

Tab 1	SB 914 by Garcia; (Compare to CS/H 00655) Suicide Prevention					
Tab 2	SB 938 by Davis; (Identical to H 00829) Operation and Administration of the Baker Act					
Tab 3	SB 1064 by Yarborough; (Identical to H 01007) Children Removed from Caregivers					
713300	D	S	CF, Yarborough	Delete everything after	03/12	06:24 PM
Tab 4	CS/SB 1098 by JU, Burton; (Similar to H 01119) Withholding or Withdrawal of Life-prolonging Procedures					
319414	A	S	CF, Burton	Delete L.42 - 45:	03/10	02:04 PM
940260	A	S	CF, Burton	Delete L.181 - 186:	03/10	02:04 PM
267664	SA	S	CF, Burton	Delete L.181 - 186:	03/12	09:04 PM
Tab 5	SB 1146 by Yarborough; (Similar to CS/H 00775) Shared Parental Responsibility After the Establishment of Paternity					
557318	A	S	CF, Yarborough	Delete L.41 - 64:	03/12	06:22 PM
Tab 6	SB 1182 by Simon; (Similar to CS/H 00299) Education and Training for Alzheimer's Disease and Related Forms of Dementia					
622510	D	S	CF, Simon	Delete everything after	03/12	09:00 PM
Tab 7	SB 1190 by Garcia; (Similar to H 01337) Step into Success Workforce Education and Internship Pilot Program					
265304	A	S	CF, Garcia	Delete L.192 - 193:	03/11	03:18 PM
Tab 8	SB 1210 by Burgess; (Similar to H 00841) Public Records/Human Trafficking Victims					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS
Senator Garcia, Chair
Senator Thompson, Vice Chair

MEETING DATE: Tuesday, March 14, 2023
TIME: 8:30—10:30 a.m.
PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Garcia, Chair; Senator Thompson, Vice Chair; Senators Baxley, Book, Bradley, Brodeur, Ingoglia, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 914 Garcia (Compare H 655, S 468)	Suicide Prevention; Authorizing certain diagnoses to be made through telehealth; revising the purposes of the Commission on Mental Health and Substance Abuse to include an assessment of the state's suicide prevention infrastructure; revising the duties of the commission to include duties relating to the state's suicide prevention infrastructure; requiring the commission to submit annual interim reports for a specified timeframe, etc.	CF 03/14/2023 HP RC
2	SB 938 Davis (Identical H 829)	Operation and Administration of the Baker Act; Requiring the Department of Children and Families to provide specified information to certain individuals and organizations; requiring the department to maintain an information handbook and repository of answers to frequently asked questions, etc.	CF 03/14/2023 JU RC
3	SB 1064 Yarborough (Identical H 1007)	Children Removed from Caregivers; Requiring community-based care lead agencies, in coordination with the local managing entity, to provide a trauma-focused assessment within a specified timeframe to children removed from certain caregivers; requiring the Department of Children and Families to require in its contracts with the community-based care lead agencies that such agencies and managing entities provide a trauma-focused assessment within a specified timeframe to children removed from certain caregivers, etc.	CF 03/14/2023 AHS FP

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, March 14, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 1098 Judiciary / Burton (Similar H 1119)	Withholding or Withdrawal of Life-prolonging Procedures; Authorizing the court to delegate the right to consent to the withholding or withdrawal of life-prolonging procedures of incapacitated persons in certain circumstances; requiring initial and annual guardianship plans, respectively, to state whether any power under the ward's preexisting order not to resuscitate or advance directive is revoked, modified, suspended, or transferred to the guardian; authorizing a guardian to petition a court for approval to consent to withhold or withdraw life-prolonging procedures under certain circumstances, etc. JU 03/07/2023 Fav/CS CF 03/14/2023 RC	
5	SB 1146 Yarborough (Identical H 775)	Shared Parental Responsibility After the Establishment of Paternity; Authorizing a parent to request certain determinations and the creation of a parenting plan and time-sharing schedule; requiring the determination of parental responsibility and the establishment of a parenting plan, a time-sharing schedule, or child support to be done through a certain action; specifying that a mother of a child born out of wedlock and the father of such child are the natural guardians of the child and subject to the rights and responsibilities of being parents if certain conditions are met, etc. CF 03/14/2023 JU RC	
6	SB 1182 Simon (Similar H 299)	Education and Training for Alzheimer's Disease and Related Forms of Dementia; Designating the "Alzheimer's Disease and Related Forms of Dementia Education and Training Act"; requiring the Department of Elderly Affairs to offer certain education about Alzheimer's disease and related forms of dementia to the general public; providing minimum requirements for the training; authorizing persons to satisfy the training requirements of this act using training curricula approved before the effective date of this act until the department adopts rules for training curricula guidelines, etc. CF 03/14/2023 AHS FP	

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, March 14, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1190 Garcia (Similar H 1337)	Step into Success Workforce Education and Internship Pilot Program; Creating the "Step into Success Act"; requiring the Department of Children and Families to establish the pilot program; requiring the independent living professionalism and workforce education component of the pilot program to culminate in a specified certificate; providing that completion of that component allows former foster youth to participate in the onsite workforce and training internship component; specifying conditions for participation in the onsite workforce internship component, etc.	CF 03/14/2023 AHS FP
8	SB 1210 Burgess (Similar H 841, S 1428)	Public Records/Human Trafficking Victims; Expanding an existing public records exemption relating to human trafficking victims seeking expunction of certain records related to an offense listed in s. 775.084(1)(b)1., F.S.; providing for the reversion of specified provisions if the exemption is not saved from repeal; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.	CF 03/14/2023 RC

Other Related Meeting Documents

By Senator Garcia

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1 A bill to be entitled
2 An act relating to suicide prevention; amending s.
3 111.09, F.S.; defining the term "affiliated first
4 responder organization"; revising the definition of
5 the term "first responder peer"; amending s. 112.1815,
6 F.S.; authorizing certain diagnoses to be made through
7 telehealth; amending s. 394.9086, F.S.; revising the
8 purposes of the Commission on Mental Health and
9 Substance Abuse to include an assessment of the
10 state's suicide prevention infrastructure; revising
11 the duties of the commission to include duties
12 relating to the state's suicide prevention
13 infrastructure; requiring the commission to submit
14 annual interim reports for a specified timeframe;
15 revising the date by which the commission must submit
16 its final report; extending the repeal date of the
17 commission; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Subsection (1) of section 111.09, Florida
22 Statutes, is amended to read:

23 111.09 Peer support for first responders.—

24 (1) For purposes of this section, the term:

25 (a) "Affiliated first responder organization" includes, but
26 is not limited to, any of the following organizations:

27 1. Regularly organized volunteer firefighting departments
28 or associations.

29 2. Regularly organized volunteer ambulance services.

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30 3. Combination fire departments, as that term is defined in
31 s. 633.135(1).

32 (b) "First responder" has the same meaning as provided in
33 s. 112.1815 and includes 911 public safety telecommunicators as
34 defined in s. 401.465.

35 (c)~~(b)~~ "First responder peer" means a person who:

36 1. Is not a health care practitioner as defined in s.
37 456.001.

38 2. Has experience working as or with a first responder,
39 including active, volunteer, and retired first responders,
40 regarding any physical or emotional conditions or issues
41 associated with the first responder's employment.

42 3. Has been designated by the first responder's employing
43 agency or affiliated first responder organization to provide
44 peer support as provided in this section and has received
45 training for this purpose.

46 (d)~~(e)~~ "Peer support" means the provision of physical,
47 moral, or emotional support to a first responder by a first
48 responder peer for the purpose of addressing physical or
49 emotional conditions or other issues associated with being a
50 first responder.

51 (e)~~(d)~~ "Peer support communication" means electronic, oral,
52 or written communication, made with a mutual expectation of
53 confidentiality while a first responder peer is providing peer
54 support in his or her official capacity.

55 Section 2. Paragraph (a) of subsection (5) of section
56 112.1815, Florida Statutes, is amended to read:

57 112.1815 Firefighters, paramedics, emergency medical
58 technicians, and law enforcement officers; special provisions

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59 for employment-related accidents and injuries.—

60 (5) (a) For the purposes of this section and chapter 440,
61 and notwithstanding sub-subparagraph (2) (a)3. and ss. 440.093
62 and 440.151(2), posttraumatic stress disorder, as described in
63 the Diagnostic and Statistical Manual of Mental Disorders, Fifth
64 Edition, published by the American Psychiatric Association,
65 suffered by a first responder is a compensable occupational
66 disease within the meaning of subsection (4) and s. 440.151 if:

67 1. The posttraumatic stress disorder resulted from the
68 first responder acting within the course of his or her
69 employment as provided in s. 440.091; and

70 2. The first responder is examined and subsequently
71 diagnosed with such disorder by a licensed psychiatrist, in
72 person or through telehealth as that term is defined in s.
73 456.47, who is an authorized treating physician as provided in
74 chapter 440 due to one of the following events:

75 a. Seeing for oneself a deceased minor;

76 b. Directly witnessing the death of a minor;

77 c. Directly witnessing an injury to a minor who
78 subsequently died before or upon arrival at a hospital emergency
79 department;

80 d. Participating in the physical treatment of an injured
81 minor who subsequently died before or upon arrival at a hospital
82 emergency department;

83 e. Manually transporting an injured minor who subsequently
84 died before or upon arrival at a hospital emergency department;

85 f. Seeing for oneself a decedent whose death involved
86 grievous bodily harm of a nature that shocks the conscience;

87 g. Directly witnessing a death, including suicide, that

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88 involved grievous bodily harm of a nature that shocks the
89 conscience;

90 h. Directly witnessing a homicide regardless of whether the
91 homicide was criminal or excusable, including murder, mass
92 killing as defined in 28 U.S.C. s. 530C, manslaughter, self-
93 defense, misadventure, and negligence;

94 i. Directly witnessing an injury, including an attempted
95 suicide, to a person who subsequently died before or upon
96 arrival at a hospital emergency department if the person was
97 injured by grievous bodily harm of a nature that shocks the
98 conscience;

99 j. Participating in the physical treatment of an injury,
100 including an attempted suicide, to a person who subsequently
101 died before or upon arrival at a hospital emergency department
102 if the person was injured by grievous bodily harm of a nature
103 that shocks the conscience; or

104 k. Manually transporting a person who was injured,
105 including by attempted suicide, and subsequently died before or
106 upon arrival at a hospital emergency department if the person
107 was injured by grievous bodily harm of a nature that shocks the
108 conscience.

109 Section 3. Subsection (2), paragraph (a) of subsection (4),
110 and subsections (5) and (6) of section 394.9086, Florida
111 Statutes, are amended to read:

112 394.9086 Commission on Mental Health and Substance Abuse.—

113 (2) PURPOSES.—The purposes of the commission are to examine
114 the current methods of providing mental health and substance
115 abuse services in the state and to improve the effectiveness of
116 current practices, procedures, programs, and initiatives in

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117 providing such services; identify any barriers or deficiencies
118 in the delivery of such services; assess the adequacy of the
119 current infrastructure of Florida's National Suicide Prevention
120 Lifeline (NSPL) system and other components of the state's
121 crisis response services; and recommend changes to existing
122 laws, rules, and policies necessary to implement the
123 commission's recommendations.

124 (4) DUTIES.—

125 (a) The duties of the Commission on Mental Health and
126 Substance Abuse include the following:

127 1. Conducting a review and evaluation of the management and
128 functioning of the existing publicly supported mental health and
129 substance abuse systems and services in the department, the
130 Agency for Health Care Administration, and all other departments
131 which administer mental health and substance abuse services.
132 Such review shall include, at a minimum, a review of current
133 goals and objectives, current planning, services strategies,
134 coordination management, purchasing, contracting, financing,
135 local government funding responsibility, and accountability
136 mechanisms.

137 2. Considering the unique needs of persons who are dually
138 diagnosed.

139 3. Addressing access to, financing of, and scope of
140 responsibility in the delivery of emergency behavioral health
141 care services.

142 4. Addressing the quality and effectiveness of current
143 mental health and substance abuse services delivery systems, and
144 professional staffing and clinical structure of services, roles,
145 and responsibilities of public and private providers, such as

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146 community mental health centers; community substance abuse
147 agencies; hospitals, including emergency services departments;
148 law enforcement agencies; and the judicial system.

149 5. Addressing priority population groups for publicly
150 funded mental health and substance abuse services, identifying
151 the comprehensive mental health and substance abuse services
152 delivery systems, mental health and substance abuse needs
153 assessment and planning activities, and local government funding
154 responsibilities for mental health and substance abuse services.

155 6. Reviewing the implementation of chapter 2020-107, Laws
156 of Florida.

157 7. Identifying any gaps in the provision of mental health
158 and substance use disorder services.

159 8. Providing recommendations on how behavioral health
160 managing entities may fulfill their purpose of promoting service
161 continuity and work with community stakeholders throughout this
162 state in furtherance of supporting the NSPL system and other
163 crisis response services.

164 9. Conducting an overview of the current infrastructure of
165 the NSPL system.

166 10. Analyzing the current capacity of crisis response
167 services available throughout this state, including services
168 provided by mobile response teams and centralized receiving
169 facilities. The analysis must include information on the
170 geographic area and the total population served by each mobile
171 response team along with the average response time to each call
172 made to a mobile response team; the number of calls that a
173 mobile response team was unable to respond to due to staff
174 limitations, travel distance, or other factors; and the veteran

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175 status and age groups of individuals served by mobile response
176 teams.

177 11. Evaluating and making recommendations to improve
178 linkages between the NSPL infrastructure and crisis response
179 services within this state.

180 12. Identifying available mental health block grant funds
181 that can be used to support the NSPL and crisis response
182 infrastructure within this state, including any available
183 funding through opioid settlements or through the American
184 Rescue Plan Act of 2021, Pub. L. No. 117-2; the Coronavirus Aid,
185 Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136;
186 or other federal legislation.

187 13. In consultation with the Agency for Health Care
188 Administration, identifying sources of funding available through
189 the Medicaid program specifically for crisis response services,
190 including funding that may be available by seeking approval of a
191 Section 1115 waiver submitted to the Centers for Medicare and
192 Medicaid Services.

193 ~~14.9.~~ Making recommendations regarding the mission and
194 objectives of state-supported mental health and substance abuse
195 services and the planning, management, staffing, financing,
196 contracting, coordination, and accountability mechanisms which
197 will best foster the recommended mission and objectives.

198 ~~15.10.~~ Evaluating and making recommendations regarding the
199 establishment of a permanent, agency-level entity to manage
200 mental health, substance abuse, and related services statewide.
201 At a minimum, the evaluation must consider and describe the:

202 a. Specific duties and organizational structure proposed
203 for the entity;

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204 b. Resource needs of the entity and possible sources of
205 funding;

206 c. Estimated impact on access to and quality of services;

207 d. Impact on individuals with behavioral health needs and
208 their families, both those currently served through the affected
209 systems providing behavioral health services and those in need
210 of services; and

211 e. Relation to, integration with, and impact on providers,
212 managing entities, communities, state agencies, and systems
213 which provide mental health and substance abuse services in this
214 state. Such recommendations must ensure that the ability of such
215 other agencies and systems to carry out their missions and
216 responsibilities is not impaired.

217 (5) REPORTS.—Beginning ~~By~~ January 1, 2023, and annually
218 thereafter through January 1, 2025, the commission shall submit
219 an interim report to the President of the Senate, the Speaker of
220 the House of Representatives, and the Governor containing its
221 findings and recommendations on how to best provide and
222 facilitate mental health and substance abuse services in the
223 state. The commission shall submit its final report to the
224 President of the Senate, the Speaker of the House of
225 Representatives, and the Governor by September 1, 2026 ~~2023~~.

226 (6) REPEAL.—This section is repealed September 1, 2026
227 ~~2023~~, unless saved from repeal through reenactment by the
228 Legislature.

229 Section 4. This act shall take effect July 1, 2023.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 914

INTRODUCER: Senator Garcia

SUBJECT: Suicide Prevention

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	Pre-meeting
2.			HP	
3.			RC	

I. Summary:

SB 914 modifies statutory provisions governing confidentiality for peer support communications between a first responder and a first responder peer. The bill allows certain first responder organizations to designate first responder peers and clarifies that first responder peers include active, volunteer, and retired first responders. The bill also permits diagnosis of post-traumatic stress disorder in first responders via telehealth for the purposes of obtaining worker’s compensation benefits.

The bill directs the Commission on Mental Health and Substance Abuse (the Commission) adjunct to the Department of Children and Families (the DCF) to conduct a study examining the following services and programs relating to suicide prevention:

- The National Suicide Prevention Lifeline (the NSPL);
- Crisis response services;
- Strategies to improve linkages between NSPL infrastructure and crisis response services;
- Available mental health block grant funds;
- Funding sources available through Medicaid; and
- Strategies to ensure that managing entities work with community stakeholders in furtherance of supporting the NSPL and other crisis response services.

The bill extends the statutory repeal date of the Commission from September 1, 2023 to September 1, 2026. The bill also requires the Commission to submit interim reports, beginning January 1, 2023, annually thereafter through January 1, 2025, and a final report due September 1, 2026, to the Governor; the President of the Senate; and the Speaker of the House of Representatives. The bill requires the Commission to include the findings of the suicide prevention study in the final report due September 1, 2026.

The bill is unlikely to have a significant negative impact on state government and may have an indeterminate impact on certain affiliated first responder organizations as defined in the bill. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Suicide Prevention

Suicide is a major public health issue and a leading cause of death nationally.¹ In 2020, 45,979 suicide deaths were reported across the U.S., while an estimated 12.2 million American adults seriously thought about suicide, 3.2 million planned a suicide attempt, and 1.2 million attempted suicide.² Suicide rates increased every year from 2000 through 2018.³ After stable trends from 2000 to 2007, suicide rates for persons aged 10–24 increased 56 percent from 2007 to 2017,⁴ before declining 2 percent from 2018 to 2019.⁵ Provisional data indicate that both the number and the rate of suicides nationally increased 4 percent from 2020 to 2021, after two consecutive years of decline in 2019 and 2020.⁶

In 2020, 3,113 Floridians died by suicide, representing a 10 percent decrease from the number of deaths in 2019.⁷ Over half of suicide deaths in 2019 involved a firearm.⁸ According to provisional data, approximately 3,325 Floridians died from suicide in 2021, an increase of approximately 7 percent from 2020.⁹

¹ The Centers for Disease Control and Prevention (The CDC), *Facts About Suicide*, available at <https://www.cdc.gov/suicide/facts/index.html> (last visited March 7, 2023).

² *Id.*

³ *Id.*

⁴ Heron M., Curtin, S., *Death Rates Due to Suicide and Homicide Among Persons Aged 10-24: United States, 2007-2017*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention National Center for Health Statistics, available at <https://www.cdc.gov/nchs/data/databriefs/db352-h.pdf> (last visited March 7, 2023).

⁵ The CDC, *Changes in Suicide Rates – United States, 2018-2019*, available at <https://www.cdc.gov/mmwr/volumes/70/wr/mm7008a1.htm> (last visited March 7, 2023).

⁶ The CDC, *Suicide Increases in 2021 After Two Years in Decline*, available at https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/20220930.htm (last visited March 7, 2023).

⁷ The DCF, *2022 Suicide Prevention Coordinating Council Annual Report*, January 1, 2023, p. 11 (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁸ *Id.*

⁹ The Florida Department of Health, *FLHealthCharts – Death Count Query System*, available at https://www.flhealthcharts.gov/FLQUERY_New/Death/Count (last visited March 7, 2023).

First Responders

A first responder is a law enforcement officer,¹⁰ firefighter,¹¹ or an emergency medical technician or paramedic¹² employed by state or local government.¹³ Additionally, a volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is considered a first responder of the state or local government.¹⁴

First responders are often exposed to incidents of death and destruction that can result in post-traumatic stress disorder (PTSD), depression, and suicide. A study by the Ruderman Family Foundation revealed that 35 percent of police officers have suffered from PTSD and 46.8 percent of firefighters have experienced suicidal thoughts.¹⁵ Firefighters and police officers are both more likely to die by suicide than in the line of duty.¹⁶ Further, according to a 2015 article published in the *Journal of Emergency Medical Services*, a survey of 4,000 first responders found that 6.6 percent had attempted suicide, which is more than 10 times the rate in the general population.¹⁷

Volunteer Firefighters

A volunteer firefighter is an individual who holds a current and valid Volunteer Firefighter Certificate of Completion issued by the Division of State Fire Marshal under s. 633.408, F.S.¹⁸ Approximately 12 million Florida citizens depend on volunteer firefighters to protect their community.¹⁹ To keep these residents safe, it's critical that individuals volunteer for local

¹⁰ Section 943.10(1), F.S. defines the term “law enforcement officer” to mean “any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.”

¹¹ Section 633.102(9), F.S. defines the term “firefighter” to mean “an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the Division of State Fire Marshal within the Department of Financial Services.”

¹² Section 401.23(12), F.S. defines the term “emergency medical technician” to mean “a person who is certified by the Department of Health to perform basic life support.” Section 401.23(18), F.S., defines the term “paramedic” to mean “a person who is certified by the Department of Health to perform basic and advanced life support.”

¹³ Section 125.01045, F.S.

¹⁴ *Id.*

¹⁵ Miriam Heyman, Jeff Dill & Robert Douglas, *The Ruderman White Paper on Mental Health and Suicide of First Responders*, at p. 12, available at

[https://dir.nv.gov/uploadedFiles/dirnv.gov/content/WCS/TrainingDocs/First%20Responder%20White%20Paper_Final%20\(2\).pdf](https://dir.nv.gov/uploadedFiles/dirnv.gov/content/WCS/TrainingDocs/First%20Responder%20White%20Paper_Final%20(2).pdf) (last visited March 7, 2023).

¹⁶ *Id.* at p. 7.

¹⁷ Fire Rescue News, *Increasing Suicide Rates Among First Responders Spark Concerns*, available at

<https://www.firerescue1.com/fire-ems/articles/222673018-Increasing-suicide-rates-among-first-responders-spark-concern/> (last visited March 7, 2023).

¹⁸ *See* s. 633.408, F.S.

¹⁹ The Florida Department of Financial Services, Division of State Fire Marshal, *Florida Volunteer Firefighter Information*, available at

<https://www.myfloridacfo.com/division/sfm/volff#:~:text=More%20than%20200%20departments%20throughout%20Florida%20utilize%20volunteers%20to%20sustain%20operations> (last visited March 7, 2023).

departments.²⁰ More than 200 departments throughout Florida utilize volunteers to sustain operations.²¹

First Responders Suicide Deterrence Task Force

In 2020, the Legislature created the First Responders Suicide Deterrence Task Force within the Statewide Office of Suicide Prevention, which is housed within the DCF and coordinates education and training curricula on suicide prevention efforts for veterans and service members.^{22 23}

The most recent report of the task force, published on July 1, 2022, included the findings of a survey conducted by the 2nd Alarm Project,²⁴ a nonprofit organization established to offer comprehensive, evidence-based resiliency initiatives in first responder communities.²⁵ According to the survey, upwards of 24 percent of first responders reported provisional diagnosis of posttraumatic stress disorder, 52.3 percent reported depression; 39.1 percent reported anxiety; 38.3 percent reported harmful levels of drinking; and 15.1 percent are at higher risk for suicide.²⁶ The findings indicated generally higher rates of these issues among respondents who are single certified EMS professionals and among dual certified/combined Fire/EMS personnel who serve as Advanced Life Support/transport providers.²⁷

Peer Support

Research has shown that social support provided by peers is beneficial to those in recovery from a SUD or mental illness. There are four primary types of social support provided by peers:

- Emotional: where a peer demonstrates empathy, caring, or concern to bolster a person's self-esteem (i.e., peer mentoring or peer-led support groups).
- Informational: where a peer shares knowledge and information to provide life or vocational skills training (i.e., parenting classes, job readiness training, or wellness seminars).
- Instrumental: where a peer provides concrete assistance to help others accomplish tasks (i.e., child care, transportation, and help accessing health and human services).
- Affiliational: where a peer facilitates contacts with other people to promote learning of social skills, create a sense of community, and acquire a sense of belonging (i.e., recovery centers, sports league participation, and alcohol or drug free socialization opportunities).²⁸

²⁰ *Id.*

²¹ *Id.*

²² Section 14.2019, F.S.

²³ Chapter 2020-39, L.O.F.

²⁴ The 2nd Alarm Project, *Our Services*, available at <https://2ndalarmproject.org/> (last visited March 7, 2023).

²⁵ The DCF, *First Responder Suicide Deterrence Task Force 2022 Annual Report*, available at

[https://myflfamilies.com/sites/default/files/2022-](https://myflfamilies.com/sites/default/files/2022-11/FINAL%202022%20First%20Responder%20Suicide%20Deterrence%20Task%20Force%20Report.pdf)

[11/FINAL%202022%20First%20Responder%20Suicide%20Deterrence%20Task%20Force%20Report.pdf](https://myflfamilies.com/sites/default/files/2022-11/FINAL%202022%20First%20Responder%20Suicide%20Deterrence%20Task%20Force%20Report.pdf) (last visited March 7, 2023).

²⁶ *Id.* at p. 8.

²⁷ *Id.*

²⁸ The Substance Abuse and Mental Health Services Administration (The SAMSHA), Center for Substance Abuse Treatment, *What Are Peer Recovery Support Services?*, p. 2, available at <https://store.samhsa.gov/system/files/sma09-4454.pdf>; See also the DCF, *Florida Peer Services Handbook* at p. 4-5, 2016, available at https://www.myflfamilies.com/sites/default/files/2022-11/Peer%20Guidance_2016.pdf (all sites last visited March 7, 2023).

First Responder Peer Support

A survey by the Journal of Emergency Medical Services revealed that first responders were less likely to contemplate suicide when they felt supported and encouraged at work.²⁹ One study showed that while some firefighters reported positive experiences with professional mental health help, others felt more distressed after such intervention.³⁰ Alternatively, these firefighters reported benefits from peer support, such as bonding with their fire crew after negative incidents, which can reduce the stigma, scheduling difficulties, lack of access, lack of trust, and fear or repercussions that may prevent first responders from seeking mental health care.³¹

In 2020, the Legislature recognized the need for mental health counseling for first responders by adopting confidentiality provisions intended to encourage peer support programs for law enforcement officers, firefighters, emergency medical technicians, paramedics, and 911 public safety telecommunicators.³² A “first responder peer” is defined as “a person who:

- Is not a health care practitioner as that term is defined in s. 456.001, F.S.;³³
- Has experience working as or with a first responder regarding any physical or emotional conditions or issues associated with the first responder’s employment; and
- Has been designated by the first responder’s employing agency to provide peer support as provided in this section and has received training for this purpose.³⁴

First responder peers are prohibited from divulging information from, or testifying about, a peer support communication in a civil, criminal, administrative, or disciplinary proceeding, unless:

- The first responder peer is a defendant in a civil, criminal, administrative, or disciplinary proceeding arising from a complaint filed by the first responder who was a party to the peer support communication, in which case such information may be divulged but is limited to the scope of the proceeding;
- The first responder who was a party to the peer support communication agrees, in writing, to allow the first responder peer to testify about or divulge information related to the peer support communications;
- Based on the peer support communications, the first responder peer suspects that the first responder who was a party to the peer support communications has committed a criminal act or intends to commit a criminal act. There is no liability on the part of, and no cause of action of any nature may arise against, the first responder peer for disclosing relevant information; or

²⁹ Journal of Emergency Medical Services, *Survey Reveals Alarming Rates of EMS Provider Stress and Thoughts of Suicide*, available at <https://www.jems.com/2015/09/28/survey-reveals-alarming-rates-of-ems-provider-stress-and-thoughts-of-suicide/> (last visited March 7 2023).

³⁰ The SAMSHA, *First Responders: Behavioral Health Concerns, Emergency Response, and Trauma*, (May 2019) at p. 10 and 12, available at <https://www.samhsa.gov/sites/default/files/dtac/supplementalresearchbulletin-firstresponders-may2018.pdf> (last visited March 7, 2023).

³¹ *Id.*

³² Chapter 2020-104, L.O.F.

³³ Section 456.001, F.S., defines “health care practitioner” to mean “any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part I, part II, or part III of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491.”

³⁴ Section 111.09(1)(b), F.S.

- There are articulable facts or circumstances that would lead a reasonable, prudent person to fear for the safety of the first responder who was a party to the peer support communication, another person, or society, and the first responder peer communicates the information only to a potential victim and law enforcement or other appropriate authorities. There is no liability on the part of, and no cause of action of any nature may arise against, the first responder peer for disclosing relevant information.³⁵

Currently, the infrastructure for peer support teams is varied across Florida depending on the agency or department.³⁶ Many larger agencies contain high-functioning, sustainable peer support models, and will often share these peer support teams with smaller departments throughout the state.³⁷ The Orlando Fire Department houses the oldest peer support model in the state and operates within a best practice model.³⁸ Training for peer support teams is often provided by reputable behavioral health organizations (i.e. the 2nd Alarm Project) or within an agency's behavioral health unit (i.e., Ft. Lauderdale Police Department; Tallahassee Fire Mental Health Wellness Program).³⁹

Commission on Mental Health and Substance Abuse

In 2021, the Legislature created the Commission, adjunct to the DCF, in response to recommendations of the 20th Statewide Grand Jury.⁴⁰ The DCF is required to provide administrative staff and support services for the Commission.⁴¹

The purposes of the Commission include:

- Examining the current methods of providing mental health and substance abuse services in the state;
- Improving the effectiveness of current practices, procedures, programs, and initiatives in providing such services;
- Identifying any barriers or deficiencies in the delivery of such services; and
- Recommending changes to existing laws, rules, and policies necessary to implement the Commission's recommendations.⁴²

The Commission is comprised of 19 members, including the Secretaries of AHCA and DCF.⁴³ Membership of the Commission also includes:

- Seven members appointed by the Governor, including:
 - A psychologist licensed under ch. 490, F.S., practicing within the mental health delivery system;

³⁵ Section 111.09(2), F.S.

³⁶ The DCF, *First Responder Suicide Deterrence Task Force 2021 Annual Report*, p. 6, available at <https://www.myflfamilies.com/sites/default/files/2022-11/First%20Responder%20Task%20Force%202021%20Report%20-%20Final%20-%208-4-21.pdf> (last visited March 7, 2023),

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Chapter 2021-170, L.O.F.

⁴¹ Section 394.9086(1), F.S.

⁴² Section 394.9086(2), F.S.

⁴³ Section 394.9086(3)(a), F.S.

- A mental health professional licensed under ch. 491, F.S.;
- A representative of mental health courts;
- An emergency room physician;
- A representative from the field of law enforcement;
- A representative from the criminal justice system; and
- A representative of a child welfare agency involved in the delivery of behavioral health services.
- Five members appointed by the President of the Senate, including:
 - A member of the Senate;
 - A person living with a mental health disorder;
 - A family member of a consumer of publicly funded mental health services;
 - A representative of the Louis de la Parte Mental Health Institute within the University of South Florida; and
 - A representative of a county school district.
- Five members appointed by the Speaker of the House of Representatives, including:
 - A member of the House of Representatives;
 - A representative of a treatment facility;
 - A representative of a managing entity;
 - A representative of a community substance abuse provider; and
 - A psychiatrist licensed under chs. 458 or 459, F.S., practicing within the mental health delivery system.⁴⁴

The Governor appoints the Commission chair from among its members, and members serve at the pleasure of the officer who appointed the member.⁴⁵ A vacancy on the Commission is required to be filled in the same manner as the original appointment.⁴⁶

The duties of the Commission include:

- Conducting a review and evaluation of the management and functioning of existing publicly supported mental health and substance abuse systems in the DCF, AHCA, and all other relevant state departments;
 - At a minimum, such review must include a review of current goals and objectives, current planning, service strategies, coordination management, purchasing, contracting, financing, local government funding responsibility, and accountability mechanisms.
- Considering the unique needs of people who are dually diagnosed;
- Addressing access to, financing of, and scope of responsibility in the delivery of emergency behavioral health care services;
- Addressing the quality and effectiveness of current service delivery systems and professional staffing and clinical structure of services, roles, and responsibilities of public and private providers;
- Addressing priority population groups for publicly funded services, identifying the comprehensive delivery systems, needs assessment and planning activities, and local government responsibilities for funding services;

⁴⁴ *Id.*

⁴⁵ Section 394.9086(3)(b), F.S.

⁴⁶ *Id.*

- Reviewing the implementation of ch. 2020-107, L.O.F.;⁴⁷
- Identifying gaps in the provision of mental health and substance abuse services;
- Providing recommendations on how managing entities may promote service continuity;
- Making recommendations about the mission and objectives of state-supported mental health and substance abuse services and the planning, management, staffing, financing, contracting, coordination, and accountability of mechanisms best suited for the recommended mission and objectives; and
- Evaluating and making recommendations regarding the establishment of a permanent, agency-level entity to manage mental health, behavioral health, substance abuse, and related services statewide, including the:
 - Duties and organizational structure;
 - Resource needs and possible sources of funding;
 - Impact on access to and the quality of services;
 - Impact on individuals with behavioral health needs, and their families, who are currently receiving services and those who are in need of services; and
 - Relation to and integration with service providers, managing entities, communities, state agencies, and provider systems.⁴⁸

The Commission is required to submit an initial report by January 1, 2023, and a final report by September 1, 2023, to the Governor, President of the Senate, and Speaker of the House of Representatives on its findings and recommendations on how to best provide and facilitate mental health and substance abuse services.⁴⁹ The Commission issued its initial report, containing ten preliminary recommendations, on January 1, 2023.⁵⁰

National Suicide Prevention Lifeline

The NSPL is a suicide prevention network of over 180 crisis centers that provides 24/7 service to anyone in a suicidal crisis or emotional distress via a toll-free hotline.⁵¹ The U.S. Substance Abuse and Mental Health Services Administration (the SAMHSA) and Vibrant Emotional Health launched the Lifeline on January 1, 2005.⁵²

The NSPL is independently evaluated by the Columbia University's Research Foundation for Mental Hygiene, and receives ongoing consultation and guidance from national suicide prevention experts, consumer advocates, and other stakeholders through the NSPL's Steering

⁴⁷ HB 945 (2020) required managing entities to implement the features of a coordinated system of mental health care for children and expands the use of mobile response teams (MRT) across the state. It required the Florida Mental Health Institute within the University of South Florida to develop a model protocol for school use of MRTs. The bill also required the AHCA and DCF to identify children and adolescents who are the highest users of crisis stabilization services and take action to meet the needs of such children. Lastly, the bill required the AHCA to continually test the Medicaid managed care provider network databases to ensure behavioral health providers are accepting enrollees and confirm that enrollees have access to behavioral health systems.

⁴⁸ Section 394.9086(4)(a), F.S.

⁴⁹ Section 394.9086(5), F.S.

⁵⁰ The DCF, Commission on Mental Health and Substance Abuse, *Legislative Report, January 1, 2023*, pp. 11-25 (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁵¹ The National Suicide Prevention Lifeline, *About*, available at <https://suicidepreventionlifeline.org/about/> (last visited March 7, 2023).

⁵² *Id.*

Committee; Consumer/Survivor Committee; and Standards, Training, and Practices Committee.⁵³ The NSPL grant is one component of the National Suicide Prevention Initiative, a multi-project effort to reduce suicide, led by the SAMSHA’s Center for Mental Health Services.⁵⁴

Managing Entities (MEs)

The DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally-established priority populations.⁵⁵

In 2001, the Legislature authorized the DCF to implement behavioral health managing entities (ME) as the management structure for the delivery of local mental health and substance abuse services.⁵⁶ The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized DCF to implement MEs statewide.⁵⁷ Full implementation of the statewide ME system occurred in 2013 and all geographic regions are now served by a managing entity.⁵⁸

Mobile Response Teams

A mental health crisis can be caused by a variety of factors at any hour of the day.⁵⁹ Family members and caregivers of an individual experiencing a mental health crisis are often ill-equipped to handle these situations and need the advice and support of professionals.⁶⁰ Law enforcement or emergency medical technicians (EMTs) are frequently called to respond to mental health crises and they may lack the training and experience to effectively handle the situation.⁶¹ Mobile crisis response teams (MRTs) can be beneficial in such instances.

MRTs provide readily available crisis care in a community-based setting and increase opportunities to stabilize individuals in the least restrictive setting, thereby avoiding the need for jail or hospital emergency department utilization.⁶² Early intervention services are critical to reducing involuntary examinations in minors and there are areas across the state where options

⁵³ *Id.*

⁵⁴ The SAMSHA, *National Suicide Prevention Initiative*, available at <https://web.archive.org/web/20080201122133/http://mentalhealth.samhsa.gov/cmhs/nspi/> (last visited March 7, 2023).

⁵⁵ See s. 394.674(1), F.S., for a complete list of priority populations.

⁵⁶ Chapter 2001-191, L.O.F.

⁵⁷ Chapter 2008-243, L.O.F.

⁵⁸ Florida Tax Watch, *Analysis of Florida’s Behavioral Health Managing Entity Models*, p. 4, March 2015, available at <https://floridataxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/15758/Analysis-of-Floridas-Behavioral-Health-Managing-Entities-Model> (last visited March 7, 2023).

⁵⁹ The DCF, *Mobile Response Teams Framework*, (August 29, 2018), p. 4, available at <https://www.lsfnet.org/wp-content/uploads/2018/10/Solicitation-2018-007-Mobile-Response-Team-APPEN-B-Mobile-Response-Framework.pdf> (last visited March 7, 2023) (hereinafter cited as “MRT Framework”).

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² MRT Framework, p. 2

short of involuntary examination under the Baker Act are limited or nonexistent.⁶³ MRTs are available to individuals under age 25 years of age, regardless of their ability to pay, and must be ready to respond to any mental health emergency.⁶⁴ Telehealth can be used to provide direct services to individuals via video-conferencing systems, mobile phones, and remote monitoring.⁶⁵ It can also be used to provide initial triage to determine if an in-person visit is needed to respond to the crisis, assessments, and follow-up consultation.⁶⁶

The DCF established a framework to guide procurement of MRTs. This framework suggests that the procurement:

- Be conducted with the collaboration of local Sheriff's Offices and public schools in the procurement planning, development, evaluation, and selection process;
- Be designed to ensure reasonable access to services among all counties in the ME's service region, taking into consideration the geographic location of existing mobile crisis teams;
- Require services be available 24 hours per day, seven days per week with on-site response time to the location of referred crises within 60 minutes of the request for services;
- Require the Network Service Provider to establish formalized written agreements to establish response protocols with local law enforcement agencies and local school districts or superintendents;
- Require access to a board-certified or board-eligible Psychiatrist or Psychiatric Nurse Practitioner; and
- Provide for an array of crisis response services that are responsive to the individual and the family needs, including screening, standardized assessments, early identification, or linkage to community services as necessary to address the immediate crisis event.⁶⁷

Florida Medicaid

Medicaid provides medical coverage to low-income individuals and families.⁶⁸ The state and federal government share the cost of the Medicaid program, and Medicaid services for Floridians are administered by the Agency for Health Care Administration (the AHCA).⁶⁹ Medicaid eligibility in Florida is determined either by the DCF or the Social Security Administration for SSI recipients.⁷⁰

Florida has a Section 1115 waiver to use a comprehensive managed care delivery model for primary and acute care services, the Statewide Medicaid Managed Care (SMMC) program.⁷¹ Within the SMMC, the Managed Medical Assistance (MMA) program provides acute health care services through managed care plans contracted with the AHCA in the 11 regions across the

⁶³ MRT Framework, p. 4.

⁶⁴ *Id.*

⁶⁵ MRT Framework, p. 7.

⁶⁶ *Id.*

⁶⁷ MDT Framework, p. 2-3.

⁶⁸ The DCF, Office of Economic Self-Sufficiency, *Medicaid*, available at <https://www.myflfamilies.com/Medicaid> (last visited March 7, 2023).

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Section 409.964, F.S.

state.⁷² Coverage includes preventive care, acute care, therapeutics, pharmacy, transportation services, and behavioral health services.⁷³

Current law requires each managed care plan to have an accurate and complete online database of the providers in their networks, including information about their credentials, licensure, hours of operation, and location.⁷⁴

Federal Assistance Related to COVID-19

CARES Act Funding

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law “to provide emergency assistance and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic.”⁷⁵ The CARES Act included multiple resources for services and supports intended to benefit individuals with issues related to mental health or substance use disorder, including:

- \$425 million for the SAMHSA, including:
 - \$250 million to Certified Community Behavioral Health Clinics (CCBHCs);
 - \$50 million for suicide prevention programs;
 - \$100 million for emergency-response spending that can target support where it is most needed, such as outreach to those experiencing homelessness; and
 - \$15 million for tribal communities.⁷⁶

American Rescue Plan Act Funding

On March 11, 2021, the American Rescue Plan Act (the Rescue Act) was signed into law.⁷⁷ Under the Rescue Act, the SAMSHA distributed an additional \$3 billion in funding for mental health and substance abuse services, comprising the largest ever aggregate amount of funding for mental health and substance use block grant programs.^{78, 79} Specifically, the Community Mental

⁷² See The Agency for Health Care Administration, *A Snapshot of the Florida Statewide Medicaid Managed Care Program*, https://ahca.myflorida.com/Medicaid/statewide_mc/pdf/mma/SMMC_Snapshot.pdf (last visited March 7, 2023).

⁷³ *Id.*

⁷⁴ Section 409.967(2)(c)1., F.S.

⁷⁵ Pub. L. No. 116-136 (2020).

⁷⁶ The National Alliance on Mental Illness (NAMI), *Information on the CARES Act for People with Mental Illness*, available at <https://www.nami.org/About-NAMI/NAMI-News/2020/Information-on-the-CARES-Act-for-People-with-Mental-Illness> (last visited March 7, 2023).

⁷⁷ Pub. L. No. 117-2 (2021).

⁷⁸ A block grant is a noncompetitive, formula grant mandated by the U.S. Congress where eligible entities must submit an annual application to demonstrate statutory and regulatory compliance in order to receive the formula-based funding by Congress. The SAMHSA's block grants provide funding for substance abuse and mental health services, including the Substance Abuse Prevention and Treatment Block Grant (Funds may be used to plan, implement, and evaluate activities that prevent and treat substance abuse and promote public health) and the Community Mental Health Services Block Grant (Funds may be used to provide comprehensive, community-based mental health services to adults with serious mental illnesses and to children with serious emotional disturbances and to monitor progress in implementing a comprehensive, community-based mental health system). See The SAMSHA, *Substance Abuse and Mental Health Block Grants*, available at <https://www.samhsa.gov/grants/block-grants> (last visited March 7, 2023).

⁷⁹ The U.S. Department of Health and Human Services, *HHS Announces \$3 Billion in American Rescue Plan Funding for SAMHSA Block Grants to Address Addiction, Mental Health Crisis*, available at <https://www.samhsa.gov/newsroom/press-announcements/202105181200#:~:text=The%20Substance%20Abuse%20and%20Mental.substance%20use%20block%20grant%20programs> (last visited March 7, 2023).

Health Services Block Grant (MHBG) Program and Substance Abuse Prevention and Treatment Block Grant Program (SABG) dispersed \$1.5 billion each to states and territories.⁸⁰

III. Effect of Proposed Changes:

First Responder Peer Support

The bill amends s. 111.09, F.S., permitting affiliated first responder organizations, in addition to a first responder employing agency, to designate first responder peers for the purpose of providing peer support. The bill amends s. 111.09, F.S., defining “affiliated first responder organization” to mean an organization including, but not limited to:

- Regularly organized volunteer firefighting departments or associations;
- Regularly organized ambulance services; and
- Combination fire departments, as that term is defined in s. 633.135(1), F.S.⁸¹

The bill also clarifies that a person is eligible to serve as a first responder peer if he or she has experience working as or with a first responder, including as:

- An active first responder;
- A volunteer first responder; or
- A retired first responders.

The bill amends s. 112.1815, F.S., to permit diagnosis of post-traumatic stress disorder in first responders via telehealth for the purposes of obtaining worker’s compensation benefits.

The bill amends s. 394.9086, F.S., requiring the Commission to study the following services and programs relating to suicide prevention:

- An overview of the National Suicide Prevention Lifeline (the NSPL);
- An analysis of the current capacity of crisis response services, including services provided by mobile response teams and centralized receiving facilities, including specifically an analysis of:
 - The geographic area and total population served by each mobile response team;
 - The average response time to each call made to the mobile response team;
 - The number of calls each mobile response team could not respond to due to staffing issues, travel distance, or other factors; and
 - The veteran status and age groups of individuals receiving services from mobile response teams.
- Strategies to improve linkages between NSPL infrastructure and crisis response services;
- Available mental health block grant funds which can be used to support the state’s NSPL infrastructure, including potential funding available through opioid settlements, the CARES Act, the American Rescue Plan Act, or other federal legislation;
- Funding sources available through Medicaid, including potential funding available via approval of a section 1115 waiver; and

⁸⁰ *Id.*

⁸¹ Section 633.135, F.S., defines “combination fire department” to mean “a fire department composed of a combination of career and volunteer firefighters.”

- Strategies to ensure that managing entities work with community stakeholders in furtherance of supporting the NSPL and other crisis response services.

The bill also amends s. 394.9086, F.S., requiring the Commission to submit interim reports, beginning January 1, 2023, annually thereafter through January 1, 2025, and a final report due September 1, 2026, to:

- The Governor;
- The President of the Senate; and
- The Speaker of the House of Representatives.

This will require the Commission to submit a total of two additional interim reports and moves the due date of the final report from September 1, 2023 to September 1, 2026. The bill also extends the statutory repeal date of the Commission from September 1, 2023 to September 1, 2026.

The bill requires that information on the overview of the state's current suicide prevention infrastructure be included in the Commission's final report due to the Speaker, Senate President, and Governor on September 1, 2026.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DCF states that expenditures for the bill can be absorbed within existing resources.⁸² The bill may have a positive impact on affiliated first responder organizations who wish to designate first responder peers, however because the decision to engage in this process is voluntary, the fiscal impact on these organizations is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 111.09, 112.1815, and 394.9086 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

⁸² The DCF, *Agency Analysis of SB 478 (2022 Session)* at p. 5 (on file with the Senate Committee on Children, Families, and Elder Affairs).

By Senator Davis

5-01099-23

2023938__

1 A bill to be entitled
2 An act relating to the operation and administration of
3 the Baker Act; amending s. 394.457, F.S.; requiring
4 the Department of Children and Families to provide
5 specified information to certain individuals and
6 organizations; requiring the department to maintain an
7 information handbook and repository of answers to
8 frequently asked questions; providing requirements for
9 such handbook and repository; providing an effective
10 date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Paragraph (b) of subsection (2) of section
15 394.457, Florida Statutes, is amended to read:

16 394.457 Operation and administration.—

17 (2) RESPONSIBILITIES OF THE DEPARTMENT.—The department is
18 responsible for:

19 (b) 1. Informing individuals and organizations involved in
20 implementing this part, including, but not limited to, law
21 enforcement officers, qualified professionals, and service
22 providers, ~~The publication and distribution of an information~~
23 handbook to facilitate understanding of the provisions of this
24 part; ~~7~~ the policies and procedures related to its effective
25 involved in the implementation; their roles and of this part,
26 and the responsibilities; and any other information necessary
27 for its effective implementation. The department shall maintain:
28 of the various providers of services under this part.

29 a. An information handbook, which must be published and

5-01099-23

2023938__

30 updated on the department's website annually by October 1.

31 b. A repository of answers to frequently asked questions,
32 which must be published on the department's website and
33 continually revised and expanded as necessary.

34 2. Supporting and facilitating ~~It shall stimulate~~ research
35 by public and private agencies, institutions of higher learning,
36 and hospitals in the interest of the elimination and
37 amelioration of mental illness.

38 Section 2. This act shall take effect July 1, 2023.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 938

INTRODUCER: Senator Davis

SUBJECT: Operation and Administration of the Baker Act

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	Pre-meeting
2.			JU	
3.			RC	

I. Summary:

SB 938 directs the Department of Children and Families (the DCF) to update and publish an informational Baker Act handbook annually and post the updated handbook on the agency's website every year by October 1. The bill also directs the DCF to maintain a repository of frequently asked questions (FAQs) on the agency's website, and continually revise and expand the repository as necessary.

The bill requires the DCF to inform certain stakeholders of their role in the Baker Act process and support their effective implementation of the Act. The DCF must support and facilitate research conducted by public and private agencies, institutions of higher learning, and hospitals in the interest of the elimination and amelioration of mental illness.

The DCF anticipates that the bill will not have a significant fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

The Baker Act

In 1971, the Legislature adopted the Florida Mental Health Act, known as the Baker Act.¹ The Baker Act deals with Florida's mental health commitment laws, and includes legal procedures for mental health examination and treatment, including voluntary and involuntary examinations.²

¹ Chapter 71-131, L.O.F.; The Baker Act is contained in ch. 394, F.S.

² Sections 394.451 through 394.47891, F.S.

The Baker Act also protects the rights of all individuals examined or treated for mental illness in Florida.³

Involuntary Examination

Individuals suffering from an acute mental health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.⁴ An involuntary examination is required if there is reason to believe that the person has a mental illness and because of his or her mental illness:

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination or is unable to determine for himself or herself whether examination is necessary; and
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.⁵

The involuntary examination may be initiated by:

- A court entering an ex parte order stating that a person appears to meet the criteria for involuntary examination, based on sworn testimony;⁶
- A law enforcement officer taking a person who appears to meet the criteria for involuntary examination into custody and delivering the person or having him or her delivered to a receiving facility for examination;⁷ or
- A physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker executing a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination, including a statement of the professional's observations supporting such conclusion.⁸

Involuntary patients must be taken to either a public or private facility which has been designated by the DCF as a Baker Act receiving facility. The purpose of receiving facilities is to receive and hold, or refer, as appropriate, involuntary patients under emergency conditions for psychiatric evaluation and to provide short-term treatment or transportation to the appropriate service provider.⁹ The patient must be examined by the receiving facility within 72 hours of the initiation of the involuntary examination and specified actions must be taken within that time frame to address the individual needs of the patient.¹⁰

³ Section 394.459, F.S.

⁴ Sections 394.4625 and 394.463, F.S., respectively.

⁵ Section 394.463(1), F.S.

⁶ Section 394.463(2)(a)1., F.S. Additionally, the order of the court must be made a part of the patient's clinical record.

⁷ Section 394.463(2)(a)2., F.S. The officer must execute a written report detailing the circumstances under which the person was taken into custody, and the report must be made a part of the patient's clinical record.

⁸ Section 394.463(2)(a)3., F.S. The report and certificate shall be made a part of the patient's clinical record

⁹ Section 394.455(40), F.S.

¹⁰ Section 394.463(2)(g), F.S.

Education and Training on Mental Health for Law Enforcement and School Personnel

As of 2021, there were 43,876 law enforcement officers in Florida's police departments, sheriffs' offices, schools and ports who could initiate an involuntary exam under Baker Act.¹¹ Some portion of these officers receive training on working with individuals with mental illness through approaches such as Crisis Intervention Team training.¹² Of the state's law enforcement agencies, 94% initiated at least one involuntary exam in FY 20-21.¹³

In FY 2022-23, there were 343,238 full-time staff in Florida's public schools.¹⁴ Many receive training through Youth Mental Health First Aid, which helps school personnel identify and understand the signs of mental health concerns and substance use disorders, and provide such personnel with the next steps to find help for a person who is developing or experiencing mental health concerns or a substance use disorder.¹⁵

Education and Training on the Baker Act by the DCF

Chapter 394, F.S., assigns the DCF statutory responsibility for the planning, evaluation, and implementation of a complete and comprehensive statewide program of mental health, including community services, receiving and treatment facilities, child services, research, and training.¹⁶ The DCF reports that it has created webinars on the Baker Act and provides informational community presentations.¹⁷ A Baker Act user reference guide and frequently asked question repository are other sources of information maintained by the DCF.¹⁸

Webinars and Community Presentations on the Baker Act

The DCF has worked with a contracted vendor to produce the following four webinars regarding the Baker Act:

- Introduction to the Baker Act (revised effective 2016).
- Law enforcement and the Baker Act.
- Minors and the Baker Act (revised effective 2016).

¹¹ See the Florida Department of Law Enforcement, *Criminal Justice Agency Profile (CJAP) Report-Statewide Ratios*, available at <https://www.fdle.state.fl.us/CJSTC/Publications/CJAP/Statewide-Ratios.aspx> (last visited March 9, 2023).

¹² See generally the Florida Sheriff's Association, *Crisis Intervention Team Training*, available at <https://www.flsheriffs.org/law-enforcement-programs/crisis-intervention-team> (last visited March 9, 2023).

¹³ The University of South Florida Baker Act Reporting Center, *The Baker Act Fiscal Year 2020/2021 Annual Report*, p. 3, available at https://www.usf.edu/cbcs/baker-act/documents/usf_bar_c_fy_20_21_annual_report.pdf (last visited March 9, 2023).

¹⁴ The Florida Department of Education (The DOE), *PK-12 Public School Data Publications and Reports: Staff*, available at <https://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/staff.stml> (last visited March 9, 2023).

¹⁵ The DOE, *Youth Mental Health Awareness Training*, available at <https://www.fldoe.org/schools/k-12-public-schools/sss/ymhat.stml> (last visited March 8, 2023). Rule 6A-1.094120, F.A.C., requires an annual certification that at least 80% of school personnel in required job codes in a school district, including school personnel at charter schools, have completed the approved training (last visited March 9, 2023).

¹⁶ The Department of Children and Families (The DCF), *Agency Analysis of 2023 HB 829*, p. 2, (February 21, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as, "The DCF HB 829 Analysis").

¹⁷ *Id.*

¹⁸ *Id.*

- Long-term Care and the Baker Act.¹⁹

Baker Act Handbook

Section 394.457, F.S., requires the DCF to publish and distribute an information handbook to facilitate understanding of the Baker Act. The DCF last published an updated version of the handbook, known as the *Baker Act User Reference Guide*, in 2014.²⁰ The 2014 volume is 496 pages long and includes:

- Overviews and historical background;
- Maps of judicial circuits, DCF regions, and managing entity service areas;
- Contact information for managing entities;
- Statutes linked to associated rules;
- Flow charts;
- Quick reference guides;
- Charts depicting authority granted to various mental health professionals under different situations;
- Comparison of the Baker and Marchman Act provisions;
- Resources, such as information about helplines, service providers, patient groups, and online training; and
- Forms.²¹

Since then, the Baker Act has been amended by the Legislature multiple times.²² Some changes that have been made since 2014 include:

- Identifying the components of a coordinated system of care to be provided for individuals with mental illness or substance use disorder and defining a “No Wrong Door” model for accessing care;²³
- Encouraging school districts to adopt a standardized suicide assessment tool that school-based mental health professionals may implement prior to initiation of an involuntary examination;²⁴
- Requiring that when a patient communicates a specific threat against an identifiable individual to a mental health service provider, the provider must notify law enforcement of the potential threat;²⁵
- Requiring patients subject to an involuntary Baker Act examination who do not meet the criteria for a petition for involuntary services to be released at the end of 72 hours, regardless of whether the examination period ends on a weekend or holiday, as long as certain discharge criteria are met;²⁶

¹⁹ *Id.*

²⁰ The DCF, *2014 Baker Act: the Florida Mental Health Act User Reference Guide*, available at https://www.myflfamilies.com/sites/default/files/2023-03/2014%20Baker%20Act%20Manual_0.pdf (last visited March 9, 2023) (hereinafter cited as, “The Baker Act Handbook”).

²¹ The Baker Act Handbook at pp. i-iv.

²² For example, including SB 12 (2016), SB 1418 (2019), and SB 1262 and SB 1844 (2022).

²³ Chapter 2016-241, L.O.F.

²⁴ Chapter 2019-134, L.O.F.

²⁵ *Id.*

²⁶ Chapter 2022-36, L.O.F.

- Requiring law enforcement officers to search certain electronic databases for Emergency Contact Information (ECI) of Baker and Marchman Act patients being transported to a receiving facility and expanding the entities who can access the ECI to specifically include receiving facilities, hospitals, and licensed detoxification and addictions receiving facilities;²⁷ and
- Revising the voluntariness provision under the Baker Act to allow a minor's voluntary admission to a receiving facility or hospital after a clinical review of the minor's assent has been conducted, rather than a hearing on the minor's consent.²⁸

The handbook has not been amended to address any of these changes.

Frequently Asked Questions Repository

The DCF maintains a repository of FAQs and responses on its website.²⁹ These FAQs address issues that arise in the field in the day-to-day administration of the Baker Act by the hundreds of thousands of individuals working in law enforcement, schools, mental health providers, hospitals, nursing homes and ALF's, and jails, as well as individual clinicians, who may come in contact with someone who might meet criteria for an involuntary exam under the Baker Act. The FAQs are the DCF staff's responses to public questions received from stakeholders.³⁰ At this time, the manual revisions normally occur after new statutory requirements are enacted and rules are formally adopted.³¹

Topics in the DCF FAQ list with accessible content include all of the following:

- Baker Act Forms.
- Long-term Care Facilities.
- Clinical Records and Confidentiality.
- Marchman Act.
- Discharge Planning.
- Minors.
- Emergency Medical Conditions.
- Professional Credentials.
- Emergency Treatment Orders.
- Receiving Facilities.
- Express and Informed Consent.
- Involuntary Examination.
- Involuntary Inpatient Placement.
- Transportation.
- Involuntary Outpatient Placement.
- Voluntary Admissions.
- Weapons & Contraband.

²⁷ *Id.*

²⁸ Chapter 2022-41, L.O.F.

²⁹ The DCF, *Baker Act Frequently Asked Questions*, available at <https://www.myflfamilies.com/crisis-services/baker-act/baker-act-frequently-asked-questions> (last visited March 8, 2023).

³⁰ The DCF HB 829 Analysis, p. 2.

³¹ *Id.*

- Law Enforcement.
- Telehealth.³²

III. Effect of Proposed Changes:

The bill amends s. 394.457, F.S., requiring the DCF to inform law enforcement officers, qualified professionals, and service providers of:

- The provisions of the Baker Act;
- Policies and procedures relating to effective implementation;
- Roles and responsibilities of those individuals as they relate to the Baker Act, and;
- Any other information necessary for the effective implementation of the Baker Act.

The bill requires the DCF to update and publish the Baker Act handbook annually and post the handbook on the agency's website by October 1 of each year. The bill also requires the DCF to maintain a repository of frequently asked questions related to the Baker Act, publish the repository on the agency's website, and continually revise and expand it as necessary.

The bill also directs the DCF to support and facilitate research in the interest of the elimination and amelioration of mental illness by:

- Public and private agencies;
- Institutions of higher learning; and
- Hospitals.

The bill is effective July 1, 2023.

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.

³² *Id.*

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DCF anticipates that the bill will have no fiscal impact on state government.³³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 394.457 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

³³ The DCF HB 829 Analysis, p. 4.

By Senator Yarborough

4-01207A-23

20231064__

1 A bill to be entitled
2 An act relating to children removed from caregivers;
3 amending s. 409.988, F.S.; requiring community-based
4 care lead agencies, in coordination with the local
5 managing entity, to provide a trauma-focused
6 assessment within a specified timeframe to children
7 removed from certain caregivers; specifying
8 requirements of the assessment and therapy, if
9 recommended; requiring community-based care lead
10 agencies to offer voluntary trauma services under
11 certain circumstances; amending s. 409.996, F.S.;
12 requiring the Department of Children and Families to
13 require in its contracts with the community-based care
14 lead agencies that such agencies and managing entities
15 provide a trauma-focused assessment within a specified
16 timeframe to children removed from certain caregivers;
17 conforming a cross-reference; providing an effective
18 date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Present paragraphs (b) through (n) of subsection
23 (1) of section 409.988, Florida Statutes, are redesignated as
24 paragraphs (c) through (o), respectively, and a new paragraph
25 (b) is added to that subsection, to read:

26 409.988 Community-based care lead agency duties; general
27 provisions.—

28 (1) DUTIES.—A lead agency:

29 (b)1. Shall, in coordination with the local managing

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20231064__

30 entity, provide a trauma-focused assessment to a child removed
31 from his or her parent, legal custodian, or caregiver to ensure
32 that the child is referred promptly to appropriate trauma
33 services, including clinical evaluation and intervention if
34 needed. The trauma-focused assessment must occur as soon as
35 practicable subsequent to the child's removal but no later than
36 14 days after the shelter hearing. The assessment and therapy,
37 if recommended, must evaluate and address the impact of the
38 removal to the child.

39 2. Shall offer voluntary trauma services to a child and his
40 or her family in the event that a shelter petition is denied and
41 the child is returned to his or her parent, legal custodian, or
42 caregiver.

43 Section 2. Present paragraphs (b) through (f) of subsection
44 (1) of section 409.996, Florida Statutes, are redesignated as
45 paragraphs (c) through (g), respectively, a new paragraph (b) is
46 added to that subsection, and paragraph (b) of subsection (4) of
47 that section is amended, to read:

48 409.996 Duties of the Department of Children and Families.—
49 The department shall contract for the delivery, administration,
50 or management of care for children in the child protection and
51 child welfare system. In doing so, the department retains
52 responsibility for the quality of contracted services and
53 programs and shall ensure that, at a minimum, services are
54 delivered in accordance with applicable federal and state
55 statutes and regulations and the performance standards and
56 metrics specified in the strategic plan created under s.
57 20.19(1).

58 (1) The department shall enter into contracts with lead

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59 agencies for the performance of the duties by the lead agencies
60 established in s. 409.988. At a minimum, the contracts must do
61 all of the following:

62 (b) Require lead agencies and managing entities to
63 coordinate to provide a trauma-focused assessment to a child
64 removed from his or her parent, legal custodian, or caregiver to
65 ensure that the child is referred promptly to appropriate trauma
66 services, including clinical evaluation and intervention if
67 needed as required by s. 409.988(1)(b).

68 (4)

69 (b) The department shall collect and publish on its
70 website, and update monthly, the information required under s.
71 409.988(1)(l) ~~s. 409.988(1)(k)~~.

72 Section 3. This act shall take effect July 1, 2023.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1064

INTRODUCER: Senator Yarborough

SUBJECT: Children Removed from Caregivers

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Cox	CF	Pre-meeting
2.	_____	_____	AHS	_____
3.	_____	_____	FP	_____

I. Summary:

SB 1064 expands the duties of a lead agency under s. 409.988, F.S., and the contract requirements of the Department of Children and Families under s. 409.996, F.S., to require a lead agency, in coordination with the local managing entity, to provide a trauma-focused assessment to a child removed from his or her parent, legal custodian, or caregiver as soon as practicable but no later than 14 days after the shelter hearing. The assessment must ensure prompt referral for a child to appropriate trauma services, to include clinical evaluation and intervention if needed, and must address the impact of the removal of the child from his or her home.

The bill also requires a lead agency to offer voluntary trauma services to a child and his or her family in the event that a court denies the shelter petition and the child is returned to his or her parent, legal custodian, or caregiver.

The bill will have an indeterminate negative fiscal impact on the private sector. See Section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2023.

II. Present Situation:

Florida's Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children. Out-of-home placements can

include a temporary placement with a family member, family foster home, residential child-caring agency, a permanent adoptive placement with a family previously unknown to the child.¹

Community-Based Care Organizations and Services

The DCF contracts for case management, out-of-home care (foster care), adoption, and other related services with lead agencies, also known as community-based care organizations (CBCs). The CBC model is designed to increase local community ownership of service delivery and design of child welfare services.²

The DCF, through the CBCs, administers a system of care³ for children that is directed toward:

- Prevention of separation of children from their families;
- Intervention to allow children to remain safely in their own homes;
- Reunification of families who have had children removed from their care;
- Safety for children who are separated from their families;
- Promoting the well-being of children through emphasis on educational stability and timely health care;
- Permanency; and
- Transition to independence and self-sufficiency.⁴

The CBCs must give priority to services that are evidence-based and trauma informed.⁵ The CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.⁶ The CBCs employ case managers that serve as the primary link between the child welfare system and families with children under the DCF's supervision. These case managers work with affected families to ensure that a child reaches his or her permanency goal in a timely fashion.⁷

¹ Section 409.175, F.S.

² The Department of Children and Families, *About Community-Based Care*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/about-community-based-care> (last visited March 7, 2023) (hereinafter cited as "DCF").

³ *Id.*

⁴ *Id.*; Also see generally s. 409.988, F.S.

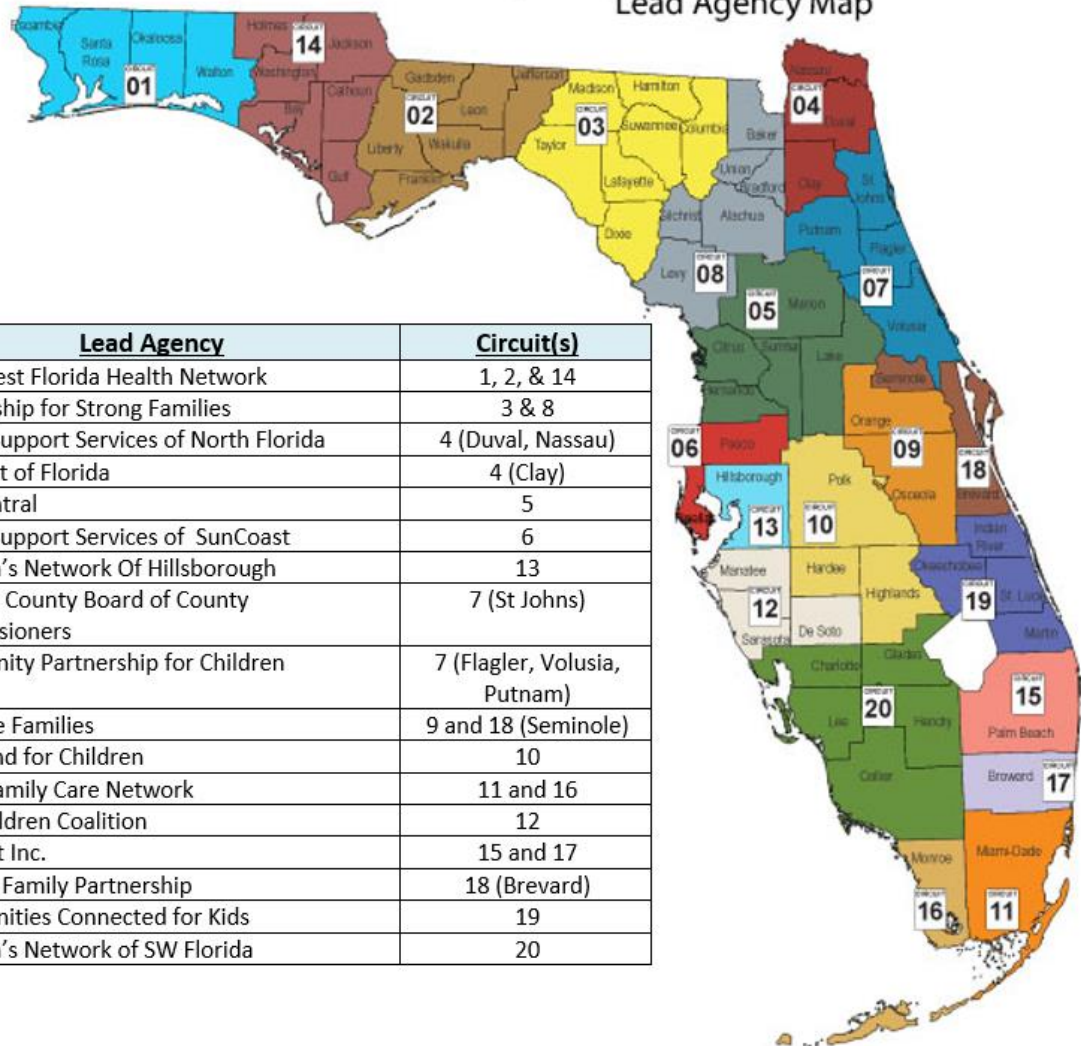
⁵ Section 409.988(3), F.S.

⁶ The DCF, *Lead Agency Information*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/lead-agency-information> (last visited March 7, 2023).

⁷ Section 409.988(1), F.S.

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

Community-Based Care Lead Agency Map



Lead Agency	Circuit(s)
Northwest Florida Health Network	1, 2, & 14
Partnership for Strong Families	3 & 8
Family Support Services of North Florida	4 (Duval, Nassau)
Kids First of Florida	4 (Clay)
Kids Central	5
Family Support Services of SunCoast	6
Children’s Network Of Hillsborough	13
St Johns County Board of County Commissioners	7 (St Johns)
Community Partnership for Children	7 (Flagler, Volusia, Putnam)
Embrace Families	9 and 18 (Seminole)
Heartland for Children	10
Citrus Family Care Network	11 and 16
Safe Children Coalition	12
ChildNet Inc.	15 and 17
Brevard Family Partnership	18 (Brevard)
Communities Connected for Kids	19
Children’s Network of SW Florida	20

Dependency Process

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the Florida’s central abuse hotline (hotline), including incidents of domestic violence.⁸ A child protective investigation begins if the

⁸ Section 39.201(1), F.S.

hotline determines the allegations meet the statutory definition of abuse,⁹ abandonment,¹⁰ or neglect.¹¹ A child protective investigator investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.¹²

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home.¹³ When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.¹⁴ The dependency court process is summarized in the table below.

The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines a child is unsafe in his or her home and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.

⁹ Section 39.01(2), F.S. The term “abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

¹⁰ Section 39.01(1), F.S. The term “abandoned” or “abandonment” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.

¹¹ Sections 39.01(50) and 39.201(2)(a), F.S. “Neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

¹² Section 39.101(2), F.S.

¹³ See generally ss. 39.401 through 39.4024, F.S.

¹⁴ See s. 39.01(14), F.S., for the definition of “child who is found to be dependent.”

Dependency Proceeding	Description of Process	Controlling Statute
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Post-disposition hearing	The court may change temporary placement at a post disposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

In-Home and Out-of-Home Care

The DCF is required to administer a system of care that endeavors to keep children with their families and provides interventions to allow children to remain safely in their own homes.¹⁵ Protective investigators and CBC case managers can refer families for in-home services to allow children who would otherwise be unsafe to remain in their own homes.

When a child protective investigator determines that in-home services are not enough to allow a child to safely remain in his or her home, the investigator removes and places the child with a safe and appropriate temporary placement.¹⁶ These temporary placements, referred to as out-of-home care, provide housing and services to children until they can return home to their families or achieve permanency with other families through adoption or guardianship.¹⁷

The CBCs must place all children in out-of-home care in the most appropriate available setting after conducting an assessment using child-specific factors.¹⁸ Legislative intent is to place a

¹⁵ See s. 39.001, F.S.

¹⁶ Sections 39.401 through 39.4022, F.S.

¹⁷ The Office of Program Policy and Government Accountability, *Program Summary*, available at <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=5053> (last visited March 7, 2023).

¹⁸ Rule 65C-28.004, F.A.C., provides that the child-specific factors include age, sex, sibling status, physical, educational, emotional, and developmental needs, maltreatment, community ties, and school placement.

child in the least restrictive, most family-like environment in close proximity to parents when removed from his or her home.¹⁹ The DCF is required to follow an enumerated priority list for out-of-home placement, which includes the below-mentioned specified placements in descending order:

- Nonoffending parent;
- Relative caregiver;
- Adoptive parent of the child’s sibling;
- Fictive kin with a close relationship to the child;
- Nonrelative caregiver without an existing relationship to the child;
- Licensed foster care; and then
- Licensed group or congregate care.²⁰

Trauma and Trauma-informed Care

Trauma is a widespread, harmful, and costly public health problem.²¹ Children and adolescents are particularly affected by trauma.²² A growing body of research points to the effects of trauma on mental and physical health, family functioning, academic outcomes, housing stability, and employment.²³ For many youth, exposure to childhood adversity increases the likelihood of involvement with multiple systems, including health care, behavioral health, child welfare, and juvenile justice.²⁴

The term trauma is used to describe an event, series of events, or set of circumstances that is experienced as physically or emotionally harmful or life-threatening, overwhelms one’s ability to cope, and has adverse effects on a person’s mental, physical, social, emotional, or spiritual well-being.²⁵ Exposure to traumatic experiences can alter how people view themselves and others by challenging their beliefs that the world is a safe place, that other people can be trusted, and that they are worthy of care and protection.²⁶ Whether an event or set of circumstances is experienced as traumatic is influenced by many factors, including our internal coping resources, our external supports, and broader community, cultural, and societal factors that shape how we understand and respond to our experiences.²⁷

The term trauma-informed care refers to a universal approach to addressing trauma and promoting resilience through policies, procedures, practices, and programs adopted by the entire workforce, at all levels or roles, and in all parts of the system, for all people receiving services.²⁸

¹⁹ Sections 39.001(1) and 39.4021(1), F.S.

²⁰ Section 39.4021(2)(a), F.S.

²¹ Chapin Hall at the University of Chicago, Building a Multi-System Trauma-informed Collaborative, 2020, p. V, available at <https://www.chapinhall.org/wp-content/uploads/PDF/Multi-System-Trauma-Informed-Care-MSTIC-Guide.pdf> (last viewed March 7, 2023) (hereinafter cited as “Chapin Hall”).

²² *Id.*

²³ *Id.* at p. 1

²⁴ *Id.*

²⁵ Substance Abuse and Mental Health Services Administration, *SAMHSA’s concept of trauma and guidance for a trauma-informed approach*, HHS Publication SMA14-4884, 2014, p. 7, available at <https://store.samhsa.gov/sites/default/files/d7/priv/sma14-4884.pdf> (last viewed March 7, 2023).

²⁶ Chapin Hall at p. 3

²⁷ *Id.*

²⁸ *Id.* at p. 4

The term trauma-informed care is often mistakenly used interchangeably with trauma-specific clinical interventions.²⁹ However, a trauma-informed approach encompasses a much more comprehensive model within and across systems that often requires that systems engage in certain fiscal, policy, and workforce development reform efforts.³⁰

Service systems designed to help people who have experienced trauma can sometimes re-traumatize the people they serve.³¹ This results from recreating situations or experiences that mirror or replicate past trauma, causing survivors to experience a similar level of distress in the present.³² Research has shown that the removal incident by child welfare services to protect the immediate safety and well-being of a child is often a traumatic experience.³³ Trauma is traditionally examined through the lens of what happened to a child before removal and sometimes what occurred to the child after removal; however, it is critical to consider how a child may experience trauma due to the removal.³⁴ Research, policy, and practice all indicate that child removal and entry into foster care evokes emotional and psychological trauma and is the most drastic safety intervention utilized by a child welfare agency.³⁵ Significant gaps exist in policy and practice, which fail to address the impact of child removal on children and their parents. The practice of removal, intended to mitigate serious, imminent harm, has the potential to cause serious, imminent harm itself.³⁶

Trauma screening and assessment

Trauma screening and assessment is designed to be able to be administered to every child within a given system (such as child welfare) to determine whether he or she has experienced trauma, displays symptoms related to trauma exposure, and/or should be referred for a comprehensive trauma-informed mental health assessment.³⁷ Trauma screening should evaluate the presence of two critical elements:

- Exposure to potentially traumatic events and experiences, including traumatic loss; and
- Traumatic stress symptoms and reactions.³⁸

Not all children who experience negative events suffer posttraumatic or trauma-specific reactions as a result.³⁹ Trauma screening should measure a wide range of experiences and identify common reactions and symptoms of trauma as well as other commonly reported difficulties.⁴⁰

²⁹ *Id.*

³⁰ *Id.*

³¹ Chapin Hall at p. 10

³² *Id.*

³³ See Sankaran, V., Church, et al., *A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families*, University of Michigan Law School Scholarship Repository, 2019, available at <https://repository.law.umich.edu/articles/2055/> (last viewed March 7, 2023) (hereinafter cited as “A Cure”).

³⁴ *Id.* at p. 1166

³⁵ *Id.* at p. 1167

³⁶ *Id.* at p. 1168

³⁷ The National Child Traumatic Stress Network, *Trauma Screening, What is a Trauma Screening Tool or Process?*, available at <https://www.nctsn.org/treatments-and-practices/screening-and-assessments/trauma-screening> (last viewed March 7, 2023) (hereinafter cited as “NCTSN”).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

With proper training, various professionals or paraprofessionals from child-serving systems can administer trauma screening tools or instruments.⁴¹

There are multiple requirements throughout law for specific screenings within the child welfare system; however there is not a requirement for a trauma specific screening or assessment.⁴²

Comprehensive Assessment

Current law defines a “comprehensive assessment” as the gathering of information to evaluate a child and caregiver’s physical, psychiatric, psychological, or mental health; developmental delays or challenges; and educational, vocational, and social condition and family environment.⁴³ This assessment is to evaluate the need for services, including substance abuse, mental health, developmental, literacy, medical, family, and other specialized services.⁴⁴

Comprehensive Behavioral Health Assessment (CBHA)

The DCF requires a CBHA for all children entering out-of-home care who are Medicaid eligible.⁴⁵ Any needs identified through the CBHA and recommendations for services must be included in the family’s case plan.⁴⁶ The CBHA is a Medicaid funded assessment with the following goals:

- Provide assessment of areas where no other information exists;
- Update pertinent information;
- Provide functional information;
- Provide specific information and recommendations to accomplish family preservation, reunification, or permanency planning;
- Provide data to promote the most appropriate out-of-home placement; and
- Provide information for development of an effective individualized treatment plan.⁴⁷

⁴¹ *Id.*

⁴² See generally s. 39.0016(2)(b)3.a., F.S., requiring a referral for screening for a child who has or is suspected of having a disability; s. 39.0(65), F.S., defining “preliminary screening” to mean the gathering of information to be used to determine a child’s need for substance abuse services; s. 39.407(1), F.S., authorizing the DCF to perform a medical screening on a child to examine a child for injury, illness, and communicable diseases; s. 39.407(4)(c), F.S., allowing a judge to order a screening for learning disabilities, other handicaps, and the need for alternative education; s. 39.4085, F.S., finding that a goal of the child welfare system is to have a full risk, health, educational, medical, and psychological screening; ss. 39.524 and 409.1754, F.S., requiring an assessment and screening for a child that is suspected of being or found to be a victim of commercial sexual exploitation; and s. 409.996(16), F.S., requiring the DCF to work with the Agency for Health Care Administration to provide a Medicaid-eligible child with a 72-hour screening under the Medicaid early and periodic screening, diagnosis, and treatment requirements.

⁴³ Section 39.01(17), F.S.

⁴⁴ *Id.*

⁴⁵ The DCF, Children and Families Operating Procedure (CFOP) 170-18 ch. 2-1, August 21, 2020, available at https://www.myflfamilies.com/sites/default/files/2022-12/cfop_170-18_chapter_02_comprehensive_behavioral_health_assessments.pdf (last viewed March 7, 2023).

⁴⁶ *Id.*

⁴⁷ Agency for Health Care Administration, *Specialized Therapeutic Services Coverage and Limitations Handbook*, 2-10, March 2014, available at https://ahca.myflorida.com/medicaid/review/Specific/59G-4.295_Specialized_Therapeutic_Services_and_Limitations_Handbook_Adoption.pdf (last viewed March 7, 2023).

The CBHA requires information gathering in many components related to the child and the child's family, including the following:

- Personal and family history;
- Placement history;
- Cognitive functioning;
- Medications;
- Substance use and abuse history;
- Mental health treatment history;
- Educational analysis;
- Cultural analysis;
- Present function; and
- Strengths.⁴⁸

A child protective investigator or dependency case manager must refer a child that has been removed from his or her home for a CBHA within seven calendar days of removal.⁴⁹ The CBHA provider must complete the assessment and send the report of the findings within 24 calendar days of receipt of the referral.⁵⁰ If at any point during the CBHA process a dependency case manager determines a child has an urgent need for immediate behavioral health treatment, the case manager will see appropriate services for the child.⁵¹

Trauma, including trauma specifically related to the child's removal, is not specifically referenced in the CBHA component requirements or process.

III. Effect of Proposed Changes:

The bill expands the duties of a lead agency under s. 409.988, F.S., and the contract requirements of the Department of Children and Families under s. 409.996, F.S., to require a lead agency, in coordination with the local managing entity, to provide a trauma-focused assessment to a child removed from his or her parent, legal custodian, or caregiver as soon as practicable but no later than 14 days after the shelter hearing. The assessment must ensure prompt referral for a child to appropriate trauma services, to include clinical evaluation and intervention if needed, and must address the impact of the removal of the child from his or her home.

The bill also requires a lead agency to offer voluntary trauma services to a child and his or her family in the event that a court denies the shelter petition and the child is returned to his or her parent, legal custodian, or caregiver.

The bill has an effective date of July 1, 2023

⁴⁸ *Id.* at 2-6 through 2-9.

⁴⁹ CFOP 170-18 at ch. 2-5a.

⁵⁰ *Id.* at d.

⁵¹ *Id.* at g.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will likely have an indeterminate negative fiscal impact on the private sector as a lead agency may need to change operations, increase support, or increase contract amounts to meet the requirements of the bill.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 409.988 and 409.996 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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



713300

LEGISLATIVE ACTION

Senate

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. .
. .
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. .

House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present paragraphs (b) through (n) of subsection
(1) of section 409.988, Florida Statutes, are redesignated as
paragraphs (c) through (o), respectively, and a new paragraph
(b) is added to that subsection, to read:

409.988 Community-based care lead agency duties; general
provisions.—



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11 (1) DUTIES.—A lead agency:

12 (b)1. Shall, in coordination with the local managing
13 entity, administer a validated trauma-focused screening to a
14 child removed from his or her parent, legal custodian, or
15 caregiver to ensure any trauma related to the child's removal is
16 timely identified, if present, and that the child is referred
17 promptly to appropriate trauma services, including clinical
18 evaluation and intervention if needed. The trauma-focused
19 screening must occur as soon as practicable subsequent to the
20 child's removal but no later than 14 days after the shelter
21 hearing. The screening and therapy, if recommended, must
22 evaluate and address the impact of the removal to the child.

23 2. Shall offer voluntary trauma screening and appropriate
24 trauma services to a child and his or her family in the event
25 that a shelter petition is denied and the child is returned to
26 his or her parent, legal custodian, or caregiver.

27 Section 2. Present paragraphs (b) through (f) of subsection
28 (1) of section 409.996, Florida Statutes, are redesignated as
29 paragraphs (c) through (g), respectively, a new paragraph (b) is
30 added to that subsection, and paragraph (b) of subsection (4) of
31 that section is amended, to read:

32 409.996 Duties of the Department of Children and Families.—
33 The department shall contract for the delivery, administration,
34 or management of care for children in the child protection and
35 child welfare system. In doing so, the department retains
36 responsibility for the quality of contracted services and
37 programs and shall ensure that, at a minimum, services are
38 delivered in accordance with applicable federal and state
39 statutes and regulations and the performance standards and



40 metrics specified in the strategic plan created under s.
41 20.19(1).

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

46 (b) Require lead agencies and managing entities to
47 coordinate to administer a validated trauma-focused screening to
48 a child removed from his or her parent, legal custodian, or
49 caregiver to ensure any trauma related to the child's removal is
50 timely identified, if present, and that the child is referred
51 promptly to appropriate trauma services, including clinical
52 evaluation and intervention if needed as required by s.
53 409.988(1)(b).

54 (4)

55 (b) The department shall collect and publish on its
56 website, and update monthly, the information required under s.
57 409.988(1)(l) ~~s. 409.988(1)(k)~~.

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

59 And the title is amended as follows:

60 Delete everything before the enacting clause
61 and insert:

62 A bill to be entitled
63 An act relating to children removed from caregivers;
64 amending s. 409.988, F.S.; requiring community-based
65 care lead agencies, in coordination with the local
66 managing entity, to administer a trauma-focused
67 screening within a specified timeframe to children
68 removed from certain caregivers; specifying



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69 requirements of the screening and therapy, if
70 recommended; requiring community-based care lead
71 agencies to offer voluntary trauma screening and
72 services under certain circumstances; amending s.
73 409.996, F.S.; requiring the Department of Children
74 and Families to require in its contracts with the
75 community-based care lead agencies that such agencies
76 and managing entities administer a trauma-focused
77 screening within a specified timeframe to children
78 removed from certain caregivers; conforming a cross-
79 reference; providing an effective date.

By the Committee on Judiciary; and Senator Burton

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1 A bill to be entitled
2 An act relating to withholding or withdrawal of life-
3 prolonging procedures; amending s. 744.3215, F.S.;
4 authorizing the court to delegate the right to consent
5 to the withholding or withdrawal of life-prolonging
6 procedures of incapacitated persons in certain
7 circumstances; amending ss. 744.363 and 744.3675,
8 F.S.; making technical changes; requiring initial and
9 annual guardianship plans, respectively, to state
10 whether any power under the ward's preexisting order
11 not to resuscitate or advance directive is revoked,
12 modified, suspended, or transferred to the guardian;
13 requiring such plans to state the date of such action;
14 establishing certain authority without additional
15 court approval; requiring a guardian to obtain court
16 approval to exercise transferred power to execute an
17 order not to resuscitate or consent to withhold or
18 withdraw life-prolonging procedures under certain
19 circumstances; creating s. 744.4431, F.S.; authorizing
20 a guardian to petition a court for approval to consent
21 to withhold or withdraw life-prolonging procedures
22 under certain circumstances; specifying requirements
23 for the petition; requiring the guardian to serve
24 certain notices; specifying procedures that must be
25 followed by the court in acting on the petition;
26 authorizing the guardian to withhold or withdraw life-
27 prolonging procedures without a hearing or court
28 approval under certain circumstances; amending s.
29 744.441, F.S.; making technical changes; deleting

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30 provisions regarding the authority of certain
31 guardians to sign an order not to resuscitate;
32 providing an effective date.
33

34 Be It Enacted by the Legislature of the State of Florida:
35

36 Section 1. Paragraph (h) is added to subsection (3) of
37 section 744.3215, Florida Statutes, to read:

38 744.3215 Rights of persons determined incapacitated.—

39 (3) Rights that may be removed from a person by an order
40 determining incapacity and which may be delegated to the
41 guardian include the right:

42 (h) To consent to the withholding or withdrawal of life-
43 prolonging procedures as defined in s. 765.101, subject to court
44 approval as provided in s. 744.4431 if there is a conflict over
45 or objection to the proposed exercise of that authority.

46 Section 2. Present subsections (2) through (6) of section
47 744.363, Florida Statutes, are redesignated as subsections (3)
48 through (7), respectively, paragraph (g) is added to subsection
49 (1) and a new subsection (2) is added to that section, and
50 paragraph (f) of subsection (1) of that section is amended, to
51 read:

52 744.363 Initial guardianship plan.—

53 (1) The initial guardianship plan shall include all of the
54 following:

55 (f)1. A list of any preexisting:

56 a. Orders not to resuscitate as described in ~~executed under~~
57 s. 401.45(3) and the date such orders were signed; or

58 b. ~~Preexisting~~ Advance directives, as defined in s. 765.101

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59 ~~and~~, the date such directives were signed. ~~an order or directive~~
60 ~~was signed,~~

61 2. For each item listed under subparagraph 1., the plan
62 must state whether the ~~such~~ order or directive has been revoked,
63 modified, or suspended by the court or the extent to which
64 authority under an order or directive has been transferred by
65 the court to the guardian. The plan must also state the date of
66 such action by the court.

67 (g) ~~, and~~ A description of the steps taken to identify and
68 locate a ~~the~~ preexisting order not to resuscitate or advance
69 directive.

70 (2) A surrogate designated by the ward in an advance
71 directive or an agent designated by the ward in a durable power
72 of attorney who retains authority to make health care decisions
73 under the guardianship plan may exercise retained authority
74 without additional approval by the court. Any authority of the
75 surrogate to carry out the instructions in the advance directive
76 or authority of the agent under a durable power of attorney
77 which is transferred to the guardian may be exercised by the
78 guardian, consistent with the advance directive or durable power
79 of attorney, without additional approval by the court. Any
80 authority transferred to the guardian to execute an order not to
81 resuscitate or to consent to withhold or withdraw life-
82 prolonging procedures is subject to court approval pursuant to
83 s. 744.4431 if there is a conflict over or objection to a
84 proposed exercise of that authority.

85 Section 3. Present subsections (2), (3), and (4) of section
86 744.3675, Florida Statutes, are redesignated as subsections (3),
87 (4), and (5), respectively, paragraph (e) is added to subsection

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88 (1) and a new subsection (2) is added to that section, and
89 paragraph (d) of subsection (1) of that section is amended, to
90 read:

91 744.3675 Annual guardianship plan.—Each guardian of the
92 person must file with the court an annual guardianship plan
93 which updates information about the condition of the ward. The
94 annual plan must specify the current needs of the ward and how
95 those needs are proposed to be met in the coming year.

96 (1) Each plan for an adult ward must, if applicable,
97 include:

98 (d) 1. A list of any preexisting:

99 a. Orders not to resuscitate as described in ~~executed under~~
100 s. 401.45(3) and the date such orders were signed; or

101 b. ~~Preexisting~~ Advance directives, as defined in s. 765.101
102 and, the date such directives were signed. ~~an order or directive~~
103 was signed,

104 2. For each item listed under subparagraph 1., the plan
105 must state whether the ~~such~~ order or directive has been revoked,
106 modified, or suspended by the court or the extent to which
107 authority under an order or directive has been transferred by
108 the court to the guardian. The plan must also state the date of
109 any revocation, modification, or suspension by the court.

110 (e) ~~, and~~ A description of the steps taken to identify and
111 locate a ~~the~~ preexisting order not to resuscitate or advance
112 directive.

113 (2) A surrogate designated by the ward in an advance
114 directive or an agent designated by the ward in a durable power
115 of attorney who retains authority to make health care decisions
116 under the guardianship plan may exercise retained authority

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117 without additional approval by the court. Any authority of the
118 surrogate to carry out the instructions in the advance directive
119 or authority of the agent under a durable power of attorney
120 which is transferred to the guardian may be exercised by the
121 guardian, consistent with the advance directive or durable power
122 of attorney, without additional approval by the court. Any
123 authority transferred to the guardian to execute an order not to
124 resuscitate or to consent to withhold or withdraw life-
125 prolonging procedures is subject to court approval pursuant to
126 s. 744.4431 if there is a conflict over or objection to a
127 proposed exercise of that authority.

128 Section 4. Section 744.4431, Florida Statutes, is created
129 to read:

130 744.4431 Guardianship power regarding life-prolonging
131 procedures.-

132 (1) A guardian of a ward's person may petition a court
133 pursuant to the Florida Probate Rules for authority to consent
134 to withhold or withdraw life-prolonging procedures for any of
135 the following reasons:

136 (a) The right to consent to withhold or withdraw life-
137 prolonging procedures has not been delegated to the guardian in
138 the order appointing the guardian.

139 (b) Sufficient authority under the ward's preexisting
140 advance directive or durable power of attorney has not been
141 transferred to the guardian.

142 (c) The proposed withholding or withdrawal of life-
143 prolonging procedures is in conflict with the wishes, as
144 presently or previously expressed, of the ward, the ward's next
145 of kin, or any interested person.

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146 (2) The petition by the guardian must contain all of the
147 following:

148 (a) A description of the proposed action for which court
149 approval is sought and documentation of any existing authority
150 for the guardian to make health care decisions for the ward.

151 (b) A statement regarding any known objections to the
152 proposed action or of conflicts between the guardian's proposed
153 action to withhold or withdraw life-prolonging procedures and
154 the wishes, presently or previously expressed, of the ward, the
155 ward's next of kin, or any interested person.

156 (c) A description of the circumstances or evidence and
157 affidavits or supporting documentation showing that the proposed
158 action satisfies the applicable criteria in s. 765.401 or s.
159 765.404.

160 (3) The guardian must serve notice of the petition, and of
161 any hearing, upon interested persons and the ward's next of kin,
162 unless waived by the court.

163 (4) The court must hold a hearing on the petition if the
164 court has been notified of an objection or conflict or if the
165 court has insufficient information to determine whether the
166 criteria for granting the requested authority has been met.

167 (5) If a hearing is required and exigent circumstances are
168 alleged, the court must hold a preliminary hearing within 72
169 hours after the petition is filed and do one of the following:

170 (a) Rule on the relief requested immediately after the
171 preliminary hearing.

172 (b) Conduct an evidentiary hearing within 4 days after the
173 preliminary hearing and rule on the relief requested immediately
174 after the evidentiary hearing.

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175 (6) Notwithstanding the requirements for court approval
176 imposed under this section, and if authority to withhold or
177 withdraw life-prolonging procedures has not been vested in
178 another person, the guardian may, without a hearing or prior
179 court approval, consent to the withholding or withdrawal of
180 life-prolonging procedures if all of the following apply:

181 (a) The ward is in a hospital and at least two of the
182 ward's treating physicians state in writing that there is a
183 substantial likelihood that the ward's death will occur within
184 the next 72 hours.

185 (b) There is no known objection to the granting of a
186 petition to withhold or withdraw life-prolonging procedures.

187 (c) The hospital ethics committee has met and agrees with
188 the guardian's proposal to withhold or withdraw life-prolonging
189 procedures. If the hospital does not have an ethics committee,
190 it may seek approval by the ethics committee of another facility
191 or a community-based ethics committee approved by the Florida
192 Bioethics Network.

193 Section 5. Section 744.441, Florida Statutes, is amended to
194 read:

195 744.441 Powers of guardian upon court approval.—After
196 obtaining approval of the court pursuant to a petition for
197 authorization to act, ~~+~~

198 ~~(1)~~ a plenary guardian of the property, or a limited
199 guardian of the property within the powers granted by the order
200 appointing the guardian or an approved annual or amended
201 guardianship report, may do all of the following:

202 (1) ~~(a)~~ Perform, compromise, or refuse performance of a
203 ward's contracts that continue as obligations of the estate, as

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204 he or she may determine under the circumstances.

205 (2)~~(b)~~ Execute, exercise, or release any powers as trustee,
206 personal representative, custodian for minors, conservator, or
207 donee of any power of appointment or other power that the ward
208 might have lawfully exercised, consummated, or executed if not
209 incapacitated, if the best interest of the ward requires such
210 execution, exercise, or release.

211 (3)~~(e)~~ Make ordinary or extraordinary repairs or
212 alterations in buildings or other structures; demolish any
213 improvements; or raze existing, or erect new, party walls or
214 buildings.

215 (4)~~(d)~~ Subdivide, develop, or dedicate land to public use;
216 make or obtain the vacation of plats and adjust boundaries;
217 adjust differences in valuation on exchange or partition by
218 giving or receiving consideration; or dedicate easements to
219 public use without consideration.

220 (5)~~(e)~~ Enter into a lease as lessor or lessee for any
221 purpose, with or without option to purchase or renew, for a term
222 within, or extending beyond, the period of guardianship.

223 (6)~~(f)~~ Enter into a lease or arrangement for exploration
224 and removal of minerals or other natural resources or enter into
225 a pooling or unitization agreement.

226 (7)~~(g)~~ Abandon property when, in the opinion of the
227 guardian, it is valueless or is so encumbered or in such
228 condition that it is of no benefit to the estate.

229 (8)~~(h)~~ Pay calls, assessments, and other sums chargeable or
230 accruing against, or on account of, securities.

231 (9)~~(i)~~ Borrow money, with or without security, to be repaid
232 from the property or otherwise and advance money for the

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233 protection of the estate.

234 (10)~~(j)~~ Effect a fair and reasonable compromise with any
235 debtor or obligor or extend, renew, or in any manner modify the
236 terms of any obligation owing to the estate.

237 (11)~~(k)~~ Prosecute or defend claims or proceedings in any
238 jurisdiction for the protection of the estate and of the
239 guardian in the performance of his or her duties. Before
240 authorizing a guardian to bring an action described in s.
241 736.0207, the court shall first find that the action appears to
242 be in the ward's best interests during the ward's probable
243 lifetime. There shall be a rebuttable presumption that an action
244 challenging the ward's revocation of all or part of a trust is
245 not in the ward's best interests if the revocation relates
246 solely to a devise. This subsection ~~paragraph~~ does not preclude
247 a challenge after the ward's death. If the court denies a
248 request that a guardian be authorized to bring an action
249 described in s. 736.0207, the court must ~~shall~~ review the
250 continued need for a guardian and the extent of the need for
251 delegation of the ward's rights.

252 (12)~~(l)~~ Sell, mortgage, or lease any real or personal
253 property of the estate, including homestead property, or any
254 interest therein for cash or credit, or for part cash and part
255 credit, and with or without security for unpaid balances.

256 (13)~~(m)~~ Continue any unincorporated business or venture in
257 which the ward was engaged.

258 (14)~~(n)~~ Purchase the entire fee simple title to real estate
259 in this state in which the guardian has no interest, but the
260 purchase may be made only for a home for the ward, to protect
261 the home of the ward or the ward's interest, or as a home for

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262 the ward's dependent family. If the ward is a married person and
263 the home of the ward or of the dependent family of the ward is
264 owned by the ward and spouse as an estate by the entirety and
265 the home is sold pursuant to the authority of subsection (12)
266 ~~paragraph (1)~~, the court may authorize the investment of any
267 part or all of the proceeds from the sale toward the purchase of
268 a fee simple title to real estate in this state for a home for
269 the ward or the dependent family of the ward as an estate by the
270 entirety owned by the ward and spouse. If the guardian is
271 authorized to acquire title to real estate for the ward or
272 dependent family of the ward as an estate by the entirety in
273 accordance with the preceding provisions, the conveyance must
274 ~~shall~~ be in the name of the ward and spouse and ~~shall~~ be
275 effective to create an estate by the entirety in the ward and
276 spouse.

277 (15) ~~(e)~~ Exercise any option contained in any policy of
278 insurance payable to, or inuring to the benefit of, the ward.

279 (16) ~~(e)~~ Pay reasonable funeral, interment, and grave marker
280 expenses for the ward from the ward's estate.

281 (17) ~~(e)~~ Make gifts of the ward's property to members of the
282 ward's family in estate and income tax planning procedures.

283 (18) ~~(e)~~ When the ward's will evinces an objective to obtain
284 a United States estate tax charitable deduction by use of a
285 split interest trust (as that term is defined in s. 736.1201),
286 but the maximum charitable deduction otherwise allowable will
287 not be achieved in whole or in part, execute a codicil on the
288 ward's behalf amending said will to obtain the maximum
289 charitable deduction allowable without diminishing the aggregate
290 value of the benefits of any beneficiary under such will.

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291 (19)~~(s)~~ Create or amend revocable trusts or create
292 irrevocable trusts of property of the ward's estate which may
293 extend beyond the disability or life of the ward in connection
294 with estate, gift, income, or other tax planning or in
295 connection with estate planning. The court shall retain
296 oversight of the assets transferred to a trust, unless otherwise
297 ordered by the court.

298 (20)~~(t)~~ Renounce or disclaim any interest by testate or
299 intestate succession or by inter vivos transfer.

300 (21)~~(u)~~ Enter into contracts that are appropriate for, and
301 in the best interest of, the ward.

302 (22)~~(v)~~ As to a minor ward, pay expenses of the ward's
303 support, health, maintenance, and education, if the ward's
304 parents, or either of them, are alive.

305 ~~(2) A plenary guardian or a limited guardian of a ward may~~
306 ~~sign an order not to resuscitate as provided in s. 401.45(3).~~
307 ~~When a plenary guardian or a limited guardian of a ward seeks to~~
308 ~~obtain approval of the court to sign an order not to~~
309 ~~resuscitate, if required by exigent circumstances, the court~~
310 ~~must hold a preliminary hearing within 72 hours after the~~
311 ~~petition is filed, and:~~

312 ~~(a) Rule on the relief requested immediately after the~~
313 ~~preliminary hearing; or~~

314 ~~(b) Conduct an evidentiary hearing not later than 4 days~~
315 ~~after the preliminary hearing and rule on the relief requested~~
316 ~~immediately after the evidentiary hearing.~~

317 Section 6. This act shall take effect July 1, 2023.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 1098

INTRODUCER: Judiciary Committee and Senator Burton

SUBJECT: Withholding or Withdrawal of Life-prolonging Procedures

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collazo</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1098 regulates the authority of a court-appointed guardian to consent to withhold or withdraw life-prolonging procedures, or sign an order not to resuscitate, on behalf of a ward. The bill allows the ward's wishes to be followed without delay, but still requires court approval to withhold or withdraw life-prolonging procedures in some cases.

Specifically, the bill creates a statute that:

- Authorizes a guardian of a ward's person to petition a court for authority to consent to withhold or withdraw life-prolonging procedures, if the guardian lacks sufficient authority to consent or if the proposal is in conflict with the wishes of the ward or the ward's next of kin.
- Requires the court to hold a hearing on the petition if it has been notified of an objection or conflict, or if the court has insufficient information to determine whether the criteria for granting the requested authority has been met.
- Requires the court to hold a preliminary hearing within 72 hours after the petition is filed, if a hearing is required and exigent circumstances are alleged, and either rule on the requested relief immediately or conduct an evidentiary hearing within 4 days.
- Allows a guardian without vested authority to consent to the withholding or withdrawal of life-prolonging procedures, without a hearing or prior court approval, if the ward's death is likely to occur within 72 hours, there are no known objections to the petition, and the hospital ethics committee has met and agrees with the guardian's proposal.

The bill also amends existing statutes to:

- Require initial and annual guardianship plans to state whether an advance directive or an order to not resuscitate listed therein remains in effect, or state the extent to which their authority to make health care decisions has been transferred by the court to the guardian.
- Provide that a surrogate under an advance directive, or an agent under a durable power of attorney, who has retained the authority to make health care decisions under the initial and annual guardianship plans may exercise that authority without additional approval by the court.
- Provide that any authority to make health care decisions that has been transferred by the court to the guardian may be exercised by the guardian, consistent with the advance directive or the durable power of attorney, and without additional approval by the court, unless there is a conflict over or objection to the guardian’s proposed exercise of that authority.

The bill takes effect on July 1, 2023.

II. Present Situation:

Guardians and Guardianship

A “guardian” is someone who has been given the legal duty and authority to care for another person or his or her property because of that person’s infancy, disability, or incapacity.¹ A “guardianship” is a trust relationship designed to protect vulnerable members of society who do not have the ability to protect themselves.² The person for whom a guardian is appointed in a guardianship is called a “ward.”³

Once a guardian is appointed by the court, the guardian serves as a surrogate decision-maker and makes personal or financial decisions, or both, for the ward.⁴ Guardianships are generally disfavored because the ward loses his or her individual and civil rights; a guardian may be appointed only if the court finds there is no less restrictive alternative to a guardianship.⁵

There are two main forms of guardianship: guardianship over the person, and guardianship over the property – each of which may be limited or plenary. For adults, a guardianship may be established when a person has demonstrated that he or she is unable to manage some or all of his or her own affairs.⁶ If the adult is competent, this can be accomplished voluntarily. However, if an individual’s mental competence is in question, an involuntary guardianship may be established through an adjudication of incompetence, which is determined by a court-appointed examination committee.⁷

¹ BLACK’S LAW DICTIONARY (11th ed., 2019).

² *See Id.*

³ Section 744.102(22), F.S.

⁴ *See s. 744.102(9)*, F.S.

⁵ Section 744.1012(1)-(2), F.S.; *see also* Disability Rights Florida, *Types of Guardianship*, available at https://disabilityrightsflorida.org/disability-topics/disability_topic_info/types_of_guardianship (last visited March 11, 2023).

⁶ *See generally*, s. 744.102(9), F.S. A plenary guardian exercises all delegable rights and powers of the ward after a court has determined that the ward lacks the capacity to perform all of the tasks necessary to care for his or her person or property. Section 744.102(9)(b), F.S.

⁷ *See generally*, s. 744.102(12), F.S.; *see also* ch. 744, pt. V, F.S. (regarding the adjudication of incapacity and appointment of guardians).

A guardianship must be specific to the abilities and needs of the individual and should never be more restrictive than necessary.⁸ Consequently, state law recognizes different types of guardians and guardianship arrangements, including⁹ preneed guardians;¹⁰ voluntary guardianship;¹¹ emergency temporary guardianship;¹² limited guardianship;¹³ guardian advocates for individuals who have a developmental disability¹⁴ or for individuals receiving mental health treatment;¹⁵ and full (*i.e.* plenary) guardianship.¹⁶

Powers and Duties of Court-Appointed Guardians

The powers and duties of a court-appointed guardian may include:

- Filing an initial plan and annual reports.¹⁷
- Making provision for the medical, mental, rehabilitative, and personal care of the person.¹⁸
- Making residential decisions on behalf of the person.¹⁹
- Advocating on behalf of the person in institutional and other residential settings.²⁰
- Making financial decisions on behalf of the person.²¹

On the other hand, certain actions require specific authority from the court before a guardian may take them.²² In particular, a guardian may not:

- Commit the ward to a facility, institution, or licensed service provider without formal placement proceedings pursuant to state law.
- Consent on behalf of the ward to the performance on the ward of any experimental biomedical or behavioral procedure, or to the participation by the ward in any biomedical or behavioral experiment. The court may permit such performance or participation only if it is:
 - Of direct benefit to, and is intended to preserve the life of or prevent serious impairment to, the mental or physical health of the ward; or
 - Intended to assist the ward with developing or regaining his or her abilities.
- Initiate a petition for dissolution of marriage for the ward.
- Consent on behalf of the ward to termination of the ward's parental rights.
- Consent on behalf of the ward to the performance of a sterilization or abortion procedure on the ward.²³

⁸ Section 744.1012(2), F.S.; *see also* Disability Rights Florida, *supra* note 5.

⁹ *See generally* Disability Rights Florida, *supra* note 5.

¹⁰ Sections 744.3045 and 744.3046, F.S.

¹¹ Section 744.341, F.S.

¹² Section 744.3031, F.S.

¹³ Section 744.441(1), F.S.; *see also* s. 744.102(9)(a), F.S. (defining "limited guardian").

¹⁴ Sections 744.3085 and 393.12, F.S.

¹⁵ Sections 744.3085 and 394.4598, F.S.

¹⁶ Section 744.441(1), F.S.; *see also* s. 744.102(9)(b), F.S. (defining "plenary guardian").

¹⁷ Section 744.361(6)-(7), F.S.

¹⁸ Section 744.361(13)(f), F.S.

¹⁹ *See* s. 744.361(13)(h), F.S.

²⁰ Section 744.361(13)(i), F.S.

²¹ *See* s. 744.361(12), F.S.

²² *See* ss. 744.3725 and 744.3215(4), F.S.

²³ *Id.*

State courts have long recognized the relationship between a guardian and his or her ward is a fiduciary one.²⁴ A fiduciary relationship exists between two persons when one of them is under a duty to act or to give advice for the benefit of the other, upon matters within the scope of that relationship.²⁵ Such duties include, but are not limited to, duties to refrain from self-dealing, of loyalty, to not take unfair advantage of the ward and to act in the best interest of the ward, and to disclose material facts.²⁶

State law also imposes specific duties upon guardians consistent with the basic duties of a fiduciary, including protecting and preserving the property of the ward as well as his or her overall physical and social health.²⁷ For example, as noted above, guardians must file initial²⁸ and annual guardianship reports,²⁹ and an annual accounting of the ward's property, with the court;³⁰ such reports may be deemed evidence of a guardian's faithful execution of his or her fiduciary duties.³¹

An overriding concern of reviewing courts is that guardian fiduciaries not breach their duties to their wards or abuse their positions. If a guardian breaches his or her fiduciary duty, the court must take action to protect the ward and the ward's assets.³²

Initial and Annual Guardianship Plans

Guardians must file an initial guardianship report with the court. It must be filed within 60 days after appointment and, for a guardian of the person, include an initial guardianship plan.³³ Initial guardian plans must contain certain specified information regarding the ward. Among other things, the initial plan must include information regarding the provision of medical, mental, or personal care services for the welfare of the ward; the kind of residential setting best suited for the needs of the ward; the provision of social and personal services for the welfare of the ward; and a list of any preexisting orders not to resuscitate or advance directives.³⁴

Guardians must also file an annual guardianship report with the court. The annual guardianship report must be filed within 90 days after the last day of the anniversary month of appointment. The annual plan must cover the coming fiscal year, ending on the last day in the anniversary month.³⁵ Similar to the initial guardianship report, the annual guardianship report for a guardian

²⁴ See, e.g., *In re Guardianship of Lawrence v. Norris*, 563 So. 2d 195, 197 (Fla. 1st DCA 1990) (noting that the guardian in that case was found to have violated his fiduciary duty as a guardian); *Denarii Systems, LLC v. Tellez*, 2011 WL 13322664 (S.D. Fla. 2011) (recognizing that fiduciary duties may be created by legal proceedings, such as in the case of a guardian and ward).

²⁵ *Doe v. Evans*, 814 So. 2d 370, 374 (Fla. 2002) (internal citations omitted).

²⁶ *Capital Bank v. MVP, Inc.* 644 So. 2d 515, 520 (Fla. 3d DCA 1994).

²⁷ See generally s. 744.361, F.S.

²⁸ Section 744.362, F.S.

²⁹ Section 744.367, F.S.

³⁰ Section 744.3678, F.S.

³¹ See generally s. 744.368, F.S. (directing the clerk of the circuit court to review each initial and annual guardianship report to ensure it contains specified information about the ward).

³² Section 744.446(5), F.S.

³³ Sections 744.361(6) and 744.362(1), F.S.

³⁴ See s. 744.363(1)(a)-(f), F.S.

³⁵ Section 744.367(1), F.S.

of the person must include an annual guardianship plan³⁶ containing information regarding the medical and mental health conditions, treatment, and rehabilitation needs of the ward; the residence of the ward; the social condition of the ward; and a list of any preexisting orders not to resuscitate or advance directives.³⁷

Determining Incapacity

The process to determine incapacity and appoint a guardian begins with the filing of a petition in the appropriate circuit court. The petition must be served on, and read to, the allegedly incapacitated person. Notice and copies of the petition must also be provided to the attorney for the allegedly incapacitated person and served on all next of kin identified in the petition.³⁸

At hearing, the partial or total incapacity of the person must be established by clear and convincing evidence.³⁹ After finding that a person is incapacitated with respect to the potential exercise of one or more rights, the court must enter a written order of incapacity. A person is deemed incapacitated only as to those rights specified in the court's order.⁴⁰ If the order provides that the person is incapable of exercising delegable rights (described below), the court must next consider whether there are any alternatives to guardianship which will sufficiently address the incapacitated person's problems. If not, a guardian will be appointed.⁴¹

Rights of Incapacitated Persons

A person who has been determined to be incapacitated retains certain rights, regardless of the determination of incapacity, including the right to be treated humanely and with dignity and respect; the right to be protected against abuse, neglect, and exploitation; the right to receive visitors and communicate with others; and the right to privacy.⁴²

Certain rights may be removed from a person by an order determining incapacity, but not delegated to a guardian. They include the right to marry (if the right to enter into a contract has been removed, the right to marry is subject to court approval); the right to vote; the right to personally apply for government benefits; the right to have a driver license; the right to travel; and the right to seek or retain employment.⁴³

Additionally, certain other "delegable" rights may be removed from a person by an order determining incapacity, and also delegated to a guardian. They include the rights to:

- Contract.
- Sue and defend lawsuits.
- Apply for government benefits.
- Manage property or to make any gift or disposition of property.
- Determine his or her residence.

³⁶ Section 744.367(1) and (3)(a), F.S.

³⁷ Section 744.3675, F.S.

³⁸ Section 744.331(1), F.S.

³⁹ Section 744.331(5)(c), F.S.

⁴⁰ Section 744.331(6), F.S.

⁴¹ Section 744.331(6)(b), F.S.

⁴² See s. 744.3215(1)(a)-(o), F.S. (specifying all retained rights).

⁴³ Section 744.3215(2)(a)-(f), F.S.

- Consent to medical and mental health treatment.
- Make decisions about his or her social environment or other social aspects of his or her life.⁴⁴

Advance Directives

State law defines an advance directive as a witnessed, oral statement or written instruction that expresses a person's desires about any aspect of his or her future health care, including the designation of a health care surrogate, a living will, or an anatomical gift.⁴⁵ Designation of each of these can serve different purposes and have their own unique requirements and specifications under the law.⁴⁶

One type of advance directive, an "order not to resuscitate" or a "do not resuscitate order," results in the withholding of cardiopulmonary resuscitation from an individual if the order is presented to the health care professional treating the patient.⁴⁷ For the order to be valid, it must be on the yellow form adopted by the Department of Health, signed by the patient's physician and by the patient, or if the patient is incapacitated, the patient's health care surrogate or proxy, court-appointed guardian, or agent under a durable power of attorney.⁴⁸

It is the responsibility of the Emergency Medical Services provider to ensure that the order form or the patient identification device, which is a miniature version of the form, accompanies the patient.⁴⁹ An order not to resuscitate may be revoked by the patient at any time, if signed by the patient, or the patient's health care surrogate, proxy, court-appointed guardian or a person acting under a durable power of attorney.⁵⁰

A power of attorney is a writing that grants authority to an agent to act in the place of the principal.⁵¹ A "durable" power of attorney is a kind of power of attorney that cannot be terminated by the principal's incapacity.⁵² Among many other things, a durable power of attorney may be used to allow another person to make health care decisions on behalf of an incapacitated principal.⁵³

⁴⁴ Section 744.3215(3)(a)-(g), F.S.

⁴⁵ Section 765.101(1), F.S.

⁴⁶ *See id.*

⁴⁷ *See* Fla. Admin. Code R. 64J-2.018(1).

⁴⁸ Section 401.45(3), F.S.; *see also* Fla. Admin. Code R. 64J-2.018(1)-(3).

⁴⁹ Fla. Admin. Code R. 64J-2.018(2)(b) and (4).

⁵⁰ Fla. Admin. Code R. 64J-2.018(6).

⁵¹ Section 709.2102(9), F.S.

⁵² Section 709.2102(4), F.S.; *see also* s. 709.2104 (specifying that a power of attorney is durable if it contains the words: "This durable power of attorney is not terminated by subsequent incapacity of the principal except as provided in chapter 709, Florida Statutes," or similar words that show the principal's intent that the authority conferred is exercisable notwithstanding the principal's subsequent incapacity).

⁵³ *See id.*; *see also* The Florida Bar, *Consumer Pamphlet: Florida Power of Attorney, About the Power of Attorney*, available at <https://www.floridabar.org/public/consumer/pamphlet13/#about> (last visited March 11, 2023).

Hospital Ethics Committees

Hospital ethics committees discuss and make recommendations about clinical ethical issues in a hospital.⁵⁴ Such committees are a resource for medical staff and administrators in addressing the difficult ethical questions and compliance issues that arise in patient care, including the proper respect for patient confidentiality or concerns about a patient's refusal of life-saving treatment.⁵⁵ They are typically multi-disciplinary in nature, consisting of representatives from different departments of the facility, including medicine, nursing, law, pastoral care, and social work.⁵⁶

The Florida Bioethics Network is an organization dedicated to the understanding and resolution of ethical and legal problems arising in health care and research in the state's hospitals, hospices, nursing homes, managed care organizations and teaching institutions.⁵⁷

III. Effect of Proposed Changes:

In 2020, in response to reports that a professional guardian had signed an order not to resuscitate against her ward's wishes, the Legislature began requiring guardians to obtain court approval to sign orders not to resuscitate.⁵⁸ Some courts went even further, also requiring court approval for a guardian to consent to withhold or withdraw life-prolonging procedures. These requirements, however, may result in prolonged suffering and be inconsistent with the ward's wishes.

The bill creates or amends several sections within the state's guardianship statutes⁵⁹ to regulate the authority of a court-appointed guardian to consent to withhold or withdraw life-prolonging procedures, or to sign an order not to resuscitate, on behalf of his or her ward. The bill allows a ward's wishes to be followed without delay, but still requires court approval to withhold or withdraw life-prolonging procedures in some cases.

Guardianship Powers Regarding Life-Prolonging Procedures

The bill creates s. 744.4431, F.S., entitled "Guardianship power regarding life-prolonging procedures."

⁵⁴ Alaska Regional Hospital, *Alaska Regional Hospital's Ethics Committee* (Apr. 16, 2018), available at <https://www.alaskaregional.com/blog/entry/alaska-regional-hospital-s-ethics-committee>; see also F. Hajibabae et al., *Hospital/clinical ethics committees' notion: an overview*, 9 J. MED. ETHICS HIST. MED. 17 (Dec. 18, 2016) available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5432947/> (explaining that a healthcare ethics committee or hospital ethics committee is a body of persons established by a hospital or health care institution for the purpose of considering, debating, studying, taking action on, or reporting on ethical issues that arise in patient care) (all sites last visited March 11, 2023).

⁵⁵ Alaska Regional Hospital, *supra* note 54.

⁵⁶ Thaddeus Mason Pope, *The Growing Power of Healthcare Ethics Committees Heightens Due Process Concerns*, 15 CARDOZO JOURNAL OF CONFLICT RESOLUTION 425 (2014), available at <https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1278&context=facsch> (last visited March 11, 2023).

⁵⁷ Florida Bioethics Network, *About Us*, available at <https://fbn.miami.edu/about-us/index.html> (last visited March 11, 2023).

⁵⁸ Ch. 2020-35, s. 6, Laws of Fla.; see also Greg Angel, *DeSantis Signs Florida Guardianship Bill Into Law, Expanding Oversight of Program* (Jun. 19, 2020), Spectrum News 13, available at <https://www.mynews13.com/fl/orlando/news/2020/06/19/desantis-signs-florida-guardianship-bill-into-law> (last visited March 11, 2023).

⁵⁹ Chapter 744, F.S.

The bill authorizes a guardian of a ward's person to petition a court pursuant to the Florida Probate Rules for authority to consent to withhold or withdraw life-prolonging procedures if:

- The right to consent to withhold or withdraw life-prolonging procedures has not been delegated to the guardian in the order appointing the guardian.
- Sufficient authority under the ward's preexisting advance directive or durable power of attorney has not been transferred to the guardian.
- The proposed withholding or withdrawal of life-prolonging procedures is in conflict with the wishes, as presently or previously expressed, of the ward, the ward's next of kin, or any interested person.

The bill requires the petition by the guardian to:

- Describe the proposed action for which court approval is sought and supply documentation of any existing authority for the guardian to make health care decisions for the ward.
- Notify the court of any known objections to the proposed action or of conflicts between the guardian's proposed action to withhold or withdraw life-prolonging procedures and the wishes, presently or previously expressed, of the ward, the ward's next of kin, or any interested person.
- Describe the circumstances or evidence and include affidavits or supporting documentation showing that the proposed action satisfies the applicable criteria in the statutes providing for health care decision proxies⁶⁰ or governing individuals who are in a persistent vegetative state.⁶¹

The bill requires the guardian to serve notice of the petition, and of any hearing, upon interested persons and the ward's next of kin, unless waived by the court.

The bill requires the court to hold a hearing on the petition if it has been notified of an objection or conflict, or if the court has insufficient information to determine whether the criteria for granting the requested authority has been met. If a hearing is required and exigent circumstances are alleged, the court must hold a preliminary hearing within 72 hours after the petition is filed and do one of the following:

- Rule on the relief requested immediately after the preliminary hearing.
- Conduct an evidentiary hearing within 4 days after the preliminary hearing and rule on the relief requested immediately after the evidentiary hearing.

The bill provides that notwithstanding the requirements for court approval described in the bill, and if authority to withhold or withdraw life-prolonging procedures has not been vested in another person, the guardian may, without a hearing or prior court approval, consent to the withholding or withdrawal of life-prolonging procedures if:

- The ward is in a hospital and at least two of the ward's treating physicians state in writing that there is a substantial likelihood that the ward's death will occur within the next 72 hours;
- There is no known objection to the granting of a petition to withhold or withdraw life-prolonging procedures; and
- The hospital ethics committee has met and agrees with the guardian's proposal to withhold or withdraw life prolonging procedures. If the hospital does not have an ethics committee, it

⁶⁰ See generally s. 765.401, F.S.

⁶¹ See generally s. 765.404, F.S.

may arrange for this requirement to be satisfied by an ethics committee of another facility or a community-based ethics committee approved by the Florida Bioethics Network.

Rights of Persons Determined Incapacitated

State law includes a list of rights that may be removed from a person by an order determining incapacity and which may be delegated to a guardian.⁶² The bill amends this list to include the right to consent to the withholding or withdrawal of life-prolonging procedures⁶³ and subject to court approval as provided in the bill, if there is a conflict over or objection to the proposed exercise of that authority.

Initial and Annual Guardianship Plans

The bill amends the statutes regulating the contents of initial⁶⁴ and annual⁶⁵ guardianship plans. Specifically, with respect to any signed orders not to resuscitate⁶⁶ or preexisting advance directives identified in the plans,⁶⁷ the bill requires the plan to state whether the order or the directive has been revoked, modified, or suspended by the court, or the extent to which authority under an order or directive has been transferred by the court to the guardian. The plan must also state the date of any revocation, modification, or suspension by the court.

The bill provides that either a surrogate designated by the ward in an advance directive, or an agent designated by the ward in a durable power of attorney, who retains authority to make health care decisions under the guardianship plan, may exercise that authority without additional approval by the court. Any authority of a surrogate or agent that has been transferred to a guardian may be exercised by the guardian, consistent with the advance directive or durable power of attorney, without additional approval by the court. And any power transferred to a guardian to execute an order not to resuscitate or to consent to withhold or withdraw life-prolonging procedures is subject to court approval pursuant to the new statute created by the bill (s. 744.4431, F.S.) if there is a conflict over or objection to a proposed exercise of that power.

Guardian Powers upon Court Approval

The bill also implements conforming changes to the statute providing for the powers of guardians upon court approval.⁶⁸

⁶² Section 744.3215(3), F.S.

⁶³ Section 765.101(12), F.S., defines “life-prolonging procedure” to mean any medical procedure, treatment, or intervention, including artificially provided sustenance and hydration, which sustains, restores, or supplants a spontaneous vital function. The term does not include the administration of medication or performance of medical procedure, when such medication or procedure is deemed necessary to provide comfort care or to alleviate pain.

⁶⁴ Section 744.363, F.S.

⁶⁵ Section 744.3675, F.S.

⁶⁶ See s. 401.45(3), F.S., for a full description of the requirements for issuance of a valid order not to resuscitate.

⁶⁷ See s. 765.101(1), F.S., defines “advance directive” to mean a witnessed written document or oral statement in which instructions are given by a principal or in which the principal’s desires are expressed concerning any aspect of the principal’s health care or health information, and includes, but is not limited to, the designation of a health care surrogate, a living will, or an anatomical gift made pursuant to part V of this chapter..

⁶⁸ Section 744.441, F.S.

Effective Date

The bill takes effect July 1, 2023.

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:

Under the bill, a surrogate under an advance directive, or an agent under a durable power of attorney, who has retained the authority to make health care decisions under the initial and annual guardianship plans may exercise that authority without additional approval by the court. Similarly, a guardian to whom the authority to make health care decisions has been transferred by the court may exercise that authority, consistent with the advance directive or the durable power of attorney and without additional approval by the court, unless there is a conflict over or objection to the guardian's proposed exercise of that authority. Accordingly, surrogates, agents, and guardians will in many cases be able to consent to the withholding or withdrawing of life-prolonging procedures, and sign orders to not resuscitate, without incurring the legal costs associated with seeking and obtaining court approval.

C. Government Sector Impact:

For the reasons stated above in the private sector impact, the bill will allow surrogates, agents, and guardians to in certain circumstances consent to the withholding or withdrawing of life-prolonging procedures, and sign orders to not resuscitate, without court approval. As a result, the bill may result in a positive fiscal impact to the courts from the reduction in workload as a result of less status and evidentiary hearings related to such decisions.

The Office of the State Courts Administrator states that the fiscal impact of the bill is indeterminate due to the unavailability of data needed to quantifiably establish the increase in judicial time and workload as a result of new judicial processes and hearing requirements related to petitions for withholding or withdrawal of life-prolonging procedures of incapacitated persons.⁶⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 744.3215, 744.363, 744.3675, and 744.441.

This bill creates section 744.4431 of the Florida Statutes.

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

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

CS by Judiciary on March 7, 2023:

The committee substitute corrects two cross-references.

B. Amendments:

None.

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

⁶⁹ The Office of the State Courts Administrator, *Agency Analysis of SB 1098*, March 6, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).



319414

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete lines 42 - 45
and insert:

(h) To consent to the withholding or withdrawal of life-prolonging procedures, as defined in s. 765.101, subject to court-approval, if there are not valid advance directives as defined in s. 765.101 and no valid alternative to guardianship that will sufficiently address the withholding or withdrawal of life-prolonging procedures.



940260

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete lines 181 - 186

and insert:

(a) The ward is in a hospital and the ward's primary physician and at least one other consulting physician document that the ward's death is imminent.

(b) The guardian has notified the next of kin as to the intent to withhold or withdraw life-prolonging procedures and there is no known objection to the withholding or withdrawing of



940260

11 life-prolonging procedures by the ward, the next of kin, or any
12 other interested person.



267664

LEGISLATIVE ACTION

Senate

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House

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

Senate Substitute for Amendment (940260)

Delete lines 181 - 186

and insert:

(a) The ward is in a hospital and the ward's primary physician and at least one other consulting physician document that the ward's death is imminent.

(b) The guardian has notified known next of kin as to the intent to withhold or withdraw life-prolonging procedures and there is no known objection to the withholding or withdrawing of



267664

11 life-prolonging procedures by the ward, the next of kin, or any
12 other interested person.

By Senator Yarborough

4-01618A-23

20231146__

1 A bill to be entitled
 2 An act relating to shared parental responsibility
 3 after the establishment of paternity; amending s.
 4 742.011, F.S.; authorizing a parent to request certain
 5 determinations and the creation of a parenting plan
 6 and time-sharing schedule; amending s. 742.10, F.S.;
 7 requiring the determination of parental responsibility
 8 and the establishment of a parenting plan, a time-
 9 sharing schedule, or child support to be done through
 10 a certain action; deleting a provision regarding
 11 unchallenged acknowledgment of paternity; amending s.
 12 744.301, F.S.; specifying that a mother of a child
 13 born out of wedlock and the father of such child are
 14 the natural guardians of the child and subject to the
 15 rights and responsibilities of being parents if
 16 certain conditions are met; providing an effective
 17 date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Section 742.011, Florida Statutes, is amended to
 22 read:

23 742.011 Proceedings for determination of paternity, rights,
 24 and responsibilities ~~proceedings~~; jurisdiction.—Any woman who is
 25 pregnant or has a child, any man who has reason to believe that
 26 he is the father of a child, or any child may bring proceedings
 27 in the circuit court, in chancery, to determine the paternity of
 28 the child when paternity has not been established by law or
 29 otherwise. After the birth of the child, a parent may request a

4-01618A-23

20231146

30 determination of parental responsibility and child support and
31 for the creation of a parenting plan and time-sharing schedule
32 pursuant to chapter 61.

33 Section 2. Subsection (5) of section 742.10, Florida
34 Statutes, is amended to read:

35 742.10 Establishment of paternity for children born out of
36 wedlock.—

37 (5) Regardless of whether paternity is established in an
38 action under s. 742.011 or this section, the determination of
39 parental responsibility and a parenting plan, a time-sharing
40 schedule, or child support must be established in an action
41 brought under s. 742.011 ~~Judicial or administrative proceedings~~
42 ~~are not required or permitted to ratify an unchallenged~~
43 ~~acknowledgment of paternity.~~

44 Section 3. Subsection (1) of section 744.301, Florida
45 Statutes, is amended to read:

46 744.301 Natural guardians.—

47 (1) The parents jointly are the natural guardians of their
48 own children and of their adopted children, during minority,
49 unless the parents' parental rights have been terminated
50 pursuant to chapter 39. If a child is the subject of any
51 proceeding under chapter 39, the parents may act as natural
52 guardians under this section unless the court division with
53 jurisdiction over guardianship matters finds that it is not in
54 the child's best interests. If one parent dies, the surviving
55 parent remains the sole natural guardian even if he or she
56 remarries. If the marriage between the parents is dissolved, the
57 natural guardianship belongs to the parent to whom sole parental
58 responsibility has been granted, or if the parents have been

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20231146__

59 granted shared parental responsibility, both continue as natural
60 guardians. If the marriage is dissolved and neither parent is
61 given parental responsibility for the child, neither may act as
62 natural guardian of the child. The mother of a child born out of
63 wedlock and a father who has signed a voluntary acknowledgment
64 of paternity or established paternity under s. 742.011 or s.
65 742.10 are the natural guardians of the child and are entitled
66 and subject to the rights and responsibilities of parents. If a
67 father has not established paternity under s. 742.011 or s.
68 742.10, the mother of a child born out of wedlock is the natural
69 guardian of the child and is entitled to primary residential
70 care and custody of the child unless the court enters an order
71 stating otherwise.

72 Section 4. This act shall take effect July 1, 2023.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1146

INTRODUCER: Senator Yarborough

SUBJECT: Shared Parental Responsibility After the Establishment of Paternity

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Cox	CF	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

I. Summary:

SB 1146 amends s. 742.011, F.S., to clarify that after the birth of a child a parent may request a determination of parental responsibility and child support and for the creation of a parenting plan and timesharing schedule pursuant to ch. 61, F.S. Absent such a determination of parental responsibility and child support, a mother retains sole parental responsibility and no requirement for timesharing.

The bill amends s. 742.10, F.S., to require that any action to establish paternity must include a determination of parental responsibility and a parenting plan, establish a timesharing schedule, and child support. The bill attaches determinations of parental responsibility and timesharing to the establishment of paternity for a father under ch. 742, F.S.

The bill also amends s. 744.301, F.S., to clarify that an unwed mother and a father who sign a voluntary acknowledgment of paternity or have established paternity through a court judgment are the natural guardians of the child. As such, they are subject to the rights and responsibilities of parents that a married parent would enjoy. If a father has not established paternity, the mother is the natural parent and is entitled to primary residential care and custody of the child.

The bill does not appear to have a fiscal impact to state government or the private sector. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Rights and Responsibilities of a Parent

In a dissolution of marriage with children or in a paternity case, issues of parenting must be worked out between the parties. The United States Supreme Court and Florida courts have consistently ruled that a parent's desire and right to the companionship, care, custody, and management of his or her children is an important interest that warrants deference and, absent a powerful countervailing interest, protection.¹ Further, a parent has general responsibilities owed to his or her children, including supervision, health and safety, education, care, and protection. In Florida, parenting is broken down into two distinct components: parental responsibility (decision-making) and timesharing (physical visitation with the child based on a parenting plan).

Under current law, issues related to timesharing and parental responsibility do not have to be addressed in a final judgment of paternity; a court is only required to address child support in such a paternity action.²

Child Support

Under s. 61.29, F.S., each parent has a fundamental obligation to support his or her minor or legally dependent child. A court must order either or both parents owing a duty of support to the child to pay support pursuant to s. 61.30, F.S. A parent's child support obligation is calculated based on the child support guidelines established in s. 61.30, F.S. These guidelines use a mathematical formula to develop the basic child support obligation of each parent. The court may not deviate from the basic child support obligation provided under the guidelines by more than five percent when establishing the child support award except in very limited circumstances, such as when the court orders substantial time-sharing.

Timesharing and Parental Responsibility

Section 61.13, F.S., provides guidelines to assist courts in determining matters related to parenting³ and time-sharing⁴ of minor children in actions under ch. 61, F.S., in accordance with the best interests of the child while balancing the rights of parents. As a threshold consideration, the Legislature has declared that:⁵

It is the public policy of this state that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. There is no

¹ See *Lassiter v. Dep't of Soc. Services of Durham Cnty., N. C.*, 452 U.S. 18 (1981) (calling the right "plain beyond the need for multiple citation" and quoting *Stanley v. Illinois*, 405 U.S. 645 (1972)); *I.T. v. Dep't of Children & Families*, 338 So. 3d 6 (Fla. 3d DCA 2022); *D.M.T. v. T.M.H.*, 129 So. 3d 320 (Fla. 2013); *F.R. v. Adoption of Baby Boy Born November 2, 2010*, 135 So. 3d 301 (Fla. 1st DCA 2012); *In Interest of J.D.*, 510 So. 2d 623 (Fla. 1st DCA 1987).

² Section 742.031(1), F.S.

³ Parenting or parental responsibility refers to the responsibility and right to make important decisions about the child's welfare, such as education and medical care after the parents separate.

⁴ Time-sharing refers to the time, including overnights and holidays, which the child spends with each parent. Section 61.046(23), F.S.

⁵ Section 61.13(2)(c)1., F.S.

presumption for or against the father or mother of the child or for or against any specific time-sharing schedule when creating or modifying the parenting plan of the child.

Therefore, current law does not provide a presumption in favor of a specific time-sharing schedule, and the court sets a time-sharing schedule when the parties are unable to agree. In establishing time-sharing, the court must consider the best interests of the child⁶ as the primary consideration and evaluate all factors affecting the welfare and interests of the child and the circumstances of the family, including, but not limited to the:

- Demonstrated capacity and disposition of each parent to facilitate and encourage a continuing parent-child relationship, honor the time-sharing schedule, and accommodate necessary changes.
- Anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.
- Demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child.
- Length of time the child has lived in a stable environment and the desirability of maintaining continuity.
- Geographic viability of the parenting plan, with special attention paid to the needs of school-age children, and the amount of time to be spent traveling to effectuate the parenting plan.
- Mental health, physical health, and moral fitness of the parents.
- Home, school, and community record of the child.
- Reasonable preference of the child.
- Demonstrated knowledge, capacity, and disposition of each parent to be informed of the circumstances of the minor child, including, the child's friends, teachers, and daily activities.
- Demonstrated capacity and disposition of each parent to provide a consistent routine and communicate with and keep the other parent informed of issues and activities regarding the minor child.
- Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, or that either parent has ever knowingly provided false information about such matters.
- Particular parenting tasks customarily performed by each parent, including the extent to which parenting responsibilities were undertaken by third parties.
- Demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.
- Demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.
- Capacity and disposition of each parent to protect the child from the ongoing litigation regarding child custody.
- Developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.⁷

⁶ Section 61.13(2)(c), F.S.

⁷ Section 61.13(3), F.S.

A court may prescribe a “parenting plan”⁸ by which the parents are ordered to share decision-making and physical custody of the minor child. The parenting plan may order parents to exercise shared parental responsibility, it may delegate decision-making authority over specific matters to one parent, or it may grant a parent sole parental responsibility over the minor child. Common issues concerning a minor child may include education, healthcare, and social or emotional wellbeing. Further, once a court has established parental responsibility, a parenting plan, or a time-sharing schedule, such plan may not be modified without a showing of a substantial, material, and unanticipated change in circumstances and a determination that the modification is in the best interests of the child.⁹

Establishment of Paternity

Pursuant to ch. 742, F.S., paternity of a child born to an unmarried mother may be established by adjudicatory hearing, voluntary acknowledgement, by the Department of Revenue,¹⁰ or by court order in response to a Petition to Establish Paternity.¹¹ Shared parental responsibility under ch. 61, F.S., does not apply until an order adjudicating paternity is entered. Without a court order specifically establishing a timesharing schedule and parental responsibility, putative fathers whose paternity is established through ch. 742, F.S., are left without defined rights relating to his relationship with the child.

Adjudicatory Hearing

If paternity has been raised and determined as a matter of law within an adjudicatory hearing brought under the statutes governing inheritance, or dependency under workers’ compensation or a similar compensation program, such adjudication establishes the paternity of the father.¹² When paternity is established through an adjudicatory hearing, the court is not required to establish parental responsibilities or a timesharing schedule.

Affidavit or Voluntary Acknowledgment

Parents may also establish paternity by agreement and both parents may sign an affidavit of voluntary acknowledgement of paternity under oath in the presence of a notary or under oath in the presence of two witnesses.¹³ This establishes a rebuttable presumption of paternity and a sixty-day revocation period is triggered. During the sixty-day revocation period, either the mother or the alleged father may rescind the acknowledgement of paternity.¹⁴ After the sixty-day period, the signed voluntary acknowledgement of paternity constitutes an establishment of paternity and a court may only allow a collateral challenge based on fraud, duress, or material mistake of fact.¹⁵ Alternatively, both parents may establish paternity by executing an affidavit of

⁸ A “parenting plan” is a document created to govern the relationship between the parents relating to decisions which must be made regarding the child and must contain a timesharing schedule for the parents and child. Section 61.046(14), F.S. If a parenting plan is agreed to by the parties, it must be approved by the court.

⁹ Section 61.13.(3), F.S.

¹⁰ A request for timesharing or visitation may not be filed in a DOR action for paternity. *See* s. 409.2564, F.S.

¹¹ Section 742.011, F.S.

¹² Section 742.10, F.S.

¹³ *Id.*

¹⁴ Section 742.10(1), F.S.

¹⁵ Section 742.10(4), F.S.

paternity or a stipulation of paternity and filing it with the clerk of court.¹⁶ If both parents sign the affidavit or stipulation of paternity, paternity is established at the time the affidavit is filed with the clerk of court.

Department of Revenue

In the absence of an acknowledgement or affidavit of paternity, the Department of Revenue (DOR) may also establish paternity under s. 409.256, F.S. The DOR may commence a paternity proceeding or a paternity and child support proceeding when:

- Paternity has not otherwise been established;
- No one is named as the father on the child's birth certificate or the person named as the father is the putative father named in an affidavit;
- The mother was unmarried at the time of the child's conception and birth; or
- The DOR is providing services under Title IV-D.¹⁷

Court Order

Section 742.011, F.S., permits a woman who is pregnant or has a child, any man who has reason to believe that he is the father of a child, or any child, to bring proceedings in court to determine the paternity of the child when paternity has not been established by law or otherwise. Section 742.031, F.S., requires the court to conduct a hearing on the complaint and establish paternity if the court finds the alleged father is the father of the child. Upon a determination of paternity, the court must decide on the ability of the parents to support the child.¹⁸ In a matter brought under ch. 742, F.S., the court is not required to decide on an appropriate parenting plan or time-sharing schedule.¹⁹ This can result in the establishment of paternity and a child support order issued without providing a specific timesharing schedule with the child.

The mother of a child born out of wedlock is the natural guardian of the child and is entitled to primary residential care and custody unless a court enters an order stating otherwise.²⁰ If an order establishing paternity includes a child support award but does not provide a parenting plan or timesharing schedule, the parent receiving the child support (obligee) is deemed to have all of the timesharing and sole parental responsibility without prejudice to the other parent (obligor).²¹ Similarly, if a paternity judgment makes no child support award and does not provide a parenting plan, the mother is presumed to have all of the timesharing over the child as well as sole parental responsibility. As such, an order simply establishing paternity and nothing more, can leave a father with no decision-making authority or timesharing with the child.

III. Effect of Proposed Changes:

The bill amends s. 742.011, F.S., to clarify that after the birth of a child a parent may request a determination of parental responsibility and child support and for the creation of a parenting plan

¹⁶ Section 742.10(1), F.S.

¹⁷ Section 409.256(2), F.S.

¹⁸ Section 742.031(1), F.S.

¹⁹ *Id.*

²⁰ Section 744.301(1), F.S.

²¹ Section 742.031(2), F.S.

and timesharing schedule pursuant to ch. 61, F.S. Absent such a determination, a mother retains sole parental responsibility and no requirement for timesharing.

The bill amends s. 742.10, F.S., to require that any action to establish paternity must include a determination of parental responsibility and a parenting plan, establish a timesharing schedule, and child support. The bill requires that parental responsibility and timesharing must be established in addition to the establishment of paternity for a father.

The bill also amends s. 744.301, F.S., to clarify that an unwed mother and a father who sign a voluntary acknowledgment of paternity or have established paternity through a court judgment are the natural guardians of the child. As such, they are subject to the rights and responsibilities of parents that a married parent would enjoy. If a father has not established paternity, the mother is the natural parent and is entitled to primary residential care and custody of the child.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 742.011, 742.10, and 744.301 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.



557318

LEGISLATIVE ACTION

Senate

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. .

House

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

Senate Amendment (with title amendment)

Delete lines 41 - 64

and insert:

brought under s. 742.011. Judicial or administrative proceedings
are not required or permitted to ratify an unchallenged
acknowledgment of paternity.

Section 3. Subsection (1) of section 744.301, Florida
Statutes, is amended to read:

744.301 Natural guardians.—



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11 (1) The parents jointly are the natural guardians of their
12 own children and of their adopted children, during minority,
13 unless the parents' parental rights have been terminated
14 pursuant to chapter 39. If a child is the subject of any
15 proceeding under chapter 39, the parents may act as natural
16 guardians under this section unless the court division with
17 jurisdiction over guardianship matters finds that it is not in
18 the child's best interests. If one parent dies, the surviving
19 parent remains the sole natural guardian even if he or she
20 remarries. If the marriage between the parents is dissolved, the
21 natural guardianship belongs to the parent to whom sole parental
22 responsibility has been granted, or if the parents have been
23 granted shared parental responsibility, both continue as natural
24 guardians. If the marriage is dissolved and neither parent is
25 given parental responsibility for the child, neither may act as
26 natural guardian of the child. The mother of a child born out of
27 wedlock and a father who has paternity established under s.
28 742.011 or s.

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

30 And the title is amended as follows:

31 Delete lines 10 - 11
32 and insert:
33 a certain action; amending s.

By Senator Simon

3-00592-23

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1 A bill to be entitled
2 An act relating to education and training for
3 Alzheimer's disease and related forms of dementia;
4 creating s. 430.5025, F.S.; providing a short title;
5 defining terms; requiring the Department of Elderly
6 Affairs to offer certain education about Alzheimer's
7 disease and related forms of dementia to the general
8 public; specifying uniform dementia-related education
9 and training for employees of covered providers;
10 requiring the department to provide certain dementia-
11 related employee training in an online format and at
12 no cost; providing minimum requirements for the
13 training; requiring the department to make a record of
14 the completion of the training; providing requirements
15 for the record; requiring covered providers to
16 maintain such records of training completion for their
17 employees; providing that an employee does not have to
18 repeat such training after changing employment to
19 another covered provider; providing additional
20 training and continuing education requirements for
21 certain employees who provide direct care to patients
22 with Alzheimer's disease or related forms of dementia;
23 authorizing the department to establish training
24 curriculum guidelines; authorizing the department to
25 approve training providers and curricula and maintain
26 a list of approved providers; authorizing training to
27 be offered in a variety of formats; providing that
28 certain continuing education does not require the
29 adoption of curriculum guidelines by the department or

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30 provider or curriculum approval by the department;
31 providing qualifications and requirements for training
32 providers; providing that training curricula approved
33 before the effective date of this act remain in effect
34 until their respective expiration dates; authorizing
35 the department to adopt rules related to qualified
36 training providers and compliance monitoring
37 procedures; authorizing certified nursing assistants
38 to count the dementia-related training toward their
39 annual certification training requirements;
40 authorizing health care practitioners to count the
41 dementia-related training requirements toward their
42 continuing education requirements for licensure;
43 authorizing persons employed, contracted, or referred
44 to provide services before the effective date of this
45 act to complete the required training by a specified
46 date; providing for the substitution of equivalent
47 training for training required by this act;
48 authorizing persons to satisfy the training
49 requirements of this act using training curricula
50 approved before the effective date of this act until
51 the department adopts rules for training curricula
52 guidelines; amending ss. 400.0239, 400.1755, 400.4785,
53 and 400.6045, F.S.; conforming provisions to changes
54 made by the act; creating s. 400.51, F.S.; requiring a
55 person employed, contracted, or referred by a nurse
56 registry or a person registered with the Agency for
57 Health Care Administration to provide companion or
58 homemaker services to complete specified training;

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59 amending ss. 429.178, 429.52, 429.83, 429.917, and
60 429.918, F.S.; conforming provisions to changes made
61 by the act; providing an effective date.

62
63 Be It Enacted by the Legislature of the State of Florida:

64
65 Section 1. Section 430.5025, Florida Statutes, is created
66 to read:

67 430.5025 Alzheimer's disease and related forms of dementia;
68 education and training.-

69 (1) This section may be cited as the "Alzheimer's Disease
70 and Related Forms of Dementia Education and Training Act."

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

72 (a) "Covered provider" means a nursing home, a home health
73 agency, a nurse registry, a companion or homemaker service
74 provider, an assisted living facility, an adult family-care
75 home, or an adult day care center licensed or registered under
76 chapter 400 or chapter 429.

77 (b) "Department" means the Department of Elderly Affairs or
78 its designee.

79 (c) "Employee" means a person, contracted staff, or an
80 independent contractor employed or referred by a covered
81 provider who is required to undergo a level 2 background
82 screening under s. 408.809 and chapter 435.

83 (d) "Personal care" means providing, through in-person
84 contact, assistance with activities of daily living, assistance
85 with self-administration of medication, homemaker or companion
86 services, nursing services, or other services that promote the
87 physical, mental, and psychosocial well-being of participants,

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88 patients, and residents of covered providers. The term does not
89 include duties involving administrative functions or maintaining
90 the physical environment of a licensed facility, including
91 grounds maintenance, building maintenance, housekeeping,
92 laundry, or food preparation.

93 (e) "Regular contact" means the performance of duties other
94 than personal care which may require employees to interact in
95 person on a daily basis with participants, patients, or
96 residents.

97 (3) The department shall offer to the general public
98 education about Alzheimer's disease and related forms of
99 dementia. Such education must provide basic information about
100 the most common forms of dementia, how to identify the signs and
101 symptoms of dementia, coping skills, how to respond to changes,
102 planning for the future, and how to access additional resources
103 about dementia.

104 (4) Covered providers must provide employees the following
105 training for Alzheimer's disease and related forms of dementia:

106 (a) Upon beginning employment, each employee must receive
107 basic written information about interacting with persons who
108 have Alzheimer's disease or related forms of dementia.

109 (b) Within 30 days after beginning employment, each
110 employee who provides personal care to or has regular contact
111 with participants, patients, or residents must complete a 1-hour
112 training program provided by the department.

113 1. The department shall provide the training in an online
114 format at no cost. The 1-hour training program must contain
115 information on understanding the basics about the most common
116 forms of dementia, how to identify the signs and symptoms of

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117 dementia, and skills for communicating and interacting with
118 persons with Alzheimer's disease or related forms of dementia. A
119 record of the training program must be made available to the
120 covered provider which includes the training, the name of the
121 employee, and the date of completion.

122 2. A covered provider must maintain a record of the
123 employee's completion of the training and, upon written request
124 of the employee, provide the employee with a copy of the record
125 of completion consistent with the employer's written policies.

126 3. An employee who has completed the training required in
127 this subsection is not required to repeat the program upon
128 changing employment to a different covered provider.

129 (c) Within 7 months after beginning employment with a home
130 health agency, nurse registry, or companion or homemaker service
131 provider, each employee who provides personal care for persons
132 who have Alzheimer's disease or related forms of dementia must
133 complete 2 hours of training in addition to the training
134 required in paragraphs (a) and (b). The additional training must
135 include, but is not limited to, behavior management, promoting
136 the person's independence in activities of daily living, and
137 skills for working with families and caregivers.

138 (d) Within 7 months after beginning employment with a
139 nursing home, an assisted living facility, an adult family-care
140 home, or an adult day care center, each employee who provides
141 personal care for persons with Alzheimer's disease or related
142 forms of dementia must complete 3 hours of training in addition
143 to the training required in paragraphs (a) and (b). The
144 additional training must include, but is not limited to,
145 behavior management, promoting the person's independence in

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146 activities of daily living, skills for working with families and
147 caregivers, group and individual activities, maintaining an
148 appropriate environment, and ethical issues.

149 (e) For an assisted living facility, adult family-care
150 home, or adult day care center that advertises and provides, or
151 is designated to provide, specialized care for persons with
152 Alzheimer's disease, in addition to the training specified in
153 paragraphs (a) and (b), each employee must receive the following
154 training:

155 1. Within 3 months after beginning employment, each
156 employee who provides personal care to or has regular contact
157 with the residents or participants must complete the additional
158 3 hours of training as provided in paragraph (d).

159 2. Within 6 months after beginning employment, each
160 employee who provides personal care must complete an additional
161 4 hours of dementia-specific training. Such training must
162 include, but is not limited to, understanding Alzheimer's
163 disease and related forms of dementia, the stages of Alzheimer's
164 disease, communication strategies, medical information, and
165 stress management.

166 3. Thereafter, each employee who provides personal care
167 must participate in at least 4 hours of continuing education
168 each calendar year through contact hours, on-the-job training,
169 or electronic learning technology. For this subparagraph, the
170 term "on-the-job training" means a form of direct coaching in
171 which a facility administrator or his or her designee instructs
172 an employee who provides personal care with guidance, support,
173 or hands-on experience to help develop and refine the employee's
174 skills for caring for a person with Alzheimer's disease or a

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175 related form of dementia. The continuing education must cover at
176 least one of the topics included in the dementia-specific
177 training in which the employee has not received previous
178 training in the previous calendar year. The continuing education
179 may be fulfilled and documented in a minimum of one quarter-hour
180 increments through on-the-job training of the employee by a
181 facility administrator or his or her designee or by an
182 electronic learning technology chosen by the facility
183 administrator. On-the-job training may not account for more than
184 2 hours of continuing education each calendar year.

185 (5) The department may establish training curricula
186 guidelines for the training required in paragraphs (4)(c), (d),
187 and (e). The department may approve training providers and
188 training curricula and maintain a list of approved providers.
189 Approved training may be offered in a variety of formats,
190 including, but not limited to, in person, electronically, or on-
191 the-job by a facility administrator or his or her designee.
192 Continuing education under this section does not require the
193 adoption of training curricula guidelines by the department or
194 approval of the training provider and curricula by the
195 department.

196 (a) A training provider meeting one of the following
197 qualifications may offer training in compliance with the
198 training curricula guidelines without prior approval of the
199 department:

200 1. A person approved by an applicable board or the
201 Department of Health to provide training who is registered with
202 the electronic continuing education tracking system under s.
203 456.025;

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204 2. A person with a master's or doctoral degree in health
205 care, social services, or gerontology from an accredited college
206 or university; or

207 3. A person approved by the department before July 1, 2023.

208 (b) Training providers qualified under subparagraphs (a)1.
209 and 2. must also have:

210 1. At least 1 year of teaching experience as an educator
211 for caregivers of persons with Alzheimer's disease or related
212 forms of dementia;

213 2. At least 1 year of practical experience in a program
214 providing care to persons with Alzheimer's disease or related
215 forms of dementia; or

216 3. Completed a specialized training program in the subject
217 matter of Alzheimer's disease and related forms of dementia from
218 an accredited health care, human services, or gerontology
219 education provider.

220 (c) Upon an employee's completion of the training specified
221 in paragraphs (4) (c), (d), and (e), the training provider must
222 provide a record of the completion of the training which
223 includes the name of the employee, the name of the training
224 provider, the topics covered, and the date of completion. The
225 training record is evidence of completion of training in the
226 identified topic, and the employee is not required to repeat
227 training in that topic if the employee changes employment to a
228 different covered provider.

229 (d) Any Alzheimer's disease and related forms of dementia
230 training curriculum approved by the department before July 1,
231 2023, remain in effect until the curriculum's expiration date.

232 (6) The department may adopt rules to establish

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233 requirements for the approval of other qualified training
234 providers and a process for conducting a sampling of training or
235 training curriculum as necessary to monitor for compliance with
236 curricula guidelines.

237 (7) For a certified nursing assistant as defined in s.
238 464.201, training hours completed as required under this section
239 may count toward the total hours of training required to
240 maintain certification as a nursing assistant.

241 (8) For a health care practitioner as defined in s.
242 456.001, training hours completed as required under this section
243 may count toward the total hours of continuing education
244 required by that practitioner's licensing board.

245 (9) Each person employed, contracted, or referred to
246 provide services before July 1, 2023, must complete the training
247 required in this section before July 1, 2026. Proof of
248 completion of equivalent training completed before July 1, 2023,
249 may substitute for the training required in subsection (4). Each
250 person employed, contracted, or referred to provide services on
251 or after July 1, 2023, may satisfy training requirements by
252 completing training curricula approved under subparagraph (5) (d)
253 until the effective date of the rules adopted by the department
254 under subsection (6).

255 Section 2. Paragraph (b) of subsection (2) of section
256 400.0239, Florida Statutes, is amended to read:

257 400.0239 Quality of Long-Term Care Facility Improvement
258 Trust Fund.—

259 (2) Expenditures from the trust fund shall be allowable for
260 direct support of the following:

261 (b) Development and implementation of specialized training

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262 programs for long-term care facility personnel who provide
263 direct care for residents with Alzheimer's disease and other
264 dementias as provided under s. 430.5025, residents at risk of
265 developing pressure sores, and residents with special nutrition
266 and hydration needs.

267 Section 3. Section 400.1755, Florida Statutes, is amended
268 to read:

269 400.1755 Care for persons with Alzheimer's disease or
270 related disorders; staff training requirements.-

271 ~~(1) As a condition of licensure, the employees of~~
272 ~~facilities licensed under this part must complete the training~~
273 ~~required under s. 430.5025 provide to each of their employees,~~
274 ~~upon beginning employment, basic written information about~~
275 ~~interacting with persons with Alzheimer's disease or a related~~
276 ~~disorder.~~

277 ~~(2) All employees who are expected to, or whose~~
278 ~~responsibilities require them to, have direct contact with~~
279 ~~residents with Alzheimer's disease or a related disorder must,~~
280 ~~in addition to being provided the information required in~~
281 ~~subsection (1), also have an initial training of at least 1 hour~~
282 ~~completed in the first 3 months after beginning employment. This~~
283 ~~training must include, but is not limited to, an overview of~~
284 ~~dementias and must provide basic skills in communicating with~~
285 ~~persons with dementia.~~

286 ~~(3) An individual who provides direct care shall be~~
287 ~~considered a direct caregiver and must complete the required~~
288 ~~initial training and an additional 3 hours of training within 9~~
289 ~~months after beginning employment. This training shall include,~~
290 ~~but is not limited to, managing problem behaviors, promoting the~~

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291 ~~resident's independence in activities of daily living, and~~
292 ~~skills in working with families and caregivers.~~

293 ~~(a) The required 4 hours of training for certified nursing~~
294 ~~assistants are part of the total hours of training required~~
295 ~~annually.~~

296 ~~(b) For a health care practitioner as defined in s.~~
297 ~~456.001, continuing education hours taken as required by that~~
298 ~~practitioner's licensing board shall be counted toward this~~
299 ~~total of 4 hours.~~

300 ~~(4) For an employee who is a licensed health care~~
301 ~~practitioner as defined in s. 456.001, training that is~~
302 ~~sanctioned by that practitioner's licensing board shall be~~
303 ~~considered to be approved by the Department of Elderly Affairs.~~

304 ~~(5) The Department of Elderly Affairs or its designee must~~
305 ~~approve the initial and continuing training provided in the~~
306 ~~facilities. The department must approve training offered in a~~
307 ~~variety of formats, including, but not limited to, Internet-~~
308 ~~based training, videos, teleconferencing, and classroom~~
309 ~~instruction. The department shall keep a list of current~~
310 ~~providers who are approved to provide initial and continuing~~
311 ~~training. The department shall adopt rules to establish~~
312 ~~standards for the trainers and the training required in this~~
313 ~~section.~~

314 ~~(6) Upon completing any training listed in this section,~~
315 ~~the employee or direct caregiver shall be issued a certificate~~
316 ~~that includes the name of the training provider, the topic~~
317 ~~covered, and the date and signature of the training provider.~~
318 ~~The certificate is evidence of completion of training in the~~
319 ~~identified topic, and the employee or direct caregiver is not~~

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320 ~~required to repeat training in that topic if the employee or~~
321 ~~direct caregiver changes employment to a different facility or~~
322 ~~to an assisted living facility, home health agency, adult day~~
323 ~~care center, or adult family care home. The direct caregiver~~
324 ~~must comply with other applicable continuing education~~
325 ~~requirements.~~

326 Section 4. Section 400.4785, Florida Statutes, is amended
327 to read:

328 400.4785 Patients with Alzheimer's disease or other related
329 disorders; staff training requirements; certain disclosures.—

330 (1) The employees of a home health agency must complete the
331 training required under s. 430.5025 ~~A home health agency must~~
332 ~~provide the following staff training:~~

333 (a) ~~Upon beginning employment with the agency, each~~
334 ~~employee must receive basic written information about~~
335 ~~interacting with participants who have Alzheimer's disease or~~
336 ~~dementia-related disorders.~~

337 (b) ~~In addition to the information provided under paragraph~~
338 ~~(a), newly hired home health agency personnel who will be~~
339 ~~providing direct care to patients must complete 2 hours of~~
340 ~~training in Alzheimer's disease and dementia-related disorders~~
341 ~~within 9 months after beginning employment with the agency. This~~
342 ~~training must include, but is not limited to, an overview of~~
343 ~~dementia, a demonstration of basic skills in communicating with~~
344 ~~persons who have dementia, the management of problem behaviors,~~
345 ~~information about promoting the client's independence in~~
346 ~~activities of daily living, and instruction in skills for~~
347 ~~working with families and caregivers.~~

348 (c) ~~For certified nursing assistants, the required 2 hours~~

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349 of training shall be part of the total hours of training
350 required annually.

351 ~~(d) For a health care practitioner as defined in s.~~
352 ~~456.001, continuing education hours taken as required by that~~
353 ~~practitioner's licensing board shall be counted toward the total~~
354 ~~of 2 hours.~~

355 ~~(e) For an employee who is a licensed health care~~
356 ~~practitioner as defined in s. 456.001, training that is~~
357 ~~sanctioned by that practitioner's licensing board shall be~~
358 ~~considered to be approved by the Department of Elderly Affairs.~~

359 ~~(f) The Department of Elderly Affairs, or its designee,~~
360 ~~must approve the required training. The department must consider~~
361 ~~for approval training offered in a variety of formats. The~~
362 ~~department shall keep a list of current providers who are~~
363 ~~approved to provide the 2-hour training. The department shall~~
364 ~~adopt rules to establish standards for the employees who are~~
365 ~~subject to this training, for the trainers, and for the training~~
366 ~~required in this section.~~

367 ~~(g) Upon completing the training listed in this section,~~
368 ~~the employee shall be issued a certificate that states that the~~
369 ~~training mandated under this section has been received. The~~
370 ~~certificate shall be dated and signed by the training provider.~~
371 ~~The certificate is evidence of completion of this training, and~~
372 ~~the employee is not required to repeat this training if the~~
373 ~~employee changes employment to a different home health agency.~~

374 ~~(2)(h)~~ A licensed home health agency whose unduplicated
375 census during the most recent calendar year was composed
376 ~~comprised~~ of at least 90 percent of individuals aged 21 years or
377 younger at the date of admission is exempt from the training

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378 requirements in this section.

379 ~~(3)~~⁽²⁾ An agency licensed under this part which claims that
380 it provides special care for persons who have Alzheimer's
381 disease or other related disorders must disclose in its
382 advertisements or in a separate document those services that
383 distinguish the care as being especially applicable to, or
384 suitable for, such persons. The agency must give a copy of all
385 such advertisements or a copy of the document to each person who
386 requests information about the agency and must maintain a copy
387 of all such advertisements and documents in its records. The
388 Agency for Health Care Administration shall examine all such
389 advertisements and documents in the agency's records as part of
390 the license renewal procedure.

391 Section 5. Section 400.6045, Florida Statutes, is amended
392 to read:

393 400.6045 Patients with Alzheimer's disease or other related
394 disorders; staff training requirements; certain disclosures.—

395 (1) The employees of a home health agency must complete the
396 training required under s. 430.5025 ~~A hospice licensed under~~
397 ~~this part must provide the following staff training:~~

398 ~~(a) Upon beginning employment with the agency, each~~
399 ~~employee must receive basic written information about~~
400 ~~interacting with persons who have Alzheimer's disease or~~
401 ~~dementia-related disorders.~~

402 ~~(b) In addition to the information provided under paragraph~~
403 ~~(a), employees who are expected to, or whose responsibilities~~
404 ~~require them to, have direct contact with participants who have~~
405 ~~Alzheimer's disease or dementia-related disorders must complete~~
406 ~~initial training of at least 1 hour within the first 3 months~~

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407 ~~after beginning employment. The training must include an~~
408 ~~overview of dementias and must provide instruction in basic~~
409 ~~skills for communicating with persons who have dementia.~~

410 ~~(c) In addition to the requirements of paragraphs (a) and~~
411 ~~(b), an employee who will be providing direct care to a~~
412 ~~participant who has Alzheimer's disease or a dementia-related~~
413 ~~disorder must complete an additional 3 hours of training within~~
414 ~~9 months after beginning employment. This training must include,~~
415 ~~but is not limited to, the management of problem behaviors,~~
416 ~~information about promoting the patient's independence in~~
417 ~~activities of daily living, and instruction in skills for~~
418 ~~working with families and caregivers.~~

419 ~~(d) For certified nursing assistants, the required 4 hours~~
420 ~~of training shall be part of the total hours of training~~
421 ~~required annually.~~

422 ~~(e) For a health care practitioner as defined in s.~~
423 ~~456.001, continuing education hours taken as required by that~~
424 ~~practitioner's licensing board shall be counted toward the total~~
425 ~~of 4 hours.~~

426 ~~(f) For an employee who is a licensed health care~~
427 ~~practitioner as defined in s. 456.001, training that is~~
428 ~~sanctioned by that practitioner's licensing board shall be~~
429 ~~considered to be approved by the Department of Elderly Affairs.~~

430 ~~(g) The Department of Elderly Affairs or its designee must~~
431 ~~approve the required 1-hour and 3-hour training provided to~~
432 ~~employees or direct caregivers under this section. The~~
433 ~~department must consider for approval training offered in a~~
434 ~~variety of formats. The department shall keep a list of current~~
435 ~~providers who are approved to provide the 1-hour and 3-hour~~

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436 ~~training. The department shall adopt rules to establish~~
437 ~~standards for the employees who are subject to this training,~~
438 ~~for the trainers, and for the training required in this section.~~

439 ~~(h) Upon completing any training described in this section,~~
440 ~~the employee or direct caregiver shall be issued a certificate~~
441 ~~that includes the name of the training provider, the topic~~
442 ~~covered, and the date and signature of the training provider.~~
443 ~~The certificate is evidence of completion of training in the~~
444 ~~identified topic, and the employee or direct caregiver is not~~
445 ~~required to repeat training in that topic if the employee or~~
446 ~~direct caregiver changes employment to a different hospice or to~~
447 ~~a home health agency, assisted living facility, nursing home, or~~
448 ~~adult day care center.~~

449 (2) A hospice licensed under this part which claims that it
450 provides special care for persons who have Alzheimer's disease
451 or other related disorders must disclose in its advertisements
452 or in a separate document those services that distinguish the
453 care as being especially applicable to, or suitable for, such
454 persons. The hospice must give a copy of all such advertisements
455 or a copy of the document to each person who requests
456 information about programs and services for persons with
457 Alzheimer's disease or other related disorders offered by the
458 hospice and must maintain a copy of all such advertisements and
459 documents in its records. The agency shall examine all such
460 advertisements and documents in the hospice's records as part of
461 the license renewal procedure.

462 Section 6. Section 400.51, Florida Statutes, is created to
463 read:

464 400.51 Patients with Alzheimer's disease or other related

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465 disorders; staff training requirements.—A person employed,
 466 contracted, or referred by a nurse registry or a person
 467 registered with the agency to provide companion or homemaker
 468 services must complete the training required under s. 430.5025.

469 Section 7. Section 429.178, Florida Statutes, is amended to
 470 read:

471 429.178 Special care for persons with Alzheimer's disease
 472 or other related disorders.—

473 ~~(1)~~ A facility which advertises that it provides special
 474 care for persons with Alzheimer's disease or other related
 475 disorders must meet the following standards of operation:

476 (1) (a) 1. If the facility has 17 or more residents, have an
 477 awake staff member on duty at all hours of the day and night. ~~7~~
 478 ~~or~~

479 (b) 2. If the facility has fewer than 17 residents, have an
 480 awake staff member on duty at all hours of the day and night or
 481 have mechanisms in place to monitor and ensure the safety of the
 482 facility's residents.

483 (2) (b) Offer activities specifically designed for persons
 484 who are cognitively impaired.

485 (3) (e) Have a physical environment that provides for the
 486 safety and welfare of the facility's residents.

487 (4) (d) Employ staff who have completed the training and
 488 continuing education required under s. 430.5025 ~~in subsection~~
 489 ~~(2).~~

490 ~~(2) (a) An individual who is employed by a facility that~~
 491 ~~provides special care for residents who have Alzheimer's disease~~
 492 ~~or other related disorders, and who has regular contact with~~
 493 ~~such residents, must complete up to 4 hours of initial dementia-~~

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494 ~~specific training developed or approved by the department. The~~
495 ~~training must be completed within 3 months after beginning~~
496 ~~employment and satisfy the core training requirements of s.~~
497 ~~429.52(3)(g).~~

498 ~~(b) A direct caregiver who is employed by a facility that~~
499 ~~provides special care for residents who have Alzheimer's disease~~
500 ~~or other related disorders and provides direct care to such~~
501 ~~residents must complete the required initial training and 4~~
502 ~~additional hours of training developed or approved by the~~
503 ~~department. The training must be completed within 9 months after~~
504 ~~beginning employment and satisfy the core training requirements~~
505 ~~of s. 429.52(3)(g).~~

506 ~~(c) An individual who is employed by a facility that~~
507 ~~provides special care for residents with Alzheimer's disease or~~
508 ~~other related disorders, but who only has incidental contact~~
509 ~~with such residents, must be given, at a minimum, general~~
510 ~~information on interacting with individuals with Alzheimer's~~
511 ~~disease or other related disorders, within 3 months after~~
512 ~~beginning employment.~~

513 ~~(3) In addition to the training required under subsection~~
514 ~~(2), a direct caregiver must participate in a minimum of 4~~
515 ~~contact hours of continuing education each calendar year. The~~
516 ~~continuing education must include one or more topics included in~~
517 ~~the dementia-specific training developed or approved by the~~
518 ~~department, in which the caregiver has not received previous~~
519 ~~training.~~

520 ~~(4) Upon completing any training listed in subsection (2),~~
521 ~~the employee or direct caregiver shall be issued a certificate~~
522 ~~that includes the name of the training provider, the topic~~

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523 ~~covered, and the date and signature of the training provider.~~
524 ~~The certificate is evidence of completion of training in the~~
525 ~~identified topic, and the employee or direct caregiver is not~~
526 ~~required to repeat training in that topic if the employee or~~
527 ~~direct caregiver changes employment to a different facility. The~~
528 ~~employee or direct caregiver must comply with other applicable~~
529 ~~continuing education requirements.~~

530 ~~(5) The department, or its designee, shall approve the~~
531 ~~initial and continuing education courses and providers.~~

532 ~~(6) The department shall keep a current list of providers~~
533 ~~who are approved to provide initial and continuing education for~~
534 ~~staff of facilities that provide special care for persons with~~
535 ~~Alzheimer's disease or other related disorders.~~

536 ~~(7) Any facility more than 90 percent of whose residents~~
537 ~~receive monthly optional supplementation payments is not~~
538 ~~required to pay for the training and education programs required~~
539 ~~under this section. A facility that has one or more such~~
540 ~~residents shall pay a reduced fee that is proportional to the~~
541 ~~percentage of such residents in the facility. A facility that~~
542 ~~does not have any residents who receive monthly optional~~
543 ~~supplementation payments must pay a reasonable fee, as~~
544 ~~established by the department, for such training and education~~
545 ~~programs.~~

546 ~~(8) The department shall adopt rules to establish standards~~
547 ~~for trainers and training and to implement this section.~~

548 Section 8. Paragraph (g) of subsection (3) of section
549 429.52, Florida Statutes, is amended to read:

550 429.52 Staff training and educational requirements.—

551 (3) The agency, in conjunction with providers, shall

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552 develop core training requirements for administrators consisting
553 of core training learning objectives, a competency test, and a
554 minimum required score to indicate successful passage of the
555 core competency test. The required core competency test must
556 cover at least the following topics:

557 (g) Care of persons with Alzheimer's disease and related
558 disorders as provided under s. 430.5025.

559 Section 9. Section 429.83, Florida Statutes, is amended to
560 read:

561 429.83 Residents with Alzheimer's disease or other related
562 disorders; training; certain disclosures.-

563 (1) The employees of an adult family-care home must
564 complete the training required under s. 430.5025.

565 (2) An adult family-care home licensed under this part
566 which claims that it provides special care for persons who have
567 Alzheimer's disease or other related disorders must disclose in
568 its advertisements or in a separate document those services that
569 distinguish the care as being especially applicable to, or
570 suitable for, such persons. The home must give a copy of all
571 such advertisements or a copy of the document to each person who
572 requests information about programs and services for persons
573 with Alzheimer's disease or other related disorders offered by
574 the home and must maintain a copy of all such advertisements and
575 documents in its records. The agency shall examine all such
576 advertisements and documents in the home's records as part of
577 the license renewal procedure.

578 Section 10. Subsection (1) of section 429.917, Florida
579 Statutes, is amended to read:

580 429.917 Patients with Alzheimer's disease or other related

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581 disorders; staff training requirements; certain disclosures.-

582 (1) The employees of an adult day care center licensed
583 under this part must complete the training required under s.
584 430.5025 ~~provide the following staff training:~~

585 ~~(a) Upon beginning employment with the facility, each~~
586 ~~employee must receive basic written information about~~
587 ~~interacting with participants who have Alzheimer's disease or~~
588 ~~dementia-related disorders.~~

589 ~~(b) In addition to the information provided under paragraph~~
590 ~~(a), newly hired adult day care center personnel who are~~
591 ~~expected to, or whose responsibilities require them to, have~~
592 ~~direct contact with participants who have Alzheimer's disease or~~
593 ~~dementia-related disorders must complete initial training of at~~
594 ~~least 1 hour within the first 3 months after beginning~~
595 ~~employment. The training must include an overview of dementias~~
596 ~~and must provide instruction in basic skills for communicating~~
597 ~~with persons who have dementia.~~

598 ~~(c) In addition to the requirements of paragraphs (a) and~~
599 ~~(b), an employee who will be providing direct care to a~~
600 ~~participant who has Alzheimer's disease or a dementia-related~~
601 ~~disorder must complete an additional 3 hours of training within~~
602 ~~9 months after beginning employment. This training must include,~~
603 ~~but is not limited to, the management of problem behaviors,~~
604 ~~information about promoting the participant's independence in~~
605 ~~activities of daily living, and instruction in skills for~~
606 ~~working with families and caregivers.~~

607 ~~(d) For certified nursing assistants, the required 4 hours~~
608 ~~of training shall be part of the total hours of training~~
609 ~~required annually.~~

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610 ~~(e) For a health care practitioner as defined in s.~~
611 ~~456.001, continuing education hours taken as required by that~~
612 ~~practitioner's licensing board shall be counted toward the total~~
613 ~~of 4 hours.~~

614 ~~(f) For an employee who is a licensed health care~~
615 ~~practitioner as defined in s. 456.001, training that is~~
616 ~~sanctioned by that practitioner's licensing board shall be~~
617 ~~considered to be approved by the Department of Elderly Affairs.~~

618 ~~(g) The Department of Elderly Affairs or its designee must~~
619 ~~approve the 1-hour and 3-hour training provided to employees and~~
620 ~~direct caregivers under this section. The department must~~
621 ~~consider for approval training offered in a variety of formats.~~
622 ~~The department shall keep a list of current providers who are~~
623 ~~approved to provide the 1-hour and 3-hour training. The~~
624 ~~department shall adopt rules to establish standards for the~~
625 ~~employees who are subject to this training, for the trainers,~~
626 ~~and for the training required in this section.~~

627 ~~(h) Upon completing any training described in this section,~~
628 ~~the employee or direct caregiver shall be issued a certificate~~
629 ~~that includes the name of the training provider, the topic~~
630 ~~covered, and the date and signature of the training provider.~~
631 ~~The certificate is evidence of completion of training in the~~
632 ~~identified topic, and the employee or direct caregiver is not~~
633 ~~required to repeat training in that topic if the employee or~~
634 ~~direct caregiver changes employment to a different adult day~~
635 ~~care center or to an assisted living facility, nursing home,~~
636 ~~home health agency, or hospice. The direct caregiver must comply~~
637 ~~with other applicable continuing education requirements.~~

638 ~~(i) An employee who is hired on or after July 1, 2004, must~~

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639 ~~complete the training required by this section.~~

640 Section 11. Subsection (6) of section 429.918, Florida
641 Statutes, is amended to read:

642 429.918 Licensure designation as a specialized Alzheimer's
643 services adult day care center; training.-

644 (6) ~~(a)~~ An adult day care center having a license designated
645 under this section must provide the following staff training and
646 supervision:

647 (a)1. A registered nurse or licensed practical nurse must
648 be on site daily for at least 75 percent of the time that the
649 center is open to ADRD participants. Each licensed practical
650 nurse who works at the center must be supervised in accordance
651 with chapter 464.

652 (b) Each employee must complete the training and continuing
653 education required under s. 430.5025

654 ~~2. Upon beginning employment with the center, each employee~~
655 ~~must receive and review basic written information about~~
656 ~~interacting with ADRD participants.~~

657 ~~3. In addition to the information provided in subparagraph~~
658 ~~2., every employee hired on or after July 1, 2012, who has~~
659 ~~direct contact with ADRD participants shall complete 4 hours of~~
660 ~~dementia-specific training within 3 months after employment.~~

661 ~~4. In addition to the requirements of subparagraphs 2. and~~
662 ~~3., each employee hired on or after July 1, 2012, who provides~~
663 ~~direct care to ADRD participants shall complete an additional 4~~
664 ~~hours of dementia-specific training within 6 months after~~
665 ~~employment.~~

666 ~~(b) The Department of Elderly Affairs or its designee shall~~
667 ~~approve the training required under this section. The department~~

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668 shall ~~adopt rules to establish standards for employees who are~~
669 ~~subject to this training, for trainers, and for the training~~
670 ~~required in this section.~~

671 ~~(c) Upon completing any training described in this section,~~
672 ~~the employee shall be issued a certificate that includes the~~
673 ~~name of the training provider, the topics covered, and the date~~
674 ~~and signature of the training provider. The certificate is~~
675 ~~evidence of completion of training in the identified topics, and~~
676 ~~the employee is not required to repeat training in those topics~~
677 ~~if the employee changes employment to a different adult day care~~
678 ~~center.~~

679 (c) ~~(d)~~ Each employee hired on or after July 1, 2012, who
680 provides direct care to ADRD participants, must receive and
681 review an orientation plan that includes, at a minimum:

682 1. Procedures to locate an ADRD participant who has
683 wandered from the center. These procedures must ~~shall~~ be
684 reviewed regularly with all direct care staff.

685 2. Information on the Silver Alert program in this state.

686 3. Information regarding available products or programs
687 used to identify ADRD participants or prevent them from
688 wandering away from the center, their home, or other locations.

689 Section 12. This act shall take effect July 1, 2023.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1182

INTRODUCER: Senator Simon

SUBJECT: Education and Training for Alzheimer’s Disease and Related Forms of Dementia

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	Pre-meeting
2.			AHS	
3.			FP	

I. Summary:

SB 1182 creates s. 430.5025, F.S., to establish the Florida Alzheimer’s Disease and Dementia Training Act. The bill establishes universal Alzheimer’s disease and related disorder (ADRD) training requirements to be used by nursing homes, home health agencies, nurse registries, companion or homemaker service providers, assisted living facilities (ALFs), adult family-care homes (AFCHs), adult day care centers (ADCCs), and specialized Alzheimer’s services ADCCs to replace each license type’s individual training requirements on that topic.

The bill defines a number of terms, including “covered provider”, “department”, “employee”, “personal care”, and “regular contact”.

The bill requires a covered provider to provide specified employees who provide personal care to or has regular contact with patients, participants, or residents, with one hour of dementia-related training within 30 days of his or her initial employment. Covered providers must also provide employees with basic written information upon beginning employment.

Within the first seven months of employment, the bill requires each employee of a home health agency, nurse registry, or companion or homemaker service provider who provides personal care for persons with ADRD to receive two hours of additional; and each employee of a nursing home, ALF, AFCH or ADCC who provides personal care for persons with ADRD to receive three hours of additional training.

Additionally, employees of ALFs, AFCHs, and ADCCs which advertise and provide specialized care for persons with Alzheimer’s disease must also receive the following additional training:

- Three hours of additional training within the first three months of employment, rather than the first seven months;
- Four hours of dementia-specific training within the first six months of employment; and
- Four hours of continuing education each calendar year through:

- Contact hours;
- On-the-job training, limited to a certain amount of credit in each calendar year; or
- Electronic learning technology.

The bill directs the DOEA or its designee to provide the initial one hour of dementia-related training. The training must be provided in an online format at no cost, and must contain information on the following topics:

- Understanding the basics about the most common forms of dementia;
- How to identify the signs and symptoms of dementia; and
- Skills for communicating and interacting with persons with ADRD.

The bill requires the DOEA to make a record of the training program available to covered providers, and the record must include the training, the name of the employee, and the date of completion. The bill also requires covered providers to maintain a record of each employee's completion of the training and provide the employee with a copy of the completion record consistent with the employer's written policies upon request.

Employees hired, contracted, or referred to provide services before July 1, 2023 must complete the training before July 1, 2026. Further, proof of completion of equivalent training that has been completed prior to July 1, 2023 may substitute for the training. Employees hired, contracted, or referred to provide services on or after July 1, 2023 may satisfy training requirements by completing training curricula approved by the DOEA until the effective date of rules adopted by the DOEA under the bill.

The bill also requires the Department of Elder Affairs (DOEA) to offer education to the general public about ADRD. The education must provide basic information about:

- The most common forms of dementia;
- How to identify the signs and symptoms of dementia;
- Coping skills;
- How to respond to changes;
- Planning for the future; and
- How to access additional resources about dementia.

The bill will likely have a negative fiscal impact on private sector health care providers and an insignificant negative fiscal impact on the DOEA. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Dementia and Alzheimer's Disease

Dementia is the loss of cognitive functioning—thinking, remembering, and reasoning—and behavioral abilities to such an extent that it interferes with a person's daily life and activities. These functions include memory, language skills, visual perception, problem solving, self-management, and the ability to focus and pay attention. Some people with dementia cannot control their emotions, and their personalities may change. Dementia ranges in severity from the

mildest stage, when it is just beginning to affect a person's functioning, to the most severe stage, when the person must depend completely on others for basic activities of living.¹

Alzheimer's disease is the most common type of dementia. It is a progressive disease that begins with mild memory loss and can lead to loss of the ability to carry on a conversation and respond to one's environment. Alzheimer's disease affects parts of the brain that control thought, memory, and language. It can seriously affect a person's ability to carry out daily activities. Although scientists are studying the disease, what causes Alzheimer's disease is unknown.²

There are an estimated 580,000 individuals living with Alzheimer's disease in the state of Florida.³ By 2025, it is projected that 720,000 Floridians will have Alzheimer's disease. More than 6 million Americans are living with Alzheimer's and the cost of caring for ADRD patients is estimated to total nearly \$1 trillion by mid-century.⁴

¹ National Institute on Aging, *What is Dementia? Symptoms, Types, and Diagnosis*, available at <https://www.nia.nih.gov/health/what-dementia-symptoms-types-and-diagnosis>, (last visited on March 11, 2023).

² Centers for Disease Control and Prevention, *Alzheimer's Disease and Healthy Aging*, available at <https://www.cdc.gov/aging/aginginfo/alzheimers.htm#AlzheimersDisease>, (last visited March 11, 2023).

³ Alzheimer's Association, *Alzheimer's Statistics Florida*, available at <https://www.alz.org/media/Documents/florida-alzheimers-facts-figures-2022.pdf> (last visited March 11, 2023).

⁴ *Id.*

Dementia and Alzheimer’s Disease Training

Overview by Facility/Agency Type

	All Employees	Employees with Expected or Required Direct Contact	Employees Providing Direct Care	Health Care Practitioner Continuing Education Sufficient?	Training Approved?	Additional Reqs.
Nursing Homes	Provided with basic written information about interacting with persons with ADRD upon beginning employment.	1 hour of training within the first 3 months of employment.	Additional 3 hours of training within the first 9 months of employment.	Yes	By DOEA.	
Home Health Agencies		Not specified.	2 hours of training within the first 9 months of employment.	Yes	By DOEA.	HHA’s that serve 90% individuals under age 21 are exempt.
Hospice Providers	ADRD upon beginning employment.	1 hour of training within the first 3 months of employment.	Additional 3 hours of training within the first 9 months of employment.	Yes	By DOEA.	
Special Care ALFs⁵	Employees with incidental contact must be given information within 3 months.	4 hours within 3 months of employment	4 additional hours within 9 months of employment + 4 hours CE annually	Not specified.	By DOEA	
Adult Day Care Centers	Same as nursing homes, home health agencies, and Hospice.	1 hour of training within the first 3 months of employment.	Additional 3 hours of training within the first 9 months of employment.	Yes	By DOEA	
Specialized Alzheimer’s Services Adult Day Care Centers	Same as nursing homes, home health agencies, and Hospice.	4 hours of training within the first 3 months of employment.	Additional 4 hours of training within the first 6 months of employment.	Yes	By DOEA	
Adult Family-Care Homes	None	None	None	Not Specified.	By the Agency for Health Care	

⁵ Training is required if the ALF advertises that it provides special care for persons with Alzheimer’s disease or related disorders. Section 429.178, F.S.

					Administration (AHCA)	
Nurse Registries/ Companion or Homemaker Services	None	None	None	Not specified.		

Specific details for each facility/agency type are below:

Nursing Homes

A nursing home is a facility that provides 24-hour nursing care, personal care, or custodial care to individuals who are ill or physically infirm.⁶ Nursing homes are licensed and regulated by the Agency for Health Care Administration (AHCA) under part II of ch. 400, F.S.

Section 400.1755, F.S., requires each nursing home to provide the following training:

- Provide each of its employee’s basic written information about interacting with persons with ADRD upon beginning employment.
- All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with ADRD must also have an initial training of at least one hour completed in the first three months after beginning employment. This training must include, but is not limited to, an overview of dementias and must provide basic skills in communicating with persons with dementia.
- An individual who provides direct care must complete the required initial training and an additional three hours of training within nine months after beginning employment. This training must include, but is not limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers. Health care practitioners’ continuing education can be counted toward the required training hours.
- The DOEA or its designee must approve the initial and continuing training provided in the facilities. The DOEA must approve training offered in a variety of formats, including, but not limited to, Internet-based training, videos, teleconferencing, and classroom instruction. The DOEA must keep a list of current providers who are approved to provide initial and continuing training. The DOEA must adopt rules to establish standards for the trainers and the training required in this section of statute.
- Upon completing any training listed in the section, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility or to an assisted living facility, home health agency, adult day care center, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

⁶ Section 400.021(7), F.S.

Home Health Agencies

A home health agency provides one or more of the following home health services: nursing care; therapy; home health aide services; dietetics and nutrition; or medical supplies.⁷ Home health agencies are licensed and regulated by the AHCA under part III of ch. 400, F.S.

Section 400.4785, F.S., requires a home health agency to provide the following staff training:

- Upon beginning employment with the agency, each employee must receive basic written information about interacting with participants who have ADRD.
- Newly-hired home health agency personnel who will be providing direct care to patients must complete two hours of training in ADRD within nine months after beginning employment with the agency. This training must include, but is not limited to, an overview of dementia, a demonstration of basic skills in communicating with persons who have dementia, the management of problem behaviors, information about promoting the client's independence in activities of daily living, and instruction in skills for working with families and caregivers.
- For certified nursing assistants, the required two hours of training are part of the total hours of training required annually.
- For a health care practitioner, as defined in s. 456.001, F.S.,⁸ continuing education hours taken as required by that practitioner's licensing board are counted toward the total of two hours.
- For an employee who is a licensed health care practitioner, training that is sanctioned by that practitioner's licensing board must be considered to be approved by the DOEA.
- The DOEA, or its designee, must approve the required training. The DOEA must consider for approval training offered in a variety of formats. The DOEA must keep a list of current providers who are approved to provide the two-hour training. The DOEA must adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section of statute.
- Upon completing the training listed in the section, the employee must be issued a certificate that states that the training mandated under the section has been received. The certificate must be dated and signed by the training provider. The certificate is evidence of completion of this training, and the employee is not required to repeat this training if the employee changes employment to a different home health agency.
- A licensed home health agency whose unduplicated census during the most recent calendar year was composed of at least 90 percent of individuals aged 21 years or younger at the date of admission, is exempt from the training requirements in this section of statute.

Assisted Living Facilities

An ALF is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.⁹ ALFs are licensed and

⁷ Section 400.462(12) and (14), F.S.

⁸ Section 456.001(4), F.S., defines "health care practitioner" as any person licensed under ch. 457, F.S.; ch. 458, F.S.; ch. 459, F.S.; ch. 460, F.S.; ch. 461, F.S.; ch. 462, F.S.; ch. 463, F.S.; ch. 464, F.S.; ch. 465, F.S.; ch. 466, F.S.; ch. 467, F.S.; part I, part II, part III, part V, part X, part XII, or part XIV of ch. 468, F.S.; ch. 478, F.S.; ch. 480, F.S.; part I or part II of ch. 483, F.S.; ch. 484, F.S.; ch. 486, F.S.; ch. 490, F.S.; or ch. 491, F.S.

⁹ Section 429.02(5), F.S.

regulated by the AHCA under part I of ch. 429, F.S. An ALF that advertises that it provides special care for individuals with ADRD is required to meet certain staffing and ADRD training requirements that are not required of other ALFs.¹⁰

All ALF employees are required to attend a preservice orientation provided by the facility prior to interacting with residents. The preservice orientation must be at least two hours and must cover certain topics, including resident's rights and the services offered by the facility.¹¹ ADRD training is only required for employees of ALFs that provide special care for residents with ADRD.¹² Further, s. 429.178, F.S., requires an ALF that advertises it provides special care for persons with ADRD to provide the following training:

- An employee who has regular contact with such residents must complete up to four hours of initial dementia-specific training developed or approved by the DOEA. The training must be completed within three months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g), F.S.
- A direct caregiver who provides direct care to such residents must complete the required initial training and four additional hours of training developed or approved by the DOEA. The training must be completed within nine months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g), F.S.
- An individual who is employed by a facility that provides special care for residents with ADRD, but who only has incidental contact with such residents, must be given, at a minimum, general information on interacting with individuals with ADRD, within three months after beginning employment.
- A direct caregiver must also participate in a minimum of four contact hours of continuing education each calendar year. The continuing education must include one or more topics included in the dementia-specific training, developed or approved by the DOEA, in which the caregiver has not received previous training.
- Upon completing any specified training, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility. The employee or direct caregiver must comply with other applicable continuing education requirements.
- The DOEA, or its designee, must approve the initial and continuing education courses and providers.
- The DOEA must keep a current list of providers who are approved to provide initial and continuing education for staff of facilities that provide special care for persons with ADRD.

¹⁰ Sections 429.177 and 429.178(1), F.S.

¹¹ Section 429.52(1), F.S., and Rule 59A-36.011(2), F.A.C.

¹² Section 429.178(1), F.S., requires an ALF that advertises that it provides special care for persons with ADRD to meet certain standards of operation that are not required of other ALFs. This is not a separate licensure category. The additional standards of operation include: have an awake staff member on duty 24 hours a day, if the facility has 17 or more residents; if the facility has fewer than 17 residents, the facility may have mechanisms in place to monitor residents instead of having an awake staff member on duty 24 hours a day; offer activities specifically designed for persons who are cognitively impaired; have a physical environment that provides for the safety and welfare of the residents; and employ staff who have completed the required training and continuing education.

Adult Family-Care Homes

An adult family-care home is a private home, under which a person who owns or rents the home provides room, board, and personal care in a family-like living arrangement, on a 24-hour basis, for no more than five disabled adults or frail elders who are not relatives of the homeowner.¹³ AFCHs are licensed and regulated by the AHCA under part II of ch. 429, F.S.

AFCH providers are required to undergo 12 hours of training some of which must be related to Identifying and meeting the special needs of disabled adults and frail elders. However, providers are not currently required to undergo training specific to ADRD.¹⁴

Adult Day Care Centers

Adult day care centers provide therapeutic services and activities for adults in a non-institutional setting.¹⁵ Participants may utilize a variety of services offered during any part of a day totaling less than 24-hours. Basic services provided by ADCCs include leisure activities, self-care training, nutritional services, and respite care.¹⁶

Section 429.917, F.S., requires an ADCC to provide the following staff training:

- Upon beginning employment with the facility, each employee must receive basic written information about interacting with participants who have ADRD.
- In addition to the information provided, newly-hired adult day care center personnel who are expected to, or whose responsibilities require them to, have direct contact with participants who have ADRD must complete initial training of at least one hour within the first three months after beginning employment. The training must include an overview of dementias and must provide instruction in basic skills for communicating with persons who have dementia.
- In addition to the previous requirements, an employee who will be providing direct care to a participant who has ADRD must complete an additional three hours of training within nine months after beginning employment. This training must include, but is not limited to, the management of problem behaviors, information about promoting the participant's independence in activities of daily living, and instruction in skills for working with families and caregivers.
- For certified nursing assistants, the required four hours of training is part of the total hours of training required annually.
- For a health care practitioner as defined in s. 456.001, F.S., continuing education hours taken as required by that practitioner's licensing board are counted toward the total of four hours.
- For an employee who is a licensed health care practitioner as defined in s. 456.001, F.S., training that is sanctioned by that practitioner's licensing board is considered to be approved by the DOEA.
- The DOEA or its designee must approve the one-hour and three-hour training provided to employees and direct caregivers under this section of statute. The DOEA must consider for approval training offered in a variety of formats. The DOEA must keep a list of current

¹³ Section 429.65(2), F.S.

¹⁴ See s. 429.75, F.S., and Fla. Admin. Code R. 59A-37.007 (2020).

¹⁵ Section 429.901(3), F.S.

¹⁶ *Id.*

providers who are approved to provide the one-hour and three-hour training. The DOEA must adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section of statute.

- Upon completing any training described in the section, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different ADCC or to an ALF, nursing home, home health agency, or hospice. The direct caregiver must comply with other applicable continuing education requirements.

Specialized Alzheimer's Services Adult Day Care Centers

An ADCC may hold a license designated by the AHCA as a specialized Alzheimer's services adult day care center if it meets certain requirements.¹⁷ Employees of specialized Alzheimer's services ADCCs, who have direct contact with, or provide direct care to, individuals with ADRD are required to receive four hours of ADRD training within three months of beginning employment.¹⁸ Employees of specialized Alzheimer's services ADCCs who provide direct care to participants with ADRD are required to receive an additional four hours of training within six months of beginning employment. The curriculum for the additional four hours of training must address the following subject areas:

- Understanding brain disease;
- Normal brain functions and normal aging;
- Understanding treatable and irreversible dementia;
- Mental status tests;
- Communication and the effects of damage to brain cells;
- Influences on behavior and brain deterioration;
- Interventions;
- Physical causes and pain indications;
- Common ADRD medications and side effects;
- Malnutrition and dehydration;
- Activities of daily living;
- Validation therapy;
- Safety; and
- Caregiver stress management.¹⁹

Employees of specialized Alzheimer's services ADCCs who provide direct care to participants with ADRD are also required to receive 4-hours of continuing education annually in topics related to ADRD.²⁰

¹⁷ Section 429.918(4), F.S.

¹⁸ Rule 59A-16.111(2), F.A.C.

¹⁹ Rule 59A-16.111(3), F.A.C.

²⁰ Rule 59A-16.111(5), F.A.C.

Nurse Registries and Companion and Homemaker Services

A nurse registry is an agency licensed to secure employment for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, companions, and homemakers, who are compensated by fees as independent contractors to provide services in a patient's home or with health care facilities or other entities.²¹ Nurse registries are governed by part II of chapter 408, F.S., and the nurse registry rules in Chapter 59A-18, F.A.C. A nurse registry must be licensed by the AHCA to offer contracts in Florida.²² Current law does not require contracted personnel of nurse registries to complete training on ADRD.

Companions spend time with and care for elderly, handicapped, or convalescent individuals, prepare and serve meals to such individuals, and accompany such individuals on trips and outings. Companions are prohibited from providing hands-on personal care to a client.²³ Homemakers perform household chores that include housekeeping, meal planning and preparation, shopping assistance, and routine household activities for elderly, handicapped, or convalescent individuals. Homemakers are prohibited from providing hands-on personal care to a client.²⁴ Current law does not require companions or homemakers to complete training on ADRD.

ADRD Training Providers and Curricula

The DOEA or its designee is responsible for approving ADRD training providers and curricula for employees of nursing homes, home health agencies, ALFs, and adult day care centers.²⁵ The University of South Florida (USF) administers the Program through a contract with DOEA.²⁶ To be approved as a training provider, an applicant must provide proof of certain educational and experience requirements, including:

- A Master's degree from an accredited college in health care, human services, or gerontology; or
- A Bachelor's degree from an accredited college, or licensure as a registered nurse; and
- One year of experience as an educator of caregivers for individuals with ADRD; or
- Completion of a specialized training program relating to ADRD, and a minimum of two years of practical experience in a program providing direct care to individuals with ADRD; or
- Three years of practical experience in a program providing direct care to individuals with ADRD.²⁷

Upon successful completion of training, the trainer is required to issue the trainee a certificate of completion.²⁸ Training curricula is certified for a period of three years and must be resubmitted

²¹ Section 400.462(21), F.S.

²² Section 400.506(1), F.S.

²³ Section 400.462(7), F.S.

²⁴ Section 400.462(18), F.S.

²⁵ Sections 400.1755(5), 400.4785(1)(f), 429.178(5), and 429.917(1)(g), F.S.

²⁶ The University of South Florida, College of Behavioral & Community Sciences, USF's Training Academy on Aging, *Alzheimer's Disease and Related Disorders*

Frequently Asked Questions, available at <http://www.trainingonaging.usf.edu/products/faq.cfm> (last visited March 11, 2023).

²⁷ Rule 58A-5.0194(1)(a), F.A.C.

²⁸ Rule 58A-5.0194(3), F.A.C.

for approval.²⁹ Approval of training curricula is based on how well it addresses the required subject areas.³⁰

The table below depicts the number of approved trainers and training curricula by facility/provider type.³¹

Facility/Provider Type	Approved Training Providers	Approved Training Curricula
Nursing Home	1,865	24
ALF	800	66
Home Health Agency	750	22
Adult Day Care Center	133	17
Total	3,548	129

Quality of Long-Term Care Facility Improvement Trust Fund

The Quality of Long-Term Care Facility Improvement Trust Fund (“Trust Fund”), created in 2001,³² supports innovative ideas that directly impact quality of care or quality of life of nursing home residents beyond minimum standards.³³ Section 400.0239, F.S., places the Trust Fund within the AHCA.³⁴ Trust Fund expenditures can be made for:

- Development and operation of a mentoring program for increasing the competence, professionalism, and career preparation of long-term care facility direct care staff, including nurses, nursing assistances, and social service and dietary personnel;
- Development and implementation of specialized training programs for long-term care facility personnel who provide direct care of residents:
 - With ADRD;
 - At risk of developing pressure sores; and
 - With special nutrition and hydration needs.
- Provision of economic and other incentives to enhance the stability and career development of the nursing home direct care workforce, including paid sabbaticals for exemplary direct care career staff to visit facilities throughout the state to train and motivate younger workers to commit to long-term care careers; and
- Promotion and support for the formation and active involvement of resident and family councils in the improvement of nursing home care.³⁵

The Trust Fund is funded through a combination of:

- General Revenue;

²⁹ Rule 58A-5.0194(1)(b), F.A.C.

³⁰ *Id.*

³¹ The University of South Florida’s Training Academy on Aging, *Find Approved Applications*, available at <https://usfweb.usf.edu/trainingonAging/default.aspx>, (last visited March 11, 2023).

³² Ch. 2001-205, L.O.F.

³³ The AHCA, *Quality of Long-Term Care Facility Improvement Trust Fund*, available at https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Long_Term_Care/Trust_Fund.shtml (last visited March 11, 2023).

³⁴ Section 400.0239(1), F.S.

³⁵ Section 400.0239(2), F.S.

- The Civil Money Penalty Fund; and
- Fifty percent of any punitive damages awarded in lawsuits against a nursing home or ALF.³⁶

III. Effect of Proposed Changes:

ADRD Training Requirements

SB 1182, which may be cited as the “Florida Alzheimer’s Disease and Dementia Training Act”, creates s. 430.5025, F.S., to establish universal ADRD training requirements for nursing homes, home health agencies, nurse registries, companion and homemaker service providers, ALFs, AFCHs, and ADCCs with limited exception.

The bill makes the following changes (indicated by red font) to the ADRD training requirements for employees of nursing homes, home health agencies, nurse registries, ALFs, and adult day care centers to increase uniformity of training requirements across the long-term care industry.

		Initial Training for all “Employees”			
		Basic Written Info		Hours	
		Current	Effect of the Bill	Current	Effect of the Bill
Nursing Homes		Basic written info upon beginning employment	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
Home Health Agencies		Basic written info upon beginning employment	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
Nurse Registry Companion or Homemaker Service		None.	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
ALFs	Generally	None.	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
	Special Care	Basic written info w/in 1 st 3 months	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
Adult Family-Care Home	Generally	None.	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
	Special Care	None.	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
Adult Day Care Centers	Generally	Basic written info upon beginning employment	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days
	Special Care	Basic written info upon beginning employment	Basic written info upon beginning employment	None.	1 hr w/in 1 st 30 days

³⁶ Section 400.0238(4), F.S.

		Direct Care Workers Providing Personal Care to Individuals with ADRD ³⁷					
		Initial Training ³⁸		Additional 1 st Year Training		Continuing	
		Current	Effect of the Bill	Current	Effect of the Bill	Current	Effect of the Bill
Nursing Homes		1 hr. w/in 1 st 3 months	1 hr w/in 1st 30 days	3 hrs. w/in 1 st 9 months	3 hrs. w/in 1 st 7 months	None.	No change.
Home Health Agencies		None.	1 hr w/in 1st 30 days	2 hrs. w/in 1 st 9 months	2 hrs. w/in 1 st 7 months	None.	No change.
Nurse Registry Companion or Homemaker Service		None.	1 hr w/in 1st 30 days	None.	2 hrs. w/in 1 st 7 months	None.	No change.
ALFs	Generally	None.	1 hr w/in 1st 30 days	None.	3 hrs. w/in 1 st 7 months	None.	No change.
	Special Care	4 hrs. w/in 1 st 3 months	1 hr w/in 1st 30 days	4 hrs. w/in 1 st 9 months	3 hrs. w/in 1 st 3 months plus 4 hrs. w/in 1 st 6 months	4 hrs., annually	No change.
Adult Family-Care Home	Generally	None.	1 hr w/in 1st 30 days	None.	3 hrs. w/in 1 st 7 months	None.	No change.
	Special Care	None.	1 hr w/in 1st 30 days	None.	3 hrs. w/in 1 st 3 months plus 4 hrs. w/in 1 st 6 months	None.	4 hrs., annually
Adult Day Care Centers	Generally	1 hr. w/in 1 st 3 months	1 hr w/in 1st 30 days	3 hrs. w/in 1 st 9 months	3 hrs. w/in 1 st 7 months	None.	No change.
	Special Care	4 hrs. w/in 1 st 3 months	1 hr w/in 1st 30 days	4 hrs. w/in 1 st 6 months	3 hrs. w/in 1 st 3 months plus 4 hrs. w/in 1 st 6 months	4 hrs., annually, per rule	4 hrs., annually, per statute

The bill defines the following terms:

- “Covered provider” means a nursing home, a home health agency, a nurse registry, a companion or homemaker service provider, an ALF, an AFCH, or an ADCC licensed or registered under ch. 400, F.S., or ch. 429, F.S.

³⁷ Note: New training requirements only apply to employees providing direct care to patients/residents with ADRD, as compared to training requirements in current law which apply to employees providing direct care to any patient/resident.

³⁸ Current law only provides an initial hour-based training requirement for the direct care workers of certain provider types. The proposed initial hourly training requirement applicable to all “employees” is repeated here since all “direct care workers” will have to complete this training. This initial training requirement is not in addition to the initial hour-based training that is currently applicable.

- “Department” means the Department of Elderly Affairs or its designee.³⁹
- “Employee” means a person, contracted staff, or independent contractor employed or referred by a covered provider who is required to have a level 2 background screening as required by s. 408.809, F.S., and ch. 435, F.S.
- “Personal care” means providing, through in-person contact, assistance with activities of daily living, assistance with self-administration of medication, homemaker or companion services, nursing services, or other services that promote the physical, mental, and psychosocial well-being of participants, patients, and residents of covered providers. The term does not include duties involving administrative functions or maintaining the physical environment of an ALF, including grounds maintenance, building maintenance, housekeeping, laundry, or food preparation.
- “Regular contact” means the performance of duties other than personal care which may require employees to interact in person on a daily basis with participants, patients, or residents.

The bill also requires the Department of Elder Affairs (DOEA) to offer education to the general public about ADRD. The education must provide basic information about:

- The most common forms of dementia;
- How to identify the signs and symptoms of dementia;
- Coping skills;
- How to respond to changes;
- Planning for the future; and
- How to access additional resources about dementia.

The bill requires a covered provider to provide each of its employees who provide personal care to or have regular contact with patients, participants, or residents, one hour of dementia-related training within 30 days of his or her employment. Covered providers must also provide employees with basic written information upon beginning employment.

The bill directs the DOEA or its designee to provide the initial one hour of dementia-related training. The training must be provided in an online format at no cost, and must contain information on the following topics:

- Understanding the basics about the most common forms of dementia;
- How to identify the signs and symptoms of dementia; and
- Skills for communicating and interacting with persons with ADRD.

Additionally, the bill requires each employee of a home health agency, nurse registry, or companion or homemaker service provider who provides personal care for persons with ADRD to receive two hours of additional training within the first seven months of employment. For employees of home health agencies, nurse registries, or companion or homemakers services, the additional training must include, but is not limited to:

- Behavior management;
- Promoting the person’s independence in activities of daily living;
- Skills for working with families and caregivers.

³⁹ Also known as the Department of Elder Affairs (DOEA).

Each employee of a nursing home, ALF, AFCH or ADCC who provides personal care for persons with ADRD must receive three hours of additional training within the first seven months of employment. For employees of ALFs, AFCHs, and ADCCs, the additional training must include the three above-mentioned topics and also include, but not be limited to:

- Group and individual activities;
- Maintaining an appropriate environment; and
- Ethical issues.

Employees of ALFs, AFCHs, and ADCCs which advertise and provide specialized care for persons with Alzheimer’s disease must also receive the following additional training if such employees provide personal care, as defined in the bill:

- Three hours of additional training within the first three months of employment, rather than the first seven months;
- Four hours of dementia-specific training within the first six months of employment; and
- Four hours of continuing education each calendar year through:
 - Contact hours;
 - On-the-job training⁴⁰ which can account for no more than 2 hours of continuing education credit each calendar year; or
 - Electronic learning technology.

The bill requires the continuing education to cover at least one of the topics included in the dementia-specific training in which the employee has not received previous training within the last calendar year.

The bill allows ADRD training hours required under the bill to count toward the total hours of training required for certified nursing assistants to maintain certification. The bill also allows ADRD training hours to count toward the total hours of continuing education required for health care practitioners, as defined in s. 456.001, F.S.

ADRD Training Providers and Curricula

For the post-initial training and continuing education, the bill authorizes the DOEA or its designee to develop training curriculum guidelines and allows training providers who meet certain qualifications to offer training without prior approval, including:

- An individual who is approved by a board of the Department of Health (DOH) to provide training and is registered with the DOH electronic continuing education tracking system; and
 - An individual with a Master’s or Doctorate degree in health care, social services, or gerontology from an accredited college or university; or
 - A person approved by the DOEA or its designee before July 1, 2023.

The individuals above, other than those approved by the DOEA or its designee before July 1, 2023, must also meet one of the following experience requirements:

⁴⁰ The bill defines “on-the-job training” to mean a form of direct coaching in which a facility administrator or his or her designee instructs an employee who provides personal care with guidance, support, or hands-on experience to help develop and refine the employee’s skills for caring for a person with ADRD.

- At least one year of teaching experience as an educator for caregivers of persons with ADRD;
- At least one year of practical experience in a program providing care to persons with ADRD; or
- Completion of a specialized ADRD training program from an accredited health care, human services, or gerontology education provider.

Current law authorizes DOEA or its designee to approve the initial 1-hour training curricula, the additional training (post-initial training) curricula, and the continuing education curricula for nursing homes, ALFs, adult family-care homes, home health agencies, and adult day care centers. The bill adds the authority for DOEA or its designee to approve such training curricula for nurse registries and homemaker and companion services.

For the initial 1-hour training requirement, the bill requires the DOEA or its designee to provide ADRD training for free and make it available online.

The bill provides that any ADRD training and curriculum that has been approved before July 1, 2023 remains in effect until the curriculum's expiration date. The bill authorizes the DOEA or its designee to adopt rules to establish requirements for the approval of other qualified training providers, and to conduct samplings of training curricula as necessary to monitor for compliance with curriculum guidelines.

Training Records

Under the bill, employees are not required to repeat any of the training requirements in the bill upon a change of employment to a different covered provider. To facilitate this, the bill addresses employee access to their own training records.

For the initial training, the bill requires trainers to provide a record of an employee's completion of training to the covered provider. The bill requires the covered provider to maintain a record of the employee's completion of the training, and upon written request by the employee, provide a copy of the record of completion to the employee.

For post-initial training and continuing education, the bill requires trainers to provide a record of an employee's completion of training and continuing education, but it does not specify who the record must be provided to (covered provider or employee). Further, the bill does not require a covered provider to maintain the record of completion or provide a copy of the record of completion like it does for records of completion of initial training.

Implementation

The bill requires all employees hired before July 1, 2023, to complete the training requirements of the bill by July 1, 2026. Individuals newly employed, contracted, or referred to provide services on or after the effective date of the bill may complete training using any existing training curriculum approved by DOEA. The bill provides a grandfather clause for an employee who shows proof of completion of training that is equivalent to the training requirements of the

bill. However, it is unlikely that many employees have received training that is equivalent to the enhanced training requirements of the bill.

The bill amends s. 400.0239, F.S., to allow funds from the Quality of Long-Term Care Facility Improvement Trust Fund to be allocated for direct support of the development and implementation of specialized training programs for long-term care facility personnel who provide direct care for residents with ADRD as provided under the bill.

The bill also amends ss. 400.1755, 400.4785, 400.6045, 429.178, 429.917, and 429.918 F.S., respectively, to cross-reference the ADRD training section created by the bill and repeal the individual ADRD training requirements in the licensure statutes for nursing homes, home health agencies, hospice providers, ALFs, ADCCs, and specialized Alzheimer's services ADCCs in favor of the uniform training requirements established by the bill. However, the bill as drafted repeals the training requirements for hospice providers, but also adds a duplicative requirement for home health agency providers and does not specifically implement an ADRD for hospice providers.

The bill creates s. 400.51, implementing the training requirements established by the bill for persons employed, contracted, or referred by a nurse registry or a person registered with an agency to provide companion or homemaker services.

The bill amends s. 429.52 to require ALFs to include care of persons with ADRD as established by the bill as a topic covered by the core competency test given to ALF administrators.

The bill amends s. 429.83, F.S., to require all adult family-care homes to provide ADRD staff training pursuant to the requirements established in the bill. Currently, no adult family-care homes are required to provide such training.

The bill is effective date July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill is likely to have a negative fiscal impact on health care facilities and providers as a result of the increased training requirements of the bill. The level of fiscal impact is indeterminate.

C. Government Sector Impact:

The DOEA states that there are potential expenditures to develop and distribute informational materials beyond what is currently provided, potential expenditures for developed training curricula, approval and monitoring beyond what is currently provided, and potential expenditures to develop a database to store training participant information.⁴¹ The DOEA anticipates that any expenditures generated by the bill can be absorbed by existing resources.⁴²

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill as drafted deletes all current ADRD training requirements for hospice licensees, and replaces them with a (duplicative) reference to home health training requirements. This appears to be a drafting error.

VIII. Statutes Affected:

This bill substantially amends sections 400.0239, 400.1755, 400.4785, 400.6045, 429.178, 429.52, 429.83, 429.917, and 429.918 of the Florida Statutes.

This bill creates sections 430.5025 and 400.51 of the Florida Statutes.

⁴¹ E-mail from Tyler Jefferson, Legislative Affairs Director, the DOEA, *RE: SB 1182 - Education and Training for Alzheimer's Disease and Related Forms of Dementia*, March 11, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁴² *Id.*

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 430.5025, Florida Statutes, is created
to read:

430.5025 Alzheimer's disease and related forms of dementia;
education and training.—

(1) This section may be cited as the "Alzheimer's Disease
and Related Forms of Dementia Education and Training Act."



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11 (2) As used in this section, the term:
12 (a) "Covered provider" means a nursing home, a home health
13 agency, a nurse registry, a companion or homemaker service
14 provider, an assisted living facility, an adult family-care
15 home, or an adult day care center licensed or registered under
16 chapter 400 or chapter 429.
17 (b) "Department" means the Department of Elderly Affairs.
18 (c) "Employee" means a person, contracted staff, or an
19 independent contractor employed or referred by a covered
20 provider who is required to undergo a level 2 background
21 screening under s. 408.809 and chapter 435.
22 (d) "Personal care" means providing, through in-person
23 contact, assistance with activities of daily living, assistance
24 with self-administration of medication, homemaker or companion
25 services, nursing services, or other services that promote the
26 physical, mental, and psychosocial well-being of participants,
27 patients, and residents of covered providers. The term does not
28 include duties involving administrative functions or maintaining
29 the physical environment of a licensed facility, including
30 grounds maintenance, building maintenance, housekeeping,
31 laundry, or food preparation.
32 (e) "Regular contact" means the performance of duties other
33 than personal care which may require employees to interact in
34 person on a daily basis with participants, patients, or
35 residents.
36 (3) The department shall offer to the general public
37 education about Alzheimer's disease and related forms of
38 dementia. Such education must provide basic information about
39 the most common forms of dementia, how to identify the signs and



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40 symptoms of dementia, coping skills, how to respond to changes,
41 planning for the future, and how to access additional resources
42 about dementia.

43 (4) Employees of covered providers must complete the
44 following training for Alzheimer's disease and related forms of
45 dementia:

46 (a) Upon beginning employment, each employee must receive
47 basic written information about interacting with persons who
48 have Alzheimer's disease or related forms of dementia.

49 (b) Within 30 days after beginning employment, each
50 employee who provides personal care to or has regular contact
51 with participants, patients, or residents must complete a 1-hour
52 training program provided by the department.

53 1. The department shall provide the training in an online
54 format at no cost. The 1-hour training program must contain
55 information on understanding the basics about the most common
56 forms of dementia, how to identify the signs and symptoms of
57 dementia, and skills for communicating and interacting with
58 persons with Alzheimer's disease or related forms of dementia. A
59 record of the completion of the training program must be made
60 available to the covered provider which identifies the training
61 course, the name of the employee, and the date of completion.

62 2. A covered provider must maintain a record of the
63 employee's completion of the training and, upon written request
64 of the employee, must provide the employee with a copy of the
65 record of completion consistent with the employer's written
66 policies.

67 3. An employee who has completed the training required in
68 this subsection is not required to repeat the program upon



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69 changing employment to a different covered provider.

70 (c) Within 7 months after beginning employment for a home
71 health agency, nurse registry, or companion or homemaker service
72 provider, each employee who provides personal care must complete
73 2 hours of training in addition to the training required in
74 paragraphs (a) and (b). The additional training must include,
75 but is not limited to, behavior management, promoting the
76 person's independence in activities of daily living, and skills
77 in working with families and caregivers.

78 (d) Within 7 months after beginning employment for a
79 nursing home, an assisted living facility, an adult family-care
80 home, or an adult day care center, each employee who provides
81 personal care must complete 3 hours of training in addition to
82 the training required in paragraphs (a) and (b). The additional
83 training must include, but is not limited to, behavior
84 management, promoting the person's independence in activities of
85 daily living, skills in working with families and caregivers,
86 group and individual activities, maintaining an appropriate
87 environment, and ethical issues.

88 (e) For an assisted living facility, adult family-care
89 home, or adult day care center that advertises and provides, or
90 is designated to provide, specialized care for persons with
91 Alzheimer's disease or related forms of dementia, in addition to
92 the training specified in paragraphs (a) and (b), employees must
93 receive the following training:

94 1. Within 3 months after beginning employment, each
95 employee who provides personal care to or has regular contact
96 with the residents or participants must complete the additional
97 3 hours of training as provided in paragraph (d).



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98 2. Within 6 months after beginning employment, each
99 employee who provides personal care must complete an additional
100 4 hours of dementia-specific training. Such training must
101 include, but is not limited to, understanding Alzheimer's
102 disease and related forms of dementia, the stages of Alzheimer's
103 disease, communication strategies, medical information, and
104 stress management.

105 3. Thereafter, each employee who provides personal care
106 must participate in at least 4 hours of continuing education
107 each calendar year through contact hours, on-the-job training,
108 or electronic learning technology. For this subparagraph, the
109 term "on-the-job training" means a form of direct coaching in
110 which a facility administrator or his or her designee instructs
111 an employee who provides personal care with guidance, support,
112 or hands-on experience to help develop and refine the employee's
113 skills for caring for a person with Alzheimer's disease or a
114 related form of dementia. The continuing education must cover at
115 least one of the topics included in the dementia-specific
116 training in which the employee has not received previous
117 training in the previous calendar year. The continuing education
118 may be fulfilled and documented in a minimum of one quarter-hour
119 increments through on-the-job training of the employee by a
120 facility administrator or his or her designee or by an
121 electronic learning technology chosen by the facility
122 administrator. On-the-job training may not account for more than
123 2 hours of continuing education each calendar year.

124 (5) The department may establish training curricula
125 guidelines for the training required in paragraphs (4) (c), (d),
126 and (e). The department may approve training providers and



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127 training curricula and maintain a list of approved providers.
128 Approved training may be offered in a variety of formats,
129 including, but not limited to, in person, electronically, or on-
130 the-job by a facility administrator or his or her designee.
131 Continuing education under this section does not require the
132 adoption of training curricula guidelines by the department or
133 approval of the training provider and curricula by the
134 department. The department may develop or provide continuing
135 education training or curricula as an option for covered
136 providers and employees.

137 (a) A training provider meeting one of the following
138 qualifications may offer training in compliance with the
139 training curricula guidelines without prior approval of the
140 department:

141 1. A person approved by an applicable board or the
142 Department of Health to provide training who is registered with
143 the electronic continuing education tracking system under s.
144 456.025; or

145 2. A training provider approved by the department or its
146 designee before July 1, 2023.

147 (b) Training providers qualified under subparagraph (a)1.
148 must also have:

149 1. At least 1 year of teaching experience as an educator
150 for caregivers of persons with Alzheimer's disease or related
151 forms of dementia;

152 2. At least 1 year of practical experience in a program
153 providing care to persons with Alzheimer's disease or related
154 forms of dementia; or

155 3. Completed a specialized training program in the subject



156 matter of Alzheimer's disease and related forms of dementia from
157 an accredited health care, human services, or gerontology
158 education provider.

159 (c) Upon an employee's completion of the training specified
160 in paragraphs (4) (c), (d), and (e), the training provider must
161 provide a record of the completion of the training which
162 includes the name of the employee, the name of the training
163 provider, the topics covered, and the date of completion. The
164 training record is evidence of completion of training in the
165 identified topic and the employee is not required to repeat
166 training in that topic if the employee changes employment to a
167 different covered provider.

168 (d) Any Alzheimer's disease and related forms of dementia
169 training curriculum approved by the department or its designee
170 before July 1, 2023, remains in effect until the curriculum's
171 expiration date.

172 (6) The department may adopt rules to establish training
173 curriculum guidelines, requirements for the approval of other
174 qualified training providers, and a process for conducting a
175 sampling of training or training curricula as necessary to
176 monitor for compliance with curricula guidelines.

177 (7) For a certified nursing assistant as defined in s.
178 464.201, training hours completed as required under this section
179 may count toward the total hours of training required to
180 maintain certification as a nursing assistant.

181 (8) For a health care practitioner as defined in s.
182 456.001, training hours completed as required under this section
183 may count toward the total hours of continuing education
184 required by that practitioner's licensing board.



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185 (9) Each person employed, contracted, or referred to
186 provide services before July 1, 2023, must complete the training
187 required in this section before July 1, 2026. Proof of
188 completion of equivalent training completed before July 1, 2023,
189 shall substitute for the training required in subsection (4).
190 Each person employed, contracted, or referred to provide
191 services on or after July 1, 2023, may satisfy the training
192 requirements by completing training using approved curricula as
193 specified in paragraph (5) (d) until the effective date of the
194 rules adopted by the department under subsection (6).

195 Section 2. Paragraph (b) of subsection (2) of section
196 400.0239, Florida Statutes, is amended to read:

197 400.0239 Quality of Long-Term Care Facility Improvement
198 Trust Fund.—

199 (2) Expenditures from the trust fund shall be allowable for
200 direct support of the following:

201 (b) Development and implementation of specialized training
202 programs for long-term care facility personnel who provide
203 direct care for residents with Alzheimer's disease and other
204 dementias, including training provided under s. 430.5025,
205 residents at risk of developing pressure sores, and residents
206 with special nutrition and hydration needs.

207 Section 3. Section 400.1755, Florida Statutes, is amended
208 to read:

209 400.1755 Care for persons with Alzheimer's disease or
210 related disorders; staff training requirements.—

211 ~~(1) As a condition of licensure, the employees of~~
212 facilities licensed under this part must complete the training
213 required under s. 430.5025 ~~provide to each of their employees,~~



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214 ~~upon beginning employment, basic written information about~~
215 ~~interacting with persons with Alzheimer's disease or a related~~
216 ~~disorder.~~

217 ~~(2) All employees who are expected to, or whose~~
218 ~~responsibilities require them to, have direct contact with~~
219 ~~residents with Alzheimer's disease or a related disorder must,~~
220 ~~in addition to being provided the information required in~~
221 ~~subsection (1), also have an initial training of at least 1 hour~~
222 ~~completed in the first 3 months after beginning employment. This~~
223 ~~training must include, but is not limited to, an overview of~~
224 ~~dementias and must provide basic skills in communicating with~~
225 ~~persons with dementia.~~

226 ~~(3) An individual who provides direct care shall be~~
227 ~~considered a direct caregiver and must complete the required~~
228 ~~initial training and an additional 3 hours of training within 9~~
229 ~~months after beginning employment. This training shall include,~~
230 ~~but is not limited to, managing problem behaviors, promoting the~~
231 ~~resident's independence in activities of daily living, and~~
232 ~~skills in working with families and caregivers.~~

233 ~~(a) The required 4 hours of training for certified nursing~~
234 ~~assistants are part of the total hours of training required~~
235 ~~annually.~~

236 ~~(b) For a health care practitioner as defined in s.~~
237 ~~456.001, continuing education hours taken as required by that~~
238 ~~practitioner's licensing board shall be counted toward this~~
239 ~~total of 4 hours.~~

240 ~~(4) For an employee who is a licensed health care~~
241 ~~practitioner as defined in s. 456.001, training that is~~
242 ~~sanctioned by that practitioner's licensing board shall be~~



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243 ~~considered to be approved by the Department of Elderly Affairs.~~

244 ~~(5) The Department of Elderly Affairs or its designee must~~
245 ~~approve the initial and continuing training provided in the~~
246 ~~facilities. The department must approve training offered in a~~
247 ~~variety of formats, including, but not limited to, Internet-~~
248 ~~based training, videos, teleconferencing, and classroom~~
249 ~~instruction. The department shall keep a list of current~~
250 ~~providers who are approved to provide initial and continuing~~
251 ~~training. The department shall adopt rules to establish~~
252 ~~standards for the trainers and the training required in this~~
253 ~~section.~~

254 ~~(6) Upon completing any training listed in this section,~~
255 ~~the employee or direct caregiver shall be issued a certificate~~
256 ~~that includes the name of the training provider, the topic~~
257 ~~covered, and the date and signature of the training provider.~~
258 ~~The certificate is evidence of completion of training in the~~
259 ~~identified topic, and the employee or direct caregiver is not~~
260 ~~required to repeat training in that topic if the employee or~~
261 ~~direct caregiver changes employment to a different facility or~~
262 ~~to an assisted living facility, home health agency, adult day~~
263 ~~care center, or adult family-care home. The direct caregiver~~
264 ~~must comply with other applicable continuing education~~
265 ~~requirements.~~

266 Section 4. Section 400.4785, Florida Statutes, is amended
267 to read:

268 400.4785 Patients with Alzheimer's disease or other related
269 disorders; staff training requirements; certain disclosures.—

270 (1) The employees of a home health agency must complete the
271 training required under s. 430.5025 ~~A home health agency must~~



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272 ~~provide the following staff training:~~

273 ~~(a) Upon beginning employment with the agency, each~~
274 ~~employee must receive basic written information about~~
275 ~~interacting with participants who have Alzheimer's disease or~~
276 ~~dementia-related disorders.~~

277 ~~(b) In addition to the information provided under paragraph~~
278 ~~(a), newly hired home health agency personnel who will be~~
279 ~~providing direct care to patients must complete 2 hours of~~
280 ~~training in Alzheimer's disease and dementia-related disorders~~
281 ~~within 9 months after beginning employment with the agency. This~~
282 ~~training must include, but is not limited to, an overview of~~
283 ~~dementia, a demonstration of basic skills in communicating with~~
284 ~~persons who have dementia, the management of problem behaviors,~~
285 ~~information about promoting the client's independence in~~
286 ~~activities of daily living, and instruction in skills for~~
287 ~~working with families and caregivers.~~

288 ~~(c) For certified nursing assistants, the required 2 hours~~
289 ~~of training shall be part of the total hours of training~~
290 ~~required annually.~~

291 ~~(d) For a health care practitioner as defined in s.~~
292 ~~456.001, continuing education hours taken as required by that~~
293 ~~practitioner's licensing board shall be counted toward the total~~
294 ~~of 2 hours.~~

295 ~~(e) For an employee who is a licensed health care~~
296 ~~practitioner as defined in s. 456.001, training that is~~
297 ~~sanctioned by that practitioner's licensing board shall be~~
298 ~~considered to be approved by the Department of Elderly Affairs.~~

299 ~~(f) The Department of Elderly Affairs, or its designee,~~
300 ~~must approve the required training. The department must consider~~



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301 ~~for approval training offered in a variety of formats. The~~
302 ~~department shall keep a list of current providers who are~~
303 ~~approved to provide the 2-hour training. The department shall~~
304 ~~adopt rules to establish standards for the employees who are~~
305 ~~subject to this training, for the trainers, and for the training~~
306 ~~required in this section.~~

307 ~~(g) Upon completing the training listed in this section,~~
308 ~~the employee shall be issued a certificate that states that the~~
309 ~~training mandated under this section has been received. The~~
310 ~~certificate shall be dated and signed by the training provider.~~
311 ~~The certificate is evidence of completion of this training, and~~
312 ~~the employee is not required to repeat this training if the~~
313 ~~employee changes employment to a different home health agency.~~

314 ~~(2)(h)~~ A licensed home health agency whose unduplicated
315 census during the most recent calendar year was composed
316 ~~comprised~~ of at least 90 percent of individuals aged 21 years or
317 younger at the date of admission is exempt from the training
318 requirements in this section.

319 ~~(3)(2)~~ An agency licensed under this part which claims that
320 it provides special care for persons who have Alzheimer's
321 disease or other related disorders must disclose in its
322 advertisements or in a separate document those services that
323 distinguish the care as being especially applicable to, or
324 suitable for, such persons. The agency must give a copy of all
325 such advertisements or a copy of the document to each person who
326 requests information about the agency and must maintain a copy
327 of all such advertisements and documents in its records. The
328 Agency for Health Care Administration shall examine all such
329 advertisements and documents in the agency's records as part of



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330 the license renewal procedure.

331 Section 5. Section 400.510, Florida Statutes, is created to
332 read:

333 400.510 Patients with Alzheimer's disease or other related
334 disorders; staff training requirements.—A person employed,
335 contracted, or referred by a nurse registry or a person
336 registered with the agency to provide companion or homemaker
337 services must complete the training required under s. 430.5025.

338 Section 6. Section 429.178, Florida Statutes, is amended to
339 read:

340 429.178 Special care for persons with Alzheimer's disease
341 or other related disorders.—

342 ~~(1)~~ A facility that ~~which~~ advertises that it provides
343 special care for persons with Alzheimer's disease or other
344 related disorders must meet the following standards of
345 operation:

346 (1)(a)~~1.~~ If the facility has 17 or more residents, have an
347 awake staff member on duty at all hours of the day and night; or

348 (b)~~2.~~ If the facility has fewer than 17 residents, have an
349 awake staff member on duty at all hours of the day and night or
350 have mechanisms in place to monitor and ensure the safety of the
351 facility's residents.

352 (2)~~(b)~~ Offer activities specifically designed for persons
353 who are cognitively impaired.

354 (3)~~(e)~~ Have a physical environment that provides for the
355 safety and welfare of the facility's residents.

356 (4)~~(d)~~ Require employed ~~Employ~~ staff to complete ~~who have~~
357 ~~completed~~ the training and continuing education required under
358 s. 430.5025 ~~in subsection (2).~~



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359 ~~(2) (a) An individual who is employed by a facility that~~
360 ~~provides special care for residents who have Alzheimer's disease~~
361 ~~or other related disorders, and who has regular contact with~~
362 ~~such residents, must complete up to 4 hours of initial dementia-~~
363 ~~specific training developed or approved by the department. The~~
364 ~~training must be completed within 3 months after beginning~~
365 ~~employment and satisfy the core training requirements of s.~~
366 ~~429.52(3)(g).~~

367 ~~(b) A direct caregiver who is employed by a facility that~~
368 ~~provides special care for residents who have Alzheimer's disease~~
369 ~~or other related disorders and provides direct care to such~~
370 ~~residents must complete the required initial training and 4~~
371 ~~additional hours of training developed or approved by the~~
372 ~~department. The training must be completed within 9 months after~~
373 ~~beginning employment and satisfy the core training requirements~~
374 ~~of s. 429.52(3)(g).~~

375 ~~(c) An individual who is employed by a facility that~~
376 ~~provides special care for residents with Alzheimer's disease or~~
377 ~~other related disorders, but who only has incidental contact~~
378 ~~with such residents, must be given, at a minimum, general~~
379 ~~information on interacting with individuals with Alzheimer's~~
380 ~~disease or other related disorders, within 3 months after~~
381 ~~beginning employment.~~

382 ~~(3) In addition to the training required under subsection~~
383 ~~(2), a direct caregiver must participate in a minimum of 4~~
384 ~~contact hours of continuing education each calendar year. The~~
385 ~~continuing education must include one or more topics included in~~
386 ~~the dementia-specific training developed or approved by the~~
387 ~~department, in which the caregiver has not received previous~~



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388 ~~training.~~

389 ~~(4) Upon completing any training listed in subsection (2),~~
390 ~~the employee or direct caregiver shall be issued a certificate~~
391 ~~that includes the name of the training provider, the topic~~
392 ~~covered, and the date and signature of the training provider.~~
393 ~~The certificate is evidence of completion of training in the~~
394 ~~identified topic, and the employee or direct caregiver is not~~
395 ~~required to repeat training in that topic if the employee or~~
396 ~~direct caregiver changes employment to a different facility. The~~
397 ~~employee or direct caregiver must comply with other applicable~~
398 ~~continuing education requirements.~~

399 ~~(5) The department, or its designee, shall approve the~~
400 ~~initial and continuing education courses and providers.~~

401 ~~(6) The department shall keep a current list of providers~~
402 ~~who are approved to provide initial and continuing education for~~
403 ~~staff of facilities that provide special care for persons with~~
404 ~~Alzheimer's disease or other related disorders.~~

405 ~~(7) Any facility more than 90 percent of whose residents~~
406 ~~receive monthly optional supplementation payments is not~~
407 ~~required to pay for the training and education programs required~~
408 ~~under this section. A facility that has one or more such~~
409 ~~residents shall pay a reduced fee that is proportional to the~~
410 ~~percentage of such residents in the facility. A facility that~~
411 ~~does not have any residents who receive monthly optional~~
412 ~~supplementation payments must pay a reasonable fee, as~~
413 ~~established by the department, for such training and education~~
414 ~~programs.~~

415 ~~(8) The department shall adopt rules to establish standards~~
416 ~~for trainers and training and to implement this section.~~



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417 Section 7. Subsection (1) of section 429.52, Florida
418 Statutes, is amended to read:

419 429.52 Staff training and educational requirements.—

420 (1) (a) Each new assisted living facility employee who has
421 not previously completed core training must attend a preservice
422 orientation provided by the facility before interacting with
423 residents. The preservice orientation must be at least 2 hours
424 in duration and cover topics that help the employee provide
425 responsible care and respond to the needs of facility residents.
426 Upon completion, the employee and the administrator of the
427 facility must sign a statement that the employee completed the
428 required preservice orientation. The facility must keep the
429 signed statement in the employee's personnel record.

430 (b) Each employee must complete the training required under
431 s. 430.5025.

432 (c) If completed before interacting with residents, the 1-
433 hour training required in s. 430.5025 concerning information on
434 Alzheimer's disease and related forms of dementia may count
435 toward the 2 hours of preservice orientation required under
436 paragraph (a).

437 Section 8. Section 429.83, Florida Statutes, is amended to
438 read:

439 429.83 Residents with Alzheimer's disease or other related
440 disorders; training; certain disclosures.—

441 (1) The employees of an adult family-care home must
442 complete the training required under s. 430.5025.

443 (2) An adult family-care home licensed under this part
444 which claims that it provides special care for persons who have
445 Alzheimer's disease or other related disorders must disclose in



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446 its advertisements or in a separate document those services that
447 distinguish the care as being especially applicable to, or
448 suitable for, such persons. The home must give a copy of all
449 such advertisements or a copy of the document to each person who
450 requests information about programs and services for persons
451 with Alzheimer's disease or other related disorders offered by
452 the home and must maintain a copy of all such advertisements and
453 documents in its records. The agency shall examine all such
454 advertisements and documents in the home's records as part of
455 the license renewal procedure.

456 Section 9. Subsection (1) of section 429.917, Florida
457 Statutes, is amended to read:

458 429.917 Patients with Alzheimer's disease or other related
459 disorders; staff training requirements; certain disclosures.—

460 (1) The employees of an adult day care center licensed
461 under this part must complete the training required under s.
462 430.5025 provide the following staff training:

463 ~~(a) Upon beginning employment with the facility, each~~
464 ~~employee must receive basic written information about~~
465 ~~interacting with participants who have Alzheimer's disease or~~
466 ~~dementia-related disorders.~~

467 ~~(b) In addition to the information provided under paragraph~~
468 ~~(a), newly hired adult day care center personnel who are~~
469 ~~expected to, or whose responsibilities require them to, have~~
470 ~~direct contact with participants who have Alzheimer's disease or~~
471 ~~dementia-related disorders must complete initial training of at~~
472 ~~least 1 hour within the first 3 months after beginning~~
473 ~~employment. The training must include an overview of dementias~~
474 ~~and must provide instruction in basic skills for communicating~~



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475 ~~with persons who have dementia.~~

476 ~~(c) In addition to the requirements of paragraphs (a) and~~
477 ~~(b), an employee who will be providing direct care to a~~
478 ~~participant who has Alzheimer's disease or a dementia-related~~
479 ~~disorder must complete an additional 3 hours of training within~~
480 ~~9 months after beginning employment. This training must include,~~
481 ~~but is not limited to, the management of problem behaviors,~~
482 ~~information about promoting the participant's independence in~~
483 ~~activities of daily living, and instruction in skills for~~
484 ~~working with families and caregivers.~~

485 ~~(d) For certified nursing assistants, the required 4 hours~~
486 ~~of training shall be part of the total hours of training~~
487 ~~required annually.~~

488 ~~(e) For a health care practitioner as defined in s.~~
489 ~~456.001, continuing education hours taken as required by that~~
490 ~~practitioner's licensing board shall be counted toward the total~~
491 ~~of 4 hours.~~

492 ~~(f) For an employee who is a licensed health care~~
493 ~~practitioner as defined in s. 456.001, training that is~~
494 ~~sanctioned by that practitioner's licensing board shall be~~
495 ~~considered to be approved by the Department of Elderly Affairs.~~

496 ~~(g) The Department of Elderly Affairs or its designee must~~
497 ~~approve the 1-hour and 3-hour training provided to employees and~~
498 ~~direct caregivers under this section. The department must~~
499 ~~consider for approval training offered in a variety of formats.~~
500 ~~The department shall keep a list of current providers who are~~
501 ~~approved to provide the 1-hour and 3-hour training. The~~
502 ~~department shall adopt rules to establish standards for the~~
503 ~~employees who are subject to this training, for the trainers,~~



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504 ~~and for the training required in this section.~~

505 ~~(h) Upon completing any training described in this section,~~
506 ~~the employee or direct caregiver shall be issued a certificate~~
507 ~~that includes the name of the training provider, the topic~~
508 ~~covered, and the date and signature of the training provider.~~
509 ~~The certificate is evidence of completion of training in the~~
510 ~~identified topic, and the employee or direct caregiver is not~~
511 ~~required to repeat training in that topic if the employee or~~
512 ~~direct caregiver changes employment to a different adult day~~
513 ~~care center or to an assisted living facility, nursing home,~~
514 ~~home health agency, or hospice. The direct caregiver must comply~~
515 ~~with other applicable continuing education requirements.~~

516 ~~(i) An employee who is hired on or after July 1, 2004, must~~
517 ~~complete the training required by this section.~~

518 Section 10. Subsection (6) of section 429.918, Florida
519 Statutes, is amended to read:

520 429.918 Licensure designation as a specialized Alzheimer's
521 services adult day care center; training.-

522 (6) ~~(a)~~ An adult day care center having a license designated
523 under this section must provide the following staff training and
524 supervision:

525 (a)1. A registered nurse or licensed practical nurse must
526 be on site daily for at least 75 percent of the time that the
527 center is open to ADRD participants. Each licensed practical
528 nurse who works at the center must be supervised in accordance
529 with chapter 464.

530 (b) Each employee must complete the training and continuing
531 education required under s. 430.5025.

532 ~~2. Upon beginning employment with the center, each employee~~



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533 ~~must receive and review basic written information about~~
534 ~~interacting with ADRD participants.~~

535 ~~3. In addition to the information provided in subparagraph~~
536 ~~2., every employee hired on or after July 1, 2012, who has~~
537 ~~direct contact with ADRD participants shall complete 4 hours of~~
538 ~~dementia-specific training within 3 months after employment.~~

539 ~~4. In addition to the requirements of subparagraphs 2. and~~
540 ~~3., each employee hired on or after July 1, 2012, who provides~~
541 ~~direct care to ADRD participants shall complete an additional 4~~
542 ~~hours of dementia-specific training within 6 months after~~
543 ~~employment.~~

544 ~~(b) The Department of Elderly Affairs or its designee shall~~
545 ~~approve the training required under this section. The department~~
546 ~~shall adopt rules to establish standards for employees who are~~
547 ~~subject to this training, for trainers, and for the training~~
548 ~~required in this section.~~

549 ~~(c) Upon completing any training described in this section,~~
550 ~~the employee shall be issued a certificate that includes the~~
551 ~~name of the training provider, the topics covered, and the date~~
552 ~~and signature of the training provider. The certificate is~~
553 ~~evidence of completion of training in the identified topics, and~~
554 ~~the employee is not required to repeat training in those topics~~
555 ~~if the employee changes employment to a different adult day care~~
556 ~~center.~~

557 ~~(c)-(d)~~ Each employee hired on or after July 1, 2012, who
558 provides direct care to ADRD participants, must receive and
559 review an orientation plan that includes, at a minimum:

560 1. Procedures to locate an ADRD participant who has
561 wandered from the center. These procedures must ~~shall~~ be



562 reviewed regularly with all direct care staff.
563 2. Information on the Silver Alert program in this state.
564 3. Information regarding available products or programs
565 used to identify ADRD participants or prevent them from
566 wandering away from the center, their home, or other locations.
567 Section 11. This act shall take effect July 1, 2023.

568
569 ===== T I T L E A M E N D M E N T =====

570 And the title is amended as follows:

571 Delete everything before the enacting clause
572 and insert:

573 A bill to be entitled
574 An act relating to education and training for
575 Alzheimer's disease and related forms of dementia;
576 creating s. 430.5025, F.S.; providing a short title;
577 defining terms; requiring the Department of Elderly
578 Affairs to offer certain education about Alzheimer's
579 disease and related forms of dementia to the general
580 public; specifying uniform dementia-related education
581 and training for employees of covered providers;
582 requiring the department to provide certain dementia-
583 related employee training in an online format and at
584 no cost; providing minimum requirements for the
585 training; requiring the department to make a record of
586 the completion of the training; providing requirements
587 for the record; requiring covered providers to
588 maintain such records of training completion for their
589 employees; providing that an employee does not have to
590 repeat such training after changing employment to



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591 another covered provider; providing additional
592 training and continuing education requirements for
593 certain employees who provide direct care to patients
594 with Alzheimer's disease or related forms of dementia;
595 authorizing the department to establish training
596 curriculum guidelines; authorizing the department to
597 approve training providers and curricula and maintain
598 a list of approved providers; authorizing training to
599 be offered in a variety of formats; providing that
600 certain continuing education does not require the
601 adoption of curriculum guidelines by the department or
602 provider or curriculum approval by the department;
603 authorizing the department to develop or provide
604 continuing education training or curricula as an
605 option for covered providers and their employees;
606 providing qualifications and requirements for training
607 providers; providing that training curricula approved
608 before the effective date of this act remain in effect
609 until their respective expiration dates; authorizing
610 the department to adopt rules related to training
611 curriculum guidelines, qualified training providers,
612 and compliance monitoring procedures; authorizing
613 certified nursing assistants to count the dementia-
614 related training toward their annual certification
615 training requirements; authorizing health care
616 practitioners to count the dementia-related training
617 requirements toward their continuing education
618 requirements for licensure; authorizing persons
619 employed, contracted, or referred to provide services



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620 before the effective date of this act to complete the
621 required training by a specified date; providing for
622 the substitution of equivalent training for training
623 required by this act; authorizing persons to satisfy
624 the training requirements of this act using training
625 curricula approved before the effective date of this
626 act until the department adopts rules for training
627 curricula guidelines; amending ss. 400.0239, 400.1755,
628 and 400.4785, F.S.; conforming provisions to changes
629 made by the act; creating s. 400.510, F.S.; requiring
630 a person employed, contracted, or referred by a nurse
631 registry or a person registered with the Agency for
632 Health Care Administration to provide companion or
633 homemaker services to complete specified training;
634 amending ss. 429.178, 429.52, 429.83, 429.917, and
635 429.918, F.S.; conforming provisions to changes made
636 by the act; providing an effective date.

By Senator Garcia

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1 A bill to be entitled
2 An act relating to the Step into Success Workforce
3 Education and Internship Pilot Program; creating s.
4 409.1455, F.S.; providing a short title; requiring the
5 Department of Children and Families to establish the
6 pilot program; specifying the purposes and components
7 of the program; requiring the department's Office of
8 Continuing Care, in consultation with certain
9 entities, to develop and administer the program;
10 authorizing the department to contract with certain
11 entities to collaborate with the office on development
12 and administration of the pilot program; requiring the
13 independent living professionalism and workforce
14 education component of the pilot program to culminate
15 in a specified certificate; providing that completion
16 of that component allows former foster youth to
17 participate in the onsite workforce and training
18 internship component; defining terms; providing
19 requirements for the administration of the pilot
20 program; requiring the office to initiate the
21 respective components of the pilot program by
22 specified dates; specifying the duties of the office
23 related to the two components; requiring the
24 components to address specified topics; providing
25 requirements for organizations participating in the
26 onsite workforce training internship component;
27 specifying time limitations for former foster youth
28 participating in the onsite workforce training
29 internship component; requiring the Board of Governors

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30 and the State Board of Education to adopt certain
31 regulations and rules, respectively; specifying
32 conditions for participation in the onsite workforce
33 internship component; requiring the department to
34 include a section on the pilot program in a specified
35 annual report which must include specified
36 information; requiring the department to adopt rules;
37 amending s. 414.56, F.S.; conforming a provision to
38 changes made by the act; providing an effective date.
39

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

42 Section 1. Section 409.1455, Florida Statutes, is created
43 to read:

44 409.1455 Step into Success Workforce Education and
45 Internship Pilot Program for foster youth and former foster
46 youth.-

47 (1) SHORT TITLE.-This section may be cited as the "Step
48 into Success Act."

49 (2) CREATION.-The department shall establish the 3-year
50 Step into Success Workforce Education and Internship Pilot
51 Program to give eligible foster youth and former foster youth an
52 opportunity to learn and develop essential workforce and
53 professional skills, to transition from the custody of the
54 department to independent living, and to become better prepared
55 for an independent and successful future. The pilot program must
56 consist of an independent living professionalism and workforce
57 education component and, for youth who complete that component,
58 an onsite workforce training internship component. In

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59 consultation with subject-matter experts and the community-based
60 care lead agencies, the office shall develop and administer the
61 pilot program for interested foster youth and former foster
62 youth; however, the department may contract with entities that
63 have demonstrable subject-matter expertise in the transition to
64 adulthood for foster youth, workforce training and preparedness,
65 professional skills, and related subjects to collaborate with
66 the office in the development and administration of the pilot
67 program. The independent living professionalism and workforce
68 education component of the program must culminate in a
69 certificate that allows a former foster youth to participate in
70 the onsite workforce training internship.

71 (3) DEFINITIONS.—For purposes of this section, the term:

72 (a) "Community-based care lead agency" has the same meaning
73 as in s. 409.986(3).

74 (b) "Former foster youth" means an individual 18 years of
75 age or older but younger than 26 years of age who is currently
76 or was previously placed in licensed care, excluding Level I
77 licensed placements pursuant to s. 409.175(5)(a)1., for at least
78 60 days within this state.

79 (c) "Foster youth" means an individual older than 16 years
80 of age but younger than 18 years of age who is currently in
81 licensed care, excluding Level I licensed placements pursuant to
82 s. 409.175(5)(a)1.

83 (d) "Office" means the department's Office of Continuing
84 Care.

85 (e) "Participating organization" means a state agency, a
86 corporation under chapter 607 or chapter 617, or another
87 relevant entity that has agreed to collaborate with the office

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88 in the development and implementation of a trauma-informed
89 onsite workforce training internship program pursuant to
90 subsections (6) and (7).

91 (4) REQUIREMENTS OF THE DEPARTMENT AND OFFICE.—The
92 department shall establish and the office shall develop and
93 administer the pilot program for eligible foster youth and
94 former foster youth. The pilot program must be administered as
95 part of an eligible foster youth's regular transition planning
96 under s. 39.6035 or as a post-transition service for eligible
97 former foster youth. The office must begin the professionalism
98 and workforce education component of the program on or before
99 January 1, 2024, and the onsite workforce training internship
100 component of the program on or before July 1, 2024.

101 (5) INDEPENDENT LIVING PROFESSIONALISM AND WORKFORCE
102 EDUCATION COMPONENT REQUIREMENTS.—The office shall do all of the
103 following in connection with the independent living
104 professionalism and workforce education component for eligible
105 foster youth and former foster youth:

106 (a) Designate and ensure that the number of qualified staff
107 is sufficient to implement and administer the component, which
108 may be part of a larger independent living or life skills
109 training program if the larger program meets the requirements of
110 this subsection.

111 (b) Develop all workshops, presentations, and curricula for
112 the component, including, but not limited to, all written
113 educational and training materials for foster youth and former
114 foster youth. Resources may include, but are not limited to,
115 workshops and materials to assist with preparing resumes, mock
116 interviews, experiential training, and assistance with securing

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117 an internship or employment. The office must review and update
118 these materials as necessary. The training materials must
119 address, but are not limited to, the following:

- 120 1. Interview skills;
- 121 2. Professionalism;
- 122 3. Teamwork;
- 123 4. Leadership;
- 124 5. Problem solving; and
- 125 6. Conflict resolution in the workplace.

126 (c) Require that the training provided be in addition to
127 any other life skills or employment training required by law.
128 The training may be developed or administered by the department,
129 community-based care lead agencies, or the lead agencies'
130 subcontracted providers, or in collaboration with colleges or
131 universities or other nonprofit organizations in the community
132 with workforce education and training resources.

133 (d) Provide relevant written materials from the component
134 and any relevant tools developed to ensure participants'
135 successful transition to internships to all participating
136 organizations that offer workforce training internship
137 opportunities.

138 (e) Provide materials to inform eligible foster youth and
139 former foster youth of the program, the requirements for
140 participation, and contact information for enrollment. The
141 community-based care lead agencies shall ensure that any
142 subcontracted providers that directly serve youth receive this
143 information.

144 (f) Advertise and promote the availability of the education
145 and internship program to engage as many eligible foster youth

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146 and former foster youth as possible.

147 (g) Assess the career interests of each eligible foster
148 youth and former foster youth who expresses interest in
149 participating in the program and determine the most appropriate
150 internship and post-internship opportunities for that youth
151 based on his or her expressed interests.

152 (6) ONSITE WORKFORCE TRAINING INTERNSHIP COMPONENT
153 REQUIREMENTS.—The office shall do all of the following in
154 connection with the onsite workforce training internship program
155 for eligible former foster youth:

156 (a) Develop processes and procedures to implement a trauma-
157 informed onsite workforce training internship component. The
158 processes and procedures of the internship component must be
159 designed so that they can be replicated and scaled to meet
160 various organizational structures and sizes. The component must
161 include:

- 162 1. Recruitment of agencies, corporations, and other
163 entities to host interns as participating organizations;
164 2. Assisting participating organizations with mentor
165 recruitment, training, and matching;
166 3. Mentor-led performance reviews, including a review of
167 the intern's work product, professionalism, time management,
168 communication style, and stress-management strategies;
169 4. Daily mentorship and coaching on topics such as:
170 a. Professionalism;
171 b. Teamwork;
172 c. Leadership;
173 d. Problem solving; and
174 e. Conflict resolution in the workplace;

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175 5. Development of opportunities for interns to become
176 employees of the participating organization; and

177 6. Reporting requirements specified in subsection (11).

178 (b) Develop a minimum of 1 hour of required trauma-informed
179 training for mentors to teach the skills necessary to engage
180 with participating eligible former foster youth.

181 (c) Provide assistance to eligible foster youth and former
182 foster youth interested in participating in the internship
183 component, including, but not limited to, identifying and
184 monitoring internship opportunities, being knowledgeable of the
185 training and skills needed to match eligible foster youth and
186 former foster youth with appropriate internships, and assisting
187 eligible foster youth and former foster youth with applying for
188 post-internship employment opportunities.

189 (d) Publicize specific internship positions in an easily
190 accessible manner and inform eligible foster youth and former
191 foster youth of where to locate such information.

192 (e) Develop a process and schedule for the distribution of
193 stipends to former foster youth participating in the component,
194 subject to the availability of funds.

195 (f) Distribute funds appropriated for the compensation of
196 mentors who are participating in the component as provided in
197 paragraph (7) (b).

198 (g) By May 1, 2024, provide to the Board of Governors and
199 the State Board of Education all relevant internship information
200 necessary to support the award of postsecondary credit or career
201 education clock hours for internship positions held by former
202 foster youth participating in the onsite workforce training
203 internship component.

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204 (h) Develop and conduct follow-up surveys with:

205 1. Former foster youth within 3 months after their
206 internship start date to ensure successful transition into the
207 work environment and to gather feedback on how to improve the
208 experience for future participants.

209 2. Mentors assigned to participating former foster youth.
210 Such data must be collected by October 1, 2024, and by October 1
211 annually thereafter, for inclusion in the independent living
212 services annual report.

213 3. Any other persons the office deems relevant for purposes
214 of continued improvement of the internship component.

215 (7) REQUIREMENTS FOR PARTICIPATING ORGANIZATIONS.—Each
216 organization participating in the onsite workforce training
217 internship component shall:

218 (a) Collaborate with the office to implement a trauma-
219 informed approach to mentoring and training former foster youth.

220 (b) Recruit employees to serve as mentors for former foster
221 youth interning with such organizations.

222 1. To serve as a mentor, an employee must:

223 a. Have worked for the participating organization for at
224 least 1 year;

225 b. Have experience relevant to the job and task
226 responsibilities of the intern;

227 c. Sign a monthly hour statement for the intern;

228 d. Allocate at least 1 hour per month to conduct mentor-led
229 performance reviews, to include a review of the intern's work
230 product, professionalism, time management, communication style,
231 and stress-management strategies; and

232 e. Complete a minimum of 1 hour of trauma-informed training

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233 to gain skills critical for successfully engaging former foster
234 youth.

235 2. Subject to available funding, an employee who serves as
236 a mentor and receives the required trauma-informed training is
237 eligible for a maximum payment of \$1,200 per intern per fiscal
238 year, to be issued as a \$100 monthly payment for every month of
239 service as a mentor.

240 3. An employee may serve as a mentor for a maximum of three
241 interns at one time and may not receive more than \$3,600 in
242 compensation per fiscal year for serving as a mentor. Any time
243 spent serving as a mentor to an intern under this section counts
244 toward the minimum service required for eligibility for payments
245 pursuant to subparagraph 2. and this subparagraph.

246 (c) When necessary, have a discussion with an intern's
247 assigned mentor, the participating organization's internship
248 program liaison, and the office about the creation of a
249 corrective action plan to address issues related to the intern's
250 professionalism, work product, or performance and, if
251 applicable, after giving the intern a reasonable opportunity to
252 comply with the corrective action plan, document the intern's
253 failure to do so before discharging him or her.

254 (d) Provide relevant feedback to the office at least
255 annually for the office to comply with paragraph (6) (h).

256 (e) Collaborate with the department to provide any
257 requested information necessary to prepare the annual report
258 required under subsection (11).

259 (8) TIME LIMITATIONS FOR PARTICIPATION.—A former foster
260 youth who obtains an internship with a participating
261 organization may participate in the internship component for no

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262 more than 1 year, calculated as 12 monthly stipend periods. The
263 year begins on his or her start date with a participating
264 organization. A former foster youth may intern under the
265 internship program with more than one participating
266 organization, but may not intern with more than one
267 participating organization at the same time. A participating
268 organization may hire the intern as an employee, but the hiring
269 of a former foster youth may not be for an internship under this
270 section.

271 (9) AWARD OF POSTSECONDARY CREDIT.—The Board of Governors
272 and the State Board of Education shall adopt regulations and
273 rules, respectively, to award postsecondary credit or career
274 education clock hours for eligible former foster youth
275 participating in the internship component pursuant to subsection
276 (4). The regulations and rules must include procedures for the
277 award of postsecondary credit or career education clock hours,
278 including, but not limited to, equivalency and alignment of the
279 internship component with appropriate postsecondary courses and
280 course descriptions.

281 (10) CONDITIONS OF PARTICIPATION IN THE INTERNSHIP
282 COMPONENT.—

283 (a) To become a participant in the internship component of
284 the program, the applicant must be a foster youth or a former
285 foster youth as those terms are defined in subsection (3) at the
286 time such youth applies for an internship position with a
287 participating organization. A foster youth or former foster
288 youth who has completed the training component with the
289 department may apply for a position with a participating
290 organization but may not begin an internship until attaining the

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291 age of 18 years.

292 (b) If offered an internship, a former foster youth must be
293 classified as an intern and must work 80 hours per month to be
294 eligible for the stipend payment.

295 (c) A former foster youth must spend any stipend funds
296 specified for clothing on clothing that is in compliance with
297 the dress code requirements of the participating organization
298 with which the former foster youth is interning. Notwithstanding
299 any limitation on funds provided to purchase clothing, the
300 former foster youth must comply with any dress code requirements
301 of the participating organization with which he or she is
302 interning.

303 (d) Stipend money earned pursuant to the internship
304 component may not be considered earned income for purposes of
305 computing eligibility for federal or state benefits, including,
306 but not limited to, the Supplemental Nutrition Assistance
307 Program, a housing choice assistance voucher program, the
308 Temporary Cash Assistance Program, the Medicaid program, or the
309 school readiness program. Notwithstanding this paragraph, any
310 reduction in the amount of benefits or loss of benefits due to
311 receipt of the Step into Success stipend may be offset by an
312 additional stipend payment equal to the value of the maximum
313 benefit amount for a single person allowed under the
314 Supplemental Nutrition Assistance Program.

315 (e) A former foster youth may, at the discretion of a
316 postsecondary educational institution within this state in which
317 such youth is enrolled, earn postsecondary credit or career
318 education clock hours for work performed as an intern under the
319 internship component. Postsecondary credit and career education

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320 clock hours earned for work performed under the internship
321 component may be in addition to any compensation earned for the
322 same work performed under the internship component and may be
323 awarded for completion of all or any part of the internship
324 component. Participating organizations shall cooperate with
325 postsecondary educational institutions to provide any
326 information about internship positions which is necessary to
327 enable the institutions to determine whether to grant the
328 participating former foster youth postsecondary credit or career
329 education clock hours toward his or her degree.

330 (f) A former foster youth who accepts an internship with a
331 participating organization pursuant to this section may only be
332 discharged from the internship component after the participating
333 organization engages the intern's assigned mentor and the
334 participating organization's internship program staff to assist
335 the intern in performing the duties of the internship. Before
336 discharging the former foster youth, the participating
337 organization must also document the intern's failure to comply
338 with a corrective action plan after being given a reasonable
339 opportunity to do so.

340 (11) REPORT.—The department shall include a section on the
341 Step into Success Workforce Education and Internship Program in
342 the independent living annual report prepared pursuant to s.
343 409.1451(6) which includes, but is not limited to, all of the
344 following:

345 (a) Whether the pilot program is in compliance with this
346 section, and if not, barriers to compliance.

347 (b) A list of participating organizations and the number of
348 interns.

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349 (c) A summary of recruitment efforts to increase the number
350 of participating organizations.

351 (d) A summary of the feedback and surveys received pursuant
352 to paragraph (6) (h) from participating former foster youth,
353 mentors, and others who have participated in the program.

354 (e) Recommendations, if any, for actions necessary to
355 improve the quality, effectiveness, and outcomes of the pilot
356 program.

357 (f) Employment outcomes of former foster youth who
358 participated in the pilot program, including employment status
359 after completion of the program, whether he or she is employed
360 by the participating organization in which he or she interned or
361 by another entity, and job description and salary information,
362 if available.

363 (12) RULEMAKING.—The department shall adopt rules to
364 implement this section.

365 Section 2. Subsection (5) is added to section 414.56,
366 Florida Statutes, to read:

367 414.56 Office of Continuing Care.—The department shall
368 establish an Office of Continuing Care to ensure young adults
369 who age out of the foster care system between 18 and 21 years of
370 age, or 22 years of age with a documented disability, have a
371 point of contact until the young adult reaches the age of 26 in
372 order to receive ongoing support and care coordination needed to
373 achieve self-sufficiency. Duties of the office include, but are
374 not limited to:

375 (5) Developing and administering the Step into Success
376 Workforce Education and Internship Pilot Program for foster
377 youth and former foster youth as required under s. 409.1455.

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378

Section 3. This act shall take effect July 1, 2023.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1190

INTRODUCER: Senator Garcia

SUBJECT: Step into Success Workforce Education and Internship Pilot Program

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tuszynski</u>	<u>Cox</u>	<u>CF</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>FP</u>	_____

I. Summary:

The bill creates s. 409.1455, F.S., cited as the “Step into Success Act,” establishing the Step into Success Workforce Education and Internship Program (program) as a three-year pilot administered by the Department of Children and Families’ (DCF) Office of Continuing Care (OCC). The program must consist of an independent living professionalism and workforce education component and, for youth that complete that component, an onsite workforce training internship component that uses employees of participating organizations as mentors. The purpose of the program is to assist foster youth transitioning to adulthood to:

- Develop essential workforce and professional skills;
- Transition from the custody of the DCF to independent living; and
- Become best prepared for an independent and successful future.

The bill specifies and details numerous requirements for the operation of each component of the program as well as for participating organizations, mentors, and foster and former foster youth who participate. Some of the specific requirements are:

- The program is available to foster and former foster youth between the ages of 16 and 25 who are currently or were previously in foster care. A foster youth may participate in the education component at age 16 years of age or older, but a former foster youth may not begin the internship portion until turning 18 years of age.
- The program must match mentors in participating organizations with the youth participating to ensure that the youth acquire as many skills as possible and provide a \$1,200 per year payment to mentors with a limitation on the number of interns a mentor may be paired with in a given year.
- The DCF must perform follow-up surveys with foster and former foster youth, mentors, and other persons to include specific information about the program and recommendations for improvement in an annual report.

- The DCF must implement the workforce education component on or before January 1, 2024 and the internship component on or before July 1, 2024.

The bill provides for a monthly stipend to former foster youth participating in the internship component and ensures that the stipend does not count toward income in the determination of self-sufficiency benefit eligibility. Further, the bill provides a specified increase in the stipend payment amount if the youth does have a loss or reduction of any benefits.

The bill requires the Board of Governors and State Board of Education to adopt rules and regulations to award postsecondary credit or career education clock hours to program participants.

The bill requires the DCF to adopt rules to implement the program.

The bill will have an indeterminate fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Florida's Child Welfare System

Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The DCF and community-based care lead agencies (CBC) work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children until a permanency option can be identified.

Florida Central Abuse Hotline

The DCF operates the Florida central abuse hotline (hotline), which accepts reports 24 hours a day, seven days a week of known or suspected child abuse, abandonment, or neglect.¹ A child protective investigation begins with a report by any person to the hotline. Law requires any person who knows or suspects that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, shall report such knowledge or suspicion to the hotline.²

Once the hotline obtains information from a reporter, the allegations of the report must meet the statutory definition required to trigger a child protective investigation. For a report to be accepted and initiate an investigation the hotline must have reasonable cause to believe that the child is at risk of or was harmed by abuse, abandonment, or neglect.³

¹ Section 39.101(1)(a), F.S.

² Section 39.201(1)(a), F.S.

³ See ss. 39.101(1)(b) and 39.101(2), F.S.

Child Protective Investigations

The DCF must conduct a child protective investigation if a hotline report meets the statutory definition of child abuse, abandonment, or neglect. An investigation is commenced immediately or within 24 hours after the report is received, depending on the nature of the allegation.⁴ The child protective investigator assesses the safety and perceived needs of the child and family and whether the child should receive in-home services or removed and placed in out-of-home care.

Community-Based Care Organizations and Services

If a child protective investigation results in verified findings of abuse or neglect, the child will receive a case plan and services are provided to the family to address the problems that are endangering the child. The DCF contracts for case management, out-of-home care, and related services with CBCs. The use of CBCs to provide child welfare services is intended to increase local community ownership of service delivery and design.⁵

The DCF contracts for case management, out-of-home care (foster care), adoption, and other related services with lead agencies, also known as community-based care organizations (CBCs). The Legislature designed the CBC model to increase local community ownership of service delivery and design of child welfare services.⁶

The DCF, through the CBCs, administers a system of care⁷ for children that is directed toward:

- Prevention of separation of children from their families;
- Intervention to allow children to remain safely in their own homes;
- Reunification of families who have had children removed from their care;
- Safety for children who are separated from their families;
- Promoting the well-being of children through emphasis on educational stability and timely health care;
- Permanency; and
- Transition to independence and self-sufficiency.⁸

The CBCs must give priority to services that are evidence-based and trauma informed.⁹ The CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.¹⁰ The CBCs employ case managers that serve as the primary link between the child welfare system and families with children under the DCF's supervision. These case

⁴ Section 39.201(2)(a), F.S.

⁵ The Department of Children and Families, *About Community-Based Care*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/about-community-based-care> (last visited March 7, 2023) (hereinafter cited as "DCF").

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*; Also see generally s. 409.988, F.S.

⁹ Section 409.988(3), F.S.

¹⁰ The DCF, *Lead Agency Information*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/lead-agency-information> (last visited March 7, 2023).

managers work with affected families to ensure that a child reaches his or her permanency goal in a timely fashion.¹¹

Transition to Independent Living

Sometimes a child's particular case results in that child not finding permanency through reunification, adoption, or another arrangement and that child transitions to young adulthood while in the care of the DCF. In these instances, the DCF is required to assist children who are transitioning out of foster care to independent living and self-sufficiency, including the requirement to:

- Identify important life skills that children in out-of-home care should acquire;
- Develop a list of age-appropriate activities and responsibilities for children and caregivers;
- Design and disseminate training for caregivers related to building needed life skills;
- Regularly assess the degree of life skills acquired by each child beginning after the child's 13th birthday, and support the caregiver in implementing an updated transition plan as necessary;
- Provide opportunities for children to interact with qualified, trained mentors; and
- Develop and implement procedures for children of sufficient age and understanding to directly access and manage the personal allowance they receive from the DCF.¹²

During the year after a child reaches 16 years of age, the DCF and community-based care lead agency as well as other specified individuals are required to assist the child in developing a transition plan.¹³ The plan must include specific resources that the child may use to obtain services, such as housing, health insurance and education, and tasks to establish and maintain naturally occurring mentoring relationships.¹⁴ The DCF and CBC are required to periodically meet with the young adult to review and update the transition plan beyond the young adults 18th birthday if the young adult is participating in Independent Living Services.¹⁵

Florida provides Independent Living Services to assist young adults in obtaining the skills, education, and support necessary to become self-sufficient after his or her exit from foster care into adulthood.¹⁶ The program comprises three main programs: postsecondary education services and support, extended foster care, and aftercare.¹⁷ The categories of services to assist in the successful transition to adulthood include:

- Independent living needs assessment;
- Academic support;
- Postsecondary educational support;
- Career preparation;

¹¹ Section 409.988(1), F.S.

¹² Section 409.14515, F.S.

¹³ Section 39.6035(1), F.S.

¹⁴ *Id.*

¹⁵ Section 39.6035(5), F.S.

¹⁶ Section 409.1451, F.S. The Road-to-Independence program was created in statute in 2002. Over the last 21 years the program has been expanded and added to larger initiatives focused on independent living. Today, the independent living services provided under Road-to-Independence are generally referred to as "Independent Living Services" as the overall construction of the program has grown outside of s. 409.1451, F.S., and the term "Road-to-Independence" is rarely used.

¹⁷ See generally ss. 409.1451 and 39.6251, F.S.

- Employment programs or vocational training;
- Budget and financial management;
- Housing education and home management training;
- Health education and risk prevention;
- Family support and healthy marriage education;
- Mentoring;
- Supervised independent living;
- Room and board financial assistance;
- Education financial assistance: and
- Other financial assistance.¹⁸

Postsecondary Education Services and Support (PESS)

PESS is a program that provides monthly financial support for a young adult to secure housing, utilities, and assist with cost of living while attending certain postsecondary educational institutions.¹⁹

A young adult is eligible for PESS if certain criteria are met, including:

- Specified criteria with respect to when the child was living in foster care;
- Earned a standard high school diploma;²⁰
- Has been admitted for enrollment as a full-time²¹ student or its equivalent in an eligible postsecondary institution as provided in s. 1009.533, F.S.;²²
- Has reached 18 years of age, but is not yet 23 years of age;
- Has applied for any other grants and scholarships for which he or she may qualify;
- Submitted a complete and error-free Free Application for Federal Student Aid; and
- Signed an agreement to allow the DCF and the community-based care lead agency to access his or her school records.²³

¹⁸ Daniel Kids, *Florida's Independent Living Resource Center*, available at <https://www.danielkids.org/our-programs/floridas-i-l-resource-center/> (last visited March 7, 2023) (hereinafter cited as “Daniel”).

¹⁹ The DCF, *Postsecondary Education Services and Support (PESS)*, available at <https://www.myflfamilies.com/services/child-family/independent-living/youth-young-adults/postsecondary-education-services-and> (last visited March 7, 2023).

²⁰ Pursuant to s. 1002.3105(5), F.S., s. 1003.4281, F.S., or s. 1003.4282, F.S., or its equivalent pursuant to s. 1003.435, F.S.

²¹ Section 409.1451(2)(a)4., F.S., defines “full-time” as 9 credit hours or the vocational school equivalent.

²² Section 1009.533, F.S., provides for eligible postsecondary education institutions, including: (1) a Florida public university, Florida College System institution, or career center; (2) An independent Florida college or university that is accredited by an accrediting association whose standards are comparable to the minimum standards required to operate an institution at that level in Florida and which has operated in the state for at least 3 years; (3) an independent Florida postsecondary education institution that is licensed by the Commission for Independent Education and meets other specified criteria; (4) a Florida independent postsecondary education institution that offers a nursing diploma approved by the Board of Nursing; and (5) A Florida independent postsecondary education institution that is licensed by the Commission for Independent Education.

²³ Section 409.1451(2)(a), F.S.

Extended Foster Care

A child who is living in foster care on his or her 18th birthday and who has not achieved permanency in accordance with s. 39.621, F.S.,²⁴ is eligible to remain in licensed care under the care of the DCF and the jurisdiction of the court if he or she is:

- Completing secondary education or equivalent program;
- Enrolled in a postsecondary or vocational education institution;
- Participating in a program to eliminate barriers to employment;
- Employed for at least 80 hours per month; or
- Unable to participate in any of the above-listed programs or activities.²⁵

A young adult²⁶ who participates in extended foster care must reside in a DCF-approved supervised living environment. The young adult must live independently in this approved placement, but the DCF and CBC must provide the young adult with supervision, case management, and supportive services.²⁷

Aftercare Services

Aftercare services are available for a young adult who has reached 18 years of age but is not yet 23 years of age and is:

- Not in foster care.
- Temporarily not receiving financial assistance to pursue postsecondary education.²⁸

The specific aftercare services to be provided are determined by an assessment of an eligible young adult, and may include, in part:

- Mentoring and tutoring;
- Mental health services and substance abuse counseling;
- Life skills classes;
- Parenting classes;
- Job and career skills training;
- Counselor consultations;
- Temporary assistance for necessities and emergency situations; and
- Financial literacy skills training.²⁹

²⁴ Section 39.621(3), F.S., provides that the permanency goals available under ch. 39, F.S., listed in order of preference, are reunification; adoption, if a petition for termination of parental rights has been or will be filed; permanent guardianship of a dependent child under s. 39.6221, F.S.; permanent placement with a fit and willing relative under s. 39.6231, F.S.; or placement in another planned permanent living arrangement under s. 39.6241, F.S.

²⁵ Section 39.6251(2), F.S.

²⁶ Section 39.6251(1), F.S., defines “young adult” as an individual who has attained 18 years of age but who has not attained 21 years of age.

²⁷ Section 39.6251(4)(a), F.S.

²⁸ Section 409.1451(3)(a), F.S. Additionally, subject to available funding, aftercare services are also available to a young adult who is between the ages of 18 and 22, is receiving financial assistance for postsecondary education, who is experiencing an emergency situation, and whose resources are insufficient to meet the emergency situation.

²⁹ Section 409.1451(3)(b), F.S.

Office of Continuing Care

In 2021, the Legislature established the Office of Continuing Care (OCC) within the DCF. The Legislature created the OCC to provide ongoing support and care coordination to youth and young adults who age out of the foster care system between 18 and 21 years of age, or 22 years of age with a documented disability.³⁰ The OCC has specified duties, including, but not limited to:

- Providing young adults who age out of the foster care system with certain information about the office, including its purpose, services offered and contact information;
- Providing assistance in accessing services and supports; and
- Collaborating with community-based care lead agencies to identify local resources and assist young adults in accessing such support services.³¹

The OCC is also part of Hope Florida – A Pathway to Prosperity, a program that assists Floridians to navigate the myriad systems and programs created to stabilize and help families in crisis.³² Hope Navigators guide, amongst others, foster youth on an individualized path to prosperity, economic self-sufficiency, and hope.³³

Fostering Success Program

In 2014, the Legislature appropriated \$75,000 to fund the Fostering Success Pilot Project for young adults who aged out of foster care to obtain internships/professional shadowing positions.³⁴ In 2016, the legislature funded an expansion of the pilot program with \$100,000 appropriated in recurring general revenue funds to a program known as “Fostering Success Youth Readiness Training and Placement Services” (Fostering Success).³⁵ The program was designed for young adults ages 18 to 24 to gain employment skills that would enable them to achieve economic self-sufficiency and professional success through a program that provided year-long, part-time, Other Personal Services (OPS) positions with a participating state agency.³⁶ Funding for Fostering Success ceased in Fiscal Year 2020-2021.³⁷

III. Effect of Proposed Changes:

The bill creates s. 409.1455, F.S., cited as the “Step into Success Act,” establishing the Step into Success Workforce Education and Internship Program (program) as a three-year pilot administered by the DCF’s Office of Continuing Care. The program must consist of an independent living professionalism and workforce education component and, for youth that complete that component, an onsite workforce training internship component that uses

³⁰ Chapter 2021-169, s. 20, L.O.F., codified as s. 414.56, F.S.

³¹ *Id.*

³² The DCF, *Hope Florida – A Pathway to Prosperity*, available at <https://www.myflfamilies.com/services/hope-florida> (last visited March 7, 2023).

³³ *Id.*

³⁴ Chapter 2014-51, Specific Appropriation 1393, L.O.F.

³⁵ Chapter 2016-66, Specific Appropriation 1351, L.O.F.

³⁶ Florida Fish and Wildlife Conservation Commission, *Fostering Success*, available at <https://myfwc.com/get-involved/internships/fostering-success/> (last visited March 11, 2023).

³⁷ Governor Ron DeSantis, *2020 Veto List*, p. 8 lines 1384 and 1388, available at <https://www.flgov.com/wp-content/uploads/2020/06/2020-Veto-List.pdf> (last visited March 7, 2023).

employees of participating organizations as mentors. The purpose of the program is to assist foster youth transitioning to adulthood to:

- Develop essential workforce and professional skills;
- Transition from the custody of the DCF to independent living; and
- Become best prepared for an independent and successful future.

For the purposes of the bill, the term “foster youth” is defined as an individual older than 16 but younger than 18 years of age who is currently in licensed care, excluding Level I licensed placements and the term “former foster youth” is defined as an individual 18 years of age or older but younger than 26 years of age who is currently or was previously placed in licensed care, excluding Level I licensed placements.

A “participating organization” is defined as a state agency; a corporation under ch. 607, F.S., or ch. 617, F.S.; or another relevant entity that has agreed to collaborate with the OCC in the development and implementation of a trauma-informed onsite workforce training internship program.

The DCF must establish and the OCC must develop and administer the program and begin operations on or before January 1, 2024. The program must be provided as part of an eligible foster youth’s regular transition planning or as a post-transition service for eligible former foster youth.

Independent Living Professionalism and Workforce Education Component

The OCC must meet the following requirements in development and implementation of the independent living professionalism and workforce education component:

- Designate and ensure that there is sufficient qualified staff to implement and maintain operation of the program, and provide required services to agency liaison personnel and eligible foster youth.
- Develop workshops, presentations, and curricula to educate youth on topics such as interview skills, professionalism, teamwork, leadership, problem solving, and conflict resolution in the workplace.³⁸
- Provide relevant written materials from the component and any relevant tools developed to ensure successful transition to internships to all participating organizations.
- Provide written materials to youth to ensure that they are aware of the requirements for participating in the program and contact information for the program office. Community-based care lead agencies must provide any of their subcontracted providers that directly serve youth with such material.
- Advertise and promote the availability of the program.
- Assess each eligible foster youth’s career interests and determine the most appropriate internship opportunities.

³⁸ This component must be provided in addition to any other life skills or employment training required by law and may be developed or administered by the DCF, community-based care lead agencies, or the lead agencies’ subcontracted providers or through collaboration with the approved agencies, colleges or universities, or non-profit organizations in the community that have workforce training resources.

Onsite Workforce Training Internship Component

The OCC must meet the following requirements in development and implementation of the onsite workforce training internship component:

- Develop processes and procedures to implement a trauma-informed onsite workforce training internship component, designed to be replicated and scaled to meet various organizational structures and sizes, that includes:
 - Recruitment of agencies, corporations, and other entities to host interns as participating organizations;
 - Assisting participating organizations with mentor recruitment, training, and matching;
 - Mentor-led performance reviews, including the intern's work product, professionalism, time management, communication style, and stress management strategies;
 - Daily mentorship and coaching on professionalism, teamwork, leadership, problem solving, and conflict resolution;
 - Development of employment opportunities for interns; and
 - Reporting requirements.
- Develop a minimum of 1 hour of required trauma-informed training for mentors.
- Provide assistance to eligible youth interested in the internship component.
- Publicize internship positions in an easily accessible manner to inform eligible youth.
- Develop a process and schedule for the distribution of stipends to former foster youth participating in the component, subject to availability.
- Distribute funds appropriated for the compensation of mentors at \$1,200 per intern per fiscal year, to be issued as \$100 monthly payments for every month of service as a mentor. A mentor may only mentor a maximum of three interns at one time for a maximum of \$3,600 in compensation per fiscal year.
- By May 1, 2024, provide the Board of Governors and State Board of Education all relevant internship information necessary to support the award of postsecondary credit or career education clock hours.
- Develop and conduct follow-up surveys with former foster youth, mentors, and any other persons the OCC deems relevant for continued improvement of the internship component.

Requirements for Participating Organizations

The participating organizations must meet the following requirements in implementation of the onsite workforce training internship component:

- Collaborate with the OCC to implement a trauma-informed approach to mentoring former foster youth.
- Recruit employees that meet certain requirements to serve as mentors.
- Have discussions around the creation of corrective action plans, when necessary, and not discharging an intern until he or she is given a reasonable opportunity to comply with the corrective action plan.
- Provide relevant feedback and certain information for reporting purposes to the DCF.

The bill requires that mentors within participating organizations must:

- Have worked for the participating agency for a minimum of one year;
- Have experience relevant to the employment responsibilities of the intern;

- Sign a monthly hour statement for the intern;
- Allocate at least 1 hour per month for performance reviews; and
- Complete a minimum of 1 hour of trauma-informed training.

Requirements for Former Foster Youth Participating in the Internship Component

Former foster youth must complete the training component with the DCF before being eligible to apply for an open internship under the internship component and must have attained the age of 18 years before working as an intern.

If offered an internship, a former foster youth must be classified as an intern and work 80 hours per month to be eligible for the stipend payment. Any stipend specified for clothing must be spent on clothing that is in compliance with the dress code requirements of the participating organization and comply with the participating organizations' dress code and can be awarded separate from the monthly stipend related to the internship component.

If offered an internship, a former foster youth may hold the position for no more than one year. The participating organization may extend the internship beyond the one year or hire the foster youth as a full-time employee, but it may not be as an intern under the program. A foster youth may intern at more than one participating organization but not at the same time.

A former foster youth participating in an internship may only be discharged from the internship component after the participating organization engages the intern's assigned mentor and the internship program staff to assist the intern in performing the duties of the internship. Before discharging the former foster youth, the participating organization must document the intern's failure to comply with a corrective action plan after being given a reasonable opportunity to do so.

Any stipend money earned pursuant to the internship component may not be considered earned income for the purposes of computing eligibility for federal or state benefit programs. If there is a reduction or loss of benefits due to the receipt of the Step into Success stipend money, that reduction or loss may be offset by an additional stipend payment equal to the value of the maximum benefit amount for a single person allowed under the Supplemental Nutrition Assistance Program.³⁹

Postsecondary Credits or Career Education Clock Hours

The Board of Governors and the State Board of Education is required to adopt regulations and rules, respectively, to award postsecondary credit or career education clock hours for eligible former foster youth participating in the internship component.

Additionally, a former foster youth may, at the discretion of the postsecondary institution within Florida in which such youth is enrolled, earn postsecondary credit or career education clock hours for work performed as an intern under the internship component. Postsecondary credit or

³⁹ Currently \$250 for a single person household in Florida. The DCF, *Food Assistance Program Fact Sheet*, p. 3, available at https://www.myflfamilies.com/sites/default/files/2022-10/fafactsheet_1.pdf (last visited March 10, 2023).

career education clock hours earned may be in addition to any financial payment for the same work performed under the internship component and may be awarded for completion of the whole or any part of the internship component. Participating organizations must cooperate with postsecondary educational institutions to provide any information that is necessary for the institution to determine whether to grant the former foster youth postsecondary credit or career education clock hours toward his or her degree.

Reporting Requirement

The bill requires the DCF to include a section on the Step into Success Program in the annual independent living report required by s. 409.1451(6), F.S. The report must include, but is not limited to:

- Whether the pilot program is in compliance with statute, and if not, barriers to compliance.
- A list of participating organizations and interns.
- A summary of recruitment efforts.
- A summary of feedback and surveys received from former foster youth, mentors, and others.
- Recommendations for actions necessary to improve the quality, effectiveness, and outcomes of the pilot program.
- Employment outcomes of former foster youth who participated in the pilot program, including employment status, employment location, job description, and salary information, if available.

The bill also amends s. 414.56, F.S., to add the development and administration of the Step into Success program as one of the enumerated duties of the OCC. The bill requires the DCF to adopt rules to implement the program.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have an indeterminate fiscal impact on state government. Under the bill, former foster youth are to receive an undefined stipend amount for participating in the internship component (line 192), an undefined stipend amount for clothing (line 296), and mentors are to receive \$1,200 per year per intern (line 235), all subject to available funding. However, the amount is indeterminate due to the inability to estimate how many youth the OCC will recruit to participate in the Pilot Program each year.

VI. Technical Deficiencies:

The bill contemplates a stipend to be paid to a former foster youth participating in the internship component but does not set that amount. The bill should be amended to set that payment amount.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 414.56 of the Florida Statutes.

This bill creates section 409.1455 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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



265304

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete lines 192 - 193

and insert:

(e) Provide a participating former foster youth with financial assistance in the amount of \$1,517 monthly and develop a process and schedule for the distribution of payments to former foster youth participating in the component,

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1210

INTRODUCER: Senator Burgess

SUBJECT: Public Records/Human Trafficking Victims

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tuszynski</u>	<u>Cox</u>	<u>CF</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1210 amends s. 943.0583, F.S., expanding the public records exemption authorizing human trafficking victims to expunge a criminal history record related to offenses listed under the habitual violent felony offender designation if the victim was not found guilty of, or did not plea guilty or nolo contendere to, such an offense.

The bill also creates a new exemption from public records disclosure under s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution for any petition filed by a human trafficking victim to expunge a criminal history record and all pleadings and documents related to the petition.

The bill makes findings that the expansion of the exemption and the new exemption from public records disclosure are each a public necessity as required by the State Constitution. Two-thirds vote of both the House and the Senate is required for final passage.

The expansion of the exemption and the new exemption in the bill are subject to the Open Government Sunset Review Act and will be repealed on October 2, 2028 in accordance with s. 119.15, F.S., unless the Legislature reviews and renews the exemptions before that date. If the expansion of the exemption related to the human trafficking victim expunction is not saved from repeal, the provision will revert to the version as it exists on June 30, 2023, except that any amendments to the subsection must be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of the expanded exemption which expire.

There is no anticipated fiscal impact on state, county or municipal governments. Agency costs incurred in responding to public records requests for the specified information should be offset by authorized fees. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

Section 119.011(12), F.S., defines “public records” to include:

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2022-2024)

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person's right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹² *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁶

Human Trafficking

Human trafficking is a form of modern-day slavery.²⁷ Human trafficking victims are young children, teenagers, and adults who may be citizens that are trafficked domestically within the

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?
If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ Section 787.06(1)(a), F.S.

borders of the United States or smuggled across international borders worldwide.²⁸ Many human trafficking victims are induced with false promises of financial or emotional security, but are forced or coerced into commercial sex, domestic servitude, or other types of forced labor.²⁹ Any minor who is younger than 18 years old and who is induced to perform a commercial sex act is a human trafficking victim even if there is no forced fraud or coercion.³⁰ Increasingly, criminal organizations, such as gangs, are enticing local school children into commercial sexual exploitation or trafficking.³¹

Human Trafficking in Florida

Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,³² purchasing, patronizing, procuring, or obtaining³³ another person for the purpose of exploitation of that person.³⁴ In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking for labor or services, or commercial sexual activity, commits a crime.³⁵ Florida law sets out several circumstances which give rise to specified penalties including, in part:

- Labor or services of any child under the age of 18 commits a first degree felony;³⁶
- Labor or services of any child under the age of 18 who is an unauthorized alien³⁷ commits a first degree felony;³⁸
- Labor or services who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;³⁹
- Commercial sexual activity⁴⁰ who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;⁴¹ or

²⁸ *Id.*

²⁹ The Department of Education (the DOE), *Healthy Schools – Human Trafficking*, available at <http://www.fldoe.org/schools/healthy-schools/human-trafficking.stml> (last visited March 7, 2023).

³⁰ *Id.*

³¹ *Id.*

³² Section 787.06(2)(f), F.S., provides “maintain” means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. Section 787.06(2)(h), F.S., defines “services” as any act committed at the behest of, under the supervision of, or for the benefit of another, including forced marriage, servitude, or the removal of organs.

³³ Section 787.06(2)(g), F.S., provides “obtain” means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof. Section 787.06(2)(e), F.S., provides “labor” means work of economic or financial value.

³⁴ Section 787.06(2)(d), F.S.

³⁵ Section 787.06(3), F.S.

³⁶ Section 787.06(3)(a)1., F.S. A first degree felony is punishable by a state prison term not exceeding 30 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

³⁷ Section 787.06(2)(j), F.S., defines “unauthorized alien” as an alien who is not authorized under federal law to be employed in the United States, as provided in 8 U.S.C. s. 1324a(h)(3).

³⁸ Section 787.06(3)(c)1., F.S.

³⁹ Section 787.06(3)(e)1., F.S.

⁴⁰ Section 787.06(2)(b), F.S., defines “commercial sexual activity” as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography. Section 787.06(2)(i), F.S., defines “sexual explicit performance” as an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.

⁴¹ Section 787.06(3)(f)1., F.S., provides that an offense committed under these circumstances is punishable by a term of imprisonment not exceeding life or as provided in ss. 775.082, 775.083, or 775.084, F.S.

- Commercial sexual activity in which any child under the age of 18, or in which any person who is mentally defective⁴² or mentally incapacitated⁴³ is involved commits a life felony.⁴⁴

The above-mentioned first degree felonies are reclassified as a life felony if a person causes great bodily harm, permanent disability, or permanent disfigurement to another person during the commission of the offense.⁴⁵ Ignorance of the human trafficking victim's age, the victim's misrepresentation of his or her age, or a bona fide belief of the victim's age cannot be raised as a defense by a defendant.⁴⁶

Florida is ranked the third highest state of reported human trafficking cases in the United States.⁴⁷ In 2021, reports of commercially exploited children to the Florida Abuse Hotline remained relatively stable, increasing from 3,181 reports in 2020 to 3,182 reports in 2021.⁴⁸

Public Records Exemption relating to Human Trafficking

In part, current law provides a public record exemption for criminal intelligence⁴⁹ and criminal investigative information⁵⁰ including:

- Any information that reveals the identity of a person under the age of 18 who is the victim of human trafficking for labor or services;
- Any information that may reveal the identity of a person who is the victim of human trafficking for commercial sexual activity; and
- A photograph, videotape, or image of any part of the body of a victim of human trafficking involving commercial sexual activity.⁵¹

⁴² Section 794.011(1)(b), F.S., defines "mentally defective" as a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

⁴³ Section 794.011(1)(c), F.S., defines "mental incapacitated" as temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

⁴⁴ A life felony is punishable by a term of life imprisonment, \$15,000 fine, or both as provided in s. 775.082(3)(a)6., F.S., s. 775.083, F.S., or s. 775.084, F.S.

⁴⁵ Section 787.06(8)(b), F.S.

⁴⁶ Section 787.06(9), F.S.

⁴⁷ Florida Alliance to End Human Trafficking, *The Issue*, available at <https://floridaallianceendht.com/the-issue/> (last visited March 7, 2023).

⁴⁸ The Office of Program Policy Analysis and Government Accountability, *Annual Report on the Commercial Sexual Exploitation of Children in Florida*, 2022, p. 2, July 2022, available at <https://oppaga.fl.gov/Documents/Reports/22-05.pdf> (last visited March 7, 2023).

⁴⁹ Section 119.011(3)(a), F.S., defines "criminal intelligence information" as information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.

⁵⁰ Section 119.011(3)(b), F.S., defines "criminal investigative information" as information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.

⁵¹ Section 119.071(2)(h)1., F.S.

Human Trafficking Victim Expunction

In 2013, the Legislature created a process authorizing a victim of human trafficking to petition a court for the expunction⁵² of a criminal history record resulting from his or her arrest or filing of charges for an offense committed or reported to have been committed while he or she was a victim of human trafficking.⁵³

For purposes of human trafficking victim expunction, “victim of human trafficking” means a person subjected to coercion⁵⁴ for the purpose of being used in human trafficking, a child under 18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.⁵⁵

To be eligible for expunction, the criminal offense must be related to a human trafficking scheme of which the person was a victim or the offense must have been committed at the direction of an operator of the scheme and must not be one of the following offenses under s. 775.084(1)(b)1., related to the designation as a “habitual violent felony offender”, including:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;
- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Aggravated assault with a deadly weapon;
- Murder;
- Manslaughter;
- Aggravated manslaughter of an elderly person or disabled adult;
- Aggravated manslaughter of a child;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Armed burglary; or
- Aggravated stalking.⁵⁶

⁵² When a criminal history record is ordered to be expunged, the record must be physically destroyed by any criminal justice agency possessing such record, except that any criminal history record in the custody of the Florida Department of Law Enforcement (FDLE) must be retained. *See* s. 943.045(16), F.S.

⁵³ Section 943.0583(3), F.S.

⁵⁴ Section 787.06, F.S., defines “coercion” as “1. Using or threatening to use physical force against any person; 2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority against his or her will; 3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; 4. Destroying, concealing removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; 5. Causing or threatening to cause financial harm to any person; 6. Enticing or luring any person by fraud or deceit; or 7. Providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03, F.S., to any person for the purpose of exploitation of that person.”

⁵⁵ Section 943.0583(1)(c), F.S.

⁵⁶ Section 943.0583(3), F.S. This subsection provides that expunction is not permitted if the offense is related to an offense enumerated in s. 775.084(1)(b)1., F.S., related to habitual violent felony offenders.

The human trafficking victim is eligible to receive the expunction regardless of the disposition of the arrest or of any charges unless the criminal history record is related to one of the above-listed offenses.

The court with original jurisdiction over the crime that the human trafficking victim seeks to expunge is the court designated to hear the victim's petition.⁵⁷ A petition must be initiated by the petitioner with due diligence after he or she is no longer a victim of human trafficking or has sought human trafficking services.⁵⁸ The petition must be accompanied by the following:

- A sworn statement attesting that the petitioner is eligible for an expunction to the best of his or her knowledge and does not have other petitions to expunge or seal pending before any court; and
- Official documentation of the petitioner's status as a human trafficking victim, if any exists.⁵⁹

In contrast to other expunctions made under s. 943.0585, F.S., a court is required to treat a petition seeking to expunge more than one eligible case as a single petition.⁶⁰ Florida's clerks of court are prohibited from charging a filing fee, service charge, or copy fee or any other charge for a petition for a human trafficking victim expunction.⁶¹

When a criminal history record is ordered to be expunged, the record must be physically destroyed by any criminal justice agency possessing such record, except that any criminal history record in the custody of the Florida Department of Law Enforcement (FDLE) must be retained.⁶² A human trafficking victim may lawfully deny or fail to acknowledge any expunged record unless he or she is applying for a job with a criminal justice agency or is a defendant in a subsequent criminal prosecution.⁶³ The criminal history record that has been expunged is considered confidential and exempt⁶⁴ from public records requirements.⁶⁵

⁵⁷ Section 943.0583(2), F.S.

⁵⁸ Section 943.0583(4), F.S.

⁵⁹ Section 943.0583(6), F.S.

⁶⁰ Section 943.0583(2), F.S.

⁶¹ Section 943.0583(2), F.S.

⁶² Section 943.045(16), F.S.

⁶³ Section 943.0583(8)(b), F.S.

⁶⁴ Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute. *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004). Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

⁶⁵ Section 119.071(2)(h), F.S.

Current law also provides that criminal intelligence⁶⁶ and criminal investigative information⁶⁷ is confidential and exempt from public records requirements. Such information includes:⁶⁸

- Any information that reveals the identity of a person under the age of 18 who is the victim of human trafficking for labor or services;⁶⁹
- Any information that may reveal the identity of a person who is the victim of human trafficking for commercial sexual activity;⁷⁰ and
- A photograph, videotape, or image of any part of the body of a victim of human trafficking involving commercial sexual activity.⁷¹

Florida law does not currently provide a public records exemption for a human trafficking victim's petition and any accompanying documents for expunction of his or her criminal history record resulting from an offense committed while he or she was a victim of human trafficking.

III. Effect of Proposed Changes:

The bill amends s. 943.0583, F.S., expanding the application of the human trafficking victim expunction provision. A victim of human trafficking will now be authorized to expunge a criminal history record related to any offense listed in s. 775.084(1)(b)1., F.S., provided the victim was not found guilty of, or pled guilty or nolo contendere to, such an offense. The bill provides that the expansion of the public records exemption related to expunging certain records that are related to offenses listed in s. 775.084(1)(b)1., F.S., is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2028, unless the Legislature reviews and renews the expansion of the exemption before that date. If the expansion is not saved, the subsection will revert to the version in existence at June 30, 2023, except that any amendments to this subsection other than by this act shall be preserved and continued to operate to the extent that they are not dependent upon the portions of this subsection that expire.

The bill amends s. 943.0583, F.S., establishing that any petition filed by a human trafficking victim to expunge a criminal history record and all pleadings and all related documents are confidential and exemption from public records disclosure requirements. The bill provides that the exemption related to the petition and all pleadings and documents related to the expunction petition is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2028, unless the Legislature reviews and renews the exemption before that date.

⁶⁶ Section 119.011(3)(a), F.S., defines "criminal intelligence information" as information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.

⁶⁷ Section 119.011(3)(b), F.S., defines "criminal investigative information" as information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.

⁶⁸ Ch. 2015-146 L.O.F.

⁶⁹ See s. 787.06(3)(a), F.S.

⁷⁰ See s. 787.06(3)(b), (d), (f), and (g), F.S.

⁷¹ *Id.*

The bill also provides a statement of public necessity as required by the State Constitution, which notes:

[t]he Legislature finds it is a public necessity that criminal history records of human trafficking victims related to any offense listed in s. 775.084(1)(b)1. that was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction or a judgment of acquittal was rendered by a judge, or a verdict of not guilty was rendered by a judge or jury, and that are ordered to be expunged under s. 943.0583, F.S., be made confidential and exempt from 119.07(1), F.S., and s. 24(a), Article I of the State Constitution. Further, the Legislature finds that it is a public necessity that a petition filed under s. 943.0583, F.S., and all pleadings and documents related to the petition be made confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. Persons who are victims of human trafficking and who have been arrested, charged, or convicted of crimes committed at the behest of their traffickers are themselves victims of crimes. These victims face barriers to employment and loss of other life opportunities, and the fact that they are seeking expungement, as well as the information contained in related pleadings and documents, would expose these petitioners to possible discrimination due to details of their past lives becoming public knowledge. Therefore, it is necessary that these specified criminal history records, even though such record is related to certain serious offenses, and these petitions, pleadings, and related documents be made confidential in order for human trafficking victims to have the chance to rebuild their lives and reenter society.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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 petition for expunction of human trafficking victims and all pleadings and documents related to the petition, as well as expands the current exemption related to the specific criminal history records that can be expunged to new records, thus the bill will require two-thirds vote to be enacted.

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 exemptions.

Scope 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 stated purpose of the law is to protect human trafficking victims from exposure to possible discrimination due to details of their past lives becoming public knowledge. This bill exempts only those persons who are at risk of harm, and their criminal history records and the documents related to petitioning the court for such an expunction, which could pose a harm to them, from the public records requirements. 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.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not appear to have a fiscal impact on state or local governments. Costs incurred by an agency in responding to public records requests regarding these exemptions should be offset by authorized fees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 943.0583 of Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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