
 281 records, excluding the name of, or other identifying information  
 282 with respect to, the reporter which shall be released only as  
 283 provided in subsection (5), shall be granted only to the  
 284 following persons, officials, and agencies:

285 (a) Employees, authorized agents, or contract providers of  
 286 the department, the Department of Health, the Agency for Persons  
 287 with Disabilities, the Department of Education ~~Office of Early~~  
 288 ~~Learning,~~ or county agencies responsible for carrying out:

289 1. Child or adult protective investigations;  
 290 2. Ongoing child or adult protective services;

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291 3. Early intervention and prevention services;  
 292 4. Healthy Start services;  
 293 5. Licensure or approval of adoptive homes, foster homes,  
 294 child care facilities, facilities licensed under chapter 393,  
 295 family day care homes, providers who receive school readiness  
 296 funding under part VI of chapter 1002, or other homes used to  
 297 provide for the care and welfare of children;  
 298 6. Employment screening for caregivers in residential group  
 299 homes; or  
 300 7. Services for victims of domestic violence when provided  
 301 by certified domestic violence centers working at the  
 302 department's request as case consultants or with shared clients.  
 303  
 304 Also, employees or agents of the Department of Juvenile Justice  
 305 responsible for the provision of services to children, pursuant  
 306 to chapters 984 and 985.  
 307 Section 4. Paragraph (b) of subsection (5) of section  
 308 39.604, Florida Statutes, is amended to read:  
 309 39.604 Rilya Wilson Act; short title; legislative intent;  
 310 child care; early education; preschool.-  
 311 (5) EDUCATIONAL STABILITY.-Just as educational stability is  
 312 important for school-age children, it is also important to  
 313 minimize disruptions to secure attachments and stable  
 314 relationships with supportive caregivers of children from birth  
 315 to school age and to ensure that these attachments are not  
 316 disrupted due to placement in out-of-home care or subsequent  
 317 changes in out-of-home placement.  
 318 (b) If it is not in the best interest of the child for him  
 319 or her to remain in his or her child care or early education

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320 setting upon entry into out-of-home care, the caregiver must  
 321 work with the case manager, guardian ad litem, child care and  
 322 educational staff, and educational surrogate, if one has been  
 323 appointed, to determine the best setting for the child. Such  
 324 setting may be a child care provider that receives a Gold Seal  
 325 Quality Care designation pursuant to s. 1002.945 ~~s. 402.281~~, a  
 326 ~~provider participating in a quality rating system~~, a licensed  
 327 child care provider, a public school provider, or a license-  
 328 exempt child care provider, including religious-exempt and  
 329 registered providers, and nonpublic schools.  
 330 Section 5. Paragraph (m) of subsection (5) of section  
 331 212.08, Florida Statutes, is amended to read:  
 332 212.08 Sales, rental, use, consumption, distribution, and  
 333 storage tax; specified exemptions.-The sale at retail, the  
 334 rental, the use, the consumption, the distribution, and the  
 335 storage to be used or consumed in this state of the following  
 336 are hereby specifically exempt from the tax imposed by this  
 337 chapter.  
 338 (5) EXEMPTIONS; ACCOUNT OF USE.-  
 339 (m) *Educational materials purchased by certain child care*  
 340 *facilities*.-Educational materials, such as glue, paper, paints,  
 341 crayons, unique craft items, scissors, books, ~~and~~ educational  
 342 toys, purchased by a child care facility that meets the  
 343 standards delineated in s. 402.305, is licensed under s.  
 344 402.308, holds a current Gold Seal Quality Care designation  
 345 pursuant to s. 1002.945 ~~s. 402.281~~, and provides basic health  
 346 insurance to all employees are exempt from the taxes imposed by  
 347 this chapter. For purposes of this paragraph, the term "basic  
 348 health insurance" shall be defined and promulgated in rules

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349 developed jointly by the Department of Education Children and  
 350 ~~Families~~, the Agency for Health Care Administration, and the  
 351 Financial Services Commission.

352 Section 6. Paragraph (b) of subsection (8) of section  
 353 216.136, Florida Statutes, is amended to read:

354 216.136 Consensus estimating conferences; duties and  
 355 principals.—

356 (8) EARLY LEARNING PROGRAMS ESTIMATING CONFERENCE.—

357 (b) The Division Office of Early Learning shall provide  
 358 information on needs and waiting lists for school readiness  
 359 programs, and information on the needs for the Voluntary  
 360 Prekindergarten Education Program, as requested by the Early  
 361 Learning Programs Estimating Conference or individual conference  
 362 principals in a timely manner.

363 Section 7. Paragraph (b) of subsection (1) and paragraph  
 364 (b) of subsection (2) of section 383.14, Florida Statutes, are  
 365 amended to read:

366 383.14 Screening for metabolic disorders, other hereditary  
 367 and congenital disorders, and environmental risk factors.—

368 (1) SCREENING REQUIREMENTS.—To help ensure access to the  
 369 maternal and child health care system, the Department of Health  
 370 shall promote the screening of all newborns born in Florida for  
 371 metabolic, hereditary, and congenital disorders known to result  
 372 in significant impairment of health or intellect, as screening  
 373 programs accepted by current medical practice become available  
 374 and practical in the judgment of the department. The department  
 375 shall also promote the identification and screening of all  
 376 newborns in this state and their families for environmental risk  
 377 factors such as low income, poor education, maternal and family

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378 stress, emotional instability, substance abuse, and other high-  
 379 risk conditions associated with increased risk of infant  
 380 mortality and morbidity to provide early intervention,  
 381 remediation, and prevention services, including, but not limited  
 382 to, parent support and training programs, home visitation, and  
 383 case management. Identification, perinatal screening, and  
 384 intervention efforts shall begin prior to and immediately  
 385 following the birth of the child by the attending health care  
 386 provider. Such efforts shall be conducted in hospitals,  
 387 perinatal centers, county health departments, school health  
 388 programs that provide prenatal care, and birthing centers, and  
 389 reported to the Office of Vital Statistics.

390 (b) *Postnatal screening*.—A risk factor analysis using the  
 391 department's designated risk assessment instrument shall also be  
 392 conducted as part of the medical screening process upon the  
 393 birth of a child and submitted to the department's Office of  
 394 Vital Statistics for recording and other purposes provided for  
 395 in this chapter. The department's screening process for risk  
 396 assessment shall include a scoring mechanism and procedures that  
 397 establish thresholds for notification, further assessment,  
 398 referral, and eligibility for services by professionals or  
 399 paraprofessionals consistent with the level of risk. Procedures  
 400 for developing and using the screening instrument, notification,  
 401 referral, and care coordination services, reporting  
 402 requirements, management information, and maintenance of a  
 403 computer-driven registry in the Office of Vital Statistics which  
 404 ensures privacy safeguards must be consistent with the  
 405 provisions and plans established under chapter 411, Pub. L. No.  
 406 99-457, and this chapter. Procedures established for reporting

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407 information and maintaining a confidential registry must include  
 408 a mechanism for a centralized information depository at the  
 409 state and county levels. The department shall coordinate with  
 410 existing risk assessment systems and information registries. The  
 411 department must ensure, to the maximum extent possible, that the  
 412 screening information registry is integrated with the  
 413 department's automated data systems, including the Florida On-  
 414 line Recipient Integrated Data Access (FLORIDA) system. Tests  
 415 and screenings must be performed by the State Public Health  
 416 Laboratory, in coordination with Children's Medical Services, at  
 417 such times and in such manner as is prescribed by the department  
 418 after consultation with the Genetics and Newborn Screening  
 419 Advisory Council and the Department of Education ~~Office of Early~~  
 420 ~~Learning~~.

421 (2) RULES.—

422 (b) After consultation with the Department of Education  
 423 ~~Office of Early Learning~~, the department shall adopt and enforce  
 424 rules requiring every newborn in this state to be screened for  
 425 environmental risk factors that place children and their  
 426 families at risk for increased morbidity, mortality, and other  
 427 negative outcomes.

428 Section 8. Paragraph (h) of subsection (2) of section  
 429 391.308, Florida Statutes, is amended to read:

430 391.308 Early Steps Program.—The department shall implement  
 431 and administer part C of the federal Individuals with  
 432 Disabilities Education Act (IDEA), which shall be known as the  
 433 "Early Steps Program."

434 (2) DUTIES OF THE DEPARTMENT.—The department shall:

435 (h) Promote interagency cooperation and coordination, with

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436 the Medicaid program, the Department of Education program  
 437 pursuant to part B of the federal Individuals with Disabilities  
 438 Education Act, and programs providing child screening such as  
 439 the Florida Diagnostic and Learning Resources System, ~~the Office~~  
 440 ~~of Early Learning~~, Healthy Start, and the Help Me Grow program.

441 1. Coordination with the Medicaid program shall be  
 442 developed and maintained through written agreements with the  
 443 Agency for Health Care Administration and Medicaid managed care  
 444 organizations as well as through active and ongoing  
 445 communication with these organizations. The department shall  
 446 assist local program offices to negotiate agreements with  
 447 Medicaid managed care organizations in the service areas of the  
 448 local program offices. Such agreements may be formal or  
 449 informal.

450 2. Coordination with education programs pursuant to part B  
 451 of the federal Individuals with Disabilities Education Act shall  
 452 be developed and maintained through written agreements with the  
 453 Department of Education. The department shall assist local  
 454 program offices to negotiate agreements with school districts in  
 455 the service areas of the local program offices.

456 Section 9. Subsection (6) of section 402.26, Florida  
 457 Statutes, is amended to read:

458 402.26 Child care; legislative intent.—

459 ~~(6) It is the intent of the Legislature that a child care~~  
 460 ~~facility licensed pursuant to s. 402.305 or a child care~~  
 461 ~~facility exempt from licensing pursuant to s. 402.316, that~~  
 462 ~~achieves Gold Seal Quality status pursuant to s. 402.281, be~~  
 463 ~~considered an educational institution for the purpose of~~  
 464 ~~qualifying for exemption from ad valorem tax pursuant to s.~~

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465 ~~196.198.~~

466 Section 10. Section 402.281, Florida Statutes, is  
467 transferred, renumbered as section 1002.945, Florida Statutes,  
468 and amended to read:

469 1002.945 ~~402.281~~ Gold Seal Quality Care program.—

470 (1) (a) There is established within the Department of  
471 Education the Gold Seal Quality Care program.

472 (b) A child care facility, large family child care home, or  
473 family day care home that is accredited by an accrediting  
474 association approved by the Department of Education under  
475 subsection (3) and meets all other requirements shall, upon  
476 application to the department, receive a separate "Gold Seal  
477 Quality Care" designation.

478 (2) The State Board of Education ~~department~~ shall adopt  
479 rules establishing Gold Seal Quality Care accreditation  
480 standards using nationally recognized accrediting standards and  
481 input from accrediting associations based on the applicable  
482 ~~accrediting standards of the National Association for the~~  
483 ~~Education of Young Children (NAEYC), the National Association of~~  
484 ~~Family Child Care, and the National Early Childhood Program~~  
485 ~~Accreditation Commission.~~

486 (3) (a) In order to be approved by the Department of  
487 Education for participation in the Gold Seal Quality Care  
488 program, an accrediting association must apply to the department  
489 and demonstrate that it:

- 490 1. Is a recognized accrediting association.
- 491 2. Has accrediting standards that substantially meet or  
492 exceed the Gold Seal Quality Care standards adopted by the state  
493 board ~~department~~ under subsection (2).

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494 3. Is a registered corporation with the Department of  
495 State.

496 4. Can provide evidence that the process for accreditation  
497 has, at a minimum, all of the following components:

498 a. Clearly defined prerequisites that a child care provider  
499 must meet before beginning the accreditation process. However,  
500 accreditation may not be granted to a child care facility, large  
501 family child care home, or family day care home before the site  
502 is operational and is attended by children.

503 b. Procedures for completion of a self-study and  
504 comprehensive onsite verification process for each classroom  
505 that documents compliance with accrediting standards.

506 c. A training process for accreditation verifiers to ensure  
507 inter-rater reliability.

508 d. Ongoing compliance procedures that include requiring  
509 each accredited child care facility, large family child care  
510 home, and family day care home to file an annual report with the  
511 accrediting association and risk-based, onsite auditing  
512 protocols for accredited child care facilities, large family  
513 child care homes, and family day care homes.

514 e. Procedures for the revocation of accreditation due to  
515 failure to maintain accrediting standards as evidenced by sub-  
516 paragraph d. or any other relevant information received by  
517 the accrediting association.

518 f. Accreditation renewal procedures that include an onsite  
519 verification occurring at least every 5 years.

520 g. A process for verifying continued accreditation  
521 compliance in the event of a transfer of ownership of  
522 facilities.

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523 h. A process to communicate issues that arise during the  
 524 accreditation period with governmental entities that have a  
 525 vested interest in the Gold Seal Quality Care program, including  
 526 the Department of Education, the Department of Children and  
 527 Families, the Department of Health, local licensing entities if  
 528 applicable, and the early learning coalition.

529 (b) The Department of Education shall establish a process  
 530 that verifies that the accrediting association meets the  
 531 provisions of paragraph (a), which must include an auditing  
 532 program and any other procedures that may reasonably determine  
 533 an accrediting association's compliance with this section. If an  
 534 accrediting association is not in compliance and fails to cure  
 535 its deficiencies within 30 days, the department shall recommend  
 536 to the state board termination of the accrediting association's  
 537 participation as an accrediting association in the program for a  
 538 period of at least 2 years but no more than 5 years. If an  
 539 accrediting association is removed from being an approved  
 540 accrediting association, each child care provider accredited by  
 541 that association shall have up to 1 year to obtain a new  
 542 accreditation from a department-approved accreditation  
 543 association.

544 (c) If an accrediting association has granted accreditation  
 545 to a child care facility, large family child care home, or  
 546 family day care under fraudulent terms or has failed to conduct  
 547 onsite verifications, the accrediting association shall be  
 548 liable for the repayment of any rate differentials paid under  
 549 subsection (6).

550 ~~(b) In approving accrediting associations, the department~~  
 551 ~~shall consult with the Department of Education, the Florida Head~~

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552 ~~Start Directors Association, the Florida Association of Child~~  
 553 ~~Care Management, the Florida Family Child Care Home Association,~~  
 554 ~~the Florida Children's Forum, the Florida Association for the~~  
 555 ~~Education of the Young, the Child Development Education~~  
 556 ~~Alliance, the Florida Association of Academic Nonpublic Schools,~~  
 557 ~~the Association of Early Learning Coalitions, providers~~  
 558 ~~receiving exemptions under s. 402.316, and parents.~~

559 (4) In order to obtain and maintain a designation as a Gold  
 560 Seal Quality Care provider, a child care facility, large family  
 561 child care home, or family day care home must meet the following  
 562 additional criteria:

563 (a) The child care provider must not have had any class I  
 564 violations, as defined by rule of the Department of Children and  
 565 Families, within the 2 years preceding its application for  
 566 designation as a Gold Seal Quality Care provider. Commission of  
 567 a class I violation shall be grounds for termination of the  
 568 designation as a Gold Seal Quality Care provider until the  
 569 provider has no class I violations for a period of 2 years.

570 (b) The child care provider must not have had three or more  
 571 class II violations, as defined by rule of the Department of  
 572 Children and Families, within the 2 years preceding its  
 573 application for designation as a Gold Seal Quality Care  
 574 provider. Commission of three or more class II violations within  
 575 a 2-year period shall be grounds for termination of the  
 576 designation as a Gold Seal Quality Care provider until the  
 577 provider has no class II violations for a period of 1 year.

578 (c) The child care provider must not have been cited for  
 579 the same class III violation, as defined by rule of the  
 580 Department of Children and Families, three or more times and

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581 failed to correct the violation within 1 year after the date of  
 582 each citation, within the 2 years preceding its application for  
 583 designation as a Gold Seal Quality Care provider. Commission of  
 584 the same class III violation three or more times and failure to  
 585 correct within the required time during a 2-year period may be  
 586 grounds for termination of the designation as a Gold Seal  
 587 Quality Care provider until the provider has no class III  
 588 violations for a period of 1 year.

589 (d) Notwithstanding paragraph (a), if the Department of  
 590 Education determines through a formal process that a provider  
 591 has been in business for at least 5 years and has no other class  
 592 I violations recorded, the department may recommend to the state  
 593 board that the provider maintain its Gold Seal Quality Care  
 594 status. The state board's determination regarding such  
 595 provider's status is final.

596 (5) A child care facility licensed under s. 402.305 or a  
 597 child care facility exempt from licensing under s. 402.316 which  
 598 achieves Gold Seal Quality status under this section shall be  
 599 considered an educational institution for the purpose of  
 600 qualifying for exemption from ad valorem tax under s. 196.198.

601 (6) A child care facility licensed under s. 402.305 or a  
 602 child care facility exempt from licensing pursuant to s. 402.316  
 603 which achieves Gold Seal Quality status under this section and  
 604 which participates in the school readiness program shall receive  
 605 a minimum of a 20 percent rate differential for each enrolled  
 606 school readiness child by care level and unit of child care.

607 (7)(5) The state board ~~Department of Children and Families~~  
 608 shall adopt rules under ss. 120.536(1) and 120.54 which provide  
 609 criteria and procedures for reviewing and approving accrediting

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610 associations for participation in the Gold Seal Quality Care  
 611 program ~~and~~, conferring and revoking designations of Gold Seal  
 612 Quality Care providers, ~~and classifying violations.~~

613 Section 11. Type two transfer from the Department of  
 614 Children and Families.-

615 (1) All powers, duties, functions, records, offices,  
 616 personnel, associated administrative support positions,  
 617 property, pending issues, existing contracts, administrative  
 618 authority, administrative rules, and unexpended balances of  
 619 appropriations, allocations, and other funds relating to the  
 620 Gold Seal Quality Care program within the Department of Children  
 621 and Families are transferred by a type two transfer, as defined  
 622 in s. 20.06(2), Florida Statutes, to the Department of  
 623 Education.

624 (2) Any binding contract or interagency agreement existing  
 625 before July 1, 2021, between the Department of Children and  
 626 Families, or an entity or agent of the department, and any other  
 627 agency, entity, or person relating to the Gold Seal Quality Care  
 628 program shall continue as a binding contract or agreement for  
 629 the remainder of the term of such contract or agreement on the  
 630 successor entity responsible for the program, activity, or  
 631 functions relative to the contract or agreement.

632 Section 12. Subsection (5) of section 402.315, Florida  
 633 Statutes, is amended to read:

634 402.315 Funding; license fees.-

635 (5) All moneys collected by the department for child care  
 636 licensing shall be held in a trust fund of the department to be  
 637 reallocated to the department during the following fiscal year  
 638 to fund child care licensing activities, including the Gold Seal

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639 Quality Care program created pursuant to s. 1002.945 ~~s. 402.201~~.

640 Section 13. Paragraph (a) of subsection (4) of section

641 402.56, Florida Statutes, is amended to read:

642 402.56 Children's cabinet; organization; responsibilities;

643 annual report.—

644 (4) MEMBERS.—The cabinet shall consist of 16 members

645 including the Governor and the following persons:

646 (a)1. The Secretary of Children and Families;

647 2. The Secretary of Juvenile Justice;

648 3. The director of the Agency for Persons with

649 Disabilities;

650 4. A representative from the Division ~~The director of the~~

651 ~~Office of Early Learning;~~

652 5. The State Surgeon General;

653 6. The Secretary of Health Care Administration;

654 7. The Commissioner of Education;

655 8. The director of the Statewide Guardian Ad Litem Office;

656 9. A representative of the Office of Adoption and Child

657 Protection;

658 10. A superintendent of schools, appointed by the Governor;

659 and

660 11. Five members who represent children and youth advocacy

661 organizations and who are not service providers, appointed by

662 the Governor.

663 Section 14. Paragraph (d) of subsection (1), paragraph (a)

664 of subsection (2), and paragraph (c) of subsection (3) of

665 section 411.227, Florida Statutes, are amended to read:

666 411.227 Components of the Learning Gateway.—The Learning

667 Gateway system consists of the following components:

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668 (1) COMMUNITY EDUCATION STRATEGIES AND FAMILY-ORIENTED

669 ACCESS.—

670 (d) In collaboration with other local resources, the

671 demonstration projects shall develop public awareness strategies

672 to disseminate information about developmental milestones,

673 precursors of learning problems and other developmental delays,

674 and the service system that is available. The information should

675 target parents of children from birth through age 9 and should

676 be distributed to parents, health care providers, and caregivers

677 of children from birth through age 9. A variety of media should

678 be used as appropriate, such as print, television, radio, and a

679 community-based Internet website, as well as opportunities such

680 as those presented by parent visits to physicians for well-child

681 checkups. The Learning Gateway Steering Committee shall provide

682 technical assistance to the local demonstration projects in

683 developing and distributing educational materials and

684 information.

685 1. Public awareness strategies targeting parents of

686 children from birth through age 5 shall be designed to provide

687 information to public and private preschool programs, child care

688 providers, pediatricians, parents, and local businesses and

689 organizations. These strategies should include information on

690 the school readiness performance standards adopted by the

691 Department of Education ~~Office of Early Learning~~.

692 2. Public awareness strategies targeting parents of

693 children from ages 6 through 9 must be designed to disseminate

694 training materials and brochures to parents and public and

695 private school personnel, and must be coordinated with the local

696 school board and the appropriate school advisory committees in

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697 the demonstration projects. The materials should contain  
698 information on state and district proficiency levels for grades  
699 K-3.

700 (2) SCREENING AND DEVELOPMENTAL MONITORING.-

701 (a) In coordination with ~~the Office of Early Learning,~~ the  
702 Department of Education, and the Florida Pediatric Society, and  
703 using information learned from the local demonstration projects,  
704 the Learning Gateway Steering Committee shall establish  
705 guidelines for screening children from birth through age 9. The  
706 guidelines should incorporate recent research on the indicators  
707 most likely to predict early learning problems, mild  
708 developmental delays, child-specific precursors of school  
709 failure, and other related developmental indicators in the  
710 domains of cognition; communication; attention; perception;  
711 behavior; and social, emotional, sensory, and motor functioning.

712 (3) EARLY EDUCATION, SERVICES AND SUPPORTS.-

713 (c) The steering committee, in cooperation with the  
714 Department of Children and Families and the Department of  
715 Education, ~~and the Office of Early Learning,~~ shall identify the  
716 elements of an effective research-based curriculum for early  
717 care and education programs.

718 Section 15. Subsection (1) of section 414.295, Florida  
719 Statutes, is amended to read:

720 414.295 Temporary cash assistance programs; public records  
721 exemption.-

722 (1) Personal identifying information of a temporary cash  
723 assistance program participant, a participant's family, or a  
724 participant's family or household member, except for information  
725 identifying a parent who does not live in the same home as the

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726 child, which is held by the department, ~~the Office of Early~~  
727 ~~Learning,~~ CareerSource Florida, Inc., the Department of Health,  
728 the Department of Revenue, the Department of Education, or a  
729 local workforce development board or local committee created  
730 pursuant to s. 445.007 is confidential and exempt from s.  
731 119.07(1) and s. 24(a), Art. I of the State Constitution. Such  
732 confidential and exempt information may be released for purposes  
733 directly connected with:

734 (a) The administration of the temporary assistance for  
735 needy families plan under Title IV-A of the Social Security Act,  
736 as amended, by the department, ~~the Office of Early Learning,~~  
737 CareerSource Florida, Inc., the Department of Military Affairs,  
738 the Department of Health, the Department of Revenue, the  
739 Department of Education, a local workforce development board or  
740 local committee created pursuant to s. 445.007, or a school  
741 district.

742 (b) The administration of the state's plan or program  
743 approved under Title IV-B, Title IV-D, or Title IV-E of the  
744 Social Security Act, as amended, or under Title I, Title X,  
745 Title XIV, Title XVI, Title XIX, Title XX, or Title XXI of the  
746 Social Security Act, as amended.

747 (c) An investigation, prosecution, or criminal, civil, or  
748 administrative proceeding conducted in connection with the  
749 administration of any of the plans or programs specified in  
750 paragraph (a) or paragraph (b) by a federal, state, or local  
751 governmental entity, upon request by that entity, if such  
752 request is made pursuant to the proper exercise of that entity's  
753 duties and responsibilities.

754 (d) The administration of any other state, federal, or

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755 federally assisted program that provides assistance or services  
756 on the basis of need, in cash or in kind, directly to a  
757 participant.

758 (e) An audit or similar activity, such as a review of  
759 expenditure reports or financial review, conducted in connection  
760 with the administration of plans or programs specified in  
761 paragraph (a) or paragraph (b) by a governmental entity  
762 authorized by law to conduct such audit or activity.

763 (f) The administration of the reemployment assistance  
764 program.

765 (g) The reporting to the appropriate agency or official of  
766 information about known or suspected instances of physical or  
767 mental injury, sexual abuse or exploitation, or negligent  
768 treatment or maltreatment of a child or elderly person receiving  
769 assistance, if circumstances indicate that the health or welfare  
770 of the child or elderly person is threatened.

771 (h) The administration of services to elderly persons under  
772 ss. 430.601-430.606.

773 Section 16. Section 1000.01, Florida Statutes, is amended  
774 to read:

775 1000.01 The Florida Early Learning-20 ~~K-20~~ education  
776 system; technical provisions.-

777 (1) NAME.-Chapters 1000 through 1013 shall be known and  
778 cited as the "Florida Early Learning-20 ~~K-20~~ Education Code."

779 (2) LIBERAL CONSTRUCTION.-The provisions of the Florida  
780 Early Learning-20 ~~K-20~~ Education Code shall be liberally  
781 construed to the end that its objectives may be effected. It is  
782 the legislative intent that if any section, subsection,  
783 sentence, clause, or provision of the Florida Early Learning-20

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784 ~~K-20~~ Education Code is held invalid, the remainder of the code  
785 shall not be affected.

786 (3) PURPOSE.-The purpose of the Florida Early Learning-20  
787 ~~K-20~~ Education Code is to provide by law for a state system of  
788 schools, courses, classes, and educational institutions and  
789 services adequate to allow, for all Florida's students, the  
790 opportunity to obtain a high quality education. The Florida  
791 Early Learning-20 ~~K-20~~ education system is established to  
792 accomplish this purpose; however, nothing in this code shall be  
793 construed to require the provision of free public education  
794 beyond grade 12.

795 (4) UNIFORM SYSTEM OF PUBLIC K-12 SCHOOLS INCLUDED.-As  
796 required by s. 1, Art. IX of the State Constitution, the Florida  
797 Early Learning-20 ~~K-20~~ education system shall include the  
798 uniform system of free public K-12 schools. These public K-12  
799 schools shall provide 13 consecutive years of instruction,  
800 beginning with kindergarten, and shall also provide such  
801 instruction for students with disabilities, gifted students,  
802 limited English proficient students, and students in Department  
803 of Juvenile Justice programs as may be required by law. The  
804 funds for support and maintenance of the uniform system of free  
805 public K-12 schools shall be derived from state, district,  
806 federal, and other lawful sources or combinations of sources,  
807 including any fees charged nonresidents as provided by law.

808 Section 17. Section 1000.02, Florida Statutes, is amended  
809 to read:

810 1000.02 Policy and guiding principles for the Florida Early  
811 Learning-20 ~~K-20~~ education system.-

812 (1) It is the policy of the Legislature:

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813 (a) To achieve within existing resources a seamless  
814 academic educational system that fosters an integrated continuum  
815 of early learning ~~kindergarten~~ through graduate school education  
816 for Florida's students.

817 (b) To promote enhanced academic success and funding  
818 efficiency of educational delivery systems by aligning  
819 responsibility with accountability.

820 (c) To provide consistent education policy across all  
821 educational delivery systems, focusing on students.

822 (d) To provide substantially improved articulation across  
823 all educational delivery systems.

824 (e) To provide for the decentralization of authority to the  
825 schools, Florida College System institutions, universities, and  
826 other education institutions that deliver educational services  
827 to the public.

828 (f) To ensure that independent education institutions and  
829 home education programs maintain their independence, autonomy,  
830 and nongovernmental status.

831 (2) The guiding principles for Florida's Early Learning-20  
832 ~~K-20~~ education system are:

833 (a) A coordinated, seamless system for early learning  
834 ~~kindergarten~~ through graduate school education.

835 (b) A system that is student-centered in every facet.

836 (c) A system that maximizes education access and allows the  
837 opportunity for a high quality education for all Floridians.

838 (d) A system that safeguards equity and supports academic  
839 excellence.

840 (e) A system that provides for local operational  
841 flexibility while promoting accountability for student

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842 achievement and improvement.

843 Section 18. Section 1000.03, Florida Statutes, is amended  
844 to read:

845 1000.03 Function, mission, and goals of the Florida Early  
846 Learning-20 ~~K-20~~ education system.-

847 (1) Florida's Early Learning-20 ~~K-20~~ education system shall  
848 be a decentralized system without excess layers of bureaucracy.  
849 Florida's Early Learning-20 ~~K-20~~ education system shall maintain  
850 a systemwide technology plan based on a common set of data  
851 definitions.

852 (2) (a) The Legislature shall establish education policy,  
853 enact education laws, and appropriate and allocate education  
854 resources.

855 (b) With the exception of matters relating to the State  
856 University System, the State Board of Education shall oversee  
857 the enforcement of all laws and rules, and the timely provision  
858 of direction, resources, assistance, intervention when needed,  
859 and strong incentives and disincentives to force accountability  
860 for results.

861 (c) The Board of Governors shall oversee the enforcement of  
862 all state university laws and rules and regulations and the  
863 timely provision of direction, resources, assistance,  
864 intervention when needed, and strong incentives and  
865 disincentives to force accountability for results.

866 (3) Public education is a cooperative function of the state  
867 and local educational authorities. The state retains  
868 responsibility for establishing a system of public education  
869 through laws, standards, and rules to assure efficient operation  
870 of an Early Learning-20 ~~a K-20~~ system of public education and

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871 adequate educational opportunities for all individuals. Local  
872 educational authorities have a duty to fully and faithfully  
873 comply with state laws, standards, and rules and to efficiently  
874 use the resources available to them to assist the state in  
875 allowing adequate educational opportunities.

876 (4) The mission of Florida's Early Learning-20 ~~K-20~~  
877 education system is to allow its students to increase their  
878 proficiency by allowing them the opportunity to expand their  
879 knowledge and skills through rigorous and relevant learning  
880 opportunities, in accordance with the mission statement and  
881 accountability requirements of s. 1008.31.

882 (5) The priorities of Florida's Early Learning-20 ~~K-20~~  
883 education system include:

884 (a) *Learning and completion at all levels, including*  
885 *increased high school graduation rate and readiness for*  
886 *postsecondary education without remediation.*—All students  
887 demonstrate increased learning and completion at all levels,  
888 graduate from high school, and are prepared to enter  
889 postsecondary education without remediation.

890 (b) *Student performance.*—Students demonstrate that they  
891 meet the expected academic standards consistently at all levels  
892 of their education.

893 (c) *Civic literacy.*—Students are prepared to become  
894 civically engaged and knowledgeable adults who make positive  
895 contributions to their communities.

896 (d) *Alignment of standards and resources.*—Academic  
897 standards for every level of the Early Learning-20 ~~K-20~~  
898 education system are aligned, and education financial resources  
899 are aligned with student performance expectations at each level

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900 of the Early Learning-20 ~~K-20~~ education system.

901 (e) *Educational leadership.*—The quality of educational  
902 leadership at all levels of Early Learning-20 ~~K-20~~ education is  
903 improved.

904 (f) *Workforce education.*—Workforce education is  
905 appropriately aligned with the skills required by the new global  
906 economy.

907 (g) *Parental, student, family, educational institution, and*  
908 *community involvement.*—Parents, students, families, educational  
909 institutions, and communities are collaborative partners in  
910 education, and each plays an important role in the success of  
911 individual students. Therefore, the State of Florida cannot be  
912 the guarantor of each individual student's success. The goals of  
913 Florida's Early Learning-20 ~~K-20~~ education system are not  
914 guarantees that each individual student will succeed or that  
915 each individual school will perform at the level indicated in  
916 the goals.

917 (h) *Comprehensive Early Learning-20 ~~K-20~~ career and*  
918 *education planning.*—It is essential that Florida's Early  
919 Learning-20 ~~K-20~~ education system better prepare all students at  
920 every level for the transition from school to postsecondary  
921 education or work by providing information regarding:

922 1. Career opportunities, educational requirements  
923 associated with each career, educational institutions that  
924 prepare students to enter each career, and student financial aid  
925 available to pursue postsecondary instruction required to enter  
926 each career.

927 2. How to make informed decisions about the program of  
928 study that best addresses the students' interests and abilities

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929 while preparing them to enter postsecondary education or the  
930 workforce.

931 3. Recommended coursework and programs that prepare  
932 students for success in their areas of interest and ability.

933

934 This information shall be provided to students and parents  
935 through websites, handbooks, manuals, or other regularly  
936 provided communications.

937 Section 19. Section 1000.04, Florida Statutes, is amended  
938 to read:

939 1000.04 Components for the delivery of public education  
940 within the Florida Early Learning-20 ~~K-20~~ education system.—  
941 Florida's Early Learning-20 ~~K-20~~ education system provides for  
942 the delivery of early learning and public education through  
943 publicly supported and controlled K-12 schools, Florida College  
944 System institutions, state universities and other postsecondary  
945 educational institutions, other educational institutions, and  
946 other educational services as provided or authorized by the  
947 Constitution and laws of the state.

948 (1) EARLY LEARNING.—Early learning includes the Voluntary  
949 Prekindergarten Education Program and the school readiness  
950 program.

951 (2)(4) PUBLIC K-12 SCHOOLS.—The public K-12 schools include  
952 charter schools and consist of kindergarten classes; elementary,  
953 middle, and high school grades and special classes; virtual  
954 instruction programs; workforce education; career centers;  
955 adult, part-time, and evening schools, courses, or classes, as  
956 authorized by law to be operated under the control of district  
957 school boards; and lab schools operated under the control of

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958 state universities.

959 (3)(2) PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTIONS.—

960 Public postsecondary educational institutions include workforce  
961 education; Florida College System institutions; state  
962 universities; and all other state-supported postsecondary  
963 educational institutions that are authorized and established by  
964 law.

965 (4)(3) FLORIDA SCHOOL FOR THE DEAF AND THE BLIND.—The  
966 Florida School for the Deaf and the Blind is a component of the  
967 delivery of public education within Florida's Early Learning-20  
968 ~~K-20~~ education system.

969 (5)(4) THE FLORIDA VIRTUAL SCHOOL.—The Florida Virtual  
970 School is a component of the delivery of public education within  
971 Florida's Early Learning-20 ~~K-20~~ education system.

972 Section 20. Section 1000.21, Florida Statutes, is amended  
973 to read:

974 1000.21 Systemwide definitions.—As used in the Florida  
975 Early Learning-20 ~~K-20~~ Education Code:

976 (1) "Articulation" is the systematic coordination that  
977 provides the means by which students proceed toward their  
978 educational objectives in as rapid and student-friendly manner  
979 as their circumstances permit, from grade level to grade level,  
980 from elementary to middle to high school, to and through  
981 postsecondary education, and when transferring from one  
982 educational institution or program to another.

983 (2) "Commissioner" is the Commissioner of Education.

984 (3) "Florida College System institution" except as  
985 otherwise specifically provided, includes all of the following  
986 public postsecondary educational institutions in the Florida



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987 College System and any branch campuses, centers, or other  
 988 affiliates of the institution:

989 (a) Eastern Florida State College, which serves Brevard  
 990 County.

991 (b) Broward College, which serves Broward County.

992 (c) College of Central Florida, which serves Citrus, Levy,  
 993 and Marion Counties.

994 (d) Chipola College, which serves Calhoun, Holmes, Jackson,  
 995 Liberty, and Washington Counties.

996 (e) Daytona State College, which serves Flagler and Volusia  
 997 Counties.

998 (f) Florida SouthWestern State College, which serves  
 999 Charlotte, Collier, Glades, Hendry, and Lee Counties.

1000 (g) Florida State College at Jacksonville, which serves  
 1001 Duval and Nassau Counties.

1002 (h) The College of the Florida Keys, which serves Monroe  
 1003 County.

1004 (i) Gulf Coast State College, which serves Bay, Franklin,  
 1005 and Gulf Counties.

1006 (j) Hillsborough Community College, which serves  
 1007 Hillsborough County.

1008 (k) Indian River State College, which serves Indian River,  
 1009 Martin, Okeechobee, and St. Lucie Counties.

1010 (l) Florida Gateway College, which serves Baker, Columbia,  
 1011 Dixie, Gilchrist, and Union Counties.

1012 (m) Lake-Sumter State College, which serves Lake and Sumter  
 1013 Counties.

1014 (n) State College of Florida, Manatee-Sarasota, which  
 1015 serves Manatee and Sarasota Counties.

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1016 (o) Miami Dade College, which serves Miami-Dade County.

1017 (p) North Florida College, which serves Hamilton,  
 1018 Jefferson, Lafayette, Madison, Suwannee, and Taylor Counties.

1019 (q) Northwest Florida State College, which serves Okaloosa  
 1020 and Walton Counties.

1021 (r) Palm Beach State College, which serves Palm Beach  
 1022 County.

1023 (s) Pasco-Hernando State College, which serves Hernando and  
 1024 Pasco Counties.

1025 (t) Pensacola State College, which serves Escambia and  
 1026 Santa Rosa Counties.

1027 (u) Polk State College, which serves Polk County.

1028 (v) St. Johns River State College, which serves Clay,  
 1029 Putnam, and St. Johns Counties.

1030 (w) St. Petersburg College, which serves Pinellas County.

1031 (x) Santa Fe College, which serves Alachua and Bradford  
 1032 Counties.

1033 (y) Seminole State College of Florida, which serves  
 1034 Seminole County.

1035 (z) South Florida State College, which serves DeSoto,  
 1036 Hardee, and Highlands Counties.

1037 (aa) Tallahassee Community College, which serves Gadsden,  
 1038 Leon, and Wakulla Counties.

1039 (bb) Valencia College, which serves Orange and Osceola  
 1040 Counties.

1041 (4) "Department" is the Department of Education.

1042 (5) "Parent" is either or both parents of a student, any  
 1043 guardian of a student, any person in a parental relationship to  
 1044 a student, or any person exercising supervisory authority over a

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1045 student in place of the parent.

1046 (6) "State university," except as otherwise specifically  
1047 provided, includes the following institutions and any branch  
1048 campuses, centers, or other affiliates of the institution:

- 1049 (a) The University of Florida.
- 1050 (b) The Florida State University.
- 1051 (c) The Florida Agricultural and Mechanical University.
- 1052 (d) The University of South Florida.
- 1053 (e) The Florida Atlantic University.
- 1054 (f) The University of West Florida.
- 1055 (g) The University of Central Florida.
- 1056 (h) The University of North Florida.
- 1057 (i) The Florida International University.
- 1058 (j) The Florida Gulf Coast University.
- 1059 (k) New College of Florida.
- 1060 (l) The Florida Polytechnic University.

1061 (7) "Next Generation Sunshine State Standards" means the  
1062 state's public K-12 curricular standards adopted under s.  
1063 1003.41.

1064 (8) "Board of Governors" is the Board of Governors of the  
1065 State University System.

1066 Section 21. Subsection (1) and paragraphs (e) and (s) of  
1067 subsection (2) of section 1001.02, Florida Statutes, are amended  
1068 to read:

1069 1001.02 General powers of State Board of Education.—

1070 (1) The State Board of Education is the chief implementing  
1071 and coordinating body of public education in Florida except for  
1072 the State University System, and it shall focus on high-level  
1073 policy decisions. It has authority to adopt rules pursuant to

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1074 ss. 120.536(1) and 120.54 to implement the provisions of law  
1075 conferring duties upon it for the improvement of the state  
1076 system of Early Learning-20 ~~K-20~~ public education except for the  
1077 State University System. Except as otherwise provided herein, it  
1078 may, as it finds appropriate, delegate its general powers to the  
1079 Commissioner of Education or the directors of the divisions of  
1080 the department.

1081 (2) The State Board of Education has the following duties:

1082 (e) To adopt and submit to the Governor and Legislature, as  
1083 provided in s. 216.023, a coordinated Early Learning-20 ~~K-20~~  
1084 education budget that estimates the expenditure requirements for  
1085 the Board of Governors, as provided in s. 1001.706, the State  
1086 Board of Education, including the Department of Education and  
1087 the Commissioner of Education, and all of the boards,  
1088 institutions, agencies, and services under the general  
1089 supervision of the Board of Governors, as provided in s.  
1090 1001.706, or the State Board of Education for the ensuing fiscal  
1091 year. The State Board of Education may not amend the budget  
1092 request submitted by the Board of Governors. Any program  
1093 recommended by the Board of Governors or the State Board of  
1094 Education which will require increases in state funding for more  
1095 than 1 year must be presented in a multiyear budget plan.

1096 (s) To establish a detailed procedure for the  
1097 implementation and operation of a systemwide ~~K-20~~ technology  
1098 plan that is based on a common set of data definitions.

1099 Section 22. Subsections (8) and (9) of section 1001.03,  
1100 Florida Statutes, are amended to read:

1101 1001.03 Specific powers of State Board of Education.—

1102 (8) SYSTEMWIDE ENFORCEMENT.—The State Board of Education

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1103 shall enforce compliance with law and state board rule by all  
1104 school districts, early learning coalitions, and public  
1105 postsecondary educational institutions, except for the State  
1106 University System, in accordance with the provisions of s.  
1107 1008.32.

1108 (9) MANAGEMENT INFORMATION DATABASES.—The State Board of  
1109 Education, in conjunction with the Board of Governors regarding  
1110 the State University System, shall continue to collect and  
1111 maintain, at a minimum, the management information databases for  
1112 state universities, and all other components of the public Early  
1113 Learning-20 ~~K-20~~ education system as such databases existed on  
1114 June 30, 2002.

1115 Section 23. Subsection (1), paragraphs (g), (k), and (l) of  
1116 subsection (6), and subsection (8) of section 1001.10, Florida  
1117 Statutes, are amended to read:

1118 1001.10 Commissioner of Education; general powers and  
1119 duties.—

1120 (1) The Commissioner of Education is the chief educational  
1121 officer of the state and the sole custodian of the educational  
1122 ~~K-20~~ data warehouse, and is responsible for giving full  
1123 assistance to the State Board of Education in enforcing  
1124 compliance with the mission and goals of the Early Learning-20  
1125 ~~K-20~~ education system, except for the State University System.

1126 (6) Additionally, the commissioner has the following  
1127 general powers and duties:

1128 (g) To submit to the State Board of Education, on or before  
1129 October 1 of each year, recommendations for a coordinated Early  
1130 Learning-20 ~~K-20~~ education budget that estimates the  
1131 expenditures for the Board of Governors, the State Board of

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1132 Education, including the Department of Education and the  
1133 Commissioner of Education, and all of the boards, institutions,  
1134 agencies, and services under the general supervision of the  
1135 Board of Governors or the State Board of Education for the  
1136 ensuing fiscal year. Any program recommended to the State Board  
1137 of Education that will require increases in state funding for  
1138 more than 1 year must be presented in a multiyear budget plan.

1139 (k) To prepare, publish, and disseminate user-friendly  
1140 materials relating to the state's education system, including  
1141 the state's K-12 scholarship programs, the school readiness  
1142 program, and the Voluntary Prekindergarten Education Program.

1143 (l) To prepare and publish annually reports giving  
1144 statistics and other useful information pertaining to the  
1145 state's K-12 scholarship programs, the school readiness program,  
1146 and the Voluntary Prekindergarten Education Program.

1147 (8) In the event of an emergency situation, the  
1148 commissioner may coordinate through the most appropriate means  
1149 of communication with early learning coalitions, local school  
1150 districts, Florida College System institutions, and satellite  
1151 offices of the Division of Blind Services and the Division of  
1152 Vocational Rehabilitation to assess the need for resources and  
1153 assistance to enable each school, institution, or satellite  
1154 office the ability to reopen as soon as possible after  
1155 considering the health, safety, and welfare of students and  
1156 clients.

1157 Section 24. Paragraph (b) of subsection (1) and subsection  
1158 (4) of section 1001.11, Florida Statutes, are amended to read:

1159 1001.11 Commissioner of Education; other duties.—

1160 (1) The Commissioner of Education must independently

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1161 perform the following duties:

1162 (b) Serve as the primary source of information to the  
1163 Legislature, including the President of the Senate and the  
1164 Speaker of the House of Representatives, concerning the State  
1165 Board of Education, the Early Learning-20 ~~K-20~~ education system,  
1166 and early learning programs.

1167 (4) The commissioner shall develop and implement an  
1168 integrated Early Learning-20 ~~K-20~~ information system for  
1169 educational management in accordance with the requirements of  
1170 chapter 1008.

1171 Section 25. Section 1001.213, Florida Statutes, is  
1172 repealed.

1173 Section 26. Subsection (7) of section 1001.215, Florida  
1174 Statutes, is amended to read:

1175 1001.215 Just Read, Florida! Office.—There is created in  
1176 the Department of Education the Just Read, Florida! Office. The  
1177 office is fully accountable to the Commissioner of Education and  
1178 shall:

1179 (7) Review, evaluate, and provide technical assistance to  
1180 school districts' implementation of the ~~K-12~~ comprehensive  
1181 reading plan required in s. 1011.62(9).

1182 Section 27. Subsection (1) of section 1001.23, Florida  
1183 Statutes, is amended to read:

1184 1001.23 Specific powers and duties of the Department of  
1185 Education.—In addition to all other duties assigned to it by law  
1186 or by rule of the State Board of Education, the department  
1187 shall:

1188 ~~(1) Adopt the statewide kindergarten screening in~~  
1189 ~~accordance with s. 1002.69.~~

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1190 Section 28. Subsection (3) of section 1001.70, Florida  
1191 Statutes, is amended to read:

1192 1001.70 Board of Governors of the State University System.—

1193 (3) The Board of Governors, in exercising its authority  
1194 under the State Constitution and statutes, shall exercise its  
1195 authority in a manner that supports, promotes, and enhances an  
1196 Early Learning-20 ~~a K-20~~ education system that provides  
1197 affordable access to postsecondary educational opportunities for  
1198 residents of the state to the extent authorized by the State  
1199 Constitution and state law.

1200 Section 29. Paragraph (b) of subsection (4) of section  
1201 1001.706, Florida Statutes, is amended to read:

1202 1001.706 Powers and duties of the Board of Governors.—

1203 (4) POWERS AND DUTIES RELATING TO FINANCE.—

1204 (b) The Board of Governors shall prepare the legislative  
1205 budget requests for the State University System, including a  
1206 request for fixed capital outlay, and submit them to the State  
1207 Board of Education for inclusion in the Early Learning-20 ~~K-20~~  
1208 legislative budget request. The Board of Governors shall provide  
1209 the state universities with fiscal policy guidelines, formats,  
1210 and instruction for the development of individual university  
1211 budget requests.

1212 Section 30. Paragraph (b) of subsection (1) of section  
1213 1002.22, Florida Statutes, is amended to read:

1214 1002.22 Education records and reports of K-12 students;  
1215 rights of parents and students; notification; penalty.—

1216 (1) DEFINITIONS.—As used in this section, the term:

1217 (b) "Institution" means any public school, center,  
1218 institution, or other entity that is part of Florida's education

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 1219 system under s. 1000.04(2), (4), and (5) ~~s. 1000.04(1), (3), and~~  
 1220 ~~(4)~~.

1221 Section 31. Subsections (3) and (10) of section 1002.32,  
 1222 Florida Statutes, are amended to read:

1223 1002.32 Developmental research (laboratory) schools.—

1224 (3) MISSION.—The mission of a lab school shall be the  
 1225 provision of a vehicle for the conduct of research,  
 1226 demonstration, and evaluation regarding management, teaching,  
 1227 and learning. Programs to achieve the mission of a lab school  
 1228 shall embody the goals and standards established pursuant to ss.  
 1229 1000.03(5) and 1001.23(1) ~~1001.23(2)~~ and shall ensure an  
 1230 appropriate education for its students.

1231 (a) Each lab school shall emphasize mathematics, science,  
 1232 computer science, and foreign languages. The primary goal of a  
 1233 lab school is to enhance instruction and research in such  
 1234 specialized subjects by using the resources available on a state  
 1235 university campus, while also providing an education in  
 1236 nonspecialized subjects. Each lab school shall provide  
 1237 sequential elementary and secondary instruction where  
 1238 appropriate. A lab school may not provide instruction at grade  
 1239 levels higher than grade 12 without authorization from the State  
 1240 Board of Education. Each lab school shall develop and implement  
 1241 a school improvement plan pursuant to s. 1003.02(3).

1242 (b) Research, demonstration, and evaluation conducted at a  
 1243 lab school may be generated by the college of education and  
 1244 other colleges within the university with which the school is  
 1245 affiliated.

1246 (c) Research, demonstration, and evaluation conducted at a  
 1247 lab school may be generated by the State Board of Education.

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 1248 Such research shall respond to the needs of the education  
 1249 community at large, rather than the specific needs of the  
 1250 affiliated college.

1251 (d) Research, demonstration, and evaluation conducted at a  
 1252 lab school may consist of pilot projects to be generated by the  
 1253 affiliated college, the State Board of Education, or the  
 1254 Legislature.

1255 (e) The exceptional education programs offered at a lab  
 1256 school shall be determined by the research and evaluation goals  
 1257 and the availability of students for efficiently sized programs.  
 1258 The fact that a lab school offers an exceptional education  
 1259 program in no way lessens the general responsibility of the  
 1260 local school district to provide exceptional education programs.

1261 (10) EXCEPTIONS TO LAW.—To encourage innovative practices  
 1262 and facilitate the mission of the lab schools, in addition to  
 1263 the exceptions to law specified in s. 1001.23(1) ~~s. 1001.23(2)~~,  
 1264 the following exceptions shall be permitted for lab schools:

1265 (a) The methods and requirements of the following statutes  
 1266 shall be held in abeyance: ss. 316.75; 1001.30; 1001.31;  
 1267 1001.32; 1001.33; 1001.34; 1001.35; 1001.36; 1001.361; 1001.362;  
 1268 1001.363; 1001.37; 1001.371; 1001.372; 1001.38; 1001.39;  
 1269 1001.395; 1001.40; 1001.41; 1001.44; 1001.453; 1001.46;  
 1270 1001.461; 1001.462; 1001.463; 1001.464; 1001.47; 1001.48;  
 1271 1001.49; 1001.50; 1001.51; 1006.12(2); 1006.21(3), (4); 1006.23;  
 1272 1010.07(2); 1010.40; 1010.41; 1010.42; 1010.43; 1010.44;  
 1273 1010.45; 1010.46; 1010.47; 1010.48; 1010.49; 1010.50; 1010.51;  
 1274 1010.52; 1010.53; 1010.54; 1010.55; 1011.02(1)-(3), (5);  
 1275 1011.04; 1011.20; 1011.21; 1011.22; 1011.23; 1011.71; 1011.72;  
 1276 1011.73; and 1011.74.

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1277 (b) With the exception of s. 1001.42(18), s. 1001.42 shall  
 1278 be held in abeyance. Reference to district school boards in s.  
 1279 1001.42(18) shall mean the president of the university or the  
 1280 president's designee.

1281 Section 32. Paragraph (b) of subsection (10) of section  
 1282 1002.34, Florida Statutes, is amended to read:  
 1283 1002.34 Charter technical career centers.—  
 1284 (10) EXEMPTION FROM STATUTES.—  
 1285 (b) A center must comply with the Florida Early Learning-20  
 1286 ~~K-20~~ Education Code with respect to providing services to  
 1287 students with disabilities.

1288 Section 33. Subsection (1) of section 1002.36, Florida  
 1289 Statutes, is amended to read:  
 1290 1002.36 Florida School for the Deaf and the Blind.—  
 1291 (1) RESPONSIBILITIES.—The Florida School for the Deaf and  
 1292 the Blind, located in St. Johns County, is a state-supported  
 1293 residential public school for hearing-impaired and visually  
 1294 impaired students in preschool through 12th grade. The school is  
 1295 a component of the delivery of public education within Florida's  
 1296 Early Learning-20 ~~K-20~~ education system and shall be funded  
 1297 through the Department of Education. The school shall provide  
 1298 educational programs and support services appropriate to meet  
 1299 the education and related evaluation and counseling needs of  
 1300 hearing-impaired and visually impaired students in the state who  
 1301 meet enrollment criteria. Unless otherwise provided by law, the  
 1302 school shall comply with all laws and rules applicable to state  
 1303 agencies. Education services may be provided on an outreach  
 1304 basis for sensory-impaired children ages 0 through 5 years and  
 1305 to district school boards upon request. Graduates of the Florida

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1306 School for the Deaf and the Blind shall be eligible for the  
 1307 William L. Boyd, IV, Effective Access to Student Education Grant  
 1308 Program as provided in s. 1009.89.

1309 Section 34. Paragraph (b) of subsection (4) and subsection  
 1310 (5) of section 1002.53, Florida Statutes, are amended, and  
 1311 paragraph (d) is added to subsection (6) of that section, to  
 1312 read:  
 1313 1002.53 Voluntary Prekindergarten Education Program;  
 1314 eligibility and enrollment.—  
 1315 (4)  
 1316 (b) The application must be submitted on forms prescribed  
 1317 by the department ~~Office of Early Learning~~ and must be  
 1318 accompanied by a certified copy of the child's birth  
 1319 certificate. The forms must include a certification, in  
 1320 substantially the form provided in s. 1002.71(6)(b)2., that the  
 1321 parent chooses the private prekindergarten provider or public  
 1322 school in accordance with this section and directs that payments  
 1323 for the program be made to the provider or school. The  
 1324 department ~~Office of Early Learning~~ may authorize alternative  
 1325 methods for submitting proof of the child's age in lieu of a  
 1326 certified copy of the child's birth certificate.

1327 (5) The early learning coalition shall provide each parent  
 1328 enrolling a child in the Voluntary Prekindergarten Education  
 1329 Program with a profile of every private prekindergarten provider  
 1330 and public school delivering the program within the county where  
 1331 the child is being enrolled. The profiles shall be provided to  
 1332 parents in a format prescribed by the department in accordance  
 1333 with s. 1002.92(3) ~~Office of Early Learning~~. ~~The profiles must~~  
 1334 ~~include, at a minimum, the following information about each~~

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1335 ~~provider and school.~~

1336 ~~(a) The provider's or school's services, curriculum,~~  
 1337 ~~instructor credentials, and instructor-to-student ratio; and~~

1338 ~~(b) The provider's or school's kindergarten readiness rate~~  
 1339 ~~calculated in accordance with s. 1002.69, based upon the most~~  
 1340 ~~recent available results of the statewide kindergarten~~  
 1341 ~~screening.~~

1342 (6)

1343 (d) Each parent who enrolls his or her child in the  
 1344 Voluntary Prekindergarten Education Program must allow his or  
 1345 her child to participate in the coordinated screening and  
 1346 progress monitoring program under s. 1008.2125.

1347 Section 35. Paragraphs (a), (b), (c), (e), (g), (h), (i),  
 1348 (j), and (l) of subsection (3), subsection (4), and paragraph  
 1349 (b) of subsection (5) of section 1002.55, Florida Statutes, are  
 1350 amended, and subsection (6) is added to that section, to read:

1351 1002.55 School-year prekindergarten program delivered by  
 1352 private prekindergarten providers.—

1353 (3) To be eligible to deliver the prekindergarten program,  
 1354 a private prekindergarten provider must meet each of the  
 1355 following requirements:

1356 (a) The private prekindergarten provider must be a child  
 1357 care facility licensed under s. 402.305, family day care home  
 1358 licensed under s. 402.313, large family child care home licensed  
 1359 under s. 402.3131, nonpublic school exempt from licensure under  
 1360 s. 402.3025(2), ~~or~~ faith-based child care provider exempt from  
 1361 licensure under s. 402.316, child development program that is  
 1362 accredited by a national accrediting body and operates on a  
 1363 military installation that is certified by the United States

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1364 Department of Defense, or private prekindergarten provider that  
 1365 has been issued a provisional license under s. 402.309. A  
 1366 private prekindergarten provider may not deliver the program  
 1367 while holding a probation-status license under s. 402.310.

1368 (b) The private prekindergarten provider must:

1369 1. Be accredited by an accrediting association that is a  
 1370 member of the National Council for Private School Accreditation,  
 1371 or the Florida Association of Academic Nonpublic Schools, or be  
 1372 accredited by the Southern Association of Colleges and Schools,  
 1373 or Western Association of Colleges and Schools, or North Central  
 1374 Association of Colleges and Schools, or Middle States  
 1375 Association of Colleges and Schools, or New England Association  
 1376 of Colleges and Schools; and have written accreditation  
 1377 standards that meet or exceed the state's licensing requirements  
 1378 under s. 402.305, s. 402.313, or s. 402.3131 and require at  
 1379 least one onsite visit to the provider or school before  
 1380 accreditation is granted;

1381 2. Hold a current Gold Seal Quality Care designation under  
 1382 s. 1002.945 ~~s. 402.281~~; or

1383 3. Be licensed under s. 402.305, s. 402.313, or s. 402.3131  
 1384 and demonstrate, before delivering the Voluntary Prekindergarten  
 1385 Education Program, as verified by the early learning coalition,  
 1386 that the provider meets each of the requirements of the program  
 1387 under this part, including, but not limited to, the requirements  
 1388 for credentials and background screenings of prekindergarten  
 1389 instructors under paragraphs (c) and (d), minimum and maximum  
 1390 class sizes under paragraph (f), prekindergarten director  
 1391 credentials under paragraph (g), and a developmentally  
 1392 appropriate curriculum under s. 1002.67(2)(b).

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1393 (c) The private prekindergarten provider must have, for  
 1394 each prekindergarten class of 11 children or fewer, at least one  
 1395 prekindergarten instructor who meets each of the following  
 1396 requirements:

1397 1. The prekindergarten instructor must hold, at a minimum,  
 1398 one of the following credentials:

1399 a. A child development associate credential issued by the  
 1400 National Credentialing Program of the Council for Professional  
 1401 Recognition; or

1402 b. A credential approved by the Department of Children and  
 1403 Families as being equivalent to or greater than the credential  
 1404 described in sub-subparagraph a.

1405 The Department of Children and Families may adopt rules under  
 1406 ss. 120.536(1) and 120.54 which provide criteria and procedures  
 1407 for approving equivalent credentials under sub-subparagraph b.

1408 2. The prekindergarten instructor must successfully  
 1409 complete at least three emergent literacy training courses  
 1410 that include developmentally appropriate and experiential  
 1411 learning practices for children course and a student performance  
 1412 standards training course approved by the department office as  
 1413 meeting or exceeding the minimum standards adopted under s.  
 1414 1002.59. The requirement for completion of the standards  
 1415 training course shall take effect July 1, 2022 ~~2014~~, and be  
 1416 recognized as part of the informal early learning career pathway  
 1417 identified by the department under s. 1002.995(1)(b). Such and  
 1418 the course shall be available online or in person.

1419 (e) A private prekindergarten provider may assign a  
 1420 substitute instructor to temporarily replace a credentialed  
 1421

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1422 instructor if the credentialed instructor assigned to a  
 1423 prekindergarten class is absent, as long as the substitute  
 1424 instructor is of good moral character and has been screened  
 1425 before employment in accordance with level 2 background  
 1426 screening requirements in chapter 435. The ~~department Office of~~  
 1427 ~~Early Learning~~ shall adopt rules to implement this paragraph  
 1428 which shall include required qualifications of substitute  
 1429 instructors and the circumstances and time limits for which a  
 1430 private prekindergarten provider may assign a substitute  
 1431 instructor.

1432 (g) The private prekindergarten provider must have a  
 1433 prekindergarten director who has a prekindergarten director  
 1434 credential that is approved by the department office as meeting  
 1435 or exceeding the minimum standards adopted under s. 1002.57. A  
 1436 private school administrator who holds a valid certificate in  
 1437 educational leadership issued by the department satisfies the  
 1438 requirement for a prekindergarten director credential under s.  
 1439 1002.57 Successful completion of a child care facility director  
 1440 credential under s. 402.305(2)(g) before the establishment of  
 1441 the prekindergarten director credential under s. 1002.57 or July  
 1442 1, 2006, whichever occurs later, satisfies the requirement for a  
 1443 prekindergarten director credential under this paragraph.

1444 (h) The private prekindergarten provider must register with  
 1445 the early learning coalition on forms prescribed by the  
 1446 department Office of Early Learning.

1447 (i) The private prekindergarten provider must execute the  
 1448 statewide provider contract prescribed under s. 1002.73 ~~or~~  
 1449 ~~1002.75~~, except that an individual who owns or operates multiple  
 1450 private prekindergarten sites providers within a coalition's



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1451 service area may execute a single agreement with the coalition  
1452 on behalf of each site provider.

1453 (j) The private prekindergarten provider must maintain  
1454 general liability insurance and provide the coalition with  
1455 written evidence of general liability insurance coverage,  
1456 including coverage for transportation of children if  
1457 prekindergarten students are transported by the provider. A  
1458 provider must obtain and retain an insurance policy that  
1459 provides a minimum of \$100,000 of coverage per occurrence and a  
1460 minimum of \$300,000 general aggregate coverage. The department  
1461 ~~office~~ may authorize lower limits upon request, as appropriate.  
1462 A provider must add the coalition as a named certificateholder  
1463 and as an additional insured. A provider must provide the  
1464 coalition with a minimum of 10 calendar days' advance written  
1465 notice of cancellation of or changes to coverage. The general  
1466 liability insurance required by this paragraph must remain in  
1467 full force and effect for the entire period of the provider  
1468 contract with the coalition.

1469 (l) Notwithstanding paragraph (j), for a private  
1470 prekindergarten provider that is a state agency or a subdivision  
1471 thereof, as defined in s. 768.28(2), the provider must agree to  
1472 notify the coalition of any additional liability coverage  
1473 maintained by the provider in addition to that otherwise  
1474 established under s. 768.28. The provider shall indemnify the  
1475 coalition to the extent permitted by s. 768.28. Notwithstanding  
1476 paragraph (j), for a child development program that is  
1477 accredited by a national accrediting body and operates on a  
1478 military installation that is certified by the United States  
1479 Department of Defense, the provider may demonstrate liability

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1480 coverage by affirming that it is subject to the Federal Tort  
1481 Claims Act, 28 U.S.C. s. 2671 et seq.

1482 (4) A prekindergarten instructor, in lieu of the minimum  
1483 credentials ~~and courses~~ required under paragraph (3) (c), may  
1484 hold one of the following educational credentials:

1485 (a) A bachelor's or higher degree in early childhood  
1486 education, prekindergarten or primary education, preschool  
1487 education, or family and consumer science;

1488 (b) A bachelor's or higher degree in elementary education,  
1489 if the prekindergarten instructor has been certified to teach  
1490 children any age from birth through 6th grade, regardless of  
1491 whether the instructor's educator certificate is current, and if  
1492 the instructor is not ineligible to teach in a public school  
1493 because his or her educator certificate is suspended or revoked;

1494 (c) An associate's or higher degree in child development;

1495 (d) An associate's or higher degree in an unrelated field,  
1496 at least 6 credit hours in early childhood education or child  
1497 development, and at least 480 hours of experience in teaching or  
1498 providing child care services for children any age from birth  
1499 through 8 years of age; or

1500 (e) An educational credential approved by the department as  
1501 being equivalent to or greater than an educational credential  
1502 described in this subsection. The department may adopt criteria  
1503 and procedures for approving equivalent educational credentials  
1504 under this paragraph.

1505 (5)

1506 (b) Notwithstanding any other ~~provision of~~ law, if a  
1507 private prekindergarten provider has been cited for a class I  
1508 violation, as defined by rule of the Child Care Services Program

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1509 Office of the Department of Children and Families, the coalition  
1510 may refuse to contract with the provider.

1511 (6) Each early learning coalition shall verify that each  
1512 private prekindergarten provider delivering the Voluntary  
1513 Prekindergarten Education Program within the coalition's county  
1514 or multicounty region complies with this part. If a private  
1515 prekindergarten provider fails or refuses to comply with this  
1516 part or engages in misconduct, the department must require the  
1517 early learning coalition to remove the provider from eligibility  
1518 to deliver the program and receive state funds under this part  
1519 for a period of at least 2 years but no more than 5 years.

1520 Section 36. Paragraphs (b) and (c) of subsection (2) of  
1521 section 1002.57, Florida Statutes, are redesignated as  
1522 paragraphs (c) and (d), respectively, subsection (1) is amended,  
1523 and a new paragraph (b) is added to subsection (2) of that  
1524 section, to read:

1525 1002.57 Prekindergarten director credential.—

1526 (1) The department office, in consultation with the  
1527 Department of Children and Families, shall adopt minimum  
1528 standards for a credential for prekindergarten directors of  
1529 private prekindergarten providers delivering the Voluntary  
1530 Prekindergarten Education Program. The credential must encompass  
1531 requirements for education and onsite experience.

1532 (2) The educational requirements must include training in  
1533 the following:

1534 (b) Implementation of curriculum and usage of student-level  
1535 data to inform the delivery of instruction;

1536 Section 37. Section 1002.59, Florida Statutes, is amended  
1537 to read:

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1538 1002.59 Emergent literacy and performance standards

1539 training courses.—

1540 (1) The department office shall adopt minimum standards for  
1541 ~~one or more training~~ courses in emergent literacy for  
1542 prekindergarten instructors. Each course must comprise 5 clock  
1543 hours and provide instruction in strategies and techniques to  
1544 address the age-appropriate progress of prekindergarten students  
1545 in developing emergent literacy skills, including oral  
1546 communication, knowledge of print and letters, phonemic and  
1547 phonological awareness, and vocabulary and comprehension  
1548 development. Each course must also provide resources containing  
1549 strategies that allow students with disabilities and other  
1550 special needs to derive maximum benefit from the Voluntary  
1551 Prekindergarten Education Program. Successful completion of an  
1552 emergent literacy training course approved under this section  
1553 satisfies requirements for approved training in early literacy  
1554 and language development under ss. 402.305(2)(e)5., 402.313(6),  
1555 and 402.3131(5).

1556 (2) The department office shall adopt minimum standards for  
1557 ~~one or more training~~ courses on the performance standards  
1558 adopted under s. 1002.67(1). Each course must be comprised of  
1559 ~~comprise~~ at least 3 clock hours, provide instruction in  
1560 strategies and techniques to address age-appropriate progress of  
1561 each child in attaining the standards, and be available online.

1562 (3) The department shall make available online professional  
1563 development and training courses comprised of at least 8 clock  
1564 hours that support prekindergarten instructors in increasing the  
1565 competency of teacher-child interactions.

1566 Section 38. Present subsections (6) through (8) of section

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1567 1002.61, Florida Statutes, are redesignated as subsections (7)  
 1568 through (9), respectively, a new subsection (6) and subsection  
 1569 (10) are added to that section, and paragraph (b) of subsection  
 1570 (1), paragraph (b) of subsection (3), subsection (4), and  
 1571 present subsections (6) and (8) of that section are amended, to  
 1572 read:

1573 1002.61 Summer prekindergarten program delivered by public  
 1574 schools and private prekindergarten providers.—

1575 (1)

1576 (b) Each early learning coalition shall administer the  
 1577 Voluntary Prekindergarten Education Program at the county or  
 1578 regional level for students enrolled under s. 1002.53(3)(b) in a  
 1579 summer prekindergarten program delivered by a private  
 1580 prekindergarten provider. A child development program that is  
 1581 accredited by a national accrediting body and operates on a  
 1582 military installation that is certified by the United States  
 1583 Department of Defense may administer the summer prekindergarten  
 1584 program as a private prekindergarten provider.

1585 (3)

1586 (b) Each public school delivering the summer  
 1587 prekindergarten program must execute the statewide provider  
 1588 contract prescribed under s. 1002.73 ~~s. 1002.75~~, except that the  
 1589 school district may execute a single agreement with the early  
 1590 learning coalition on behalf of all district schools.

1591 (4) Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(4),  
 1592 each public school and private prekindergarten provider must  
 1593 have, for each prekindergarten class, at least one  
 1594 prekindergarten instructor who is a certified teacher or holds  
 1595 one of the educational credentials specified in s. 1002.55(4)(a)

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1596 or (b). As used in this subsection, the term "certified teacher"  
 1597 means a teacher holding a valid Florida educator certificate  
 1598 under s. 1012.56 who has the qualifications required by the  
 1599 district school board to instruct students in the summer  
 1600 prekindergarten program. In selecting instructional staff for  
 1601 the summer prekindergarten program, each school district shall  
 1602 give priority to teachers who have experience or coursework in  
 1603 early childhood education and have completed emergent literacy  
 1604 and performance standards courses, as provided for in s.  
 1605 1002.55(3)(c)2.

1606 (6) A child development program that is accredited by a  
 1607 national accrediting body and operates on a military  
 1608 installation that is certified by the United States Department  
 1609 of Defense shall comply with the requirements of a private  
 1610 prekindergarten provider in this section.

1611 (7) ~~(6)~~ A public school or private prekindergarten provider  
 1612 may assign a substitute instructor to temporarily replace a  
 1613 credentialed instructor if the credentialed instructor assigned  
 1614 to a prekindergarten class is absent, as long as the substitute  
 1615 instructor is of good moral character and has been screened  
 1616 before employment in accordance with level 2 background  
 1617 screening requirements in chapter 435. This subsection does not  
 1618 supersede employment requirements for instructional personnel in  
 1619 public schools which are more stringent than the requirements of  
 1620 this subsection. The department ~~Office of Early Learning~~ shall  
 1621 adopt rules to implement this subsection which shall include  
 1622 required qualifications of substitute instructors and the  
 1623 circumstances and time limits for which a public school or  
 1624 private prekindergarten provider may assign a substitute

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1625 instructor.

1626 ~~(9)(8)~~ Each public school delivering the summer  
1627 prekindergarten program must also register with the early  
1628 learning coalition on forms prescribed by the department Office  
1629 ~~of Early Learning~~ and deliver the Voluntary Prekindergarten  
1630 Education Program in accordance with this part.

1631 (10)(a) Each early learning coalition shall verify that  
1632 each private prekindergarten provider and public school  
1633 delivering the Voluntary Prekindergarten Education Program  
1634 within the coalition's county or multicounty region complies  
1635 with this part.

1636 (b) If a private prekindergarten provider or public school  
1637 fails or refuses to comply with this part or engages in  
1638 misconduct, the department shall require the early learning  
1639 coalition to remove the provider or school from eligibility to  
1640 deliver the Voluntary Prekindergarten Education Program and  
1641 receive state funds under this part for a period of at least 2  
1642 years but no more than 5 years.

1643 Section 39. Paragraph (b) of subsection (3) and subsections  
1644 (6) and (8) of section 1002.63, Florida Statutes, are amended,  
1645 and subsection (9) is added to that section, to read:

1646 1002.63 School-year prekindergarten program delivered by  
1647 public schools.—

1648 (3)

1649 (b) Each public school delivering the school-year  
1650 prekindergarten program must execute the statewide provider  
1651 contract prescribed under s. 1002.73 ~~s. 1002.75~~, except that the  
1652 school district may execute a single agreement with the early  
1653 learning coalition on behalf of all district schools.

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1654 (6) A public school prekindergarten provider may assign a  
1655 substitute instructor to temporarily replace a credentialed  
1656 instructor if the credentialed instructor assigned to a  
1657 prekindergarten class is absent, as long as the substitute  
1658 instructor is of good moral character and has been screened  
1659 before employment in accordance with level 2 background  
1660 screening requirements in chapter 435. This subsection does not  
1661 supersede employment requirements for instructional personnel in  
1662 public schools which are more stringent than the requirements of  
1663 this subsection. The department Office of Early Learning shall  
1664 adopt rules to implement this subsection which shall include  
1665 required qualifications of substitute instructors and the  
1666 circumstances and time limits for which a public school  
1667 prekindergarten provider may assign a substitute instructor.

1668 (8) Each public school delivering the school-year  
1669 prekindergarten program must register with the early learning  
1670 coalition on forms prescribed by the department Office of Early  
1671 ~~Learning~~ and deliver the Voluntary Prekindergarten Education  
1672 Program in accordance with this part.

1673 (9)(a) Each early learning coalition shall verify that each  
1674 public school delivering the Voluntary Prekindergarten Education  
1675 Program within the coalition's service area complies with this  
1676 part.

1677 (b) If a public school fails or refuses to comply with this  
1678 part or engages in misconduct, the department shall require the  
1679 early learning coalition to remove the school from eligibility  
1680 to deliver the Voluntary Prekindergarten Education Program and  
1681 receive state funds under this part for a period of at least 2  
1682 years but no more than 5 years.

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1683 Section 40. Section 1002.67, Florida Statutes, is amended  
1684 to read:

1685 1002.67 Performance standards and, curricula ~~and~~  
1686 ~~accountability.~~

1687 (1) (a) The department office shall develop and adopt  
1688 performance standards for students in the Voluntary  
1689 Prekindergarten Education Program. The performance standards  
1690 must address the age-appropriate progress of students in the  
1691 development of:

1692 1. The capabilities, capacities, and skills required under  
1693 s. 1(b), Art. IX of the State Constitution; ~~and~~

1694 2. Emergent literacy skills, including oral communication,  
1695 knowledge of print and letters, phonemic and phonological  
1696 awareness, and vocabulary and comprehension development; and

1697 3. Mathematical thinking and early math skills.

1698 ~~By October 1, 2013, the office shall examine the existing~~  
1699 ~~performance standards in the area of mathematical thinking and~~  
1700 ~~develop a plan to make appropriate professional development and~~  
1701 ~~training courses available to prekindergarten instructors.~~

1702 (b) At least every 3 years, the department office shall  
1703 ~~periodically~~ review and, if necessary, revise the performance  
1704 standards established under this section for the statewide  
1705 ~~kindergarten screening administered under s. 1002.69~~ and align  
1706 the standards to the standards established by the state board  
1707 for student performance on the statewide assessments  
1708 administered pursuant to s. 1008.22.

1710 (2) (a) Each private prekindergarten provider and public  
1711 school may select or design the curriculum that the provider or

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1712 school uses to implement the Voluntary Prekindergarten Education  
1713 Program, except as otherwise required for a provider or school  
1714 that is placed on probation under s. 1002.68 ~~paragraph (4) (e).~~

1715 (b) Each private prekindergarten provider's and public  
1716 school's curriculum must be developmentally appropriate and  
1717 must:

1718 1. Be designed to prepare a student for early literacy and  
1719 provide for instruction in early math skills;

1720 2. Enhance the age-appropriate progress of students in  
1721 attaining the performance standards adopted by the department  
1722 under subsection (1); and

1723 3. Support student learning gains through differentiated  
1724 instruction that shall be measured by the coordinated screening  
1725 and progress monitoring program under s. 1008.2125 ~~Prepare~~  
1726 ~~students to be ready for kindergarten based upon the statewide~~  
1727 ~~kindergarten screening administered under s. 1002.69.~~

1728 (c) The department office shall adopt procedures for the  
1729 review and approval of ~~approve~~ curricula for use by private  
1730 prekindergarten providers and public schools that are placed on  
1731 probation under s. 1002.68 ~~paragraph (4) (e).~~ The department  
1732 office shall administer the review and approval process and  
1733 maintain a list of the curricula approved under this paragraph.  
1734 Each approved curriculum must meet the requirements of paragraph  
1735 (b).

1736 ~~(3) (a) Contingent upon legislative appropriation, each~~  
1737 ~~private prekindergarten provider and public school in the~~  
1738 ~~Voluntary Prekindergarten Education Program must implement an~~  
1739 ~~evidence based pre and post assessment that has been approved~~  
1740 ~~by rule of the State Board of Education.~~

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1741 ~~(b) In order to be approved, the assessment must be valid,~~  
 1742 ~~reliable, developmentally appropriate, and designed to measure~~  
 1743 ~~student progress on domains which must include, but are not~~  
 1744 ~~limited to, early literacy, numeracy, and language.~~  
 1745 ~~(c) The pre and post assessment must be administered by~~  
 1746 ~~individuals meeting requirements established by rule of the~~  
 1747 ~~State Board of Education.~~  
 1748 ~~(4)(a) Each early learning coalition shall verify that each~~  
 1749 ~~private prekindergarten provider delivering the Voluntary~~  
 1750 ~~Prekindergarten Education Program within the coalition's county~~  
 1751 ~~or multicounty region complies with this part. Each district~~  
 1752 ~~school board shall verify that each public school delivering the~~  
 1753 ~~program within the school district complies with this part.~~  
 1754 ~~(b) If a private prekindergarten provider or public school~~  
 1755 ~~fails or refuses to comply with this part, or if a provider or~~  
 1756 ~~school engages in misconduct, the office shall require the early~~  
 1757 ~~learning coalition to remove the provider and require the school~~  
 1758 ~~district to remove the school from eligibility to deliver the~~  
 1759 ~~Voluntary Prekindergarten Education Program and receive state~~  
 1760 ~~funds under this part for a period of 5 years.~~  
 1761 ~~(c)1. If the kindergarten readiness rate of a private~~  
 1762 ~~prekindergarten provider or public school falls below the~~  
 1763 ~~minimum rate adopted by the office as satisfactory under s.~~  
 1764 ~~1002.69(6), the early learning coalition or school district, as~~  
 1765 ~~applicable, shall require the provider or school to submit an~~  
 1766 ~~improvement plan for approval by the coalition or school~~  
 1767 ~~district, as applicable, and to implement the plan; shall place~~  
 1768 ~~the provider or school on probation; and shall require the~~  
 1769 ~~provider or school to take certain corrective actions, including~~

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1770 ~~the use of a curriculum approved by the office under paragraph~~  
 1771 ~~(2)(c) or a staff development plan to strengthen instruction in~~  
 1772 ~~language development and phonological awareness approved by the~~  
 1773 ~~office.~~  
 1774 ~~2. A private prekindergarten provider or public school that~~  
 1775 ~~is placed on probation must continue the corrective actions~~  
 1776 ~~required under subparagraph 1., including the use of a~~  
 1777 ~~curriculum or a staff development plan to strengthen instruction~~  
 1778 ~~in language development and phonological awareness approved by~~  
 1779 ~~the office, until the provider or school meets the minimum rate~~  
 1780 ~~adopted by the office as satisfactory under s. 1002.69(6).~~  
 1781 ~~Failure to implement an approved improvement plan or staff~~  
 1782 ~~development plan shall result in the termination of the~~  
 1783 ~~provider's contract to deliver the Voluntary Prekindergarten~~  
 1784 ~~Education Program for a period of 5 years.~~  
 1785 ~~3. If a private prekindergarten provider or public school~~  
 1786 ~~remains on probation for 2 consecutive years and fails to meet~~  
 1787 ~~the minimum rate adopted by the office as satisfactory under s.~~  
 1788 ~~1002.69(6) and is not granted a good cause exemption by the~~  
 1789 ~~office pursuant to s. 1002.69(7), the office shall require the~~  
 1790 ~~early learning coalition or the school district to remove, as~~  
 1791 ~~applicable, the provider or school from eligibility to deliver~~  
 1792 ~~the Voluntary Prekindergarten Education Program and receive~~  
 1793 ~~state funds for the program for a period of 5 years.~~  
 1794 ~~(d) Each early learning coalition and the office shall~~  
 1795 ~~coordinate with the Child Care Services Program Office of the~~  
 1796 ~~Department of Children and Families to minimize interagency~~  
 1797 ~~duplication of activities for monitoring private prekindergarten~~  
 1798 ~~providers for compliance with requirements of the Voluntary~~

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1799 ~~Prekindergarten Education Program under this part, the school~~  
 1800 ~~readiness program under part VI of this chapter, and the~~  
 1801 ~~licensing of providers under ss. 402.301-402.319.~~

1802 Section 41. Section 1002.68, Florida Statutes, is created  
 1803 to read:

1804 1002.68 Voluntary Prekindergarten Education Program  
 1805 accountability.—

1806 (1) (a) Beginning with the 2022-2023 program year, each  
 1807 private prekindergarten provider and public school participating  
 1808 in the Voluntary Prekindergarten Education Program must  
 1809 participate in the coordinated screening and progress monitoring  
 1810 program in accordance with s. 1008.2125. The coordinated  
 1811 screening and progress monitoring program results shall be used  
 1812 by the department to identify student learning gains, index  
 1813 development learning outcomes upon program completion relative  
 1814 to the performance standards established under s. 1002.67 and  
 1815 representative norms, and inform a private prekindergarten  
 1816 provider's and public school's performance metric.

1817 (b) At a minimum, the initial and final progress monitoring  
 1818 or screening must be administered by individuals meeting  
 1819 requirements adopted by the department under s. 1008.2125.

1820 (c) Each private prekindergarten provider and public school  
 1821 must provide a student's performance results from the  
 1822 coordinated screening and progress monitoring to the student's  
 1823 parents within 7 days after the administration of such  
 1824 coordinated screening and progress monitoring.

1825 (2) Beginning with the 2021-2022 program year, each private  
 1826 prekindergarten provider and public school in the Voluntary  
 1827 Prekindergarten Education Program must participate in a program

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1828 assessment of each voluntary prekindergarten education  
 1829 classroom. The program assessment shall measure the quality of  
 1830 teacher-child interactions, including emotional support,  
 1831 classroom organization, and instructional support for children  
 1832 ages 3 to 5 years. Each private prekindergarten provider and  
 1833 public school in the Voluntary Prekindergarten Education Program  
 1834 shall receive from the department the results of the program  
 1835 assessment for each classroom within 14 days after the  
 1836 observation. Each early learning coalition shall be responsible  
 1837 for the administration of the program assessments, which must be  
 1838 conducted by individuals qualified to conduct program  
 1839 assessments under s. 1002.82(2)(n).

1840 (3) (a) For the 2020-2021 program year, the department shall  
 1841 calculate a kindergarten readiness rate for each private  
 1842 prekindergarten provider and public school in the Voluntary  
 1843 Prekindergarten Education Program, based upon learning gains and  
 1844 the percentage of students who are assessed as ready for  
 1845 kindergarten. The department shall require that each school  
 1846 district administer the statewide kindergarten screening in use  
 1847 before the 2021-2022 school year to each kindergarten student in  
 1848 the school district within the first 30 school days of the 2021-  
 1849 2022 school year. Private schools may administer the statewide  
 1850 kindergarten screening to each kindergarten student in a private  
 1851 school who was enrolled in the Voluntary Prekindergarten  
 1852 Education Program. Learning gains shall be determined using a  
 1853 value-added measure based on growth demonstrated by the results  
 1854 of the preassessment and postassessment in use before the 2021-  
 1855 2022 program year. Any private prekindergarten provider or  
 1856 public school in the Voluntary Prekindergarten Education Program

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1857 which fails to meet the minimum kindergarten readiness rate for  
 1858 the 2020-2021 program year is subject to the probation  
 1859 requirements of subsection (5).

1860 (b) For the 2021-2022 program year, the department shall  
 1861 calculate a program assessment composite score for each provider  
 1862 based on the program assessment under subsection (2). Any  
 1863 private prekindergarten provider or public school in the  
 1864 Voluntary Prekindergarten Education Program which fails to meet  
 1865 the minimum program assessment composite score established by  
 1866 the state board pursuant to s. 1002.82(2)(n) for the 2021-2022  
 1867 program year is subject to the probation requirements of  
 1868 subsection (5).

1869 (4) (a) Beginning with the 2022-2023 program year, the  
 1870 department shall adopt a methodology for calculating each  
 1871 private prekindergarten provider's and public school provider's  
 1872 performance metric, which must be based on a combination of the  
 1873 following:

1874 1. Program assessment composite scores under subsection  
 1875 (3), which must be weighted at no less than 50 percent.

1876 2. Learning gains operationalized as change in ability  
 1877 scores from the initial and final progress monitoring results  
 1878 described in subsection (1).

1879 3. Norm-referenced developmental learning outcomes  
 1880 described in subsection (1).

1881 (b) The methodology for calculating a provider's  
 1882 performance metric may only include prekindergarten students who  
 1883 have attended at least 85 percent of a private prekindergarten  
 1884 provider's or public school's program.

1885 (c) The program assessment composite score and performance

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1886 metric must be calculated for each private prekindergarten or  
 1887 public school site.

1888 (d) The methodology shall include a statistical latent  
 1889 profile analysis that has been conducted by an independent  
 1890 expert with experience in relevant quantitative analysis, early  
 1891 childhood assessment, and designing state-level accountability  
 1892 systems. The independent expert shall be able to produce a  
 1893 limited number of performance metric profiles that summarize the  
 1894 profiles of all sites that must be used to inform the following  
 1895 designations: "unsatisfactory," "emerging proficiency,"  
 1896 "proficient," "highly proficient," and "excellent" or comparable  
 1897 terminology determined by the State Board of Education which may  
 1898 not include letter grades. The independent expert may not be a  
 1899 direct stakeholder or have had a financial interest in the  
 1900 design or delivery of the Voluntary Prekindergarten Education  
 1901 Program or public school system within the last 5 years.

1902 (e) Subject to an appropriation, the department shall  
 1903 provide for a differential payment to a private prekindergarten  
 1904 provider and public school based on the provider's designation.  
 1905 The maximum differential payment may not exceed a total of 15  
 1906 percent of the base student allocation per full-time equivalent  
 1907 student under s. 1002.71 attending in the consecutive program  
 1908 year for that program. A private prekindergarten provider or  
 1909 public school may not receive a differential payment if it  
 1910 receives a designation of proficient or lower. Before the  
 1911 adoption of the methodology, the department and the independent  
 1912 expert shall confer with the Council for Early Grade Success  
 1913 under s. 1008.2125 before receiving approval from the State  
 1914 Board of Education for the final recommendations on the



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1915 designation system and differential payments.

1916 (f) The department shall adopt procedures to annually  
 1917 calculate each private prekindergarten provider's and public  
 1918 school's performance metric, based on the methodology adopted in  
 1919 paragraphs (a) and (b), and assign a designation under paragraph  
 1920 (d). Beginning with the 2023-2024 program year, each private  
 1921 prekindergarten provider or public school shall be assigned a  
 1922 designation within 45 days after the conclusion of the school-  
 1923 year Voluntary Prekindergarten Education Program delivered by  
 1924 all participating private prekindergarten providers or public  
 1925 schools and within 45 days after the conclusion of the summer  
 1926 Voluntary Prekindergarten Education Program delivered by all  
 1927 participating private prekindergarten providers or public  
 1928 schools.

1929 (g) A private prekindergarten provider or public school  
 1930 designated "proficient," "highly proficient," or "excellent"  
 1931 demonstrates the provider's or school's satisfactory delivery of  
 1932 the Voluntary Prekindergarten Education Program.

1933 (h) The designations shall be displayed in the early  
 1934 learning provider performance profiles required under s.  
 1935 1002.92(3).

1936 (5) (a) If a public school's or private prekindergarten  
 1937 provider's program assessment composite score for its  
 1938 prekindergarten classrooms fails to meet the minimum program  
 1939 assessment composite score for contracting established by the  
 1940 department pursuant to s. 1002.82(2)(n), the private  
 1941 prekindergarten provider or public school may not participate in  
 1942 the Voluntary Prekindergarten Education Program beginning in the  
 1943 consecutive program year and thereafter until the public school

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1944 or private prekindergarten provider meets the minimum composite  
 1945 score for contracting.

1946 (b) If a private prekindergarten provider's or public  
 1947 school's performance metric or designation falls below the  
 1948 minimum performance metric or designation, the early learning  
 1949 coalition shall:

1950 1. Require the provider or school to submit for approval to  
 1951 the early learning coalition an improvement plan and implement  
 1952 the plan.

1953 2. Place the provider or school on probation.

1954 3. Require the provider or school to take certain  
 1955 corrective actions, including the use of a curriculum approved  
 1956 by the department under s. 1002.67(2)(c) and a staff development  
 1957 plan approved by the department to strengthen instructional  
 1958 practices in emotional support, classroom organization,  
 1959 instructional support, language development, phonological  
 1960 awareness, alphabet knowledge, and mathematical thinking.

1961 (c) A private prekindergarten provider or public school  
 1962 placed on probation must continue the corrective actions  
 1963 required under paragraph (b) until the provider or school meets  
 1964 the minimum performance metric or designation adopted by the  
 1965 department. Failure to meet the requirements of subparagraphs  
 1966 (b)1. and 3. shall result in the termination of the provider's  
 1967 or school's contract to deliver the Voluntary Prekindergarten  
 1968 Education Program for a period of at least 2 years but no more  
 1969 than 5 years.

1970 (d) If a private prekindergarten provider or public school  
 1971 remains on probation for 2 consecutive years and fails to meet  
 1972 the minimum performance metric or designation, or is not granted

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1973 a good cause exemption by the department, the department shall  
 1974 require the early learning coalition to revoke the provider's or  
 1975 school's eligibility to deliver the Voluntary Prekindergarten  
 1976 Education Program and receive state funds for the program for a  
 1977 period of at least 2 years but no more than 5 years.

1978 (6) (a) The department, upon the request of a private  
 1979 prekindergarten provider or public school that remains on  
 1980 probation for at least 2 consecutive years and subsequently  
 1981 fails to meet the minimum performance metric or designation, and  
 1982 for good cause shown, may grant to the provider or school an  
 1983 exemption from being determined ineligible to deliver the  
 1984 Voluntary Prekindergarten Education Program and receive state  
 1985 funds for the program. Such exemption is valid for 1 year and,  
 1986 upon the request of the private prekindergarten provider or  
 1987 public school and for good cause shown, may be renewed.

1988 (b) A private prekindergarten provider's or public school's  
 1989 request for a good cause exemption, or renewal of such an  
 1990 exemption, must be submitted to the department in the manner and  
 1991 within the timeframes prescribed by the department and must  
 1992 include the following:

1993 1. Data from the private prekindergarten provider or public  
 1994 school which documents the achievement and progress of the  
 1995 children served, as measured by any required screenings or  
 1996 assessments.

1997 2. Data from the program assessment required under  
 1998 subsection (2) which demonstrates effective teaching practices  
 1999 as recognized by the tool developer.

2000 3. Data from the early learning coalition or district  
 2001 school board, as applicable, the Department of Children and

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2002 Families, the local licensing authority, or an accrediting  
 2003 association, as applicable, relating to the private  
 2004 prekindergarten provider's or public school's compliance with  
 2005 state and local health and safety standards.

2006 (c) The department shall adopt criteria for granting good  
 2007 cause exemptions. Such criteria must include, but are not  
 2008 limited to, all of the following:

2009 1. Child demographic data that evidences a private  
 2010 prekindergarten provider or public school serves a statistically  
 2011 significant population of children with special needs who have  
 2012 individual education plans and can demonstrate progress toward  
 2013 meeting the goals outlined in the students' individual education  
 2014 plans.

2015 2. Learning gains of children served in the Voluntary  
 2016 Prekindergarten Education Program by the private prekindergarten  
 2017 provider or public school on an alternative measure that has  
 2018 comparable validity and reliability of the coordinated screening  
 2019 and progress monitoring program in accordance with s. 1008.2125.

2020 3. Program assessment data under subsection (2) which  
 2021 demonstrates effective teaching practices as recognized by the  
 2022 tool developer.

2023 4. Verification that local and state health and safety  
 2024 requirements are met.

2025 (d) A good cause exemption may not be granted to any  
 2026 private prekindergarten provider or public school that has any  
 2027 class I violations or two or more class II violations, as  
 2028 defined by rule of the Department of Children and Families,  
 2029 within the 2 years preceding the provider's or school's request  
 2030 for the exemption.

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2031 (e) A private prekindergarten provider or public school  
 2032 granted a good cause exemption shall continue to implement its  
 2033 improvement plan and continue the corrective actions required  
 2034 under subsection (5) (b) until the provider or school meets the  
 2035 minimum performance metric.

2036 (f) If a good cause exemption is granted to a private  
 2037 prekindergarten provider or public school that remains on  
 2038 probation for 2 consecutive years and if the provider meets all  
 2039 other applicable requirements of this part, the department shall  
 2040 notify the early learning coalition of the good cause exemption  
 2041 and direct that the early learning coalition not remove the  
 2042 provider from eligibility to deliver the Voluntary  
 2043 Prekindergarten Education Program or to receive state funds for  
 2044 the program.

2045 (g) The department shall report the number of private  
 2046 prekindergarten providers or public schools that have received a  
 2047 good cause exemption and the reasons for the exemptions as part  
 2048 of its annual reporting requirements under s. 1002.82(7).

2049 (7) Representatives from each school district and  
 2050 corresponding early learning coalitions must meet annually to  
 2051 develop strategies to transition students from the Voluntary  
 2052 Prekindergarten Education Program to kindergarten.

2053 Section 42. Section 1002.69, Florida Statutes, is repealed.

2054 Section 43. Paragraph (c) of subsection (3), subsection  
 2055 (4), paragraph (b) of subsection (5), paragraphs (b) and (d) of  
 2056 subsection (6), and subsection (7) of section 1002.71, Florida  
 2057 Statutes, are amended to read:

2058 1002.71 Funding; financial and attendance reporting.—

2059 (3)

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2060 (c) The initial allocation shall be based on estimated  
 2061 student enrollment in each coalition service area. The  
 2062 ~~department Office of Early Learning~~ shall reallocate funds among  
 2063 the coalitions based on actual full-time equivalent student  
 2064 enrollment in each coalition service area. Each coalition shall  
 2065 report student enrollment pursuant to subsection (2) on a  
 2066 monthly basis. A student enrollment count for the prior fiscal  
 2067 year may not be amended after September 30 of the subsequent  
 2068 fiscal year.

2069 (4) Notwithstanding s. 1002.53(3) and subsection (2):

2070 (a) A child who, for any of the prekindergarten programs  
 2071 listed in s. 1002.53(3), has not completed more than 70 percent  
 2072 of the hours authorized to be reported for funding under  
 2073 subsection (2), or has not expended more than 70 percent of the  
 2074 funds authorized for the child under s. 1002.66, may withdraw  
 2075 from the program for good cause and reenroll in one of the  
 2076 programs. The total funding for a child who reenrolls in one of  
 2077 the programs for good cause may not exceed one full-time  
 2078 equivalent student. Funding for a child who withdraws and  
 2079 reenrolls in one of the programs for good cause shall be issued  
 2080 in accordance with the ~~department's Office of Early Learning's~~  
 2081 uniform attendance policy adopted pursuant to paragraph (6) (d).

2082 (b) A child who has not substantially completed any of the  
 2083 prekindergarten programs listed in s. 1002.53(3) may withdraw  
 2084 from the program due to an extreme hardship that is beyond the  
 2085 child's or parent's control, reenroll in one of the summer  
 2086 programs, and be reported for funding purposes as a full-time  
 2087 equivalent student in the summer program for which the child is  
 2088 reenrolled.

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2089  
2090 A child may reenroll only once in a prekindergarten program  
2091 under this section. A child who reenrolls in a prekindergarten  
2092 program under this subsection may not subsequently withdraw from  
2093 the program and reenroll, unless the child is granted a good  
2094 cause exemption under this subsection. The department Office of  
2095 ~~Early Learning~~ shall establish criteria specifying whether a  
2096 good cause exists for a child to withdraw from a program under  
2097 paragraph (a), whether a child has substantially completed a  
2098 program under paragraph (b), and whether an extreme hardship  
2099 exists which is beyond the child's or parent's control under  
2100 paragraph (b).

(5)

2101  
2102 (b) The department Office of Early Learning shall adopt  
2103 procedures for the payment of private prekindergarten providers  
2104 and public schools delivering the Voluntary Prekindergarten  
2105 Education Program. The procedures shall provide for the advance  
2106 payment of providers and schools based upon student enrollment  
2107 in the program, the certification of student attendance, and the  
2108 reconciliation of advance payments in accordance with the  
2109 uniform attendance policy adopted under paragraph (6) (d). The  
2110 procedures shall provide for the monthly distribution of funds  
2111 by the department Office of Early Learning to the early learning  
2112 coalitions for payment by the coalitions to private  
2113 prekindergarten providers and public schools.

(6)

2114  
2115 (b)1. Each private prekindergarten provider's and district  
2116 school board's attendance policy must require the parent of each  
2117 student in the Voluntary Prekindergarten Education Program to

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2118 verify, each month, the student's attendance on the prior  
2119 month's certified student attendance.

2120 2. The parent must submit the verification of the student's  
2121 attendance to the private prekindergarten provider or public  
2122 school on forms prescribed by the department Office of Early  
2123 ~~Learning~~. The forms must include, in addition to the  
2124 verification of the student's attendance, a certification, in  
2125 substantially the following form, that the parent continues to  
2126 choose the private prekindergarten provider or public school in  
2127 accordance with s. 1002.53 and directs that payments for the  
2128 program be made to the provider or school:

2129

VERIFICATION OF STUDENT'S ATTENDANCE

AND CERTIFICATION OF PARENTAL CHOICE

2130  
2131 I, ...(Name of Parent)..., swear (or affirm) that my child,  
2132 ...(Name of Student)..., attended the Voluntary Prekindergarten  
2133 Education Program on the days listed above and certify that I  
2134 continue to choose ...(Name of Provider or School)... to deliver  
2135 the program for my child and direct that program funds be paid  
2136 to the provider or school for my child.

2137

...(Signature of Parent)...

2138

...(Date)...

2139

2140 3. The private prekindergarten provider or public school  
2141 must keep each original signed form for at least 2 years. Each  
2142 private prekindergarten provider must permit the early learning  
2143 coalition, and each public school must permit the school  
2144 district, to inspect the original signed forms during normal  
2145 business hours. The department Office of Early Learning shall  
2146 adopt procedures for early learning coalitions and school

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2147 districts to review the original signed forms against the  
 2148 certified student attendance. The review procedures shall  
 2149 provide for the use of selective inspection techniques,  
 2150 including, but not limited to, random sampling. Each early  
 2151 learning coalition and the school districts must comply with the  
 2152 review procedures.

2153 (d) The department ~~Office of Early Learning~~ shall adopt,  
 2154 for funding purposes, a uniform attendance policy for the  
 2155 Voluntary Prekindergarten Education Program. The attendance  
 2156 policy must apply statewide and apply equally to all private  
 2157 prekindergarten providers and public schools. The attendance  
 2158 policy must include at least the following provisions:

2159 1. A student's attendance may be reported on a pro rata  
 2160 basis as a fractional part of a full-time equivalent student.

2161 2. At a maximum, 20 percent of the total payment made on  
 2162 behalf of a student to a private prekindergarten provider or a  
 2163 public school may be for hours a student is absent.

2164 3. A private prekindergarten provider or public school may  
 2165 not receive payment for absences that occur before a student's  
 2166 first day of attendance or after a student's last day of  
 2167 attendance.

2168

2169 The uniform attendance policy shall be used only for funding  
 2170 purposes and does not prohibit a private prekindergarten  
 2171 provider or public school from adopting and enforcing its  
 2172 attendance policy under paragraphs (a) and (c).

2173 (7) The department ~~Office of Early Learning~~ shall require  
 2174 that administrative expenditures be kept to the minimum  
 2175 necessary for efficient and effective administration of the

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2176 Voluntary Prekindergarten Education Program. Administrative  
 2177 policies and procedures shall be revised, to the maximum extent  
 2178 practicable, to incorporate the use of automation and electronic  
 2179 submission of forms, including those required for child  
 2180 eligibility and enrollment, provider and class registration, and  
 2181 monthly certification of attendance for payment. A school  
 2182 district may use its automated daily attendance reporting system  
 2183 for the purpose of transmitting attendance records to the early  
 2184 learning coalition in a mutually agreed-upon format. In  
 2185 addition, actions shall be taken to reduce paperwork, eliminate  
 2186 the duplication of reports, and eliminate other duplicative  
 2187 activities. Each early learning coalition may retain and expend  
 2188 no more than 4.0 percent of the funds paid by the coalition to  
 2189 private prekindergarten providers and public schools under  
 2190 paragraph (5) (b). Funds retained by an early learning coalition  
 2191 under this subsection may be used only for administering the  
 2192 Voluntary Prekindergarten Education Program and may not be used  
 2193 for the school readiness program or other programs.

2194 Section 44. Subsection (1) of section 1002.72, Florida  
 2195 Statutes, is amended to read:

2196 1002.72 Records of children in the Voluntary  
 2197 Prekindergarten Education Program.—

2198 (1) (a) The records of a child enrolled in the Voluntary  
 2199 Prekindergarten Education Program held by an early learning  
 2200 coalition, the department ~~Office of Early Learning~~, or a  
 2201 Voluntary Prekindergarten Education Program provider are  
 2202 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 2203 of the State Constitution. For purposes of this section, such  
 2204 records include assessment data, health data, records of teacher

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2205 observations, and personal identifying information of an  
 2206 enrolled child and his or her parent.  
 2207 (b) This exemption applies to the records of a child  
 2208 enrolled in the Voluntary Prekindergarten Education Program held  
 2209 by an early learning coalition, the ~~department Office of Early~~  
 2210 ~~Learning~~, or a Voluntary Prekindergarten Education Program  
 2211 provider before, on, or after the effective date of this  
 2212 exemption.  
 2213 Section 45. Section 1002.73, Florida Statutes, is amended  
 2214 to read:  
 2215 1002.73 Department of Education; powers and duties;  
 2216 accountability requirements.-  
 2217 (1) The department shall adopt by rule a standard statewide  
 2218 provider contract to be used with each Voluntary Prekindergarten  
 2219 Education Program provider, with standardized attachments by  
 2220 provider type. The department shall publish a copy of the  
 2221 standard statewide provider contract on its website. The  
 2222 standard statewide provider contract shall include, at a  
 2223 minimum, provisions for provider probation, termination for  
 2224 cause, and emergency termination for actions or inactions of a  
 2225 provider which pose an immediate and serious danger to the  
 2226 health, safety, or welfare of children. The standard statewide  
 2227 provider contract shall also include appropriate due process  
 2228 procedures. During the pendency of an appeal of a termination,  
 2229 the provider may not continue to offer its services. Any  
 2230 provision imposed upon a provider which is inconsistent with, or  
 2231 prohibited by, law is void and unenforceable ~~administer the~~  
 2232 ~~accountability requirements of the Voluntary Prekindergarten~~  
 2233 ~~Education Program at the state level.~~

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2234 (2) The department shall adopt procedures for ~~its~~:  
 2235 (a) The approval of prekindergarten director credentials  
 2236 under ss. 1002.55 and 1002.57.  
 2237 (b) The approval of emergent literacy and early mathematics  
 2238 skills training courses under ss. 1002.55 and 1002.59.  
 2239 (c) Annually notifying private prekindergarten providers  
 2240 and public schools placed on probation for not meeting the  
 2241 minimum performance metric or designation as required by s.  
 2242 1002.68 of the high-quality professional development  
 2243 opportunities developed or supported by the department.  
 2244 (d) The administration of the Voluntary Prekindergarten  
 2245 Education Program by the early learning coalitions, including,  
 2246 but not limited to, procedures for:  
 2247 1. Enrolling students in and determining the eligibility of  
 2248 children for the Voluntary Prekindergarten Education Program  
 2249 under s. 1002.53, which shall include the enrollment of children  
 2250 by public schools and private providers that meet specified  
 2251 requirements.  
 2252 2. Providing parents with profiles of private  
 2253 prekindergarten providers and public schools under s. 1002.53.  
 2254 3. Registering private prekindergarten providers and public  
 2255 schools to deliver the program under ss. 1002.55, 1002.61, and  
 2256 1002.63.  
 2257 4. Determining the eligibility of private prekindergarten  
 2258 providers to deliver the program under ss. 1002.55 and 1002.61  
 2259 and streamlining the process of determining provider eligibility  
 2260 whenever possible.  
 2261 5. Verifying the compliance of private prekindergarten  
 2262 providers and public schools and removing providers or schools

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2263 from eligibility to deliver the program due to noncompliance or  
 2264 misconduct as provided in s. 1002.67.

2265 6. Paying private prekindergarten providers and public  
 2266 schools under s. 1002.71.

2267 7. Documenting and certifying student enrollment and  
 2268 student attendance under s. 1002.71.

2269 8. Reconciling advance payments in accordance with the  
 2270 uniform attendance policy under s. 1002.71.

2271 9. Reenrolling students dismissed by a private  
 2272 prekindergarten provider or public school for noncompliance with  
 2273 the provider's or school district's attendance policy under s.  
 2274 1002.71.

2275 (3) The department shall administer the accountability  
 2276 requirements of the Voluntary Prekindergarten Education Program  
 2277 at the state level.

2278 (4) The department shall adopt procedures governing the  
 2279 administration of the Voluntary Prekindergarten Education  
 2280 Program by the early learning coalitions for:

2281 (a) Approving improvement plans of private prekindergarten  
 2282 providers and public schools under s. 1002.68.

2283 (b) Placing private prekindergarten providers and public  
 2284 schools on probation and requiring corrective actions under s.  
 2285 1002.68.

2286 (c) Removing a private prekindergarten provider or public  
 2287 school from eligibility to deliver the program due to the  
 2288 provider's or school's remaining on probation beyond the time  
 2289 permitted under s. 1002.68. Notwithstanding any other law, if a  
 2290 private prekindergarten provider has been cited for a class I  
 2291 violation, as defined by rule of the Child Care Services Program

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2292 Office of the Department of Children and Families, the coalition  
 2293 may refuse to contract with the provider or revoke the  
 2294 provider's eligibility to deliver the Voluntary Prekindergarten  
 2295 Education Program.

2296 (d) Enrolling children in and determining the eligibility  
 2297 of children for the Voluntary Prekindergarten Education Program  
 2298 under s. 1002.66.

2299 (e) Paying specialized instructional services providers  
 2300 under s. 1002.66.

2301 ~~(e) Administration of the statewide kindergarten screening~~  
 2302 ~~and calculation of kindergarten readiness rates under s.~~  
 2303 ~~1002.69.~~

2304 ~~(d) Implementation of, and determination of costs~~  
 2305 ~~associated with, the state-approved prekindergarten enrollment~~  
 2306 ~~screening and the standardized postassessment approved by the~~  
 2307 ~~department, and determination of the learning gains of students~~  
 2308 ~~who complete the state-approved prekindergarten enrollment~~  
 2309 ~~screening and the standardized postassessment approved by the~~  
 2310 ~~department.~~

2311 (f)(e) Approving Approval of specialized instructional  
 2312 services providers under s. 1002.66.

2313 ~~(f) Annual reporting of the percentage of kindergarten~~  
 2314 ~~students who meet all state readiness measures.~~

2315 (g) Granting of a private prekindergarten provider's or  
 2316 public school's request for a good cause exemption under s.  
 2317 1002.68 s. 1002.69(7).

2318 (5) The department shall adopt procedures for the  
 2319 distribution of funds to early learning coalitions under s.  
 2320 1002.71.

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2321 ~~(6)(3)~~ Except as provided by law, the department may not  
 2322 impose requirements on a private prekindergarten provider or  
 2323 public school that does not deliver the Voluntary  
 2324 Prekindergarten Education Program or receive state funds under  
 2325 this part.

2326 Section 46. Sections 1002.75, Florida Statutes, is  
 2327 repealed.

2328 Section 47. Section 1002.79, Florida Statutes, is amended  
 2329 to read:

2330 1002.79 Rulemaking authority.—The State Board of Education  
 2331 ~~Office of Early Learning~~ shall adopt rules under ss. 120.536(1)  
 2332 and 120.54 to administer the provisions of this part conferring  
 2333 duties upon the department office.

2334 Section 48. Section 1002.81, Florida Statutes, is amended  
 2335 to read:

2336 1002.81 Definitions.—Consistent with the requirements of 45  
 2337 C.F.R. parts 98 and 99 and as used in this part, the term:

2338 (1) "At-risk child" means:

2339 (a) A child from a family under investigation by the  
 2340 Department of Children and Families or a designated sheriff's  
 2341 office for child abuse, neglect, abandonment, or exploitation.

2342 (b) A child who is in a diversion program provided by the  
 2343 Department of Children and Families or its contracted provider  
 2344 and who is from a family that is actively participating and  
 2345 complying in department-prescribed activities, including  
 2346 education, health services, or work.

2347 (c) A child from a family that is under supervision by the  
 2348 Department of Children and Families or a contracted service  
 2349 provider for abuse, neglect, abandonment, or exploitation.

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2350 (d) A child placed in court-ordered, long-term custody or  
 2351 under the guardianship of a relative or nonrelative after  
 2352 termination of supervision by the Department of Children and  
 2353 Families or its contracted provider.

2354 (e) A child in the custody of a parent who is considered a  
 2355 victim of domestic violence and is receiving services through a  
 2356 certified domestic violence center.

2357 (f) A child in the custody of a parent who is considered  
 2358 homeless as verified by a Department of Children and Families  
 2359 certified homeless shelter.

2360 (2) "Authorized hours of care" means the hours of care that  
 2361 are necessary to provide protection, maintain employment, or  
 2362 complete work activities or eligible educational activities,  
 2363 including reasonable travel time.

2364 ~~(12)(3)~~ "Prevailing Average market rate" means the  
 2365 biennially determined 75th percentile of a reasonable frequency  
 2366 distribution average of the market rate by program care level  
 2367 and provider type in a predetermined geographic market at which  
 2368 child care providers charge a person for child care services.

2369 ~~(3)(4)~~ "Direct enhancement services" means services for  
 2370 families and children that are in addition to payments for the  
 2371 placement of children in the school readiness program. Direct  
 2372 enhancement services for families and children may include  
 2373 supports for providers, parent training and involvement  
 2374 activities, and strategies to meet the needs of unique  
 2375 populations and local eligibility priorities. Direct enhancement  
 2376 services offered by an early learning coalition shall be  
 2377 consistent with the activities prescribed in s. 1002.89(5)(b) ~~or~~  
 2378 ~~1002.89(6)(b)~~.

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2379 (4)~~(5)~~ "Disenrollment" means the removal, either temporary  
 2380 or permanent, of a child from participation in the school  
 2381 readiness program. Removal of a child from the school readiness  
 2382 program may be based on the following events: a reduction in  
 2383 available school readiness program funding, participant's  
 2384 failure to meet eligibility or program participation  
 2385 requirements, fraud, or a change in local service priorities.  
 2386 (5)~~(6)~~ "Earned income" means gross remuneration derived  
 2387 from work, professional service, or self-employment. The term  
 2388 includes commissions, bonuses, back pay awards, and the cash  
 2389 value of all remuneration paid in a medium other than cash.  
 2390 (6)~~(7)~~ "Economically disadvantaged" means having a family  
 2391 income that does not exceed 150 percent of the federal poverty  
 2392 level and includes being a child of a working migratory family  
 2393 as defined by 34 C.F.R. s. 200.81(d) or (f) or an agricultural  
 2394 worker who is employed by more than one agricultural employer  
 2395 during the course of a year, and whose income varies according  
 2396 to weather conditions and market stability.  
 2397 (7)~~(8)~~ "Family income" means the combined gross income,  
 2398 whether earned or unearned, that is derived from any source by  
 2399 all family or household members who are 18 years of age or older  
 2400 who are currently residing together in the same dwelling unit.  
 2401 The term does not include income earned by a currently enrolled  
 2402 high school student who, since attaining the age of 18 years, or  
 2403 a student with a disability who, since attaining the age of 22  
 2404 years, has not terminated school enrollment or received a high  
 2405 school diploma, high school equivalency diploma, special  
 2406 diploma, or certificate of high school completion. The term also  
 2407 does not include food stamp benefits or federal housing

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2408 assistance payments issued directly to a landlord or the  
 2409 associated utilities expenses.  
 2410 (8)~~(9)~~ "Family or household members" means spouses, former  
 2411 spouses, persons related by blood or marriage, persons who are  
 2412 parents of a child in common regardless of whether they have  
 2413 been married, and other persons who are currently residing  
 2414 together in the same dwelling unit as if a family.  
 2415 (9)~~(10)~~ "Full-time care" means at least 6 hours, but not  
 2416 more than 11 hours, of child care or early childhood education  
 2417 services within a 24-hour period.  
 2418 (10)~~(11)~~ "Market rate" means the price that a child care or  
 2419 early childhood education provider charges for full-time or  
 2420 part-time daily, weekly, or monthly child care or early  
 2421 childhood education services.  
 2422 ~~(12) "Office" means the Office of Early Learning of the~~  
 2423 ~~Department of Education.~~  
 2424 (11)~~(13)~~ "Part-time care" means less than 6 hours of child  
 2425 care or early childhood education services within a 24-hour  
 2426 period.  
 2427 (13)~~(14)~~ "Single point of entry" means an integrated  
 2428 information system that allows a parent to enroll his or her  
 2429 child in the school readiness program or the Voluntary  
 2430 Prekindergarten Education Program at various locations  
 2431 throughout a county, that may allow a parent to enroll his or  
 2432 her child by telephone or through a website, and that uses a  
 2433 uniform waiting list to track eligible children waiting for  
 2434 enrollment in the school readiness program.  
 2435 (14)~~(15)~~ "Unearned income" means income other than earned  
 2436 income. The term includes, but is not limited to:

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2437 (a) Documented alimony and child support received.  
 2438 (b) Social security benefits.  
 2439 (c) Supplemental security income benefits.  
 2440 (d) Workers' compensation benefits.  
 2441 (e) Reemployment assistance or unemployment compensation  
 2442 benefits.  
 2443 (f) Veterans' benefits.  
 2444 (g) Retirement benefits.  
 2445 (h) Temporary cash assistance under chapter 414.  
 2446 (15)~~(16)~~ "Working family" means:  
 2447 (a) A single-parent family in which the parent with whom  
 2448 the child resides is employed or engaged in eligible work or  
 2449 education activities for at least 20 hours per week;  
 2450 (b) A two-parent family in which both parents with whom the  
 2451 child resides are employed or engaged in eligible work or  
 2452 education activities for a combined total of at least 40 hours  
 2453 per week; or  
 2454 (c) A two-parent family in which one of the parents with  
 2455 whom the child resides is exempt from work requirements due to  
 2456 age or disability, as determined and documented by a physician  
 2457 licensed under chapter 458 or chapter 459, and one parent is  
 2458 employed or engaged in eligible work or education activities at  
 2459 least 20 hours per week.  
 2460 Section 49. Section 1002.82, Florida Statutes, is amended  
 2461 to read:  
 2462 1002.82 Department of Education Office of Early Learning;  
 2463 powers and duties.-  
 2464 (1) For purposes of administration of the Child Care and  
 2465 Development Block Grant Trust Fund, pursuant to 45 C.F.R. parts

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2466 98 and 99, the Department of Education Office of Early Learning  
 2467 is designated as the lead agency and must comply with lead  
 2468 agency responsibilities pursuant to federal law. The department  
 2469 ~~office~~ may apply to the Governor and Cabinet for a waiver of,  
 2470 and the Governor and Cabinet may waive, any provision of ss.  
 2471 411.223 and 1003.54 if the waiver is necessary for  
 2472 implementation of the school readiness program. Section  
 2473 125.901(2)(a)3. does not apply to the school readiness program.  
 2474 (2) The department ~~office~~ shall:  
 2475 (a) Focus on improving the educational quality delivered by  
 2476 all providers participating in the school readiness program.  
 2477 (b) Preserve parental choice by permitting parents to  
 2478 choose from a variety of child care categories, including  
 2479 center-based care, family child care, and informal child care to  
 2480 the extent authorized in the state's Child Care and Development  
 2481 Fund Plan as approved by the United States Department of Health  
 2482 and Human Services pursuant to 45 C.F.R. s. 98.18. Care and  
 2483 curriculum by a faith-based provider may not be limited or  
 2484 excluded in any of these categories.  
 2485 (c) Be responsible for the prudent use of all public and  
 2486 private funds in accordance with all legal and contractual  
 2487 requirements, safeguarding the effective use of federal, state,  
 2488 and local resources to achieve the highest practicable level of  
 2489 school readiness for the children described in s. 1002.87,  
 2490 including:  
 2491 1. The adoption of a uniform chart of accounts for  
 2492 budgeting and financial reporting purposes that provides  
 2493 standardized definitions for expenditures and reporting,  
 2494 consistent with the requirements of 45 C.F.R. part 98 and s.

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2495 1002.89 for each of the following categories of expenditure:

2496 a. Direct services to children.

2497 b. Administrative costs.

2498 c. Quality activities.

2499 d. Nondirect services.

2500 2. Coordination with other state and federal agencies to

2501 perform data matches on children participating in the school

2502 readiness program and their families in order to verify the

2503 children's eligibility pursuant to s. 1002.87.

2504 (d) Establish procedures for the biennial calculation of

2505 the prevailing average market rate.

2506 (e) Review each early learning coalition's school readiness

2507 program plan every 2 years and provide final approval of the

2508 plan and any amendments submitted.

2509 (f) Establish a unified approach to the state's efforts to

2510 coordinate a comprehensive early learning program. In support of

2511 this effort, the department office:

2512 1. Shall adopt specific program support services that

2513 address the state's school readiness program, including:

2514 a. Statewide data information program requirements that

2515 include:

2516 (I) Eligibility requirements.

2517 (II) Financial reports.

2518 (III) Program accountability measures.

2519 (IV) Child progress reports.

2520 b. Child care resource and referral services.

2521 c. A single point of entry and uniform waiting list.

2522 2. May provide technical assistance and guidance on

2523 additional support services to complement the school readiness

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2524 program, including:

2525 ~~a. Rating and improvement systems.~~

2526 ~~a.b. Warm-Line services.~~

2527 ~~b.e. Anti-fraud plans.~~

2528 ~~d. School readiness program standards.~~

2529 ~~e. Child screening and assessments.~~

2530 ~~c.f. Training and support for parental involvement in~~

2531 children's early education.

2532 ~~d.g. Family literacy activities and services.~~

2533 (g) Provide technical assistance to early learning

2534 coalitions.

2535 (h) In cooperation with the early learning coalitions,

2536 coordinate with the Child Care Services Program Office of the

2537 Department of Children and Families to reduce paperwork and to

2538 avoid duplicating interagency activities, health and safety

2539 monitoring, and acquiring and composing data pertaining to child

2540 care training and credentialing.

2541 (i) Enter into a memorandum of understanding with local

2542 licensing agencies and the Child Care Services Program Office of

2543 the Department of Children and Families for inspections of

2544 school readiness program providers to monitor and verify

2545 compliance with s. 1002.88 and the health and safety checklist

2546 adopted by the department office. The provider contract of a

2547 school readiness program provider that refuses permission for

2548 entry or inspection shall be terminated. The health and safety

2549 checklist may not exceed the requirements of s. 402.305 and the

2550 Child Care and Development Fund pursuant to 45 C.F.R. part 98. A

2551 child development program that is accredited by a national

2552 accrediting body and operates on a military installation that is

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2553 certified by the United States Department of Defense is exempted  
 2554 from the inspection requirements under s. 1002.88.

2555 (j) Monitor the alignment and consistency of the Develop  
 2556 and adopt standards and benchmarks developed and adopted by the  
 2557 department that address the age-appropriate progress of children  
 2558 in the development of school readiness skills. The standards for  
 2559 children from birth to kindergarten entry 5 years of age in the  
 2560 school readiness program must be aligned with the performance  
 2561 standards adopted for children in the Voluntary Prekindergarten  
 2562 Education Program and must address the following domains:

- 2563 1. Approaches to learning.
- 2564 2. Cognitive development and general knowledge.
- 2565 3. Numeracy, language, and communication.
- 2566 4. Physical development.
- 2567 5. Self-regulation.

2568 (k) Identify observation-based child assessments that are  
 2569 valid, reliable, and developmentally appropriate for use at  
 2570 least three times a year. The assessments must:

- 2571 1. Provide interval level and norm-referenced criterion-  
 2572 referenced data that measures equivalent levels of growth across  
 2573 the core domains of early childhood development and that can be  
 2574 used for determining developmentally appropriate learning gains.
- 2575 2. Measure progress in the performance standards adopted  
 2576 pursuant to paragraph (j).
- 2577 3. Provide for appropriate accommodations for children with  
 2578 disabilities and English language learners and be administered  
 2579 by qualified individuals, consistent with the developer's  
 2580 instructions.
- 2581 4. Coordinate with the performance standards adopted by the

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2582 department under s. 1002.67(1) for the Voluntary Prekindergarten  
 2583 Education Program.

2584 5. Provide data in a format for use in the single statewide  
 2585 information system to meet the requirements of paragraph (g)  
 2586 ~~(p)~~.

2587 (l) Adopt a list of approved curricula that meet the  
 2588 performance standards for the school readiness program and  
 2589 establish a process for the review and approval of a provider's  
 2590 curriculum that meets the performance standards.

2591 (m) Provide technical support to an early learning  
 2592 coalition to facilitate the use of Adopt by rule a standard  
 2593 statewide provider contract adopted by the department to be used  
 2594 with each school readiness program provider, with standardized  
 2595 attachments by provider type. The department office shall  
 2596 publish a copy of the standard statewide provider contract on  
 2597 its website. The standard statewide contract shall include, at a  
 2598 minimum, contracted slots, if applicable, in accordance with the  
 2599 Child Care and Development Block Grant Act of 2014, 45 C.F.R.  
 2600 parts 98 and 99; quality improvement strategies, if applicable;  
 2601 program assessment requirements; and provisions for provider  
 2602 probation, termination for cause, and emergency termination for  
 2603 those actions or inactions of a provider that pose an immediate  
 2604 and serious danger to the health, safety, or welfare of the  
 2605 children. The standard statewide provider contract shall also  
 2606 include appropriate due process procedures. During the pendency  
 2607 of an appeal of a termination, the provider may not continue to  
 2608 offer its services. Any provision imposed upon a provider that  
 2609 is inconsistent with, or prohibited by, law is void and  
 2610 unenforceable. Provisions for termination for cause must also

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2611 include failure to meet the minimum quality measures established  
 2612 under paragraph (n) for a period of up to 5 years, unless the  
 2613 coalition determines that the provider is essential to meeting  
 2614 capacity needs based on the assessment under s. 1002.85(2)(j)  
 2615 and the provider has an active improvement plan pursuant to  
 2616 paragraph (n).

2617 (n) Adopt a program assessment for school readiness program  
 2618 providers that measures the quality of teacher-child  
 2619 interactions, including emotional and behavioral support,  
 2620 engaged support for learning, classroom organization, and  
 2621 instructional support for children ages birth to 5 years. The  
 2622 implementation of the program assessment must also include the  
 2623 following components adopted by rule of the State Board of  
 2624 Education:

2625 1. Quality measures, including a minimum program assessment  
 2626 composite score threshold for contracting purposes and program  
 2627 improvement through an improvement plan. The minimum program  
 2628 assessment composite score required for the Voluntary  
 2629 Prekindergarten Education Program contracting threshold must be  
 2630 the same as the minimum program assessment composite score  
 2631 required for contracting for the school readiness program. The  
 2632 methodology for the calculation of the minimum program  
 2633 assessment composite score shall be reviewed by the independent  
 2634 expert identified in s. 1002.68(4)(d).

2635 2. Requirements for program participation, frequency of  
 2636 program assessment, and exemptions.

2637 (o) No later than July 1, 2019, develop a differential  
 2638 payment program based on the quality measures adopted by the  
 2639 department office under paragraph (n). The differential payment

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2640 may not exceed a total of 15 percent for each care level and  
 2641 unit of child care for a child care provider. No more than 5  
 2642 percent of the 15 percent total differential may be provided to  
 2643 providers who submit valid and reliable data to the statewide  
 2644 information system in the domains of language and executive  
 2645 functioning using a child assessment identified pursuant to  
 2646 paragraph (k). Providers below the minimum program assessment  
 2647 score adopted threshold for contracting purposes are ineligible  
 2648 for such payment.

2649 (p) No later than July 1, 2022, develop and adopt  
 2650 requirements for the implementation of a program designed to  
 2651 make available contracted slots to serve children at the  
 2652 greatest risk of school failure as determined by such children  
 2653 being located in an area that has been designated as a poverty  
 2654 area tract according to the latest census data. The contracted  
 2655 slot program may also be used to increase the availability of  
 2656 child care capacity based on the assessment under s.  
 2657 1002.85(2)(j).

2658 (q) ~~(p)~~ Establish a single statewide information system that  
 2659 each coalition must use for the purposes of managing the single  
 2660 point of entry, tracking children's progress, coordinating  
 2661 services among stakeholders, determining eligibility of  
 2662 children, tracking child attendance, and streamlining  
 2663 administrative processes for providers and early learning  
 2664 coalitions. By July 1, 2019, the system, subject to ss. 1002.72  
 2665 and 1002.97, shall:

2666 1. Allow a parent to monitor the development of his or her  
 2667 child as the child moves among programs within the state.

2668 2. Enable analysis at the state, regional, and local level

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2669 to measure child growth over time, program impact, and quality  
 2670 improvement and investment decisions.

2671 ~~(r)(q)~~ Provide technical support to coalitions to  
 2672 facilitate the use of ~~Adopt by rule~~ standardized procedures  
 2673 adopted in state board rule for early learning coalitions to use  
 2674 when monitoring the compliance of school readiness program  
 2675 providers with the terms of the standard statewide provider  
 2676 contract.

2677 ~~(s)(r)~~ At least biennially provide fiscal and programmatic  
 2678 monitoring to ~~Monitor and~~ evaluate the performance of each early  
 2679 learning coalition in administering the school readiness  
 2680 program, ensuring proper payments for school readiness program  
 2681 services, implementing the coalition's school readiness program  
 2682 plan, and administering the Voluntary Prekindergarten Education  
 2683 Program. These monitoring and performance evaluations must  
 2684 include, at a minimum, onsite monitoring of each coalition's  
 2685 finances, management, operations, and programs.

2686 ~~(t)(s)~~ Work in conjunction with the Bureau of Federal  
 2687 Education Programs within the Department of Education to  
 2688 coordinate readiness and voluntary prekindergarten services to  
 2689 the populations served by the bureau.

2690 ~~(u)(t)~~ Administer a statewide toll-free Warm-Line to  
 2691 provide assistance and consultation to child care facilities and  
 2692 family day care homes regarding health, developmental,  
 2693 disability, and special needs issues of the children they are  
 2694 servicing, particularly children with disabilities and other  
 2695 special needs. The ~~department office~~ shall:

2696 1. Annually inform child care facilities and family day  
 2697 care homes of the availability of this service through the child

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2698 care resource and referral network under s. 1002.92.

2699 2. Expand or contract for the expansion of the Warm-Line to  
 2700 maintain at least one Warm-Line in each early learning coalition  
 2701 service area.

2702 ~~(v)(u)~~ Develop and implement strategies to increase the  
 2703 supply and improve the quality of child care services for  
 2704 infants and toddlers, children with disabilities, children who  
 2705 receive care during nontraditional hours, children in  
 2706 underserved areas, and children in areas that have significant  
 2707 concentrations of poverty and unemployment.

2708 ~~(w)(r)~~ Establish preservice and inservice training  
 2709 requirements that address, at a minimum, school readiness child  
 2710 development standards, health and safety requirements, and  
 2711 social-emotional behavior intervention models, which may include  
 2712 positive behavior intervention and support models, including the  
 2713 integration of early learning professional development pathways  
 2714 established in s. 1002.995.

2715 ~~(x)(w)~~ Establish standards for emergency preparedness plans  
 2716 for school readiness program providers.

2717 ~~(y)(r)~~ Establish group sizes.

2718 ~~(z)(y)~~ Establish staff-to-children ratios that do not  
 2719 exceed the requirements of s. 402.302(8) or (11) or s.  
 2720 402.305(4), as applicable, for school readiness program  
 2721 providers.

2722 ~~(aa)(z)~~ Establish eligibility criteria, including  
 2723 limitations based on income and family assets, in accordance  
 2724 with s. 1002.87 and federal law.

2725 (3) (a) The department shall adopt performance standards and  
 2726 outcome measures for early learning coalitions that, at a

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2727 minimum, include the development of objective customer service  
 2728 surveys that shall be deployed beginning in fiscal year 2022-  
 2729 2023 and be distributed to:

2730 1. Customers who use the services in s. 1002.92 upon the  
 2731 completion of a referral inquiry.

2732 2. Parents, annually, at the time of eligibility  
 2733 determination.

2734 3. Child care providers that participate in the school  
 2735 readiness program or the Voluntary Prekindergarten Education  
 2736 Program at the time of execution of the statewide provider  
 2737 contract.

2738 4. Board members required under s. 1002.83.

2739 (b) Results of the survey shall be based on a statistically  
 2740 significant sample size and calculated annually for each early  
 2741 learning coalition and included in the department's annual  
 2742 report under subsection (7). If an early learning coalition's  
 2743 customer satisfaction survey results are below 60 percent, the  
 2744 coalition shall be placed on a 1-year corrective action plan.  
 2745 If, after being placed on corrective action, an early learning  
 2746 coalition's customer satisfaction survey results do not improve  
 2747 above the 60 percent threshold, the department may contract out  
 2748 or merge the coalition.

2749 (4)(3) If the department office determines during the  
 2750 review of school readiness program plans, or through monitoring  
 2751 and performance evaluations conducted under s. 1002.85, that an  
 2752 early learning coalition has not substantially implemented its  
 2753 plan, has not substantially met the performance standards and  
 2754 outcome measures adopted by the department office, or has not  
 2755 effectively administered the school readiness program or

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2756 Voluntary Prekindergarten Education Program, the department  
 2757 office may remove the coalition from eligibility to administer  
 2758 early learning programs and temporarily contract with a  
 2759 qualified entity to continue school readiness program and  
 2760 prekindergarten services in the coalition's county or  
 2761 multicounty region until the department office reestablishes or  
 2762 merges the coalition and a new school readiness program plan is  
 2763 approved in accordance with the rules adopted by the state board  
 2764 office.

2765 (5) The department shall adopt procedures for merging early  
 2766 learning coalitions for failure to meet the requirements of  
 2767 subsection (3) or subsection (4), including procedures for the  
 2768 consolidation of merging coalitions that minimize duplication of  
 2769 programs and services due to the merger, and for the early  
 2770 termination of the terms of the coalition members which are  
 2771 necessary to accomplish the mergers.

2772 (6)(4) The department office may request the Governor to  
 2773 apply for a waiver to allow a coalition to administer the Head  
 2774 Start Program to accomplish the purposes of the school readiness  
 2775 program.

2776 (7)(5) By January 1 of each year, the department office  
 2777 shall annually publish on its website a report of its activities  
 2778 conducted under this section. The report must include a summary  
 2779 of the coalitions' annual reports, a statewide summary, and the  
 2780 following:

2781 (a) An analysis of early learning activities throughout the  
 2782 state, including the school readiness program and the Voluntary  
 2783 Prekindergarten Education Program.

2784 1. The total and average number of children served in the

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2785 school readiness program, enumerated by age, eligibility  
 2786 priority category, and coalition, and the total number of  
 2787 children served in the Voluntary Prekindergarten Education  
 2788 Program.

2789 2. A summary of expenditures by coalition, by fund source,  
 2790 including a breakdown by coalition of the percentage of  
 2791 expenditures for administrative activities, quality activities,  
 2792 nondirect services, and direct services for children.

2793 3. A description of the department's office's and each  
 2794 coalition's expenditures by fund source for the quality and  
 2795 enhancement activities described in s. 1002.89(5)(b) ~~s.~~  
 2796 ~~1002.89(6)(b)~~.

2797 4. A summary of annual findings and collections related to  
 2798 provider fraud and parent fraud.

2799 5. Data regarding the coalitions' delivery of early  
 2800 learning programs.

2801 6. The total number of children disenrolled statewide and  
 2802 the reason for disenrollment.

2803 7. The total number of providers by provider type.

2804 8. The number of school readiness program providers who  
 2805 have completed the program assessment required under paragraph  
 2806 (2)(n); the number of providers who have not met the minimum  
 2807 program assessment composite score threshold for contracting  
 2808 established under paragraph (2)(n); and the number of providers  
 2809 that have an active improvement plan based on the results of the  
 2810 program assessment under paragraph (2)(n).

2811 9. The total number of provider contracts revoked and the  
 2812 reasons for revocation.

2813 (b) A detailed summary of the analysis compiled using the

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2814 single statewide information system established in subsection  
 2815 (2) ~~activities and detailed expenditures related to the Child~~  
 2816 ~~Care Executive Partnership Program.~~

2817 ~~(8)(a)(6)(a)~~ Parental choice of child care providers,  
 2818 including private and faith-based providers, shall be  
 2819 established to the maximum extent practicable in accordance with  
 2820 45 C.F.R. s. 98.30.

2821 (b) As used in this subsection, the term "payment  
 2822 certificate" means a child care certificate as defined in 45  
 2823 C.F.R. s. 98.2.

2824 (c) The school readiness program shall, in accordance with  
 2825 45 C.F.R. s. 98.30, provide parental choice through a payment  
 2826 certificate that provides, to the maximum extent possible,  
 2827 flexibility in the school readiness program and payment  
 2828 arrangements. The payment certificate must bear the names of the  
 2829 beneficiary and the program provider and, when redeemed, must  
 2830 bear the signatures of both the beneficiary and an authorized  
 2831 representative of the provider.

2832 (d) If it is determined that a provider has given any cash  
 2833 or other consideration to the beneficiary in return for  
 2834 receiving a payment certificate, the early learning coalition or  
 2835 its fiscal agent shall refer the matter to the Department of  
 2836 Financial Services pursuant to s. 414.411 for investigation.

2837 ~~(9)(7)~~ Participation in the school readiness program does  
 2838 not expand the regulatory authority of the state, its officers,  
 2839 or an early learning coalition to impose any additional  
 2840 regulation on providers beyond those necessary to enforce the  
 2841 requirements set forth in this part and part V of this chapter.

2842 Section 50. Present subsections (5) through (14) of section



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2843 1002.83, Florida Statutes, are redesignated as subsections (6)  
 2844 through (15), respectively, a new subsection (5) is added to  
 2845 that section, and subsections (1) and (3), paragraphs (e), (f),  
 2846 and (m) of subsection (4), and present subsections (5), (11),  
 2847 and (13) of that section are amended, to read:

2848 1002.83 Early learning coalitions.—

2849 (1) ~~Thirty~~ Thirty-one or fewer early learning coalitions  
 2850 are established and shall maintain direct enhancement services  
 2851 at the local level and provide access to such services in all 67  
 2852 counties. Two or more early learning coalitions may join for  
 2853 purposes of planning and implementing a school readiness program  
 2854 and the Voluntary Prekindergarten Education Program.

2855 (3) The Governor shall appoint the chair and two other  
 2856 members of each early learning coalition, who must each meet the  
 2857 ~~same~~ qualifications of a private sector business member  
 2858 ~~members appointed by the coalition~~ under subsection (6) ~~(5)~~. In  
 2859 the absence of a governor-appointed chair, the Commissioner of  
 2860 Education may appoint an interim chair from the current early  
 2861 learning coalition board membership.

2862 (4) Each early learning coalition must include the  
 2863 following member positions; however, in a multicounty coalition,  
 2864 each ex officio member position may be filled by multiple  
 2865 nonvoting members but no more than one voting member shall be  
 2866 seated per member position. If an early learning coalition has  
 2867 more than one member representing the same entity, only one of  
 2868 such members may serve as a voting member:

2869 (e) A children's services council or juvenile welfare board  
 2870 chair or executive director from each county, if applicable.

2871 (f) A Department of Children and Families child care

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2872 regulation representative or an agency head of a local licensing  
 2873 agency as defined in s. 402.302, where applicable.

2874 ~~(m) A central agency administrator, where applicable.~~

2875 (5) If members of the board are found to be  
 2876 nonparticipating according to the early learning coalition  
 2877 bylaws, the early learning coalition may request an alternate  
 2878 designee who meets the same qualifications or membership  
 2879 requirements of the nonparticipating member.

2880 ~~(6)(5)~~ The early learning coalition may appoint additional  
 2881 including the members who appointed by the Governor under  
 2882 subsection (3), more than one-third of the members of each early  
 2883 learning coalition must be private sector business members,  
 2884 either for-profit or nonprofit, who do not have, and none of  
 2885 whose relatives as defined in s. 112.3143 has, a substantial  
 2886 financial interest in the design or delivery of the Voluntary  
 2887 Prekindergarten Education Program created under part V of this  
 2888 chapter or the school readiness program. To meet this  
 2889 requirement, an early learning coalition must appoint additional  
 2890 members. The department office shall establish criteria for  
 2891 appointing private sector business members. These criteria must  
 2892 include standards for determining whether a member or relative  
 2893 has a substantial financial interest in the design or delivery  
 2894 of the Voluntary Prekindergarten Education Program or the school  
 2895 readiness program.

2896 ~~(12)(11)~~ Each early learning coalition shall establish  
 2897 terms for all appointed members of the coalition. The terms must  
 2898 be staggered and must be a uniform length that does not exceed 4  
 2899 years per term. Coalition chairs shall be appointed for 4 years  
 2900 pursuant to s. 20.052. Appointed members may serve a maximum of

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2901 two consecutive terms. When a vacancy occurs in an appointed  
2902 position, the coalition must advertise the vacancy.

2903 ~~(14)(13)~~ Each early learning coalition shall complete an  
2904 annual evaluation of the early learning coalition's executive  
2905 director or chief executive officer on forms adopted by the  
2906 department. The annual evaluation must be submitted to the  
2907 commissioner by June 30 of each year use a coordinated  
2908 professional development system that supports the achievement  
2909 and maintenance of core competencies by school readiness program  
2910 teachers in helping children attain the performance standards  
2911 adopted by the office.

2912 Section 51. Present subsections (7) through (20) of section  
2913 1002.84, Florida Statutes, are redesignated as subsections (8)  
2914 through (21), respectively, a new subsection (7) is added to  
2915 that section, and subsections (1), (2), and (4) and present  
2916 subsections (7), (8), (15), (16), (17), (18), and (20) of that  
2917 section are amended, to read:

2918 1002.84 Early learning coalitions; school readiness powers  
2919 and duties.—Each early learning coalition shall:

2920 (1) Administer and implement a local comprehensive program  
2921 of school readiness program services in accordance with this  
2922 part and the rules adopted by the department office, which  
2923 enhances the cognitive, social, and physical development of  
2924 children to achieve the performance standards.

2925 (2) Establish a uniform waiting list to track eligible  
2926 children waiting for enrollment in the school readiness program  
2927 in accordance with rules adopted by the State Board of Education  
2928 office.

2929 (4) Establish a regional Warm-Line as directed by the

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2930 ~~department office~~ pursuant to s. 1002.82(2)(u) ~~s. 1002.82(2)(t)~~.  
2931 Regional Warm-Line staff shall provide onsite technical  
2932 assistance, when requested, to assist child care facilities and  
2933 family day care homes with inquiries relating to the strategies,  
2934 curriculum, and environmental adaptations the child care  
2935 facilities and family day care homes may need as they serve  
2936 children with disabilities and other special needs.

2937 (7) Use a coordinated professional development system that  
2938 supports the achievement and maintenance of core competencies by  
2939 school readiness program teachers in helping children attain the  
2940 performance standards adopted by the department.

2941 ~~(8)(7)~~ Determine child eligibility pursuant to s. 1002.87  
2942 and provider eligibility pursuant to s. 1002.88. Child  
2943 eligibility must be redetermined annually. A coalition must  
2944 document the reason a child is no longer eligible for the school  
2945 readiness program according to the standard codes prescribed by  
2946 the department office.

2947 ~~(9)(8)~~ Establish a parent sliding fee scale that provides  
2948 for a parent copayment that is not a barrier to families  
2949 receiving school readiness program services. ~~Providers are~~  
2950 ~~required to collect the parent's copayment.~~ A coalition may, ~~on~~  
2951 ~~a case-by-case basis~~, waive the copayment for an at-risk child  
2952 or temporarily waive the copayment for a child whose family's  
2953 income is at or below the federal poverty level or ~~and~~ whose  
2954 family experiences a natural disaster or an event that limits  
2955 the parent's ability to pay, such as incarceration, placement in  
2956 residential treatment, or becoming homeless, or an emergency  
2957 situation such as a household fire or burglary, or while the  
2958 parent is participating in parenting classes or participating in

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2959 an Early Head Start program or Head Start Program. A parent may  
 2960 not transfer school readiness program services to another school  
 2961 readiness program provider until the parent has submitted  
 2962 documentation from the current school readiness program provider  
 2963 to the early learning coalition stating that the parent has  
 2964 satisfactorily fulfilled the copayment obligation.

2965 (16)~~(15)~~ Monitor school readiness program providers in  
 2966 accordance with its plan, or in response to a parental  
 2967 complaint, to verify that the standards prescribed in ss.  
 2968 1002.82 and 1002.88 are being met using a standard monitoring  
 2969 tool adopted by the department office. Providers determined to  
 2970 be high-risk by the coalition, as demonstrated by substantial  
 2971 findings of violations of federal law or the general or local  
 2972 laws of the state, shall be monitored more frequently. Providers  
 2973 with 3 consecutive years of compliance may be monitored  
 2974 biennially.

2975 (17)~~(16)~~ Adopt a payment schedule that encompasses all  
 2976 programs funded under this part and part V of this chapter. The  
 2977 payment schedule must take into consideration the prevailing  
 2978 ~~average~~ market rate, include the projected number of children to  
 2979 be served, and be submitted for approval by the department  
 2980 office. Informal child care arrangements shall be reimbursed at  
 2981 not more than 50 percent of the rate adopted for a family day  
 2982 care home.

2983 (18)~~(17)~~ Implement an anti-fraud plan addressing the  
 2984 detection, reporting, and prevention of overpayments, abuse, and  
 2985 fraud relating to the provision of and payment for school  
 2986 readiness program and Voluntary Prekindergarten Education  
 2987 Program services and submit the plan to the department office

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2988 for approval, as required by s. 1002.91.

2989 (19)~~(18)~~ By October 1 of each year, submit an annual report  
 2990 to the department office. The report shall conform to the format  
 2991 adopted by the department office and must include:

2992 (a) Segregation of school readiness program funds,  
 2993 Voluntary Prekindergarten Education Program funds, ~~Child Care~~  
 2994 ~~Executive Partnership Program funds~~, and other local revenues  
 2995 available to the coalition.

2996 (b) Details of expenditures by fund source, including total  
 2997 expenditures for administrative activities, quality activities,  
 2998 nondirect services, and direct services for children.

2999 (c) The total number of coalition staff and the related  
 3000 expenditures for salaries and benefits. For any subcontracts,  
 3001 the total number of contracted staff and the related  
 3002 expenditures for salaries and benefits must be included.

3003 (d) The number of children served in the school readiness  
 3004 program, by provider type, enumerated by age and eligibility  
 3005 priority category, reported as the number of children served  
 3006 during the month, the average participation throughout the  
 3007 month, and the number of children served during the month.

3008 (e) The total number of children disenrolled during the  
 3009 year and the reasons for disenrollment.

3010 (f) The total number of providers by provider type.

3011 (g) A listing of any school readiness program provider, by  
 3012 type, whose eligibility to deliver the school readiness program  
 3013 is revoked, including a brief description of the state or  
 3014 federal violation that resulted in the revocation.

3015 (h) An evaluation of its direct enhancement services.

3016 (i) The total number of children served in each provider

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3017 facility.

3018 ~~(21) (a) (20)~~ To increase transparency and accountability,  
 3019 comply with the requirements of this section before contracting  
 3020 with one or more of the following persons or business entities  
 3021 which employs, has a contractual relationship with, or is owned  
 3022 by the following persons:

3023 1. A member of the coalition appointed pursuant to s.  
 3024 1002.83(3);

3025 2. A board member of any other early learning subrecipient  
 3026 entity;

3027 3. A coalition employee; or

3028 4. A relative, as defined in s. 112.3143(1)(c), of any  
 3029 person listed in subparagraphs 1.-3 a coalition member or of an  
 3030 employee of the coalition.

3031 (b) Such contracts may not be executed without the approval  
 3032 of the department office. Such contracts, as well as  
 3033 documentation demonstrating adherence to this section by the  
 3034 coalition, must be approved by a two-thirds vote of the  
 3035 coalition, a quorum having been established; all conflicts of  
 3036 interest must be disclosed before the vote; and any member who  
 3037 may benefit from the contract, or whose relative may benefit  
 3038 from the contract, must abstain from the vote. A contract under  
 3039 \$25,000 ~~between an early learning coalition and a member of that~~  
 3040 ~~coalition or between a relative, as defined in s.~~  
 3041 ~~112.3143(1)(c), of a coalition member or of an employee of the~~  
 3042 ~~coalition~~ is not required to have the prior approval of the  
 3043 department office but must be approved by a two-thirds vote of  
 3044 the coalition, a quorum having been established, and must be  
 3045 reported to the department office within 30 days after approval.

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3046 If a contract cannot be approved by the department office, a  
 3047 review of the decision to disapprove the contract may be  
 3048 requested by the early learning coalition or other parties to  
 3049 the disapproved contract.

3050 Section 52. Section 1002.85, Florida Statutes, is amended  
 3051 to read:

3052 1002.85 Early learning coalition plans.—

3053 (1) The department office shall adopt rules prescribing the  
 3054 standardized format and required content of school readiness  
 3055 program plans as necessary for a coalition or other qualified  
 3056 entity to administer the school readiness program as provided in  
 3057 this part.

3058 (2) Each early learning coalition must biennially submit a  
 3059 school readiness program plan to the department office before  
 3060 the expenditure of funds. A coalition may not implement its  
 3061 school readiness program plan until it receives approval from  
 3062 the department office. A coalition may not implement any  
 3063 revision to its school readiness program plan until the  
 3064 coalition submits the revised plan to and receives approval from  
 3065 the department office. If the department office rejects a plan  
 3066 or revision, the coalition must continue to operate under its  
 3067 previously approved plan. The plan must include, but is not  
 3068 limited to:

3069 (a) The coalition's operations, including its membership  
 3070 and business organization, and the coalition's articles of  
 3071 incorporation and bylaws if the coalition is organized as a  
 3072 corporation. If the coalition is not organized as a corporation  
 3073 or other business entity, the plan must include the contract  
 3074 with a fiscal agent.

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3075 (b) The minimum number of children to be served by care  
 3076 level.

3077 (c) The coalition's procedures for implementing the  
 3078 requirements of this part, including:

3079 1. Single point of entry.  
 3080 2. Uniform waiting list.  
 3081 3. Eligibility and enrollment processes and local  
 3082 eligibility priorities for children pursuant to s. 1002.87.  
 3083 4. Parent access and choice.  
 3084 5. Sliding fee scale and policies on applying the waiver or  
 3085 reduction of fees in accordance with s. 1002.84(9) ~~or~~  
 3086 ~~1002.84(8)~~.

3087 6. Use of preassessments and postassessments, as  
 3088 applicable.

3089 7. Payment rate schedule.  
 3090 8. Use of contracted slots, as applicable, based on the  
 3091 results of the assessment required under paragraph (j).

3092 (d) A detailed description of the coalition's quality  
 3093 activities and services, including, but not limited to:

3094 1. Resource and referral and school-age child care.  
 3095 2. Infant and toddler early learning.  
 3096 3. Inclusive early learning programs.  
 3097 4. Quality improvement strategies that strengthen teaching  
 3098 practices and increase child outcomes.

3099 (e) A detailed budget that outlines estimated expenditures  
 3100 for state, federal, and local matching funds at the lowest level  
 3101 of detail available by other-cost-accumulator code number; all  
 3102 estimated sources of revenue with identifiable descriptions; a  
 3103 listing of full-time equivalent positions; contracted

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3104 subcontractor costs with related annual compensation amount or  
 3105 hourly rate of compensation; and a capital improvements plan  
 3106 outlining existing fixed capital outlay projects and proposed  
 3107 capital outlay projects that will begin during the budget year.

3108 (f) A detailed accounting, in the format prescribed by the  
 3109 department office, of all revenues and expenditures during the  
 3110 previous state fiscal year. Revenue sources should be  
 3111 identifiable, and expenditures should be reported by two ~~three~~  
 3112 categories: state and federal funds and, local matching funds,  
 3113 and Child Care Executive Partnership Program funds.

3114 (g) Updated policies and procedures, including those  
 3115 governing procurement, maintenance of tangible personal  
 3116 property, maintenance of records, information technology  
 3117 security, and disbursement controls.

3118 (h) A description of the procedures for monitoring school  
 3119 readiness program providers, including in response to a parental  
 3120 complaint, to determine that the standards prescribed in ss.  
 3121 1002.82 and 1002.88 are met using a standard monitoring tool  
 3122 adopted by the department office. Providers determined to be  
 3123 high risk by the coalition as demonstrated by substantial  
 3124 findings of violations of law shall be monitored more  
 3125 frequently.

3126 (i) Documentation that the coalition has solicited and  
 3127 considered comments regarding the proposed school readiness  
 3128 program plan from the local community.

3129 (j) An assessment of local priorities within the county or  
 3130 multicounty region based on the needs of families and provider  
 3131 capacity using available community data.

3132 (3) The coalition may periodically amend its plan as

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3133 necessary. An amended plan must be submitted to and approved by  
3134 the ~~department office~~ before any expenditures are incurred on  
3135 the new activities proposed in the amendment.

3136 (4) The ~~department office~~ shall publish a copy of the  
3137 standardized format and required content of school readiness  
3138 program plans on its website.

3139 (5) The ~~department office~~ shall collect and report data on  
3140 coalition delivery of early learning programs. Elements shall  
3141 include, but are not limited to, measures related to progress  
3142 towards reducing the number of children on the waiting list, the  
3143 percentage of children served by the program as compared to the  
3144 number of administrative staff and overhead, the percentage of  
3145 children served compared to total number of children under the  
3146 age of 5 years below 150 percent of the federal poverty level,  
3147 provider payment processes, fraud intervention, child attendance  
3148 and stability, use of child care resource and referral, and  
3149 kindergarten readiness outcomes for children in the Voluntary  
3150 Prekindergarten Education Program or the school readiness  
3151 program upon entry into kindergarten. The ~~department office~~  
3152 shall request input from the coalitions and school readiness  
3153 program providers before finalizing the format and data to be  
3154 used. The report shall be implemented beginning July 1, 2014,  
3155 and results of the report must be included in the annual report  
3156 under s. 1002.82.

3157 Section 53. Paragraphs (a), (b), (c), (e), (f), (m), (n),  
3158 (p), and (q) of subsection (1) and subsection (3) of section  
3159 1002.88, Florida Statutes, are amended, and paragraph (s) is  
3160 added to subsection (1) of that section, to read:

3161 1002.88 School readiness program provider standards;

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3162 eligibility to deliver the school readiness program.-

3163 (1) To be eligible to deliver the school readiness program,  
3164 a school readiness program provider must:

3165 (a) Be a child care facility licensed under s. 402.305, a  
3166 family day care home licensed or registered under s. 402.313, a  
3167 large family child care home licensed under s. 402.3131, a  
3168 public school or nonpublic school exempt from licensure under s.  
3169 402.3025, a faith-based child care provider exempt from  
3170 licensure under s. 402.316, a before-school or after-school  
3171 program described in s. 402.305(1)(c), a child development  
3172 program that is accredited by a national accrediting body and  
3173 operates on a military installation that is certified by the  
3174 United States Department of Defense, ~~or~~ an informal child care  
3175 provider to the extent authorized in the state's Child Care and  
3176 Development Fund Plan as approved by the United States  
3177 Department of Health and Human Services pursuant to 45 C.F.R. s.  
3178 98.18, or a provider who has been issued a provisional license  
3179 pursuant to s. 402.309. A provider may not deliver the program  
3180 while holding a probation-status license under s. 402.310.

3181 (b) Provide instruction and activities to enhance the age-  
3182 appropriate progress of each child in attaining the child  
3183 development standards adopted by the ~~department office~~ pursuant  
3184 to s. 1002.82(2)(j). A provider should include activities to  
3185 foster brain development in infants and toddlers; provide an  
3186 environment that is rich in language and music and filled with  
3187 objects of various colors, shapes, textures, and sizes to  
3188 stimulate visual, tactile, auditory, and linguistic senses; and  
3189 include 30 minutes of reading to children each day.

3190 (c) Provide basic health and safety of its premises and

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3191 facilities and compliance with requirements for age-appropriate  
3192 immunizations of children enrolled in the school readiness  
3193 program.

3194 1. For a provider that is licensed, compliance with s.  
3195 402.305, s. 402.3131, or s. 402.313 and this subsection, as  
3196 verified pursuant to s. 402.311, satisfies this requirement.

3197 2. For a provider that is a registered family day care home  
3198 or is not subject to licensure or registration by the Department  
3199 of Children and Families, compliance with this subsection, as  
3200 verified pursuant to s. 402.311, satisfies this requirement.  
3201 Upon verification pursuant to s. 402.311, the provider shall  
3202 annually post the health and safety checklist adopted by the  
3203 department office prominently on its premises in plain sight for  
3204 visitors and parents and shall annually submit the checklist to  
3205 its local early learning coalition.

3206 3. For a child development program that is accredited by a  
3207 national accrediting body and operates on a military  
3208 installation that is certified by the United States Department  
3209 of Defense, the submission and verification of annual  
3210 inspections pursuant to United States Department of Defense  
3211 Instructions 6060.2 and 1402.05 satisfies this requirement.

3212 (e) Employ child care personnel, as defined in s.  
3213 402.302(3), who have satisfied the screening requirements of  
3214 chapter 402 and fulfilled the training requirements of the  
3215 department office.

3216 (f) Implement one of the curricula approved by the  
3217 department office that meets the child development standards.

3218 (m) For a provider that is not an informal provider,  
3219 maintain general liability insurance and provide the coalition

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3220 with written evidence of general liability insurance coverage,  
3221 including coverage for transportation of children if school  
3222 readiness program children are transported by the provider. A  
3223 provider must obtain and retain an insurance policy that  
3224 provides a minimum of \$100,000 of coverage per occurrence and a  
3225 minimum of \$300,000 general aggregate coverage. The department  
3226 office may authorize lower limits upon request, as appropriate.  
3227 A provider must add the coalition as a named certificateholder  
3228 and as an additional insured. A provider must provide the  
3229 coalition with a minimum of 10 calendar days' advance written  
3230 notice of cancellation of or changes to coverage. The general  
3231 liability insurance required by this paragraph must remain in  
3232 full force and effect for the entire period of the provider  
3233 contract with the coalition.

3234 (n) For a provider that is an informal provider, comply  
3235 with the provisions of paragraph (m) or maintain homeowner's  
3236 liability insurance and, if applicable, a business rider. If an  
3237 informal provider chooses to maintain a homeowner's policy, the  
3238 provider must obtain and retain a homeowner's insurance policy  
3239 that provides a minimum of \$100,000 of coverage per occurrence  
3240 and a minimum of \$300,000 general aggregate coverage. The  
3241 department office may authorize lower limits upon request, as  
3242 appropriate. An informal provider must add the coalition as a  
3243 named certificateholder and as an additional insured. An  
3244 informal provider must provide the coalition with a minimum of  
3245 10 calendar days' advance written notice of cancellation of or  
3246 changes to coverage. The general liability insurance required by  
3247 this paragraph must remain in full force and effect for the  
3248 entire period of the provider's contract with the coalition.

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3249 (p) Notwithstanding paragraph (m), for a provider that is a  
 3250 state agency or a subdivision thereof, as defined in s.  
 3251 768.28(2), agree to notify the coalition of any additional  
 3252 liability coverage maintained by the provider in addition to  
 3253 that otherwise established under s. 768.28. The provider shall  
 3254 indemnify the coalition to the extent permitted by s. 768.28.  
 3255 Notwithstanding paragraph (m), for a child development program  
 3256 that is accredited by a national accrediting body and operates  
 3257 on a military installation that is certified by the United  
 3258 States Department of Defense, the provider may demonstrate  
 3259 liability coverage by affirming that it is subject to the  
 3260 Federal Tort Claims Act, 28 U.S.C. ss. 2671 et seq.

3261 (q) Execute the standard statewide provider contract  
 3262 adopted by the department office.

3263 (s) Collect all parent copayment fees unless a waiver has  
 3264 been granted under s. 1002.84(9).

3265 (3) The department office and the coalitions may not:  
 3266 (a) Impose any requirement on a child care provider or  
 3267 early childhood education provider that does not deliver  
 3268 services under the school readiness program or receive state or  
 3269 federal funds under this part;  
 3270 (b) Impose any requirement on a school readiness program  
 3271 provider that exceeds the authority provided under this part or  
 3272 part V of this chapter or rules adopted pursuant to this part or  
 3273 part V of this chapter; or  
 3274 (c) Require a provider to administer a preassessment or  
 3275 postassessment.

3276 Section 54. Subsections (2), (3), and (6) of section  
 3277 1002.89, Florida Statutes, are amended to read:

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3278 1002.89 School readiness program; funding.-  
 3279 ~~(2) The office shall administer school readiness program~~  
 3280 ~~funds and prepare and submit a unified budget request for the~~  
 3281 ~~school readiness program in accordance with chapter 216.~~  
 3282 ~~(2)(3)~~ All instructions to early learning coalitions for  
 3283 administering this section shall emanate from the department  
 3284 office in accordance with the policies of the Legislature.

3285 ~~(5)(6)~~ Costs shall be kept to the minimum necessary for the  
 3286 efficient and effective administration of the school readiness  
 3287 program with the highest priority of expenditure being direct  
 3288 services for eligible children. However, no more than 5 percent  
 3289 of the funds described in subsection (4) ~~subsection (5)~~ may be  
 3290 used for administrative costs and no more than 22 percent of the  
 3291 funds described in subsection (4) ~~subsection (5)~~ may be used in  
 3292 any fiscal year for any combination of administrative costs,  
 3293 quality activities, and nondirect services as follows:

3294 (a) Administrative costs as described in 45 C.F.R. s. 98.54  
 3295 ~~45 C.F.R. s. 98.52~~, which shall include monitoring providers  
 3296 using the standard methodology adopted under s. 1002.82 to  
 3297 improve compliance with state and federal regulations and law  
 3298 pursuant to the requirements of the statewide provider contract  
 3299 adopted under s. 1002.82(2)(m).

3300 (b) Activities to improve the quality of child care as  
 3301 described in 45 C.F.R. s. 98.53 ~~45 C.F.R. s. 98.51~~, which shall  
 3302 be limited to the following:

3303 1. Developing, establishing, expanding, operating, and  
 3304 coordinating resource and referral programs specifically related  
 3305 to the provision of comprehensive consumer education to parents  
 3306 and the public to promote informed child care choices specified

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3307 in 45 C.F.R. s. 98.33.

3308 2. Awarding grants and providing financial support to

3309 school readiness program providers and their staff to assist

3310 them in meeting applicable state requirements for the program

3311 assessment required under s. 1002.82(2)(n), child care

3312 performance standards, implementing developmentally appropriate

3313 curricula and related classroom resources that support

3314 curricula, providing literacy supports, and providing continued

3315 professional development and training. Any grants awarded

3316 pursuant to this subparagraph shall comply with ss. 215.971 and

3317 287.058.

3318 3. Providing training, technical assistance, and financial

3319 support to school readiness program providers, staff, and

3320 parents on standards, child screenings, child assessments, child

3321 development research and best practices, developmentally

3322 appropriate curricula, character development, teacher-child

3323 interactions, age-appropriate discipline practices, health and

3324 safety, nutrition, first aid, cardiopulmonary resuscitation, the

3325 recognition of communicable diseases, and child abuse detection,

3326 prevention, and reporting.

3327 4. Providing, from among the funds provided for the

3328 activities described in subparagraphs 1.-3., adequate funding

3329 for infants and toddlers as necessary to meet federal

3330 requirements related to expenditures for quality activities for

3331 infant and toddler care.

3332 5. Improving the monitoring of compliance with, and

3333 enforcement of, applicable state and local requirements as

3334 described in and limited by 45 C.F.R. s. 98.40.

3335 6. Responding to Warm-Line requests by providers and

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3336 parents, including providing developmental and health screenings

3337 to school readiness program children.

3338 (c) Nondirect services as described in applicable Office of

3339 Management and Budget instructions are those services not

3340 defined as administrative, direct, or quality services that are

3341 required to administer the school readiness program. Such

3342 services include, but are not limited to:

3343 1. Assisting families to complete the required application

3344 and eligibility documentation.

3345 2. Determining child and family eligibility.

3346 3. Recruiting eligible child care providers.

3347 4. Processing and tracking attendance records.

3348 5. Developing and maintaining a statewide child care

3349 information system.

3350

3351 As used in this paragraph, the term "nondirect services" does

3352 not include payments to school readiness program providers for

3353 direct services provided to children who are eligible under s.

3354 1002.87, administrative costs as described in paragraph (a), or

3355 quality activities as described in paragraph (b).

3356 Section 55. Subsection (1), paragraph (a) of subsection

3357 (2), and subsections (4), (5), and (6) of section 1002.895,

3358 Florida Statutes, are amended to read:

3359 1002.895 Market rate schedule.—The school readiness program

3360 market rate schedule shall be implemented as follows:

3361 (1) The department ~~office~~ shall establish procedures for

3362 the adoption of a market rate schedule. The schedule must

3363 include, at a minimum, county-by-county rates:

3364 (a) The market rate, including the minimum and the maximum

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3365 rates for child care providers that hold a Gold Seal Quality  
 3366 Care designation under s. 1002.945 and adhere to its accrediting  
 3367 association's teacher-to-child ratios and group size  
 3368 requirements ~~s. 402.281~~.

3369 (b) The market rate for child care providers that do not  
 3370 hold a Gold Seal Quality Care designation.

3371 (2) The market rate schedule, at a minimum, must:

3372 (a) Differentiate rates by type, including, but not limited  
 3373 to, a child care provider that holds a Gold Seal Quality Care  
 3374 designation under s. 1002.945 and adheres to its accrediting  
 3375 association's teacher-to-child ratios and group size  
 3376 requirements ~~s. 402.281~~, a child care facility licensed under s.  
 3377 402.305, a public or nonpublic school exempt from licensure  
 3378 under s. 402.3025, a faith-based child care facility exempt from  
 3379 licensure under s. 402.316 that does not hold a Gold Seal  
 3380 Quality Care designation, a large family child care home  
 3381 licensed under s. 402.3131, or a family day care home licensed  
 3382 or registered under s. 402.313.

3383 (4) The market rate schedule shall be considered by an  
 3384 early learning coalition in the adoption of a payment schedule.  
 3385 The payment schedule must take into consideration the prevailing  
 3386 average market rate ~~and~~, include the projected number of  
 3387 children to be served by each county, and be submitted for  
 3388 approval by the department office. Informal child care  
 3389 arrangements shall be reimbursed at not more than 50 percent of  
 3390 the rate adopted for a family day care home.

3391 (5) The department office may contract with one or more  
 3392 qualified entities to administer this section and provide  
 3393 support and technical assistance for child care providers.

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3394 (6) The department office may adopt rules for establishing  
 3395 procedures for the collection of child care providers' market  
 3396 rate, the calculation of the prevailing average market rate by  
 3397 program care level and provider type in a predetermined  
 3398 geographic market, and the publication of the market rate  
 3399 schedule.

3400 Section 56. Section 1002.91, Florida Statutes, is amended  
 3401 to read:

3402 1002.91 Investigations of fraud or overpayment; penalties.—

3403 (1) As used in this subsection, the term "fraud" means an  
 3404 intentional deception, omission, or misrepresentation made by a  
 3405 person with knowledge that the deception, omission, or  
 3406 misrepresentation may result in unauthorized benefit to that  
 3407 person or another person, or any aiding and abetting of the  
 3408 commission of such an act. The term includes any act that  
 3409 constitutes fraud under applicable federal or state law.

3410 (2) To recover state, federal, and local matching funds,  
 3411 the department office shall investigate early learning  
 3412 coalitions, recipients, and providers of the school readiness  
 3413 program and the Voluntary Prekindergarten Education Program to  
 3414 determine possible fraud or overpayment. If by its own  
 3415 inquiries, or as a result of a complaint, the department office  
 3416 has reason to believe that a person, coalition, or provider has  
 3417 engaged in, or is engaging in, a fraudulent act, it shall  
 3418 investigate and determine whether any overpayment has occurred  
 3419 due to the fraudulent act. During the investigation, the  
 3420 department office may examine all records, including electronic  
 3421 benefits transfer records, and make inquiry of all persons who  
 3422 may have knowledge as to any irregularity incidental to the

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3423 disbursement of public moneys or other items or benefits  
3424 authorizations to recipients.

3425 (3) Based on the results of the investigation, the  
3426 ~~department office~~ may, in its discretion, refer the  
3427 investigation to the Department of Financial Services for  
3428 criminal investigation or refer the matter to the applicable  
3429 coalition. Any suspected criminal violation identified by the  
3430 ~~department office~~ must be referred to the Department of  
3431 Financial Services for criminal investigation.

3432 (4) An early learning coalition may suspend or terminate a  
3433 provider from participation in the school readiness program or  
3434 the Voluntary Prekindergarten Education Program when it has  
3435 reasonable cause to believe that the provider has committed  
3436 fraud. The ~~department office~~ shall adopt by rule appropriate due  
3437 process procedures that the early learning coalition shall apply  
3438 in suspending or terminating any provider, including the  
3439 suspension or termination of payment. If suspended, the provider  
3440 shall remain suspended until the completion of any investigation  
3441 by the ~~department office~~, the Department of Financial Services,  
3442 or any other state or federal agency, and any subsequent  
3443 prosecution or other legal proceeding.

3444 (5) If a school readiness program provider or a Voluntary  
3445 Prekindergarten Education Program provider, or an owner,  
3446 officer, or director thereof, is convicted of, found guilty of,  
3447 or pleads guilty or nolo contendere to, regardless of  
3448 adjudication, public assistance fraud pursuant to s. 414.39, or  
3449 is acting as the beneficial owner for someone who has been  
3450 convicted of, found guilty of, or pleads guilty or nolo  
3451 contendere to, regardless of adjudication, public assistance

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3452 fraud pursuant to s. 414.39, the early learning coalition shall  
3453 refrain from contracting with, or using the services of, that  
3454 provider for a period of 5 years. In addition, the coalition  
3455 shall refrain from contracting with, or using the services of,  
3456 any provider that shares an officer or director with a provider  
3457 that is convicted of, found guilty of, or pleads guilty or nolo  
3458 contendere to, regardless of adjudication, public assistance  
3459 fraud pursuant to s. 414.39 for a period of 5 years.

3460 (6) If the investigation is not confidential or otherwise  
3461 exempt from disclosure by law, the results of the investigation  
3462 may be reported by the ~~department office~~ to the appropriate  
3463 legislative committees, the Department of Children and Families,  
3464 and such other persons as the ~~department office~~ deems  
3465 appropriate.

3466 (7) The early learning coalition may not contract with a  
3467 school readiness program provider or a Voluntary Prekindergarten  
3468 Education Program provider who is on the United States  
3469 Department of Agriculture National Disqualified List. In  
3470 addition, the coalition may not contract with any provider that  
3471 shares an officer or director with a provider that is on the  
3472 United States Department of Agriculture National Disqualified  
3473 List.

3474 (8) Each early learning coalition shall adopt an anti-fraud  
3475 plan addressing the detection and prevention of overpayments,  
3476 abuse, and fraud relating to the provision of and payment for  
3477 school readiness program and Voluntary Prekindergarten Education  
3478 Program services and submit the plan to the ~~department office~~  
3479 for approval. The ~~department office~~ shall adopt rules  
3480 establishing criteria for the anti-fraud plan, including

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3481 appropriate due process provisions. The anti-fraud plan must  
3482 include, at a minimum:

3483 (a) A written description or chart outlining the  
3484 organizational structure of the plan's personnel who are  
3485 responsible for the investigation and reporting of possible  
3486 overpayment, abuse, or fraud.

3487 (b) A description of the plan's procedures for detecting  
3488 and investigating possible acts of fraud, abuse, or overpayment.

3489 (c) A description of the plan's procedures for the  
3490 mandatory reporting of possible overpayment, abuse, or fraud to  
3491 the Office of Inspector General within the department office.

3492 (d) A description of the plan's program and procedures for  
3493 educating and training personnel on how to detect and prevent  
3494 fraud, abuse, and overpayment.

3495 (e) A description of the plan's procedures, including the  
3496 appropriate due process provisions adopted by the department  
3497 office for suspending or terminating from the school readiness  
3498 program or the Voluntary Prekindergarten Education Program a  
3499 recipient or provider who the early learning coalition believes  
3500 has committed fraud.

3501 (9) A person who commits an act of fraud as defined in this  
3502 section is subject to the penalties provided in s. 414.39(5) (a)  
3503 and (b).

3504 Section 57. Subsections (1) and (2) and paragraphs (a),  
3505 (c), and (d) of subsection (3) of section 1002.92, Florida  
3506 Statutes, are amended to read:

3507 1002.92 Child care and early childhood resource and  
3508 referral.—

3509 (1) As a part of the school readiness program, the

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3510 department office shall establish a statewide child care  
3511 resource and referral network that is unbiased and provides  
3512 referrals to families for child care and information on  
3513 available community resources. Preference shall be given to  
3514 using early learning coalitions as the child care resource and  
3515 referral agencies. If an early learning coalition cannot comply  
3516 with the requirements to offer the resource information  
3517 component or does not want to offer that service, the early  
3518 learning coalition shall select the resource and referral agency  
3519 for its county or multicounty region based upon the procurement  
3520 requirements of s. 1002.84(13) ~~s. 1002.84(12)~~.

3521 (2) At least one child care resource and referral agency  
3522 must be established in each early learning coalition's county or  
3523 multicounty region. The department office shall adopt rules  
3524 regarding accessibility of child care resource and referral  
3525 services offered through child care resource and referral  
3526 agencies in each county or multicounty region which include, at  
3527 a minimum, required hours of operation, methods by which parents  
3528 may request services, and child care resource and referral staff  
3529 training requirements.

3530 (3) Child care resource and referral agencies shall provide  
3531 the following services:

3532 (a) Identification of existing public and private child  
3533 care and early childhood education services, including child  
3534 care services by public and private employers, and the  
3535 development of an early learning provider performance profile ~~a~~  
3536 ~~resource file~~ of those services through the single statewide  
3537 information system developed by the department office under s.  
3538 1002.82(2)(g) ~~s. 1002.82(2)(p)~~. These services may include

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3539 family day care, public and private child care programs, the  
 3540 Voluntary Prekindergarten Education Program, Head Start, the  
 3541 school readiness program, special education programs for  
 3542 prekindergarten children with disabilities, services for  
 3543 children with developmental disabilities, full-time and part-  
 3544 time programs, before-school and after-school programs, and  
 3545 ~~vacation care programs, parent education, the temporary cash~~  
 3546 ~~assistance program, and related family support services.~~ The  
 3547 early learning provider performance profile resource file shall  
 3548 include, but not be limited to:

- 3549 1. Type of program.
- 3550 2. Hours of service.
- 3551 3. Ages of children served.
- 3552 4. Number of children served.
- 3553 5. Program information.
- 3554 6. Fees and eligibility for services.
- 3555 7. Availability of transportation.
- 3556 8. Participation in the Child Care Food Program, if  
 3557 applicable.
- 3558 9. A link to licensing inspection reports, if applicable.
- 3559 10. The components of the Voluntary Prekindergarten  
 3560 Education Program performance metric calculated under s. 1002.68  
 3561 which must consist of the program assessment composite score,  
 3562 learning gains score, achievement score, and its designations,  
 3563 if applicable.
- 3564 11. The school readiness program assessment composite score  
 3565 and program assessment care level composite score results  
 3566 delineated by infant classrooms, toddler classrooms, and  
 3567 preschool classrooms results under s. 1002.82, if applicable.

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3568 12. Gold Seal Quality Care designation under s. 1002.945,  
 3569 if applicable.

3570 13. Indication of whether the provider implements a  
 3571 curriculum approved by the department and the name of the  
 3572 curriculum, if applicable.

3573 14. Participation in the school readiness child assessment  
 3574 under s. 1002.82.

3575 (c) Maintenance of ongoing documentation of requests for  
 3576 service tabulated through the internal referral process through  
 3577 the single statewide information system. The following  
 3578 documentation of requests for service shall be maintained by the  
 3579 child care resource and referral network:

- 3580 1. Number of calls and contacts to the child care resource  
 3581 information and referral network component by type of service  
 3582 requested.
- 3583 2. Ages of children for whom service was requested.
- 3584 3. Time category of child care requests for each child.
- 3585 4. Special time category, such as nights, weekends, and  
 3586 swing shift.
- 3587 5. Reason that the child care is needed.
- 3588 6. Customer service survey data required under s.  
 3589 1002.82(3) ~~Name of the employer and primary focus of the~~  
 3590 ~~business for an employer-based child care program.~~
- 3591 (d) Assistance to families that connects them to parent  
 3592 education opportunities, the temporary cash assistance program,  
 3593 or social services programs that support families with children,  
 3594 and related child development support services ~~Provision of~~  
 3595 ~~technical assistance to existing and potential providers of~~  
 3596 ~~child care services. This assistance may include:~~

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3597 ~~1. Information on initiating new child care services,~~  
 3598 ~~zoning, and program and budget development and assistance in~~  
 3599 ~~finding such information from other sources.~~

3600 ~~2. Information and resources which help existing child care~~  
 3601 ~~services providers to maximize their ability to serve children~~  
 3602 ~~and parents in their community.~~

3603 ~~3. Information and incentives that may help existing or~~  
 3604 ~~planned child care services offered by public or private~~  
 3605 ~~employers seeking to maximize their ability to serve the~~  
 3606 ~~children of their working parent employees in their community,~~  
 3607 ~~through contractual or other funding arrangements with~~  
 3608 ~~businesses.~~

3609 Section 58. Subsection (1) of section 1002.93, Florida  
 3610 Statutes, is amended to read:

3611 1002.93 School readiness program transportation services.—

3612 (1) The department office may authorize an early learning  
 3613 coalition to establish school readiness program transportation  
 3614 services for children at risk of abuse or neglect who are  
 3615 participating in the school readiness program, pursuant to  
 3616 chapter 427. The early learning coalitions may contract for the  
 3617 provision of transportation services as required by this  
 3618 section.

3619 Section 59. Section 1002.94, Florida Statutes, is repealed.

3620 Section 60. Section 1002.95, Florida Statutes, is amended  
 3621 to read:

3622 1002.95 Teacher Education and Compensation Helps (TEACH)  
 3623 scholarship program.—

3624 (1) The department office may contract for the  
 3625 administration of the Teacher Education and Compensation Helps

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3626 (TEACH) scholarship program, which provides educational  
 3627 scholarships to caregivers and administrators of early childhood  
 3628 programs, family day care homes, and large family child care  
 3629 homes. The goal of the program is to increase the education and  
 3630 training for caregivers, increase the compensation for child  
 3631 caregivers who complete the program requirements, and reduce the  
 3632 rate of participant turnover in the field of early childhood  
 3633 education.

3634 (2) The State Board of Education office shall adopt rules  
 3635 as necessary to administer this section.

3636 Section 61. Subsections (1) and (3) of section 1002.96,  
 3637 Florida Statutes, are amended to read:

3638 1002.96 Early Head Start collaboration grants.—

3639 (1) Contingent upon specific appropriation, the department  
 3640 office shall establish a program to award collaboration grants  
 3641 to assist local agencies in securing Early Head Start programs  
 3642 through Early Head Start program federal grants. The  
 3643 collaboration grants shall provide the required matching funds  
 3644 for public and private nonprofit agencies that have been  
 3645 approved for Early Head Start program federal grants.

3646 (3) The department office may adopt rules as necessary for  
 3647 the award of collaboration grants to competing agencies and the  
 3648 administration of the collaboration grants program under this  
 3649 section.

3650 Section 62. Subsection (1) and paragraph (g) of subsection  
 3651 (3) of section 1002.97, Florida Statutes, are amended to read:

3652 1002.97 Records of children in the school readiness  
 3653 program.—

3654 (1) The individual records of children enrolled in the

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3655 school readiness program provided under this part, held by an  
 3656 early learning coalition or the department office, are  
 3657 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 3658 of the State Constitution. For purposes of this section, records  
 3659 include assessment data, health data, records of teacher  
 3660 observations, and personal identifying information.

3661 (3) School readiness program records may be released to:

3662 (g) Parties to an interagency agreement among early  
 3663 learning coalitions, local governmental agencies, providers of  
 3664 the school readiness program, state agencies, and the department  
 3665 office for the purpose of implementing the school readiness  
 3666 program.

3667

3668 Agencies, organizations, or individuals that receive school  
 3669 readiness program records in order to carry out their official  
 3670 functions must protect the data in a manner that does not permit  
 3671 the personal identification of a child enrolled in a school  
 3672 readiness program and his or her parent by persons other than  
 3673 those authorized to receive the records.

3674 Section 63. Subsections (1) and (3) of section 1002.995,  
 3675 Florida Statutes, are amended to read:

3676 1002.995 Early learning professional development standards  
 3677 and career pathways.—

3678 (1) The department office shall:

3679 (a) Develop early learning professional development  
 3680 training and course standards to be utilized for school  
 3681 readiness program providers.

3682 (b) Identify both formal and informal early learning career  
 3683 pathways with stackable credentials and certifications that

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3684 allow early childhood teachers to access specialized  
 3685 professional development that:

3686 1. Strengthens knowledge and teaching practices.  
 3687 2. Aligns to established professional standards and core  
 3688 competencies.  
 3689 3. Provides a progression of attainable, competency-based  
 3690 stackable credentials and certifications.  
 3691 4. Improves outcomes for children to increase kindergarten  
 3692 readiness and early grade success.

3693 (3) The State Board of Education office shall adopt rules  
 3694 to administer this section.

3695 Section 64. Section 1007.01, Florida Statutes, is amended  
 3696 to read:

3697 1007.01 Articulation; legislative intent; purpose; role of  
 3698 the State Board of Education and the Board of Governors;  
 3699 Articulation Coordinating Committee.—

3700 (1) It is the intent of the Legislature to facilitate  
 3701 articulation and seamless integration of the Early Learning-20  
 3702 ~~K-20~~ education system by building, sustaining, and strengthening  
 3703 relationships among Early Learning-20 ~~K-20~~ public organizations,  
 3704 between public and private organizations, and between the  
 3705 education system as a whole and Florida's communities. The  
 3706 purpose of building, sustaining, and strengthening these  
 3707 relationships is to provide for the efficient and effective  
 3708 progression and transfer of students within the education system  
 3709 and to allow students to proceed toward their educational  
 3710 objectives as rapidly as their circumstances permit. The  
 3711 Legislature further intends that articulation policies and  
 3712 budget actions be implemented consistently in the practices of

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3713 the Department of Education and postsecondary educational  
 3714 institutions and expressed in the collaborative policy efforts  
 3715 of the State Board of Education and the Board of Governors.

3716 (2) To improve and facilitate articulation systemwide, the  
 3717 State Board of Education and the Board of Governors shall  
 3718 collaboratively establish and adopt policies with input from  
 3719 statewide K-20 advisory groups established by the Commissioner  
 3720 of Education and the Chancellor of the State University System  
 3721 and shall recommend the policies to the Legislature. The  
 3722 policies shall relate to:

3723 (a) The alignment between the exit requirements of one  
 3724 education system and the admissions requirements of another  
 3725 education system into which students typically transfer.

3726 (b) The identification of common courses, the level of  
 3727 courses, institutional participation in a statewide course  
 3728 numbering system, and the transferability of credits among such  
 3729 institutions.

3730 (c) Identification of courses that meet general education  
 3731 or common degree program prerequisite requirements at public  
 3732 postsecondary educational institutions.

3733 (d) Dual enrollment course equivalencies.

3734 (e) Articulation agreements.

3735 (3) The Commissioner of Education, in consultation with the  
 3736 Chancellor of the State University System, shall establish the  
 3737 Articulation Coordinating Committee, which shall make  
 3738 recommendations related to statewide articulation policies and  
 3739 issues regarding access, quality, and reporting of data  
 3740 maintained by the educational ~~K-20~~ data warehouse, established  
 3741 pursuant to ss. 1001.10 and 1008.31, to the Higher Education

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3742 Coordination Council, the State Board of Education, and the  
 3743 Board of Governors. The committee shall consist of two members  
 3744 each representing the State University System, the Florida  
 3745 College System, public career and technical education, K-12  
 3746 education, and nonpublic postsecondary education and one member  
 3747 representing students. The chair shall be elected from the  
 3748 membership. The Office of K-20 Articulation shall provide  
 3749 administrative support for the committee. The committee shall:

3750 (a) Monitor the alignment between the exit requirements of  
 3751 one education system and the admissions requirements of another  
 3752 education system into which students typically transfer and make  
 3753 recommendations for improvement.

3754 (b) Propose guidelines for interinstitutional agreements  
 3755 between and among public schools, career and technical education  
 3756 centers, Florida College System institutions, state  
 3757 universities, and nonpublic postsecondary institutions.

3758 (c) Annually recommend dual enrollment course and high  
 3759 school subject area equivalencies for approval by the State  
 3760 Board of Education and the Board of Governors.

3761 (d) Annually review the statewide articulation agreement  
 3762 pursuant to s. 1007.23 and make recommendations for revisions.

3763 (e) Annually review the statewide course numbering system,  
 3764 the levels of courses, and the application of transfer credit  
 3765 requirements among public and nonpublic institutions  
 3766 participating in the statewide course numbering system and  
 3767 identify instances of student transfer and admissions  
 3768 difficulties.

3769 (f) Annually publish a list of courses that meet common  
 3770 general education and common degree program prerequisite

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3771 requirements at public postsecondary institutions identified  
3772 pursuant to s. 1007.25.

3773 (g) Foster timely collection and reporting of statewide  
3774 education data to improve the Early Learning-20 K-20 education  
3775 performance accountability system pursuant to ss. 1001.10 and  
3776 1008.31, including, but not limited to, data quality,  
3777 accessibility, and protection of student records.

3778 (h) Recommend roles and responsibilities of public  
3779 education entities in interfacing with the single, statewide  
3780 computer-assisted student advising system established pursuant  
3781 to s. 1006.735.

3782 Section 65. Section 1008.2125, Florida Statutes, is created  
3783 to read:

3784 1008.2125 Coordinated screening and progress monitoring  
3785 program for students in the Voluntary Prekindergarten Education  
3786 Program through grade 3.—

3787 (1) The primary purpose of the coordinated screening and  
3788 progress monitoring program for students in the Voluntary  
3789 Prekindergarten Education Program through grade 3 is to provide  
3790 information on students' progress in mastering the appropriate  
3791 grade-level standards and to provide information on their  
3792 progress to parents, teachers, and school and program  
3793 administrators. Data shall be used by Voluntary Prekindergarten  
3794 Education Program providers and school districts to improve  
3795 instruction, by parents and teachers to guide learning  
3796 objectives and provide timely and appropriate supports and  
3797 interventions to students not meeting grade level expectations,  
3798 and by the public to assess the cost benefit of the expenditure  
3799 of taxpayer dollars. The coordinated screening and progress

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3800 monitoring program must:

3801 (a) Assess the progress of students in the Voluntary  
3802 Prekindergarten Education Program through grade 3 in meeting the  
3803 appropriate expectations in emergent literacy and math skills  
3804 and in English Language Arts and mathematics, as required by ss.  
3805 1002.67(1) (a) and 1003.41.

3806 (b) Provide data for accountability of the Voluntary  
3807 Prekindergarten Education Program, as required by s. 1002.68.

3808 (c) Provide baseline data to the department of each  
3809 student's readiness for kindergarten, which must be based on  
3810 each kindergarten student's progress monitoring results within  
3811 the first 30 days of enrollment in accordance with paragraph  
3812 (2) (a). The methodology for determining a student's readiness  
3813 for kindergarten shall be developed by the same independent  
3814 expert identified in s. 1002.68(4) (d).

3815 (d) Identify the educational strengths and needs of  
3816 students in the Voluntary Prekindergarten Education Program  
3817 through grade 3.

3818 (e) Provide teachers with progress monitoring data to  
3819 provide timely interventions and supports pursuant to s.  
3820 1008.25(4).

3821 (f) Assess how well educational goals and curricular  
3822 standards are met at the provider, school, district, and state  
3823 levels.

3824 (g) Provide information to aid in the evaluation and  
3825 development of educational programs and policies.

3826 (2) The Commissioner of Education shall design a statewide,  
3827 standardized coordinated screening and progress monitoring  
3828 program to assess early literacy and mathematics skills and the

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3829 English Language Arts and mathematics standards established in  
 3830 ss. 1002.67(1)(a) and 1003.41, respectively. The coordinated  
 3831 screening and progress monitoring program must provide interval  
 3832 level and norm-referenced data that measures equivalent levels  
 3833 of growth; be a developmentally appropriate, valid, and reliable  
 3834 direct assessment; be able to capture data on students who may  
 3835 be performing below grade or developmental level and which may  
 3836 enable the identification of early indicators of dyslexia or  
 3837 other developmental delays; accurately measure the core content  
 3838 in the applicable grade level standards; document learning gains  
 3839 for the achievement of these standards; and provide teachers  
 3840 with progress monitoring supports and materials that enhance  
 3841 differentiated instruction and parent communication.  
 3842 Participation in the coordinated screening and progress  
 3843 monitoring program is mandatory for all students in the  
 3844 Voluntary Prekindergarten Education Program and enrolled in a  
 3845 public school in kindergarten through grade 3. The coordinated  
 3846 screening and progress monitoring program shall be implemented  
 3847 beginning in the 2022-2023 school year for students in the  
 3848 Voluntary Prekindergarten Education Program and kindergarten  
 3849 students, as follows:  
 3850 (a) The coordinated screening and progress monitoring  
 3851 program shall be administered within the first 30 days after  
 3852 enrollment, midyear, and within the last 30 days of the program  
 3853 or school year, in accordance with the rules adopted by the  
 3854 State Board of Education. The state board may adopt alternate  
 3855 timeframes to address nontraditional school year calendars or  
 3856 summer programs to ensure that the coordinated screening and  
 3857 progress monitoring program is administered a minimum of 3 times

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3858 within a year or program.  
 3859 (b) The results of the coordinated screening and progress  
 3860 monitoring program shall be reported to the department, in  
 3861 accordance with the rules adopted by the state board, and  
 3862 maintained in the department's educational data warehouse.  
 3863 (3) The Commissioner of Education shall:  
 3864 (a) Develop a plan, in coordination with the Council for  
 3865 Early Grade Success, for implementing the coordinated screening  
 3866 and progress monitoring program in consideration of timelines  
 3867 for implementing new early literacy and mathematics skills and  
 3868 the English Language Arts and mathematics standards established  
 3869 in ss. 1002.67(1)(a) and 1003.41, as appropriate.  
 3870 (b) Provide data, reports, and information as requested to  
 3871 the Council for Early Grade Success.  
 3872 (4) The Council for Early Grade Success, a council defined  
 3873 in s. 20.03(7), is created within the Department of Education to  
 3874 oversee the coordinated screening and progress monitoring  
 3875 program and, except as otherwise provided in this section, shall  
 3876 operate consistent with s. 20.052.  
 3877 (a) The council shall be responsible for reviewing the  
 3878 implementation of, training for, administration of, and outcomes  
 3879 from the coordinated screening and progress monitoring program  
 3880 to provide recommendations to the department that supports grade  
 3881 3 students reading at or above grade level. The council, at a  
 3882 minimum, shall:  
 3883 1. Provide recommendations on the implementation of the  
 3884 coordinated screening and progress monitoring program, including  
 3885 reviewing any procurement solicitation documents and criteria  
 3886 before being published.

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3887 2. Develop training plans and timelines for such training.  
 3888 3. Identify appropriate personnel, processes, and  
 3889 procedures required for the administration of the coordinated  
 3890 screening and progress monitoring program.  
 3891 4. Provide input on the methodology for calculating a  
 3892 provider's or school's performance metric and designations under  
 3893 s. 1002.68.  
 3894 5. Work with the department's independent expert under s.  
 3895 1002.68(4)(d) to review the methodology for determining a  
 3896 child's kindergarten readiness.  
 3897 6. Review data on age-appropriate learning gains by grade  
 3898 level that a student would need to attain in order to  
 3899 demonstrate proficiency in reading by grade 3.  
 3900 7. Continually review anonymized data from the results of  
 3901 the coordinated screening and progress monitoring program for  
 3902 students in the Voluntary Prekindergarten Education Program  
 3903 through grade 3 to help inform recommendations to the department  
 3904 that support practices that will enable grade 3 students to read  
 3905 at or above grade level.  
 3906 (b) The council shall be composed of 15 members who are  
 3907 residents of this state and appointed, notwithstanding any other  
 3908 provision of law, as follows:  
 3909 1. Two members appointed by the Governor, as follows:  
 3910 a. One representative from the Department of Education.  
 3911 b. One parent of a child who is 4 to 9 years of age.  
 3912 2. Thirteen members appointed jointly by the President of  
 3913 the Senate and Speaker of the House of Representatives, as  
 3914 follows:  
 3915 a. One representative of an urban school district.

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3916 b. One representative of a rural school district.  
 3917 c. One representative of an urban early learning coalition.  
 3918 d. One representative of a rural early learning coalition.  
 3919 e. One representative of an early learning provider.  
 3920 f. One representative of a faith-based early learning  
 3921 provider.  
 3922 g. One representative who is a kindergarten teacher who has  
 3923 at least 5 years of teaching experience.  
 3924 h. One representative who is a second grade teacher who has  
 3925 at least 5 years of teaching experience.  
 3926 i. One representative who is a school principal.  
 3927 j. Four representatives with subject matter expertise in  
 3928 early learning, early grade success, or child assessments. The  
 3929 four representatives with subject matter expertise may not be  
 3930 direct stakeholders within the early learning or public school  
 3931 systems or potential recipients of a contract resulting from the  
 3932 committee's recommendations.  
 3933 (5) The council shall elect a chair and a vice chair, one  
 3934 of whom must be a member who has subject matter expertise in  
 3935 early learning, early grade success, or child assessments. The  
 3936 vice chair must be a member appointed by the President of the  
 3937 Senate and the Speaker of the House of Representatives who is  
 3938 not one of the four members with subject matter expertise in  
 3939 early learning, early grade success, or child assessments  
 3940 appointed pursuant to sub-subparagraph (b)2.j. Members of the  
 3941 council shall serve without compensation but are entitled to  
 3942 reimbursement for per diem and travel expenses pursuant to s.  
 3943 112.061.  
 3944 (6) The council must meet at least biannually and may meet

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3945 by teleconference or other electronic means, if possible, to  
 3946 reduce costs.  
 3947 (7) A majority of the members constitutes a quorum.  
 3948 Section 66. Present paragraphs (b) and (c) of subsection  
 3949 (5) of section 1008.25, Florida Statutes, are redesignated as  
 3950 paragraphs (c) and (d), respectively, a new paragraph (b) is  
 3951 added to that subsection, and paragraph (b) of subsection (6),  
 3952 subsection (7), and paragraph (a) of subsection (8) are amended,  
 3953 to read:  
 3954 1008.25 Public school student progression; student support;  
 3955 reporting requirements.—  
 3956 (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—  
 3957 (b) A Voluntary Prekindergarten Education Program student  
 3958 who exhibits a substantial deficiency in early literacy skills  
 3959 in accordance with the standards under s. 1002.67(1)(a) and  
 3960 based upon the results of the administration of the final  
 3961 coordinated screening and progress monitoring under s. 1008.2125  
 3962 shall be referred to the local school district and may be  
 3963 eligible to receive intensive reading interventions before  
 3964 participating in kindergarten. Such intensive reading  
 3965 interventions shall be paid for using funds from the district's  
 3966 research-based reading instruction allocation in accordance with  
 3967 s. 1011.62(9).  
 3968 (6) ELIMINATION OF SOCIAL PROMOTION.—  
 3969 (b) The district school board may only exempt students from  
 3970 mandatory retention, as provided in paragraph (5)(c) ~~(5)(b)~~, for  
 3971 good cause. A student who is promoted to grade 4 with a good  
 3972 cause exemption shall be provided intensive reading instruction  
 3973 and intervention that include specialized diagnostic information

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3974 and specific reading strategies to meet the needs of each  
 3975 student so promoted. The school district shall assist schools  
 3976 and teachers with the implementation of explicit, systematic,  
 3977 and multisensory reading instruction and intervention strategies  
 3978 for students promoted with a good cause exemption which research  
 3979 has shown to be successful in improving reading among students  
 3980 who have reading difficulties. Good cause exemptions are limited  
 3981 to the following:  
 3982 1. Limited English proficient students who have had less  
 3983 than 2 years of instruction in an English for Speakers of Other  
 3984 Languages program based on the initial date of entry into a  
 3985 school in the United States.  
 3986 2. Students with disabilities whose individual education  
 3987 plan indicates that participation in the statewide assessment  
 3988 program is not appropriate, consistent with the requirements of  
 3989 s. 1008.212.  
 3990 3. Students who demonstrate an acceptable level of  
 3991 performance on an alternative standardized reading or English  
 3992 Language Arts assessment approved by the State Board of  
 3993 Education.  
 3994 4. A student who demonstrates through a student portfolio  
 3995 that he or she is performing at least at Level 2 on the  
 3996 statewide, standardized English Language Arts assessment.  
 3997 5. Students with disabilities who take the statewide,  
 3998 standardized English Language Arts assessment and who have an  
 3999 individual education plan or a Section 504 plan that reflects  
 4000 that the student has received intensive instruction in reading  
 4001 or English Language Arts for more than 2 years but still  
 4002 demonstrates a deficiency and was previously retained in

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4003 kindergarten, grade 1, grade 2, or grade 3.

4004 6. Students who have received intensive reading

4005 intervention for 2 or more years but still demonstrate a

4006 deficiency in reading and who were previously retained in

4007 kindergarten, grade 1, grade 2, or grade 3 for a total of 2

4008 years. A student may not be retained more than once in grade 3.

4009 (7) SUCCESSFUL PROGRESSION FOR RETAINED THIRD GRADE

4010 STUDENTS.—

4011 (a) Students retained under paragraph (5)(c) ~~(5)(b)~~ must be

4012 provided intensive interventions in reading to ameliorate the

4013 student's specific reading deficiency and prepare the student

4014 for promotion to the next grade. These interventions must

4015 include:

4016 1. Evidence-based, explicit, systematic, and multisensory

4017 reading instruction in phonemic awareness, phonics, fluency,

4018 vocabulary, and comprehension and other strategies prescribed by

4019 the school district.

4020 2. Participation in the school district's summer reading

4021 camp, which must incorporate the instructional and intervention

4022 strategies under subparagraph 1.

4023 3. A minimum of 90 minutes of daily, uninterrupted reading

4024 instruction incorporating the instructional and intervention

4025 strategies under subparagraph 1. This instruction may include:

4026 a. Integration of content-rich texts in science and social

4027 studies within the 90-minute block.

4028 b. Small group instruction.

4029 c. Reduced teacher-student ratios.

4030 d. More frequent progress monitoring.

4031 e. Tutoring or mentoring.

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4032 f. Transition classes containing 3rd and 4th grade

4033 students.

4034 g. Extended school day, week, or year.

4035 (b) Each school district shall:

4036 1. Provide written notification to the parent of a student

4037 who is retained under paragraph (5)(c) ~~(5)(b)~~ that his or her

4038 child has not met the proficiency level required for promotion

4039 and the reasons the child is not eligible for a good cause

4040 exemption as provided in paragraph (6)(b). The notification must

4041 comply with paragraph (5)(d) ~~(5)(e)~~ and must include a

4042 description of proposed interventions and supports that will be

4043 provided to the child to remediate the identified areas of

4044 reading deficiency.

4045 2. Implement a policy for the midyear promotion of a

4046 student retained under paragraph (5)(c) ~~(5)(b)~~ who can

4047 demonstrate that he or she is a successful and independent

4048 reader and performing at or above grade level in reading or,

4049 upon implementation of English Language Arts assessments,

4050 performing at or above grade level in English Language Arts.

4051 Tools that school districts may use in reevaluating a student

4052 retained may include subsequent assessments, alternative

4053 assessments, and portfolio reviews, in accordance with rules of

4054 the State Board of Education. Students promoted during the

4055 school year after November 1 must demonstrate proficiency levels

4056 in reading equivalent to the level necessary for the beginning

4057 of grade 4. The rules adopted by the State Board of Education

4058 must include standards that provide a reasonable expectation

4059 that the student's progress is sufficient to master appropriate

4060 grade 4 level reading skills.

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4061 3. Provide students who are retained under paragraph (5) (c)  
 4062 ~~(5) (b)~~, including students participating in the school  
 4063 district's summer reading camp under subparagraph (a)2., with a  
 4064 highly effective teacher as determined by the teacher's  
 4065 performance evaluation under s. 1012.34, and, beginning July 1,  
 4066 2020, the teacher must also be certified or endorsed in reading.

4067 4. Establish at each school, when applicable, an intensive  
 4068 reading acceleration course for any student retained in grade 3  
 4069 who was previously retained in kindergarten, grade 1, or grade  
 4070 2. The intensive reading acceleration course must provide the  
 4071 following:

4072 a. Uninterrupted reading instruction for the majority of  
 4073 student contact time each day and opportunities to master the  
 4074 grade 4 Next Generation Sunshine State Standards in other core  
 4075 subject areas through content-rich texts.

4076 b. Small group instruction.

4077 c. Reduced teacher-student ratios.

4078 d. The use of explicit, systematic, and multisensory  
 4079 reading interventions, including intensive language, phonics,  
 4080 and vocabulary instruction, and use of a speech-language  
 4081 therapist if necessary, that have proven results in accelerating  
 4082 student reading achievement within the same school year.

4083 e. A read-at-home plan.

4084 (8) ANNUAL REPORT.—

4085 (a) In addition to the requirements in paragraph (5) (c)  
 4086 ~~(5) (b)~~, each district school board must annually report to the  
 4087 parent of each student the progress of the student toward  
 4088 achieving state and district expectations for proficiency in  
 4089 English Language Arts, science, social studies, and mathematics.

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4090 The district school board must report to the parent the  
 4091 student's results on each statewide, standardized assessment.  
 4092 The evaluation of each student's progress must be based upon the  
 4093 student's classroom work, observations, tests, district and  
 4094 state assessments, response to intensive interventions provided  
 4095 under paragraph (5) (a), and other relevant information. Progress  
 4096 reporting must be provided to the parent in writing in a format  
 4097 adopted by the district school board.

4098 Section 67. Section 1008.31, Florida Statutes, is amended  
 4099 to read:

4100 1008.31 Florida's Early Learning-20 ~~K-20~~ education  
 4101 performance accountability system; legislative intent; mission,  
 4102 goals, and systemwide measures; data quality improvements.—

4103 (1) LEGISLATIVE INTENT.—It is the intent of the Legislature  
 4104 that:

4105 (a) The performance accountability system implemented to  
 4106 assess the effectiveness of Florida's seamless Early Learning-20  
 4107 ~~K-20~~ education delivery system provide answers to the following  
 4108 questions in relation to its mission and goals:

4109 1. What is the public receiving in return for funds it  
 4110 invests in education?

4111 2. How effectively is Florida's Early Learning-20 ~~K-20~~  
 4112 education system educating its students?

4113 3. How effectively are the major delivery sectors promoting  
 4114 student achievement?

4115 4. How are individual schools and postsecondary education  
 4116 institutions performing their responsibility to educate their  
 4117 students as measured by how students are performing and how much  
 4118 they are learning?

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4119 (b) The Early Learning-20 ~~K-20~~ education performance  
4120 accountability system be established as a single, unified  
4121 accountability system with multiple components, including, but  
4122 not limited to, student performance in public schools and school  
4123 and district grades.

4124 (c) The K-20 education performance accountability system  
4125 comply with the requirements of the "No Child Left Behind Act of  
4126 2001," Pub. L. No. 107-110, and the Individuals with  
4127 Disabilities Education Act (IDEA).

4128 (d) The early learning accountability system comply with  
4129 the requirements of part V and part VI of chapter 1002 and the  
4130 requirements of the Child Care and Development Block Grant Trust  
4131 Fund, pursuant to 45 C.F.R. parts 98 and 99.

4132 ~~(e)~~ (d) The State Board of Education and the Board of  
4133 Governors of the State University System recommend to the  
4134 Legislature systemwide performance standards; the Legislature  
4135 establish systemwide performance measures and standards; and the  
4136 systemwide measures and standards provide Floridians with  
4137 information on what the public is receiving in return for the  
4138 funds it invests in education and how well the Early Learning-20  
4139 ~~K-20~~ system educates its students.

4140 ~~(f) 1. (e) 1.~~ The State Board of Education establish  
4141 performance measures and set performance standards for  
4142 individual public schools and Florida College System  
4143 institutions, with measures and standards based primarily on  
4144 student achievement.

4145 2. The Board of Governors of the State University System  
4146 establish performance measures and set performance standards for  
4147 individual state universities, including actual completion

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4148 rates.

4149 (2) MISSION, GOALS, AND SYSTEMWIDE MEASURES.—

4150 (a) The mission of Florida's Early Learning-20 ~~K-20~~  
4151 education system shall be to increase the proficiency of all  
4152 students within one seamless, efficient system, by allowing them  
4153 the opportunity to expand their knowledge and skills through  
4154 learning opportunities and research valued by students, parents,  
4155 and communities.

4156 (b) The process for establishing state and sector-specific  
4157 standards and measures must be:

- 4158 1. Focused on student success.
- 4159 2. Addressable through policy and program changes.
- 4160 3. Efficient and of high quality.
- 4161 4. Measurable over time.
- 4162 5. Simple to explain and display to the public.
- 4163 6. Aligned with other measures and other sectors to support  
4164 a coordinated Early Learning-20 ~~K-20~~ education system.

4165 (c) The Department of Education shall maintain an  
4166 accountability system that measures student progress toward the  
4167 following goals:

- 4168 1. Highest student achievement, as indicated by evidence of  
4169 student learning gains at all levels.
- 4170 2. Seamless articulation and maximum access, as measured by  
4171 evidence of progression, readiness, and access by targeted  
4172 groups of students identified by the Commissioner of Education.
- 4173 3. Skilled workforce and economic development, as measured  
4174 by evidence of employment and earnings.
- 4175 4. Quality efficient services, as measured by evidence of  
4176 return on investment.

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4177 5. Other goals as identified by law or rule.

4178 (3) ~~K-20~~ EDUCATION DATA QUALITY IMPROVEMENTS.—To provide

4179 data required to implement education performance accountability

4180 measures in state and federal law, the Commissioner of Education

4181 shall initiate and maintain strategies to improve data quality

4182 and timeliness. The Board of Governors shall make available to

4183 the department all data within the State University Database

4184 System to be integrated into the educational ~~K-20~~ data

4185 warehouse. The commissioner shall have unlimited access to such

4186 data for the purposes of conducting studies, reporting annual

4187 and longitudinal student outcomes, and improving college

4188 readiness and articulation. All public educational institutions

4189 shall annually provide data from the prior year to the

4190 educational ~~K-20~~ data warehouse in a format based on data

4191 elements identified by the commissioner.

4192 (a) School districts and public postsecondary educational

4193 institutions shall maintain information systems that will

4194 provide the State Board of Education, the Board of Governors of

4195 the State University System, and the Legislature with

4196 information and reports necessary to address the specifications

4197 of the accountability system. The level of comprehensiveness and

4198 quality must be no less than that which was available as of June

4199 30, 2001.

4200 (b) Colleges and universities eligible to participate in

4201 the William L. Boyd, IV, Effective Access to Student Education

4202 Grant Program shall annually report student-level data from the

4203 prior year for each student who receives state funds in a format

4204 prescribed by the Department of Education. At a minimum, data

4205 from the prior year must include retention rates, transfer

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4206 rates, completion rates, graduation rates, employment and

4207 placement rates, and earnings of graduates. By October 1 of each

4208 year, the colleges and universities described in this paragraph

4209 shall report the data to the department.

4210 (c) The Commissioner of Education shall determine the

4211 standards for the required data, monitor data quality, and

4212 measure improvements. The commissioner shall report annually to

4213 the State Board of Education, the Board of Governors of the

4214 State University System, the President of the Senate, and the

4215 Speaker of the House of Representatives data quality indicators

4216 and ratings for all school districts and public postsecondary

4217 educational institutions.

4218 (d) Before establishing any new reporting or data

4219 collection requirements, the commissioner shall use existing

4220 data being collected to reduce duplication and minimize

4221 paperwork.

4222 (4) RULES.—The State Board of Education shall adopt rules

4223 pursuant to ss. 120.536(1) and 120.54 to implement the

4224 provisions of this section relating to the educational ~~K-20~~ data

4225 warehouse.

4226 Section 68. Section 1008.32, Florida Statutes, is amended

4227 to read:

4228 1008.32 State Board of Education oversight enforcement

4229 authority.—The State Board of Education shall oversee the

4230 performance of early learning coalitions, district school

4231 boards, and Florida College System institution boards of

4232 trustees in enforcement of all laws and rules. District school

4233 boards and Florida College System institution boards of trustees

4234 shall be primarily responsible for compliance with law and state

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4235 board rule.

4236 (1) In order to ensure compliance with law or state board  
4237 rule, the State Board of Education shall have the authority to  
4238 request and receive information, data, and reports from early  
4239 learning coalitions, school districts, and Florida College  
4240 System institutions. Early learning coalition chief executive  
4241 officers or executive directors, district school  
4242 superintendents, and Florida College System institution  
4243 presidents are responsible for the accuracy of the information  
4244 and data reported to the state board.

4245 (2) (a) The Commissioner of Education may investigate  
4246 allegations of noncompliance with law or state board rule and  
4247 determine probable cause. The commissioner shall report  
4248 determinations of probable cause to the State Board of Education  
4249 which shall require the early learning coalition, district  
4250 school board, or Florida College System institution board of  
4251 trustees to document compliance with law or state board rule.

4252 (b) The Commissioner of Education shall report to the State  
4253 Board of Education any findings by the Auditor General that an  
4254 early learning coalition, a district school board, or Florida  
4255 College System institution is acting without statutory authority  
4256 or contrary to general law. The State Board of Education shall  
4257 require the early learning coalition, district school board, or  
4258 Florida College System institution board of trustees to document  
4259 compliance with such law.

4260 (3) If the early learning coalition, district school board,  
4261 or Florida College System institution board of trustees cannot  
4262 satisfactorily document compliance, the State Board of Education  
4263 may order compliance within a specified timeframe.

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4264 (4) If the State Board of Education determines that an  
4265 early learning coalition, a district school board, or Florida  
4266 College System institution board of trustees is unwilling or  
4267 unable to comply with law or state board rule within the  
4268 specified time, the state board shall have the authority to  
4269 initiate any of the following actions:

4270 (a) Report to the Legislature that the early learning  
4271 coalition, school district, or Florida College System  
4272 institution is unwilling or unable to comply with law or state  
4273 board rule and recommend action to be taken by the Legislature.

4274 (b) Withhold the transfer of state funds, discretionary  
4275 grant funds, discretionary lottery funds, or any other funds  
4276 specified as eligible for this purpose by the Legislature until  
4277 the early learning coalition, school district, or Florida  
4278 College System institution complies with the law or state board  
4279 rule.

4280 (c) Declare the early learning coalition, school district,  
4281 or Florida College System institution ineligible for competitive  
4282 grants.

4283 (d) Require monthly or periodic reporting on the situation  
4284 related to noncompliance until it is remedied.

4285 (5) Nothing in this section shall be construed to create a  
4286 private cause of action or create any rights for individuals or  
4287 entities in addition to those provided elsewhere in law or rule.

4288 Section 69. Paragraph (a) of subsection (3) of section  
4289 1008.33, Florida Statutes, is amended to read:

4290 1008.33 Authority to enforce public school improvement.—

4291 (3) (a) The academic performance of all students has a  
4292 significant effect on the state school system. Pursuant to Art.

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 4293 IX of the State Constitution, which prescribes the duty of the  
 4294 State Board of Education to supervise Florida's public school  
 4295 system, the state board shall equitably enforce the  
 4296 accountability requirements of the state school system and may  
 4297 impose state requirements on school districts in order to  
 4298 improve the academic performance of all districts, schools, and  
 4299 students based upon the provisions of the Florida Early  
 4300 Learning-20 K-20 Education Code, chapters 1000-1013; the federal  
 4301 ESEA and its implementing regulations; and the ESEA flexibility  
 4302 waiver approved for Florida by the United States Secretary of  
 4303 Education.

4304 Section 70. Subsection (9) of section 1011.62, Florida  
 4305 Statutes, is amended to read:

4306 1011.62 Funds for operation of schools.—If the annual  
 4307 allocation from the Florida Education Finance Program to each  
 4308 district for operation of schools is not determined in the  
 4309 annual appropriations act or the substantive bill implementing  
 4310 the annual appropriations act, it shall be determined as  
 4311 follows:

4312 (9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—

4313 (a) The research-based reading instruction allocation is  
 4314 created to provide comprehensive reading instruction to students  
 4315 in kindergarten through grade 12, including certain students who  
 4316 exhibit a substantial deficiency in early literacy and completed  
 4317 the Voluntary Prekindergarten Education Program under s.  
 4318 1008.25(5)(b). Each school district that has one or more of the  
 4319 300 lowest-performing elementary schools based on a 3-year  
 4320 average of the state reading assessment data must use the  
 4321 school's portion of the allocation to provide an additional hour

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 4322 per day of intensive reading instruction for the students in  
 4323 each school. The additional hour may be provided within the  
 4324 school day. Students enrolled in these schools who earned a  
 4325 level 4 or level 5 score on the statewide, standardized English  
 4326 Language Arts assessment for the previous school year may  
 4327 participate in the additional hour of instruction. Exceptional  
 4328 student education centers may not be included in the 300  
 4329 schools. The intensive reading instruction delivered in this  
 4330 additional hour shall include: research-based reading  
 4331 instruction that has been proven to accelerate progress of  
 4332 students exhibiting a reading deficiency; differentiated  
 4333 instruction based on screening, diagnostic, progress monitoring,  
 4334 or student assessment data to meet students' specific reading  
 4335 needs; explicit and systematic reading strategies to develop  
 4336 phonemic awareness, phonics, fluency, vocabulary, and  
 4337 comprehension, with more extensive opportunities for guided  
 4338 practice, error correction, and feedback; and the integration of  
 4339 social studies, science, and mathematics-text reading, text  
 4340 discussion, and writing in response to reading.

4341 (b) Funds for comprehensive, research-based reading  
 4342 instruction shall be allocated annually to each school district  
 4343 in the amount provided in the General Appropriations Act. Each  
 4344 eligible school district shall receive the same minimum amount  
 4345 as specified in the General Appropriations Act, and any  
 4346 remaining funds shall be distributed to eligible school  
 4347 districts based on each school district's proportionate share of  
 4348 K-12 base funding.

4349 (c) Funds allocated under this subsection must be used to  
 4350 provide a system of comprehensive reading instruction to

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4351 students enrolled in the K-12 programs and certain students who  
 4352 exhibit a substantial deficiency in early literacy and completed  
 4353 the Voluntary Prekindergarten Education Program pursuant to s.  
 4354 1008.25(5)(b), which may include the following:

4355 1. An additional hour per day of evidence-based intensive  
 4356 reading instruction to students in the 300 lowest-performing  
 4357 elementary schools by teachers and reading specialists who have  
 4358 demonstrated effectiveness in teaching reading as required in  
 4359 paragraph (a).

4360 2. Kindergarten through grade 5 evidence-based reading  
 4361 intervention teachers to provide intensive reading interventions  
 4362 provided by reading intervention teachers ~~intervention~~ during  
 4363 the school day and in the required extra hour for students  
 4364 identified as having a reading deficiency.

4365 3. Highly qualified reading coaches to specifically support  
 4366 teachers in making instructional decisions based on student  
 4367 data, and improve teacher delivery of effective reading  
 4368 instruction, intervention, and reading in the content areas  
 4369 based on student need.

4370 4. Professional development for school district teachers in  
 4371 scientifically based reading instruction, including strategies  
 4372 to teach reading in content areas and with an emphasis on  
 4373 technical and informational text, to help school district  
 4374 teachers earn a certification or an endorsement in reading.

4375 5. Summer reading camps, using only teachers or other  
 4376 district personnel who are certified or endorsed in reading  
 4377 consistent with s. 1008.25(7)(b)3., for all students in  
 4378 kindergarten through grade 2 who demonstrate a reading  
 4379 deficiency as determined by district and state assessments, and

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4380 students in grades 3 through 5 who score at Level 1 on the  
 4381 statewide, standardized English Language Arts assessment, and  
 4382 certain students who exhibit a substantial deficiency in early  
 4383 literacy and completed the Voluntary Prekindergarten Education  
 4384 Program under s. 1008.25(5)(b).

4385 6. Scientifically researched and evidence-based  
 4386 supplemental instructional materials ~~that are grounded in~~  
 4387 ~~scientifically based reading research~~ as identified by the Just  
 4388 Read, Florida! Office pursuant to s. 1001.215(8).

4389 7. Evidence-based intensive interventions for students in  
 4390 kindergarten through grade 12 who have been identified as having  
 4391 a reading deficiency or who are reading below grade level as  
 4392 determined by the statewide, standardized English Language Arts  
 4393 assessment or for certain students who exhibit a substantial  
 4394 deficiency in early literacy and completed the Voluntary  
 4395 Prekindergarten Education Program under s. 1008.25(5)(b).

4396 (d)1. Annually, by a date determined by the Department of  
 4397 Education but before May 1, school districts shall submit a ~~K-12~~  
 4398 comprehensive reading plan for the specific use of the research-  
 4399 based reading instruction allocation in the format prescribed by  
 4400 the department for review and approval by the Just Read,  
 4401 Florida! Office created pursuant to s. 1001.215. The plan  
 4402 annually submitted by school districts shall be deemed approved  
 4403 unless the department rejects the plan on or before June 1. If a  
 4404 school district and the Just Read, Florida! Office cannot reach  
 4405 agreement on the contents of the plan, the school district may  
 4406 appeal to the State Board of Education for resolution. School  
 4407 districts shall be allowed reasonable flexibility in designing  
 4408 their plans and shall be encouraged to offer reading

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4409 intervention through innovative methods, including career  
 4410 academies. The plan format shall be developed with input from  
 4411 school district personnel, including teachers and principals,  
 4412 and shall provide for intensive reading interventions through  
 4413 integrated curricula, provided that, beginning with the 2020-  
 4414 2021 school year, the interventions are delivered by a teacher  
 4415 who is certified or endorsed in reading. Such interventions must  
 4416 incorporate evidence-based strategies identified by the Just  
 4417 Read, Florida! Office pursuant to s. 1001.215(8). No later than  
 4418 July 1 annually, the department shall release the school  
 4419 district's allocation of appropriated funds to those districts  
 4420 having approved plans. A school district that spends 100 percent  
 4421 of this allocation on its approved plan shall be deemed to have  
 4422 been in compliance with the plan. The department may withhold  
 4423 funds upon a determination that reading instruction allocation  
 4424 funds are not being used to implement the approved plan. The  
 4425 department shall monitor and track the implementation of each  
 4426 district plan, including conducting site visits and collecting  
 4427 specific data on expenditures and reading improvement results.  
 4428 By February 1 of each year, the department shall report its  
 4429 findings to the Legislature.

4430 2. Each school district that has a school designated as one  
 4431 of the 300 lowest-performing elementary schools as specified in  
 4432 paragraph (a) shall specifically delineate in the comprehensive  
 4433 reading plan, or in an addendum to the comprehensive reading  
 4434 plan, the implementation design and reading intervention  
 4435 strategies that will be used for the required additional hour of  
 4436 reading instruction. The term "reading intervention" includes  
 4437 evidence-based strategies frequently used to remediate reading

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4438 deficiencies and also includes individual instruction, tutoring,  
 4439 mentoring, or the use of technology that targets specific  
 4440 reading skills and abilities.  
 4441

4442 For purposes of this subsection, the term "evidence-based" means  
 4443 demonstrating a statistically significant effect on improving  
 4444 student outcomes or other relevant outcomes.

4445 Section 71. For the 2022-2023 fiscal year, the sum of  
 4446 \$3,088,000 in recurring funds is appropriated from the General  
 4447 Revenue Fund to the Department of Education to implement the  
 4448 coordinated screening and progress monitoring program required  
 4449 by s. 1008.2125, Florida Statutes. Of these funds, \$3 million  
 4450 shall be placed in reserve. The department is authorized to  
 4451 submit budget amendments requesting the release of funds  
 4452 pursuant to chapter 216, Florida Statutes. The budget amendment  
 4453 shall include a detailed operational work plan and spending  
 4454 plan. The department shall submit quarterly updates to the plans  
 4455 and quarterly project status reports to the Office of Policy and  
 4456 Budget in the Executive Office of the Governor and the chairs of  
 4457 the Senate Committee on Appropriations and the House of  
 4458 Representatives Appropriations Committee. Each status report  
 4459 must include progress made to date for each project activity,  
 4460 planned and actual tasks and deliverable completion dates,  
 4461 planned and actual costs incurred, and any current issues and  
 4462 risks.

4463 Section 72. For the 2021-2022 fiscal year, the sum of  
 4464 \$100,000 in nonrecurring funds is appropriated from the General  
 4465 Revenue Fund to the Department of Education to issue a  
 4466 competitive solicitation to contract with an independent third

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4467 party consulting firm to conduct a review of the school  
4468 readiness payment rates by county, provider type, and care  
4469 level. The review shall include an evaluation of the current  
4470 methodology for establishing the market rate schedule pursuant  
4471 to s. 1002.895, Florida Statutes, the current school readiness  
4472 payment rates, and the impact of the approved pay differentials  
4473 authorized under part VI of chapter 1002, Florida Statutes, on  
4474 the payment rates. The review shall include recommendations on a  
4475 methodology for setting the payment rates by county, by provider  
4476 type, and by care level that takes into consideration the impact  
4477 that local ordinances may have on the market rate if such  
4478 ordinances require more stringent staff-to-child ratios than  
4479 required in s. 402.305(4), Florida Statutes, but may not  
4480 consider school readiness wait lists as a factor. The department  
4481 shall submit the results of the review and the recommendations  
4482 to the Governor's Office of Policy and Budget and the chairs of  
4483 the Senate Committee on Appropriations and the House of  
4484 Representatives Appropriations Committee by January 1, 2022.  
4485 Section 73. For the 2021-2022 fiscal year, the sum of  
4486 \$677,759 in recurring funds is appropriated from the General  
4487 Revenue Fund to the Department of Education to assist in the  
4488 implementation of s. 1002.68(2), Florida Statutes.  
4489 Section 74. This act shall take effect upon becoming a law.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR GAYLE HARRELL**

25th District

April 8, 2021

Senator Kelli Stargel  
201 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399

Chair Stargel,

I respectfully request that **SB 1282 – Early Learning, VPK** be placed on the next available agenda for the Appropriations Committee Meeting. SB 1282 has passed unanimously its previous two Committee references.

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: Tim Sadberry, Staff Director  
Alicia Weiss, Committee Administrative Assistant

**COMMITTEES:**  
Transportation, *Chair*  
Military and Veterans Affairs, Space,  
and Domestic Security, *Vice Chair*  
Appropriations Subcommittee on Health and  
Human Services  
Children, Families, and Elder Affairs  
Finance and Tax

**SELECT COMMITTEE:**  
Select Committee on Pandemic  
Preparedness and Response

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/21/2021  
Meeting Date

SB 1282  
Bill Number (if applicable)

Topic Early Learning and Early Grade Success

Amendment Barcode (if applicable)

Name Khánh-Lien ("Con Lynn") Banko

Job Title Treasurer

Address 1747 Orlando Central Parkway

Phone 407-855-7607

Orlando FL 32809

City State Zip

Email treasurer@floridapta.org

Speaking:  For  Against  Information

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

Representing Florida PTA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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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)

4/21/2021

Meeting Date

SB 1282

Bill Number (if applicable)

Topic Early Learning and Early Grade Success

Amendment Barcode (if applicable)

Name Angie Gallo

Job Title Education Advocate

Address \_\_\_\_\_ Phone \_\_\_\_\_

Street

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Alliance for Public Schools

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)



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Reset Form

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

4-21-21

*Meeting Date*

1282

*Bill Number (if applicable)*

Topic Early Learning

*Amendment Barcode (if applicable)*

Name Natalie King

Job Title Vice President, RSA

Address 113 E COLLEGE AVE

Phone 8505850523

*Street*

Tallahassee

FL

32304

Email Natalie@rsaconsultingllc.com

*City*

*State*

*Zip*

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

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S-001 (10/14/14)

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Reset Form

THE FLORIDA SENATE

APPEARANCE RECORD

4-21-21

Meeting Date

1282

Bill Number (if applicable)

Topic Early Learning

Amendment Barcode (if applicable)

Name Kaitlyn Bailey

Job Title RSA

Address 113 E COLLEGE AVE

Phone 8505850523

Street

Tallahassee

FL

32304

Email Kaitlyn@rsaconsultingllc.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing United Way Suncoast

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)

4/21/21

Meeting Date

1202

Bill Number (if applicable)

Topic EARLY LEARNING

Amendment Barcode (if applicable)

Name DAVID DANIEL

Job Title \_\_\_\_\_

Address 311 EAST PARK AVENUE

Phone 224-5081

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 ASSOCIATION FOR CHILD CARE MANAGERS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

4/21/2021

*Meeting Date*

1282

*Bill Number (if applicable)*

Topic Early Learning and Early Grade Success

*Amendment Barcode (if applicable)*

Name Michael Barrett

Job Title Associate for Education

Address 201 W. Park Ave.

Phone (850) 205-6823

*Street*

Tallahassee

FL

32301

Email mbarrett@flaccb.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

4/21/2021

Meeting Date

SB 1282

Bill Number (if applicable)

Topic EARLY LEARNING & EARLY GRADE SUCCESS

Amendment Barcode (if applicable)

Name CHRIS DUGGAN

Job Title EXECUTIVE DIRECTOR

Address 3551 BLAIRSTONE RD, STE 105-133

Phone 850-296-2443

Street

TALLAHASSEE

FL

32301

Email CDUGGAN@FLAEYC.ORG

City

State

Zip

Speaking:  For  Against  Information

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

Representing FLORIDA ASSOCIATION FOR THE EDUCATION OF YOUNG CHILDREN

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)

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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

4/21/2021

*Meeting Date*

1282

*Bill Number (if applicable)*

Topic Early Learning and Early Grade Success

*Amendment Barcode (if applicable)*

Name Matthew Choy

Job Title Director

Address 136 South Bronough St

Phone 5613863451

*Street*

Tallahassee

FL

32301

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 The 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.*

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

4.21.21

Meeting Date

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

1282

Bill Number (if applicable)

Topic Early Learning and Early Grade Success Amendment Barcode (if applicable)

Name Sarah Suskey

Job Title \_\_\_\_\_

Address 204 S Monroe St

Phone 850.222.8900

Tallahassee FL 32301  
City State Zip

Email sls@cardenaspartners.com

Speaking:  For  Against  Information

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

Representing Association of Early Learning Coalitions

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: PCS/SB 1482 (305928)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and Natural Resources and Senators Garcia and Pizzo)

SUBJECT: Biscayne Bay

DATE: April 21, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schreiber</u>	<u>Rogers</u>	<u>EN</u>	<u>Favorable</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Reagan</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/SB 1482 creates the Biscayne Bay Commission (commission) as an advisory council within the Department of Environmental Protection (DEP) to coordinate and advocate for new and existing plans and programs for improvement of Biscayne Bay and the surrounding areas.

The bill provides that the commission shall serve as the official coordinating clearinghouse for all public policy and projects related to Biscayne Bay to unite all entities in the area:

- To speak with one voice on bay issues;
- To develop coordinated plans, priorities, programs, and projects that will improve the bay; and
- To act as the principal advocate to ensure that bay projects are funded and implemented in a proper and timely manner.

The bill provides that the commission shall:

- Consolidate existing plans, programs, and proposals, including recommendations from the June 2020 Biscayne Bay Task Force report into a coordinated strategic plan for the improvement of Biscayne Bay.
- Prepare a financial plan using the projected financial resources available from the different jurisdictional agencies, monitor the progress of the plan and revise the plan regularly.



- Provide technical assistance and support as needed to implement the strategic and financial plans.
- Work in consultation with the U.S. Department of the Interior.
- Provide a forum and act as a clearinghouse for exchange of information.

The bill provides that the commission may establish subcommittees as necessary to carry out its responsibilities.

The bill requires the commission to submit a semiannual report describing the accomplishments of the commission and each member agency, as well as the status of each pending task to the Miami City Commission, the Miami-Dade County Board of County Commissioners, the Mayor of Miami, the Mayor of Miami-Dade County, the Governor, and the chair of the Miami-Dade County Legislative Delegation.

The bill requires the first report be submitted January 15, 2022.

The bill requires the report to be made available on the DEP and Miami-Dade County websites.

The bill provides that this act does not affect or supersede the regulatory authority of any governmental agency or any local government, and any responsibilities of any governmental entity relating to Biscayne Bay remain with the respective governmental entity.

The bill also prohibits sewage disposal facilities from disposal of any wastes into Biscayne Bay or its tributaries without providing advanced waste treatment.

The bill will have an indeterminate negative fiscal impact on the agencies staffing the commission.

The bill takes effect upon becoming a law.

## II. Present Situation:

### Biscayne Bay

Biscayne Bay is a 428-square mile estuary extending nearly the entire length of Miami-Dade County.<sup>1</sup> The bay is home to over 500 species of fish and other marine organisms, and it is a source of sustenance, economic activity, and recreational opportunities for nearly 2.8 million residents and millions of visitors each year.<sup>2</sup> Historically, Biscayne Bay would receive freshwater from the Everglades through coastal water bodies and wetlands, as well as

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<sup>1</sup> Biscayne Bay Task Force, *A Unified Approach to Recovery for a Healthy & Resilient Biscayne Bay*, *Biscayne Bay Task Force Report and Recommendations* (June 2020) (hereinafter *2020 Task Force Report*), available at [https://ecmrer.miamidade.gov/OpenContent/rest/content/content/MANAGEMENT%20PLAN.pdf?id=0902a1348f07bc65&contentType\[\]=pdf.txt.\\*&/true](https://ecmrer.miamidade.gov/OpenContent/rest/content/content/MANAGEMENT%20PLAN.pdf?id=0902a1348f07bc65&contentType[]=pdf.txt.*&/true) (last visited Mar. 8, 2021).

<sup>2</sup> *Id.* at 4; United States Army Corps of Engineers (USACE), *Biscayne Bay Coastal Wetlands Project*, <https://www.saj.usace.army.mil/BBCW/> (last visited Mar. 9, 2021).

groundwater discharges.<sup>3</sup> The shoreline originally consisted of mangroves and freshwater and saltwater marshes. The estuary's benthic (bottom) habitat was dominated by seagrasses, corals, and sponges.<sup>4</sup> The bay is part of a watershed that covers most of Miami-Dade County, and today the land to the west of the bay is generally characterized by three major regions: a highly urbanized northern region enclosed with islands, a central suburban region that is highly urbanized, and a southern region that is used largely for agriculture.<sup>5</sup>

Around the mid-1900s, environmental conditions in Biscayne Bay began to change in response to rapid population growth in southeast Florida and large-scale drainage and flood protection systems along the coast, including the Central and Southern Florida (C&SF) project.<sup>6</sup> Natural sheet flow and groundwater discharges into the bay were almost completely eliminated due to conversion of rivers and creeks into canals, construction of levies, and development of urban and agricultural areas.<sup>7</sup> The coastal water table has been lowered, which increases saltwater encroachment.<sup>8</sup> Destruction of coastal wetlands eliminated natural filtration of pollutants, and increased runoff from urbanized and agricultural areas have increased nutrient loading, decreasing water quality in the bay.<sup>9</sup> In recent years, the bay has experienced widespread loss of seagrass and decreasing biodiversity.<sup>10</sup> Since 2005, the bay has experienced six major ecological events, including algal blooms, seagrass die-offs, and a fish kill in 2020.<sup>11</sup>

Today, the bay receives pulsed, point source discharges from canals, in addition to rainfall and groundwater discharges.<sup>12</sup> The bay currently faces numerous sources of pollution including pet waste, fertilizer, yard clippings, leaking sewer infrastructure, and septic tank effluent.<sup>13</sup> Challenges presented by storms and sea level rise compound and complicate these issues.<sup>14</sup>

The bay is managed mainly by the Department of Environmental Protection (DEP) or the National Park Service within the U.S. Department of the Interior. Biscayne Bay contains or abuts numerous areas designated as having special ecological significance and legal protections at the national, state, and local levels. These areas include the following:

---

<sup>3</sup> Anna Wachnicka, South Florida Water Management District (SFWMD), Governing Board Workshop, *Ecological Characteristics of Biscayne Bay*, slide 3 (Dec. 9, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/26871> (last visited Mar. 9, 2021).

<sup>4</sup> Anna Wachnicka, SFWMD, Governing Board Workshop, video around 0:11:00 (Dec. 9, 2020), available at <http://sfwmd.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=2043&Format=Agenda> (last visited Mar. 9, 2021).

<sup>5</sup> Lawrence Glenn, SFWMD, Governing Board Workshop, *Biscayne Bay Workshop*, slides 2-4 (Dec. 9, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/26870> (last visited Mar. 9, 2021).

<sup>6</sup> *Id.*; see Matahal Ansar, SFWMD, Governing Board Workshop, *Operations of C&SF Water Control Structures Discharging to Biscayne Bay*, slide 3 (Dec. 9, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/26872> (last visited Mar. 9, 2021).

<sup>7</sup> Anna Wachnicka, SFWMD, *Governing Board Workshop*, video around 0:14:00 (Dec. 9, 2020).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Anna Wachnicka, SFWMD, Governing Board Workshop, *Ecological Characteristics of Biscayne Bay*, slides 3, 8-10, 21 (Dec. 9, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/26871> (last visited Mar. 9, 2021).

<sup>11</sup> Christian Avila, SFWMD, Governing Board Workshop, *Water Quality of the Biscayne Bay Watershed*, 4-5 (Dec. 9, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/26873> (last visited Mar. 9, 2021).

<sup>12</sup> *2020 Task Force Report*, at 4.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

- Miami-Dade County Aquatic Park and Conservation Area;<sup>15</sup>
- Biscayne Bay Aquatic Preserve;<sup>16</sup>
- Biscayne Bay-Cape Florida to Monroe County Line Aquatic Preserve;<sup>17</sup>
- Bill Sadowski Critical Wildlife Area;<sup>18</sup>
- Bill Baggs Cape Florida State Park;<sup>19</sup>
- Biscayne National Park;<sup>20</sup> and
- Florida Keys National Marine Sanctuary.<sup>21</sup>

Biscayne Bay is subject to estuary-specific numeric nutrient criteria that are established by the DEP.<sup>22</sup> Under the DEP's rules, the waters in Biscayne Bay's state aquatic preserves and Biscayne National Park are designated as Outstanding Florida Waters.<sup>23</sup>

The Comprehensive Everglades Restoration Plan (CERP) is a regional program, implemented through a partnership between the South Florida Water Management District (SFWMD) and the U.S. Army Corps of Engineers (USACE), largely based on modifications to the C&SF project.<sup>24</sup> Recently, in partnership with the USACE, the SFWMD began the Biscayne Bay and Southeastern Everglades Restoration initiative, a planning feasibility study involving six CERP component projects.<sup>25</sup> The objectives of the study include improving distribution of freshwater to Biscayne Bay, improving ecological and hydrological connectivity between coastal wetlands, and increasing resiliency of coastal habitats to sea level rise.<sup>26</sup>

In August of 2019, a grand jury convened by the Miami-Dade State Attorney's Office issued a report finding that Biscayne Bay is now in a "precarious balance," with three major problems negatively impacting the water quality of the bay:

- Sewage contamination, which results in excessive amounts of harmful bacteria;
- The presence of excess nutrients, which results in destructive algal blooms; and

<sup>15</sup> See Miami-Dade County Code of Ordinances, s. 24-48.22.

<sup>16</sup> Section 258.397, F.S. The law prohibits the discharge into the preserve of wastes or effluents which substantially inhibit the purposes of the section.

<sup>17</sup> See s. 258.39(11), F.S.

<sup>18</sup> Fish and Wildlife Conservation Commission (FWC), *Bill Sadowski CWA*, <https://myfwc.com/conservation/terrestrial/cwa/bill-sadowski/> (last visited Mar. 9, 2021).

<sup>19</sup> Department of Environmental Protection (DEP), *Bill Baggs Cape Florida State Park*, <https://www.floridastateparks.org/parks-and-trails/bill-baggs-cape-florida-state-park> (last visited Mar. 9, 2021).

<sup>20</sup> National Park Service (NPS), *Biscayne National Park*, <https://www.nps.gov/bisc/index.htm> (last visited Mar. 9, 2021).

<sup>21</sup> National Oceanic and Atmosphere Administration (NOAA), *Florida Keys National Marine Sanctuary*, <https://floridakeys.noaa.gov/> (last visited Mar. 9, 2021).

<sup>22</sup> Fla. Admin. Code R. 62-302.532(1)(h).

<sup>23</sup> Fla. Admin. Code R. 62-302.700(9).

<sup>24</sup> USACE and US Department of Interior, *2015-2020 Momentum, Report to Congress, Comprehensive Everglades Restoration Plan, Central and Southern Florida Project*, 6 (Dec. 2020), available at [https://issuu.com/usace\\_saj/docs/final\\_2020\\_report\\_to\\_congress\\_on\\_cerp\\_progress\\_hig](https://issuu.com/usace_saj/docs/final_2020_report_to_congress_on_cerp_progress_hig) (last visited Jan. 18, 2021).

<sup>25</sup> Mindy Parrott, SFWMD, *Governing Board Workshop, Biscayne Bay and Southeastern Everglades Restoration (BBSEER), Comprehensive Everglades Restoration Plan*, 2 (Dec. 9, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/26877> (last visited Mar. 9, 2021).

<sup>26</sup> *Id.* at 3.

- Pollution and littering, which result in massive amounts of trash being discharged into the bay via the storm drainage system.<sup>27</sup>

The report stated that, without corrective action, the declining water quality of Biscayne Bay may become irreversible.<sup>28</sup>

### ***Biscayne Bay Task Force***

In 2019, the Miami-Dade Board of County Commissioners established by resolution the Biscayne Bay Task Force (task force).<sup>29</sup> The task force was established to advise the board of county commissioners and the mayor of Miami-Dade County on issues related to Biscayne Bay.<sup>30</sup> It was required to review existing information, hear comments from county staff and stakeholders, and prepare a report including: an action plan identifying problem areas and projects, and recommendations regarding proposed state and federal legislation, activities or appropriations.<sup>31</sup> Membership consisted of nine county residents including the Director of the County Division of Environmental Resources Management, the County's Chief Resilience Officer, experts in a range of issues, and other community members engaged on the issues.<sup>32</sup> Ultimately, the task force met 18 times and received approximately 35 presentations regarding Biscayne Bay from a broad array of stakeholders.<sup>33</sup> The task force submitted its report in June of 2020 and dissolved in August of 2020.

In the report, the task force recommended a unified and collaborative approach to restoring Biscayne Bay. The report recommends the establishment of an overarching administrative structure to implement the report's recommendations.<sup>34</sup> This recommended structure involves Miami-Dade County creating an intergovernmental Biscayne Bay Watershed Management Board supported by necessary experts and community input, a Chief Bay Officer in the Office of the Mayor, and a Biscayne Bay Watershed Restoration Plan, developed and implemented by the watershed management board, which implements the recommendations of the task force.<sup>35</sup> The report contains over 60 task force recommendations under the following seven policy themes:

- Water Quality.
- Governance.
- Infrastructure.
- Watershed Habitat Restoration and Natural Infrastructure.
- Marine Debris.

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<sup>27</sup> Miami-Dade County Grand Jury, *Final Report of the Miami-Dade County Grand Jury: Fall Term A.D. 2018*, 2 (Aug. 8, 2019), available at <https://www.documentcloud.org/documents/6248684-Grand-Jury-Report-Biscayne-Bay.html> (last visited Mar. 9, 2021). In general, the report discusses many topics including direct discharge of sewage into the ocean, leaking sewer pipes, single use plastics, sediment, stormwater runoff, agricultural activities, and contamination of the Biscayne Aquifer through septic tanks and hypersaline water in cooling canals associated with a power plant.

<sup>28</sup> *Id.*

<sup>29</sup> Miami-Dade County, *Biscayne Bay Task Force*, <https://www.miamidade.gov/global/government/taskforce/biscayne-bay-task-force.page> (last visited Mar. 8, 2021).

<sup>30</sup> Miami-Dade County Board of County Commissioners, *Resolution No. 165-19, 2-4* (Feb. 5, 2019), available at <https://www.miamidade.gov/global/government/taskforce/biscayne-bay-task-force.page> (last visited Mar. 8, 2021).

<sup>31</sup> *Id.* at 5.

<sup>32</sup> *Id.* at 6.

<sup>33</sup> See *2020 Task Force Report*, at 2.

<sup>34</sup> *Id.* at 7.

<sup>35</sup> *Id.* at 7.

- Education and Outreach.
- Funding.<sup>36</sup>

### Advanced Waste Treatment

Chapter 403, F.S., requires that any facility or activity which discharges wastes into waters of the state or which will reasonably be expected to be a source of water pollution must obtain a permit from the DEP.<sup>37</sup> Generally, persons who intend to collect, transmit, treat, dispose, or reuse wastewater are required to obtain a wastewater permit. A wastewater permit issued by the DEP is required for both operation and certain construction activities associated with domestic or industrial wastewater facilities or activities. A DEP permit must also be obtained prior to construction of a domestic wastewater collection and transmission system.<sup>38</sup>

Florida law prohibits sewage disposal facilities from disposing of any wastes into certain specified water bodies,<sup>39</sup> or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment that is approved by the DEP.<sup>40</sup> The applicable standard for advanced waste treatment is defined in statute using the maximum concentrations of nutrients or contaminants that a reclaimed water product may contain.<sup>41</sup> The reclaimed water product may contain no more, on a permitted annual average basis, than the concentrations listed in the table below.<sup>42</sup> The standard also requires high-level disinfection, as defined in rule by the DEP.<sup>43</sup>

These requirements do not prohibit or regulate septic tanks or other means of individual waste disposal which are otherwise subject to state regulation.<sup>44</sup>

<b>Nutrient or Contaminant</b>	<b>Maximum Concentration Annually</b>
Biochemical Oxygen Demand	5 mg/L
Suspended Solids	5 mg/L
Total Nitrogen	3 mg/L
Total Phosphorus <sup>45</sup>	1 mg/L

<sup>36</sup> *Id.* at 9-29, 39-40.

<sup>37</sup> Section 403.087, F.S.

<sup>38</sup> DEP, *Wastewater Permitting*, <https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting> (last visited Mar. 9, 2021).

<sup>39</sup> Section 403.086, (1)(c), F.S. These specified water bodies are: Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, Charlotte Harbor Bay, and, beginning July 1, 2025, Indian River Lagoon; ch. 86-173, s. 2, Laws of Fla. This prohibition was originally passed in 1987; ch. 2020-150, s. 17, Laws of Fla. The prohibition was amended in 2020.

<sup>40</sup> Section 403.086, (1)(c), F.S.

<sup>41</sup> Section 403.086(4), F.S.

<sup>42</sup> *Id.*

<sup>43</sup> Section 403.086(4)(b), F.S.; Fla. Admin. Code R. 62-600.440(6).

<sup>44</sup> Section 403.086(3), F.S.

<sup>45</sup> Section 403.086(4), F.S. In waters where phosphorus has been shown not to be a limiting nutrient or contaminant, DEP is authorized to waive or alter the compliance levels for phosphorus until there is a demonstration that phosphorus is a limiting nutrient or a contaminant.

When a reclaimed water product has been established to be in compliance with these standards, that water is presumed to be allowable, and its discharge is permitted in the specified waters at a reasonably accessible point where such discharge results in minimal negative impact.<sup>46</sup> This presumption may only be overcome by a demonstration that one or more of the following would occur:

- Discharging the reclaimed water meeting the advanced waste treatment standard will be, by itself, a cause of considerable degradation to an Outstanding Florida Water or to other waters, and is not clearly in the public interest.
- The reclaimed water discharge will have a substantial negative impact on an approved shellfish harvesting area or a water used as a public domestic water supply.
- The increased volume of fresh water contributed by the reclaimed water product will seriously alter the natural fresh-salt water balance of the receiving water after reasonable opportunity for mixing.<sup>47</sup>

If one of these three conditions has been demonstrated, remedies may include, but are not limited to: requiring more stringent effluent limitations, ordering the point or method of discharge changed, limiting the duration or volume of the discharge, or prohibiting the discharge only if no other alternative is in the public interest.<sup>48</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 163.11, F.S., entitled “Biscayne Bay Commission.”

The bill establishes the Biscayne Bay Commission (commission) as an advisory council within the Department of Environmental Resources (DEP) and the DEP shall provide administrative support and service within available resources.

The bill provides that the commission shall serve as the official coordinating clearinghouse for all public policy and projects related to Biscayne Bay to unite all governmental agencies, businesses, and residents in the area to speak with one voice on bay issues; to develop coordinated plans, priorities, programs, projects, and budgets that might substantially improve the bay area; and to act as the principal advocate and watchdog to ensure that bay projects are funded and implemented in a proper and timely manner. The bill requires the commission, except as otherwise provided in the bill, to comply with s. 20.052, F.S., which contains requirements for establishing, evaluating, or maintaining commissions that are created by specific statutory enactment.

The commission shall be comprised of the following members:

- One member appointed by the Governor.
- Three members of the Miami-Dade Board of County Commissioners, appointed by the board.
- One member of the Miami-Dade County League of Cities, nominated by the league and appointed by the Secretary of the DEP.

<sup>46</sup> Section 403.086(5), F.S.

<sup>47</sup> Section 403.086(5)(a), F.S.

<sup>48</sup> Section 403.086(5)(b), F.S.

- One member of the South Florida Water Management District Governing Board (SFWMD) who resides in Miami-Dade County, appointed by the board.
- One representative of the DEP, appointed by the Secretary of the DEP.
- One representative of the Fish and Wildlife Conservation Commission (FWC), appointed by the commission.
- One representative of the Florida Inland Navigation District (IND)<sup>49</sup> appointed by the district.
- 
- The bill provides that regarding membership of the commission:
  - Members shall serve four year terms, however, for the purpose of providing staggered terms, the initial appointments of representatives of the SFWMD, the DEP, the FWC, and the IND shall be for two years.
  - A vacancy shall be filled for the remainder of the unexpired term in the same manner as the initial appointment.
  - Notwithstanding s. 20.502, F.S., private citizen members of the commission are not required to be confirmed by the Senate.
  - All members shall be voting members.
  - Members shall serve without compensation and are not entitled to reimbursement for per diem and travel expenses.
  - The commission may meet monthly, but must meet at least quarterly.
- 

The bill provides that the commission shall:

- Consolidate existing plans, programs, and proposals, including the recommendations outlined in the June 2020 Biscayne Bay Task Force report, into a coordinated strategic plan for improvement of Biscayne Bay and the surrounding areas. The plan must address environmental, economic, social, recreational, and aesthetic issues. The committee shall monitor the progress on each element of the coordinated strategic plan and revise it regularly.
- Prepare a consolidated financial plan using the different jurisdictional agencies available for projected financial resources. The committee must monitor the progress on each element of the integrated financial plan and revise it regularly.
- Provide technical assistance and political support as needed to help implement each element of the strategic and financial plans.
- Work in consultation with the United States Department of the Interior.
- Provide a forum for exchange of information.
- Act as a clearinghouse for public information.
- Submit a semiannual report describing the accomplishments of the commission and each member agency, as well as the status of each pending task. The committee must distribute the report to:
  - The Miami City Commission;
  - The Miami-Dade County Board of County Commissioners;
  - The Mayor of Miami;
  - The Mayor of Miami-Dade County;
  - The Governor;

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<sup>49</sup> See Florida Inland Navigation District, <http://www.aicw.org/> (last visited Mar. 9, 2021). The Florida Inland Navigation District is a special State taxing district for the continued management and maintenance of the Atlantic Intracoastal Waterway, commonly referred to as M-95 marine highway.



- The chair of the Miami-Dade County Legislative Delegation.

The bill provides that the first report shall be submitted by January 15, 2022. The report shall also be made available on the DEP's and the Miami-Dade County's websites.

The bill provides that this act does not affect or supersede the regulatory authority of any governmental agency or any local government, and any responsibilities of any governmental entity relating to Biscayne Bay remain with the respective governmental entity.

**Section 2** amends s. 403.086, F.S., which establishes waste treatment requirements for sewage disposal facilities.

The bill prohibits sewage disposal facilities from disposing of any wastes into Biscayne Bay, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment, as defined in s. 403.086(4), F.S., approved by the DEP. This requirement does not apply to facilities which were permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of tributaries of Biscayne Bay.

**Section 3** states that the act shall take 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:**

The bill prohibits sewage disposal facilities from disposing of wastes into Biscayne Bay or its tributaries without providing advanced waste treatment. This may result in indeterminate increased costs to private sewage disposal facilities in the areas surrounding Biscayne Bay.

**C. Government Sector Impact:**

The bill creates a commission that must meet at least quarterly, and part of it must consist of members from specified local, state, and federal government entities. This may result in indeterminate increased costs to the government entities required to provide one or more members. The commission is authorized to seek and receive funding, including grant funding, to further or enhance its purposes. Pursuant to s. 20.052(4)(d), F.S., members may be authorized to receive per diem and reimbursement for travel expenses.

The bill prohibits sewage disposal facilities from disposing of wastes into Biscayne Bay or its tributaries without providing advanced waste treatment. This may result in indeterminate increased costs to public sewage disposal facilities in the areas surrounding Biscayne Bay.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 163.11 of the Florida Statutes.

This bill substantially amends section 403.086 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.)

**PCS (305928) by Appropriations (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government):**

The committee substitute:

- Establishes the Biscayne Bay Commission (Commission) as an advisory council, as defined in statute, within the Department of Environmental Protection (DEP).
- Requires DEP to provide administrative support and service to the Commission as requested by the Commission and within DEP's available resources.

- Provides for the following Commission membership and specified appointment processes:
  - One member appointed by the Governor.
  - Three members of the Miami-Dade Board of County Commissioners, appointed by the board.
  - One member of the Miami-Dade County League of Cities, nominated by the league and appointed by the Secretary of Environmental Protection.
  - One member of the South Florida Water Management District Governing Board who resides in Miami-Dade County, appointed by the board.
  - One representative of the Department of Environmental Protection, appointed by the Secretary of Environmental Protection.
  - One representative of the Fish and Wildlife Conservation Commission, appointed by the commission.
  - One representative of the Florida Inland Navigation District, appointed by the district.
- Requires that members serve four-year terms. For the purpose of providing staggered terms, the initial appointments of representatives from the following entities are for two-year terms: the South Florida Water Management District, DEP, the Fish and Wildlife Conservation Commission, and the Florida Inland Navigation District.
- Requires that a vacancy be filled in the same manner as the initial appointment.
- Provides that private citizen members of the Commission are not required to be confirmed by the Florida Senate.
- Requires members of the Commission to serve without compensation, and provides that members are not entitled to reimbursement for per diem and travel expenses.
- Provides that all members of the Commission are voting members.
- Requires the Commission to meet at least quarterly, and authorizes it to meet monthly.
- Requires the Commission to implement specified activities, instead of granting similar duties to a policy committee within the Commission.
- Requires the Commission to work in consultation with the U.S. Department of the Interior.
- Authorizes the Commission to establish subcommittees as necessary.
- Requires the Commission's first semiannual report to be submitted by January 15, 2022, and the report must be made available on the websites of DEP and Miami-Dade County.

The amendment deletes from the underlying bill provisions that do the following:

- Authorize the Commission to seek and receive funding.
- Authorize the Commission to accept specifically defined coordinating authority or functions delegated to the Commission by a governmental entity.
- Require that the Commission consist of three parts:
  - A policy committee that must meet at least quarterly, with specified membership of voting members.
  - A chief officer that represents the Commission as a liaison.

- A working group consisting of government agencies as well as representatives from business and civic associations.
- Authorize the following powers and duties of the policy committee, which the amendment does not retain as responsibilities of the Commission:
  - Accept specifically defined coordinating authority or functions delegated to the committee by government entities.
  - Seek grant funding and administer contracts.
  - Facilitate the resolution of conflicts.
  - Conduct public education programs.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2021	.	
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The Committee on Appropriations (Pizzo) recommended the following:

**Senate Amendment**

Delete lines 36 - 38  
and insert:

3. One member of the Miami-Dade County League of Cities who resides within the boundaries of a city that borders Biscayne Bay, nominated by the league and appointed by the Secretary of Environmental Protection. To the extent practicable, the league must nominate a member from each city that borders Biscayne Bay on a rotating basis.



576-03928-21

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 Biscayne Bay; creating s. 163.11,  
F.S.; establishing the Biscayne Bay Commission;  
providing for commission purpose, membership, duties,  
and authority; amending s. 403.086, F.S.; prohibiting  
sewage disposal facilities from disposing of any  
wastes into Biscayne Bay without providing advanced  
waste treatment; providing an effective date.

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

Section 1. Section 163.11, Florida Statutes, is created to  
read:

163.11 Biscayne Bay Commission.—

(1) The Biscayne Bay Commission is hereby established as an  
advisory council, as defined in s. 20.03, within the Department  
of Environmental Protection. The department shall provide  
administrative support and service to the commission as  
requested by the commission and within the available resources  
of the department. The commission shall comply with the  
requirements of s. 20.052 except as otherwise provided in this  
section.

(2) The commission shall serve as the official coordinating  
clearinghouse for all public policy and projects related to  
Biscayne Bay to unite all governmental agencies, businesses, and  
residents in the area to speak with one voice on bay issues; to



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develop coordinated plans, priorities, programs, and projects  
that might substantially improve the bay area; and to act as the  
principal advocate and watchdog to ensure that bay projects are  
funded and implemented in a proper and timely manner.

(3) (a) The Biscayne Bay Commission shall be comprised of  
the following members:

1. One member appointed by the Governor.

2. Three members of the Miami-Dade Board of County  
Commissioners, appointed by the board.

3. One member of the Miami-Dade County League of Cities,  
nominated by the league and appointed by the Secretary of  
Environmental Protection.

4. One member of the South Florida Water Management  
District Governing Board who resides in Miami-Dade County,  
appointed by the board.

5. One representative of the Department of Environmental  
Protection, appointed by the Secretary of Environmental  
Protection.

6. One representative of the Fish and Wildlife Conservation  
Commission, appointed by the commission.

7. One representative of the Florida Inland Navigation  
District, appointed by the district.

(b) Members shall serve for a term of 4 years; however, for  
the purpose of providing staggered terms, the initial  
appointments of representatives of the South Florida Water  
Management District Governing Board, the Department of  
Environmental Protection, the Fish and Wildlife Conservation  
Commission, and the Florida Inland Navigation District shall be  
for a term of 2 years. A vacancy shall be filled for the



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56 remainder of the unexpired term in the same manner as the  
57 initial appointment. Notwithstanding s. 20.052, private citizen  
58 members of the commission are not required to be confirmed by  
59 the Senate.

60 (c) All members shall be voting members.

61 (d) Members of the commission shall serve without  
62 compensation and are not entitled to reimbursement for per diem  
63 and travel expenses pursuant to s. 112.061.

64 (4) The commission may meet monthly, but shall meet at  
65 least quarterly.

66 (5) The commission shall:

67 (a) Consolidate existing plans, programs, and proposals,  
68 including the recommendations outlined in the June 2020 Biscayne  
69 Bay Task Force report, into a coordinated strategic plan for  
70 improvement of Biscayne Bay and the surrounding areas,  
71 addressing environmental, economic, social, recreational, and  
72 aesthetic issues. The commission shall monitor the progress on  
73 each element of such plan and shall revise the plan regularly.

74 (b) Prepare a consolidated financial plan using the  
75 projected financial resources available from the different  
76 jurisdictional agencies. The commission shall monitor the  
77 progress on each element of such plan and revise the plan  
78 regularly.

79 (c) Provide technical assistance and support as needed to  
80 help implement each element of the strategic and financial  
81 plans.

82 (d) Work in consultation with the United States Department  
83 of the Interior.

84 (e) Provide a forum for exchange of information.



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85 (f) Act as a clearinghouse for public information.

86 (6) The commission may establish subcommittees as necessary  
87 to carry out its responsibilities.

88 (7) The commission shall submit a semiannual report  
89 describing the accomplishments of the commission and each member  
90 agency, as well as the status of each pending task, to the Miami  
91 City Commission, the Miami-Dade County Board of County  
92 Commissioners, the Mayor of Miami, the Mayor of Miami-Dade  
93 County, the Governor, and the chair of the Miami-Dade County  
94 Legislative Delegation. The first report shall be submitted by  
95 January 15, 2022. The report shall also be made available on the  
96 Department of Environmental Protection's website and Miami-Dade  
97 County's website.

98 (8) This act does not affect or supersede the regulatory  
99 authority of any governmental agency or any local government,  
100 and any responsibilities of any governmental entity relating to  
101 Biscayne Bay remain with the respective governmental entity.

102 Section 2. Paragraph (c) of subsection (1) of section  
103 403.086, Florida Statutes, is amended to read:

104 403.086 Sewage disposal facilities; advanced and secondary  
105 waste treatment.—

106 (1)

107 (c) Notwithstanding this chapter or chapter 373, sewage  
108 disposal facilities may not dispose of any wastes into Old Tampa  
109 Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph  
110 Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay,  
111 Roberts Bay, Lemon Bay, Charlotte Harbor Bay, Biscayne Bay, or,  
112 beginning July 1, 2025, Indian River Lagoon, or into any river,  
113 stream, channel, canal, bay, bayou, sound, or other water



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114 tributary thereto, without providing advanced waste treatment,  
115 as defined in subsection (4), approved by the department. This  
116 paragraph does not apply to facilities which were permitted by  
117 February 1, 1987, and which discharge secondary treated  
118 effluent, followed by water hyacinth treatment, to tributaries  
119 of tributaries of the named waters; or to facilities permitted  
120 to discharge to the nontidally influenced portions of the Peace  
121 River.

122 Section 3. This act shall take effect upon becoming 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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/SB 1482

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and Natural Resources); and Senators Garcia and Pizzo

SUBJECT: Biscayne Bay

DATE: April 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schreiber</u>	<u>Rogers</u>	<u>EN</u>	<b>Favorable</b>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<b>Recommend: Fav/CS</b>
3.	<u>Reagan</u>	<u>Sadberry</u>	<u>AP</u>	<b>Fav/CS</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1482 creates the Biscayne Bay Commission (commission) as an advisory council within the Department of Environmental Protection (DEP) to coordinate and advocate for new and existing plans and programs for improvement of Biscayne Bay and the surrounding areas.

The bill provides that the commission shall serve as the official coordinating clearinghouse for all public policy and projects related to Biscayne Bay to unite all entities in the area:

- To speak with one voice on bay issues;
- To develop coordinated plans, priorities, programs, and projects that will improve the bay; and
- To act as the principal advocate to ensure that bay projects are funded and implemented in a proper and timely manner.

The bill provides that the commission shall:

- Consolidate existing plans, programs, and proposals, including recommendations from the June 2020 Biscayne Bay Task Force report into a coordinated strategic plan for the improvement of Biscayne Bay.
- Prepare a financial plan using the projected financial resources available from the different jurisdictional agencies, monitor the progress of the plan and revise the plan regularly.



- Provide technical assistance and support as needed to implement the strategic and financial plans.
- Work in consultation with the U.S. Department of the Interior.
- Provide a forum and act as a clearinghouse for exchange of information.

The bill provides that the commission may establish subcommittees as necessary to carry out its responsibilities.

The bill requires the commission to submit a semiannual report describing the accomplishments of the commission and each member agency, as well as the status of each pending task to the Miami City Commission, the Miami-Dade County Board of County Commissioners, the Mayor of Miami, the Mayor of Miami-Dade County, the Governor, and the chair of the Miami-Dade County Legislative Delegation.

The bill requires the first report be submitted January 15, 2022.

The bill requires the report to be made available on the DEP and Miami-Dade County websites.

The bill provides that this act does not affect or supersede the regulatory authority of any governmental agency or any local government, and any responsibilities of any governmental entity relating to Biscayne Bay remain with the respective governmental entity.

The bill also prohibits sewage disposal facilities from disposal of any wastes into Biscayne Bay or its tributaries without providing advanced waste treatment.

The bill will have an indeterminate negative fiscal impact on the agencies staffing the commission.

The bill takes effect upon becoming a law.

## II. Present Situation:

### Biscayne Bay

Biscayne Bay is a 428-square mile estuary extending nearly the entire length of Miami-Dade County.<sup>1</sup> The bay is home to over 500 species of fish and other marine organisms, and it is a source of sustenance, economic activity, and recreational opportunities for nearly 2.8 million residents and millions of visitors each year.<sup>2</sup> Historically, Biscayne Bay would receive freshwater from the Everglades through coastal water bodies and wetlands, as well as

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<sup>1</sup> Biscayne Bay Task Force, *A Unified Approach to Recovery for a Healthy & Resilient Biscayne Bay*, *Biscayne Bay Task Force Report and Recommendations* (June 2020) (hereinafter *2020 Task Force Report*), available at [https://ecmrer.miamidade.gov/OpenContent/rest/content/content/MANAGEMENT%20PLAN.pdf?id=0902a1348f07bc65&contentType\[\]=pdf,txt,\\*/true](https://ecmrer.miamidade.gov/OpenContent/rest/content/content/MANAGEMENT%20PLAN.pdf?id=0902a1348f07bc65&contentType[]=pdf,txt,*/true) (last visited Mar. 8, 2021).

<sup>2</sup> *Id.* at 4; United States Army Corps of Engineers (USACE), *Biscayne Bay Coastal Wetlands Project*, <https://www.saj.usace.army.mil/BBCW/> (last visited Mar. 9, 2021).

groundwater discharges.<sup>3</sup> The shoreline originally consisted of mangroves and freshwater and saltwater marshes. The estuary's benthic (bottom) habitat was dominated by seagrasses, corals, and sponges.<sup>4</sup> The bay is part of a watershed that covers most of Miami-Dade County, and today the land to the west of the bay is generally characterized by three major regions: a highly urbanized northern region enclosed with islands, a central suburban region that is highly urbanized, and a southern region that is used largely for agriculture.<sup>5</sup>

Around the mid-1900s, environmental conditions in Biscayne Bay began to change in response to rapid population growth in southeast Florida and large-scale drainage and flood protection systems along the coast, including the Central and Southern Florida (C&SF) project.<sup>6</sup> Natural sheet flow and groundwater discharges into the bay were almost completely eliminated due to conversion of rivers and creeks into canals, construction of levies, and development of urban and agricultural areas.<sup>7</sup> The coastal water table has been lowered, which increases saltwater encroachment.<sup>8</sup> Destruction of coastal wetlands eliminated natural filtration of pollutants, and increased runoff from urbanized and agricultural areas have increased nutrient loading, decreasing water quality in the bay.<sup>9</sup> In recent years, the bay has experienced widespread loss of seagrass and decreasing biodiversity.<sup>10</sup> Since 2005, the bay has experienced six major ecological events, including algal blooms, seagrass die-offs, and a fish kill in 2020.<sup>11</sup>

Today, the bay receives pulsed, point source discharges from canals, in addition to rainfall and groundwater discharges.<sup>12</sup> The bay currently faces numerous sources of pollution including pet waste, fertilizer, yard clippings, leaking sewer infrastructure, and septic tank effluent.<sup>13</sup> Challenges presented by storms and sea level rise compound and complicate these issues.<sup>14</sup>

The bay is managed mainly by the Department of Environmental Protection (DEP) or the National Park Service within the U.S. Department of the Interior. Biscayne Bay contains or abuts numerous areas designated as having special ecological significance and legal protections at the national, state, and local levels. These areas include the following:

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<sup>3</sup> Anna Wachnicka, South Florida Water Management District (SFWMD), Governing Board Workshop, *Ecological Characteristics of Biscayne Bay*, slide 3 (Dec. 9, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/26871> (last visited Mar. 9, 2021).

<sup>4</sup> Anna Wachnicka, SFWMD, Governing Board Workshop, video around 0:11:00 (Dec. 9, 2020), available at <http://sfwmd.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=2043&Format=Agenda> (last visited Mar. 9, 2021).

<sup>5</sup> Lawrence Glenn, SFWMD, Governing Board Workshop, *Biscayne Bay Workshop*, slides 2-4 (Dec. 9, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/26870> (last visited Mar. 9, 2021).

<sup>6</sup> *Id.*; see Matahal Ansar, SFWMD, Governing Board Workshop, *Operations of C&SF Water Control Structures Discharging to Biscayne Bay*, slide 3 (Dec. 9, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/26872> (last visited Mar. 9, 2021).

<sup>7</sup> Anna Wachnicka, SFWMD, *Governing Board Workshop*, video around 0:14:00 (Dec. 9, 2020).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Anna Wachnicka, SFWMD, Governing Board Workshop, *Ecological Characteristics of Biscayne Bay*, slides 3, 8-10, 21 (Dec. 9, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/26871> (last visited Mar. 9, 2021).

<sup>11</sup> Christian Avila, SFWMD, Governing Board Workshop, *Water Quality of the Biscayne Bay Watershed*, 4-5 (Dec. 9, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/26873> (last visited Mar. 9, 2021).

<sup>12</sup> *2020 Task Force Report*, at 4.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

- Miami-Dade County Aquatic Park and Conservation Area;<sup>15</sup>
- Biscayne Bay Aquatic Preserve;<sup>16</sup>
- Biscayne Bay-Cape Florida to Monroe County Line Aquatic Preserve;<sup>17</sup>
- Bill Sadowski Critical Wildlife Area;<sup>18</sup>
- Bill Baggs Cape Florida State Park;<sup>19</sup>
- Biscayne National Park;<sup>20</sup> and
- Florida Keys National Marine Sanctuary.<sup>21</sup>

Biscayne Bay is subject to estuary-specific numeric nutrient criteria that are established by the DEP.<sup>22</sup> Under the DEP's rules, the waters in Biscayne Bay's state aquatic preserves and Biscayne National Park are designated as Outstanding Florida Waters.<sup>23</sup>

The Comprehensive Everglades Restoration Plan (CERP) is a regional program, implemented through a partnership between the South Florida Water Management District (SFWMD) and the U.S. Army Corps of Engineers (USACE), largely based on modifications to the C&SF project.<sup>24</sup> Recently, in partnership with the USACE, the SFWMD began the Biscayne Bay and Southeastern Everglades Restoration initiative, a planning feasibility study involving six CERP component projects.<sup>25</sup> The objectives of the study include improving distribution of freshwater to Biscayne Bay, improving ecological and hydrological connectivity between coastal wetlands, and increasing resiliency of coastal habitats to sea level rise.<sup>26</sup>

In August of 2019, a grand jury convened by the Miami-Dade State Attorney's Office issued a report finding that Biscayne Bay is now in a "precarious balance," with three major problems negatively impacting the water quality of the bay:

- Sewage contamination, which results in excessive amounts of harmful bacteria;
- The presence of excess nutrients, which results in destructive algal blooms; and

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<sup>15</sup> See Miami-Dade County Code of Ordinances, s. 24-48.22.

<sup>16</sup> Section 258.397, F.S. The law prohibits the discharge into the preserve of wastes or effluents which substantially inhibit the purposes of the section.

<sup>17</sup> See s. 258.39(11), F.S.

<sup>18</sup> Fish and Wildlife Conservation Commission (FWC), *Bill Sadowski CWA*, <https://myfwc.com/conservation/terrestrial/cwa/bill-sadowski/> (last visited Mar. 9, 2021).

<sup>19</sup> Department of Environmental Protection (DEP), *Bill Baggs Cape Florida State Park*, <https://www.floridastateparks.org/parks-and-trails/bill-baggs-cape-florida-state-park> (last visited Mar. 9, 2021).

<sup>20</sup> National Park Service (NPS), *Biscayne National Park*, <https://www.nps.gov/bisc/index.htm> (last visited Mar. 9, 2021).

<sup>21</sup> National Oceanic and Atmosphere Administration (NOAA), *Florida Keys National Marine Sanctuary*, <https://floridakeys.noaa.gov/> (last visited Mar. 9, 2021).

<sup>22</sup> Fla. Admin. Code R. 62-302.532(1)(h).

<sup>23</sup> Fla. Admin. Code R. 62-302.700(9).

<sup>24</sup> USACE and US Department of Interior, *2015-2020 Momentum, Report to Congress, Comprehensive Everglades Restoration Plan, Central and Southern Florida Project*, 6 (Dec. 2020), available at [https://issuu.com/usace\\_saj/docs/final\\_2020\\_report\\_to\\_congress\\_on\\_cerp\\_progress\\_hig](https://issuu.com/usace_saj/docs/final_2020_report_to_congress_on_cerp_progress_hig) (last visited Jan. 18, 2021).

<sup>25</sup> Mindy Parrott, SFWMD, *Governing Board Workshop, Biscayne Bay and Southeastern Everglades Restoration (BBSEER), Comprehensive Everglades Restoration Plan*, 2 (Dec. 9, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/26877> (last visited Mar. 9, 2021).

<sup>26</sup> *Id.* at 3.

- Pollution and littering, which result in massive amounts of trash being discharged into the bay via the storm drainage system.<sup>27</sup>

The report stated that, without corrective action, the declining water quality of Biscayne Bay may become irreversible.<sup>28</sup>

### ***Biscayne Bay Task Force***

In 2019, the Miami-Dade Board of County Commissioners established by resolution the Biscayne Bay Task Force (task force).<sup>29</sup> The task force was established to advise the board of county commissioners and the mayor of Miami-Dade County on issues related to Biscayne Bay.<sup>30</sup> It was required to review existing information, hear comments from county staff and stakeholders, and prepare a report including: an action plan identifying problem areas and projects, and recommendations regarding proposed state and federal legislation, activities or appropriations.<sup>31</sup> Membership consisted of nine county residents including the Director of the County Division of Environmental Resources Management, the County's Chief Resilience Officer, experts in a range of issues, and other community members engaged on the issues.<sup>32</sup> Ultimately, the task force met 18 times and received approximately 35 presentations regarding Biscayne Bay from a broad array of stakeholders.<sup>33</sup> The task force submitted its report in June of 2020 and dissolved in August of 2020.

In the report, the task force recommended a unified and collaborative approach to restoring Biscayne Bay. The report recommends the establishment of an overarching administrative structure to implement the report's recommendations.<sup>34</sup> This recommended structure involves Miami-Dade County creating an intergovernmental Biscayne Bay Watershed Management Board supported by necessary experts and community input, a Chief Bay Officer in the Office of the Mayor, and a Biscayne Bay Watershed Restoration Plan, developed and implemented by the watershed management board, which implements the recommendations of the task force.<sup>35</sup> The report contains over 60 task force recommendations under the following seven policy themes:

- Water Quality.
- Governance.
- Infrastructure.
- Watershed Habitat Restoration and Natural Infrastructure.
- Marine Debris.

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<sup>27</sup> Miami-Dade County Grand Jury, *Final Report of the Miami-Dade County Grand Jury: Fall Term A.D. 2018*, 2 (Aug. 8, 2019), available at <https://www.documentcloud.org/documents/6248684-Grand-Jury-Report-Biscayne-Bay.html> (last visited Mar. 9, 2021). In general, the report discusses many topics including direct discharge of sewage into the ocean, leaking sewer pipes, single use plastics, sediment, stormwater runoff, agricultural activities, and contamination of the Biscayne Aquifer through septic tanks and hypersaline water in cooling canals associated with a power plant.

<sup>28</sup> *Id.*

<sup>29</sup> Miami-Dade County, *Biscayne Bay Task Force*, <https://www.miamidade.gov/global/government/taskforce/biscayne-bay-task-force.page> (last visited Mar. 8, 2021).

<sup>30</sup> Miami-Dade County Board of County Commissioners, *Resolution No. 165-19, 2-4* (Feb. 5, 2019), available at <https://www.miamidade.gov/global/government/taskforce/biscayne-bay-task-force.page> (last visited Mar. 8, 2021).

<sup>31</sup> *Id.* at 5.

<sup>32</sup> *Id.* at 6.

<sup>33</sup> See *2020 Task Force Report*, at 2.

<sup>34</sup> *Id.* at 7.

<sup>35</sup> *Id.* at 7.

- Education and Outreach.
- Funding.<sup>36</sup>

### Advanced Waste Treatment

Chapter 403, F.S., requires that any facility or activity which discharges wastes into waters of the state or which will reasonably be expected to be a source of water pollution must obtain a permit from the DEP.<sup>37</sup> Generally, persons who intend to collect, transmit, treat, dispose, or reuse wastewater are required to obtain a wastewater permit. A wastewater permit issued by the DEP is required for both operation and certain construction activities associated with domestic or industrial wastewater facilities or activities. A DEP permit must also be obtained prior to construction of a domestic wastewater collection and transmission system.<sup>38</sup>

Florida law prohibits sewage disposal facilities from disposing of any wastes into certain specified water bodies,<sup>39</sup> or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment that is approved by the DEP.<sup>40</sup> The applicable standard for advanced waste treatment is defined in statute using the maximum concentrations of nutrients or contaminants that a reclaimed water product may contain.<sup>41</sup> The reclaimed water product may contain no more, on a permitted annual average basis, than the concentrations listed in the table below.<sup>42</sup> The standard also requires high-level disinfection, as defined in rule by the DEP.<sup>43</sup>

These requirements do not prohibit or regulate septic tanks or other means of individual waste disposal which are otherwise subject to state regulation.<sup>44</sup>

Nutrient or Contaminant	Maximum Concentration Annually
Biochemical Oxygen Demand	5 mg/L
Suspended Solids	5 mg/L
Total Nitrogen	3 mg/L
Total Phosphorus <sup>45</sup>	1 mg/L

<sup>36</sup> *Id.* at 9-29, 39-40.

<sup>37</sup> Section 403.087, F.S.

<sup>38</sup> DEP, *Wastewater Permitting*, <https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting> (last visited Mar. 9, 2021).

<sup>39</sup> Section 403.086, (1)(c), F.S. These specified water bodies are: Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, Charlotte Harbor Bay, and, beginning July 1, 2025, Indian River Lagoon; ch. 86-173, s. 2, Laws of Fla. This prohibition was originally passed in 1987; ch. 2020-150, s. 17, Laws of Fla. The prohibition was amended in 2020.

<sup>40</sup> Section 403.086, (1)(c), F.S.

<sup>41</sup> Section 403.086(4), F.S.

<sup>42</sup> *Id.*

<sup>43</sup> Section 403.086(4)(b), F.S.; Fla. Admin. Code R. 62-600.440(6).

<sup>44</sup> Section 403.086(3), F.S.

<sup>45</sup> Section 403.086(4), F.S. In waters where phosphorus has been shown not to be a limiting nutrient or contaminant, DEP is authorized to waive or alter the compliance levels for phosphorus until there is a demonstration that phosphorus is a limiting nutrient or a contaminant.

When a reclaimed water product has been established to be in compliance with these standards, that water is presumed to be allowable, and its discharge is permitted in the specified waters at a reasonably accessible point where such discharge results in minimal negative impact.<sup>46</sup> This presumption may only be overcome by a demonstration that one or more of the following would occur:

- Discharging the reclaimed water meeting the advanced waste treatment standard will be, by itself, a cause of considerable degradation to an Outstanding Florida Water or to other waters, and is not clearly in the public interest.
- The reclaimed water discharge will have a substantial negative impact on an approved shellfish harvesting area or a water used as a public domestic water supply.
- The increased volume of fresh water contributed by the reclaimed water product will seriously alter the natural fresh-salt water balance of the receiving water after reasonable opportunity for mixing.<sup>47</sup>

If one of these three conditions has been demonstrated, remedies may include, but are not limited to: requiring more stringent effluent limitations, ordering the point or method of discharge changed, limiting the duration or volume of the discharge, or prohibiting the discharge only if no other alternative is in the public interest.<sup>48</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 163.11, F.S., entitled “Biscayne Bay Commission.”

The bill establishes the Biscayne Bay Commission (commission) as an advisory council within the Department of Environmental Resources (DEP) and the DEP shall provide administrative support and service within available resources.

The bill provides that the commission shall serve as the official coordinating clearinghouse for all public policy and projects related to Biscayne Bay to unite all governmental agencies, businesses, and residents in the area to speak with one voice on bay issues; to develop coordinated plans, priorities, programs, projects, and budgets that might substantially improve the bay area; and to act as the principal advocate and watchdog to ensure that bay projects are funded and implemented in a proper and timely manner. The bill requires the commission, except as otherwise provided in the bill, to comply with s. 20.052, F.S., which contains requirements for establishing, evaluating, or maintaining commissions that are created by specific statutory enactment.

The commission shall be comprised of the following members:

- One member appointed by the Governor.
- Three members of the Miami-Dade Board of County Commissioners, appointed by the board.
- One member of the Miami-Dade County League of Cities who resides within the boundaries of a city that borders Biscayne Bay, nominated by the league and appointed by the Secretary

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<sup>46</sup> Section 403.086(5), F.S.

<sup>47</sup> Section 403.086(5)(a), F.S.

<sup>48</sup> Section 403.086(5)(b), F.S.

of the DEP. It also provides, to the extent practicable, that the league nominate a member from each city that borders the bay on a rotating basis.

- One member of the South Florida Water Management District Governing Board (SFWMD) who resides in Miami-Dade County, appointed by the board.
- One representative of the DEP, appointed by the Secretary of the DEP.
- One representative of the Fish and Wildlife Conservation Commission (FWC), appointed by the commission.
- One representative of the Florida Inland Navigation District (IND)<sup>49</sup> appointed by the district.
- The bill provides that regarding membership of the commission:
- Members shall serve four year terms, however, for the purpose of providing staggered terms, the initial appointments of representatives of the SFWMD, the DEP, the FWC, and the IND shall be for two years.
- A vacancy shall be filled for the remainder of the unexpired term in the same manner as the initial appointment.
- Notwithstanding s. 20.502, F.S., private citizen members of the commission are not required to be confirmed by the Senate.
- All members shall be voting members.
- Members shall serve without compensation and are not entitled to reimbursement for per diem and travel expenses.
- The commission may meet monthly, but must meet at least quarterly.

The bill provides that the commission shall:

- Consolidate existing plans, programs, and proposals, including the recommendations outlined in the June 2020 Biscayne Bay Task Force report, into a coordinated strategic plan for improvement of Biscayne Bay and the surrounding areas. The plan must address environmental, economic, social, recreational, and aesthetic issues. The committee shall monitor the progress on each element of the coordinated strategic plan and revise it regularly.
- Prepare a consolidated financial plan using the different jurisdictional agencies available for projected financial resources. The committee must monitor the progress on each element of the integrated financial plan and revise it regularly.
- Provide technical assistance and political support as needed to help implement each element of the strategic and financial plans.
- Work in consultation with the United States Department of the Interior.
- Provide a forum for exchange of information.
- Act as a clearinghouse for public information.
- Submit a semiannual report describing the accomplishments of the commission and each member agency, as well as the status of each pending task. The committee must distribute the report to:
  - The Miami City Commission;
  - The Miami-Dade County Board of County Commissioners;
  - The Mayor of Miami;

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<sup>49</sup> See Florida Inland Navigation District, <http://www.aicw.org/> (last visited Mar. 9, 2021). The Florida Inland Navigation District is a special State taxing district for the continued management and maintenance of the Atlantic Intracoastal Waterway, commonly referred to as M-95 marine highway.



- The Mayor of Miami-Dade County;
- The Governor;
- The chair of the Miami-Dade County Legislative Delegation.

The bill provides that the first report shall be submitted by January 15, 2022. The report shall also be made available on the DEP's and the Miami-Dade County's websites.

The bill provides that this act does not affect or supersede the regulatory authority of any governmental agency or any local government, and any responsibilities of any governmental entity relating to Biscayne Bay remain with the respective governmental entity.

**Section 2** amends s. 403.086, F.S., which establishes waste treatment requirements for sewage disposal facilities.

The bill prohibits sewage disposal facilities from disposing of any wastes into Biscayne Bay, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment, as defined in s. 403.086(4), F.S., approved by the DEP. This requirement does not apply to facilities which were permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of Biscayne Bay.

**Section 3** states that the act shall take 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:**

The bill prohibits sewage disposal facilities from disposing of wastes into Biscayne Bay or its tributaries without providing advanced waste treatment. This may result in indeterminate increased costs to private sewage disposal facilities in the areas surrounding Biscayne Bay.

**C. Government Sector Impact:**

The bill creates a commission that must meet at least quarterly, and part of it must consist of members from specified local, state, and federal government entities. This may result in indeterminate increased costs to the government entities required to provide one or more members. The commission is authorized to seek and receive funding, including grant funding, to further or enhance its purposes. Pursuant to s. 20.052(4)(d), F.S., members may be authorized to receive per diem and reimbursement for travel expenses.

The bill prohibits sewage disposal facilities from disposing of wastes into Biscayne Bay or its tributaries without providing advanced waste treatment. This may result in indeterminate increased costs to public sewage disposal facilities in the areas surrounding Biscayne Bay.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 163.11 of the Florida Statutes.

This bill substantially amends section 403.086 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 April 21, 2021:**

The committee substitute:

- Establishes the Biscayne Bay Commission (commission) as an advisory council, as defined in statute, within the Department of Environmental Protection (DEP).
- Requires DEP to provide administrative support and service to the commission as requested by the commission and within DEP's available resources.
- Provides for the following commission membership and specified appointment processes:
  - One member appointed by the Governor.
  - Three members of the Miami-Dade Board of County Commissioners, appointed by the board.
  - One member of the Miami-Dade County League of Cities who resides within the boundaries of a city that borders Biscayne Bay, nominated by the league and appointed by the Secretary of Environmental Protection. It also provides, to the extent practicable, that the league nominate a member from each city that borders the bay on a rotating basis.
  - One member of the South Florida Water Management District Governing Board who resides in Miami-Dade County, appointed by the board.
  - One representative of the Department of Environmental Protection, appointed by the Secretary of Environmental Protection.
  - One representative of the Fish and Wildlife Conservation Commission, appointed by the commission.
  - One representative of the Florida Inland Navigation District, appointed by the district.
- Requires that members serve four-year terms. For the purpose of providing staggered terms, the initial appointments of representatives from the following entities are for two-year terms: the South Florida Water Management District, DEP, the Fish and Wildlife Conservation Commission, and the Florida Inland Navigation District.
- Requires that a vacancy be filled in the same manner as the initial appointment.
- Provides that private citizen members of the commission are not required to be confirmed by the Florida Senate.
- Requires members of the commission to serve without compensation, and provides that members are not entitled to reimbursement for per diem and travel expenses.
- Provides that all members of the commission are voting members.
- Requires the commission to meet at least quarterly, and authorizes it to meet monthly.
- Requires the commission to implement specified activities, instead of granting similar duties to a policy committee within the commission.
- Requires the commission to work in consultation with the U.S. Department of the Interior.
- Authorizes the commission to establish subcommittees as necessary.
- Requires the commission's first semiannual report to be submitted by January 15, 2022, and the report must be made available on the websites of DEP and Miami-Dade County.

The committee substitute deletes from the underlying bill provisions that do the following:

- Authorize the commission to seek and receive funding.
- Authorize the commission to accept specifically defined coordinating authority or functions delegated to the commission by a governmental entity.
- Require that the commission consist of three parts:
  - A policy committee that must meet at least quarterly, with specified membership of voting members.
  - A chief officer that represents the commission as a liaison.
  - A working group consisting of government agencies as well as representatives from business and civic associations.
- Authorize the following powers and duties of the policy committee, which the amendment does not retain as responsibilities of the commission:
  - Accept specifically defined coordinating authority or functions delegated to the committee by government entities.
  - Seek grant funding and administer contracts.
  - Facilitate the resolution of conflicts.
  - Conduct public education programs.

**B. Amendments:**

None.

By Senator Garcia

37-01395-21

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A bill to be entitled

An act relating to Biscayne Bay; creating s. 163.11, F.S.; establishing the Biscayne Bay Commission; providing for commission purpose, membership, duties, and authority; amending s. 403.086, F.S.; prohibiting sewage disposal facilities from disposing of any wastes into Biscayne Bay; providing an effective date.

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

Section 1. Section 163.11, Florida Statutes, is created to read:

163.11 Biscayne Bay Commission.-

(1) (a) The Biscayne Bay Commission is hereby established as the official coordinating clearinghouse for all public policy and projects related to Biscayne Bay to unite all governmental agencies, businesses, and residents in the area to speak with one voice on bay issues; to develop coordinated plans, priorities, programs, projects, and budgets that might substantially improve the bay area; and to act as the principal advocate and watchdog to ensure that bay projects are funded and implemented in a proper and timely manner. The commission shall comply with the requirements of s. 20.052 except as otherwise provided in this section.

(b) The commission may seek and receive funding to further its coordinating authority or functions regarding bay improvement projects of the commission. This act does not affect or supersede the regulatory authority of any governmental agency or any local government, and any responsibilities of any

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governmental entity relating to Biscayne Bay remain with the respective governmental entity. However, the commission may accept any specifically defined coordinating authority or functions delegated to the commission by any governmental entity through a memorandum of understanding or other legal instrument. The commission shall use powers of persuasion to achieve its objectives through the process of building a consensus work plan and through widespread publication of regular progress reports.

(2) The Biscayne Bay Commission shall consist of:

(a) A policy committee comprised of three members of the Miami-Dade Board of County Commissioners; three members of the Miami-Dade County League of Cities; one member of the South Florida Water Management District Governing Board who resides in Miami-Dade County; one representative of the Department of Environmental Protection; one representative of the Fish and Wildlife Conservation Commission; one representative of the Florida Inland Navigation District; and one representative of the United States Department of the Interior. All members shall be voting members. The policy committee may meet monthly, but shall meet at least quarterly.

(b) A chief officer, who shall be authorized to represent the commission and to implement all policies, plans, and programs of the commission. The chief officer shall advise the Miami-Dade County Mayor and act as a liaison with county departments, county boards, external agencies, stakeholder groups, and local, state, and federal governments.

(c) A working group consisting of all governmental agencies that have jurisdiction in the Biscayne Bay area, as well as representatives from business and civic associations.

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59 (3) The policy committee shall have the following powers  
60 and duties:

61 (a) Consolidate existing plans, programs, and proposals,  
62 including the recommendations outlined in the June 2020 Biscayne  
63 Bay Task Force report, into a coordinated strategic plan for  
64 improvement of Biscayne Bay and the surrounding areas,  
65 addressing environmental, economic, social, recreational, and  
66 aesthetic issues. The committee shall monitor the progress on  
67 each element of such plan and shall revise the plan regularly.

68 (b) Prepare an integrated financial plan using the  
69 different jurisdictional agencies available for projected  
70 financial resources. The committee shall monitor the progress on  
71 each element of such plan and revise the plan regularly.

72 (c) Provide technical assistance and political support as  
73 needed to help implement each element of the strategic and  
74 financial plans.

75 (d) Accept any specifically defined coordinating authority  
76 or function delegated to the committee by any level of  
77 government through a memorandum of understanding or other legal  
78 instrument.

79 (e) Publicize a semiannual report describing  
80 accomplishments of the commission and each member agency, as  
81 well as the status of each pending task. The committee shall  
82 distribute the report to the Miami City Commission, the Miami-  
83 Dade County Board of County Commissioners, the Mayor of Miami,  
84 the Mayor of Miami-Dade County, the Governor, the chair of the  
85 Miami-Dade County Legislative Delegation, stakeholders, and the  
86 local media.

87 (f) Seek grants from public and private sources and receive

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88 grant funds to provide for the enhancement of its coordinating  
89 authority and functions and activities and administer contracts  
90 that achieve these goals.

91 (g) Provide a forum for the exchange of information and  
92 facilitate the resolution of conflicts.

93 (h) Act as a clearinghouse for public information and  
94 conduct public education programs.

95 (i) Establish the Biscayne Bay working group, appoint  
96 members to the group, and organize subcommittees, delegate  
97 tasks, and seek counsel from members of the working group as  
98 necessary to carry out the powers and duties listed in this  
99 subsection.

100 (j) Elect officers and adopt rules of procedure as  
101 necessary to carry out the powers and duties listed in this  
102 subsection and solicit appointing authorities to name  
103 replacements for policy committee members who do not participate  
104 on a regular basis.

105 (k) Hire the commission's chief officer and employ any  
106 additional staff necessary to assist the chief officer.

107 Section 2. Paragraph (c) of subsection (1) of section  
108 403.086, Florida Statutes, is amended to read:

109 403.086 Sewage disposal facilities; advanced and secondary  
110 waste treatment.—

111 (1)

112 (c) Notwithstanding this chapter or chapter 373, sewage  
113 disposal facilities may not dispose of any wastes into Old Tampa  
114 Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph  
115 Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay,  
116 Roberts Bay, Lemon Bay, Charlotte Harbor Bay, Biscayne Bay, or,

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117 beginning July 1, 2025, Indian River Lagoon, or into any river,  
118 stream, channel, canal, bay, bayou, sound, or other water  
119 tributary thereto, without providing advanced waste treatment,  
120 as defined in subsection (4), approved by the department. This  
121 paragraph does not apply to facilities which were permitted by  
122 February 1, 1987, and which discharge secondary treated  
123 effluent, followed by water hyacinth treatment, to tributaries  
124 of tributaries of the named waters; or to facilities permitted  
125 to discharge to the nontidally influenced portions of the Peace  
126 River.

127 Section 3. This act shall take effect upon becoming a law.



The Florida Senate

## Committee Agenda Request

**To:** Senator Kelli Stargel, Chair  
Committee on Appropriations

**Subject:** Committee Agenda Request

**Date:** April 8, 2021

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I respectfully request that **Senate Bill #1482**, relating to Biscayne Bay, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ileana Garcia".

---

Senator Ileana Garcia  
Florida Senate, District 37

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: PCS/CS/SB 1530 (549558)

INTRODUCER: Criminal Justice Committee and Senator Book

SUBJECT: Victims of Sexual Offenses

DATE: April 20, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Jones</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Dale</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Recommend: Fav/CS</b>
3.	<u>Dale</u>	<u>Sadberry</u>	<u>AP</u>	<b>Pre-meeting</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 1530 establishes that the purpose of a Sexual Assault Response Team (SART) is to ensure a coordinated multidisciplinary response to sexual violence. The bill requires all county health departments, or a designee for the department, to participate in the local SART if one exists. If no local SART exists, the certified rape crisis center serving the county may coordinate with community partners to establish a local or a regional team.

The bill provides that local SARTs will be coordinated by the certified rape crisis center serving the county, who will select the SART membership in collaboration with community partners. The SARTs membership should include the members listed in the bill, at a minimum. Each SART must create written protocols to govern the SARTs response to sexual assault.

The bill requires each SART to promote and support the use of sexual assault forensic examiners who have received a minimum of 40 hours of specialized training in the provision of trauma-informed medical care and in the collection of evidence for sexual assault victims. The Florida Council Against Sexual Violence (FCASV) will provide technical assistance relating to the development and implementation of the SARTs.

The bill requires the Criminal Justice Standards and Training Commission (CJSTC), in consultation with the FCASV, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive



trauma-informed response to sexual assault. The bill specifies the timing of the implementation of the training.

The bill may have a fiscal impact on the Florida Department of Law Enforcement (FDLE). See Section V. Fiscal Impact Statement.

The bill becomes effective July 1, 2021.

## II. Present Situation:

### The Offense of Sexual Battery

Sexual battery is defined in s. 794.011(1)(h), F.S., as oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

Generally, it is a second degree felony<sup>1</sup> for a person to commit one of the acts described in s. 794.011(1)(h), F.S., without the victim's consent, where:

- The perpetrator is 18 years of age or older;
- The victim is 18 years of age or older, and
- In the process the perpetrator does not use physical force and violence likely to cause serious personal injury.<sup>2</sup>

The penalties for committing a sexual battery increase as the circumstances of the criminal act change. For example, a person commits a first degree felony<sup>3</sup> when a person 18 years of age or older commits sexual battery upon:

- A person 12 years of age or older but younger than 18 years of age, without that person's consent, and
- In the process does not use physical force and violence likely to cause serious personal injury.<sup>4</sup>

### Sexual Battery Victim Services

The Florida Department of Health (DOH) requires that any licensed facility which provides emergency room services shall arrange for the rendering of appropriate medical attention and treatment of victims of sexual assault through:

- Gynecological, psychological, and medical services as are needed by the victim;
- The gathering of forensic medical evidence required for investigation and prosecution from a victim who has reported a sexual battery to a law enforcement agency or who requests that such evidence be gathered for a possible future report; and

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<sup>1</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>2</sup> Section 775.011(5)(b), F.S.

<sup>3</sup> 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.

<sup>4</sup> Section 794.011(5)(a), F.S.

- The training of medical support personnel competent to provide the medical services and treatment.<sup>5</sup>

Section 794.052, F.S., requires the law enforcement officer investigating the sexual battery to:

- Provide or arrange for transportation of a victim of sexual battery to an appropriate facility for medical treatment or forensic examination;
- Immediately notify sexual battery victims of their legal rights and remedies;
- Assist them in obtaining any necessary medical treatment resulting from the alleged incident, a forensic examination, and crisis-intervention services from a certified rape crisis center;
- Provide for a review of the officer's final report by a victim and an opportunity for a statement about the report by the victim; and
- Advise sexual battery victims that they can contact a certified rape crisis center about services,<sup>6</sup> including the presence of a victim advocate from a certified rape crisis center at any forensic medical examination.<sup>7</sup>

Services in the aftermath of a sexual battery are generally provided locally by certified Rape Crisis Centers and volunteers. A "Rape Crisis Center" is any public or private agency that offers assistance to victims of sexual assault or sexual battery and their families.<sup>8</sup> The Florida Council Against Sexual Violence (FCASV) is a statewide nonprofit organization committed to victims and survivors of sexual violence and the sexual assault crisis programs that serve them. The FCASV certifies Rape Crisis Centers.<sup>9</sup>

### **Sexual Assault Response Teams**

A sexual assault response team (SART) is a community-based team that convenes regularly and coordinates the local response to sexual assault victims. SARTs are often comprised of sexual assault nurse examiners (SANEs), sexual assault victim advocates, law enforcement officials, and prosecutors. These teams work to develop a stronger understanding of victimization and the positive effects of trauma-informed training. SARTs support victims, provide expertise for prosecution, and maintain a victim-centered, offender-focused approach to review sexual assault case files.<sup>10</sup> The FCASV currently coordinates the Statewide SART Advisory Committee.<sup>11</sup>

### **Law Enforcement Officer Training**

In compliance with s. 943.13, F.S., applicants must complete the 770-hour law enforcement basic recruit training program to meet the qualifications for becoming a certified law

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<sup>5</sup> Section 395.1021, F.S.

<sup>6</sup> Section 794.052, F.S.

<sup>7</sup> See s. 960.001(1)(u), F.S.

<sup>8</sup> Section 90.5035(1)(a), F.S.

<sup>9</sup> FCASV, *About FCASV*, available at <https://www.fcasv.org/about-fcasv> (last visited March 16, 2021).

<sup>10</sup> Sexual Assault Kit Initiative and RTI International, *A Multidisciplinary Approach to Cold Case Sexual Assault: Guidance for Establishing an MDT or a SART*, available at <https://www.sakitta.org/toolkit/docs/A-Multidisciplinary-Approach-to-Cold-Case-Sexual-Assault-Guidance-for-Establishing-an-MDT-or-a-SART.pdf> (last visited March 16, 2021).

<sup>11</sup> The Statewide SART Advisory Committee is a statewide group coordinated by the FCASV and comprised of representatives from a broad range of disciplines whose work brings them into contact with rape survivors. The committee works to assess and improve Florida's response to survivors of sexual violence at the state and local level. FCASV, SART, available at <https://www.fcasv.org/new-statewide-sart-advisory-committee> (last visited March 16, 2021).

enforcement officer. In order to maintain their certification, law enforcement officers must satisfy continuing training and education requirements.<sup>12</sup>

Currently, s. 943.17295, F.S., requires the CJSTC to incorporate the subject of sexual abuse and assault investigations, with an emphasis on cases involving child victims or juvenile offenders, into the curriculum required for continuous employment or appointment as a law enforcement officer. The FDLE developed an on-line course that satisfies this requirement and is available at no cost to law enforcement officers or the employing agencies.<sup>13</sup>

Additionally, the CJSTC has authorized an advanced training course related to sexual crime investigations since July 1985. In 2017, the CJSTC approved adult and child sex crimes investigations advanced training courses (#1170 and #1171, respectively). These courses include information produced by the FCASV. As of February 2021, 581 law enforcement officers have completed #1170 and 429 law enforcement officers have completed #1171.<sup>14</sup>

### **III. Effect of Proposed Changes:**

#### **Sexual Assault Response Teams**

The bill establishes that the purpose of the SART is to ensure a coordinated multidisciplinary response to sexual violence. The bill requires county health departments, or a designee for the department, to participate in a local SART if one exists. It specifies that SARTs will be coordinated by the local certified rape crisis center. If no local SART exists, the local certified rape crisis center serving the county may coordinate with community partners to establish a local or regional team. The FCASV must provide technical assistance relating to the development and implementation of the SARTs.

SART membership shall be determined by the certified rape crisis center in collaboration with community partners. Membership should include the following members or their designees, at a minimum:

- The director of the local certified rape crisis center;
- A representative from the local county health department;
- The state attorney;
- The chief of police;
- The county sheriff;
- Forensic sexual assault nurse examiners; and
- A representative from local hospital emergency departments.

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<sup>12</sup> Section 943.135, F.S. The Department of Law Enforcement (FDLE) Legislative Bill Analysis, SB 1530, February 26, 2021 (on file with the Senate Criminal Justice Committee).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

The SART must develop a written protocol to govern the team's response to sexual assault that includes:

- The role and responsibilities of each team member;
- Procedural issues regarding the immediate crisis and health care and law enforcement responses and follow-up services provided to a victim;
- Procedures for the preservation, secure storage, and destruction of evidence from a sexual assault evidence kit, including length of storage, site of storage, and chain of custody; and
- Procedures for maintaining the confidentiality of the victim regarding the forensic medical examination.

The bill requires each SART to promote and support the use of sexual assault forensic examiners who have received a minimum of 40 hours of specialized training in the provision of trauma-informed medical care and in the collection of evidence for sexual assault victims.

### **Law Enforcement Officer Training**

The bill requires the CJSTC, in consultation with the FCASV, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive trauma-informed response to sexual assault. After July 1, 2022, every basic skills course required for law enforcement officers to obtain initial and continuing education certification must include training on culturally responsive trauma-informed interviewing of sexual assault victims and investigations of alleged sexual assaults.

The bill creates s. 943.1724, F.S., requiring the CJSTC to incorporate a culturally responsive trauma-informed response to sexual assault into the course curriculum required for a law enforcement officer to obtain initial certification. Additionally, each law enforcement officer must complete training on sexual violence and interviewing of sexual assault victims and investigations of alleged sexual assaults as a part of basic recruit training,<sup>15</sup> training for applicants who are exempt from the basic recruit training,<sup>16</sup> or as part of continuing training or education<sup>17</sup> before July 1, 2024. If an officer fails to complete the required training, his or her certification must be placed on inactive status until the employing agency notifies the commission that the officer has completed the training.

The bill is effective July 1, 2021.

## **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 Article VII, Section 18 of the State Constitution.

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<sup>15</sup> Section 943.13(9), F.S.

<sup>16</sup> Section 943.131(4)(a), F.S.

<sup>17</sup> Section 943.135(1), F.S.

**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 FDLE expects that the fiscal impact of the bill will total \$45,779 non-recurring funds. This includes developing instruction as required in the bill (\$8,779), and necessary modifications to the Automated Training Management System (\$37,000).<sup>18</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 943.17 of the Florida Statutes.

This bill creates sections 154.012 and 943.1724 of the Florida Statutes.

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<sup>18</sup> The Florida Department of Law Enforcement (FDLE) Legislative Bill Analysis, SB 1530, February 26, 2021 (on file with the Senate Criminal Justice Committee).

**IX. Additional Information:**

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

**Recommend CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on April 8, 2021:**

The committee substitute:

- Removes the section of the bill amending s. 27.14, F.S., regarding the Governor reassigning sexual battery or cyberstalking cases under certain circumstances.
- Deletes the requirement that a sexual assault response team meet at least quarterly and produce an annual report which will be published by The Florida Council Against Sexual Violence (FCASV).
- Requires the Criminal Justice Standards and Training Commission (CJSTC), in consultation with the FCASV, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive trauma-informed response to sexual assault.
- Creates s. 943.1724, F.S., requiring the CJSTC to incorporate a culturally responsive trauma-informed response to sexual assault into the course curriculum required for a law enforcement officer to obtain initial certification. Additional times and opportunities to complete the training are offered or required.

**CS by Criminal Justice on March 23, 2021:**

The committee substitute:

- Deletes current Section 1 of the bill related to the AG, replacing it with an amendment to s. 27.14, F.S., which creates a mechanism by which the Governor can disqualify a state attorney (and appoint a different state attorney by executive order) if the victim of a sexual battery or cyberstalking petitions the Governor and presents sufficient evidence to show:
  - A willful disregard of the evidence and
  - The repeated failure of a state attorney to prosecute a particular crime.
- Changes a requirement in the bill that every county health department *establish* a local sexual assault response team (SART). The amendment requires the county health departments to *participate* if one (a local SART) exists.
- Specifies that SARTs will be coordinated by the certified rape crisis center serving the county, who will select the SART membership in collaboration with community partners.
- Specifies that if there is no SART in existence, the local certified rape crisis center may coordinate with community partners to establish a local or a regional team.
- Alters SART membership in the bill to include:
  - The director of the local certified rape crisis center;
  - A representative (not necessarily from physician or nursing leadership) from a local hospital emergency department;
  - Forensic sexual assault nurse examiners (rather than a forensic sexual assault nurse examiner or a designated health care provider who performs forensic medical examinations and collects evidence); and
  - A representative of the local county health department.

- Requires that SARTs submit their annual reports to the FCASV to be published on FCASV's website.
- Deletes Section 3 of the bill related to payment of insurance claims.
- Deletes the sections of the bill related to training of law enforcement.

**B. Amendments:**

None.

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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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576-03958-21

Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to victims of sexual offenses;  
creating s. 154.012, F.S.; requiring counties to  
establish sexual assault response teams; providing for  
duties, membership, and technical assistance;  
requiring teams to promote the use of sexual assault  
forensic examiners meeting certain requirements;  
amending s. 943.17, F.S.; requiring the Criminal  
Justice Standards and Training Commission, in  
consultation with the Florida Council Against Sexual  
Violence, to establish minimum standards for basic and  
advanced career development training programs for law  
enforcement officers that include a culturally  
responsive trauma-informed response to sexual assault;  
requiring every basic skills course for law  
enforcement officers to include certain training by a  
specified date; creating s. 943.1724, F.S.; requiring  
the Criminal Justice Standards and Training Commission  
to incorporate a culturally responsive trauma-informed  
response to sexual assault into a certain course  
curriculum; requiring each certified law enforcement  
officer to successfully complete a specified number of  
hours of training on sexual violence and interviewing  
of sexual assault victims and investigations of  
alleged sexual assault within a specified timeframe;  
providing requirements for current law enforcement  
officers; providing an effective date.



576-03958-21

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

Section 1. Section 154.012, Florida Statutes, is created to  
read:

154.012 Sexual assault response teams; membership; duties.-

(1) The health department in every county in this state, or  
its designee, shall participate in the local sexual assault  
response team coordinated by the certified rape crisis center  
serving the county if such a team exists. If a local sexual  
assault response team does not exist, the certified rape crisis  
center serving the county may coordinate with community partners  
to establish a local or a regional team. The purpose of the  
sexual assault response team is to ensure a coordinated  
multidisciplinary response to sexual violence.

(2) Each team shall develop a written protocol to govern  
the team's response to sexual assault which includes:

(a) The role and responsibilities of each team member.

(b) Procedural issues regarding the immediate crisis and  
health care and law enforcement responses and followup services  
provided to a victim.

(c) Procedures for the preservation, secure storage, and  
destruction of evidence from a sexual assault evidence kit,  
including length of storage, site of storage, and chain of  
custody.

(d) Procedures for maintaining the confidentiality of the  
victim regarding the forensic medical examination.

(3) Membership of each team shall be determined by the  
certified rape crisis center in collaboration with community





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57 partners. At a minimum, membership should include the following  
58 persons or their designees:

- 59 (a) The director of the local certified rape crisis center;
- 60 (b) A representative from the county health department;
- 61 (c) The state attorney;
- 62 (d) The chief of police;
- 63 (e) The county sheriff;
- 64 (f) Forensic sexual assault nurse examiners; and
- 65 (g) A representative from local hospital emergency  
66 departments.

67 (4) The Florida Council Against Sexual Violence shall  
68 provide technical assistance relating to the development and  
69 implementation of the teams.

70 (5) Each team shall promote and support the use of  
71 qualified sexual assault forensic examiners who have  
72 successfully completed a minimum of 40 hours of specialized  
73 training in the provision of trauma-informed medical care and in  
74 the collection of evidence for sexual assault victims.

75 Section 2. Subsection (7) is added to section 943.17,  
76 Florida Statutes, to read:

77 943.17 Basic recruit, advanced, and career development  
78 training programs; participation; cost; evaluation.—The  
79 commission shall, by rule, design, implement, maintain,  
80 evaluate, and revise entry requirements and job-related  
81 curricula and performance standards for basic recruit, advanced,  
82 and career development training programs and courses. The rules  
83 shall include, but are not limited to, a methodology to assess  
84 relevance of the subject matter to the job, student performance,  
85 and instructor competency.



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86 (7) The commission, in consultation with the Florida  
87 Council Against Sexual Violence, shall establish minimum  
88 standards for basic and advanced career development training  
89 programs for law enforcement officers that include a culturally  
90 responsive trauma-informed response to sexual assault. After  
91 July 1, 2022, every basic skills course required for law  
92 enforcement officers to obtain initial and continuing education  
93 certification must include training on culturally responsive  
94 trauma-informed interviewing of sexual assault victims and  
95 investigations of alleged sexual assaults.

96 Section 3. Section 943.1724, Florida Statutes, is created  
97 to read:

98 943.1724 Training on sexual assault.—

99 (1) The commission shall incorporate a culturally  
100 responsive trauma-informed response to sexual assault into the  
101 course curriculum required for a law enforcement officer to  
102 obtain initial certification.

103 (2) Each law enforcement officer must successfully complete  
104 training on sexual violence and interviewing and investigations  
105 of sexual assault victims, with an emphasis on culturally  
106 responsive trauma-informed interviewing of sexual assault  
107 victims and alleged sexual assault investigations as a part of  
108 the basic recruit training, as required under s. 943.13(9),  
109 training required under s. 943.131(4) (a), or as a part of  
110 continuing training or education required under s. 943.135(1),  
111 before July 1, 2024. If an officer fails to complete the  
112 required training, his or her certification must be placed on  
113 inactive status until the employing agency notifies the  
114 commission that the officer has completed the training.



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576-03958-21

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Section 4. This act shall take effect July 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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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**BILL:** CS/CS/SB 1530

**INTRODUCER:** Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senator Book

**SUBJECT:** Victims of Sexual Offenses

**DATE:** April 22, 2021

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Dale</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	<u>Dale</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1530 establishes that the purpose of a Sexual Assault Response Team (SART) is to ensure a coordinated multidisciplinary response to sexual violence. The bill requires all county health departments, or a designee for the department, to participate in the local SART if one exists. If no local SART exists, the certified rape crisis center serving the county may coordinate with community partners to establish a local or a regional team.

The bill provides that local SARTs will be coordinated by the certified rape crisis center serving the county, who will select the SART membership in collaboration with community partners. The SARTs membership should include the members listed in the bill, at a minimum. Each SART must create written protocols to govern the SARTs response to sexual assault.

The bill requires each SART to promote and support the use of sexual assault forensic examiners who have received a minimum of 40 hours of specialized training in the provision of trauma-informed medical care and in the collection of evidence for sexual assault victims. The Florida Council Against Sexual Violence (FCASV) will provide technical assistance relating to the development and implementation of the SARTs.

The bill requires the Criminal Justice Standards and Training Commission (CJSTC), in consultation with the FCASV, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive

trauma-informed response to sexual assault. The bill specifies the timing of the implementation of the training.

The bill may have a fiscal impact on the Florida Department of Law Enforcement (FDLE). See Section V. Fiscal Impact Statement.

The bill becomes effective July 1, 2021.

## II. Present Situation:

### The Offense of Sexual Battery

Sexual battery is defined in s. 794.011(1)(h), F.S., as oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

Generally, it is a second degree felony<sup>1</sup> for a person to commit one of the acts described in s. 794.011(1)(h), F.S., without the victim's consent, where:

- The perpetrator is 18 years of age or older;
- The victim is 18 years of age or older, and
- In the process the perpetrator does not use physical force and violence likely to cause serious personal injury.<sup>2</sup>

The penalties for committing a sexual battery increase as the circumstances of the criminal act change. For example, a person commits a first degree felony<sup>3</sup> when a person 18 years of age or older commits sexual battery upon:

- A person 12 years of age or older but younger than 18 years of age, without that person's consent, and
- In the process does not use physical force and violence likely to cause serious personal injury.<sup>4</sup>

### Sexual Battery Victim Services

The Florida Department of Health (DOH) requires that any licensed facility which provides emergency room services shall arrange for the rendering of appropriate medical attention and treatment of victims of sexual assault through:

- Gynecological, psychological, and medical services as are needed by the victim;
- The gathering of forensic medical evidence required for investigation and prosecution from a victim who has reported a sexual battery to a law enforcement agency or who requests that such evidence be gathered for a possible future report; and

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<sup>1</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>2</sup> Section 775.011(5)(b), F.S.

<sup>3</sup> 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.

<sup>4</sup> Section 794.011(5)(a), F.S.

- The training of medical support personnel competent to provide the medical services and treatment.<sup>5</sup>

Section 794.052, F.S., requires the law enforcement officer investigating the sexual battery to:

- Provide or arrange for transportation of a victim of sexual battery to an appropriate facility for medical treatment or forensic examination;
- Immediately notify sexual battery victims of their legal rights and remedies;
- Assist them in obtaining any necessary medical treatment resulting from the alleged incident, a forensic examination, and crisis-intervention services from a certified rape crisis center;
- Provide for a review of the officer's final report by a victim and an opportunity for a statement about the report by the victim; and
- Advise sexual battery victims that they can contact a certified rape crisis center about services,<sup>6</sup> including the presence of a victim advocate from a certified rape crisis center at any forensic medical examination.<sup>7</sup>

Services in the aftermath of a sexual battery are generally provided locally by certified Rape Crisis Centers and volunteers. A "Rape Crisis Center" is any public or private agency that offers assistance to victims of sexual assault or sexual battery and their families.<sup>8</sup> The Florida Council Against Sexual Violence (FCASV) is a statewide nonprofit organization committed to victims and survivors of sexual violence and the sexual assault crisis programs that serve them. The FCASV certifies Rape Crisis Centers.<sup>9</sup>

### **Sexual Assault Response Teams**

A sexual assault response team (SART) is a community-based team that convenes regularly and coordinates the local response to sexual assault victims. SARTs are often comprised of sexual assault nurse examiners (SANEs), sexual assault victim advocates, law enforcement officials, and prosecutors. These teams work to develop a stronger understanding of victimization and the positive effects of trauma-informed training. SARTs support victims, provide expertise for prosecution, and maintain a victim-centered, offender-focused approach to review sexual assault case files.<sup>10</sup> The FCASV currently coordinates the Statewide SART Advisory Committee.<sup>11</sup>

### **Law Enforcement Officer Training**

In compliance with s. 943.13, F.S., applicants must complete the 770-hour law enforcement basic recruit training program to meet the qualifications for becoming a certified law

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<sup>5</sup> Section 395.1021, F.S.

<sup>6</sup> Section 794.052, F.S.

<sup>7</sup> See s. 960.001(1)(u), F.S.

<sup>8</sup> Section 90.5035(1)(a), F.S.

<sup>9</sup> FCASV, *About FCASV*, available at <https://www.fcasv.org/about-fcasv> (last visited March 16, 2021).

<sup>10</sup> Sexual Assault Kit Initiative and RTI International, *A Multidisciplinary Approach to Cold Case Sexual Assault: Guidance for Establishing an MDT or a SART*, available at <https://www.sakitta.org/toolkit/docs/A-Multidisciplinary-Approach-to-Cold-Case-Sexual-Assault-Guidance-for-Establishing-an-MDT-or-a-SART.pdf> (last visited March 16, 2021).

<sup>11</sup> The Statewide SART Advisory Committee is a statewide group coordinated by the FCASV and comprised of representatives from a broad range of disciplines whose work brings them into contact with rape survivors. The committee works to assess and improve Florida's response to survivors of sexual violence at the state and local level. FCASV, SART, available at <https://www.fcasv.org/new-statewide-sart-advisory-committee> (last visited March 16, 2021).

enforcement officer. In order to maintain their certification, law enforcement officers must satisfy continuing training and education requirements.<sup>12</sup>

Currently, s. 943.17295, F.S., requires the CJSTC to incorporate the subject of sexual abuse and assault investigations, with an emphasis on cases involving child victims or juvenile offenders, into the curriculum required for continuous employment or appointment as a law enforcement officer. The FDLE developed an on-line course that satisfies this requirement and is available at no cost to law enforcement officers or the employing agencies.<sup>13</sup>

Additionally, the CJSTC has authorized an advanced training course related to sexual crime investigations since July 1985. In 2017, the CJSTC approved adult and child sex crimes investigations advanced training courses (#1170 and #1171, respectively). These courses include information produced by the FCASV. As of February 2021, 581 law enforcement officers have completed #1170 and 429 law enforcement officers have completed #1171.<sup>14</sup>

### **III. Effect of Proposed Changes:**

#### **Sexual Assault Response Teams**

The bill establishes that the purpose of the SART is to ensure a coordinated multidisciplinary response to sexual violence. The bill requires county health departments, or a designee for the department, to participate in a local SART if one exists. It specifies that SARTs will be coordinated by the local certified rape crisis center. If no local SART exists, the local certified rape crisis center serving the county may coordinate with community partners to establish a local or regional team. The FCASV must provide technical assistance relating to the development and implementation of the SARTs.

SART membership shall be determined by the certified rape crisis center in collaboration with community partners. Membership should include the following members or their designees, at a minimum:

- The director of the local certified rape crisis center;
- A representative from the local county health department;
- The state attorney;
- The chief of police;
- The county sheriff;
- Forensic sexual assault nurse examiners; and
- A representative from local hospital emergency departments.

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<sup>12</sup> Section 943.135, F.S. The Department of Law Enforcement (FDLE) Legislative Bill Analysis, SB 1530, February 26, 2021 (on file with the Senate Criminal Justice Committee).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

The SART must develop a written protocol to govern the team's response to sexual assault that includes:

- The role and responsibilities of each team member;
- Procedural issues regarding the immediate crisis and health care and law enforcement responses and follow-up services provided to a victim;
- Procedures for the preservation, secure storage, and destruction of evidence from a sexual assault evidence kit, including length of storage, site of storage, and chain of custody; and
- Procedures for maintaining the confidentiality of the victim regarding the forensic medical examination.

The bill requires each SART to promote and support the use of sexual assault forensic examiners who have received a minimum of 40 hours of specialized training in the provision of trauma-informed medical care and in the collection of evidence for sexual assault victims.

### **Law Enforcement Officer Training**

The bill requires the CJSTC, in consultation with the FCASV, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive trauma-informed response to sexual assault. After July 1, 2022, every basic skills course required for law enforcement officers to obtain initial and continuing education certification must include training on culturally responsive trauma-informed interviewing of sexual assault victims and investigations of alleged sexual assaults.

The bill creates s. 943.1724, F.S., requiring the CJSTC to incorporate a culturally responsive trauma-informed response to sexual assault into the course curriculum required for a law enforcement officer to obtain initial certification. Additionally, each law enforcement officer must complete training on sexual violence and interviewing of sexual assault victims and investigations of alleged sexual assaults as a part of basic recruit training,<sup>15</sup> training for applicants who are exempt from the basic recruit training,<sup>16</sup> or as part of continuing training or education<sup>17</sup> before July 1, 2024. If an officer fails to complete the required training, his or her certification must be placed on inactive status until the employing agency notifies the commission that the officer has completed the training.

The bill is effective July 1, 2021.

## **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 Article VII, Section 18 of the State Constitution.

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<sup>15</sup> Section 943.13(9), F.S.

<sup>16</sup> Section 943.131(4)(a), F.S.

<sup>17</sup> Section 943.135(1), F.S.

**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 FDLE expects that the fiscal impact of the bill will total \$45,779 non-recurring funds. This includes developing instruction as required in the bill (\$8,779), and necessary modifications to the Automated Training Management System (\$37,000).<sup>18</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 943.17 of the Florida Statutes.

This bill creates sections 154.012 and 943.1724 of the Florida Statutes.

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<sup>18</sup> The Florida Department of Law Enforcement (FDLE) Legislative Bill Analysis, SB 1530, February 26, 2021 (on file with the Senate Criminal Justice Committee).



**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 April 21, 2021:**

The committee substitute:

- Removes the section of the bill amending s. 27.14, F.S., regarding the Governor reassigning sexual battery or cyberstalking cases under certain circumstances.
- Deletes the requirement that a sexual assault response team meet at least quarterly and produce an annual report which will be published by The Florida Council Against Sexual Violence (FCASV).
- Requires the Criminal Justice Standards and Training Commission (CJSTC), in consultation with the FCASV, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive trauma-informed response to sexual assault.
- Creates s. 943.1724, F.S., requiring the CJSTC to incorporate a culturally responsive trauma-informed response to sexual assault into the course curriculum required for a law enforcement officer to obtain initial certification. Additional times and opportunities to complete the training are offered or required.

**CS by Criminal Justice on March 23, 2021:**

The committee substitute:

- Deletes current Section 1 of the bill related to the AG, replacing it with an amendment to s. 27.14, F.S., which creates a mechanism by which the Governor can disqualify a state attorney (and appoint a different state attorney by executive order) if the victim of a sexual battery or cyberstalking petitions the Governor and presents sufficient evidence to show:
  - A willful disregard of the evidence and
  - The repeated failure of a state attorney to prosecute a particular crime.
- Changes a requirement in the bill that every county health department *establish* a local sexual assault response team (SART). The amendment requires the county health departments to *participate* if one (a local SART) exists.
- Specifies that SARTs will be coordinated by the certified rape crisis center serving the county, who will select the SART membership in collaboration with community partners.
- Specifies that if there is no SART in existence, the local certified rape crisis center may coordinate with community partners to establish a local or a regional team.
- Alters SART membership in the bill to include:
  - The director of the local certified rape crisis center;
  - A representative (not necessarily from physician or nursing leadership) from a local hospital emergency department;
  - Forensic sexual assault nurse examiners (rather than a forensic sexual assault nurse examiner or a designated health care provider who performs forensic medical examinations and collects evidence); and
  - A representative of the local county health department.

- Requires that SARTs submit their annual reports to the FCASV to be published on FCASV's website.
- Deletes Section 3 of the bill related to payment of insurance claims.
- Deletes the sections of the bill related to training of law enforcement.

**B. Amendments:**

None.

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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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By the Committee on Criminal Justice; and Senator Book

591-03250-21

20211530c1

A bill to be entitled

An act relating to victims of sexual offenses; amending s. 27.14, F.S.; authorizing a victim of sexual battery or cyberstalking to petition the Governor to disqualify a state attorney under certain circumstances; creating s. 154.012, F.S.; requiring county health departments to participate in local sexual assault response teams coordinated by local certified rape crisis centers if such a team exists; authorizing the certified rape crisis center serving the county to coordinate with community partners to establish a local or regional team if a local sexual assault response team does not exist; providing the purpose of such teams; providing for duties, membership, meetings, technical assistance, and an annual report; requiring teams to promote and support the use of sexual assault forensic examiners meeting certain requirements; providing an effective date.

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

Section 1. Present subsections (2) and (3) of section 27.14, Florida Statutes, are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

27.14 Assigning state attorneys to other circuits.—

(2) A victim of a sexual battery or cyberstalking may petition the Governor to disqualify a state attorney pursuant to subsection (1) if sufficient evidence is presented that shows a

Page 1 of 4

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

591-03250-21

20211530c1

willful disregard of the evidence and repeated failure of a state attorney to prosecute a particular crime.

Section 2. Section 154.012, Florida Statutes, is created to read:

154.012 Sexual assault response teams; membership; duties.—

(1) The health department in every county in this state, or its designee, shall participate in the local sexual assault response team coordinated by the certified rape crisis center serving the county if such a team exists. If a local sexual assault response team does not exist, the certified rape crisis center serving the county may coordinate with community partners to establish a local or a regional team. The purpose of the sexual assault response team is to ensure a coordinated multidisciplinary response to sexual violence.

(2) Each team shall develop a written protocol to govern the team's response to sexual assault which includes:

(a) The role and responsibilities of each team member.

(b) Procedural issues regarding the immediate crisis and health care and law enforcement responses and followup services provided to a victim.

(c) Procedures for the preservation, secure storage, and destruction of evidence from a sexual assault evidence kit, including length of storage, site of storage, and chain of custody.

(d) Procedures for maintaining the confidentiality of the victim regarding the forensic medical examination.

(3) Membership of each team shall be determined by the certified rape crisis center in collaboration with community partners. At a minimum, membership should include the following

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59 persons or their designees:

60 (a) The director of the local certified rape crisis center;  
61 (b) A representative from the county health department;  
62 (c) The state attorney;  
63 (d) The chief of police;  
64 (e) The county sheriff;  
65 (f) Forensic sexual assault nurse examiners; and  
66 (g) A representative from local hospital emergency  
67 departments.

68 (4) The Florida Council Against Sexual Violence shall  
69 provide technical assistance relating to the development and  
70 implementation of the teams.

71 (5) Each team shall promote and support the use of  
72 qualified sexual assault forensic examiners who have  
73 successfully completed a minimum of 40 hours of specialized  
74 training in the provision of trauma-informed medical care and in  
75 the collection of evidence for sexual assault victims.

76 (6) Each team shall meet at least quarterly, or more often  
77 as determined by the team's membership, to ensure a coordinated  
78 multidisciplinary response to sexual violence and shall produce  
79 an annual report for the jurisdictions covered by the team which  
80 includes local statistics on the number of forensic medical  
81 examinations performed, the number of criminal sexual assaults  
82 reported to law enforcement, the number of cases referred by law  
83 enforcement for prosecution, the number of criminal sexual  
84 assaults prosecuted, and the outcome of the prosecutions. Each  
85 annual report shall be submitted to the Florida Council Against  
86 Sexual Violence, which must publish the annual reports on its  
87 website.

Page 3 of 4

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

591-03250-21

20211530c1

88 Section 3. This act shall take effect July 1, 2021.

Page 4 of 4

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Kelli Stargel, Chair  
Committee on Appropriations

**Subject:** Committee Agenda Request

**Date:** April 8, 2021

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I respectfully request that **Senate Bill 1530**, relating to Victims of Sexual Offenses, be placed on the:

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

Thank you for consideration of this request.

A handwritten signature in cursive script that reads "Lauren Book".

---

Senator Lauren Book  
Florida Senate, District 32

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

THE FLORIDA SENATE

APPEARANCE RECORD

04/21/2021  
*Meeting Date*

1530  
*Bill Number (if applicable)*

Topic Victims of Sexual Offenses

*Amendment Barcode (if applicable)*

Name Theresa Prichard

Job Title Associate Director and General Counsel

Address 1207 N. Himes Avenue Suite 5

Phone 850-363-3728

*Street*

Tampa

FL

33607

Email tprichard@fcasv.org

*City*

*State*

*Zip*

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.*

***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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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**BILL:** PCS/SB 1976 (410084)

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

**SUBJECT:** Freestanding Emergency Departments

**DATE:** April 21, 2021

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	<u>Favorable</u>
2.	<u>McKnight</u>	<u>Kidd</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3.	<u>McKnight</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/SB 1976 amends multiple sections of law to establish a stronger distinction between freestanding emergency departments (FED) and urgent care centers (UCC). The bill:

- Establishes specific transparency requirements for FEDs, including requirements to post certain information in and around the facility that clearly identifies it as a FED, as well as information related to facility fees and network providers.
- Provides requirements for FED advertisements.
- Clarifies that FEDs operating as hospital-based UCCs and providing urgent care services that are not billed at emergency department rates are exempt from some of the sign and advertisement requirements.
- Requires the Agency for Health Care Administration (AHCA) to publish the following information on its website, and update at least annually:
  - A description of the differences between a FED and UCC;
  - At least two examples illustrating the cost difference between non-emergent care provided in a hospital emergency department setting and a UCC;
  - An interactive tool to locate local UCCs; and
  - Information on what to do in the event of a true emergency.
- Requires hospitals to post a link to the information AHCA publishes on its website in a prominent location on their websites.

- Creates an emergency room billing acknowledgement form with specific disclosure requirements and requires FEDs that bill for urgent care services to provide the form to patients receiving emergency medical treatment.
- Requires a health insurer to publish the following information on its website, and update at least annually:
  - A comparison of average in-network and out-of-network UCC and FED charges for the 30 most common UCC services;
  - At least two examples illustrating the cost difference between non-emergent care provided in a hospital emergency department setting and a UCC; and
  - An interactive tool to locate local in-network and out-of-network UCCs.

The bill has an insignificant negative impact to state expenditures that the AHCA can absorb with existing agency resources. *See* Section V of this analysis.

The bill takes effect on July 1, 2021.

## II. Present Situation:

### Off-Site Emergency Departments

With an increasing demand for emergency medical services and issues of overcrowding in existing emergency facilities, hospitals have begun to expand their emergency department services to off-site locations. Off-site emergency departments provide 24-hour emergency medical services at a distinct location, separate from the facility's central campus. Any Florida-licensed hospital that has a dedicated emergency department may provide emergency services in a location off of the hospital's main premises. Off-site emergency departments must be under the same direction, offer the same services, and comply with the same regulatory requirements as the emergency department located on the hospital's main premises.

Basic services include, but are not limited to:

- Ambulance delivery.
- Integrated hospital services.
- Distribute medications.
- Continuous operations (available 24-hours a day, 365 days a year).
- Medical screenings, examinations and evaluations by a physician, or authorized personnel under the supervision of a physician.<sup>1</sup>

There are no additional rules or standards specific for emergency departments located off the premises of the licensed hospital.<sup>2</sup>

Hospitals desiring to offer off-site emergency departments must meet the physical plant review requirements of s. 395.0163, F.S. The Agency for Health Care Administration (AHCA) must review the facility's plans and specifications before any construction begins. Reviews are also

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<sup>1</sup> Agency for Health Care Administration (AHCA), *Consumer Guides, Emergency and Urgent Care*, available at <https://www.floridahealthfinder.gov/reports-guides/urgent-care-guide.aspx#OffSiteED> (last visited Apr. 1, 2021).

<sup>2</sup> AHCA, *House Bill 1157 Fiscal Analysis* (Feb. 23, 2021) (on file with the Senate Committee on Health Policy).



conducted during the construction phase, and final physical plant approval is granted when the facility is determined to meet all applicable hospital building codes.<sup>3</sup>

There are currently 86 off-site emergency departments operated by 58 hospitals in Florida.<sup>4</sup>

### ***Emergency Department Utilization and Charges***

Although the total number of patients treated in an emergency department (ED)<sup>5</sup> has increased since 2008, the number of patients treated who were considered low-acuity<sup>6</sup> has dropped nearly 60 percent. In 2008, the number of patients treated in an ED who reported with a low-acuity problem was nearly 33 percent of all patients seen. By 2018, those numbers had dropped to approximately 12 percent.<sup>7</sup>

Despite the fact that the percentage of patients using EDs for low-acuity problems is trending downward, the overall volume of patients is still high. In 2018, EDs saw an approximate total of 9 million patients. At 12 percent, this indicates that just over 1 million patients used EDs for nonemergent medical issues. Patients using EDs for such problems could see significant charges billed. For example, in 2018, treatment for an upper respiratory infection averaged a \$2,772 charge; treatment for abdominal pain averaged a \$10,506 charge; and treatment for a urinary tract infection averaged a \$7,598 charge.<sup>8</sup>

### **Urgent Care Centers**

There is no specific licensure program for urgency care centers (UCCs). A UCC may be operated by a hospital, one or more clinicians, or by other persons or entities. Hospitals report off-site emergency departments, outpatient surgical locations, and other wholly-owned off-site outpatient locations through the hospital licensure process. The hospital's other outpatient locations are identified by name and address only, not services. Clinicians, other persons, and entities operating a UCC may be licensed as a health care clinic under ch. 400, Part X, F.S., or meet an exemption to the health care clinic licensure requirements.<sup>9</sup>

There are currently 212 UCCs in Florida.<sup>10</sup> In 2018, the average charge for a patient seen in a UCC was \$193.<sup>11</sup>

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<sup>3</sup> AHCA, *Emergency Services*, available at [https://ahca.myflorida.com/MCHQ/Health\\_Facility\\_Regulation/Hospital\\_Outpatient/Hospitals/EmergencyServices.shtml](https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Hospital_Outpatient/Hospitals/EmergencyServices.shtml), (last visited Mar. 19, 2021).

<sup>4</sup> AHCA, *House Bill 1157 Fiscal Analysis* (Feb. 23, 2021) (on file with the Senate Committee on Health Policy).

<sup>5</sup> In all emergency departments (EDs), not just off-site EDs.

<sup>6</sup> Requiring only straightforward or low complexity medical decision making and usually presenting with problems that are minor or are of low to moderate severity. See AHCA, *Emergency Department Utilization Report 2018*, p. 22, available at <https://fhfstore.blob.core.windows.net/documents/researchers/documents/ED%20Report%202018%20Final.pdf> (last visited Mar. 19, 2021).

<sup>7</sup> *Id.* at pp. 8 and 9.

<sup>8</sup> *Id.* at p. 10.

<sup>9</sup> AHCA, *House Bill 1157 Fiscal Analysis* (Feb. 23, 2021) (on file with the Senate Committee on Health Policy).

<sup>10</sup> See Florida Health Finder report, available at <https://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx>, (last visited Mar. 19, 2021).

<sup>11</sup> See <https://www.unitedhealthgroup.com/content/dam/UHG/PDF/2019/UHG-Avoidable-ED-Visits.pdf> (last visited Mar. 19, 2021).

### ***Hospital-based Urgent Care Centers***

Hospital-based UCCs are walk-in clinics owned and operated by a hospital and offer ambulatory care services outside of the traditional emergency room setting. Unlike emergency departments, UCCs typically operate during designated business hours and do not offer ambulance delivery services to the general public. However, based on their proximity to the hospital, hospital-based UCCs have the capacity to afford integrated hospital services to patients under their direct care.

Basic services include, but are not limited to:

- Ambulatory care (outpatient medical care, including, but not limited to, diagnosis, observation, treatment, consultation, intervention, and rehabilitation services).
- Prescriptions for medications.
- Arrangements for additional or long-term health care services.
- Integrated hospital services.

While the AHCA does not license hospital-based UCCs separately, they must comply with the ambulatory care requirements found in hospital licensure regulations. Hospital-based UCCs are required to publish a schedule of charges for medical services offered to patients. Posted schedules must include the prices charged to an uninsured person paying for such services by cash, check, credit card, or debit card. The schedule must be at least 15 square feet in size, displayed in a conspicuous location within the reception area of the UCC, and must include the 50 services most frequently provided by the clinic.<sup>12</sup>

### ***Physician-based Urgent Care Centers***

Physician-based UCCs are owned and operated by a physician or group of physicians and offer ambulatory medical treatment for non-life-threatening conditions on a walk-in basis. A typical physician-based UCC is a freestanding office operating during designated business hours, usually staffed by at least one physician, several medical assistants, nurses, and other health care professionals. These facilities are usually not equipped to offer integrated hospital services to individuals and will normally refer patients to either a primary care physician or specialist for advanced testing and/or treatment.

Basic services include, but are not limited to:

- Ambulatory care (diagnosis and treatment of non-life-threatening conditions, such as minor cuts or burns, the flu, or sinus infections).
- Prescriptions for medications.
- Arrangements for advanced or long-term health care services.

While the AHCA does license and regulate health care clinics, there are currently no separate licensure requirements for UCCs. However, a physician-based UCC may hold and maintain a health care clinic license, depending on the nature of its operation. Like all UCCs, physician-based UCCs are subject to the same charge schedule publishing requirements outlined above.<sup>13</sup>

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<sup>12</sup> AHCA, *Consumer Guides, Emergency and Urgent Care*, available at <https://www.floridahealthfinder.gov/reports-guides/urgent-care-guide.aspx#OffSiteED> (last visited Apr. 1, 2021).

<sup>13</sup> *Id.*

### ***Health Care Clinic-based Urgent Care Center***

Much like physician-based urgent care facilities, health care clinic-based UCCs typically offer ambulatory medical treatment for members of the community on a walk-in basis. These facilities usually provide medical care services to individuals at little to no cost and could potentially be a viable option for members of the community that are either uninsured or cannot afford treatment.

Additionally, while the AHCA does license and regulate health care clinics, there are currently no separate licensure requirements for UCCs. However, a health care clinic-based UCC must maintain an active health care clinic license.<sup>14</sup>

### **III. Effect of Proposed Changes:**

The bill amends multiple sections of law related to freestanding emergency departments (FEDs) and urgent care centers (UCCs).

**Section 1** amends s. 395.002, F.S., to define “freestanding emergency department” as a facility that:

- Provides emergency services and care;
- Is owned and operated by a licensed hospital and operates under the hospital’s license; and
- Is located on separate premises from the hospital.
- 

The bill also removes off-site emergency departments from the definition of a UCC and makes other conforming changes.

**Section 2** amends s. 395.003, F.S., to repeal obsolete language prohibiting the Agency for Health Care Administration (AHCA) from approving any FEDs prior to July 1, 2006.

**Section 3** amends s. 395.1041, F.S., to:

- Prohibit FEDs from holding themselves out to the public as UCCs, unless that site is operating as a hospital-based UCC and providing urgent care services that are not billed at emergency department rates.
- Require FEDs to identify themselves as hospital emergency departments using, at a minimum, prominent, lighted signage with the word “EMERGENCY” and the name of the hospital.
- Require FEDs to post conspicuous signs at locations readily accessible and visible to patients outside entrances and in waiting areas that must specify the facility’s average facility fee, and notify the public that the facility or a physician providing care at the facility may be an out-of-network provider. The signs must measure at least two square feet and the text must be in at least 36 point type. The signs must include the following statements:
  - “THIS IS A HOSPITAL EMERGENCY DEPARTMENT”;
  - “THIS IS NOT AN URGENT CARE CENTER”;
  - “EMERGENCY DEPARTMENT RATES ARE BILLED FOR OUR SERVICES.”

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<sup>14</sup> *Id.*

- Allow a FED that shares a location and public entrance with a UCC that operates as a hospital-based UCC and provides urgent care services that are not billed at emergency department rates to also state “AND URGENT CARE SERVICES” in addition to any other FED required sign statements.
- Require any advertisement for a FED that does not provide and bill for urgent care services as a hospital-based UCC to include the statement “This emergency department is not an urgent care center. It is part of (insert hospital name) and its services and care are billed at hospital emergency department rates.” Additionally, any billboard advertising a FED that does not provide and bill for urgent care services as a hospital-based UCC which measures at least 200 square feet must include the following statement at least 15 inches high “(INSERT NAME OF HOSPITAL) EMERGENCY DEPARTMENT. THIS IS NOT AN URGENT CARE CENTER.”
- Require the AHCA to post on its website, and update annually, information that provides a description of the difference between FEDs and UCCs, including:
  - At least two examples illustrating the impact on insured and insurer paid amounts of inappropriate utilization of nonemergent services and care in a hospital emergency department setting compared to utilization of nonemergent services and care in an urgent care center;
  - An interactive tool to locate local urgent care centers; and
  - What to do in the event of a true emergency.
- Require hospitals to post a link to the information AHCA publishes on its website in a prominent location on their websites.
- Creates an emergency room billing acknowledgement form with specific disclosure requirements and requires FEDs that bill for urgent care services to provide the form to patients receiving emergency medical treatment. The form must include the following:
  - “Your visit today will be billed as an emergency room visit”; and
  - “I, (insert patient’s name), understand that today’s visit will be BILLED AS AN EMERGENCY ROOM VISIT. I certify that the (insert hospital name) has not withheld, delayed, or conditioned a medical screening examination or stabilizing care based upon any payment related concerns. I understand that I may qualify for financial assistance if I am unable to pay for my care today.”

• **Section 4** amends s. 627.6405, F.S., to eliminate legislative intent language regarding the inappropriate use of EDs and to require health insurers to post on their websites, and update at least annually, a comparison of average in-network and out-of-network UCC and FED charges for the 30 most common UCC services, at least two examples of the impact on insured and insurer paid amounts of the inappropriate utilization of emergency departments for nonemergent services, and an interactive tool to locate local in-network and out-of-network UCCs.

**Sections 5 through 12** amend ss. 385.211, 390.011, 394.4787, 395.701, 400.9935, 409.905, 409.975, 468.505, 627.64194, and 765.101, F.S., to make conforming changes.

**Section 15** provides an effective date of July 1, 2021.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

PCS/SB 1976 may have an indeterminate negative fiscal impact on hospitals with FEDs due to the increased requirements of signage. The bill may have an indeterminate positive fiscal impact on patients who pay for health care out of pocket and if they decide to seek treatment for low-acuity health issues at UCCs rather than FEDs. The bill may have an indeterminate positive fiscal impact on health insurers if insureds choose to use lower-cost UCCs rather than FEDs for low-acuity health issues.

## C. Government Sector Impact:

The AHCA indicates that the bill's requirement for an interactive tool to be placed on the agency's website will require approximately \$15,000 to cover contracted services, but this amount can be absorbed within existing agency resources.<sup>15</sup>

**VI. Technical Deficiencies:**

None.

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<sup>15</sup> AHCA, *House Bill 1157 Fiscal Analysis* (Feb. 23, 2021) (on file with the Senate Committee on Health Policy).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 395.002, 395.003, 395.1041, 627.6405, 385.211, 390.011, 394.4787, 395.701, 400.9935, 409.905, 409.975, 468.505, 627.64194, and 765.101.

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

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

**PCS (410084) by Appropriations (Recommended by Appropriations Subcommittee on Health and Human:**

The committee substitute:

- Clarifies that freestanding emergency departments (FED) operating as hospital-based urgent care centers (UCC) and providing urgent care services that are not billed at emergency department rates are:
  - Exempts from some of the sign and advertisement requirements; and
  - Allowed to state “AND URGENT CARE SERVICES” on required signs if they share a location and public entrance with a UCC.
- Creates an emergency room billing acknowledgement form with specific disclosure requirements and requires FEDs that bill for urgent care services to provide the form to patients receiving emergency medical treatment.
- Makes technical changes.

**B. Amendments:**

None.



410084

576-03901-21

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

A bill to be entitled

An act relating to freestanding emergency departments;  
amending s. 395.002, F.S.; defining and revising  
terms; amending s. 395.003, F.S.; deleting an obsolete  
provision relating to a prohibition on new emergency  
departments located off the premises of licensed  
hospitals; amending s. 395.1041, F.S.; prohibiting a  
freestanding emergency department from holding itself  
out to the public as an urgent care center; providing  
an exception; requiring a freestanding emergency  
department to clearly identify itself as a hospital  
emergency department using certain signage; requiring  
a freestanding emergency department to post signs in  
certain locations which contain specified statements;  
providing requirements for such signs; providing  
requirements for the advertisement of freestanding  
emergency departments; requiring the Agency for Health  
Care Administration to post information on its website  
describing the differences between a freestanding  
emergency department and an urgent care center;  
requiring the agency to update such information on its  
website at least annually; requiring hospitals to post  
a link to such information on their websites;  
requiring certain freestanding emergency departments  
to provide an emergency room billing acknowledgement  
form to patients under certain circumstances;  
requiring that the form contain a specified heading



410084

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and statement; amending s. 627.6405, F.S.; deleting  
legislative findings and intent; requiring health  
insurers to post certain information regarding  
appropriate use of emergency care services on their  
websites and update such information at least  
annually; revising the definition of the term  
"emergency care"; amending ss. 385.211, 390.011,  
394.4787, 395.701, 400.9935, 409.905, 409.975,  
468.505, 627.64194, and 765.101, F.S.; conforming  
cross-references; providing an effective date.

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

Section 1. Present subsections (10) through (32) of section  
395.002, Florida Statutes, are redesignated as subsections (11)  
through (33), respectively, a new subsection (10) is added to  
that section, and present subsections (10), (27), and (29) are  
amended, to read:

395.002 Definitions.—As used in this chapter:

(10) "Freestanding emergency department" means a facility  
that:

(a) Provides emergency services and care;

(b) Is owned and operated by a licensed hospital and  
operates under the license of the hospital; and

(c) Is located on separate premises from the hospital.

(11)(10) "General hospital" means any facility which meets  
the provisions of subsection (13) (12) and which regularly makes  
its facilities and services available to the general population.

(28)(27) "Specialty hospital" means any facility which



410084

576-03901-21

57 meets the provisions of subsection (13) ~~(12)~~, and which  
58 regularly makes available either:

59 (a) The range of medical services offered by general  
60 hospitals, but restricted to a defined age or gender group of  
61 the population;

62 (b) A restricted range of services appropriate to the  
63 diagnosis, care, and treatment of patients with specific  
64 categories of medical or psychiatric illnesses or disorders; or

65 (c) Intensive residential treatment programs for children  
66 and adolescents as defined in subsection (16) ~~(15)~~.

67 ~~(30)~~ ~~(29)~~ "Urgent care center" means a facility or clinic  
68 that provides immediate but not emergent ambulatory medical care  
69 to patients. ~~The term includes an offsite emergency department~~  
70 ~~of a hospital that is presented to the general public in any~~  
71 ~~manner as a department where immediate and not only emergent~~  
72 ~~medical care is provided. The term also includes:~~

73 (a) An offsite facility of a facility licensed under this  
74 chapter, or a joint venture between a facility licensed under  
75 this chapter and a provider licensed under chapter 458 or  
76 chapter 459, that does not require a patient to make an  
77 appointment and is presented to the general public in any manner  
78 as a facility where immediate but not emergent medical care is  
79 provided.

80 (b) A clinic organization that is licensed under part X of  
81 chapter 400, maintains three or more locations using the same or  
82 a similar name, does not require a patient to make an  
83 appointment, and holds itself out to the general public in any  
84 manner as a facility or clinic where immediate but not emergent  
85 medical care is provided.



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86 Section 2. Paragraph (c) of subsection (1) of section  
87 395.003, Florida Statutes, is amended to read:

88 395.003 Licensure; denial, suspension, and revocation.—  
89 (1)

90 ~~(c) Until July 1, 2006, additional emergency departments~~  
91 ~~located off the premises of licensed hospitals may not be~~  
92 ~~authorized by the agency.~~

93 Section 3. Paragraph (m) is added to subsection (3) of  
94 section 395.1041, Florida Statutes, to read:

95 395.1041 Access to emergency services and care.—

96 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF  
97 FACILITY OR HEALTH CARE PERSONNEL.—

98 (m)1. A freestanding emergency department may not hold  
99 itself out to the public as an urgent care center, unless that  
100 site is operating in accordance with s. 395.107 and provides  
101 urgent care services that are not billed at emergency department  
102 rates, and must clearly identify itself as a hospital emergency  
103 department using, at a minimum, prominent lighted external  
104 signage that includes the word "EMERGENCY" in conjunction with  
105 the name of the hospital.

106 2. A freestanding emergency department shall conspicuously  
107 post signs at locations that are readily accessible to and  
108 visible by patients outside the entrance to the facility and in  
109 patient waiting areas which state the following: "THIS IS A  
110 HOSPITAL EMERGENCY DEPARTMENT." Unless the freestanding  
111 emergency department shares a location and a public entrance  
112 with an urgent care center, the signs must also state the  
113 following: "THIS IS NOT AN URGENT CARE CENTER. HOSPITAL  
114 EMERGENCY DEPARTMENT RATES ARE BILLED FOR OUR SERVICES." The





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115 signs must also specify the facility's average facility fee, if  
116 any, and notify the public that the facility or a physician  
117 providing medical care at the facility may be an out-of-network  
118 provider. The signs must be at least 2 square feet in size and  
119 the text must be in at least 36-point type. A freestanding  
120 emergency department that shares a location and public entrance  
121 with an urgent care center that operates in accordance with s.  
122 395.107 and does not bill patients at emergency department rates  
123 may also state "AND URGENT CARE SERVICES" in addition to any  
124 signage requirements required by this paragraph.

125 3. Except as provided in this paragraph, any advertisement  
126 for a freestanding emergency department that does not provide  
127 and bill for urgent care services in accordance with s. 395.107  
128 must include the following statement: "This emergency department  
129 is not an urgent care center. It is part of (insert hospital  
130 name) and its services and care are billed at hospital emergency  
131 department rates." Any billboard advertising a freestanding  
132 emergency department that does not provide and bill for urgent  
133 care services in accordance with s. 395.107 which measures at  
134 least 200 square feet must include the following statement in  
135 clearly legible contrasting color text at least 15 inches high:  
136 "(INSERT NAME OF HOSPITAL) EMERGENCY DEPARTMENT. THIS IS NOT AN  
137 URGENT CARE CENTER."

138 4.a. The agency shall post information on its website which  
139 provides a description of the differences between a freestanding  
140 emergency department and an urgent care center. Such description  
141 must include:

142 (I) At least two examples illustrating the impact on both  
143 insured and insurer paid amounts from the inappropriate use of



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144 nonemergent services and care in a hospital emergency department  
145 setting compared to the use of nonemergent services and care in  
146 an urgent care center;

147 (II) An interactive tool to locate local urgent care  
148 centers; and

149 (III) What to do in the event of a true emergency.

150 b. The agency shall update the information required in sub-  
151 paragraph a. at least annually. Each hospital shall post a  
152 link to such information in a prominent location on its website.

153 5. A freestanding emergency department that provides and  
154 bills for urgent care services in accordance with s. 395.107  
155 shall provide an emergency room billing acknowledgement form to  
156 a patient receiving emergency medical treatment from the  
157 emergency department after a medical screening examination is  
158 conducted and stabilizing care is provided to the patient. The  
159 form must have a heading that reads, "Your visit today will be  
160 billed as an emergency room visit" and must contain the  
161 following statement: "I, (insert patient's name), understand  
162 that today's visit will be BILLED AS AN EMERGENCY ROOM VISIT. I  
163 certify that the (insert hospital name) has not withheld,  
164 delayed, or conditioned a medical screening examination or  
165 stabilizing care based upon me signing or refusing to sign this  
166 form or based upon any payment related concerns. I understand  
167 that I may qualify for financial assistance if I am unable to  
168 pay for my care today."

169 Section 4. Section 627.6405, Florida Statutes, is amended  
170 to read:

171 627.6405 Decreasing inappropriate utilization of emergency  
172 care.—



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173 (1) ~~The Legislature finds and declares it to be of vital~~  
174 ~~importance that emergency services and care be provided by~~  
175 ~~hospitals and physicians to every person in need of such care,~~  
176 ~~but with the double-digit increases in health insurance~~  
177 ~~premiums, health care providers and insurers should encourage~~  
178 ~~patients and the insured to assume responsibility for their~~  
179 ~~treatment, including emergency care. The Legislature finds that~~  
180 ~~inappropriate utilization of emergency department services~~  
181 ~~increases the overall cost of providing health care and these~~  
182 ~~costs are ultimately borne by the hospital, the insured~~  
183 ~~patients, and, many times, by the taxpayers of this state.~~  
184 ~~Finally, the Legislature declares that the providers and~~  
185 ~~insurers must share the responsibility of providing alternative~~  
186 ~~treatment options to urgent care patients outside of the~~  
187 ~~emergency department. Therefore, it is the intent of the~~  
188 ~~Legislature to place the obligation for educating consumers and~~  
189 ~~creating mechanisms for delivery of care that will decrease the~~  
190 ~~overutilization of emergency service on health insurers and~~  
191 ~~providers.~~

192 ~~(2) A health insurer insurers shall post provide on its~~  
193 ~~website their websites information regarding appropriate~~  
194 ~~utilization of emergency care services which shall include, but~~  
195 ~~need not be limited to:~~

196 (a) A list of alternative urgent care contracted  
197 providers;

198 (b) The types of services offered by these providers;

199 (c) A comparison of statewide average in-network and out-  
200 of-network urgent care center and freestanding emergency  
201 department charges for the 30 most common urgent care center



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202 services;

203 (d) At least two examples illustrating the impact on  
204 insured and insurer paid amounts of inappropriate utilization of  
205 nonemergent services and care in a hospital emergency department  
206 setting compared to utilization of nonemergent services and care  
207 in an urgent care center;

208 (e) An interactive tool to locate local in-network and out-  
209 of-network urgent care centers; and

210 (f) What to do in the event of a true emergency.

211  
212 Health insurers shall update the information required in this  
213 subsection on its website at least annually.

214 (2)(3) Health insurers shall develop community emergency  
215 department diversion programs. Such programs may include, at the  
216 discretion of the insurer, but not be limited to, enlisting  
217 providers to be on call to insurers after hours, coordinating  
218 care through local community resources, and providing incentives  
219 to providers for case management.

220 (3)(4) As a disincentive for insureds to inappropriately  
221 use emergency department services for nonemergency care, health  
222 insurers may require higher copayments for urgent care or  
223 primary care provided in an emergency department and higher  
224 copayments for use of out-of-network emergency departments.  
225 Higher copayments may not be charged for the utilization of the  
226 emergency department for emergency care. For the purposes of  
227 this section, the term "emergency care" has the same meaning as  
228 the term "emergency services and care" as defined provided in s.  
229 395.002(9) s. 395.002 and includes shall include services  
230 provided to rule out an emergency medical condition.



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231 Section 5. Subsection (2) of section 385.211, Florida  
232 Statutes, is amended to read:

233 385.211 Refractory and intractable epilepsy treatment and  
234 research at recognized medical centers.—

235 (2) Notwithstanding chapter 893, medical centers recognized  
236 pursuant to s. 381.925, or an academic medical research  
237 institution legally affiliated with a licensed children's  
238 specialty hospital as defined in s. 395.002(28) ~~s. 395.002(27)~~  
239 that contracts with the Department of Health, may conduct  
240 research on cannabidiol and low-THC cannabis. This research may  
241 include, but is not limited to, the agricultural development,  
242 production, clinical research, and use of liquid medical  
243 derivatives of cannabidiol and low-THC cannabis for the  
244 treatment for refractory or intractable epilepsy. The authority  
245 for recognized medical centers to conduct this research is  
246 derived from 21 C.F.R. parts 312 and 316. Current state or  
247 privately obtained research funds may be used to support the  
248 activities described in this section.

249 Section 6. Subsection (7) of section 390.011, Florida  
250 Statutes, is amended to read:

251 390.011 Definitions.—As used in this chapter, the term:

252 (7) "Hospital" means a facility as defined in s.  
253 395.002(13) ~~s. 395.002(12)~~ and licensed under chapter 395 and  
254 part II of chapter 408.

255 Section 7. Subsection (7) of section 394.4787, Florida  
256 Statutes, is amended to read:

257 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and  
258 394.4789.—As used in this section and ss. 394.4786, 394.4788,  
259 and 394.4789:



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260 (7) "Specialty psychiatric hospital" means a hospital  
261 licensed by the agency pursuant to s. 395.002(28) ~~s. 395.002(27)~~  
262 and part II of chapter 408 as a specialty psychiatric hospital.

263 Section 8. Paragraph (c) of subsection (1) of section  
264 395.701, Florida Statutes, is amended to read:

265 395.701 Annual assessments on net operating revenues for  
266 inpatient and outpatient services to fund public medical  
267 assistance; administrative fines for failure to pay assessments  
268 when due; exemption.—

269 (1) For the purposes of this section, the term:

270 (c) "Hospital" means a health care institution as defined  
271 in s. 395.002(13) ~~s. 395.002(12)~~, but does not include any  
272 hospital operated by a state agency.

273 Section 9. Paragraph (i) of subsection (1) of section  
274 400.9935, Florida Statutes, is amended to read:

275 400.9935 Clinic responsibilities.—

276 (1) Each clinic shall appoint a medical director or clinic  
277 director who shall agree in writing to accept legal  
278 responsibility for the following activities on behalf of the  
279 clinic. The medical director or the clinic director shall:

280 (i) Ensure that the clinic publishes a schedule of charges  
281 for the medical services offered to patients. The schedule must  
282 include the prices charged to an uninsured person paying for  
283 such services by cash, check, credit card, or debit card. The  
284 schedule may group services by price levels, listing services in  
285 each price level. The schedule must be posted in a conspicuous  
286 place in the reception area of any clinic that is considered an  
287 urgent care center as defined in s. 395.002(30)(b) ~~s.~~  
288 ~~395.002(29)(b)~~ and must include, but is not limited to, the 50



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289 services most frequently provided by the clinic. The posting may  
290 be a sign that must be at least 15 square feet in size or  
291 through an electronic messaging board that is at least 3 square  
292 feet in size. The failure of a clinic, including a clinic that  
293 is considered an urgent care center, to publish and post a  
294 schedule of charges as required by this section shall result in  
295 a fine of not more than \$1,000, per day, until the schedule is  
296 published and posted.

297 Section 10. Subsection (8) of section 409.905, Florida  
298 Statutes, is amended to read:

299 409.905 Mandatory Medicaid services.—The agency may make  
300 payments for the following services, which are required of the  
301 state by Title XIX of the Social Security Act, furnished by  
302 Medicaid providers to recipients who are determined to be  
303 eligible on the dates on which the services were provided. Any  
304 service under this section shall be provided only when medically  
305 necessary and in accordance with state and federal law.  
306 Mandatory services rendered by providers in mobile units to  
307 Medicaid recipients may be restricted by the agency. Nothing in  
308 this section shall be construed to prevent or limit the agency  
309 from adjusting fees, reimbursement rates, lengths of stay,  
310 number of visits, number of services, or any other adjustments  
311 necessary to comply with the availability of moneys and any  
312 limitations or directions provided for in the General  
313 Appropriations Act or chapter 216.

314 (8) NURSING FACILITY SERVICES.—The agency shall pay for 24-  
315 hour-a-day nursing and rehabilitative services for a recipient  
316 in a nursing facility licensed under part II of chapter 400 or  
317 in a rural hospital, as defined in s. 395.602, or in a Medicare



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318 certified skilled nursing facility operated by a hospital, as  
319 defined by s. 395.002(11) ~~s. 395.002(10)~~, that is licensed under  
320 part I of chapter 395, and in accordance with ~~provisions set~~  
321 ~~forth in~~ s. 409.908(2)(a), which services are ordered by and  
322 provided under the direction of a licensed physician. However,  
323 if a nursing facility has been destroyed or otherwise made  
324 uninhabitable by natural disaster or other emergency and another  
325 nursing facility is not available, the agency must pay for  
326 similar services temporarily in a hospital licensed under part I  
327 of chapter 395 provided federal funding is approved and  
328 available. The agency shall pay only for bed-hold days if the  
329 facility has an occupancy rate of 95 percent or greater. The  
330 agency is authorized to seek any federal waivers to implement  
331 this policy.

332 Section 11. Paragraph (b) of subsection (1) of section  
333 409.975, Florida Statutes, is amended to read:

334 409.975 Managed care plan accountability.—In addition to  
335 the requirements of s. 409.967, plans and providers  
336 participating in the managed medical assistance program shall  
337 comply with the requirements of this section.

338 (1) PROVIDER NETWORKS.—Managed care plans must develop and  
339 maintain provider networks that meet the medical needs of their  
340 enrollees in accordance with standards established pursuant to  
341 s. 409.967(2)(c). Except as provided in this section, managed  
342 care plans may limit the providers in their networks based on  
343 credentials, quality indicators, and price.

344 (b) Certain providers are statewide resources and essential  
345 providers for all managed care plans in all regions. All managed  
346 care plans must include these essential providers in their



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347 networks. Statewide essential providers include:

- 348 1. Faculty plans of Florida medical schools.  
349 2. Regional perinatal intensive care centers as defined in  
350 s. 383.16(2).  
351 3. Hospitals licensed as specialty children's hospitals as  
352 defined in s. 395.002(28) ~~s. 395.002(27)~~.  
353 4. Accredited and integrated systems serving medically  
354 complex children which comprise separately licensed, but  
355 commonly owned, health care providers delivering at least the  
356 following services: medical group home, in-home and outpatient  
357 nursing care and therapies, pharmacy services, durable medical  
358 equipment, and Prescribed Pediatric Extended Care.

359 Managed care plans that have not contracted with all statewide  
360 essential providers in all regions as of the first date of  
361 recipient enrollment must continue to negotiate in good faith.  
362 Payments to physicians on the faculty of nonparticipating  
363 Florida medical schools shall be made at the applicable Medicaid  
364 rate. Payments for services rendered by regional perinatal  
365 intensive care centers shall be made at the applicable Medicaid  
366 rate as of the first day of the contract between the agency and  
367 the plan. Except for payments for emergency services, payments  
368 to nonparticipating specialty children's hospitals shall equal  
369 the highest rate established by contract between that provider  
370 and any other Medicaid managed care plan.

372 Section 12. Paragraph (1) of subsection (1) of section  
373 468.505, Florida Statutes, is amended to read:

374 468.505 Exemptions; exceptions.-

- 375 (1) Nothing in this part may be construed as prohibiting or



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376 restricting the practice, services, or activities of:

- 377 (1) A person employed by a nursing facility exempt from  
378 licensing under s. 395.002(13) ~~s. 395.002(12)~~, or a person  
379 exempt from licensing under s. 464.022.

380 Section 13. Paragraph (b) of subsection (1) of section  
381 627.64194, Florida Statutes, is amended to read:

382 627.64194 Coverage requirements for services provided by  
383 nonparticipating providers; payment collection limitations.-

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

- 385 (b) "Facility" means a licensed facility as defined in s.  
386 395.002(17) ~~s. 395.002(16)~~ and an urgent care center as defined  
387 in s. 395.002.

388 Section 14. Subsection (2) of section 765.101, Florida  
389 Statutes, is amended to read:

390 765.101 Definitions.-As used in this chapter:

- 391 (2) "Attending physician" means the physician who has  
392 primary responsibility for the treatment and care of the patient  
393 while the patient receives such treatment or care in a hospital  
394 as defined in s. 395.002(13) ~~s. 395.002(12)~~.

395 Section 15. This act shall take effect July 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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/SB 1976

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

SUBJECT: Freestanding Emergency Departments

DATE: April 22, 2021

REVISED: \_\_\_\_\_

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

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1976 amends multiple sections of law to establish a stronger distinction between freestanding emergency departments (FED) and urgent care centers (UCC). The bill:

- Establishes specific transparency requirements for FEDs, including requirements to post certain information in and around the facility that clearly identifies it as a FED, as well as information related to facility fees and network providers.
- Provides requirements for FED advertisements.
- Clarifies that FEDs operating as hospital-based UCCs and providing urgent care services that are not billed at emergency department rates are exempt from some of the sign and advertisement requirements.
- Requires the Agency for Health Care Administration (AHCA) to publish the following information on its website, and update at least annually:
  - A description of the differences between a FED and UCC;
  - At least two examples illustrating the cost difference between non-emergent care provided in a hospital emergency department setting and a UCC;
  - An interactive tool to locate local UCCs; and
  - Information on what to do in the event of a true emergency.
- Requires hospitals to post a link to the information AHCA publishes on its website in a prominent location on their websites.

- Creates an emergency room billing acknowledgement form with specific disclosure requirements and requires FEDs that bill for urgent care services to provide the form to patients receiving emergency medical treatment.
- Requires a health insurer to publish the following information on its website, and update at least annually:
  - A comparison of average in-network and out-of-network UCC and FED charges for the 30 most common UCC services;
  - At least two examples illustrating the cost difference between non-emergent care provided in a hospital emergency department setting and a UCC; and
  - An interactive tool to locate local in-network and out-of-network UCCs.

The bill has an insignificant negative impact to state expenditures that the AHCA can absorb with existing agency resources. *See* Section V of this analysis.

The bill takes effect on July 1, 2021.

## II. Present Situation:

### Off-Site Emergency Departments

With an increasing demand for emergency medical services and issues of overcrowding in existing emergency facilities, hospitals have begun to expand their emergency department services to off-site locations. Off-site emergency departments provide 24-hour emergency medical services at a distinct location, separate from the facility's central campus. Any Florida-licensed hospital that has a dedicated emergency department may provide emergency services in a location off of the hospital's main premises. Off-site emergency departments must be under the same direction, offer the same services, and comply with the same regulatory requirements as the emergency department located on the hospital's main premises.

Basic services include, but are not limited to:

- Ambulance delivery.
- Integrated hospital services.
- Distribute medications.
- Continuous operations (available 24-hours a day, 365 days a year).
- Medical screenings, examinations and evaluations by a physician, or authorized personnel under the supervision of a physician.<sup>1</sup>

There are no additional rules or standards specific for emergency departments located off the premises of the licensed hospital.<sup>2</sup>

Hospitals desiring to offer off-site emergency departments must meet the physical plant review requirements of s. 395.0163, F.S. The Agency for Health Care Administration (AHCA) must review the facility's plans and specifications before any construction begins. Reviews are also

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<sup>1</sup> Agency for Health Care Administration (AHCA), *Consumer Guides, Emergency and Urgent Care*, available at <https://www.floridahealthfinder.gov/reports-guides/urgent-care-guide.aspx#OffSiteED> (last visited Apr. 1, 2021).

<sup>2</sup> AHCA, *House Bill 1157 Fiscal Analysis* (Feb. 23, 2021) (on file with the Senate Committee on Health Policy).

conducted during the construction phase, and final physical plant approval is granted when the facility is determined to meet all applicable hospital building codes.<sup>3</sup>

There are currently 86 off-site emergency departments operated by 58 hospitals in Florida.<sup>4</sup>

### ***Emergency Department Utilization and Charges***

Although the total number of patients treated in an emergency department (ED)<sup>5</sup> has increased since 2008, the number of patients treated who were considered low-acuity<sup>6</sup> has dropped nearly 60 percent. In 2008, the number of patients treated in an ED who reported with a low-acuity problem was nearly 33 percent of all patients seen. By 2018, those numbers had dropped to approximately 12 percent.<sup>7</sup>

Despite the fact that the percentage of patients using EDs for low-acuity problems is trending downward, the overall volume of patients is still high. In 2018, EDs saw an approximate total of 9 million patients. At 12 percent, this indicates that just over 1 million patients used EDs for nonemergent medical issues. Patients using EDs for such problems could see significant charges billed. For example, in 2018, treatment for an upper respiratory infection averaged a \$2,772 charge; treatment for abdominal pain averaged a \$10,506 charge; and treatment for a urinary tract infection averaged a \$7,598 charge.<sup>8</sup>

### **Urgent Care Centers**

There is no specific licensure program for urgency care centers (UCCs). A UCC may be operated by a hospital, one or more clinicians, or by other persons or entities. Hospitals report off-site emergency departments, outpatient surgical locations, and other wholly-owned off-site outpatient locations through the hospital licensure process. The hospital's other outpatient locations are identified by name and address only, not services. Clinicians, other persons, and entities operating a UCC may be licensed as a health care clinic under ch. 400, Part X, F.S., or meet an exemption to the health care clinic licensure requirements.<sup>9</sup>

There are currently 212 UCCs in Florida.<sup>10</sup> In 2018, the average charge for a patient seen in a UCC was \$193.<sup>11</sup>

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<sup>3</sup> AHCA, *Emergency Services*, available at [https://ahca.myflorida.com/MCHQ/Health\\_Facility\\_Regulation/Hospital\\_Outpatient/Hospitals/EmergencyServices.shtml](https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Hospital_Outpatient/Hospitals/EmergencyServices.shtml), (last visited Mar. 19, 2021).

<sup>4</sup> AHCA, *House Bill 1157 Fiscal Analysis* (Feb. 23, 2021) (on file with the Senate Committee on Health Policy).

<sup>5</sup> In all emergency departments (EDs), not just off-site EDs.

<sup>6</sup> Requiring only straightforward or low complexity medical decision making and usually presenting with problems that are minor or are of low to moderate severity. See AHCA, *Emergency Department Utilization Report 2018*, p. 22, available at <https://fhfstore.blob.core.windows.net/documents/researchers/documents/ED%20Report%202018%20Final.pdf> (last visited Mar. 19, 2021).

<sup>7</sup> *Id.* at pp. 8 and 9.

<sup>8</sup> *Id.* at p. 10.

<sup>9</sup> AHCA, *House Bill 1157 Fiscal Analysis* (Feb. 23, 2021) (on file with the Senate Committee on Health Policy).

<sup>10</sup> See Florida Health Finder report, available at <https://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx>, (last visited Mar. 19, 2021).

<sup>11</sup> See <https://www.unitedhealthgroup.com/content/dam/UHG/PDF/2019/UHG-Avoidable-ED-Visits.pdf> (last visited Mar. 19, 2021).



### ***Hospital-based Urgent Care Centers***

Hospital-based UCCs are walk-in clinics owned and operated by a hospital and offer ambulatory care services outside of the traditional emergency room setting. Unlike emergency departments, UCCs typically operate during designated business hours and do not offer ambulance delivery services to the general public. However, based on their proximity to the hospital, hospital-based UCCs have the capacity to afford integrated hospital services to patients under their direct care.

Basic services include, but are not limited to:

- Ambulatory care (outpatient medical care, including, but not limited to, diagnosis, observation, treatment, consultation, intervention, and rehabilitation services).
- Prescriptions for medications.
- Arrangements for additional or long-term health care services.
- Integrated hospital services.

While the AHCA does not license hospital-based UCCs separately, they must comply with the ambulatory care requirements found in hospital licensure regulations. Hospital-based UCCs are required to publish a schedule of charges for medical services offered to patients. Posted schedules must include the prices charged to an uninsured person paying for such services by cash, check, credit card, or debit card. The schedule must be at least 15 square feet in size, displayed in a conspicuous location within the reception area of the UCC, and must include the 50 services most frequently provided by the clinic.<sup>12</sup>

### ***Physician-based Urgent Care Centers***

Physician-based UCCs are owned and operated by a physician or group of physicians and offer ambulatory medical treatment for non-life-threatening conditions on a walk-in basis. A typical physician-based UCC is a freestanding office operating during designated business hours, usually staffed by at least one physician, several medical assistants, nurses, and other health care professionals. These facilities are usually not equipped to offer integrated hospital services to individuals and will normally refer patients to either a primary care physician or specialist for advanced testing and/or treatment.

Basic services include, but are not limited to:

- Ambulatory care (diagnosis and treatment of non-life-threatening conditions, such as minor cuts or burns, the flu, or sinus infections).
- Prescriptions for medications.
- Arrangements for advanced or long-term health care services.

While the AHCA does license and regulate health care clinics, there are currently no separate licensure requirements for UCCs. However, a physician-based UCC may hold and maintain a health care clinic license, depending on the nature of its operation. Like all UCCs, physician-based UCCs are subject to the same charge schedule publishing requirements outlined above.<sup>13</sup>

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<sup>12</sup> AHCA, *Consumer Guides, Emergency and Urgent Care*, available at <https://www.floridahealthfinder.gov/reports-guides/urgent-care-guide.aspx#OffSiteED> (last visited Apr. 1, 2021).

<sup>13</sup> *Id.*

### ***Health Care Clinic-based Urgent Care Center***

Much like physician-based urgent care facilities, health care clinic-based UCCs typically offer ambulatory medical treatment for members of the community on a walk-in basis. These facilities usually provide medical care services to individuals at little to no cost and could potentially be a viable option for members of the community that are either uninsured or cannot afford treatment.

Additionally, while the AHCA does license and regulate health care clinics, there are currently no separate licensure requirements for UCCs. However, a health care clinic-based UCC must maintain an active health care clinic license.<sup>14</sup>

### **III. Effect of Proposed Changes:**

The bill amends multiple sections of law related to freestanding emergency departments (FEDs) and urgent care centers (UCCs).

**Section 1** amends s. 395.002, F.S., to define “freestanding emergency department” as a facility that:

- Provides emergency services and care;
- Is owned and operated by a licensed hospital and operates under the hospital’s license; and
- Is located on separate premises from the hospital.
- 

The bill also removes off-site emergency departments from the definition of a UCC and makes other conforming changes.

**Section 2** amends s. 395.003, F.S., to repeal obsolete language prohibiting the Agency for Health Care Administration (AHCA) from approving any FEDs prior to July 1, 2006.

**Section 3** amends s. 395.1041, F.S., to:

- Prohibit FEDs from holding themselves out to the public as UCCs, unless that site is operating as a hospital-based UCC and providing urgent care services that are not billed at emergency department rates.
- Require FEDs to identify themselves as hospital emergency departments using, at a minimum, prominent, lighted signage with the word “EMERGENCY” and the name of the hospital.
- Require FEDs to post conspicuous signs at locations readily accessible and visible to patients outside entrances and in waiting areas that must specify the facility’s average facility fee, and notify the public that the facility or a physician providing care at the facility may be an out-of-network provider. The signs must measure at least two square feet and the text must be in at least 36 point type. The signs must include the following statements:
  - “THIS IS A HOSPITAL EMERGENCY DEPARTMENT”;
  - “THIS IS NOT AN URGENT CARE CENTER”;
  - “EMERGENCY DEPARTMENT RATES ARE BILLED FOR OUR SERVICES.”

---

<sup>14</sup> *Id.*

- Allow a FED that shares a location and public entrance with a UCC that operates as a hospital-based UCC and provides urgent care services that are not billed at emergency department rates to also state “AND URGENT CARE SERVICES” in addition to any other FED required sign statements.
- Require any advertisement for a FED that does not provide and bill for urgent care services as a hospital-based UCC to include the statement “This emergency department is not an urgent care center. It is part of (insert hospital name) and its services and care are billed at hospital emergency department rates.” Additionally, any billboard advertising a FED that does not provide and bill for urgent care services as a hospital-based UCC which measures at least 200 square feet must include the following statement at least 15 inches high “(INSERT NAME OF HOSPITAL) EMERGENCY DEPARTMENT. THIS IS NOT AN URGENT CARE CENTER.”
- Require the AHCA to post on its website, and update annually, information that provides a description of the difference between FEDs and UCCs, including:
  - At least two examples illustrating the impact on insured and insurer paid amounts of inappropriate utilization of nonemergent services and care in a hospital emergency department setting compared to utilization of nonemergent services and care in an urgent care center;
  - An interactive tool to locate local urgent care centers; and
  - What to do in the event of a true emergency.
- Require hospitals to post a link to the information AHCA publishes on its website in a prominent location on their websites.
- Creates an emergency room billing acknowledgement form with specific disclosure requirements and requires FEDs that bill for urgent care services to provide the form to patients receiving emergency medical treatment. The form must include the following:
  - “Your visit today will be billed as an emergency room visit”; and
  - “I, (insert patient’s name), understand that today’s visit will be BILLED AS AN EMERGENCY ROOM VISIT. I certify that the (insert hospital name) has not withheld, delayed, or conditioned a medical screening examination or stabilizing care based upon any payment related concerns. I understand that I may qualify for financial assistance if I am unable to pay for my care today.”

• **Section 4** amends s. 627.6405, F.S., to eliminate legislative intent language regarding the inappropriate use of EDs and to require health insurers to post on their websites, and update at least annually, a comparison of average in-network and out-of-network UCC and FED charges for the 30 most common UCC services, at least two examples of the impact on insured and insurer paid amounts of the inappropriate utilization of emergency departments for nonemergent services, and an interactive tool to locate local in-network and out-of-network UCCs.

**Sections 5 through 12** amend ss. 385.211, 390.011, 394.4787, 395.701, 400.9935, 409.905, 409.975, 468.505, 627.64194, and 765.101, F.S., to make conforming changes.

**Section 15** provides an effective date of July 1, 2021.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

CS/SB 1976 may have an indeterminate negative fiscal impact on hospitals with FEDs due to the increased requirements of signage. The bill may have an indeterminate positive fiscal impact on patients who pay for health care out of pocket and if they decide to seek treatment for low-acuity health issues at UCCs rather than FEDs. The bill may have an indeterminate positive fiscal impact on health insurers if insureds choose to use lower-cost UCCs rather than FEDs for low-acuity health issues.

## C. Government Sector Impact:

The AHCA indicates that the bill's requirement for an interactive tool to be placed on the agency's website will require approximately \$15,000 to cover contracted services, but this amount can be absorbed within existing agency resources.<sup>15</sup>

**VI. Technical Deficiencies:**

None.

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<sup>15</sup> AHCA, *House Bill 1157 Fiscal Analysis* (Feb. 23, 2021) (on file with the Senate Committee on Health Policy).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 395.002, 395.003, 395.1041, 627.6405, 385.211, 390.011, 394.4787, 395.701, 400.9935, 409.905, 409.975, 468.505, 627.64194, and 765.101.

**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 April 21, 2021:**

The committee substitute:

- Clarifies that freestanding emergency departments (FED) operating as hospital-based urgent care centers (UCC) and providing urgent care services that are not billed at emergency department rates are:
  - Exempts from some of the sign and advertisement requirements; and
  - Allowed to state “AND URGENT CARE SERVICES” on required signs if they share a location and public entrance with a UCC.
- Creates an emergency room billing acknowledgement form with specific disclosure requirements and requires FEDs that bill for urgent care services to provide the form to patients receiving emergency medical treatment.
- Makes technical changes.

**B. Amendments:**

None.

By Senator Brodeur

9-01437-21

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1 A bill to be entitled  
 2 An act relating to freestanding emergency departments;  
 3 amending s. 395.002, F.S.; defining and revising  
 4 terms; amending s. 395.003, F.S.; deleting an obsolete  
 5 provision relating to a prohibition on new emergency  
 6 departments located off the premises of licensed  
 7 hospitals; amending s. 395.1041, F.S.; prohibiting a  
 8 freestanding emergency department from holding itself  
 9 out to the public as an urgent care center; requiring  
 10 a freestanding emergency department to clearly  
 11 identify itself as a hospital emergency department  
 12 using certain signage; requiring a freestanding  
 13 emergency department to post signs in certain  
 14 locations which contain specified statements;  
 15 providing requirements for such signs; providing  
 16 requirements for the advertisement of freestanding  
 17 emergency departments; requiring the Agency for Health  
 18 Care Administration to post information on its website  
 19 describing the differences between a freestanding  
 20 emergency department and an urgent care center;  
 21 requiring the agency to update such information on its  
 22 website at least annually; requiring hospitals to post  
 23 a link to such information on their websites; amending  
 24 s. 627.6405, F.S.; deleting legislative findings and  
 25 intent; requiring health insurers to post certain  
 26 information regarding appropriate use of emergency  
 27 care services on their websites and update such  
 28 information at least annually; revising the definition  
 29 of the term "emergency care"; amending ss. 385.211,

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

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30 390.011, 394.4787, 395.701, 400.9935, 409.905,  
 31 409.975, 468.505, 627.64194, and 765.101, F.S.;  
 32 conforming cross-references; providing an effective  
 33 date.  
 34

35 Be It Enacted by the Legislature of the State of Florida:  
 36

37 Section 1. Present subsections (10) through (32) of section  
 38 395.002, Florida Statutes, are redesignated as subsections (11)  
 39 through (33), respectively, a new subsection (10) is added to  
 40 that section, and present subsections (10), (27), and (29) are  
 41 amended, to read:

42 395.002 Definitions.—As used in this chapter:

43 (10) "Freestanding emergency department" means a facility  
 44 that:

45 (a) Provides emergency services and care;

46 (b) Is owned and operated by a licensed hospital and  
 47 operates under the license of the hospital; and

48 (c) Is located on separate premises from the hospital.

49 (11)~~(10)~~ "General hospital" means any facility which meets  
 50 the provisions of subsection (13) ~~(12)~~ and which regularly makes  
 51 its facilities and services available to the general population.

52 ~~(28)~~~~(27)~~ "Specialty hospital" means any facility which  
 53 meets the provisions of subsection (13) ~~(12)~~, and which  
 54 regularly makes available either:

55 (a) The range of medical services offered by general  
 56 hospitals, but restricted to a defined age or gender group of  
 57 the population;

58 (b) A restricted range of services appropriate to the

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59 diagnosis, care, and treatment of patients with specific  
60 categories of medical or psychiatric illnesses or disorders; or  
61 (c) Intensive residential treatment programs for children  
62 and adolescents as defined in subsection (16) ~~(15)~~.  
63 ~~(30)-(29)~~ "Urgent care center" means a facility or clinic  
64 that provides immediate but not emergent ambulatory medical care  
65 to patients. ~~The term includes an offsite emergency department~~  
66 ~~of a hospital that is presented to the general public in any~~  
67 ~~manner as a department where immediate and not only emergent~~  
68 ~~medical care is provided.~~ The term also includes:  
69 (a) An offsite facility of a facility licensed under this  
70 chapter, or a joint venture between a facility licensed under  
71 this chapter and a provider licensed under chapter 458 or  
72 chapter 459, that does not require a patient to make an  
73 appointment and is presented to the general public in any manner  
74 as a facility where immediate but not emergent medical care is  
75 provided.  
76 (b) A clinic organization that is licensed under part X of  
77 chapter 400, maintains three or more locations using the same or  
78 a similar name, does not require a patient to make an  
79 appointment, and holds itself out to the general public in any  
80 manner as a facility or clinic where immediate but not emergent  
81 medical care is provided.  
82 Section 2. Paragraph (c) of subsection (1) of section  
83 395.003, Florida Statutes, is amended to read:  
84 395.003 Licensure; denial, suspension, and revocation.—  
85 (1)  
86 ~~(c) Until July 1, 2006, additional emergency departments~~  
87 ~~located off the premises of licensed hospitals may not be~~

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88 ~~authorized by the agency.~~  
89 Section 3. Paragraph (m) is added to subsection (3) of  
90 section 395.1041, Florida Statutes, to read:  
91 395.1041 Access to emergency services and care.—  
92 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF  
93 FACILITY OR HEALTH CARE PERSONNEL.—  
94 (m)1. A freestanding emergency department may not hold  
95 itself out to the public as an urgent care center and must  
96 clearly identify itself as a hospital emergency department  
97 using, at a minimum, prominent lighted external signage that  
98 includes the word "EMERGENCY" in conjunction with the name of  
99 the hospital.  
100 2. A freestanding emergency department shall conspicuously  
101 post signs at locations that are readily accessible to and  
102 visible by patients outside the entrance to the facility and in  
103 patient waiting areas which state the following: "THIS IS A  
104 HOSPITAL EMERGENCY DEPARTMENT." Unless the freestanding  
105 emergency department shares a location and a public entrance  
106 with an urgent care center, the signs must also state the  
107 following: "THIS IS NOT AN URGENT CARE CENTER. HOSPITAL  
108 EMERGENCY DEPARTMENT RATES ARE BILLED FOR OUR SERVICES." The  
109 signs must also specify the facility's average facility fee, if  
110 any, and notify the public that the facility or a physician  
111 providing medical care at the facility may be an out-of-network  
112 provider. The signs must be at least 2 square feet in size and  
113 the text must be in at least 36-point type.  
114 3. Except as provided in this paragraph, any advertisement  
115 for a freestanding emergency department must include the  
116 following statement: "This emergency department is not an urgent

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117 care center. It is part of (insert hospital name) and its  
 118 services and care are billed at hospital emergency department  
 119 rates." Any billboard advertising a freestanding emergency  
 120 department which measures at least 200 square feet must include  
 121 the following statement in clearly legible contrasting color  
 122 text at least 15 inches high: "(INSERT NAME OF HOSPITAL)  
 123 EMERGENCY DEPARTMENT. THIS IS NOT AN URGENT CARE CENTER."

124 4.a. The agency shall post on its website information that  
 125 provides a description of the differences between a freestanding  
 126 emergency department and an urgent care center. Such description  
 127 must include:

128 (I) At least two examples illustrating the impact on  
 129 insured and insurer paid amounts of inappropriate utilization of  
 130 nonemergent services and care in a hospital emergency department  
 131 setting compared to utilization of nonemergent services and care  
 132 in an urgent care center;

133 (II) An interactive tool to locate local urgent care  
 134 centers; and

135 (III) What to do in the event of a true emergency.

136 b. The agency shall update the information required in sub-  
 137 paragraph a. at least annually. Each hospital shall post a  
 138 link to such information in a prominent location on its website.

139 Section 4. Section 627.6405, Florida Statutes, is amended  
 140 to read:

141 627.6405 Decreasing inappropriate utilization of emergency  
 142 care.—

143 ~~(1) The Legislature finds and declares it to be of vital~~  
 144 ~~importance that emergency services and care be provided by~~  
 145 ~~hospitals and physicians to every person in need of such care,~~

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146 ~~but with the double-digit increases in health insurance~~  
 147 ~~premiums, health care providers and insurers should encourage~~  
 148 ~~patients and the insured to assume responsibility for their~~  
 149 ~~treatment, including emergency care. The Legislature finds that~~  
 150 ~~inappropriate utilization of emergency department services~~  
 151 ~~increases the overall cost of providing health care and these~~  
 152 ~~costs are ultimately borne by the hospital, the insured~~  
 153 ~~patients, and, many times, by the taxpayers of this state.~~  
 154 ~~Finally, the Legislature declares that the providers and~~  
 155 ~~insurers must share the responsibility of providing alternative~~  
 156 ~~treatment options to urgent care patients outside of the~~  
 157 ~~emergency department. Therefore, it is the intent of the~~  
 158 ~~Legislature to place the obligation for educating consumers and~~  
 159 ~~creating mechanisms for delivery of care that will decrease the~~  
 160 ~~overutilization of emergency service on health insurers and~~  
 161 ~~providers.~~

162 ~~(2) A health insurer insurers shall post provide on its~~  
 163 ~~website their websites~~ information regarding appropriate  
 164 utilization of emergency care services which shall include, but  
 165 ~~need not be limited to:~~

166 (a) A list of alternative urgent care contracted  
 167 providers;

168 (b) The types of services offered by these providers;

169 (c) A comparison of statewide average in-network and out-  
 170 of-network urgent care center and freestanding emergency  
 171 department charges for the 30 most common urgent care center  
 172 services;

173 (d) At least two examples illustrating the impact on  
 174 insured and insurer paid amounts of inappropriate utilization of



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175 nonemergent services and care in a hospital emergency department  
 176 setting compared to utilization of nonemergent services and care  
 177 in an urgent care center;

178 (e) An interactive tool to locate local in-network and out-  
 179 of-network urgent care centers; and

180 (f) What to do in the event of a true emergency.

181  
 182 Health insurers shall update the information required in this  
 183 subsection on its website at least annually.

184 (2)(3) Health insurers shall develop community emergency  
 185 department diversion programs. Such programs may include, at the  
 186 discretion of the insurer, but not be limited to, enlisting  
 187 providers to be on call to insurers after hours, coordinating  
 188 care through local community resources, and providing incentives  
 189 to providers for case management.

190 (3)(4) As a disincentive for insureds to inappropriately  
 191 use emergency department services for nonemergency care, health  
 192 insurers may require higher copayments for urgent care or  
 193 primary care provided in an emergency department and higher  
 194 copayments for use of out-of-network emergency departments.  
 195 Higher copayments may not be charged for the utilization of the  
 196 emergency department for emergency care. For the purposes of  
 197 this section, the term "emergency care" has the same meaning as  
 198 the term "emergency services and care" as defined provided in s.  
 199 395.002(9) ~~s. 395.002~~ and includes ~~shall include~~ services  
 200 provided to rule out an emergency medical condition.

201 Section 5. Subsection (2) of section 385.211, Florida  
 202 Statutes, is amended to read:

203 385.211 Refractory and intractable epilepsy treatment and

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204 research at recognized medical centers.-

205 (2) Notwithstanding chapter 893, medical centers recognized  
 206 pursuant to s. 381.925, or an academic medical research  
 207 institution legally affiliated with a licensed children's  
 208 specialty hospital as defined in s. 395.002(28) ~~s. 395.002(27)~~  
 209 that contracts with the Department of Health, may conduct  
 210 research on cannabidiol and low-THC cannabis. This research may  
 211 include, but is not limited to, the agricultural development,  
 212 production, clinical research, and use of liquid medical  
 213 derivatives of cannabidiol and low-THC cannabis for the  
 214 treatment for refractory or intractable epilepsy. The authority  
 215 for recognized medical centers to conduct this research is  
 216 derived from 21 C.F.R. parts 312 and 316. Current state or  
 217 privately obtained research funds may be used to support the  
 218 activities described in this section.

219 Section 6. Subsection (7) of section 390.011, Florida  
 220 Statutes, is amended to read:

221 390.011 Definitions.-As used in this chapter, the term:  
 222 (7) "Hospital" means a facility as defined in s.  
 223 395.002(13) ~~s. 395.002(12)~~ and licensed under chapter 395 and  
 224 part II of chapter 408.

225 Section 7. Subsection (7) of section 394.4787, Florida  
 226 Statutes, is amended to read:

227 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and  
 228 394.4789.-As used in this section and ss. 394.4786, 394.4788,  
 229 and 394.4789:

230 (7) "Specialty psychiatric hospital" means a hospital  
 231 licensed by the agency pursuant to s. 395.002(28) ~~s. 395.002(27)~~  
 232 and part II of chapter 408 as a specialty psychiatric hospital.

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233 Section 8. Paragraph (c) of subsection (1) of section  
 234 395.701, Florida Statutes, is amended to read:  
 235 395.701 Annual assessments on net operating revenues for  
 236 inpatient and outpatient services to fund public medical  
 237 assistance; administrative fines for failure to pay assessments  
 238 when due; exemption.—  
 239 (1) For the purposes of this section, the term:  
 240 (c) "Hospital" means a health care institution as defined  
 241 in s. 395.002(13) ~~s. 395.002(12)~~, but does not include any  
 242 hospital operated by a state agency.  
 243 Section 9. Paragraph (i) of subsection (1) of section  
 244 400.9935, Florida Statutes, is amended to read:  
 245 400.9935 Clinic responsibilities.—  
 246 (1) Each clinic shall appoint a medical director or clinic  
 247 director who shall agree in writing to accept legal  
 248 responsibility for the following activities on behalf of the  
 249 clinic. The medical director or the clinic director shall:  
 250 (i) Ensure that the clinic publishes a schedule of charges  
 251 for the medical services offered to patients. The schedule must  
 252 include the prices charged to an uninsured person paying for  
 253 such services by cash, check, credit card, or debit card. The  
 254 schedule may group services by price levels, listing services in  
 255 each price level. The schedule must be posted in a conspicuous  
 256 place in the reception area of any clinic that is considered an  
 257 urgent care center as defined in s. 395.002(30)(b) ~~s.~~  
 258 ~~395.002(29)(b)~~ and must include, but is not limited to, the 50  
 259 services most frequently provided by the clinic. The posting may  
 260 be a sign that must be at least 15 square feet in size or  
 261 through an electronic messaging board that is at least 3 square

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262 feet in size. The failure of a clinic, including a clinic that  
 263 is considered an urgent care center, to publish and post a  
 264 schedule of charges as required by this section shall result in  
 265 a fine of not more than \$1,000, per day, until the schedule is  
 266 published and posted.  
 267 Section 10. Subsection (8) of section 409.905, Florida  
 268 Statutes, is amended to read:  
 269 409.905 Mandatory Medicaid services.—The agency may make  
 270 payments for the following services, which are required of the  
 271 state by Title XIX of the Social Security Act, furnished by  
 272 Medicaid providers to recipients who are determined to be  
 273 eligible on the dates on which the services were provided. Any  
 274 service under this section shall be provided only when medically  
 275 necessary and in accordance with state and federal law.  
 276 Mandatory services rendered by providers in mobile units to  
 277 Medicaid recipients may be restricted by the agency. Nothing in  
 278 this section shall be construed to prevent or limit the agency  
 279 from adjusting fees, reimbursement rates, lengths of stay,  
 280 number of visits, number of services, or any other adjustments  
 281 necessary to comply with the availability of moneys and any  
 282 limitations or directions provided for in the General  
 283 Appropriations Act or chapter 216.  
 284 (8) NURSING FACILITY SERVICES.—The agency shall pay for 24-  
 285 hour-a-day nursing and rehabilitative services for a recipient  
 286 in a nursing facility licensed under part II of chapter 400 or  
 287 in a rural hospital, as defined in s. 395.602, or in a Medicare  
 288 certified skilled nursing facility operated by a hospital, as  
 289 defined by s. 395.002(11) ~~s. 395.002(10)~~, that is licensed under  
 290 part I of chapter 395, and in accordance with ~~provisions set~~

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291 ~~forth in~~ s. 409.908(2)(a), which services are ordered by and  
 292 provided under the direction of a licensed physician. However,  
 293 if a nursing facility has been destroyed or otherwise made  
 294 uninhabitable by natural disaster or other emergency and another  
 295 nursing facility is not available, the agency must pay for  
 296 similar services temporarily in a hospital licensed under part I  
 297 of chapter 395 provided federal funding is approved and  
 298 available. The agency shall pay only for bed-hold days if the  
 299 facility has an occupancy rate of 95 percent or greater. The  
 300 agency is authorized to seek any federal waivers to implement  
 301 this policy.

302 Section 11. Paragraph (b) of subsection (1) of section  
 303 409.975, Florida Statutes, is amended to read:

304 409.975 Managed care plan accountability.—In addition to  
 305 the requirements of s. 409.967, plans and providers  
 306 participating in the managed medical assistance program shall  
 307 comply with the requirements of this section.

308 (1) PROVIDER NETWORKS.—Managed care plans must develop and  
 309 maintain provider networks that meet the medical needs of their  
 310 enrollees in accordance with standards established pursuant to  
 311 s. 409.967(2)(c). Except as provided in this section, managed  
 312 care plans may limit the providers in their networks based on  
 313 credentials, quality indicators, and price.

314 (b) Certain providers are statewide resources and essential  
 315 providers for all managed care plans in all regions. All managed  
 316 care plans must include these essential providers in their  
 317 networks. Statewide essential providers include:

- 318 1. Faculty plans of Florida medical schools.
- 319 2. Regional perinatal intensive care centers as defined in

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320 s. 383.16(2).

321 3. Hospitals licensed as specialty children's hospitals as  
 322 defined in s. 395.002(28) ~~s. 395.002(27)~~.

323 4. Accredited and integrated systems serving medically  
 324 complex children which comprise separately licensed, but  
 325 commonly owned, health care providers delivering at least the  
 326 following services: medical group home, in-home and outpatient  
 327 nursing care and therapies, pharmacy services, durable medical  
 328 equipment, and Prescribed Pediatric Extended Care.

329  
 330 Managed care plans that have not contracted with all statewide  
 331 essential providers in all regions as of the first date of  
 332 recipient enrollment must continue to negotiate in good faith.  
 333 Payments to physicians on the faculty of nonparticipating  
 334 Florida medical schools shall be made at the applicable Medicaid  
 335 rate. Payments for services rendered by regional perinatal  
 336 intensive care centers shall be made at the applicable Medicaid  
 337 rate as of the first day of the contract between the agency and  
 338 the plan. Except for payments for emergency services, payments  
 339 to nonparticipating specialty children's hospitals shall equal  
 340 the highest rate established by contract between that provider  
 341 and any other Medicaid managed care plan.

342 Section 12. Paragraph (1) of subsection (1) of section  
 343 468.505, Florida Statutes, is amended to read:

344 468.505 Exemptions; exceptions.—

345 (1) Nothing in this part may be construed as prohibiting or  
 346 restricting the practice, services, or activities of:

- 347 (1) A person employed by a nursing facility exempt from  
 348 licensing under s. 395.002(13) ~~s. 395.002(12)~~, or a person

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349 exempt from licensing under s. 464.022.

350 Section 13. Paragraph (b) of subsection (1) of section  
351 627.64194, Florida Statutes, is amended to read:

352 627.64194 Coverage requirements for services provided by  
353 nonparticipating providers; payment collection limitations.-

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

355 (b) "Facility" means a licensed facility as defined in s.  
356 395.002(17) ~~s. 395.002(16)~~ and an urgent care center as defined  
357 in s. 395.002.

358 Section 14. Subsection (2) of section 765.101, Florida  
359 Statutes, is amended to read:

360 765.101 Definitions.-As used in this chapter:

361 (2) "Attending physician" means the physician who has  
362 primary responsibility for the treatment and care of the patient  
363 while the patient receives such treatment or care in a hospital  
364 as defined in s. 395.002(13) ~~s. 395.002(12)~~.

365 Section 15. This act shall take effect July 1, 2021.



The Florida Senate

## Committee Agenda Request

**To:** Senator Kelli Stargel, Chair  
Committee on Appropriations

**Subject:** Committee Agenda Request

**Date:** April 8, 2021

---

I respectfully request that **Senate Bill 1976**, relating to **Freestanding Emergency Departments**, be placed on the:

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

A handwritten signature in cursive script that reads "Jason Brodeur".

---

Senator Jason Brodeur  
Florida Senate, District 9

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: HB 1359, 1st Eng.

INTRODUCER: Representative Brannan III

SUBJECT: Pub. Rec./Department of Highway Safety and Motor Vehicles

DATE: April 21, 2021

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	<b>Favorable</b>

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**I. Summary:**

HB 1151, to which this bill is linked, provides the Department of Highway Safety and Motor Vehicles (DHSMV) with investigative and subpoena power and the ability to administer oaths or affirmations, examine witnesses, require affidavits, take depositions, and compel the attendance of witnesses and the production of documents, records, and other evidence for use in conducting investigations or examinations.

This bill, which is linked to the passage of HB 1151, creates four public records exemptions, each making confidential and exempt from public disclosure information received by DHSMV as part of its investigations or examinations of suspected violations:

- By private rebuilt inspection providers or any contract entered into by such a provider;
- Of ch. 319, F.S., relating to motor vehicle titles, or any rule or order;
- Of ch. 320, F.S., relating to motor vehicle registrations and motor vehicle dealer and manufacturer licensing, or any rule or order; and
- Of ch. 322, F.S., relating to driver licenses and identification cards, or any rule or order.

The above exemptions shield investigative records until the investigation ceases to be active or administrative action taken by DHSMV has concluded or been made part of any hearing or court proceeding, after which the investigative records are no longer confidential and exempt. However, the DHSMV may release information in furtherance of its official duties and responsibilities.

The bill is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2026, unless reviewed and reenacted by the Legislature. The bill contains a public necessity statement as required by the Florida Constitution. Because this bill creates a new public records exemption, a two-thirds vote of the members present and voting in each house of the Legislature is required for passage.

The bill takes effect on the same date that HB 1151 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

## II. Present Situation:

### Public Records

Article I, section 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of article I, section 24(a) of the Florida Constitution. The general law must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish its purpose.

Public policy regarding access to government records is addressed further in ch. 119, F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt.<sup>1</sup> Furthermore, the Open Government Sunset Review Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose.<sup>2</sup> In addition, it may be no broader than necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.<sup>3</sup>
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.<sup>4</sup>
- Protect trade or business secrets.<sup>5</sup>

The Open Government Sunset Review Act requires the automatic repeal of a newly created public record exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>6</sup>

### Subpoenas

A subpoena is a written order to compel an individual to give testimony on a particular subject, often before a court, but sometimes in other proceedings.<sup>7</sup> A subpoena duces tecum is a type of subpoena that requires the witness to produce a document or documents pertinent to a proceeding.<sup>8</sup> Section 27.04, F.S., "allows the state attorney to issue subpoenas duces tecum for records as part of an ongoing investigation."<sup>9</sup> The state does not need to establish the relevance

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<sup>1</sup> Section 119.017(1)(a), F.S.

<sup>2</sup> Section 119.15, F.S.

<sup>3</sup> Section 119.15(6)(b)1., F.S.

<sup>4</sup> Section 119.15(6)(b)2., F.S.

<sup>5</sup> Section 119.15(6)(b)3., F.S.

<sup>6</sup> Section 119.15(3), F.S.

<sup>7</sup> *Subpoena*, Legal Information Institute (available at <https://www.law.cornell.edu/wex/subpoena/>)*(last* visited March 15,2021).

<sup>8</sup> *Subpoena duces tecum*, Legal Information Institute, (available at [https://www.law.cornell.edu/wex/subpoena\\_duces\\_tecum/](https://www.law.cornell.edu/wex/subpoena_duces_tecum/))*(last* visited March 15,2021).

<sup>9</sup> *State v. Investigation*, 802 So. 2d 1141, 1144 (Fla. 2d DCA 2001).

and materiality of the information sought through an investigative subpoena,<sup>10</sup> but the subject matter of the investigation must be confined to violations of criminal law.<sup>11</sup>

Section 92.605(2), F.S., describes subpoenas, court orders, and warrants issued in compliance with the Electronic Communications and Privacy Act.<sup>12</sup> The federal act and its Florida counterpart, s. 934.23, F.S., authorize a law enforcement officer, state attorney, or judge to subpoena the records of an out-of-state corporation that provides electronic communication services or remote computing services to the public. A corporation must comply within 20 days after receipt of the subpoena. However, if the recipient cannot comply within that time period, it must notify the law enforcement officer who sought the subpoena within the 20-day time period that the records cannot be provided and comply as soon as possible.<sup>13</sup> An “out-of-state corporation,” i.e., any corporation qualified to do business in Florida under s. 607.1501, F.S., is “properly served,” by subpoena or otherwise, when service is effected on that corporation’s registered agent.<sup>14</sup>

### **DHSMV Investigative Authority**

The DHSMV has jurisdiction to administer multiple chapters of the Florida Statutes with various degrees of investigative authority. For example, the DHSMV is required to cancel improperly issued certificates of title, but does not appear to have the authority to investigate and examine violations related to motor vehicle titles.<sup>15</sup> Additionally, while the DHSMV has the authority to inspect books and records of motor vehicle manufacturers and dealers, it does not appear to have the authority to investigate other violations of ch. 320, F.S., relating to motor vehicle dealers.<sup>16</sup> The DHSMV also does not appear to have statutory authority to investigate persons suspected of violating ch. 322, F.S., relating to driver licenses.

HB 1151, to which this bill is linked, provides DHSMV with investigative and subpoena power and the ability to administer oaths or affirmations, examine witnesses, require affidavits, take depositions, and compel the attendance of witnesses and the production of documents, records, and other evidence for use in conducting investigations or examinations into:

- Authorized private rebuilt inspection providers;
- Persons suspected of violating or of having violated ch. 319, F.S., relating to motor vehicle title certificates;
- Persons suspected of violating or of having violated ch. 320, F.S., relating to motor vehicles manufacturers and distributors; and
- Persons suspected of violating or of having violated ch. 322, F.S., relating to driver licenses.

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<sup>10</sup> *Id.*

<sup>11</sup> *Morgan v. State*, 309 So. 2d 552, 553 (Fla. 1975).

<sup>12</sup> 18 U.S.C. s. 2701 et seq.

<sup>13</sup> Section 92.605(2)(b), F.S. If the entity seeking the subpoena shows and the court finds that failure to produce the requested records would produce an “adverse result,” i.e., physical harm, flight from prosecution, destruction of evidence, intimidation of witnesses, or jeopardy to the investigation, the court may order the records be produced earlier than 20 days. The court may also extend the time to comply with a subpoena if doing so will not cause an adverse result. Section 92.605(2)(c) and (1)(a), F.S.

<sup>14</sup> Section 92.605(1)(e) and (h), F.S. Per s. 607.0505, F.S., a foreign corporation doing business in Florida must have a registered agent, and per s. 607.1507, F.S., such agent must be located in or authorized to transact business in Florida.

<sup>15</sup> *See* s. 319.25, F.S.

<sup>16</sup> *See* s. 320.861, F.S.



### III. Effect of Proposed Changes:

The bill amends ss. 319.1414,<sup>17</sup> 319.25, 320.861, and 322.71, F.S., to provide that information received by the DHSMV as a result of an investigation or examination is confidential and exempt from the disclosure requirements in s. 119.07(1), F.S., and s. 24(a), Art. I of the Florida Constitution until the investigation or examination ceases to be active or administrative action taken by the DHSMV has concluded or been made part of any hearing or court proceeding.

The bill provides the DHSMV may release information that is made confidential and exempt in furtherance of its official duties and responsibilities or, if released to another governmental agency, in the furtherance of that agency's official duties and responsibilities.

The bill is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2026, unless reviewed and reenacted by the Legislature. The bill contains a public necessity statement as required by the Florida Constitution. Because this bill creates a new public records exemption, a two-thirds vote of the members present and voting in each house of the Legislature is required for passage.

The bill contains a statement of public necessity, which includes:

- The Legislature finds that it is a public necessity that information received by the DHSMV as a result of an investigation or examination conducted pursuant to ss. 319.1414 and 319.25, F.S., and ch. 320, F.S., as provided in s. 320.861, F.S., or ch. 322, F.S., as provided in s. 322.71, F.S., be made confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Article I of the Florida Constitution until the investigation or examination ceases to be active or administrative action taken by the DHSMV has concluded or been made part of any hearing or court proceeding.
- The release of such information about a pending investigation or examination of violations of ss. 319.1414 and 319.25, F.S., and chs. 320 and 322, F.S., could obstruct or jeopardize the integrity of the investigation or examination and impair the ability of the DHSMV to perform its official duties and carry out its responsibilities under ss. 319.1414 and 319.25, F.S., and chs. 320 and 322, F.S.
- Therefore, the Legislature finds that it is a public necessity to make such information confidential and exempt from public records requirements.

The bill has an effective date on the same date that HB 1151 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>17</sup> Section 319.1414, F.S., is created in HB 1151.

**B. Public Records/Open Meetings Issues:****Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for information received by the DHSMV as a result of an investigation or examination.

**Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law.

The purpose of the law is to protect information received by the DHSMV as a result of an investigation or examination. This bill exempts only information received by the DHSMV as a result of an investigation or examination. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

**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 substantially amends the following sections of the Florida Statutes: 319.1414, 319.25, 320.861, and 322.71.

**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.

1 A bill to be entitled  
 2 An act relating to public records; amending ss.  
 3 319.1414, 319.25, 320.861, and 322.71, F.S.; providing  
 4 an exemption from public records requirements for  
 5 information received by the Department of Highway  
 6 Safety and Motor Vehicles as a result of an  
 7 investigation or examination conducted pursuant to  
 8 certain provisions; authorizing the department to  
 9 release such information under certain circumstances;  
 10 providing for future legislative review and repeal of  
 11 the exemption; providing a statement of public  
 12 necessity; providing a contingent effective date.  
 13  
 14 Be It Enacted by the Legislature of the State of Florida:  
 15  
 16 Section 1. Subsection (5) of section 319.1414, Florida  
 17 Statutes, as created by CS/HB 1151, 2021 Regular Session, is  
 18 renumbered as subsection (6), and a new subsection (5) is added  
 19 to that section to read:  
 20 319.1414 Investigations; subpoenas and other process;  
 21 oaths; rules.—  
 22 (5) Information received by the department as a result of  
 23 an investigation or examination conducted pursuant to this  
 24 section is confidential and exempt from s. 119.07(1) and s.  
 25 24(a), Art. I of the State Constitution until the investigation

26 or examination ceases to be active or administrative action  
 27 taken by the department has concluded or been made part of a  
 28 hearing or court proceeding. The department may release  
 29 information that is made confidential and exempt under this  
 30 subsection in furtherance of its official duties and  
 31 responsibilities or, if released to another governmental agency,  
 32 in the furtherance of that agency's official duties and  
 33 responsibilities. This subsection is subject to the Open  
 34 Government Sunset Review Act in accordance with s. 119.15 and  
 35 shall stand repealed on October 2, 2026, unless reviewed and  
 36 saved from repeal through reenactment by the Legislature.  
 37 Section 2. Subsection (7) of section 319.25, Florida  
 38 Statutes, as created by CS/HB 1151, 2021 Regular Session, is  
 39 renumbered as subsection (8), and a new subsection (7) is added  
 40 to that section to read:  
 41 319.25 Cancellation of certificates; investigations;  
 42 subpoenas and other process; oaths; rules.—  
 43 (7) Information received by the department as a result of  
 44 an investigation or examination conducted pursuant to this  
 45 section is confidential and exempt from s. 119.07(1) and s.  
 46 24(a), Art. I of the State Constitution until the investigation  
 47 or examination ceases to be active or administrative action  
 48 taken by the department has concluded or been made part of a  
 49 hearing or court proceeding. The department may release  
 50 information that is made confidential and exempt under this

51 subsection in furtherance of its official duties and  
 52 responsibilities or, if released to another governmental agency,  
 53 in the furtherance of that agency's official duties and  
 54 responsibilities. This subsection is subject to the Open  
 55 Government Sunset Review Act in accordance with s. 119.15 and  
 56 shall stand repealed on October 2, 2026, unless reviewed and  
 57 saved from repeal through reenactment by the Legislature.

58 Section 3. Subsection (5) is added to section 320.861,  
 59 Florida Statutes, as amended by CS/HB 1151, 2021 Regular  
 60 Session, to read:

61 320.861 Investigations; subpoenas and other process;  
 62 oaths; rules.—

63 (5) Information received by the department as a result of  
 64 an investigation or examination conducted pursuant to this  
 65 section is confidential and exempt from s. 119.07(1) and s.  
 66 24(a), Art. I of the State Constitution until the investigation  
 67 or examination ceases to be active or administrative action  
 68 taken by the department has concluded or been made part of a  
 69 hearing or court proceeding. The department may release  
 70 information that is made confidential and exempt under this  
 71 subsection in furtherance of its official duties and  
 72 responsibilities or, if released to another governmental agency,  
 73 in the furtherance of that agency's official duties and  
 74 responsibilities. This subsection is subject to the Open  
 75 Government Sunset Review Act in accordance with s. 119.15 and

76 shall stand repealed on October 2, 2026, unless reviewed and  
 77 saved from repeal through reenactment by the Legislature.

78 Section 4. Subsection (5) of section 322.71, Florida  
 79 Statutes, as created by CS/HB 1151, 2021 Regular Session, is  
 80 renumbered as subsection (6), and a new subsection (5) is added  
 81 to that section to read:

82 322.71 Investigations; subpoenas and other process; oaths;  
 83 rules.—

84 (5) Information received by the department as a result of  
 85 an investigation or examination conducted pursuant to this  
 86 section is confidential and exempt from s. 119.07(1) and s.  
 87 24(a), Art. I of the State Constitution until the investigation  
 88 or examination ceases to be active or administrative action  
 89 taken by the department has concluded or been made part of a  
 90 hearing or court proceeding. The department may release  
 91 information that is made confidential and exempt under this  
 92 subsection in furtherance of its official duties and  
 93 responsibilities or, if released to another governmental agency,  
 94 in the furtherance of that agency's official duties and  
 95 responsibilities. This subsection is subject to the Open  
 96 Government Sunset Review Act in accordance with s. 119.15 and  
 97 shall stand repealed on October 2, 2026, unless reviewed and  
 98 saved from repeal through reenactment by the Legislature.

99 Section 5. The Legislature finds that it is a public  
 100 necessity that information received by the Department of Highway

101 Safety and Motor Vehicles as a result of an investigation or  
102 examination conducted pursuant to s. 319.1414, s. 319.25,  
103 chapter 320 as provided in s. 320.861, and chapter 322 as  
104 provided in s. 322.71, Florida Statutes, be made confidential  
105 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
106 Article I of the State Constitution until the investigation or  
107 examination ceases to be active or administrative action taken  
108 by the department has concluded or been made part of a hearing  
109 or court proceeding. The release of such information about a  
110 pending investigation or examination of violations of s.  
111 319.1414, s. 319.25, chapter 320, and chapter 322, Florida  
112 Statutes, could obstruct or jeopardize the integrity of the  
113 investigation or examination and impair the ability of the  
114 Department of Highway Safety and Motor Vehicles in the  
115 performance of its official duties and responsibilities under s.  
116 319.1414, s. 319.25, chapter 320, and chapter 322, Florida  
117 Statutes. Therefore, the Legislature finds that it is a public  
118 necessity to make such information confidential and exempt from  
119 public records requirements.

120       Section 6. This act shall take effect on the same date  
121 that CS/HB 1151 or similar legislation takes effect, if such  
122 legislation is adopted in the same legislative session or an  
123 extension thereof and becomes a law.

# CourtSmart Tag Report

**Room:** KB 412  
**Caption:** Senate Appropriations Committee

**Case No.:** -

**Type:**  
**Judge:**

**Started:** 4/21/2021 4:36:22 PM

**Ends:** 4/21/2021 5:52:49 PM

**Length:** 01:16:28

4:36:21 PM Sen. Stargel (Chair)  
4:38:07 PM S 938  
4:38:18 PM Sen. Wright  
4:38:29 PM Am. 420898  
4:39:15 PM S 938 (cont.)  
4:39:23 PM Michael Barrett, Associate for Education, Florida Conference for Catholic Bishops (waives in support)  
4:40:17 PM S 1482  
4:40:34 PM PCS 305928  
4:40:40 PM Sen. Garcia  
4:41:29 PM Am. 554170  
4:41:31 PM Sen. Pizzo  
4:42:17 PM S. 482 (cont.)  
4:43:19 PM SJR 1182  
4:43:29 PM Sen. Brandes  
4:44:05 PM S 1186  
4:44:51 PM Am. 324278  
4:45:08 PM Sen. Brandes  
4:45:45 PM S 1186 (cont.)  
4:46:39 PM S 1256  
4:46:44 PM Sen. Polsky  
4:48:24 PM S 280  
4:48:31 PM Sen. Baxley  
4:49:29 PM Khan-Lien Banko, Treasurer, Florida Parent Teacher Association (waives in support)  
4:49:36 PM Vikkie Williams, Citizen  
4:53:15 PM S 586  
4:53:19 PM Sen. Wright  
4:53:54 PM Joe Marino, Executive Director, Veterans Florida (waives in support)  
4:54:01 PM James Hartsell, Deputy Executive Director, Florida Department of Veterans' Affairs (waives in support)  
4:54:12 PM Mathew Choy, Director, the Florida Chamber of Commerce (waives in support)  
4:55:02 PM S 996  
4:55:10 PM Sen. Garcia  
4:56:39 PM Nelson Diaz, Lobbyist, Fairness in Taxation (waives in support)  
4:57:35 PM S 414  
4:57:41 PM Sen. Perry  
4:58:04 PM Am. 562418  
4:58:28 PM Mathew Choy, Director, the Florida Chamber of Commerce (waives in support)  
4:58:34 PM Khan-Lien Banko, Treasurer, Florida Parent Teacher Association (waives in support)  
4:58:51 PM S. 414 (cont.)  
4:59:49 PM S 1530  
5:00:09 PM PCS 549558  
5:00:10 PM Sen. Book  
5:01:02 PM S 1530 (cont.)  
5:01:06 PM Theresa Prichard, Associate Director and General Counsel, Florida Council Against Sexual Violence (waives in support)  
5:01:09 PM HB 1359  
5:02:22 PM Sen. Harrell  
5:03:36 PM S 894  
5:03:42 PM Sen. Diaz  
5:03:58 PM PCS 282916  
5:04:19 PM Am. 254840  
5:05:08 PM S 894 (cont.)  
5:05:19 PM Diego Echeverri, Legislative Liaison, Americans for Prosperity (waives in support)

5:06:12 PM S 934  
5:06:17 PM Sen. Wright  
5:06:22 PM PCS 233914  
5:06:40 PM Am. 894982  
5:07:27 PM Megan Fay, Lobbyist, Collier County School District (waives in support)  
5:07:42 PM S 934 (cont.)  
5:07:50 PM Michael Barrett, Associate for Education, Florida Conference for Catholic Bishops (waives in support)  
5:07:57 PM Khan-Lien Banko, Treasurer, Florida Parent Teacher Association (waives in support)  
5:08:41 PM S 368  
5:08:47 PM Sen. Baxley  
5:08:56 PM Am. 417370  
5:10:58 PM S 368 (cont.)  
5:11:04 PM Sen. Powell  
5:11:12 PM Sen. Baxley  
5:11:41 PM Sen. Powell  
5:11:53 PM Sen. Baxley  
5:11:55 PM Sen. Baxley  
5:12:19 PM Sen. Powell  
5:12:54 PM Eric Maclure, Deputy State Courts Administrator, Committee on Alternative Dispute Resolution Rules and Policy (waives in support)  
5:14:05 PM S 1084  
5:14:08 PM Sen. Pizzo  
5:14:31 PM Sen. Rouson  
5:14:51 PM Sen. Pizzo  
5:15:02 PM Sen. Hooper  
5:15:26 PM Sen. Pizzo  
5:15:47 PM Sen. Hooper  
5:15:53 PM Sen. Pizzo  
5:16:20 PM Sen. Hooper  
5:16:38 PM Sen. Pizzo  
5:17:12 PM Sen. Hooper  
5:17:30 PM Sen. Pizzo  
5:18:22 PM Sen. Brandes  
5:18:38 PM Sen. Pizzo  
5:18:56 PM Sen. Brandes  
5:19:00 PM Sen. Pizzo  
5:19:54 PM Sen. Stewart  
5:20:13 PM Sen. Pizzo  
5:21:08 PM Jess McCarty, Executive Assistant County Attorney, Miami-Dade County (waives in opposition)  
5:21:17 PM Mark Jeffries, Lobbyist, Orange County (waives in opposition)  
5:21:27 PM Ray Colburn, Executive Director, Florida Fire Chiefs' Association  
5:24:52 PM Sen. Pizzo  
5:25:06 PM R. Colburn  
5:25:10 PM Sen. Pizzo  
5:25:15 PM R. Colburn  
5:25:38 PM Sen. Pizzo  
5:26:07 PM Sen. Hooper  
5:28:09 PM Sen. Pizzo  
5:30:35 PM S 1082  
5:30:42 PM Sen. Albritton  
5:32:08 PM Am. 111502  
5:32:37 PM Am. 247654  
5:33:03 PM S 1082 (cont.)  
5:34:03 PM S 1282  
5:34:07 PM PCS 112068  
5:34:30 PM Sen. Harrell  
5:35:17 PM Am. 923476  
5:35:40 PM Am. 657762  
5:36:03 PM Am. 693470  
5:36:30 PM Am. 346066  
5:37:10 PM Am. 260284  
5:37:49 PM Am. 961452



**5:38:31 PM** S 1282 (cont.)  
**5:38:39 PM** Sara Suskey, Lobbyist, Association of Early Learning Coalitions (waives in support)  
**5:38:42 PM** Mathew Choy, Director, the Florida Chamber of Commerce (waives in support)  
**5:38:46 PM** Chris Duggan, Executive Director, Florida Association for the Education of Young Children (waives in support)  
**5:38:53 PM** David Daniel, Lobbyist, Florida Association for Child Care Management (waives in support)  
**5:39:02 PM** Michael Barrett, Associate for Education, Florida Conference for Catholic Bishops (waives in support)  
**5:39:07 PM** Natalie King, Vice resident, Helios Education Foundation (waives in support)  
**5:39:15 PM** Kaitlyn Bailey, Lobbyist, United Way Suncoast (waives in support)  
**5:39:18 PM** Angie Gallo, Education Advocate, Alliance for Public Schools (waives in support)  
**5:39:25 PM** Khan-Lien Banko, Treasurer, Florida Parent Teacher Association (waives in support)  
**5:40:22 PM** S 1976  
**5:40:28 PM** PCS 410084  
**5:40:35 PM** Sen. Brodeur  
**5:40:59 PM** Sen. Pizzo  
**5:41:19 PM** Sen. Brodeur  
**5:41:55 PM** Sen. Pizzo  
**5:42:15 PM** Sen. Brodeur  
**5:42:25 PM** Sen. Powell  
**5:42:33 PM** Sen. Brodeur  
**5:43:32 PM** Sen. Bean  
**5:43:41 PM** Sen. Brodeur  
**5:44:29 PM** Sen. Gibson  
**5:44:52 PM** Sen. Brodeur  
**5:45:18 PM** Sen. Gibson  
**5:45:48 PM** Sen. Brodeur  
**5:46:22 PM** Sen. Gibson  
**5:46:32 PM** Sen. Brodeur  
**5:47:03 PM** Sen. Gibson  
**5:47:10 PM** Sen. Brodeur  
**5:47:32 PM** Sen. Stewart  
**5:47:52 PM** Sen. Brodeur  
**5:49:05 PM** S 390  
**5:49:14 PM** Sen. Wright  
**5:50:16 PM** Jeff Kotcamp, Lobbyist, Small Business Pharmacies Aligned for Reform (waives in support)  
**5:50:22 PM** Cynthia Henderson, Lobbyist, Epic Pharmacies (waives in support)  
**5:50:27 PM** Barney Bishop III, Lobbyist, Small Business Pharmacies Aligned for Reform (waives in support)  
**5:51:29 PM** Sen. Albritton  
**5:51:37 PM** Sen. Powell  
**5:51:43 PM** Sen. Broxson  
**5:51:55 PM** Sen. Bracy  
**5:52:01 PM** Sen. Gibson