

Tab 1	SB 272 by Garcia (CO-INTRODUCERS) Osgood, Perry, Book; (Compare to CS/H 01101) Children and Young Adults in Out-of-home Care						
760172	D	S	RCS	CF, Garcia	Delete everything after	04/06 02:02 PM	
Tab 2	SB 976 by Harrell; (Similar to H 01055) Certification of Individuals Who Provide Child and Adult Protective Services						
Tab 3	SB 1012 by Rouson; (Similar to CS/H 01045) Certified Peer Specialist Pilot Program						
368416	D	S	RCS	CF, Rouson	Delete everything after	04/04 02:11 PM	
Tab 4	SB 1016 by Rouson; (Identical to H 01095) Mental Health and Substance Abuse						
175230	A	S	RCS	CF, Rouson	Delete L.65 - 334:	04/06 02:03 PM	
Tab 5	SB 1384 by Burton; (Similar to CS/CS/H 00875) Legal Proceedings for Children						
634954	A	S	RCS	CF, Burton	Delete L.1925 - 1932:	04/04 01:16 PM	
497712	A	S	WD	CF, Garcia	Delete L.2027 - 2028:	04/04 01:16 PM	
Tab 6	SB 1440 by Book; (Similar to H 01571) Court Proceedings						
Tab 7	SB 1540 by Garcia; (Similar to CS/H 01567) Elder Abuse and Vulnerable Adult Abuse Fatality Review Teams						
393150	A	S	RCS	CF, Garcia	Delete L.34 - 191:	04/05 04:14 PM	
Tab 8	SB 1542 by Garcia; (Similar to H 01569) Public Records and Public Meetings/Elder Abuse or Vulnerable Adult Abuse Fatality Review Team						
747598	D	S	RCS	CF, Garcia	Delete everything after	04/05 04:11 PM	
Tab 9	SB 1578 by Thompson; (Similar to CS/H 00625) Florida Children's Initiatives						
220640	A	S	RCS	CF, Thompson	Delete L.39:	04/04 02:12 PM	
Tab 10	CS/SB 1596 by HP, Garcia; (Similar to CS/H 01471) Provider Accountability						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Garcia, Chair

Senator Thompson, Vice Chair

MEETING DATE: Tuesday, April 4, 2023

TIME: 11:00 a.m.—1:00 p.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 272 Garcia (Compare CS/H 1101)	Children and Young Adults in Out-of-home Care; Requiring the Department of Children and Families to establish the Office of the Children's Ombudsman to serve a specified purpose; specifying dates by which the office must be established and certain information and training and processes provided; requiring the department to work with all stakeholders to educate children and young adults in out-of-home care regarding their rights and protections and the benefits available to them; requiring specified staff to provide certain materials to children and young adults in out-of-home care and explain certain rights and protections; requiring the department to adopt rules, etc. CF 04/04/2023 Fav/CS AHS FP	Fav/CS Yeas 8 Nays 0
2	SB 976 Harrell (Similar H 1055)	Certification of Individuals Who Provide Child and Adult Protective Services; Providing a review and appeal process for child welfare administration certifications that are denied, revoked, or suspended or sanctions that are imposed by a third-party credentialing entity; revising legislative intent regarding the certification of individuals who provide adult protective services, etc. CF 04/04/2023 Favorable AHS FP	Favorable Yeas 8 Nays 0
3	SB 1012 Rouson (Similar CS/H 1045)	Certified Peer Specialist Pilot Program; Creating the pilot program within the Department of Corrections; authorizing inmates at participating facilities to apply to participate in the pilot program; exempting persons who complete the pilot program's requirements from a specified background screening for peer specialists, etc. CF 04/04/2023 Fav/CS ACJ FP	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, April 4, 2023, 11:00 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1016 Rouson (Identical H 1095)	Mental Health and Substance Abuse; Revising a requirement for the Department of Children and Families relating to certain performance outcomes and measures; requiring managing entities to lead the implementation of a coordinated system of care; repealing a provision relating to state and district substance abuse and mental health plans; revising department requirements for, and authorizations relating to, contracting with managing entities; requiring the department to review such assessments, in consultation with managing entity representatives, for inclusion in the department's legislative budget request, etc. CF 04/04/2023 Fav/CS AHS FP	Fav/CS Yeas 8 Nays 0
5	SB 1384 Burton (Similar CS/H 875)	Legal Proceedings for Children; Revising the entities involved in the state plan for the promotion of adoption, support of adoptive families, and prevention of abuse, abandonment, and neglect of children; requiring the court to appoint a guardian ad litem at the earliest possible time to represent a child for specified proceedings; modifying requirements for the case plans for children in out-of-home placements; revising a guardian ad litem's responsibilities and authorities; authorizing the Pathway to Prosperity program to provide certain grants to youth and young adults aging out of foster care, etc. CF 04/04/2023 Fav/CS ACJ FP	Fav/CS Yeas 7 Nays 1
6	SB 1440 Book (Similar H 1571)	Court Proceedings; Authorizing individuals to appear at or attend dependency proceedings through audio-video communication technology; requiring that court notices for shelter hearings held through audio-video communication technology include certain information; authorizing parties to consent to service or notice by e-mail for shelter hearings and hearings regarding medical emergencies; requiring that disposition orders issued by the court include instructions for appearance at certain hearings through audio-video communication technology, if applicable; authorizing that the testimony of children be given through audio-video communication technology under certain circumstances, etc. JU 03/29/2023 Favorable CF 04/04/2023 Favorable RC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, April 4, 2023, 11:00 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1540 Garcia (Similar CS/H 1567, Compare H 1569, Linked S 1542)	Elder Abuse and Vulnerable Adult Abuse Fatality Review Teams; Revising provisions related to elder abuse fatality review teams; revising the scope of such review teams to include review of fatal and near-fatal incidents of abuse, exploitation, or neglect of vulnerable adults in addition to elderly persons; authorizing elder abuse fatality review teams existing on a specified date to continue to do so and requiring them to comply with specified provisions; revising annual reporting requirements, etc. CF 04/04/2023 Fav/CS AHS FP	Fav/CS Yeas 8 Nays 0
8	SB 1542 Garcia (Similar H 1569, Compare CS/H 1567, Linked S 1540)	Public Records and Public Meetings/Elder Abuse or Vulnerable Adult Abuse Fatality Review Team; Specifying that information obtained by an elder abuse or a vulnerable adult abuse fatality review team which is confidential or exempt from public records requirements retains its protected status; providing an exemption from public records requirements for personal identifying information of an abuse victim and other specified information contained in records held by a review team; providing for future legislative review and repeal of the exemption; providing statements of public necessity, etc. CF 04/04/2023 Fav/CS AHS FP	Fav/CS Yeas 8 Nays 0
9	SB 1578 Thompson (Similar CS/H 625)	Florida Children's Initiatives; Revising the definition of the term "resident"; revising the objectives for certain working groups; providing that the Florida Children's Initiatives are administratively housed in the Department of Children and Families but are not subject to certain control, supervision, or direction by the department; revising legislative intent; clarifying provisions relating to the creation, implementation, and operation of Florida Children's Initiatives, etc. CF 04/04/2023 Fav/CS CA RC	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, April 4, 2023, 11:00 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	CS/SB 1596 Health Policy / Garcia (Similar CS/H 1471, Compare S 412)	Provider Accountability; Revising the rights of residents of nursing home facilities; providing additional disqualifying offenses for purposes of background screening of employees of certain health care providers; creating a cause of action for ex parte injunctive relief against continued unlicensed activity relating to health care provider facilities; authorizing the Agency for Health Care Administration to petition the court for such injunctive relief; providing for ex parte temporary injunctive relief under certain circumstances, etc. HP 03/27/2023 Fav/CS CF 04/04/2023 Favorable RC	Favorable Yeas 8 Nays 0

Other Related Meeting Documents

By Senator Garcia

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A bill to be entitled

An act relating to children and young adults in out-of-home care; creating s. 39.4084, F.S.; providing legislative findings and intent; requiring the Department of Children and Families to establish the Office of the Children's Ombudsman to serve a specified purpose; requiring the department to ensure that the office has sufficient staff; specifying dates by which the office must be established and certain information and training and processes provided; specifying the duties of the office; authorizing the office to access certain records; authorizing the office to work in conjunction with individuals and agencies to resolve complaints with the child's or young adult's permission; requiring the department to work with all stakeholders to educate children and young adults in out-of-home care regarding their rights and protections and the benefits available to them; requiring specified staff to provide certain materials to children and young adults in out-of-home care and explain certain rights and protections; requiring such staff to provide children and young adults in out-of-home care with information and instructions regarding the Office of the Children's Ombudsman and to engage in a specified discussion; requiring such staff to document the information given and explained to children or young adults in out-of-home care; requiring such staff to review certain information with children and young adults in out-of-

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home care at specified intervals and upon every placement change; requiring such staff to provide caregivers with a written copy of the child's or young adult's rights and protections upon placement change; requiring specified facilities to post certain materials; requiring the office to submit an annual report to the Legislature by a specified date; providing requirements for such report; requiring the office to post the report on its website; requiring the department to adopt rules; providing construction; providing an effective date.

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

Section 1. Section 39.4084, Florida Statutes, is created to read:

39.4084 Education for children and young adults in out-of-home care.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature recognizes that a child or young adult in out-of-home care can best advocate for himself or herself when aware of the laws intended to benefit him or her. It is the intent of the Legislature to empower such children or young adults to be stronger self-advocates by becoming better informed in a developmentally appropriate and understandable way about the laws enacted in furtherance of ss. 39.001(1)(a) and 39.4085. It is the intent of the Legislature that the department operate with the understanding that the rights and protections of a child or young adult in out-of-home care are critical to his or

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her safety, permanency, and well-being.

(b) The Legislature has enacted numerous laws to directly benefit a child or young adult who is subject to chapter 39 proceedings. The laws are located throughout the Florida Statutes and are not collected in one place and may not be easily understandable to a child, a young adult, or his or her caregiver. Therefore, it is the Legislature's intent to help such children or young adults understand the existing rights and protections by ensuring that they are provided with regularly updated and developmentally appropriate materials regarding such rights and protections.

(c) The Legislature also finds that given the complexity of the child welfare system in this state and the laws that govern the system, a child or young adult in out-of-home care may need the assistance of an ombudsman to assist them in understanding and accessing the protections and benefits afforded by the law.

(2) THE OFFICE OF THE CHILDREN'S OMBUDSMAN.—

(a) By September 1, 2023, the department shall establish the Office of the Children's Ombudsman to serve as an autonomous entity within the department to assist children and young adults in out-of-home care with resolving issues when they feel their rights or protections have been violated. In addition to overseeing the resolution process, the office shall create and disseminate educational materials and oversee the process of ensuring that a child or young adult is educated about his or her rights and protections. The department shall ensure that the office has sufficient staff to meet its goals and perform its duties. By January 30, 2024, the office shall distribute standardized information to the department and other

36-00393A-23

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88 stakeholders and begin to provide training and processes to
89 comply with this section for the department and stakeholders.

90 (b) The duties of the office include, but are not limited
91 to:

92 1. Establishing a process for receiving, processing, and
93 resolving complaints by a child or young adult in out-of-home
94 care when he or she feels his or her rights or protections have
95 been violated. This process must be developed in consultation
96 with youth advocacy organizations.

97 2. Conducting investigations to resolve complaints by a
98 child or young adult.

99 3. Informing and educating children and young adults in
100 out-of-home care about their rights and protections under state
101 and federal law as well as the purpose, contact information, and
102 services of the office.

103 4. Developing standardized materials at developmentally
104 appropriate levels for all children and young adults in out-of-
105 home care which explain relevant rights and protections and the
106 process for resolving complaints. Such materials must be updated
107 annually to reflect any legislative, administrative rule, or
108 other policy changes. Such materials must be developed in
109 consultation with the department, children's advocacy and
110 support organizations, and those who are or were children or
111 young adults in out-of-home care.

112 5. Providing all educational materials to the courts,
113 community-based care lead agencies and their subcontracted
114 providers, case workers, guardians ad litem and the Guardian Ad
115 Litem Program, and others to assist them in educating children
116 and young adults in out-of-home care about their rights and

36-00393A-23

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117 protections.

118 6. Maintaining a publicly available website and telephone
119 number, publicizing and conducting outreach efforts, and
120 informing individuals about the office's services, resolution
121 process, and materials outlining rights and protections.

122 7. Making inquiries and reviewing relevant information and
123 records deemed necessary for investigations.

124 8. Developing and facilitating training for case managers,
125 child protective investigators, and others to instruct them on
126 how to educate children and young adults in out-of-home care
127 about their rights and protections.

128 (c) The office may access all relevant records maintained
129 by the department and its contracted and subcontracted providers
130 related to complaints received. With the child's or young
131 adult's permission, the office may work in conjunction with
132 individuals and agencies as needed to resolve the complaint.

133 (3) EDUCATION FOR CHILDREN AND YOUNG ADULTS ABOUT CERTAIN
134 RIGHTS AND PROTECTIONS.—

135 (a) The department shall work with all stakeholders to
136 ensure a child or young adult in out-of-home care becomes
137 knowledgeable about his or her rights and the state and federal
138 laws enacted to protect and benefit such children and young
139 adults, including, but not limited to, all of the following:

140 1. Safety.

141 2. Education.

142 3. Placement, visitation, and contact with siblings,
143 family, and other important persons.

144 4. Court participation.

145 5. Participation in permanency planning, transition

36-00393A-23

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146 planning, and other case planning.

147 6. Access to food, clothing, shelter, and health care.

148 7. The topic of normalcy and what that means for children
149 and young adults in out-of-home care.

150 (b) The case manager, child protective investigator, or
151 other staff shall provide each child or young adult in out-of-
152 home care with a developmentally appropriate copy of educational
153 materials prepared by the office. Such case manager, child
154 protective investigator, or other staff shall also provide the
155 child or young adult with information and instructions about the
156 office and engage the child or young adult in a discussion that
157 explains his or her rights and protections while in out-of-home
158 care and what he or she can do if he or she feels that his or
159 her rights or protections are being violated. Such discussions
160 and explanations must consist of words and phrasing that each
161 child or young adult can understand and must occur in a manner
162 that is most effective for each child or young adult. The case
163 manager, child protective investigator, or other staff shall
164 give each child or young adult the opportunity to ask questions.
165 The case manager, child protective investigator, or other staff
166 shall document in court reports and case notes the date that the
167 information was explained and provided to the child or young
168 adult. The case manager, the child protective investigator, or
169 other staff shall review the information, including a copy of
170 the educational materials, with the child or young adult at
171 least every 6 months or upon every placement change that results
172 in a new caregiver for the child or young adult until he or she
173 leaves out-of-home care. Upon every placement change, the case
174 manager, child protective investigator, or other staff must

36-00393A-23

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175 provide the child's caregiver with a written copy of the child's
176 or young adult's rights and protections. All case managers,
177 child protective investigators, and other appropriate staff must
178 complete annual training relating to such rights and
179 protections. A facility licensed to care for six or more
180 children or young adults in out-of-home care shall post
181 materials provided by the Office of the Children's Ombudsman in
182 a prominent place in the facility.

183 (4) REPORT.—Beginning July 30, 2024, and each July 30
184 thereafter, the office shall submit a report to the President of
185 the Senate and the Speaker of the House of Representatives which
186 includes an analysis of all data collected over the course of
187 the year by the office, a discussion of internal policy changes,
188 and any recommendations consistent with such data for improving
189 the child welfare system and delivery of services. The data
190 collected by the office for reporting must include, but is not
191 limited to, the number of contacts with the office by children
192 and young adults in out-of-home care; the number of complaints
193 made, including the type and source of such complaints; the
194 number of investigations performed by the office; complainant
195 satisfaction with the results of the office's investigations and
196 resolutions; the issues that arose while investigating
197 complaints and, if applicable, any trends associated with those
198 issues; the number of referrals to services made; and the number
199 of pending complaints. The office shall monitor the distribution
200 of the standardized materials throughout this state and
201 periodically survey stakeholders to evaluate and improve the
202 degree to which children and young adults in out-of-home care
203 are adequately informed of their rights and protections. The

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report must be posted on the office's website.

(5) RULEMAKING.—The department shall adopt rules to implement this section.

(6) CONSTRUCTION.—This section does not create a civil or administrative cause of action and does not expand or limit any rights, protections, or remedies provided under any other law. The rights and protections described in this section are broad expressions of the rights and protections of a child or young adult in out-of-home care and are not exhaustive of all rights and protections set forth in the United States Constitution, the State Constitution, and federal and state law.

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: CS/SB 272

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

SUBJECT: Children and Young Adults in Out-of-home Care

DATE: April 6, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	Fav/CS
2.			AHS	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 272 requires case managers and child welfare professionals to provide certain information to children in the child welfare system and also establishes an Office of the Children's Ombudsman. Specifically, the bill amends s. 39.4085, F.S., to require case managers or other staff to provide information to children in the child welfare system related to:

- Normalcy and what that means for a child in out-of-home care;
- Education;
- Participation in court proceedings;
- Participation in permanency planning;
- Transition planning and other case planning;
- Placement, visitation, and contact with siblings, family, and other individuals important to the child; and
- Access to food, clothing, shelter, and health care.

The bill establishes the Office of the Children's Ombudsman within the DCF. To the extent permitted by available resources, the office must:

- Receive complaints from children and young adults about placement, care, and services and assist in mediating such concerns.
- Be a resource to identify and explain relevant policies or procedure to children, young adults, and their caregivers.

- Provide recommendations to the department to address systemic problems that are leading to complaints from children and young adults.

The bill also requires the DCF to consult with children and young adults who are currently or have formerly been in out-of-home care when creating or revising any print or digital written information and use their feedback to ensure that information is understandable by and useful for the children and young adults.

The bill will likely have a fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Department of Children and Families

The mission of the DCF is to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.¹

Under s. 20.19(4), F.S., the DCF must provide services relating to:

- Adult protection.
- Child care regulation.
- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.

The DCF must also deliver services by contract through private providers to the extent allowed by law and funding.² These private providers include community based care lead agencies (CBCs) delivering child welfare services and managing entities (MEs) delivering behavioral health services.

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. Florida's dependency system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. DCF and the 18 CBCs throughout Florida³ work with those families to address the problems endangering children, if possible. If

¹ Section 20.19(1), F.S.

² *Id.*

³ These 18 CBCs together serve the state's 20 judicial circuits.

the problems are not addressed, the child welfare system finds safe out-of-home placements for these children.

The DCF's practice model is based on the safety of the child within the home by using in-home services, such as parenting coaching and counseling, to maintain and strengthen that child's natural supports in his or her environment.

The DCF contracts with CBCs for case management, out-of-home services, and related services. The outsourced provision of child welfare services is intended to increase local community ownership of service delivery and design. CBCs contract with a number of subcontractors for case management and direct care services to children and their families.

The DCF remains responsible for a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.⁴ Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.⁵

Rights of and Goals for Delivery of Services to Children in Foster Care

The U.S. and Florida Constitutions provide rights to individuals, including children in foster care, as do certain federal and state laws. Examples include basic rights and a right to privacy under Article I, §2 and Article I, §23 of the Florida Constitution, the right to high quality education under Article IX of the Florida Constitution, and due process rights under the U.S. Constitution.

When a state takes a child into custody, it accepts responsibility for the child's safety.⁶ Courts have found that foster children have a constitutional right to be free from unnecessary pain and a fundamental right to physical safety.⁷ When a state fails to meet that obligation, it deprives the child of a liberty interest under the Fourteenth Amendment.⁸

Section 39.4085, F.S., sets forth goals⁹ for the delivery of services to children in shelter or foster care, including that services should be directed by the principle that the health and safety of children should be of paramount concern and children in shelter or foster care should:

- Receive a copy of these goals and have the goals fully explained to them when they are placed in the custody of the DCF.
- Enjoy individual dignity, liberty, pursuit of happiness, and the protection of their civil and legal rights as a person while in the custody of the state.

⁴ Ch. 39, F.S.

⁵ *Id.*

⁶ *Ray v. Foltz*, 370 F.3d 1079, 1082 (11th Cir. 2004)(citing *Taylor v. Ledbetter*, 818 F.2d 791-95 (11th Cir. 1987).

⁷ *Id.*

⁸ *Id.*

⁹ The provisions of s. 39.4085, F.S., establish goals, not rights. The section does not require the delivery of any particular service or level of service in excess of existing appropriations. A person does not have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of these goals by the Legislature. The section does not require the expenditure of funds to meet the goals except funds specifically appropriated for such purpose.

- Have their privacy protected, have their personal belongings secure and transported with them, and unless otherwise ordered by the court, have uncensored communication, including receiving and sending unopened communications and having access to a telephone.
- Have personnel providing services who are sufficiently qualified and experienced to assess risk children face prior to removal from their home and to meet the needs of the children once they are in the DCF's custody.
- Remain in the custody of their parents or legal custodians unless and until there has been a determination by a qualified person exercising competent professional judgment that removal is necessary to protect their physical, mental, or emotional health or safety.
- Have a full risk, health, educational, medical, and psychological screening, and, if needed, assessment and testing upon adjudication into foster care; and to have their photograph and fingerprints included in their case management file.
- Be referred to and receive services, including necessary medical, emotional, psychological, psychiatric, and educational evaluations and treatment, as soon as practicable after identification of the need for such services by the screening and assessment process.
- Be placed in a home with no more than one other child, unless part of a sibling group.
- Be placed away from other children known to pose a threat of harm to them, either because of their own risk factors or those of the other child.
- Be placed in a home where the shelter or foster caregiver is aware of and understands the child's history, needs, and risk factors.
- Be the subject of a plan developed by the counselor and the shelter or foster caregiver to deal with identified behaviors that may present a risk to the child or others.
- Be involved and incorporated, where appropriate, in the development of the case plan, to have a case plan that will address their specific needs, and to object to any of the provisions in the case plan.
- Receive meaningful case management and planning that will quickly return the child to the family or move the child on to other forms of permanency.
- Receive regular communication with a case manager, at least once a month, which includes meetings with the child alone and conferring with the caregiver.
- Enjoy regular visitation, at least once a week, with their siblings unless the court orders otherwise.
- Enjoy regular visitation with parents, at least once a month, unless the court orders otherwise.
- Receive a free and appropriate education, minimal disruption to their education, and retention in their home school, if appropriate; referral to the child study team; all special educational services, including, where appropriate, the appointment of a parent surrogate; the sharing of all necessary information between the school board and the DCF, including information on attendance and educational progress.
- Be able to raise grievances with the DCF over the care they are receiving from their caregivers, case managers, or other service providers.
- Be heard by the court, if appropriate, at all review hearings.
- Have a guardian ad litem appointed to represent, within reason, their best interests and, where appropriate, an attorney ad litem appointed to represent their legal interests. Their guardian ad litem and attorney ad litem must have immediate and unlimited access to the children they represent.
- Have all their records available for review by their guardian ad litem and attorney ad litem if they deem such review is necessary.

- Organize as a group for purposes of ensuring they receive the services and living conditions to which they are entitled and to provide support for one another while in the DCF's custody.
- Be afforded prompt access to all available state and federal programs.

In accordance with s. 39.4091, F.S., caregivers for children in out-of-home care must use the "reasonable and prudent parent standard". This means that the caregiver must use sensible parental decision-making that maintains the child's health, safety, and best interests while at the same time encourages the child's emotional and developmental growth when determining whether to allow a child in out-of-home care to participate in extracurricular, enrichment, and social activities.¹⁰

Public Law 113-183, Preventing Sex Trafficking and Strengthening Families Act, requires that, as part of case planning beginning at age 14, children in foster care must be given a document describing their rights with respect to safety, exploitation, education, health, visitation, and court participation. They must also be informed of their rights to be provided certain specific documents such as copies of consumer credit reports. Children are to sign an acknowledgement that they received these documents.¹¹

The DCF created a 5-page brochure that outlines these expectations and describes the services of the Children's Ombudsman.¹²

Education and Information about Key Topics for Children in the Child Welfare System

Section 39.4085, F.S., requires that the design and delivery of child welfare services must be directed by the principle that the health and safety of children, including the freedom from abuse, abandonment, or neglect, is of paramount concern. The DCF is to operate with the understanding that the rights of children in shelter or foster care are critical to their safety, permanency, and well-being and to work with all stakeholders to help such children become knowledgeable about their rights.

Case managers or other staff must provide verbal and written instructions to a child entering shelter or foster care in an understandable manner on how to identify and report child abuse, abandonment, or neglect. The case manager or other staff must review this information with a child every six months and upon every placement change until the child leaves shelter or foster care. The case manager must document in court reports and case notes the date the child received the information.

Florida Children's Ombudsman

In September of 2016, the DCF created an Ombudsman position which operates within the Office of Child and Family Wellbeing. The position was designed with the intent to listen and be

¹⁰ The DCF, *CFOP 170-11*, Ch. 6, Sept. 2020, available at <https://www.myflfamilies.com/resources/policies-procedures/cfop-170-11-placement> (last visited March 30, 2023).

¹¹ The DCF, *2021 Agency Bill Analysis for SB 272* at p. 2., March 7, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as, "The DCF Analysis").

¹² The DCF, *Youth in Foster Care*, available at <https://www.myflfamilies.com/sites/default/files/2022-12/10-28-Foster-Expectations.pdf> (last visited March 30, 2023).

a voice for children and youth involved in the child welfare system. The Ombudsman receives complaints about placement, care, and services, while assisting in mediating those concerns. The Ombudsman is a resource to identify and explain relevant policies or procedures to children, young adults, and their caregivers. The current Ombudsman responds to 450 cases on average each year. Although the Ombudsman is an important piece of the larger child welfare system, this team currently consists of one Ombudsman who serves mostly as a resource for information to the population they serve. As currently structured, the Ombudsman is not responsible for onsite investigations, reaching complaint resolution, or coordination with Lead Agencies, case workers, or the guardian ad litem.

The DCF currently operates a webpage that explains the Ombudsman's role and displays a toll-free number and email address to be used for children and young adults in out-of-home care who may have questions, concerns, or complaints.

Rule 65C-46.003(5)(d), F.A.C., requires all licensed residential group homes (child-caring agencies) to have written and posted grievance procedures which allow children in care or others to make complaints without fear of retaliation. This includes the requirement for group homes to post the phone number of the DCF's Ombudsman (1-844-KIDS-FLA) in areas frequented by children and where they can read it without scrutiny.¹³

III. Effect of Proposed Changes:

The bill requires case managers and child welfare professionals to provide certain information to children in the child welfare system and also establishes an Office of the Children's Ombudsman. Specifically, the bill amends s. 39.4085, F.S., to require case managers or other staff to provide information to children in the child welfare system related to:

- Normalcy and what that means for a child in out-of-home care;
- Education;
- Participation in court proceedings;
- Participation in permanency planning;
- Transition planning and other case planning;
- Placement, visitation, and contact with siblings, family, and other individuals important to the child; and
- Access to food, clothing, shelter, and health care.

The bill establishes the Office of the Children's Ombudsman within the DCF. To the extent permitted by available resources, the office must:

- Receive complaints from children and young adults about placement, care, and services and assist in mediating such concerns.
- Be a resource to identify and explain relevant policies or procedure to children, young adults, and their caregivers.
- Provide recommendations to the department to address systemic problems that are leading to complaints from children and young adults.

¹³ The DCF Analysis at p. 3.

The bill also requires the DCF to consult with children and young adults who are currently or have formerly been in out-of-home care when creating or revising any print or digital written information and use their feedback to ensure that information is understandable by and useful for the children and young adults.

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:

There is likely an indeterminate negative fiscal impact on the Department of Children and Families to establish the Children's Ombudsman Office.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 39.4085 of the Florida Statutes.

IX. Additional Information:

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

CS by Children, Families, and Elder Affairs on April 4, 2023:

The Committee Substitute:

- Places the requirement for specific information to be provided to children in the child welfare system in an existing section of law that is already related to the education of dependent youth.
- Establishes the Office of the Children’s Ombudsman and details the responsibilities of that office.
- Requires the DCF to consult with children and young adults in the creation of print and digital materials used to educate and inform children.
- Removes the requirement for an annual report.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (3) of section 39.4085,
Florida Statutes, is amended, and subsections (4) and (5) are
added to that section, to read:

39.4085 Goals for dependent children; responsibilities;
education; Office of the Children's Ombudsman.—

(3) (a) The case manager or other staff shall provide, at a



760172

11 minimum, verbal and written:

12 1. Instructions to a child entering shelter or foster care
13 to educate the child on identifying and reporting abuse,
14 abandonment, or neglect.

15 2. Information to a child about laws and requirements
16 relating to the topic of normalcy and what that means for a
17 child in out-of-home care; education; participation in court
18 proceedings; participation in permanency planning, transition
19 planning, and other case planning; placement, visitation, and
20 contact with siblings, family, and other individuals who are
21 important to the child; and access to food, clothing, shelter,
22 and health care.

23
24 The ~~verbal and written~~ instructions and information must use
25 words and phrasing that each child can understand and must occur
26 in a manner that is most effective for each child. The written
27 instructions and information are only required if the child is
28 of a sufficient age and understanding to receive such
29 instructions and information. The case manager or other staff
30 must give each child the opportunity to ask questions ~~about his~~
31 ~~or her rights and how to identify and report abuse, abandonment,~~
32 ~~or neglect.~~ The case manager or other staff shall document in
33 court reports and case notes the date the instructions and
34 information were ~~was~~ provided to the child. The case manager or
35 other staff must review the instructions and information with
36 the child every 6 months and upon every placement change until
37 the child leaves shelter or foster care.

38 (4) The Office of the Children's Ombudsman is established
39 within the department. To the extent permitted by available



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resources, the office shall, at a minimum:

(a) Receive complaints from children and young adults about placement, care, and services and assist in mediating such concerns.

(b) Be a resource to identify and explain relevant policies or procedures to children, young adults, and their caregivers.

(c) Provide recommendations to the department to address systemic problems that are leading to complaints from children and young adults.

(5) The department shall consult with children and young adults who are currently or have formerly been in out-of-home care when creating or revising any print or digital written information used in implementing this section and use any responses or feedback to ensure that such print or digital written information is understandable by and appropriate and useful for the children and young adults of the ages for which such print or digital written information is intended.

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to education for children and young adults in out-of-home care; amending s. 39.4085, F.S.; requiring a case manager or other staff member to provide a child with verbal and written information about certain topics; removing limitations on the type of questions a child may ask; establishing the Office



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69 of the Children's Ombudsman within the Department of
70 Children and Families; specifying responsibilities of
71 the office; requiring the department to consult with
72 specified children and young adults when creating or
73 revising certain print or digital written information;
74 conforming provisions to changes made by the act;
75 providing an effective date.

By Senator Harrell

31-01094A-23

2023976__

1 A bill to be entitled
2 An act relating to the certification of individuals
3 who provide child and adult protective services;
4 amending s. 402.40, F.S.; providing a review and
5 appeal process for child welfare administration
6 certifications that are denied, revoked, or suspended
7 or sanctions that are imposed by a third-party
8 credentialing entity; amending s. 415.101, F.S.;
9 revising legislative intent regarding the
10 certification of individuals who provide adult
11 protective services; providing an effective date.

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

14
15 Section 1. Subsection (3) of section 402.40, Florida
16 Statutes, is amended to read:

17 402.40 Child welfare training and certification.—

18 (3) THIRD-PARTY CREDENTIALING ENTITIES.—The department
19 shall approve one or more third-party credentialing entities for
20 the purpose of developing and administering child welfare
21 certification programs for persons who provide child welfare
22 services. A third-party credentialing entity must ~~shall~~ request
23 such approval in writing from the department. In order to obtain
24 approval, the third-party credentialing entity must:

25 (a) Establish professional requirements and standards that
26 applicants must achieve in order to obtain a child welfare
27 certification and to maintain such certification.

28 (b) Develop and apply core competencies and examination
29 instruments according to nationally recognized certification and

31-01094A-23

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psychometric standards.

(c) Maintain a professional code of ethics and a disciplinary process that apply to all persons holding child welfare certification.

(d) Maintain a database, accessible to the public, of all persons holding child welfare certification, including any history of ethical violations.

(e) Require annual continuing education for persons holding child welfare certification.

(f) Administer a continuing education provider program to ensure that only qualified providers offer continuing education opportunities for certificateholders.

(g) Review the findings and all relevant records involving the death of a child or other critical incident following completion of any reviews by the department, the inspector general, or the Office of the Attorney General. Such review may occur only upon the filing of a complaint from an outside party involving certified personnel. This review shall assess the certified personnel's compliance with the third-party credentialing entity's published code of ethical and professional conduct and disciplinary procedures.

(h) Maintain an advisory committee, including representatives from each region of the department, each sheriff's office providing child protective services, and each community-based care lead agency, who shall be appointed by the organization they represent. The third-party credentialing entity may appoint additional members to the advisory committee.

Any decision by a third-party credentialing entity to deny,

31-01094A-23

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59 revoke, or suspend a certification, or otherwise impose
60 sanctions on an individual who is certified, is reviewable by
61 the department. Upon receiving an adverse determination, the
62 person aggrieved may request an administrative hearing pursuant
63 to ss. 120.569 and 120.57(1) within 30 days after completing any
64 appeals process offered by the credentialing entity or the
65 department, as applicable.

66 Section 2. Subsection (2) of section 415.101, Florida
67 Statutes, is amended to read:

68 415.101 Adult Protective Services Act; legislative intent.—

69 (2) The Legislature recognizes that there are many persons
70 in this state who, because of age or disability, are in need of
71 protective services. These ~~Such~~ services should allow such an
72 individual the same rights as other citizens and, at the same
73 time, protect the individual from abuse, neglect, and
74 exploitation. It is the intent of the Legislature to provide for
75 the detection and correction of abuse, neglect, and exploitation
76 through social services and criminal investigations and to
77 establish a program staffed by persons who hold a professional
78 certification from a third-party credentialing entity approved
79 by the Department of Children and Families to provide ~~of~~
80 protective services for all vulnerable adults in need of them.
81 It is intended that the mandatory reporting of such cases will
82 cause the protective services of the state to be brought to bear
83 in an effort to prevent further abuse, neglect, and exploitation
84 of vulnerable adults. In taking this action, the Legislature
85 intends to place the fewest possible restrictions on personal
86 liberty and the exercise of constitutional rights, consistent
87 with due process and protection from abuse, neglect, and

31-01094A-23

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88 exploitation. Further, the Legislature intends to encourage the
89 constructive involvement of families in the care and protection
90 of vulnerable adults.

91 Section 3. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 976

INTRODUCER: Senator Harrell

SUBJECT: Certification of Individuals Who Provide Child and Adult Protective Services

DATE: April 3, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Cox	CF	Favorable
2.			AHS	
3.			FP	

I. Summary:

SB 976 amends s. 402.40, to create an explicit right to a ch. 120, F.S., administrative hearing for a Child Welfare Professional in relation to the denial, revocation, or suspension of a child welfare certification by the Florida Certification Board (FCB). The bill details timelines and requirements to request the administrative hearing.

The bill provides that the Department of Children and Families (DCF) may review any decision by a third-party credentialing entity to deny, revoke, or suspend a child welfare certification, or otherwise impose sanctions on an individual who is certified.

The bill also amends s. 415.101, F.S., to require the DCF to approve a third-party credentialing entity to certify Adult Protective Services (APS) program staff. This change will result in the required credentialing of current and future APS staff and the DCF would be required to identify and contract with a third-party credentialing entity to develop and administer a certification program.

The bill will likely have a significant negative fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill takes effect upon becoming law.

II. Present Situation:

Third-Party Credentialing Entities

In 2011, the Legislature required the Department of Children and Families (DCF) to authorize third-party entities to develop and provide a process for child welfare professionals to become

certified.¹ The law required the DCF to approve one or more “third-party credentialing entities” for the purpose of developing and administering child welfare certification programs.² A third-party credentialing entity must be a nonprofit organization that has met nationally recognized standards for developing and administering professional certification programs.³ To be approved by the DCF, a third-party credentialing entity must:

- Establish professional requirements and standards that applicants must achieve;
- Develop and apply core competencies and examination instruments according to nationally recognized certification and psychometric standards;
- Maintain a professional code of ethics and a disciplinary process that apply to all persons holding child welfare certification;
- Maintain a database, accessible to the public, of all persons holding child welfare certification, including any history of ethical violations;
- Require annual continuing education for persons holding child welfare certification;
- Administer a continuing education provider program;
- Review the findings and all relevant records involving the death of a child or other critical incident following completion of any reviews by the department, the inspector general, or the Office of the Attorney General; and
- Maintain an advisory committee, including representatives from each region of the department, each sheriff's office providing child protective services, and each community-based care lead agency, who shall be appointed by the organization they represent.⁴

Child Welfare Certifications

Child protective investigators, case managers, and licensing specialists are all child welfare professionals currently required to obtain a valid child welfare credential.⁵ An approved third-party credentialing entity is responsible for the internal monitoring of all training, certification activities, and the certification status of every Child Welfare Professional employed by the DCF, sheriffs' office, and community-based care lead agency.⁶ Child welfare certifications are valid for a two-year period.⁷

The DCF contracts with the Florida Certification Board (FCB) to provide the third-party credentialing service for Child Welfare Professionals.⁸ The current number of valid credentials is approximately 3,280 for child protective investigators (CPI), 4,880 for case managers, and 615 for licensing specialists, a total of 8,775.⁹

¹ Chapter 2011-163, L.O.F.; codified as s. 402.40, F.S.

² *Id.*

³ Section 402.40(2)(g), F.S.

⁴ Section 402.40(3), F.S.

⁵ Rule 65C-33.002, F.A.C.

⁶ *Id.*

⁷ *Id.*

⁸ The Department of Children and Families, 2023 Agency Bill Analysis, *SB 976*, p. 2, February 28, 2023 (on file with Committee for Children, Families, and Elder Affairs). (hereinafter cited as “DCF Bill Analysis”)

⁹ *Id.*

The Florida Certification Board

Currently, the DCF has only approved the FCB as a third-party credentialing entity for child welfare certifications. However, the FCB is larger than just child welfare certifications; it designs, develops and manages programs for over 30 health and human services professions and certifies more than 20,000 professionals statewide, including those in the child welfare, mental health, addiction and health fields, by ensuring that they meet education, training, experience and testing criteria.¹⁰

Current law is silent as to any ch. 120, F.S., administrative hearing rights in relation to the denial, revocation, or suspension of a child welfare certification.

Chapter 120 Administrative Hearings

In 1974, the Legislature created ch. 120, F.S., establishing the Administrative Procedures Act (APA),¹¹ to outline a comprehensive administrative process by which agencies exercise authority granted to them by the Legislature.¹² The APA details processes and procedures related to topics such as:

- Meetings, hearings, and workshops.¹³
- Rulemaking.¹⁴
- Declaratory statements.¹⁵
- Mediation of disputes.¹⁶
- Investigations.¹⁷
- Licensing.¹⁸
- Agency final orders.¹⁹

The APA serves to protect the citizens of Florida from unauthorized rules that could otherwise be in effect by providing state agencies a uniform procedure for enacting rules, issuing orders, and allowing citizens to challenge an agency's action or decision.²⁰ Agency action is broadly and flexibly defined term defined to include a rule or its equivalent, an order or its equivalent, and the denial of a petition to adopt a rule or to issue an order.²¹

¹⁰ The Florida Certification Board, *About Us*, available at <https://flcertificationboard.org/about/> (last viewed March 28, 2023).

¹¹ Chapter 1974-310 s. 1, L.O.F.; codified as Chapter 120, F.S.

¹² Florida Administrative Law Central Online Network, Publications, *A Pocket Guide to Florida's Administrative Procedure Act*, p2022, available at <https://www.japc.state.fl.us/Documents/Publications/PocketGuideFloridaAPA.pdf> (last viewed March 31, 2023) (hereinafter cited as "APA Pocket Guide")

¹³ Section 120.525, F.S.

¹⁴ Section 120.54, F.S.

¹⁵ Section 120.565, F.S.

¹⁶ Section 120.573, F.S.

¹⁷ Section 120.62, F.S.

¹⁸ Section 120.60, F.S.

¹⁹ Sections 120.53 and 120.533, F.S.

²⁰ APA Pocket Guide, p. 1

²¹ *Id.*

Adult Protective Services

Chapter 415, F.S., authorizes comprehensive protective services for Florida's elderly and abused adults.²² The DCF Adult Protective Services (APS) program is required to investigate allegations of abuse,²³ neglect,²⁴ and exploitation²⁵ of vulnerable adults²⁶ and vulnerable adults in need of services.²⁷

Upon report of alleged abuse, neglect, or exploitation, the central abuse hotline (hotline) makes an assessment of an individual's need for protective services.²⁸ The hotline must determine if the report requires an immediate, 24-hour, or next-working-day response priority.²⁹ For reports requiring an immediate onsite protective investigation, the hotline must immediately notify the department's designated protective investigative staff responsible for protective investigations to ensure prompt initiation of an onsite investigation.³⁰ This investigation initiates an assessment of individual need for protective services.³¹ Services provided by APS include the following:

- On-site investigation of reports of alleged abuse, neglect, exploitation or self-neglect;
- Determination of immediate risk to the victim and provision of necessary emergency services;
- Evaluation of the need for and provision of protective supervision; and
- Provision of on-going protective services.³²

²² Section 415.101, F.S.

²³ Section 415.102(1), F.S., defines "abuse" to mean any willful act or threatened act by a relative, caregiver, or household member which causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health. Abuse includes acts and omissions.

²⁴ Section 415.102(16), F.S., defines "neglect" to mean the failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, which a prudent person would consider essential for the well-being of a vulnerable adult. The term "neglect" also means the failure of a caregiver or vulnerable adult to make a reasonable effort to protect a vulnerable adult from abuse, neglect, or exploitation by others. "Neglect" is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to result in serious physical or psychological injury or a substantial risk of death.

²⁵ Section 415.102(8), F.S., defines "exploitation" to mean (1) a person who stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or (2) knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult.

²⁶ Section 415.102(28), F.S., defines "vulnerable adult" to mean a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

²⁷ Section 415.102(29), F.S., defines "vulnerable adult in need of services" to mean a vulnerable adult who has been determined by a protective investigator to be suffering from the ill effects of neglect not caused by a second party perpetrator and is in need of protective services or other services to prevent further harm.

²⁸ See generally s. 415.103, F.S.

²⁹ Section 415.103(1)(b), F.S.

³⁰ Section 415.103(2), F.S.

³¹ The Department of Children and Families, *About Adult Protective Services*, available at <https://www.myflfamilies.com/services/abuse/adult-protective-services/about-adult-protective-services> (last viewed March 28, 2023) (hereinafter cited as "DCF APS Webpage")

³² *Id.*

Pursuant to the Florida Community Care for Disabled Adults Act,³³ the APS program also assists vulnerable disabled adults to live dignified and reasonably independent lives in their own homes or in the homes of relatives or friends so that they may be assured the least restrictive environment suitable to their needs.³⁴

Subject matter experts within the APS program, in collaboration with partner state agencies and the National Adult Protective Services Association, developed all current APS staff training programs.³⁵ Each position has performance expectations and failure to meet performances standards will results in disciplinary actions that can result in or escalate to termination based on severity and response.³⁶

Currently, the DCF reports 520 current APS program staff members who provide adult protective services and there is no requirement for APS program staff to obtain certification through a third-party credentialing entity.³⁷

III. Effect of Proposed Changes:

The bill amends s. 402.40, F.S., to create an explicit right to a ch. 120, F.S., administrative hearing for a Child Welfare Professional in relation to the denial, revocation, or suspension of a child welfare certification by the FCB. The Child Welfare Professional may request an administrative hearing to review an adverse determination within 30 days after completing any appeals process provided by the third-party credentialing entity or the DCF. This change has the potential to increase the instances of administrative hearings the DCF must attend in relation to actions taken by the FCB against a child welfare professional's credential.

The bill provides that the DCF may review any decision by a third-party credentialing entity to deny, revoke, or suspend a child welfare certification or otherwise impose sanctions on an individual who is certified.

The bill also amends s. 415.101, F.S., to require the DCF to approve a third-party credentialing entity to certify APS program staff. This change will require the DCF to identify and contract with a third-party credentialing entity to develop and administer a certification program for current and future APS program staff.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³³ See ss. 410.602 through 410.606, F.S.

³⁴ DCF APS Webpage

³⁵ DCF Bill Analysis, p. 2.

³⁶ *Id.*

³⁷ *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Administrative Hearings³⁸

The bill language would require the DCF to participate in ch. 120, F.S., proceedings when a Child Welfare Professional requests an administrative hearing.

The DCF estimates approximately 5% of child welfare professionals being certified or re-certified may request an administrative hearing due to suspension, revocation, or denial of certification at an estimated cost of \$5,000 per hearing, detailed in the calculation below.

Each hearing takes legal counsel approximately 25-30 hours. The cost calculation is below:

- The cost per hearing estimate includes approximately \$2,500 for the Division of Administrative Hearings (DOAH) and \$2,500 (attorney staff time, court reporter, etc.) for the Department's costs.
- $8,775 \text{ (total employees)} \times .05 = \text{Approximately 440 employees}$
- $440 \text{ (hearings)} \times 5,000 \text{ (estimated hearing cost)} = \text{\$2,200,000 per year.}$

³⁸ DCF Bill Analysis, p. 4.

Credential Costs³⁹

The DCF bases the following expenditures on the current fee structure for the Child Welfare certification program as administered by the FCB:

- Provisional Application fee: \$107.50
- Test fee: \$107.50
- Upgrade Application fee: \$107.50
- Certification fee: \$107.50
- Biennial Renewal fee: \$215

Total APS cost at 520 employees (if fully staffed):

- Provisional Application fee: $\$107.50 \times 520 = \$55,900$
- Test fee: $\$107.50 \times 520 = \$55,900$
- Upgrade Application fee: $\$107.50 \times 520 = \$55,900$
- Certification fee: $\$107.50 \times 520 = \$55,900$
- **Year 1 cost for credentialing: \$223,600**
- Ongoing Costs:
 - New employees based on 40% turnover: $\$223,600 \times .40 = \$89,440$
 - Stable workforce renewal based on 60%: $.60 \times 520 = 312$ positions
 - $312 \times \$215$ (biennial renewal) = \$67,080
 - **Total on-going cost: \$156,520**

The DCF projects a total cost for implementation to be **\$2,580,120**.⁴⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 402.40 and 415.101 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.

³⁹ *Id.*

⁴⁰ *Id.*

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

By Senator Rouson

16-00595A-23

20231012__

A bill to be entitled
An act relating to the Certified Peer Specialist Pilot Program; creating the pilot program within the Department of Corrections; providing purposes of the pilot program; authorizing inmates at participating facilities to apply to participate in the pilot program; requiring the department to develop criteria for selecting applicants; exempting persons who complete the pilot program's requirements from a specified background screening for peer specialists; requiring the pilot program to assist potential employers with acquiring specified bonds; authorizing the pilot program to offer funding to potential employers to cover specified costs under certain circumstances; requiring the department to adopt rules; providing for the expiration of the pilot program; providing an effective date.

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

Section 1. The Certified Peer Specialist Pilot Program is created within the Department of Corrections.

(1) (a) The purpose of the pilot program is to provide participating inmates with a path to becoming certified peer specialists under s. 397.417, Florida Statutes, upon release by offering such inmates while incarcerated the necessary training hours and experience needed for certification and to assist inmates who complete the pilot program's requirements with post-incarceration employment.

16-00595A-23

20231012__

30 (b) The pilot program will be used to recruit and enroll
31 graduates of the pilot program into certified peer specialist
32 training programs approved under s. 397.417, Florida Statutes;
33 provide core educational training and on-the-job work experience
34 during each participant's incarceration which meets all of the
35 requirements for peer specialist certification; assist with
36 completing the national certification exam before each
37 participant's release; and assist in placing participants in
38 employment as certified peer specialist professionals upon their
39 release.

40 (2) Inmates at participating facilities may apply to
41 participate in the pilot program. The Department of Corrections
42 shall develop criteria for selecting qualified applicants for
43 the pilot program, which may include, but is not limited to,
44 requiring that participants:

45 (a) Have the appropriate custody classification.

46 (b) Meet certain discipline criteria.

47 (c) Have an expected release date within a specified
48 timeframe.

49 (d) Be housed at the institution providing training.

50 (e) Have served as a positive role model during their
51 incarceration.

52 (f) Express a desire to work in the behavioral health
53 treatment field after release.

54 (g) Not have any offenses that would prohibit them from
55 becoming a certified peer specialist.

56 (3) A person who completes the pilot program's requirements
57 is exempt from the background screening requirements for peer
58 specialists under s. 397.417, Florida Statutes.

16-00595A-23

20231012__

59 (4) In assisting persons who have completed the pilot
60 program's requirements with post-incarceration employment, the
61 pilot program:

62 (a) Shall assist potential employers with acquiring bonds
63 from the United States Department of Labor's Federal Bonding
64 Program, if applicable.

65 (b) May offer funding to potential employers to cover the
66 initial costs of hiring and retaining such persons, dependent
67 upon the pilot program securing applicable grant funds for such
68 purpose.

69 (5) The Department of Corrections shall adopt rules to
70 implement this act.

71 (6) The pilot program expires June 30, 2029.

72 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: CS/SB 1012

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

SUBJECT: Certified Peer Specialist Pilot Program

DATE: April 6, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	Fav/CS
2.			ACJ	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1012 creates the Certified Peer Specialist Gateway Pilot Program (Program) within the Department of Corrections (the DOC). The bill explains the purpose of the Program and specifies that the Program will be used to recruit and enroll qualified graduates of the Program into approved certified peer specialist training programs. The Program will provide the training and on-the-job experience required for peer specialist certification and assist in completion of the national certification exam, and will assist participants in obtaining employment upon release.

The bill allows inmates at participating facilities to apply for participation and requires the DOC to develop criteria for selecting program participants, and provides factors that the DOC may include in selection criteria.

The bill specifies that the Program will assist those that complete the Program in obtaining employment upon release by aiding potential employers to obtain bonds from the U.S. Department of Labor, if applicable, or may offer funding for initial hiring and retention costs dependent on securing grant funds.

The bill requires that after a person who has completed the pilot program's requirements has been released, he or she must provide each prospective employer with a copy of his or her incarceration record before the employer may hire the person. The person must also receive a signed informed consent form from any potential client seeking treatment from him or her.

The bill is likely to have an indeterminate negative fiscal impact on the DOC. See Section V. Fiscal Impact Statement.

The Program expires June 30, 2026, and the bill is effective July 1, 2023.

II. Present Situation:

Substance Use Disorder Treatment

Substance use disorder is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.¹ According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), a diagnosis of substance use disorder (SUD) is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.² SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.³ Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance use disorder.⁴ Imaging studies of brains belonging to persons with SUD reveal physical changes in areas of the brain critical to judgment, decision making, learning and memory, and behavior control.⁵

In 2021, approximately 46.3 million people aged 12 or older had a SUD related to corresponding use of alcohol or illicit drugs within the previous year.⁶ The most common substance use disorders in the United States are from the use of alcohol, tobacco, cannabis, opioids, hallucinogens, and stimulants.⁷ Provisional data from the CDC's National Center for Health Statistics indicate there were an estimated 107,622 drug overdose deaths in the United States during 2021 (the last year for which there is complete data), an increase of nearly 15% from the 93,655 deaths estimated in 2020.⁸

¹ The World Health Organization, *Mental Health and Substance Abuse*, available at <https://www.who.int/westernpacific/about/how-we-work/programmes/mental-health-and-substance-abuse>; (last visited March 15, 2023); the National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at <https://www.drugabuse.gov/publications/media-guide/science-drug-use-addiction-basics> (last visited February 8, 2023).

² The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at <https://www.naatp.org/resources/clinical/substance-use-disorder> (last visited March 15, 2023).

³ The Substance Abuse and Mental Health Services Administration (The SAMHSA), *Substance Use Disorders*, available at <http://www.samhsa.gov/disorders/substance-use> (last visited March 15, 2023).

⁴ The NIDA, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited March 15, 2023).

⁵ *Id.*

⁶ The SAMHSA, *Highlights for the 2021 National Survey on Drug Use and Health*, p. 2, available at <https://www.samhsa.gov/data/sites/default/files/2022-12/2021NSDUHFRHHighlights092722.pdf> (last visited March 15, 2023).

⁷ The Rural Health Information Hub, *Defining Substance Abuse and Substance Use Disorders*, available at <https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition> (last visited March 15, 2023).

⁸ The Center for Disease Control and Prevention, National Center for Health Statistics, *U.S. Overdose Deaths In 2021 Increased Half as Much as in 2020 – But Are Still Up 15%*, available at https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/202205.htm (last visited March 15, 2023).

Substance Use Disorder Treatment in Florida

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance use disorder.⁹ The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.¹⁰ Each of these laws governed different aspects of addiction, and thus had different rules promulgated by the state to fully implement the respective pieces of legislation.¹¹ However, because persons with substance use issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance use disorder problem.¹² In 1993, legislation was adopted to combine chs. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).¹³

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.¹⁴ However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.¹⁵ As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.¹⁶

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. Services are provided based upon state and federally-established priority populations.¹⁷ The DCF provides treatment for SUD through a community-based provider system offering detoxification, treatment, and recovery support for individuals affected by substance misuse, abuse, or dependence.¹⁸

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance use disorder.¹⁹

⁹ The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Chapter 93-39, s. 2, L.O.F., which codified current ch. 397, F.S.

¹⁴ See s. 397.601(1) and (2), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

¹⁵ Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited March 15, 2023) (hereinafter cited as “Fundamentals of the Marchman Act”).

¹⁶ *Id.*

¹⁷ See chs. 394 and 397, F.S.

¹⁸ The DCF, *Treatment for Substance Abuse*, available at <https://www.myflfamilies.com/service-programs/samh/substance-abuse.shtml> (last visited March 15, 2023).

¹⁹ *Id.*

- **Treatment Services:** Treatment services²⁰ include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.²¹
- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.²²

Peer Specialists

Research has shown that social support provided by peers is beneficial to those in recovery from a SUD or mental illness.²³ Section 397.311(30), F.S., defines a peer specialist as “a person who has been in recovery from a SUD or mental illness for at least 2 years who uses his or her personal experience to provide services in behavioral health settings to support others in their recovery, or a person who has at least 2 years of experience as a family member or caregiver of an individual who has a SUD or mental illness. The term does not include a qualified professional or a person otherwise certified under ch. 394 or ch. 397.”²⁴

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).²⁵

An individual seeking to become a certified peer specialist must have either been in recovery from a SUD or mental illness for at least two years, or must be a family member or caregiver of an individual suffering from a substance use disorder or mental illness.²⁶ The Department of Children and Families (the DCF) must approve one or more third-party credentialing entities for the purposes of certifying peer specialists, approving training programs for individuals seeking certification as peer specialists, approving continuing education programs, and establishing the

²⁰ *Id.* Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child-protective system, employment, increased earnings, and better health.

²¹ *Id.*

²² *Id.*

²³ Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, *What Are Peer Recovery Support Services?*, available at <https://store.samhsa.gov/system/files/sma09-4454.pdf> (last visited March 15, 2023).

²⁴ Section 397.311(30), F.S.

²⁵ 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 (last visited March 15, 2023).

²⁶ Section 397.417(2), F.S.

minimum requirements and standards that applicants must achieve to maintain certification.²⁷ To obtain approval, the third-party credentialing entity must demonstrate compliance with nationally recognized standards for developing and administering professional certification programs to certify peer specialists.²⁸ All individuals providing DCF-funded recovery support services as a peer specialist must be certified; however, an individual who is not currently certified may work as a peer specialist for a maximum of one year if they are working toward certification and are supervised by a qualified professional or by a certified peer specialist with at least two years of full-time experience as a peer specialist at a licensed behavioral health organization.²⁹

In addition to completing a competency exam, a peer specialist, or a person who is working towards certification as a peer specialist, must have completed or been lawfully released from confinement, supervision, or any nonmonetary condition imposed by a court for any felony and must undergo a background screening.³⁰

A person may not be certified as a peer specialist if he or she has been arrested for and is awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any felony offense in the three years preceding the application for certification, or for a conviction at any time for committing, or attempting, conspiring, or soliciting another person to commit,³¹ the following offenses:

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 409.920, F.S., relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.
- Section 415.111, F.S., relating to adult abuse, neglect, or exploitation of vulnerable adults.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
- Section 782.071, F.S., relating to vehicular homicide.
- Section 782.09, F.S., relating to killing of an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.
- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.

²⁷ Section 397.417(3)(b), F.S.

²⁸ *Id.*

²⁹ Section 397.417(3)(d), F.S.

³⁰ Section 397.417(4)(a), F.S.

³¹ *See s. 397.417(4)(e)6., F.S.*

- Section 787.04(3), F.S., relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.
- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.
- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Section 794.08, F.S., relating to female genital mutilation.
- Section 796.07, F.S., relating to procuring another to commit prostitution, except for those offenses expunged pursuant to human trafficking victim expunction.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.
- Section 806.01, F.S., relating to arson.
- Section 810.02, F.S., relating to first degree felony burglary.
- Section 810.14, F.S., relating to felony voyeurism.
- Section 810.145, F.S., relating to felony video voyeurism.
- Chapter 812, F.S., relating to felony theft, robbery, and related crimes.
- Section 817.034, F.S., relating to first degree felony communications fraud.
- Section 817.234, F.S., relating to first or second degree felony false and fraudulent insurance claims.
- Section 817.50, F.S., relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.
- Section 817.505, F.S., relating to patient brokering.
- Section 817.568, F.S., relating to first or second degree felony fraudulent use of personal identification.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, F.S., relating to felony exploitation of an elderly person or disabled adult.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 831.30, F.S., relating to fraud in obtaining medicinal drugs.
- Section 831.31, F.S., relating to the felony sale; manufacture; delivery; or possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of means of protection or communication.

- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, F.S., relating to obscenity.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, F.S., relating to drug abuse prevention and control, only if the offense was a second degree felony or higher.
- Section 895.03, F.S., relating to racketeering and collection of unlawful debts.
- Section 896.101, F.S., relating to the Florida Money Laundering Act.
- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, F.S., relating to introduction of contraband into a correctional facility.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to contraband introduced into detention facilities.³²

If a person seeking certification as a peer specialist is disqualified due to a pending arrest, conviction, plea of nolo contendere, or adjudication of delinquency for one or more of the disqualifying offenses, the person may seek an exemption under s. 435.07, F.S., which authorizes the Secretary of either the DCF or the Agency for Health Care Administration (AHCA), as applicable, to grant exemptions under limited circumstances.³³

Department of Corrections

The DOC is the third largest state prison system in the country with a budget of \$2.7 billion, approximately 80,000 inmates incarcerated and nearly 146,000 offenders on active community supervision (probation).³⁴ The DOC has 143 facilities statewide, including 50 correctional institutions, seven private partner facilities, 16 annexes, 33 work camps, three re-entry centers, 12 DOC-operated work release centers, 18 private work release centers, two road prisons, one

³² Section 397.417(4)(e), F.S.

³³ Under s. 435.07(1), F.S., the DCF/AHCA Secretary may grant a person seeking certification as a peer specialist but who is otherwise disqualified from employment an exemption from disqualification for:

- A felony conviction, if at least three years have elapsed since the person has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony;
- A misdemeanor conviction, if a person has completed or been lawfully released from confinement, supervision, or nonmonetary conditions imposed by the court;
- Offenses that were felonies when committed but that are now misdemeanors and for which the person has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court; or
- A finding of delinquency.

³⁴ The DOC, *About the Florida Department of Corrections*, available at <http://www.dc.state.fl.us/about.html> (last visited March 29, 2023).

forestry camp and one basic training camp.³⁵ The DOC is the largest state agency in Florida, and over 80% of its staff are either certified correctional officers or probation officers.³⁶

Custody Classification

Section 944.1905, F.S., requires each inmate placed in the custody of the DOC to be classified or reclassified based upon the inmate's risk level. An inmate's initial classification is determined by a number of factors including, but not limited to, length of sentence, criminal history, any history of violence, and escape history.³⁷ Classification levels impact the facility placement and programming that an inmate is eligible to participate in while incarcerated.³⁸

Gain-time

Gain-time awards, which result in deductions to the court-ordered sentences of specified eligible inmates, are used to encourage satisfactory prisoner behavior or to provide incentives for prisoners to participate in productive activities while incarcerated.³⁹ An inmate is not eligible to earn or receive gain-time in an amount that results in his or her release prior to serving a minimum of 85 percent of the sentence imposed.⁴⁰ The only forms of gain-time that can currently⁴¹ be earned are incentive gain-time,⁴² meritorious gain-time,⁴³ and educational achievement gain-time.⁴⁴

The procedure for applying gain-time awards to an inmate's sentence is dependent upon the calculation of a "maximum sentence expiration date" and a "tentative release date." The tentative release date may not be later than the maximum sentence expiration date.⁴⁵ The maximum sentence expiration date represents the date when the sentence or combined sentences imposed

³⁵ *Id.*

³⁶ *Id.*

³⁷ The DOC, *Inmate Orientation Handbook*, at p. 9, available at <http://www.dc.state.fl.us/pub/files/InmateOrientationHandbook.pdf> (last visited March 29, 2023) (hereinafter cited as, "Inmate Handbook"); *See also* Section 944.1905(1)-(3), F.S.

³⁸ Inmate Handbook at p.8.

³⁹ Section 944.275(1), F.S. Section 944.275(4)(f), F.S., further provides that an inmate serving a life sentence is not able to earn gain-time. Additionally, an inmate serving the portion of his or her sentence that is included in an imposed mandatory minimum sentence or whose tentative release date is the same date as he or she achieves service of 85 percent of the sentence is not eligible to earn gain-time. Section 944.275(4)(e), F.S., also prohibits an inmate committed to the DOC for specified sexual offenses committed on or after October 1, 2014, from earning incentive gain-time.

⁴⁰ Section 944.275(4)(f), F.S.

⁴¹ Basic gain-time, which automatically reduced an inmate's sentence by a designated amount each month, was eliminated for offenses committed on or after January 1, 1994. Chapter 93-406, L.O.F.

⁴² Section 944.275(4)(b), F.S., provides incentive gain-time is a total of up to ten days per month that may be awarded to inmates for institutional adjustment, performing work in a diligent manner, and actively participating in training and programs. The amount an inmate can earn is stable throughout the term of imprisonment and is based upon the date an offense was committed.

⁴³ Section 944.275(4)(c), F.S., provides that meritorious gain-time is awarded to an inmate who commits an outstanding deed or whose performance warrants additional credit, such as saving a life or assisting in recapturing an escaped inmate. The award may range from one day to 60 days and the statute does not prohibit an inmate from earning meritorious gain-time on multiple occasions if warranted.

⁴⁴ Section 944.275(4)(d), F.S., provides that educational gain-time is a one-time award of 60 days that is granted to an inmate who receives a General Education Development (GED) diploma or a certificate for completion of a vocational program.

⁴⁵ Section 944.275(3)(c), F.S.

on a prisoner will expire. To calculate the maximum sentence expiration date, the DOC reduces the total time to be served by any time lawfully credited.⁴⁶

The tentative release is the date projected for the prisoner's release from custody after gain-time is granted or forfeited in accordance with s. 944.275, F.S.⁴⁷ Gain-time is applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, are applied to make the tentative release date proportionately later.⁴⁸

III. Effect of Proposed Changes:

The bill creates an unnumbered section of law to establish the "Certified Peer Specialist Gateway Pilot Program" (Program) within the DOC. The purpose of the Program is to provide participating inmates with a path to become certified peer specialists by offering such inmates the necessary training hours and experience needed for certification while incarcerated and assisting inmates who complete the Program with post-incarceration employment.

The Program will be used to:

- Recruit and enroll graduates of the pilot program into statutorily-approved certified peer specialist training programs;
- Provide core educational training and on-the-job work experience during each participant's incarceration which meets all of the requirements for peer specialist certification;
- Assist with completing the national certification exam before each participant's release; and
- Assist in placing participants in employment as certified peer specialist professionals upon their release.

The bill allows inmates at participating facilities to apply to participate in the Program. The bill directs the DOC to develop criteria for selecting qualified applicants for the Program, which may include, but is not limited to, requiring that participants:

- Have the appropriate custody classification;
- Meet certain discipline criteria;
- Have an expected release date within a specified timeframe;
- Be housed at the institution providing training;
- Have served as a positive role model during their incarceration;
- Express a desire to work in the behavioral health treatment field after release; and
- Not have any offenses that would prohibit them from becoming a certified peer specialist. Specifically, prohibits any that an inmate who has been convicted of any of the following offenses from participating in the program:
 - Murder as defined in s. 98.0751, F.S.;
 - A felony sexual offense as defined in s. 98.0751, F.S.;
 - An offense under s. 787.01, F.S., relating to kidnapping;
 - An offense under s. 806.01, Florida Statutes, relating to arson; or

⁴⁶ Section 944.275(2)(a), F.S.

⁴⁷ Section 944.275(3)(a), F.S.

⁴⁸ *Id.* See also s. 944.275(4)(b), F.S.

- An offense under s. 784.045, Florida Statutes, relating to aggravated battery.

The bill exempts a person who completed the Program from the background screening requirements for certified peer specialists.

Under the bill, the Program must assist persons who have completed the Program with post-incarceration employment by:

- Assisting potential employers with acquiring bonds from the United States Department of Labor's Federal Bonding Program, if applicable; and
- Offering funding to a potential employer to cover the costs of initially hiring and retaining such person.

The bill requires that after a person who has completed the pilot program's requirements has been released, he or she must provide each prospective employer with a copy of his or her incarceration record before the employer may hire the person. The person must also receive a signed informed consent form from any potential client seeking treatment from him or her. Such consent form must specify that the person has completed the pilot program's requirements and is certified as a peer specialist under s. 397.417, F.S.

The bill provides the DOC with rulemaking authority to implement provisions of the bill.

The Program expires June 30, 2026, and 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 DOC anticipates that the fiscal impact to the agency for FY 23-24 would align with the agency's local funding initiative request #1882⁴⁹, which requests \$1 million for the Program.⁵⁰ The fiscal impact for the remaining years is indeterminate.⁵¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section of the Florida Statutes.

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

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

CS by Children, Families, and Elder Affairs Committee on April 4, 2023:

- Changes the name of the pilot program from the Certified Peer Specialist Pilot Program to the Certified Peer Specialist Gateway Pilot Program.
- Specifies that an inmate who has been convicted of any of the following offenses may not participate in the program:
 - Murder;
 - A felony sexual offense;
 - An offense under s. 787.01, F.S., relating to kidnapping;
 - An offense under s. 806.01, F.S., relating to arson; or
 - An offense under s. 784.045, F.S., relating to aggravated battery.

⁴⁹ The Florida Senate, *Local Funding Initiative Request, CRPS – Inmate Certification Training and Reentry Program*, available at https://www.flsenate.gov/PublishedContent/Session/FiscalYear/FY2023-24/LocalFundingInitiativeRequests/FY2023-24_S1882.PDF (last visited March 29, 2023).

⁵⁰ The DOC, *Agency Analysis of SB 1012* at p. 4, March 13, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁵¹ *Id.*

- Requires that after a person who has completed the pilot program's requirements has been released, he or she must provide each prospective employer with a copy of his or her incarceration record before the employer may hire the person. The person must also receive a signed informed consent form from any potential client seeking treatment from him or her. Such consent form must specify that the person has completed the pilot program's requirements and is certified as a peer specialist under s. 397.417, F.S.

B. Amendments:

None.



368416

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. The Certified Peer Specialist Gateway Pilot Program is created within the Department of Corrections. The purpose of the pilot program is to provide participating inmates with a path to becoming certified peer specialists under s. 397.417, Florida Statutes, upon release by offering such inmates while incarcerated the necessary training hours and experience



368416

needed for certification and to assist inmates who complete the pilot program's requirements with post-incarceration employment.

(1) The pilot program shall:

(a) Recruit and enroll inmates who have completed certain treatment programs while incarcerated into certified peer specialist training programs approved under s. 397.417, Florida Statutes.

(b) Provide core educational training and on-the-job work experience during each participant's incarceration which meets all of the requirements for peer specialist certification.

(c) Assist participants with completing the national certification exam before each participant's release.

(d) Assist in placing participants in employment as certified peer specialist professionals upon their release.

(2) Inmates at participating facilities may apply to participate in the pilot program. The Department of Corrections shall develop criteria for selecting qualified applicants for the pilot program including, but not limited to, requiring that applicants:

(a) Have the appropriate custody classification.

(b) Meet certain discipline criteria.

(c) Have an expected release date within a specified timeframe.

(d) Be housed at the facility providing training.

(e) Have served as a positive role model during their incarceration.

(f) Express a desire to work in the behavioral health treatment field after release.

(g) Not have any convictions for an offense that would



368416

prohibit them from becoming a certified peer specialist.

However, an inmate who has been convicted of murder or a felony sexual offense as those terms are defined in s. 98.0751(2), Florida Statutes, or an offense under s. 787.01, Florida Statutes, relating to kidnapping; s. 806.01, Florida Statutes, relating to arson; or s. 784.045, Florida Statutes, relating to aggravated battery may not participate in the program.

(3) A person who completes the pilot program's requirements is exempt from the background screening requirements for peer specialists under s. 397.417, Florida Statutes.

(4) In assisting persons who have completed the pilot program's requirements with post-incarceration employment, the pilot program:

(a) Shall assist potential employers with acquiring bonds from the United States Department of Labor's Federal Bonding Program, if applicable.

(b) May offer funding to a potential employer to cover the initial costs of hiring and retaining such persons, if the pilot program secures applicable grant funds for such purpose.

(5) After a person who has completed the pilot program's requirements has been released, he or she must provide each prospective employer with a copy of his or her incarceration record before the employer may hire the person. The person must also receive a signed informed consent form from any potential client seeking treatment from him or her. Such consent form must specify that the person has completed the pilot program's requirements and is certified as a peer specialist under s. 397.417, Florida Statutes.

(6) The Department of Corrections shall adopt rules to



368416

implement this act.

(7) The pilot program expires June 30, 2026.

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to the Certified Peer Specialist
Gateway Pilot Program; creating the pilot program
within the Department of Corrections; providing
purpose of and requirements for the pilot program;
authorizing inmates at participating facilities to
apply to participate in the pilot program; requiring
the department to develop certain criteria for
selecting qualified applicants; exempting persons who
complete the pilot program's requirements from a
specified background screening for peer specialists;
requiring the pilot program to assist potential
employers with acquiring specified bonds; authorizing
the pilot program to offer funding to potential
employers to cover specified costs under certain
circumstances; requiring persons who have completed
the pilot program's requirements to provide
prospective employers with incarceration records;
requiring such persons to receive a signed informed
consent form from any potential clients; providing
requirements for such form; requiring the department
to adopt rules; providing for expiration of the pilot



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program;; providing an effective date.

By Senator Rouson

16-00534C-23

20231016__

A bill to be entitled

An act relating to mental health and substance abuse; amending s. 394.494, F.S.; revising a requirement for the Department of Children and Families relating to certain performance outcomes and measures; amending s. 394.4955, F.S.; requiring managing entities to lead the implementation of a coordinated system of care; repealing s. 394.74, F.S., relating to contracts for provision of local substance abuse and mental health programs; repealing s. 394.75, F.S., relating to state and district substance abuse and mental health plans; repealing s. 394.76, F.S., relating to financing of district programs and services; amending s. 394.9082, F.S.; revising the definition of the term "managing entity"; revising the duties of the department; revising department requirements for, and authorizations relating to, contracting with managing entities; requiring the department to review such assessments, in consultation with managing entity representatives, for inclusion in the department's legislative budget request; revising managing entity duties; deleting a requirement for certain managing entities to enter into a memoranda of understanding relating to network accreditation and systems coordination within a specified timeframe; revising the timeframe for annually submitting enhancement plans; revising requirements relating to the acute care services utilization database; amending ss. 394.4574, 394.493, and 394.674, F.S.; conforming

16-00534C-23

20231016__

provisions to changes made by the act; reenacting ss. 394.9086(3)(a) and 394.9087(6), F.S., relating to the Commission on Mental Health and Substance Abuse and the Florida Veterans' Care Coordination Program, respectively, to incorporate the amendments made to s. 394.9082, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (2) of section 394.494, Florida Statutes, is amended to read:

394.494 General performance outcomes for the child and adolescent mental health treatment and support system.—

(2) Annually, pursuant to former s. 216.0166, the department shall develop ~~more~~ specific performance outcomes and performance measures to assess the performance of the child and adolescent mental health treatment and support system in achieving the intent of this section.

Section 2. Subsection (1) of section 394.4955, Florida Statutes, is amended to read:

394.4955 Coordinated system of care; child and adolescent mental health treatment and support.—

(1) Pursuant to s. 394.9082(5)(d), each managing entity shall lead the development and implementation ~~of a plan that promotes the development and effective implementation~~ of a coordinated system of care which integrates services provided through providers funded by the state's child-serving systems and facilitates access by children and adolescents, as resources

16-00534C-23

20231016__

59 permit, to needed mental health treatment and services at any
60 point of entry regardless of the time of year, intensity, or
61 complexity of the need, and other systems with which such
62 children and adolescents are involved, as well as treatment and
63 services available through other systems for which they would
64 qualify.

65 Section 3. Section 394.74, Florida Statutes, is repealed.

66 Section 4. Section 394.75, Florida Statutes, is repealed.

67 Section 5. Section 394.76, Florida Statutes, is repealed.

68 Section 6. Paragraph (e) of subsection (2), paragraphs (b)
69 and (j) of subsection (4), paragraphs (b) and (l) of subsection
70 (5), paragraph (b) of subsection (6), and subsections (8) and
71 (10) of section 394.9082, Florida Statutes, are amended, and
72 paragraphs (n) and (o) are added to subsection (3) and paragraph
73 (v) is added to subsection (5) of that section, to read:

74 394.9082 Behavioral health managing entities.—

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

76 (e) "Managing entity" means a corporation:

77 1. Selected by and under contract with the department to
78 manage the daily operational delivery of behavioral health
79 services through a coordinated system of care that does not
80 provide therapeutic services; and

81 2. That is eligible to receive federal block grant funding.

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

83 (n) Work with the managing entities and allow managing
84 entities to have direct input when reviewing expenditures to
85 determine funding of appropriate services and reduce
86 administrative burdens.

87 (o) Complete a review of all reports submitted by managing

16-00534C-23

20231016__

88 entities for the purpose of reducing administrative burdens by
89 identifying obsolete, duplicative, and uninformative reports.

90 (4) CONTRACT WITH MANAGING ENTITIES.—

91 (b) The department may ~~shall~~ issue an invitation to
92 negotiate under s. 287.057 to select an organization to serve as
93 a managing entity. If the department does not receive a
94 responsive bid ~~receives fewer than two responsive bids~~ to the
95 solicitation, the department may ~~shall~~ reissue the solicitation
96 and managed behavioral health organizations shall be eligible to
97 bid and be awarded a contract, notwithstanding the federal block
98 grant eligibility requirement.

99 (j) ~~By June 30, 2019,~~ If ~~all other~~ contract requirements
100 and performance standards are substantially met and the
101 department determines that a managing entity has maintained
102 ~~under contract as of July 1, 2016,~~ ~~has received~~ network
103 accreditation pursuant to subsection (6), the department may
104 continue its contract with the managing entity for as long as
105 the managing entity meets its contractual and performance
106 requirements up to, but not exceeding, 5 years, including any
107 ~~and all renewals and extensions. Thereafter, the department must~~
108 ~~issue a competitive solicitation pursuant to paragraph (b).~~

109 (5) MANAGING ENTITY DUTIES.—A managing entity shall:

110 (b) Conduct a community behavioral health care needs
111 assessment every 3 years in the geographic area served by the
112 managing entity which identifies needs by subregion. The process
113 for conducting the needs assessment shall include an opportunity
114 for public participation. The assessment shall include, at a
115 minimum, the information the department needs for its annual
116 report to the Governor and Legislature pursuant to s. 394.4573.

16-00534C-23

20231016__

The assessment shall also include a list and descriptions of any gaps in the arrays of services for children or adolescents identified pursuant to s. 394.4955 and recommendations for addressing such gaps. The managing entity shall provide the needs assessment to the department. The department, in consultation with the managing entity representatives, shall review such assessments for inclusion in the department's legislative budget request.

(1) Work collaboratively with ~~public~~ receiving facilities and licensed housing providers to establish a network of licensed housing resources for mental health consumers that will prevent and reduce readmissions to public receiving facilities.

(v) Collaborate with county emergency operation centers to identify organizations that ensure access to and coordinate delivery of behavioral health services to responders and survivors and survivor's family members of a public emergency as critical public health infrastructure.

(6) NETWORK ACCREDITATION AND SYSTEMS COORDINATION AGREEMENTS.—

(b) If no accreditations are available or deemed acceptable pursuant to paragraph (a) which address coordination between the provider network and major systems and programs with which the provider network interacts, each managing entity shall enter into memoranda of understanding which details mechanisms for communication and coordination. The managing entity shall enter into such memoranda with any community-based care lead agencies, circuit courts, county courts, sheriffs' offices, offices of the public defender, offices of criminal conflict and civil regional counsel, Medicaid managed medical assistance plans, and homeless

16-00534C-23

20231016__

146 coalitions in its service area. ~~Each managing entity under~~
147 ~~contract on July 1, 2016, shall enter into such memoranda by~~
148 ~~June 30, 2017, and each managing entity under contract after~~
149 ~~July 1, 2016, shall enter into such memoranda within 1 year~~
150 ~~after its contract execution date.~~

151 (8) ENHANCEMENT PLANS.—By June ~~September~~ 1 of each year,
152 ~~beginning in 2017,~~ each managing entity shall develop and submit
153 to the department a description of strategies for enhancing
154 services and addressing three to five priority needs in the
155 service area. The planning process sponsored by the managing
156 entity shall include consumers and their families, community-
157 based care lead agencies, local governments, law enforcement
158 agencies, service providers, community partners and other
159 stakeholders. Each strategy must be described in detail and
160 accompanied by an implementation plan that specifies action
161 steps, identifies responsible parties, and delineates specific
162 services that would be purchased, projected costs, the projected
163 number of individuals that would be served, and the estimated
164 benefits of the services. The department shall consider
165 enhancement plans submitted by the managing entities in the
166 department's legislative budget request ~~All or parts of these~~
167 ~~enhancement plans may be included in the department's annual~~
168 ~~budget requests submitted to the Legislature.~~

169 (10) ACUTE CARE SERVICES UTILIZATION DATABASE.—The
170 department shall develop, implement, and maintain standards
171 under which a managing entity shall collect utilization data
172 from all contracted public receiving facilities situated within
173 its geographical service area and all detoxification and
174 addictions receiving facilities under contract with the managing

16-00534C-23

20231016__

entity. As used in this subsection, the term "public receiving facility" means an entity that meets the licensure requirements of, and is designated by, the department to operate as a public receiving facility under s. 394.875 and that is operating as a licensed crisis stabilization unit.

(a) The department shall develop standards and protocols to be used for data collection, storage, transmittal, and analysis. The standards and protocols shall allow for compatibility of data and data transmittal between public receiving facilities, detoxification facilities, addictions receiving facilities, managing entities, and the department for the implementation, and to meet the requirements, of this subsection.

(b) A managing entity shall require providers specified in paragraph (a) to submit data, in real time or at least daily, to the managing entity for:

1. All admissions and discharges of clients receiving public receiving facility services who qualify as indigent, as defined in s. 394.4787.

2. All admissions and discharges of clients receiving substance abuse services in an addictions receiving facility or detoxification facility pursuant to parts IV and V of chapter 397 who qualify as indigent.

3. The current active census of total licensed beds, the number of beds purchased by the department, the number of clients qualifying as indigent occupying those beds, and the total number of unoccupied licensed beds, regardless of funding.

(c) A managing entity shall require providers specified in paragraph (a) to submit data, on a monthly basis, to the managing entity which aggregates the daily data submitted under

16-00534C-23

20231016__

paragraph (b). The managing entity shall reconcile the data in the monthly submission to the data received by the managing entity under paragraph (b) to check for consistency. If the monthly aggregate data submitted by a provider under this paragraph are inconsistent with the daily data submitted under paragraph (b), the managing entity shall consult with the provider to make corrections necessary to ensure accurate data.

(d) A managing entity shall require providers specified in paragraph (a) within its provider network to submit data, on an annual basis, to the managing entity which aggregates the data submitted and reconciled under paragraph (c). The managing entity shall reconcile the data in the annual submission to the data received and reconciled by the managing entity under paragraph (c) to check for consistency. If the annual aggregate data submitted by a provider under this paragraph are inconsistent with the data received and reconciled under paragraph (c), the managing entity shall consult with the provider to make corrections necessary to ensure accurate data.

(e) After ensuring the accuracy of data pursuant to paragraphs (c) and (d), the managing entity shall submit the data to the department on a monthly and an annual basis. The department shall create a statewide database for the data described under paragraph (b) and submitted under this paragraph for the purpose of analyzing the use of publicly funded crisis stabilization services and detoxification and addictions receiving services provided on a statewide and an individual provider basis.

(f) The department shall post on its website, by facility, the data collected pursuant to this subsection and update such

16-00534C-23

20231016__

posting monthly.

Section 7. Subsection (3) of section 394.4574, Florida Statutes, is amended to read:

394.4574 Responsibilities for coordination of services for a mental health resident who resides in an assisted living facility that holds a limited mental health license.—

(3) The Secretary of Children and Families, in consultation with the Agency for Health Care Administration, shall require each district administrator to develop, with community input, a detailed annual plan that demonstrates how the district will ensure the provision of state-funded mental health and substance abuse treatment services to residents of assisted living facilities that hold a limited mental health license. This plan ~~must be consistent with the substance abuse and mental health district plan developed pursuant to s. 394.75 and~~ must address case management services; access to consumer-operated drop-in centers; access to services during evenings, weekends, and holidays; supervision of the clinical needs of the residents; and access to emergency psychiatric care.

Section 8. Subsection (3) of section 394.493, Florida Statutes, is amended to read:

394.493 Target populations for child and adolescent mental health services funded through the department.—

(3) Each child or adolescent who meets the target population criteria of this section shall be served to the extent possible within available resources ~~and consistent with the portion of the district substance abuse and mental health plan specified in s. 394.75 which pertains to child and adolescent mental health services.~~

16-00534C-23

20231016__

Section 9. Subsection (5) of section 394.674, Florida Statutes, is amended to read:

394.674 Eligibility for publicly funded substance abuse and mental health services; fee collection requirements.—

(5) A person who meets the eligibility criteria in subsection (1) shall be served ~~in accordance with the appropriate district substance abuse and mental health services plan specified in s. 394.75~~ and within available resources.

Section 10. For the purpose of incorporating the amendments made by this act to section 394.9082, Florida Statutes, in a reference thereto, paragraph (a) of subsection (3) of section 394.9086, Florida Statutes, is reenacted to read:

394.9086 Commission on Mental Health and Substance Abuse.—

(3) MEMBERSHIP; TERM LIMITS; MEETINGS.—

(a) The commission shall be composed of 19 members as follows:

1. A member of the Senate, appointed by the President of the Senate.

2. A member of the House of Representatives, appointed by the Speaker of the House of Representatives.

3. The Secretary of Children and Families or his or her designee.

4. The Secretary of the Agency for Health Care Administration or his or her designee.

5. A person living with a mental health disorder, appointed by the President of the Senate.

6. A family member of a consumer of publicly funded mental health services, appointed by the President of the Senate.

7. A representative of the Louis de la Parte Florida Mental

16-00534C-23

20231016__

Health Institute within the University of South Florida,
appointed by the President of the Senate.

8. A representative of a county school district, appointed
by the President of the Senate.

9. A representative of mental health courts, appointed by
the Governor.

10. A representative of a treatment facility, as defined in
s. 394.455, appointed by the Speaker of the House of
Representatives.

11. A representative of a managing entity, as defined in s.
394.9082(2), appointed by the Speaker of the House of
Representatives.

12. A representative of a community substance abuse
provider, appointed by the Speaker of the House of
Representatives.

13. A psychiatrist licensed under chapter 458 or chapter
459 practicing within the mental health delivery system,
appointed by the Speaker of the House of Representatives.

14. A psychologist licensed under chapter 490 practicing
within the mental health delivery system, appointed by the
Governor.

15. A mental health professional licensed under chapter
491, appointed by the Governor.

16. An emergency room physician, appointed by the Governor.

17. A representative from the field of law enforcement,
appointed by the Governor.

18. A representative from the criminal justice system,
appointed by the Governor.

19. A representative of a child welfare agency involved in

16-00534C-23

20231016__

the delivery of behavioral health services, appointed by the Governor.

Section 11. For the purpose of incorporating the amendments made by this act to section 394.9082, Florida Statutes, in a reference thereto, subsection (6) of section 394.9087, Florida Statutes, is reenacted to read:

394.9087 Florida Veterans' Care Coordination Program.—

(6) Florida 211 Network participants in the Florida Veterans' Care Coordination Program shall maintain a database of veteran-specific services available in the communities served by the programs. The Department of Veterans' Affairs and its selected contractor shall work with managing entities as defined in s. 394.9082(2) to educate service providers about the Florida Veterans Support Line and the Florida Veterans' Care Coordination Program.

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: CS/SB 1016

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

SUBJECT: Mental Health and Substance Abuse

DATE: April 6, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	Fav/CS
2.			AHS	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1016 revises several statutory provisions relating to the state's managing entities (MEs). The bill requires the Department of Children and Families (DCF) to complete an analysis of the use of funding designations and contract deliverables with the MEs every three years. The bill also requires the DCF to review ME assessments and enhancement plans for inclusion in the DCF's legislative budget requests (LBRs).

The bill requires the MEs to collaborate with county emergency operation centers to identify organizations that ensure access to, and coordinate delivery of, behavioral health services to responders and survivors and survivor's family members of a public emergency as critical public health infrastructure.

The bill requires MEs to develop and submit needs enhancement plans to the DCF by June 1 of each year, rather than September 1, and specifies that the MEs must collect acute care services utilization data only on contracted public receiving facilities situated within the respective geographic region of each ME.

The bill will likely have an indeterminate negative impact on state government. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Managing Entities

The DCF administers a statewide system of safety-net services for 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.¹

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.² The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized the DCF to implement MEs statewide.³ Full implementation of the statewide managing entity system occurred in 2013 and all geographic regions are now served by a ME.⁴

Contracted MEs

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

- Maintain a governing board;
- Promote and support care coordination;⁵
- Develop a comprehensive list of qualified providers;
- Monitor network providers' performances;
- Manage and allocate funds for services in accordance with federal and state laws, rules, regulations and grant requirements; and
- Operate in a transparent manner, providing access to information, notice of meetings, and opportunities for public participation in ME decision making.⁶

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

- Big Bend Community Based Care, Inc. d/b/a NWF Health Network (blue);
- Lutheran Services Florida (yellow);
- Central Florida Cares Health System (orange);
- Central Florida Behavioral Health Network, Inc. (red);
- Southeast Florida Behavioral Health Network (pink);
- Broward Behavioral Health Network, Inc. (purple); and
- Thriving Mind South Florida (South Florida Behavioral Health Network, Inc.) (beige).⁷

¹ See chs. 394 and 397, F.S.

² Chapter 2001-191, L.O.F.; codifying s. 394.9082, F.S.

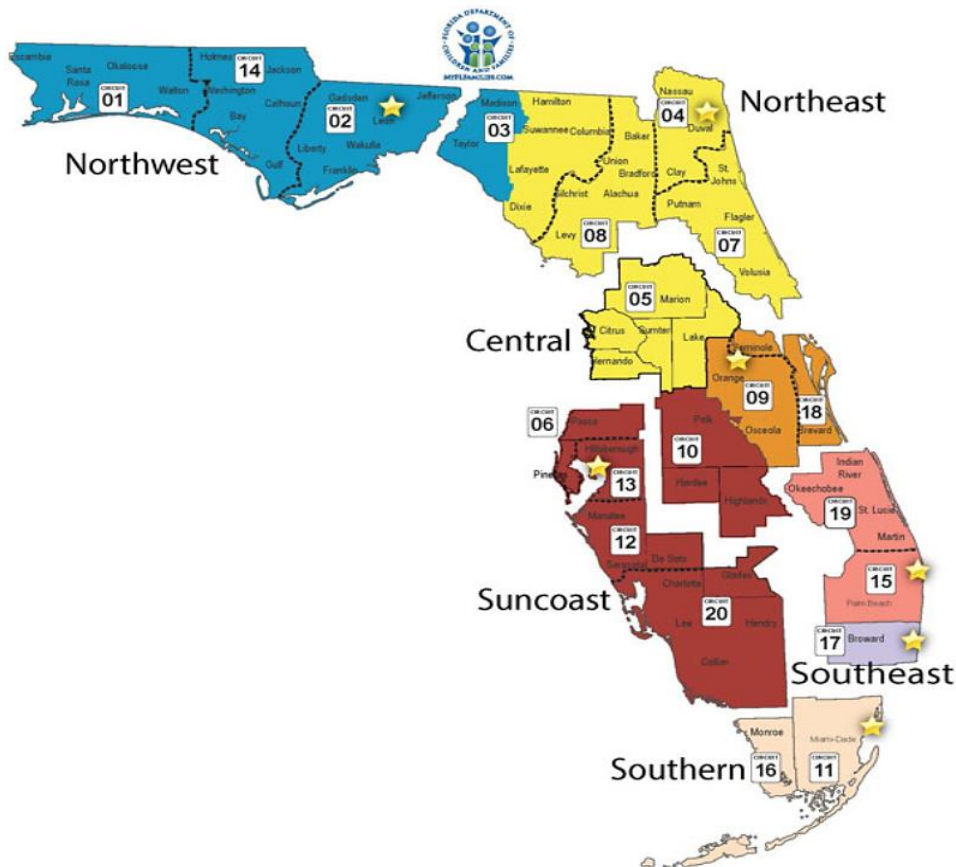
³ Chapter 2008-243, L.O.F.

⁴ 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 29, 2023).

⁵ Section 394.9082(5)(g), F.S. Section 394.9082(6), F.S., sets out the network accreditation and systems coordination agreement requirements.

⁶ Section 394.9082(5), F.S.

⁷ The DCF, *Managing Entities*, <https://www.myflfamilies.com/services/substance-abuse-and-mental-health/samh-providers/managing-entities> (last visited March 29, 2023).



The MEs in turn contract with local service providers for the delivery of mental health and substance abuse services.⁸

Coordinated System of Care

Managing entities are required to promote the development and implementation of a coordinated system of care.⁹ A coordinated system of care means a full array of behavioral and related services in a region or community offered by all service providers, participating either under contract with a managing entity or by another method of community partnership or mutual agreement.¹⁰ A community or region provides a coordinated system of care for those suffering from mental illness or substance abuse disorder through a no-wrong-door model, to the extent allowed by available resources.¹¹

There are several essential elements which make up a coordinated system of care, including:

- Community interventions;

⁸ Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.

⁹ Section 394.9082(5)(d), F.S.

¹⁰ Section 394.4573(1)(c), F.S.

¹¹ Section 394.4573(2)(b)2., F.S.

- Case management;
- Care coordination;
- Outpatient services;
- Residential services;
- Hospital inpatient care;
- Aftercare and post-discharge services;
- Medication assisted treatment and medication management; and
- Recovery support.¹²

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

- Prevention services;
- Home-based services;
- School-based services;
- Family therapy;
- Family support;
- Respite services;
- Outpatient treatment;
- Crisis stabilization;
- Therapeutic foster care;
- Residential treatment;
- Inpatient hospitalization;
- Case management;
- Services for victims of sex offenses;
- Transitional services; and
- Trauma-informed services for children who have suffered sexual exploitation.¹³

The DCF and ME Contracts

The DCF has a number of statutory duties with respect to overseeing and contracting with MEs. Specifically, the DCF must:

- Contract with organizations to serve as managing entities in accordance with the requirements of this section and conduct a readiness review of any new managing entities before such entities assume their responsibilities.
- Specify data reporting requirements and use of shared data systems;
- Define the priority populations that will benefit from receiving care coordination;
- Support the development and implementation of a coordinated system of care by requiring each provider that receives state funds for behavioral health services through a direct contract with the department to work with the ME in the provider's service area to coordinate the provision of behavioral health services as part of the contract with the DCF;
- Provide technical assistance to the MEs;
- Promote the coordination of behavioral health care and primary care;
- Facilitate coordination between the ME and other payors of behavioral health care;

¹² Section 394.4573(2)(b)2., F.S.

¹³ Section 394.495(4), F.S.

- Develop and provide a unique identifier for clients receiving behavioral health services through the ME to coordinate care;
- Coordinate procedures for the referral and admission of patients to, and the discharge of patients from, treatment facilities and their return to the community;
- Ensure that MEs comply with state and federal laws, rules, regulations, and grant requirements;
- Develop rules for the operations of, and the requirements that shall be met by, the ME, if necessary;
- Periodically review contract and reporting requirements and reduce costly, duplicative, and unnecessary administrative requirements; and
- Collect and publish, and update annually, certain information on the website of each ME.¹⁴

In contracting for services with MEs, the DCF is required to first attempt to contract with not-for-profit, community-based organizations with competence in managing provider networks serving persons with mental health and substance use disorders to serve as MEs.¹⁵ The DCF must issue an invitation to negotiate (ITN) under s. 287.057, F.S., to select an organization to serve as a ME. If the DCF receives fewer than two responsive bids to the solicitation, the DCF is required to reissue the solicitation and managed behavioral health organizations¹⁶ are then eligible to bid and be awarded a contract.¹⁷

If the DCF issues an ITN as described above, the DCF must consider, at a minimum, the following factors:

- Experience serving persons with mental health and substance use disorders;
- Established community partnerships with behavioral health care providers;
- Demonstrated organizational capabilities for network management functions;
- Capability to coordinate behavioral health services with primary care services; and
- Willingness to provide recovery-oriented services and systems of care and work collaboratively with persons with mental health and substance use disorders and their families in designing such systems and delivering such services.¹⁸

The DCF's contracts with MEs must support efficient and effective administration of the behavioral health system and ensure accountability for performance.¹⁹ A contractor serving as a ME must operate under the same data reporting, administrative, and administrative rate requirements, regardless of whether it is a for-profit or not-for-profit entity.²⁰ The contract must designate the geographic area that will be served by the ME, which area must be of sufficient size in population, funding, and services to allow for flexibility and efficiency.²¹ The contract must also require that, when there is a change in the ME in a geographic area, the ME must work

¹⁴ Section 394.9082(3), F.S.

¹⁵ Section 394.9082(4)(a), F.S.

¹⁶ Section 394.9082(2)(d), F.S., defines a "managed behavioral health organization" to mean "a Medicaid managed care organization currently under contract with the statewide Medicaid managed medical assistance program in this state pursuant to part IV of ch. 409, F.S., including a managed care organization operating as a behavioral health specialty plan."

¹⁷ Section 394.9082(4)(b), F.S.

¹⁸ Section 394.9082(4)(e), F.S.

¹⁹ Section 394.9082(4)(f), F.S.

²⁰ Section 394.9082(4)(g), F.S.

²¹ Section 394.9082(4)(h), F.S.

with the DCF to develop and implement a transition plan that ensures continuity of care for patients receiving behavioral health services.²²

Current law provides that by June 30, 2019, if all other contract requirements and performance standards are met and the DCF determines that an ME under contract as of July 1, 2016, has received network accreditation, the DCF may continue its contract with the ME for up to, but not exceeding, 5 years, including any and all renewals and extensions.²³ Thereafter, the DCF must issue a competitive solicitation.²⁴

Among the seven current contracts between the DCF and the MEs, two expire in June 2024 and are not eligible for additional renewals.²⁵ The remaining five ME contracts expire June 2023, and they are in the process of receiving a final one-year renewal in anticipation of a competitive solicitation, pursuant to current standards in statute.²⁶

Duties of MEs

MEs are required to conduct a community behavioral health care needs assessment every three years in the geographic area served by the respective ME which identifies needs by sub region.²⁷ The assessment must also include a list and descriptions of any gaps in the arrays of services for children or adolescents identified pursuant to s. 394.4955, F.S., and recommendations for addressing such gaps.²⁸ The ME must provide the needs assessment to the DCF.²⁹ MEs must also work collaboratively with public receiving facilities and licensed housing providers to establish a network of licensed housing resources for mental health consumers that will prevent and reduce readmissions to public receiving facilities.³⁰

ME Duties: Enhancement Plans and Acute Care Services Data

MEs are required to develop and submit to the DCF a description of strategies for enhancing services and addressing three to five priority needs in the ME's service area.³¹ The planning process sponsored by the ME must include consumers and their families, community-based care lead agencies, local governments, law enforcement agencies, service providers, community partners and other stakeholders.³² Each strategy must be described in detail and accompanied by an implementation plan that specifies action steps, identifies responsible parties, and delineates specific services that would be purchased, projected costs, the projected number of individuals that would be served, and the estimated benefits of the services.³³ All or parts of these

²² Section 394.9082(4)(i), F.S.

²³ Section 394.9082(4)(j), F.S.

²⁴ *Id.*

²⁵ The DCF, *Agency Analysis of SB 1016*, p. 2. (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as "The DCF Analysis").

²⁶ *Id.*

²⁷ Section 394.9082(5)(b), F.S.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 394.9082(5)(l), F.S.

³¹ Section 394.9082(8), F.S.

³² *Id.*

³³ *Id.*

enhancement plans may be included in the DCF's annual budget requests submitted to the Legislature.³⁴

The DCF must also develop, implement, and maintain standards under which an ME must collect utilization data from all public receiving facilities situated within its geographical service area and all detoxification and addictions receiving facilities under contract with the ME.³⁵

Receiving and Treatment Facilities

The DCF is authorized to designate and monitor receiving facilities, treatment facilities, and receiving systems and may suspend or withdraw such designations for failure to comply with Florida law.³⁶ Unless specifically designated by the DCF, facilities are not permitted to hold or treat involuntary patients experiencing a mental health or substance use disorder crisis.³⁷ The DCF has authority to designate any community-based facility as a receiving facility.³⁸

The DCF may also specifically designate any state-owned, state-operated, or state-supported facility as a state treatment facility.³⁹ The DCF can designate any other facility, including private and federal facilities, as either a receiving facility or a treatment facility provided that the governing board or authority of such facility agrees to the designation.⁴⁰ Private facilities designated as receiving and treatment facilities by the DCF may provide examination and treatment of involuntary patients, as well as voluntary patients.⁴¹

III. Effect of Proposed Changes:

The bill removes a requirement for MEs to lead the development of a plan that promotes the development and effective implementation of a coordinated system of behavioral health care serving children and adolescents throughout the state. The bill expands the responsibility of MEs from planning the system of care to also leading the implementation of the system.

The bill also requires the DCF, as part of its duties related to the MEs, to complete an analysis of the use of funding designations and contract deliverables with the MEs every three years.

The bill permits, rather than requires, the DCF to issue an invitation to negotiate (ITN) to select organizations to serve as MEs if the DCF does not receive two responsive bids. As under current law, managed behavioral health organizations will be eligible to bid and be awarded a contract.

The bill requires the DCF, in consultation with ME representatives, to review the three year needs assessments performed by the MEs for inclusion in the DCF's LBR. The bill also requires the MEs to collaborate with county emergency operation centers to identify organizations that ensure access to, and coordinate delivery of, behavioral health services to responders and

³⁴ *Id.*

³⁵ Section 394.9082(10), F.S.

³⁶ Section 394.461, F.S.

³⁷ *Id.*

³⁸ Section 394.461(1), F.S.

³⁹ Section 394.461(2), F.S.

⁴⁰ Section 394.461(1) and (2), F.S.

⁴¹ Section 394.461(3), F.S.

survivors and survivor's family members of a public emergency as critical public health infrastructure.

The bill requires MEs to develop and submit needs enhancement plans to the DCF by June 1 of each year, rather than September 1. The bill also requires, rather than permits as in current law, the DCF to consider enhancement plans submitted by the MEs in the DCF's LBR.

The bill specifies that the MEs collect acute care services utilization data only on contracted public receiving facilities situated within the respective geographic region of each ME.

The bill makes a number of conforming changes and deletes obsolete language relating to deadlines for ME contract requirements.

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:

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 394.494, 394.4955, and 394.9082 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Committee Substitute by Children, Families, and Elder Affairs on April 4, 2023:

The Committee Substitute:

- Removes language allowing managing entities (MEs) develop and implement the state's coordinated system of behavioral healthcare.
- Removes the sections of the bill repealing ss. 394.74, 394.75, and 394.76, F.S., and all conforming changes and cross-references related to such repeals.
- Removes the following requirements for the DCF:
- Work with the MEs and allow MEs to have direct input when reviewing expenditures to determine funding of appropriate services and reduce administrative burdens.
- Complete a review of all reports submitted by MEs for the purpose of reducing administrative burdens by identifying obsolete, duplicative, and uninformative reports.
- Removes a modification to the statutory definition of 'managing entity' which would have clarified that MEs do not provide therapeutic services and are eligible to receive federal block grant funding.
- Removes the ability for the DCF to renew ME contract requirements beyond the statutory limit of 5 years if the ME meets its contractual and performance requirements.
-
- Requires the DCF to complete an analysis of the use of funding designations and contract deliverables with the MEs every three years.

B. Amendments:

None.



175230

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 65 - 334
and insert:

Section 3. Paragraphs (b) and (j) of subsection (4), paragraph (b) of subsection (5), paragraph (b) of subsection (6), and subsections (8) and (10) of section 394.9082, Florida Statutes, are amended, and paragraph (n) is added to subsection (3) and paragraph (v) is added to subsection (5) of that section, to read:



175230

394.9082 Behavioral health managing entities.—

(3) DEPARTMENT DUTIES.—The department shall:

(n) Complete an analysis of the use of funding designations and contract deliverables with the managing entities every 3 years.

(4) CONTRACT WITH MANAGING ENTITIES.—

(b) The department shall issue an invitation to negotiate under s. 287.057 to select an organization to serve as a managing entity. If the department receives fewer than two responsive bids to the solicitation, the department may ~~shall~~ reissue the solicitation and managed behavioral health organizations shall be eligible to bid and be awarded a contract.

(j) ~~By June 30, 2019,~~ If ~~all other~~ contract requirements and performance standards are met and the department determines that a managing entity under contract as of July 1, 2016, has received network accreditation pursuant to subsection (6), the department may continue its contract with the managing entity for up to, but not exceeding, 5 years, including any and all renewals and extensions. Thereafter, the department must issue a competitive solicitation pursuant to paragraph (b).

(5) MANAGING ENTITY DUTIES.—A managing entity shall:

(b) Conduct a community behavioral health care needs assessment every 3 years in the geographic area served by the managing entity which identifies needs by subregion. The process for conducting the needs assessment shall include an opportunity for public participation. The assessment shall include, at a minimum, the information the department needs for its annual report to the Governor and Legislature pursuant to s. 394.4573.



175230

The assessment shall also include a list and descriptions of any gaps in the arrays of services for children or adolescents identified pursuant to s. 394.4955 and recommendations for addressing such gaps. The managing entity shall provide the needs assessment to the department. The department, in consultation with the managing entities, shall review such assessments for inclusion in the department's legislative budget request.

(v) Collaborate with county emergency operation centers to identify contracted provider organizations that are deemed essential for critical public health infrastructure.

(6) NETWORK ACCREDITATION AND SYSTEMS COORDINATION AGREEMENTS.—

(b) If no accreditations are available or deemed acceptable pursuant to paragraph (a) which address coordination between the provider network and major systems and programs with which the provider network interacts, each managing entity shall enter into memoranda of understanding which details mechanisms for communication and coordination. The managing entity shall enter into such memoranda with any community-based care lead agencies, circuit courts, county courts, sheriffs' offices, offices of the public defender, offices of criminal conflict and civil regional counsel, Medicaid managed medical assistance plans, and homeless coalitions in its service area. ~~Each managing entity under contract on July 1, 2016, shall enter into such memoranda by June 30, 2017, and~~ Each managing entity under contract after July 1, 2016, shall enter into such memoranda within 1 year after its contract execution date.

(8) ENHANCEMENT PLANS.—By June ~~September~~ 1 of each year,



175230

~~beginning in 2017,~~ each managing entity shall develop and submit to the department a description of strategies for enhancing services and addressing three to five priority needs in the service area. The planning process sponsored by the managing entity shall include consumers and their families, community-based care lead agencies, local governments, law enforcement agencies, service providers, community partners and other stakeholders. Each strategy must be described in detail and accompanied by an implementation plan that specifies action steps, identifies responsible parties, and delineates specific services that would be purchased, projected costs, the projected number of individuals that would be served, and the estimated benefits of the services. The department shall consider enhancement plans submitted by the managing entities in the department's legislative budget request ~~All or parts of these enhancement plans may be included in the department's annual budget requests submitted to the Legislature.~~

(10) ACUTE CARE SERVICES UTILIZATION DATABASE.—The department shall develop, implement, and maintain standards under which a managing entity shall collect utilization data from all contracted public receiving facilities situated within its geographical service area and all detoxification and addictions receiving facilities under contract with the managing entity. As used in this subsection, the term "public receiving facility" means an entity that meets the licensure requirements of, and is designated by, the department to operate as a public receiving facility under s. 394.875 and that is operating as a licensed crisis stabilization unit.

(a) The department shall develop standards and protocols to



175230

be used for data collection, storage, transmittal, and analysis. The standards and protocols shall allow for compatibility of data and data transmittal between public receiving facilities, detoxification facilities, addictions receiving facilities, managing entities, and the department for the implementation, and to meet the requirements, of this subsection.

(b) A managing entity shall require providers specified in paragraph (a) to submit data, in real time or at least daily, to the managing entity for:

1. All admissions and discharges of clients receiving public receiving facility services who qualify as indigent, as defined in s. 394.4787.

2. All admissions and discharges of clients receiving substance abuse services in an addictions receiving facility or detoxification facility pursuant to parts IV and V of chapter 397 who qualify as indigent.

3. The current active census of total licensed beds, the number of beds purchased by the department, the number of clients qualifying as indigent occupying those beds, and the total number of unoccupied licensed beds, regardless of funding.

(c) A managing entity shall require providers specified in paragraph (a) to submit data, on a monthly basis, to the managing entity which aggregates the daily data submitted under paragraph (b). The managing entity shall reconcile the data in the monthly submission to the data received by the managing entity under paragraph (b) to check for consistency. If the monthly aggregate data submitted by a provider under this paragraph are inconsistent with the daily data submitted under paragraph (b), the managing entity shall consult with the



175230

provider to make corrections necessary to ensure accurate data.

(d) A managing entity shall require providers specified in paragraph (a) within its provider network to submit data, on an annual basis, to the managing entity which aggregates the data submitted and reconciled under paragraph (c). The managing entity shall reconcile the data in the annual submission to the data received and reconciled by the managing entity under paragraph (c) to check for consistency. If the annual aggregate data submitted by a provider under this paragraph are inconsistent with the data received and reconciled under paragraph (c), the managing entity shall consult with the provider to make corrections necessary to ensure accurate data.

(e) After ensuring the accuracy of data pursuant to paragraphs (c) and (d), the managing entity shall submit the data to the department on a monthly and an annual basis. The department shall create a statewide database for the data described under paragraph (b) and submitted under this paragraph for the purpose of analyzing the use of publicly funded crisis stabilization services and detoxification and addictions receiving services provided on a statewide and an individual provider basis.

(f) The department shall post on its website, by facility, the data collected pursuant to this subsection and update such posting monthly.

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

And the title is amended as follows:

Delete lines 8 - 35
and insert:



175230

amending s. 394.9082, F.S.; revising the duties of the
department; revising department requirements for, and
authorizations relating to, contracting with managing
entities; requiring the department to review
assessments, in consultation with the managing
entities, for inclusion in the department's
legislative budget request; revising managing entity
duties; revising the timeframe for annually submitting
enhancement plans; revising requirements relating to
the acute care services utilization database;
providing an

By Senator Burton

12-01375A-23

20231384__

A bill to be entitled

An act relating to legal proceedings for children; amending s. 39.001, F.S.; revising the purposes of ch. 39, F.S.; revising the entities involved in the state plan for the promotion of adoption, support of adoptive families, and prevention of abuse, abandonment, and neglect of children; amending s. 39.00145, F.S.; clarifying the persons who may have access to records concerning a child; amending s. 39.00146, F.S.; revising the general information included on a child's face sheet; amending s. 39.0016, F.S.; revising requirements for agency agreements between the Department of Children and Families and district school boards; amending s. 39.01, F.S.; defining terms and revising definitions; amending s. 39.013, F.S.; requiring the court to appoint a guardian ad litem at the earliest possible time to represent a child for specified proceedings; authorizing the court to appoint an attorney ad litem under certain circumstances; amending s. 39.01305, F.S.; revising legislative findings; authorizing the court to appoint an attorney ad litem under certain circumstances; deleting the definition of the term "dependent child"; deleting the requirement that an attorney be appointed for a dependent child under certain circumstances; requiring a court order appointing an attorney ad litem to be in writing; requiring the court to discharge an attorney ad litem under certain circumstances; authorizing an attorney

12-01375A-23

20231384__

ad litem to arrange for supplemental or separate
counsel under certain circumstances; conforming
provisions to changes made in the act; deleting a
requirement that the department adopt certain
procedures; deleting the department's authorization to
adopt certain rules; deleting construction; providing
applicability; amending s. 39.0132, F.S.; revising
persons who have access to inspect and copy certain
records; amending s. 39.0136, F.S.; revising persons
who may request a continuance in certain
circumstances; amending s. 39.0139, F.S.; conforming
provisions to changes made by the act; amending s.
39.202, F.S.; clarifying provisions governing persons
who are granted access to certain records; conforming
a cross-reference; amending s. 39.302, F.S.;
conforming cross-references; amending s. 39.402, F.S.;
conforming provisions to changes made by the act;
deleting provisions relating to a child's consent to
certain time limitations; amending s. 39.4022, F.S.;
revising participants that must be invited to a
multidisciplinary team staffing; conforming provisions
to changes made by the act; amending ss. 39.4023 and
39.407, F.S.; conforming provisions to changes made by
the act; amending s. 39.4085, F.S.; revising
legislative findings; conforming provisions to changes
made the act; amending s. 39.521, F.S.; conforming a
cross-reference; amending s. 39.522, F.S.; conforming
provisions to changes made by the act; amending s.
39.6012, F.S.; conforming a cross-reference; modifying

12-01375A-23

20231384__

requirements for the case plans for children in out-of-home placements; creating s. 39.6036, F.S.; providing legislative findings and intent; requiring the Statewide Guardian ad Litem Office to work with certain youth to identify at least one supportive adult to enter into a specified formal agreement; requiring the Statewide Guardian ad Litem Office to ensure that such agreement is documented in the youth's court file; requiring the Statewide Guardian ad Litem Office to work in coordination with the Office of Continuing Care for a specified purpose; requiring that any agreement with a supportive adult be documented in the youth's court file; amending s. 39.621, F.S.; conforming provisions to changes made the act; amending s. 39.6241, F.S.; requiring a guardian ad litem to advise the court regarding certain information and ensure a certain agreement has been filed with the court; amending s. 39.701, F.S.; conforming changes made by the act; requiring the court to give a guardian ad litem the opportunity to address the court during judicial review hearings for children 16 and 17 years of age; revising the determinations that must be made at the final judicial review hearing before a child reaches 18 years of age; requiring the court to determine whether a child has entered into a formal agreement for an ongoing relationship with a supportive adult during certain judicial review hearings; requiring the court to inquire of a young adult transitioning from foster

12-01375A-23

20231384__

care to independent living regarding his or her relationship with a supportive adult during certain judicial review hearings; amending s. 39.801, F.S.; conforming provisions to changes made by the act; amending s. 39.807, F.S.; revising a guardian ad litem's responsibilities and authorities; deleting provisions relating to a guardian ad litem's bond and service of pleadings and papers; amending s. 39.808, F.S.; conforming provisions to changes made by the act; amending s. 39.815, F.S.; conforming provisions to changes made by the act; repealing s. 39.820, F.S., relating to definitions of the terms "guardian ad litem" and "guardian advocate"; amending s. 39.821, F.S.; making technical changes; amending s. 39.822, F.S.; specifying that a guardian ad litem is a fiduciary; requiring a guardian ad litem to provide certain representation; specifying the responsibilities of a guardian ad litem; requiring that guardians ad litem have certain access to the children they represent; specifying that a guardian ad litem is not required to post bond but must file an acceptance of the appointment; specifying that a guardian ad litem is entitled to receive service of certain pleadings and papers; clarifying a provision relating to parental reimbursement of guardian ad litem representation; amending s. 39.827, F.S.; revising persons authorized to inspect and copy certain records; amending s. 39.8296, F.S.; making technical changes; revising the duties and appointment

12-01375A-23

20231384__

of the executive director of the Statewide Guardian ad Litem Office; revising the office's responsibilities; amending s. 39.8297, F.S.; conforming provisions to changes made by the act; amending s. 39.8298, F.S.; authorizing the Statewide Guardian ad Litem Office to create or designate local direct-support organizations; authorizing the executive director to designate such organizations; conforming provisions to changes made by the act; requiring certain moneys to be held in a separate depository account; amending ss. 119.071, 322.09, 394.495, 627.746, 768.28, 934.255, and 960.065, F.S.; conforming cross-references; creating s. 1009.898, F.S.; authorizing the Pathway to Prosperity program to provide certain grants to youth and young adults aging out of foster care; specifying that grants remain available for a certain timeframe for youth aging out of foster care who have reunited with parents; providing a directive to the Division of Law Revision; providing an effective date.

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

Section 1. Paragraph (j) of subsection (1) and paragraph (a) of subsection (10) of section 39.001, Florida Statutes, are amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

(j) To ensure that, when reunification or adoption is not

12-01375A-23

20231384__

possible, the child will be prepared for alternative permanency goals or placements, to include, but not be limited to, long-term foster care, independent living, custody to a relative on a permanent basis with or without legal guardianship, or custody to a foster parent or legal custodian on a permanent basis with or without legal guardianship. Permanency for youth transitioning from foster care to independent living includes naturally occurring, lifelong, kin-like connections between the youth and a supportive adult.

(10) PLAN FOR COMPREHENSIVE APPROACH.—

(a) The office shall develop a state plan for the promotion of adoption, support of adoptive families, and prevention of abuse, abandonment, and neglect of children. The Department of Children and Families, the Department of Corrections, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Department of Law Enforcement, the Statewide Guardian ad Litem Office, and the Agency for Persons with Disabilities shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; circuit guardian ad litem offices ~~programs for children under the circuit court~~; the school boards of the local school districts; the Florida local advocacy councils; community-based care lead agencies; private or public organizations or programs with recognized expertise in working with child abuse prevention

12-01375A-23

20231384__

175 programs for children and families; private or public
176 organizations or programs with recognized expertise in working
177 with children who are sexually abused, physically abused,
178 emotionally abused, abandoned, or neglected and with expertise
179 in working with the families of such children; private or public
180 programs or organizations with expertise in maternal and infant
181 health care; multidisciplinary Child Protection Teams; child day
182 care centers; law enforcement agencies; and the circuit courts,
183 ~~when guardian ad litem programs are not available in the local~~
184 ~~area.~~ The state plan to be provided to the Legislature and the
185 Governor shall include, as a minimum, the information required
186 of the various groups in paragraph (b).

187 Section 2. Subsection (2) of section 39.00145, Florida
188 Statutes, is amended to read:

189 39.00145 Records concerning children.—

190 (2) Notwithstanding any other provision of this chapter,
191 all records in a child's case record must be made available for
192 inspection, upon request, to the child who is the subject of the
193 case record and to the child's caregiver, guardian ad litem, or
194 attorney ad litem, if appointed.

195 (a) A complete and accurate copy of any record in a child's
196 case record must be provided, upon request and at no cost, to
197 the child who is the subject of the case record and to the
198 child's caregiver, guardian ad litem, or attorney ad litem, if
199 appointed.

200 (b) The department shall release the information in a
201 manner and setting that are appropriate to the age and maturity
202 of the child and the nature of the information being released,
203 which may include the release of information in a therapeutic

12-01375A-23

20231384__

204 setting, if appropriate. This paragraph does not deny the child
205 access to his or her records.

206 (c) If a child or the child's caregiver, guardian ad litem,
207 or attorney ad litem, if appointed, requests access to the
208 child's case record, any person or entity that fails to provide
209 any record in the case record under assertion of a claim of
210 exemption from the public records requirements of chapter 119,
211 or fails to provide access within a reasonable time, is subject
212 to sanctions and penalties under s. 119.10.

213 (d) For the purposes of this subsection, the term
214 "caregiver" is limited to parents, legal custodians, permanent
215 guardians, or foster parents; employees of a residential home,
216 institution, facility, or agency at which the child resides; and
217 other individuals legally responsible for a child's welfare in a
218 residential setting.

219 Section 3. Paragraph (a) of subsection (2) of section
220 39.00146, Florida Statutes, is amended to read:

221 39.00146 Case record face sheet.—

222 (2) The case record of every child under the supervision or
223 in the custody of the department or the department's authorized
224 agents, including community-based care lead agencies and their
225 subcontracted providers, must include a face sheet containing
226 relevant information about the child and his or her case,
227 including at least all of the following:

228 (a) General case information, including, but not limited
229 to:

- 230 1. The child's name and date of birth;
- 231 2. The current county of residence and the county of
232 residence at the time of the referral;

12-01375A-23

20231384__

233 3. The reason for the referral and any family safety
234 concerns;

235 4. The personal identifying information of the parents or
236 legal custodians who had custody of the child at the time of the
237 referral, including name, date of birth, and county of
238 residence;

239 5. The date of removal from the home; and

240 6. The name and contact information of the attorney or
241 attorneys assigned to the case in all capacities, including the
242 attorney or attorneys that represent the department and the
243 parents, and the name and contact information for the guardian
244 ad litem, ~~if one has been appointed.~~

245 Section 4. Paragraph (b) of subsection (2) of section
246 39.0016, Florida Statutes, is amended to read:

247 39.0016 Education of abused, neglected, and abandoned
248 children; agency agreements; children having or suspected of
249 having a disability.—

250 (2) AGENCY AGREEMENTS.—

251 (b) The department shall enter into agreements with
252 district school boards or other local educational entities
253 regarding education and related services for children known to
254 the department who are of school age and children known to the
255 department who are younger than school age but who would
256 otherwise qualify for services from the district school board.
257 Such agreements shall include, but are not limited to:

258 1. A requirement that the department shall:

259 a. Ensure that children known to the department are
260 enrolled in school or in the best educational setting that meets
261 the needs of the child. The agreement shall provide for

12-01375A-23

20231384__

continuing the enrollment of a child known to the department at the school of origin when possible if it is in the best interest of the child, with the goal of minimal disruption of education.

b. Notify the school and school district in which a child known to the department is enrolled of the name and phone number of the child known to the department caregiver and caseworker for child safety purposes.

c. Establish a protocol for the department to share information about a child known to the department with the school district, consistent with the Family Educational Rights and Privacy Act, since the sharing of information will assist each agency in obtaining education and related services for the benefit of the child. The protocol must require the district school boards or other local educational entities to access the department's Florida Safe Families Network to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g.

d. Notify the school district of the department's case planning for a child known to the department, both at the time of plan development and plan review. Within the plan development or review process, the school district may provide information regarding the child known to the department if the school district deems it desirable and appropriate.

e. Show no prejudice against a caregiver who desires to educate at home a child placed in his or her home through the child welfare system.

2. A requirement that the district school board shall:

a. Provide the department with a general listing of the

12-01375A-23

20231384__

services and information available from the district school board to facilitate educational access for a child known to the department.

b. Identify all educational and other services provided by the school and school district which the school district believes are reasonably necessary to meet the educational needs of a child known to the department.

c. Determine whether transportation is available for a child known to the department when such transportation will avoid a change in school assignment due to a change in residential placement. Recognizing that continued enrollment in the same school throughout the time the child known to the department is in out-of-home care is preferable unless enrollment in the same school would be unsafe or otherwise impractical, the department, the district school board, and the Department of Education shall assess the availability of federal, charitable, or grant funding for such transportation.

d. Provide individualized student intervention or an individual educational plan when a determination has been made through legally appropriate criteria that intervention services are required. The intervention or individual educational plan must include strategies to enable the child known to the department to maximize the attainment of educational goals.

3. A requirement that the department and the district school board shall cooperate in accessing the services and supports needed for a child known to the department who has or is suspected of having a disability to receive an appropriate education consistent with the Individuals with Disabilities Education Act and state implementing laws, rules, and

12-01375A-23

20231384__

assurances. Coordination of services for a child known to the department who has or is suspected of having a disability may include:

a. Referral for screening.

b. Sharing of evaluations between the school district and the department where appropriate.

c. Provision of education and related services appropriate for the needs and abilities of the child known to the department.

d. Coordination of services and plans between the school and the residential setting to avoid duplication or conflicting service plans.

e. Appointment of a surrogate parent, consistent with the Individuals with Disabilities Education Act and pursuant to subsection (3), for educational purposes for a child known to the department who qualifies.

f. For each child known to the department 14 years of age and older, transition planning by the department and all providers, including the department's independent living program staff and the guardian ad litem, to meet the requirements of the local school district for educational purposes.

Section 5. Present subsections (8) through (30) of section 39.01, Florida Statutes, are redesignated as subsections (9) through (31), respectively, present subsections (31) through (87) of that section are redesignated as subsections (34) through (90), respectively, new subsections (8), (32) and (33) are added to that section, and present subsections (9), (36), and (58) of that section are amended, to read:

39.01 Definitions.—When used in this chapter, unless the

12-01375A-23

20231384__

context otherwise requires:

(8) "Attorney ad litem" means an attorney appointed by the court to represent the child in a dependency case who has an attorney-client relationship with the child under the rules regulating The Florida Bar.

(10)~~(9)~~ "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (57)~~(54)~~.

(32) "Guardian ad litem" means an individual or entity that is a fiduciary appointed by the court to represent a child in any civil, criminal, or administrative proceeding to which the child is a party, including, but not limited to, this chapter, who uses a best interests standard for decisionmaking and advocacy. For purposes of this chapter, a guardian ad litem includes, but is not limited to, the following: the Statewide Guardian ad Litem Office, which includes all circuit guardian ad litem offices and the duly certified volunteers, staff, and attorneys assigned by the Statewide Guardian ad Litem Office to represent children; a court-appointed attorney; or a responsible adult who is appointed by the court. A guardian ad litem is a party to the judicial proceeding as a representative of the child, and serves until the jurisdiction of the court over the child terminates or until excused by the court.

(33) "Guardian advocate" means a person appointed by the court to act on behalf of a drug dependent newborn under Part XI.

(39)~~(36)~~ "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which

12-01375A-23

20231384__

the person allegedly perpetrating the child abuse or neglect is an employee of a public or private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's welfare as defined in subsection (57) ~~(54)~~.

(61) ~~(58)~~ "Party" means the parent or parents of the child, the petitioner, the department, the guardian ad litem ~~or the representative of the guardian ad litem program when the program has been appointed~~, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.

Section 6. Section 39.013, Florida Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel; guardian ad litem.—

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in this chapter shall be conducted according to the Florida Rules of Juvenile Procedure unless otherwise provided by law. Parents must be informed by the court of their right to counsel in dependency proceedings at each stage of the dependency proceedings. Parents who are unable to afford counsel must be appointed counsel.

(2) The circuit court has exclusive original jurisdiction of all proceedings under this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, and of the adoption of

12-01375A-23

20231384__

children whose parental rights have been terminated under this chapter. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition, or a petition for an injunction to prevent child abuse issued pursuant to s. 39.504, is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, caregiver, or some other person, or was not in the physical or legal custody of any person when the event or condition occurred that brought the child to the attention of the court. When the court obtains jurisdiction of any child who has been found to be dependent, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 21 years of age, or 22 years of age if the child has a disability, with the following exceptions:

(a) If a young adult chooses to leave foster care upon reaching 18 years of age.

(b) If a young adult does not meet the eligibility requirements to remain in foster care under s. 39.6251 or chooses to leave care under that section.

(c) If a young adult petitions the court at any time before his or her 19th birthday requesting the court's continued jurisdiction, the juvenile court may retain jurisdiction under this chapter for a period not to exceed 1 year following the young adult's 18th birthday for the purpose of determining whether appropriate services that were required to be provided to the young adult before reaching 18 years of age have been

12-01375A-23

20231384__

provided.

(d) If a petition for special immigrant juvenile status and an application for adjustment of status have been filed on behalf of a foster child and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction over the dependency case solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings for the child shall be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction terminates upon the final decision of the federal authorities. Retention of jurisdiction in this instance does not affect the services available to a young adult under s. 409.1451. The court may not retain jurisdiction of the case after the immigrant child's 22nd birthday.

(3) When a child is under the jurisdiction of the circuit court pursuant to this chapter, the circuit court assigned to handle dependency matters may exercise the general and equitable jurisdiction over guardianship proceedings under chapter 744 and proceedings for temporary custody of minor children by extended family under chapter 751.

(4) Orders entered pursuant to this chapter which affect the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for a minor child shall take precedence over other orders entered in civil actions or proceedings. However, if the court has terminated jurisdiction, the order may be subsequently modified by a court of competent jurisdiction in any other civil action or proceeding affecting placement of, access to, parental time with, adoption of, or

12-01375A-23

20231384__

parental rights and responsibilities for the same minor child.

(5) The court shall expedite the resolution of the placement issue in cases involving a child who has been removed from the parent and placed in an out-of-home placement.

(6) The court shall expedite the judicial handling of all cases when the child has been removed from the parent and placed in an out-of-home placement.

(7) Children removed from their homes shall be provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement.

(8) For any child who remains in the custody of the department, the court shall, within the month which constitutes the beginning of the 6-month period before the child's 18th birthday, hold a hearing to review the progress of the child while in the custody of the department.

(9)(a) At each stage of the proceedings under this chapter, the court shall advise the parents of the right to counsel. The court shall appoint counsel for indigent parents. The court shall ascertain whether the right to counsel is understood. When right to counsel is waived, the court shall determine whether the waiver is knowing and intelligent. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for indigent parents or the waiver of counsel by nonindigent parents.

(b) Once counsel has entered an appearance or been appointed by the court to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to

12-01375A-23

20231384__

494 have new counsel retained or appointed for the remainder of the
495 proceedings.

496 (c)1. A waiver of counsel may not be accepted if it appears
497 that the parent is unable to make an intelligent and
498 understanding choice because of mental condition, age,
499 education, experience, the nature or complexity of the case, or
500 other factors.

501 2. A waiver of counsel made in court must be of record.

502 3. If a waiver of counsel is accepted at any hearing or
503 proceeding, the offer of assistance of counsel must be renewed
504 by the court at each subsequent stage of the proceedings at
505 which the parent appears without counsel.

506 (d) This subsection does not apply to any parent who has
507 voluntarily executed a written surrender of the child and
508 consents to the entry of a court order terminating parental
509 rights.

510 (10) Court-appointed counsel representing indigent parents
511 at shelter hearings shall be paid from state funds appropriated
512 by general law.

513 (11) The court shall appoint a guardian ad litem at the
514 earliest possible time to represent the child throughout the
515 proceedings, including any appeals ~~The court shall encourage the~~
516 ~~Statewide Guardian Ad Litem Office to provide greater~~
517 ~~representation to those children who are within 1 year of~~
518 ~~transferring out of foster care.~~

519 (12) The department shall be represented by counsel in each
520 dependency proceeding. Through its attorneys, the department
521 shall make recommendations to the court on issues before the
522 court and may support its recommendations through testimony and

12-01375A-23

20231384__

other evidence by its own employees, employees of sheriff's offices providing child protection services, employees of its contractors, employees of its contractor's subcontractors, or from any other relevant source.

(13) The court may appoint an attorney ad litem for a child if the court believes the child is in need of such representation and determines the child has a rational and factual understanding of the proceedings and sufficient present ability to consult with a lawyer with a reasonable degree of rational understanding.

Section 7. Section 39.01305, Florida Statutes, is amended to read:

39.01305 Appointment of an attorney ad litem for a dependent child ~~with certain special needs.-~~

~~(1)(a) The Legislature finds that:~~

~~1. all children in proceedings under this chapter have important interests at stake, such as health, safety, and well-being and the need to obtain permanency. While all children are represented by the Statewide Guardian ad Litem Office using a best interest standard of decisionmaking and advocacy in proceedings under this chapter, some children may also need representation by an attorney at litem~~

~~2. A dependent child who has certain special needs has a particular need for an attorney to represent the dependent child in proceedings under this chapter, as well as in fair hearings and appellate proceedings, so that the attorney may address the child's medical and related needs and the services and supports necessary for the child to live successfully in the community.~~

~~(b) The Legislature recognizes the existence of~~

12-01375A-23

20231384__

~~organizations that provide attorney representation to children in certain jurisdictions throughout the state. Further, the statewide Guardian Ad Litem Program provides best interest representation for dependent children in every jurisdiction in accordance with state and federal law. The Legislature, therefore, does not intend that funding provided for representation under this section supplant proven and existing organizations representing children. Instead, the Legislature intends that funding provided for representation under this section be an additional resource for the representation of more children in these jurisdictions, to the extent necessary to meet the requirements of this chapter, with the cooperation of existing local organizations or through the expansion of those organizations. The Legislature encourages the expansion of pro bono representation for children. This section is not intended to limit the ability of a pro bono attorney to appear on behalf of a child.~~

(2) The court may appoint an attorney ad litem for a child if the court believes the child is in need of such representation and determines the child has a rational and factual understanding of the proceedings and sufficient present ability to consult with a lawyer with a reasonable degree of rational understanding ~~As used in this section, the term "dependent child" means a child who is subject to any proceeding under this chapter. The term does not require that a child be adjudicated dependent for purposes of this section.~~

~~(3) An attorney shall be appointed for a dependent child who:~~

~~(a) Resides in a skilled nursing facility or is being~~

12-01375A-23

20231384__

~~considered for placement in a skilled nursing home;~~

~~(b) Is prescribed a psychotropic medication but declines assent to the psychotropic medication;~~

~~(c) Has a diagnosis of a developmental disability as defined in s. 393.063;~~

~~(d) Is being placed in a residential treatment center or being considered for placement in a residential treatment center; or~~

~~(e) Is a victim of human trafficking as defined in s. 787.06(2)(d).~~

~~(4)~~ (a) Before a court may appoint an attorney ad litem, who may be compensated pursuant to this section, the court must request a recommendation from the Statewide Guardian ad Litem Office for an attorney who is willing to represent a child without additional compensation. If such an attorney is available within 15 days after the court's request, the court must appoint that attorney. However, the court may appoint a compensated attorney within the 15-day period if the Statewide Guardian ad Litem Office informs the court that it will not be able to recommend an attorney within that time period.

(b) A court order appointing an attorney ad litem under this section must be in writing ~~After an attorney is appointed, the appointment continues in effect until the attorney is allowed to withdraw or is discharged by the court or until the case is dismissed. The court must discharge an attorney ad litem who is appointed under this section if the need for the representation is resolved to represent the child shall provide the complete range of legal services, from the removal from home or from the initial appointment through all available appellate~~

12-01375A-23

20231384__

proceedings. With the permission of the court, the attorney ad litem ~~for the dependent child~~ may arrange for supplemental or separate counsel to represent the child in appellate proceedings. ~~A court order appointing an attorney under this section must be in writing.~~

(4)~~(5)~~ Unless the attorney ad litem has agreed to provide pro bono services, an appointed attorney ad litem or organization must be adequately compensated. All appointed attorneys ad litem and organizations, including pro bono attorneys, must be provided with access to funding for expert witnesses, depositions, and other due process costs of litigation. Payment of attorney fees and case-related due process costs are subject to appropriations and review by the Justice Administrative Commission for reasonableness. The Justice Administrative Commission shall contract with attorneys ad litem appointed by the court. Attorney fees may not exceed \$1,000 per child per year.

~~(6) The department shall develop procedures to identify a dependent child who has a special need specified under subsection (3) and to request that a court appoint an attorney for the child.~~

~~(7) The department may adopt rules to administer this section.~~

~~(8) This section does not limit the authority of the court to appoint an attorney for a dependent child in a proceeding under this chapter.~~

(5)~~(9)~~ Implementation of this section is subject to appropriations expressly made for that purpose.

Section 8. The amendments made by this act to s. 39.01305,

12-01375A-23

20231384__

Florida Statutes, apply only to attorney ad litem appointments made on or after July 1, 2023.

Section 9. Subsection (3) of section 39.0132, Florida Statutes, is amended to read:

39.0132 Oaths, records, and confidential information.—

(3) The clerk shall keep all court records required by this chapter separate from other records of the circuit court. All court records required by this chapter shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, subject to the provisions of s. 63.162, a child, ~~and~~ the parents of the child and their attorneys, the guardian ad litem, criminal conflict and civil regional counsels, law enforcement agencies, ~~and~~ the department and its designees, and the attorney ad litem, if one has been appointed, shall always have the right to inspect and copy any official record pertaining to the child. The Justice Administrative Commission may inspect court dockets required by this chapter as necessary to audit compensation of court-appointed attorneys ad litem. If the docket is insufficient for purposes of the audit, the commission may petition the court for additional documentation as necessary and appropriate. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

Section 10. Paragraph (a) of subsection (3) of section

12-01375A-23

20231384__

39.0136, Florida Statutes, is amended to read:

39.0136 Time limitations; continuances.—

(3) The time limitations in this chapter do not include:

(a) Periods of delay resulting from a continuance granted at the request of the child's counsel or the child's guardian ad litem or attorney ad litem, if appointed, ~~if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child.~~ The court must consider the best interests of the child when determining periods of delay under this section.

Section 11. Paragraphs (a) and (b) of subsection (4) of section 39.0139, Florida Statutes, are amended to read:

39.0139 Visitation or other contact; restrictions.—

(4) HEARINGS.—A person who meets any of the criteria set forth in paragraph (3)(a) who seeks to begin or resume contact with the child victim shall have the right to an evidentiary hearing to determine whether contact is appropriate.

(a) Prior to the hearing, the court shall appoint ~~an attorney ad litem or~~ a guardian ad litem for the child if one has not already been appointed. The guardian ad litem and any attorney ad litem, if ~~or guardian ad litem~~ appointed, shall have special training in the dynamics of child sexual abuse.

(b) At the hearing, the court may receive and rely upon any relevant and material evidence submitted to the extent of its probative value, including written and oral reports or recommendations from the Child Protection Team, the child's therapist, the child's guardian ad litem, or the child's attorney ad litem, if appointed, even if these reports, recommendations, and evidence may not be admissible under the

12-01375A-23

20231384__

rules of evidence.

Section 12. Paragraphs (d) and (t) of subsection (2) of section 39.202, Florida Statutes, are amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect; exception.—

(2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(d) The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected, ~~and the child, and the guardian ad litem, any attorney ad litem, if appointed, or and their attorneys, including~~ any attorney representing a child in civil or criminal proceedings. This access shall be made available no later than 60 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed child-caring agency as defined in s. 39.01 ~~s. 39.01(41)~~, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

12-01375A-23

20231384__

Section 13. Subsection (1) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(39) or (57) ~~s. 39.01(36) or (54)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.101(2) and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 business days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of

12-01375A-23

20231384__

the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 14. Paragraphs (b) and (c) of subsection (11) and paragraph (a) of subsection (14) of section 39.402, Florida Statutes, are amended to read:

39.402 Placement in a shelter.—

(11)

(b) The court shall request that the parents consent to provide access to the child's medical records and provide information to the court, the department or its contract agencies, and any the guardian ad litem, and the or attorney ad litem for the child, if appointed. If a parent is unavailable or unable to consent or withholds consent and the court determines access to the records and information is necessary to provide services to the child, the court shall issue an order granting access. The court may also order the parents to provide all known medical information to the department and to any others granted access under this subsection.

(c) The court shall request that the parents consent to provide access to the child's child care records, early education program records, or other educational records and provide information to the court, the department or its contract agencies, the and any guardian ad litem, and the or attorney ad

12-01375A-23

20231384__

litem for the child, if appointed. If a parent is unavailable or unable to consent or withholds consent and the court determines access to the records and information is necessary to provide services to the child, the court shall issue an order granting access.

(14) The time limitations in this section do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's ~~counsel or the~~ child's guardian ad litem, or attorney ad litem if one has been appointed by the court, ~~or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney or the child's guardian ad litem, if one has been appointed by the court, and the child.~~

Section 15. Paragraphs (a) and (b) of subsection (4) of section 39.4022, Florida Statutes, are amended to read:

39.4022 Multidisciplinary teams; staffings; assessments; report.—

(4) PARTICIPANTS.—

(a) Collaboration among diverse individuals who are part of the child's network is necessary to make the most informed decisions possible for the child. A diverse team is preferable to ensure that the necessary combination of technical skills, cultural knowledge, community resources, and personal relationships is developed and maintained for the child and family. The participants necessary to achieve an appropriately diverse team for a child may vary by child and may include extended family, friends, neighbors, coaches, clergy, coworkers, or others the family identifies as potential sources of support.

1. Each multidisciplinary team staffing must invite the

12-01375A-23

20231384__

following members:

a. The child, unless he or she is not of an age or capacity to participate in the team, and the child's guardian ad litem;

b. The child's family members and other individuals identified by the family as being important to the child, provided that a parent who has a no contact order or injunction, is alleged to have sexually abused the child, or is subject to a termination of parental rights may not participate;

c. The current caregiver, provided the caregiver is not a parent who meets the criteria of one of the exceptions under sub-subparagraph b.;

d. A representative from the department other than the Children's Legal Services attorney, when the department is directly involved in the goal identified by the staffing;

e. A representative from the community-based care lead agency, when the lead agency is directly involved in the goal identified by the staffing;

f. The case manager for the child, or his or her case manager supervisor; and

g. A representative from the Department of Juvenile Justice, if the child is dually involved with both the department and the Department of Juvenile Justice.

2. The multidisciplinary team must make reasonable efforts to have all mandatory invitees attend. However, the multidisciplinary team staffing may not be delayed if the invitees in subparagraph 1. fail to attend after being provided reasonable opportunities.

(b) Based on the particular goal the multidisciplinary team staffing identifies as the purpose of convening the staffing as

12-01375A-23

20231384__

provided under subsection (5), the department or lead agency may also invite to the meeting other professionals, including, but not limited to:

1. A representative from Children's Medical Services;
2. ~~A guardian ad litem, if one is appointed;~~
3. A school personnel representative who has direct contact with the child;
- 3.4. A therapist or other behavioral health professional, if applicable;
- 4.5. A mental health professional with expertise in sibling bonding, if the department or lead agency deems such expert is necessary; or
- 5.6. Other community providers of services to the child or stakeholders, when applicable.

Section 16. Paragraph (d) of subsection (3) and paragraph (c) of subsection (4) of section 39.4023, Florida Statutes, are amended to read:

39.4023 Placement and education transitions; transition plans.—

(3) PLACEMENT TRANSITIONS.—

(d) *Transition planning*.—

1. If the supportive services provided pursuant to paragraph (c) have not been successful to make the maintenance of the placement suitable or if there are other circumstances that require the child to be moved, the department or the community-based care lead agency must convene a multidisciplinary team staffing as required under s. 39.4022 before the child's placement is changed, or within 72 hours of moving the child in an emergency situation, for the purpose of

12-01375A-23

20231384__

developing an appropriate transition plan.

2. A placement change may occur immediately in an emergency situation without convening a multidisciplinary team staffing. However, a multidisciplinary team staffing must be held within 72 hours after the emergency situation arises.

3. The department or the community-based care lead agency must provide written notice of the planned move at least 14 days before the move or within 72 hours after an emergency situation, to the greatest extent possible and consistent with the child's needs and preferences. The notice must include the reason a placement change is necessary. A copy of the notice must be filed with the court and be provided to:

a. The child, unless he or she, due to age or capacity, is unable to comprehend the written notice, which will necessitate the department or lead agency to provide notice in an age-appropriate and capacity-appropriate alternative manner;

b. The child's parents, unless prohibited by court order;

c. The child's out-of-home caregiver;

d. The guardian ad litem, ~~if one is appointed~~;

e. The attorney ad litem for the child, if one is appointed; and

f. The attorney for the department.

4. The transition plan must be developed through cooperation among the persons included in subparagraph 3., and such persons must share any relevant information necessary for its development. Subject to the child's needs and preferences, the transition plan must meet the requirements of s.

409.1415(2)(b)8. and exclude any placement changes that occur between 7 p.m. and 8 a.m.

12-01375A-23

20231384__

5. The department or the community-based care lead agency shall file the transition plan with the court within 48 hours after the creation of such plan and provide a copy of the plan to the persons included in subparagraph 3.

(4) EDUCATION TRANSITIONS.—

(c) *Minimizing school changes.*—

1. Every effort must be made to keep a child in the school of origin if it is in the child's best interest. Any placement decision must include thoughtful consideration of which school a child will attend if a school change is necessary.

2. Members of a multidisciplinary team staffing convened for a purpose other than a school change must determine the child's best interest regarding remaining in the school or program of origin if the child's educational options are affected by any other decision being made by the multidisciplinary team.

3. The determination of whether it is in the child's best interest to remain in the school of origin, and if not, of which school the child will attend in the future, must be made in consultation with the following individuals, including, but not limited to, the child; the parents; the caregiver; the child welfare professional; the guardian ad litem, ~~if appointed~~; the educational surrogate, if appointed; child care and educational staff, including teachers and guidance counselors; and the school district representative or foster care liaison. A multidisciplinary team member may contact any of these individuals in advance of a multidisciplinary team staffing to obtain his or her recommendation. An individual may remotely attend the multidisciplinary team staffing if one of the

12-01375A-23

20231384__

identified goals is related to determining an educational placement. The multidisciplinary team may rely on a report from the child's current school or program district and, if applicable, any other school district being considered for the educational placement if the required school personnel are not available to attend the multidisciplinary team staffing in person or remotely.

4. The multidisciplinary team and the individuals listed in subparagraph 3. must consider, at a minimum, all of the following factors when determining whether remaining in the school or program of origin is in the child's best interest or, if not, when selecting a new school or program:

a. The child's desire to remain in the school or program of origin.

b. The preference of the child's parents or legal guardians.

c. Whether the child has siblings, close friends, or mentors at the school or program of origin.

d. The child's cultural and community connections in the school or program of origin.

e. Whether the child is suspected of having a disability under the Individuals with Disabilities Education Act (IDEA) or s. 504 of the Rehabilitation Act of 1973, or has begun receiving interventions under this state's multitiered system of supports.

f. Whether the child has an evaluation pending for special education and related services under IDEA or s. 504 of the Rehabilitation Act of 1973.

g. Whether the child is a student with a disability under IDEA who is receiving special education and related services or

12-01375A-23

20231384__

a student with a disability under s. 504 of the Rehabilitation Act of 1973 who is receiving accommodations and services and, if so, whether those required services are available in a school or program other than the school or program of origin.

h. Whether the child is an English Language Learner student and is receiving language services and, if so, whether those required services are available in a school or program other than the school or program of origin.

i. The impact a change to the school or program of origin would have on academic credits and progress toward promotion.

j. The availability of extracurricular activities important to the child.

k. The child's known individualized educational plan or other medical and behavioral health needs and whether such plan or needs are able to be met at a school or program other than the school or program of origin.

l. The child's permanency goal and timeframe for achieving permanency.

m. The child's history of school transfers and how such transfers have impacted the child academically, emotionally, and behaviorally.

n. The length of the commute to the school or program from the child's home or placement and how such commute would impact the child.

o. The length of time the child has attended the school or program of origin.

5. The cost of transportation cannot be a factor in making a best interest determination.

Section 17. Paragraph (f) of subsection (3) of section

12-01375A-23

20231384__

39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(3)

(f)1. The department shall fully inform the court of the child's medical and behavioral status as part of the social services report prepared for each judicial review hearing held for a child for whom psychotropic medication has been prescribed or provided under this subsection. As a part of the information provided to the court, the department shall furnish copies of all pertinent medical records concerning the child which have been generated since the previous hearing. On its own motion or on good cause shown by any party, including any guardian ad litem, ~~attorney~~, or attorney ad litem, if appointed ~~who has been appointed to represent the child or the child's interests~~, the court may review the status more frequently than required in this subsection.

2. The court may, in the best interests of the child, order the department to obtain a medical opinion addressing whether the continued use of the medication under the circumstances is safe and medically appropriate.

Section 18. Paragraphs (m), (t), and (u) of subsection (1) of section 39.4085, Florida Statutes, are amended to read:

39.4085 Goals for dependent children; responsibilities; education.—

(1) The Legislature finds that the design and delivery of child welfare services should be directed by the principle that the health and safety of children, including the freedom from

12-01375A-23

20231384__

1016 abuse, abandonment, or neglect, is of paramount concern and,
1017 therefore, establishes the following goals for children in
1018 shelter or foster care:

1019 (m) To receive meaningful case management and planning that
1020 will quickly return the child to his or her family or move the
1021 child on to other forms of permanency. For youth transitioning
1022 from foster care to independent living, permanency includes
1023 establishing naturally occurring, lifelong, kin-like connections
1024 between the youth and a supportive adult.

1025 (t) To have a guardian ad litem appointed ~~to represent,~~
1026 ~~within reason, their best interests~~ and, if appropriate, an
1027 attorney ad litem ~~appointed to represent their legal interests;~~
1028 the guardian ad litem and attorney ad litem, if appointed, shall
1029 have immediate and unlimited access to the children they
1030 represent.

1031 (u) To have all their records available for review by their
1032 guardian ad litem and attorney ad litem, if appointed, if they
1033 deem such review necessary.

1034
1035 This subsection establishes goals and not rights. This
1036 subsection does not require the delivery of any particular
1037 service or level of service in excess of existing
1038 appropriations. A person does not have a cause of action against
1039 the state or any of its subdivisions, agencies, contractors,
1040 subcontractors, or agents, based upon the adoption of or failure
1041 to provide adequate funding for the achievement of these goals
1042 by the Legislature. This subsection does not require the
1043 expenditure of funds to meet the goals established in this
1044 subsection except those funds specifically appropriated for such

12-01375A-23

20231384__

purpose.

Section 19. Paragraph (c) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(c) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal guardian or the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The order may be made only upon good cause shown and pursuant to notice and procedural requirements provided under the Florida Rules of Juvenile Procedure. The mental health assessment or evaluation must be administered by a qualified professional as defined in s. 39.01, and the substance abuse assessment or evaluation must be administered by a qualified professional as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when

12-01375A-23

20231384__

appropriate and available, participation in and compliance with a mental health court program established under chapter 394 or a treatment-based drug court program established under s. 397.334. Adjudication of a child as dependent based upon evidence of harm as defined in s. 39.01 ~~s. 39.01(34)(g)~~ demonstrates good cause, and the court shall require the parent whose actions caused the harm to submit to a substance abuse disorder assessment or evaluation and to participate and comply with treatment and services identified in the assessment or evaluation as being necessary. In addition to supervision by the department, the court, including the mental health court program or the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the

12-01375A-23

20231384__

1103 court, or in the custody of the department. Protective
1104 supervision continues until the court terminates it or until the
1105 child reaches the age of 18, whichever date is first. Protective
1106 supervision shall be terminated by the court whenever the court
1107 determines that permanency has been achieved for the child,
1108 whether with a parent, another relative, or a legal custodian,
1109 and that protective supervision is no longer needed. The
1110 termination of supervision may be with or without retaining
1111 jurisdiction, at the court's discretion, and shall in either
1112 case be considered a permanency option for the child. The order
1113 terminating supervision by the department must set forth the
1114 powers of the custodian of the child and include the powers
1115 ordinarily granted to a guardian of the person of a minor unless
1116 otherwise specified. Upon the court's termination of supervision
1117 by the department, further judicial reviews are not required if
1118 permanency has been established for the child.

1119 4. Determine whether the child has a strong attachment to
1120 the prospective permanent guardian and whether such guardian has
1121 a strong commitment to permanently caring for the child.

1122 Section 20. Paragraph (c) of subsection (3) of section
1123 39.522, Florida Statutes, is amended to read:

1124 39.522 Postdisposition change of custody.—

1125 (3)

1126 (c)1. The department or community-based care lead agency
1127 must notify a current caregiver who has been in the physical
1128 custody placement for at least 9 consecutive months and who
1129 meets all the established criteria in paragraph (b) of an intent
1130 to change the physical custody of the child, and a
1131 multidisciplinary team staffing must be held in accordance with

12-01375A-23

20231384__

ss. 39.4022 and 39.4023 at least 21 days before the intended date for the child's change in physical custody, unless there is an emergency situation as defined in s. 39.4022(2)(b). If there is not a unanimous consensus decision reached by the multidisciplinary team, the department's official position must be provided to the parties within the designated time period as provided for in s. 39.4022.

2. A caregiver who objects to the department's official position on the change in physical custody must notify the court and the department or community-based care lead agency of his or her objection and the intent to request an evidentiary hearing in writing in accordance with this section within 5 days after receiving notice of the department's official position provided under subparagraph 1. The transition of the child to the new caregiver may not begin before the expiration of the 5-day period within which the current caregiver may object.

3. Upon the department or community-based care lead agency receiving written notice of the caregiver's objection, the change to the child's physical custody must be placed in abeyance and the child may not be transitioned to a new physical placement without a court order, unless there is an emergency situation as defined in s. 39.4022(2)(b).

4. Within 7 days after receiving written notice from the caregiver, the court must conduct an initial case status hearing, at which time the court must:

a. Grant party status to the current caregiver who is seeking permanent custody and has maintained physical custody of that child for at least 9 continuous months for the limited purpose of filing a motion for a hearing on the objection and

12-01375A-23

20231384__

presenting evidence pursuant to this subsection;

~~b. Appoint an attorney for the child who is the subject of the permanent custody proceeding, in addition to the guardian ad litem, if one is appointed;~~

~~e.~~ Advise the caregiver of his or her right to retain counsel for purposes of the evidentiary hearing; and

~~c.d.~~ Appoint a court-selected neutral and independent licensed professional with expertise in the science and research of child-parent bonding.

Section 21. Paragraph (c) of subsection (1) and paragraph (c) of subsection (3) of section 39.6012, Florida Statutes, are amended to read:

39.6012 Case plan tasks; services.—

(1) The services to be provided to the parent and the tasks that must be completed are subject to the following:

(c) If there is evidence of harm as defined in s. 39.01 ~~s. 39.01(34)(g)~~, the case plan must include as a required task for the parent whose actions caused the harm that the parent submit to a substance abuse disorder assessment or evaluation and participate and comply with treatment and services identified in the assessment or evaluation as being necessary.

(3) In addition to any other requirement, if the child is in an out-of-home placement, the case plan must include:

(c) When appropriate, for a child who is 13 years of age or older, a written description of the programs and services that will help the child prepare for the transition from foster care to independent living. The written description must include age-appropriate activities for the child's development of relationships, coping skills, and emotional well-being.

12-01375A-23

20231384__

Section 22. Section 39.6036, Florida Statutes, is created to read:

39.6036 Supportive adults for youth transitioning out of foster care.—

(1) The Legislature finds that a committed, caring adult provides a lifeline for youth transitioning out of foster care to live independently. Accordingly, it is the intent of the Legislature that the Statewide Guardian ad Litem Office help youth connect with supportive adults, with the hope of creating an ongoing relationship that lasts into adulthood.

(2) The Statewide Guardian ad Litem Office shall work with youth transitioning out of foster care to identify at least one supportive adult with whom the youth can enter into a formal agreement for an ongoing relationship, and to document such agreement in the youth's court file. If the youth cannot identify a supportive adult, the Statewide Guardian ad Litem Office shall work in coordination with the Office of Continuing Care to identify at least one supportive adult with whom the youth can enter into a formal agreement for an ongoing relationship, and to document such agreement in the youth's court file.

Section 23. Paragraph (c) of subsection (10) of section 39.621, Florida Statutes, is amended to read:

39.621 Permanency determination by the court.—

(10) The permanency placement is intended to continue until the child reaches the age of majority and may not be disturbed absent a finding by the court that the circumstances of the permanency placement are no longer in the best interest of the child.

12-01375A-23

20231384__

(c) The court shall base its decision concerning any motion by a parent for reunification or increased contact with a child on the effect of the decision on the safety, well-being, and physical and emotional health of the child. Factors that must be considered and addressed in the findings of fact of the order on the motion must include:

1. The compliance or noncompliance of the parent with the case plan;

2. The circumstances which caused the child's dependency and whether those circumstances have been resolved;

3. The stability and longevity of the child's placement;

4. The preferences of the child, if the child is of sufficient age and understanding to express a preference;

5. The recommendation of the current custodian; and

6. Any ~~The~~ recommendation of the guardian ad litem, ~~if one has been appointed.~~

Section 24. Subsection (2) of section 39.6241, Florida Statutes, is amended to read:

39.6241 Another planned permanent living arrangement.—

(2) The department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, such as independent living services and medical, dental, educational, or psychological referrals, and a recommended list and description of services needed by his or her caregiver. The guardian ad litem must also advise the court whether the child has been connected with a supportive adult and, if the child has been connected with a supportive adult, whether the child has entered into a formal agreement with the adult. If the child has entered into such agreement, as required

12-01375A-23

20231384__

1248 in s. 39.6036, the guardian ad litem must ensure the agreement
1249 is documented in the court file.

1250 Section 25. Paragraphs (b) and (f) of subsection (1),
1251 paragraph (c) of subsection (2), subsection (3), and paragraph
1252 (e) of subsection (4) of section 39.701, Florida Statutes, are
1253 amended to read:

1254 39.701 Judicial review.—

1255 (1) GENERAL PROVISIONS.—

1256 (b)1. The court shall retain jurisdiction over a child
1257 returned to his or her parents for a minimum period of 6 months
1258 following the reunification, but, at that time, based on a
1259 report of the social service agency and the guardian ad litem,
1260 ~~if one has been appointed,~~ and any other relevant factors, the
1261 court shall make a determination as to whether supervision by
1262 the department and the court's jurisdiction shall continue or be
1263 terminated.

1264 2. Notwithstanding subparagraph 1., the court must retain
1265 jurisdiction over a child if the child is placed in the home
1266 with a parent or caregiver with an in-home safety plan and such
1267 safety plan remains necessary for the child to reside safely in
1268 the home.

1269 (f) Notice of a judicial review hearing or a citizen review
1270 panel hearing, and a copy of the motion for judicial review, if
1271 any, must be served by the clerk of the court upon all of the
1272 following persons, if available to be served, regardless of
1273 whether the person was present at the previous hearing at which
1274 the date, time, and location of the hearing was announced:

1275 1. The social service agency charged with the supervision
1276 of care, custody, or guardianship of the child, if that agency

12-01375A-23

20231384__

is not the movant.

2. The foster parent or legal custodian in whose home the child resides.

3. The parents.

4. The guardian ad litem for the child, ~~or the representative of the guardian ad litem program if the program has been appointed.~~

5. The attorney ad litem for the child, if appointed.

6. The child, if the child is 13 years of age or older.

7. Any preadoptive parent.

8. Such other persons as the court may direct.

(2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF AGE.—

(c) *Review determinations.*—The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent, the foster parent or caregiver, the guardian ad litem or surrogate parent for educational decisionmaking if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

12-01375A-23

20231384__

1. If the parent was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

2. If the parent has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent of such right.

3. If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed ~~or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.~~

4. Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.

5. The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

6. The compliance or lack of compliance with a visitation contract between the parent and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

7. The frequency, kind, and duration of contacts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interests of the child.

8. The compliance or lack of compliance of the parent in

12-01375A-23

20231384__

meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply, if applicable.

9. Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement, as documented by assurances from the community-based care lead agency that:

a. The placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

b. The community-based care lead agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

10. A projected date likely for the child's return home or other permanent placement.

11. When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party participation in a case plan were sufficient.

12. For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for

12-01375A-23

20231384__

adulthood and independent living. For a child who is 15 years of age or older, the court shall determine if appropriate steps are being taken for the child to obtain a driver license or learner's driver license.

13. If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

14. If the parents and caregivers have developed a productive relationship that includes meaningful communication and mutual support.

(3) REVIEW HEARINGS FOR CHILDREN 16 AND 17 YEARS OF AGE.—At each review hearing held under this subsection, the court shall give the child and the guardian ad litem the opportunity to address the court and provide any information relevant to the child's best interest, particularly in relation to independent living transition services. The foster parent or legal custodian, ~~or guardian ad litem~~ may also provide any information relevant to the child's best interest to the court. In addition to the review and report required under paragraphs (1)(a), and (2)(a), and s. 39.822(2)(a)2., respectively, the court shall:

(a) Inquire about the life skills the child has acquired and whether those services are age appropriate, at the first judicial review hearing held subsequent to the child's 16th birthday. At the judicial review hearing, the department shall provide the court with a report that includes specific information related to the life skills that the child has acquired since the child's 13th birthday or since the date the child came into foster care, whichever came later. For any child who may meet the requirements for appointment of a guardian advocate under s. 393.12 or a guardian under chapter 744, the

12-01375A-23

20231384__

updated case plan must be developed in a face-to-face conference with the child, if appropriate; the child's attorney ad litem, if appointed; ~~the any court-appointed~~ guardian ad litem; the temporary custodian of the child; and the parent of the child, if the parent's rights have not been terminated.

(b) The court shall hold a judicial review hearing within 90 days after a child's 17th birthday. The court shall issue an order, separate from the order on judicial review, that the disability of nonage of the child has been removed under ss. 743.044-743.047 for any disability that the court finds is in the child's best interest to remove. The department shall include in the social study report for the first judicial review that occurs after the child's 17th birthday written verification that the child has:

1. A current Medicaid card and all necessary information concerning the Medicaid program sufficient to prepare the child to apply for coverage upon reaching the age of 18, if such application is appropriate.

2. A certified copy of the child's birth certificate and, if the child does not have a valid driver license, a Florida identification card issued under s. 322.051.

3. A social security card and information relating to social security insurance benefits if the child is eligible for those benefits. If the child has received such benefits and they are being held in trust for the child, a full accounting of these funds must be provided and the child must be informed as to how to access those funds.

4. All relevant information related to the Road-to-Independence Program under s. 409.1451, including, but not

12-01375A-23

20231384__

1422 limited to, eligibility requirements, information on
1423 participation, and assistance in gaining admission to the
1424 program. If the child is eligible for the Road-to-Independence
1425 Program, he or she must be advised that he or she may continue
1426 to reside with the licensed family home or group care provider
1427 with whom the child was residing at the time the child attained
1428 his or her 18th birthday, in another licensed family home, or
1429 with a group care provider arranged by the department.

1430 5. An open bank account or the identification necessary to
1431 open a bank account and to acquire essential banking and
1432 budgeting skills.

1433 6. Information on public assistance and how to apply for
1434 public assistance.

1435 7. A clear understanding of where he or she will be living
1436 on his or her 18th birthday, how living expenses will be paid,
1437 and the educational program or school in which he or she will be
1438 enrolled.

1439 8. Information related to the ability of the child to
1440 remain in care until he or she reaches 21 years of age under s.
1441 39.013.

1442 9. A letter providing the dates that the child is under the
1443 jurisdiction of the court.

1444 10. A letter stating that the child is in compliance with
1445 financial aid documentation requirements.

1446 11. The child's educational records.

1447 12. The child's entire health and mental health records.

1448 13. The process for accessing the child's case file.

1449 14. A statement encouraging the child to attend all
1450 judicial review hearings.

12-01375A-23

20231384__

1451 15. Information on how to obtain a driver license or
1452 learner's driver license.

1453 (c) At the first judicial review hearing held subsequent to
1454 the child's 17th birthday, if the court determines pursuant to
1455 chapter 744 that there is a good faith basis to believe that the
1456 child qualifies for appointment of a guardian advocate, limited
1457 guardian, or plenary guardian for the child and that no less
1458 restrictive decisionmaking assistance will meet the child's
1459 needs:

1460 1. The department shall complete a multidisciplinary report
1461 which must include, but is not limited to, a psychosocial
1462 evaluation and educational report if such a report has not been
1463 completed within the previous 2 years.

1464 2. The department shall identify one or more individuals
1465 who are willing to serve as the guardian advocate under s.
1466 393.12 or as the plenary or limited guardian under chapter 744.
1467 Any other interested parties or participants may make efforts to
1468 identify such a guardian advocate, limited guardian, or plenary
1469 guardian. The child's biological or adoptive family members,
1470 including the child's parents if the parents' rights have not
1471 been terminated, may not be considered for service as the
1472 plenary or limited guardian unless the court enters a written
1473 order finding that such an appointment is in the child's best
1474 interests.

1475 3. Proceedings may be initiated within 180 days after the
1476 child's 17th birthday for the appointment of a guardian
1477 advocate, plenary guardian, or limited guardian for the child in
1478 a separate proceeding in the court division with jurisdiction
1479 over guardianship matters and pursuant to chapter 744. The

12-01375A-23

20231384__

Legislature encourages the use of pro bono representation to initiate proceedings under this section.

4. In the event another interested party or participant initiates proceedings for the appointment of a guardian advocate, plenary guardian, or limited guardian for the child, the department shall provide all necessary documentation and information to the petitioner to complete a petition under s. 393.12 or chapter 744 within 45 days after the first judicial review hearing after the child's 17th birthday.

5. Any proceedings seeking appointment of a guardian advocate or a determination of incapacity and the appointment of a guardian must be conducted in a separate proceeding in the court division with jurisdiction over guardianship matters and pursuant to chapter 744.

(d) If the court finds at the judicial review hearing after the child's 17th birthday that the department has not met its obligations to the child as stated in this part, in the written case plan, or in the provision of independent living services, the court may issue an order directing the department to show cause as to why it has not done so. If the department cannot justify its noncompliance, the court may give the department 30 days within which to comply. If the department fails to comply within 30 days, the court may hold the department in contempt.

(e) If necessary, the court may review the status of the child more frequently during the year before the child's 18th birthday. At the last review hearing before the child reaches 18 years of age, and in addition to the requirements of subsection (2), the court shall:

1. Address whether the child plans to remain in foster

12-01375A-23

20231384__

care, and, if so, ensure that the child's transition plan includes a plan for meeting one or more of the criteria specified in s. 39.6251 and determine whether the child has entered into a formal agreement for an ongoing relationship with a supportive adult.

2. Ensure that the transition plan includes a supervised living arrangement under s. 39.6251.

3. Ensure the child has been informed of:

a. The right to continued support and services from the department and the community-based care lead agency.

b. The right to request termination of dependency jurisdiction and be discharged from foster care.

c. The opportunity to reenter foster care under s. 39.6251.

4. Ensure that the child, if he or she requests termination of dependency jurisdiction and discharge from foster care, has been informed of:

a. Services or benefits for which the child may be eligible based on his or her former placement in foster care, including, but not limited to, the assistance of the Office of Continuing Care under s. 414.56.

b. Services or benefits that may be lost through termination of dependency jurisdiction.

c. Other federal, state, local, or community-based services or supports available to him or her.

(4) REVIEW HEARINGS FOR YOUNG ADULTS IN FOSTER CARE.—During each period of time that a young adult remains in foster care, the court shall review the status of the young adult at least every 6 months and must hold a permanency review hearing at least annually.

12-01375A-23

20231384__

(e) Notwithstanding the provisions of this subsection, if a young adult has chosen to remain in extended foster care after he or she has reached 18 years of age, the department may not close a case and the court may not terminate jurisdiction until the court finds, following a hearing, that the following criteria have been met:

1. Attendance of the young adult at the hearing; or

2. Findings by the court that:

a. The young adult has been informed by the department of his or her right to attend the hearing and has provided written consent to waive this right; and

b. The young adult has been informed of the potential negative effects of early termination of care, the option to reenter care before reaching 21 years of age, the procedure for, and limitations on, reentering care, and the availability of alternative services, and has signed a document attesting that he or she has been so informed and understands these provisions; or

c. The young adult has voluntarily left the program, has not signed the document in sub-subparagraph b., and is unwilling to participate in any further court proceeding.

3. In all permanency hearings or hearings regarding the transition of the young adult from care to independent living, the court shall consult with the young adult regarding the proposed permanency plan, case plan, and individual education plan for the young adult and ensure that he or she has understood the conversation. The court shall inquire of the young adult regarding his or her relationship with the supportive adult with whom the young adult has entered into a

12-01375A-23

20231384__

1567 formal agreement for an ongoing relationship, if such agreement
1568 exists.

1569 Section 26. Paragraph (a) of subsection (3) of section
1570 39.801, Florida Statutes, is amended to read:

1571 39.801 Procedures and jurisdiction; notice; service of
1572 process.—

1573 (3) Before the court may terminate parental rights, in
1574 addition to the other requirements set forth in this part, the
1575 following requirements must be met:

1576 (a) Notice of the date, time, and place of the advisory
1577 hearing for the petition to terminate parental rights and a copy
1578 of the petition must be personally served upon the following
1579 persons, specifically notifying them that a petition has been
1580 filed:

1581 1. The parents of the child.

1582 2. The legal custodians of the child.

1583 3. If the parents who would be entitled to notice are dead
1584 or unknown, a living relative of the child, unless upon diligent
1585 search and inquiry no such relative can be found.

1586 4. Any person who has physical custody of the child.

1587 5. Any grandparent entitled to priority for adoption under
1588 s. 63.0425.

1589 6. Any prospective parent who has been identified under s.
1590 39.503 or s. 39.803, unless a court order has been entered
1591 pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which
1592 indicates no further notice is required. Except as otherwise
1593 provided in this section, if there is not a legal father, notice
1594 of the petition for termination of parental rights must be
1595 provided to any known prospective father who is identified under

12-01375A-23

20231384__

oath before the court or who is identified by a diligent search of the Florida Putative Father Registry. Service of the notice of the petition for termination of parental rights is not required if the prospective father executes an affidavit of nonpaternity or a consent to termination of his parental rights which is accepted by the court after notice and opportunity to be heard by all parties to address the best interests of the child in accepting such affidavit.

7. The guardian ad litem for the child ~~or the representative of the guardian ad litem program, if the program has been appointed.~~

The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

Section 27. Subsection (2) of section 39.807, Florida Statutes, is amended to read:

39.807 Right to counsel; guardian ad litem.—

(2)(a) The court shall appoint a guardian ad litem to represent ~~the best interest of~~ the child in any termination of parental rights proceedings and shall ascertain at each stage of the proceedings whether a guardian ad litem has been appointed.

(b) The guardian ad litem has the ~~following~~

12-01375A-23

20231384__

responsibilities and authorities listed in s. 39.822.÷

~~1. To investigate the allegations of the petition and any subsequent matters arising in the case and,~~

(c) Unless excused by the court, the guardian ad litem shall ~~to~~ file a written report. This report must include a statement of the wishes of the child and the recommendations of the guardian ad litem and must be provided to all parties and the court at least 72 hours before the disposition hearing.

~~2. To be present at all court hearings unless excused by the court.~~

~~3. To represent the best interests of the child until the jurisdiction of the court over the child terminates or until excused by the court.~~

~~(c) A guardian ad litem is not required to post bond but shall file an acceptance of the office.~~

~~(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.~~

(d)~~(e)~~ This subsection does not apply to any voluntary relinquishment of parental rights proceeding.

Section 28. Subsection (2) of section 39.808, Florida Statutes, is amended to read:

39.808 Advisory hearing; pretrial status conference.—

(2) At the hearing the court shall inform the parties of their rights under s. 39.807, shall appoint counsel for the parties in accordance with legal requirements, and shall appoint a guardian ad litem to represent ~~the interests of~~ the child if one has not already been appointed.

Section 29. Subsection (2) of section 39.815, Florida

12-01375A-23

20231384__

Statutes, is amended to read:

39.815 Appeal.—

(2) An attorney for the department shall represent the state upon appeal. When a notice of appeal is filed in the circuit court, the clerk shall notify the attorney for the department, together with the attorney for the parent, the guardian ad litem, and any attorney ad litem for the child, if appointed.

Section 30. Section 39.820, Florida Statutes, is repealed.

Section 31. Subsections (1) and (3) of section 39.821, Florida Statutes, are amended to read:

39.821 Qualifications of guardians ad litem.—

(1) Because of the special trust or responsibility placed in a guardian ad litem, the Statewide Guardian ad Litem Office ~~Program~~ may use any private funds collected by the office ~~program~~, or any state funds so designated, to conduct a security background investigation before certifying a volunteer to serve. A security background investigation must include, but need not be limited to, employment history checks, checks of references, local criminal history records checks through local law enforcement agencies, and statewide criminal history records checks through the Department of Law Enforcement. Upon request, an employer shall furnish a copy of the personnel record for the employee or former employee who is the subject of a security background investigation conducted under this section. The information contained in the personnel record may include, but need not be limited to, disciplinary matters and the reason why the employee was terminated from employment. An employer who releases a personnel record for purposes of a security

12-01375A-23

20231384__

background investigation is presumed to have acted in good faith and is not liable for information contained in the record without a showing that the employer maliciously falsified the record. A security background investigation conducted under this section must ensure that a person is not certified as a guardian ad litem if the person has an arrest awaiting final disposition for, been convicted of, regardless of adjudication, entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under the provisions listed in s. 435.04. All applicants must undergo a level 2 background screening pursuant to chapter 435 before being certified to serve as a guardian ad litem. In analyzing and evaluating the information obtained in the security background investigation, the office ~~program~~ must give particular emphasis to past activities involving children, including, but not limited to, child-related criminal offenses or child abuse. The ~~program~~ Statewide Guardian ad Litem Office has sole discretion in determining whether to certify a person based on his or her security background investigation. The information collected pursuant to the security background investigation is confidential and exempt from s. 119.07(1).

(3) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person to willfully, knowingly, or intentionally fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for a volunteer position or for paid employment with the Statewide Guardian ad Litem Office ~~Program~~, any material fact used in making a determination as to the

12-01375A-23

20231384__

applicant's qualifications for such position.

Section 32. Section 39.822, Florida Statutes, is amended to read:

39.822 Appointment of guardian ad litem for abused, abandoned, or neglected child.—

(1) A guardian ad litem shall be appointed by the court at the earliest possible time to represent the child in any child abuse, abandonment, or neglect judicial proceeding, whether civil or criminal. A guardian ad litem is a fiduciary and shall provide independent representation of the child using a best interest standard of decisionmaking and advocacy.

(2) (a) The guardian ad litem has the following responsibilities:

1. To be present at all court hearings unless excused by the court.

2. To investigate issues related to the best interest of the child who is the subject of the appointment, review all disposition recommendations and changes in placement, and, unless excused by the court, file written reports and recommendations in accordance with law.

3. To represent the child until the court's jurisdiction over the child terminates or until excused by the court.

4. To advocate for the child's participation in the proceedings and report the child's wishes to the court to the extent the child has the ability and desire to express his or her preferences.

5. To perform such other duties as are consistent with the scope of the appointment.

(b) Guardians ad litem shall have immediate and unlimited

12-01375A-23

20231384__

access to the children they represent.

(c) A guardian ad litem is not required to post bond but must file an acceptance of the appointment.

(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.

(3) Any person participating in a civil or criminal judicial proceeding resulting from such appointment shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

(4)~~(2)~~ In those cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of guardian ad litem representation ~~services~~. Reimbursement to the individual providing guardian ad litem services shall not be contingent upon successful collection by the court from the parent or parents.

(5)~~(3)~~ Upon presentation by a guardian ad litem of a court order appointing the guardian ad litem:

(a) An agency, as defined in chapter 119, shall allow the guardian ad litem to inspect and copy records related to the best interests of the child who is the subject of the appointment, including, but not limited to, records made confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of the State Constitution. The guardian ad litem shall maintain the confidential or exempt status of any records shared by an agency under this paragraph.

(b) A person or organization, other than an agency under

12-01375A-23

20231384__

paragraph (a), shall allow the guardian ad litem to inspect and copy any records related to the best interests of the child who is the subject of the appointment, including, but not limited to, confidential records.

For the purposes of this subsection, the term "records related to the best interests of the child" includes, but is not limited to, medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records.

~~(4) The guardian ad litem or the program representative shall review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court. Written reports must be filed with the court and served on all parties whose whereabouts are known at least 72 hours prior to the hearing.~~

Section 33. Subsection (4) of section 39.827, Florida Statutes, is amended to read:

39.827 Hearing for appointment of a guardian advocate.—

(4) The hearing under this section shall remain confidential and closed to the public. The clerk shall keep all court records required by this part separate from other records of the circuit court. All court records required by this part shall be confidential and exempt from the provisions of s. 119.07(1). All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents or custodians of the child and their attorneys, the guardian ad litem, ~~and~~ the

12-01375A-23

20231384__

department and its designees, and the attorney ad litem, if
appointed, shall always have the right to inspect and copy any
official record pertaining to the child. The court may permit
authorized representatives of recognized organizations compiling
statistics for proper purposes to inspect and make abstracts
from official records, under whatever conditions upon their use
and disposition the court may deem proper, and may punish by
contempt proceedings any violation of those conditions. All
information obtained pursuant to this part in the discharge of
official duty by any judge, employee of the court, or authorized
agent of the department shall be confidential and exempt from
the provisions of s. 119.07(1) and shall not be disclosed to
anyone other than the authorized personnel of the court or the
department and its designees, except upon order of the court.

Section 34. Paragraphs (a), (b), and (d) of subsection (1)
and subsection (2) of section 39.8296, Florida Statutes, are
amended to read:

39.8296 Statewide Guardian ad Litem Office; legislative
findings and intent; creation; appointment of executive
director; duties of office.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that for the past 20 years, the
Guardian ad Litem Program has been the only mechanism for best
interest representation for children in Florida who are involved
in dependency proceedings.

(b) The Legislature also finds that while the Guardian ad
Litem Program has been supervised by court administration within
the circuit courts since the program's inception, there is a
perceived conflict of interest created by the supervision of

12-01375A-23

20231384__

program staff by the judges before whom they appear.

(d) It is therefore the intent of the Legislature to place the Guardian ad Litem Program in an appropriate place and provide a statewide infrastructure to increase functioning and standardization among the local programs currently operating in the 20 judicial circuits.

(2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a Statewide Guardian ad Litem Office within the Justice Administrative Commission. The Justice Administrative Commission shall provide administrative support and service to the office to the extent requested by the executive director within the available resources of the commission. The Statewide Guardian ad Litem Office is not subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the office are governed by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.

(a) The head of the Statewide Guardian ad Litem Office is the executive director, who shall be appointed by the Governor from a list of a minimum of three eligible applicants submitted by a Guardian ad Litem Qualifications Committee. The Guardian ad Litem Qualifications Committee shall be composed of five persons, two persons appointed by the Governor, two persons appointed by the Chief Justice of the Supreme Court, and one person appointed by the Statewide Guardian ad Litem Office ~~Association~~. The committee shall provide for statewide advertisement and the receiving of applications for the position of executive director. The Governor shall appoint an executive director from among the recommendations, or the Governor may

12-01375A-23

20231384__

1857 reject the nominations and request the submission of new
1858 nominees. The executive director must have knowledge in
1859 dependency law and knowledge of social service delivery systems
1860 available to meet the needs of children who are abused,
1861 neglected, or abandoned. The executive director shall serve on a
1862 full-time basis and shall personally, or through representatives
1863 of the office, carry out the purposes and functions of the
1864 Statewide Guardian ad Litem Office in accordance with state and
1865 federal law and Florida's long-established policy of
1866 prioritizing children's best interests. The executive director
1867 shall report to the Governor. The executive director shall serve
1868 a 3-year term, subject to removal for cause by the Governor. Any
1869 person appointed to serve as the executive director may be
1870 permitted to serve more than one term, without the necessity of
1871 convening the Guardian ad Litem Qualifications Committee.

1872 (b) The Statewide Guardian ad Litem Office shall, within
1873 available resources, have oversight responsibilities for and
1874 provide technical assistance to all guardian ad litem and
1875 attorney ad litem programs located within the judicial circuits.

1876 1. The office shall identify the resources required to
1877 implement methods of collecting, reporting, and tracking
1878 reliable and consistent case data.

1879 2. The office shall review the current guardian ad litem
1880 offices ~~programs~~ in Florida and other states.

1881 3. The office, in consultation with local guardian ad litem
1882 offices, shall develop statewide performance measures and
1883 standards.

1884 4. The office shall develop and maintain a guardian ad
1885 litem training program, ~~which shall include, but is not limited~~

12-01375A-23

20231384__

~~to, training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age. The office shall establish a curriculum committee to develop the training program specified in this subparagraph. The curriculum committee shall include, but not be limited to, dependency judges, directors of circuit guardian ad litem programs, active certified guardians ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of a domestic violence advocacy group, an individual with a degree in social work, and a social worker experienced in working with victims and perpetrators of child abuse. The training program shall be updated regularly.~~

5. The office shall review the various methods of funding guardian ad litem offices ~~programs~~, maximize the use of those funding sources to the extent possible, and review the kinds of services being provided by circuit guardian ad litem offices ~~programs~~.

6. The office shall determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights and fulfill other needs of dependent children.

7. The office shall ensure that all children have an attorney assigned to their case and, within available resources, be represented using multidisciplinary teams that may include volunteers, pro bono attorneys, social workers, and mentors.

8. The office shall provide oversight and technical assistance to attorneys ad litem, including but not limited to:

a. Developing an attorney ad litem training program in

12-01375A-23

20231384__

collaboration with dependency court stakeholders, including, but not limited to, dependency judges, representatives from legal aid providing attorney ad litem representation, and an attorney ad litem appointed from a registry maintained by the chief judge. The program shall be updated regularly with or without convening the stakeholders group;

b. Offering consultation and technical assistance to chief judges in maintaining attorney registries for attorneys ad litem; and

c. Assisting with recruitment, training, and mentoring of attorneys ad litem as needed ~~In an effort to promote normalcy and establish trust between a court-appointed volunteer guardian ad litem and a child alleged to be abused, abandoned, or neglected under this chapter, a guardian ad litem may transport a child. However, a guardian ad litem volunteer may not be required or directed by the program or a court to transport a child.~~

9.8. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court an interim report describing the progress of the office in meeting the goals as described in this section. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court a proposed plan including alternatives for meeting the state's guardian ad litem and attorney ad litem needs. This plan may include recommendations for less than the entire state, may include a phase-in system, and shall include estimates of the cost of each of the alternatives. Each year the office shall

12-01375A-23

20231384__

provide a status report and provide further recommendations to address the need for guardian ad litem services and related issues.

Section 35. Subsections (1), (3), and (4) of section 39.8297, Florida Statutes, are amended to read:

39.8297 County funding for guardian ad litem employees.—

(1) A county and the executive director of the Statewide Guardian ad Litem Office may enter into an agreement by which the county agrees to provide funds to the local guardian ad litem office in order to employ persons who will assist in the operation of the guardian ad litem office ~~program~~ in the county.

(3) Persons employed under this section may not be counted in a formula or similar process used by the Statewide Guardian ad Litem Office to measure personnel needs of a judicial circuit's guardian ad litem office ~~program~~.

(4) Agreements created pursuant to this section do not obligate the state to allocate funds to a county to employ persons in the guardian ad litem office ~~program~~.

Section 36. Section 39.8298, Florida Statutes, is amended to read:

39.8298 Guardian ad Litem state direct-support organization and local direct-support organizations.—

(1) AUTHORITY.—The Statewide Guardian ad Litem Office created under s. 39.8296 is authorized to create a state direct-support organization and create or designate local direct-support organizations. The executive director of the Statewide Guardian ad Litem Office is responsible for designating local direct-support organizations under this subsection.

(a) The state direct-support organization and the local

12-01375A-23

20231384__

1973 direct-support organizations must be a Florida corporations
1974 ~~corporation~~ not for profit, incorporated under the provisions of
1975 chapter 617. The state direct-support organization and the local
1976 direct-support organization are ~~shall be~~ exempt from paying fees
1977 under s. 617.0122.

1978 (b) The state direct-support organization and each local
1979 direct-support organization shall be organized and operated to
1980 conduct programs and activities; raise funds; request and
1981 receive grants, gifts, and bequests of moneys; acquire, receive,
1982 hold, invest, and administer, in their ~~its~~ own name, securities,
1983 funds, objects of value, or other property, real or personal;
1984 and make expenditures to or for the direct or indirect benefit
1985 of the Statewide Guardian ad Litem Office, including the local
1986 guardian ad litem offices.

1987 (c) If the executive director of the Statewide Guardian ad
1988 Litem Office determines the state direct-support organization or
1989 a local direct-support organization is operating in a manner
1990 that is inconsistent with the goals and purposes of the
1991 Statewide Guardian ad Litem Office or not acting in the best
1992 interest of the state, the executive director may terminate the
1993 contract and thereafter the organization may not use the name of
1994 the Statewide Guardian ad Litem Office.

1995 (2) CONTRACT.—The state direct-support organization and the
1996 local direct-support organizations shall operate under a written
1997 contract with the Statewide Guardian ad Litem Office. The
1998 written contract must, at a minimum, provide for:

1999 (a) Approval of the articles of incorporation and bylaws of
2000 the direct-support organization by the executive director of the
2001 Statewide Guardian ad Litem Office.

12-01375A-23

20231384__

(b) Submission of an annual budget for the approval by the executive director of the Statewide Guardian ad Litem Office.

(c) The reversion without penalty to the Statewide Guardian ad Litem Office, or to the state if the Statewide Guardian ad Litem Office ceases to exist, of all moneys and property held in trust by the state direct-support organization for the Statewide Guardian ad Litem Office if the direct-support organization ceases to exist or if the contract is terminated.

(d) The fiscal year of the state direct-support organization and the local direct-support organizations, which must begin July 1 of each year and end June 30 of the following year.

(e) The disclosure of material provisions of the contract and the distinction between the Statewide Guardian ad Litem Office and the state direct-support organization or a local direct-support organization to donors of gifts, contributions, or bequests, as well as on all promotional and fundraising publications.

(3) BOARD OF DIRECTORS.—The executive director of the Statewide Guardian ad Litem Office shall appoint a board of directors for the state direct-support organization. The executive director may designate employees of the Statewide Guardian ad Litem Office to serve on the board of directors of the state direct-support organization or a local direct-support organization. Members of the board of the state direct-support organization or a local direct-support organization shall serve at the pleasure of the executive director.

(4) USE OF PROPERTY AND SERVICES.—The executive director of the Statewide Guardian ad Litem Office:

12-01375A-23

20231384__

(a) May authorize the use of facilities and property other than money that are owned by the Statewide Guardian ad Litem Office to be used by the state direct-support organization or local direct-support organization.

(b) May authorize the use of personal services provided by employees of the Statewide Guardian ad Litem Office to be used by the state direct-support organization or a local direct-support organization. For the purposes of this section, the term "personal services" includes full-time personnel and part-time personnel as well as payroll processing.

(c) May prescribe the conditions by which the direct-support organization or a local direct-support organization may use property, facilities, or personal services of the office or the state direct-support organization.

(d) Shall not authorize the use of property, facilities, or personal services by ~~of~~ the state direct-support organization or a local direct-support organization if the organization does not provide equal employment opportunities to all persons, regardless of race, color, religion, sex, age, or national origin.

(5) MONEYS.—Moneys of the state direct-support organization or a local direct-support organization must ~~may~~ be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the contract with the Statewide Guardian ad Litem Office.

(6) ANNUAL AUDIT.—The state direct-support organization and a local direct-support organization shall provide for an annual financial audit in accordance with s. 215.981.

(7) LIMITS ON DIRECT-SUPPORT ORGANIZATIONS ~~ORGANIZATION~~.—

12-01375A-23

20231384__

The state direct-support organization and a local direct-support organization shall not exercise any power under s. 617.0302(12) or (16). No state employee shall receive compensation from the state direct-support organization or local direct-support organization for service on the board of directors or for services rendered to the direct-support organization.

Section 37. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal

12-01375A-23

20231384__

activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses,

12-01375A-23

20231384__

2118 telephone numbers, dates of birth, and places of employment of
2119 the spouses and children of such personnel; and the names and
2120 locations of schools and day care facilities attended by the
2121 children of such personnel are exempt from s. 119.07(1) and s.
2122 24(a), Art. I of the State Constitution.

2123 d. The home addresses, telephone numbers, dates of birth,
2124 and photographs of current or former firefighters certified in
2125 compliance with s. 633.408; the names, home addresses, telephone
2126 numbers, photographs, dates of birth, and places of employment
2127 of the spouses and children of such firefighters; and the names
2128 and locations of schools and day care facilities attended by the
2129 children of such firefighters are exempt from s. 119.07(1) and
2130 s. 24(a), Art. I of the State Constitution.

2131 e. The home addresses, dates of birth, and telephone
2132 numbers of current or former justices of the Supreme Court,
2133 district court of appeal judges, circuit court judges, and
2134 county court judges; the names, home addresses, telephone
2135 numbers, dates of birth, and places of employment of the spouses
2136 and children of current or former justices and judges; and the
2137 names and locations of schools and day care facilities attended
2138 by the children of current or former justices and judges are
2139 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
2140 Constitution.

2141 f. The home addresses, telephone numbers, dates of birth,
2142 and photographs of current or former state attorneys, assistant
2143 state attorneys, statewide prosecutors, or assistant statewide
2144 prosecutors; the names, home addresses, telephone numbers,
2145 photographs, dates of birth, and places of employment of the
2146 spouses and children of current or former state attorneys,

12-01375A-23

20231384__

2147 assistant state attorneys, statewide prosecutors, or assistant
2148 statewide prosecutors; and the names and locations of schools
2149 and day care facilities attended by the children of current or
2150 former state attorneys, assistant state attorneys, statewide
2151 prosecutors, or assistant statewide prosecutors are exempt from
2152 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2153 g. The home addresses, dates of birth, and telephone
2154 numbers of general magistrates, special magistrates, judges of
2155 compensation claims, administrative law judges of the Division
2156 of Administrative Hearings, and child support enforcement
2157 hearing officers; the names, home addresses, telephone numbers,
2158 dates of birth, and places of employment of the spouses and
2159 children of general magistrates, special magistrates, judges of
2160 compensation claims, administrative law judges of the Division
2161 of Administrative Hearings, and child support enforcement
2162 hearing officers; and the names and locations of schools and day
2163 care facilities attended by the children of general magistrates,
2164 special magistrates, judges of compensation claims,
2165 administrative law judges of the Division of Administrative
2166 Hearings, and child support enforcement hearing officers are
2167 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
2168 Constitution.

2169 h. The home addresses, telephone numbers, dates of birth,
2170 and photographs of current or former human resource, labor
2171 relations, or employee relations directors, assistant directors,
2172 managers, or assistant managers of any local government agency
2173 or water management district whose duties include hiring and
2174 firing employees, labor contract negotiation, administration, or
2175 other personnel-related duties; the names, home addresses,

12-01375A-23

20231384__

2176 telephone numbers, dates of birth, and places of employment of
2177 the spouses and children of such personnel; and the names and
2178 locations of schools and day care facilities attended by the
2179 children of such personnel are exempt from s. 119.07(1) and s.
2180 24(a), Art. I of the State Constitution.

2181 i. The home addresses, telephone numbers, dates of birth,
2182 and photographs of current or former code enforcement officers;
2183 the names, home addresses, telephone numbers, dates of birth,
2184 and places of employment of the spouses and children of such
2185 personnel; and the names and locations of schools and day care
2186 facilities attended by the children of such personnel are exempt
2187 from s. 119.07(1) and s. 24(a), Art. I of the State
2188 Constitution.

2189 j. The home addresses, telephone numbers, places of
2190 employment, dates of birth, and photographs of current or former
2191 guardians ad litem, as defined in s. 39.01 ~~s. 39.820~~; the names,
2192 home addresses, telephone numbers, dates of birth, and places of
2193 employment of the spouses and children of such persons; and the
2194 names and locations of schools and day care facilities attended
2195 by the children of such persons are exempt from s. 119.07(1) and
2196 s. 24(a), Art. I of the State Constitution.

2197 k. The home addresses, telephone numbers, dates of birth,
2198 and photographs of current or former juvenile probation
2199 officers, juvenile probation supervisors, detention
2200 superintendents, assistant detention superintendents, juvenile
2201 justice detention officers I and II, juvenile justice detention
2202 officer supervisors, juvenile justice residential officers,
2203 juvenile justice residential officer supervisors I and II,
2204 juvenile justice counselors, juvenile justice counselor

12-01375A-23

20231384__

2205 supervisors, human services counselor administrators, senior
2206 human services counselor administrators, rehabilitation
2207 therapists, and social services counselors of the Department of
2208 Juvenile Justice; the names, home addresses, telephone numbers,
2209 dates of birth, and places of employment of spouses and children
2210 of such personnel; and the names and locations of schools and
2211 day care facilities attended by the children of such personnel
2212 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
2213 Constitution.

2214 1. The home addresses, telephone numbers, dates of birth,
2215 and photographs of current or former public defenders, assistant
2216 public defenders, criminal conflict and civil regional counsel,
2217 and assistant criminal conflict and civil regional counsel; the
2218 names, home addresses, telephone numbers, dates of birth, and
2219 places of employment of the spouses and children of current or
2220 former public defenders, assistant public defenders, criminal
2221 conflict and civil regional counsel, and assistant criminal
2222 conflict and civil regional counsel; and the names and locations
2223 of schools and day care facilities attended by the children of
2224 current or former public defenders, assistant public defenders,
2225 criminal conflict and civil regional counsel, and assistant
2226 criminal conflict and civil regional counsel are exempt from s.
2227 119.07(1) and s. 24(a), Art. I of the State Constitution.

2228 m. The home addresses, telephone numbers, dates of birth,
2229 and photographs of current or former investigators or inspectors
2230 of the Department of Business and Professional Regulation; the
2231 names, home addresses, telephone numbers, dates of birth, and
2232 places of employment of the spouses and children of such current
2233 or former investigators and inspectors; and the names and

12-01375A-23

20231384__

locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to

12-01375A-23

20231384__

2263 practice a licensed profession; the names, home addresses,
2264 telephone numbers, dates of birth, and places of employment of
2265 the spouses and children of such consultants or their employees;
2266 and the names and locations of schools and day care facilities
2267 attended by the children of such consultants or employees are
2268 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
2269 Constitution.

2270 q. The home addresses, telephone numbers, dates of birth,
2271 and photographs of current or former emergency medical
2272 technicians or paramedics certified under chapter 401; the
2273 names, home addresses, telephone numbers, dates of birth, and
2274 places of employment of the spouses and children of such
2275 emergency medical technicians or paramedics; and the names and
2276 locations of schools and day care facilities attended by the
2277 children of such emergency medical technicians or paramedics are
2278 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
2279 Constitution.

2280 r. The home addresses, telephone numbers, dates of birth,
2281 and photographs of current or former personnel employed in an
2282 agency's office of inspector general or internal audit
2283 department whose duties include auditing or investigating waste,
2284 fraud, abuse, theft, exploitation, or other activities that
2285 could lead to criminal prosecution or administrative discipline;
2286 the names, home addresses, telephone numbers, dates of birth,
2287 and places of employment of spouses and children of such
2288 personnel; and the names and locations of schools and day care
2289 facilities attended by the children of such personnel are exempt
2290 from s. 119.07(1) and s. 24(a), Art. I of the State
2291 Constitution.

12-01375A-23

20231384__

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

12-01375A-23

20231384__

2321 u. The home addresses, telephone numbers, places of
2322 employment, dates of birth, and photographs of current or former
2323 staff and domestic violence advocates, as defined in s.
2324 90.5036(1)(b), of domestic violence centers certified by the
2325 Department of Children and Families under chapter 39; the names,
2326 home addresses, telephone numbers, places of employment, dates
2327 of birth, and photographs of the spouses and children of such
2328 personnel; and the names and locations of schools and day care
2329 facilities attended by the children of such personnel are exempt
2330 from s. 119.07(1) and s. 24(a), Art. I of the State
2331 Constitution.

2332 3. An agency that is the custodian of the information
2333 specified in subparagraph 2. and that is not the employer of the
2334 officer, employee, justice, judge, or other person specified in
2335 subparagraph 2. must maintain the exempt status of that
2336 information only if the officer, employee, justice, judge, other
2337 person, or employing agency of the designated employee submits a
2338 written and notarized request for maintenance of the exemption
2339 to the custodial agency. The request must state under oath the
2340 statutory basis for the individual's exemption request and
2341 confirm the individual's status as a party eligible for exempt
2342 status.

2343 4.a. A county property appraiser, as defined in s.
2344 192.001(3), or a county tax collector, as defined in s.
2345 192.001(4), who receives a written and notarized request for
2346 maintenance of the exemption pursuant to subparagraph 3. must
2347 comply by removing the name of the individual with exempt status
2348 and the instrument number or Official Records book and page
2349 number identifying the property with the exempt status from all

12-01375A-23

20231384__

publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section are not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as

12-01375A-23

20231384__

defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument

12-01375A-23

20231384__

number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 38. Subsection (4) of section 322.09, Florida Statutes, is amended to read:

322.09 Application of minors; responsibility for negligence or misconduct of minor.—

(4) Notwithstanding subsections (1) and (2), if a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01 ~~s. 39.01(55)~~, an authorized representative of a residential group home at which such a minor resides, the caseworker at the agency at which the state has placed the minor, or a guardian ad litem specifically authorized by the minor's caregiver to sign for a learner's driver license signs the minor's application for a learner's driver license, that caregiver, group home representative, caseworker, or guardian ad litem does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor by reason of having signed the application. Before signing the application, the caseworker, authorized group home representative, or guardian ad litem shall notify the caregiver or other responsible party of his or her intent to sign and verify the application.

Section 39. Paragraph (p) of subsection (4) of section 394.495, Florida Statutes, is amended to read:

12-01375A-23

20231384__

394.495 Child and adolescent mental health system of care;
programs and services.—

(4) The array of services may include, but is not limited
to:

(p) Trauma-informed services for children who have suffered
sexual exploitation as defined in s. 39.01 ~~s. 39.01(77)(g)~~.

Section 40. Section 627.746, Florida Statutes, is amended
to read:

627.746 Coverage for minors who have a learner's driver
license; additional premium prohibited.—An insurer that issues
an insurance policy on a private passenger motor vehicle to a
named insured who is a caregiver of a minor who is under the age
of 18 years and is in out-of-home care as defined in s. 39.01 ~~s.~~
~~39.01(55)~~ may not charge an additional premium for coverage of
the minor while the minor is operating the insured vehicle, for
the period of time that the minor has a learner's driver
license, until such time as the minor obtains a driver license.

Section 41. Paragraph (b) of subsection (9) of section
768.28, Florida Statutes, is amended to read:

768.28 Waiver of sovereign immunity in tort actions;
recovery limits; civil liability for damages caused during a
riot; limitation on attorney fees; statute of limitations;
exclusions; indemnification; risk management programs.—

(9)

(b) As used in this subsection, the term:

1. "Employee" includes any volunteer firefighter.

2. "Officer, employee, or agent" includes, but is not
limited to, any health care provider when providing services
pursuant to s. 766.1115; any nonprofit independent college or

12-01375A-23

20231384__

2466 university located and chartered in this state which owns or
2467 operates an accredited medical school, and its employees or
2468 agents, when providing patient services pursuant to paragraph
2469 (10) (f); any public defender or her or his employee or agent,
2470 including an assistant public defender or an investigator; and
2471 any member of a Child Protection Team, as defined in s. 39.01 ~~s.~~
2472 ~~39.01(13)~~, when carrying out her or his duties as a team member
2473 under the control, direction, and supervision of the state or
2474 any of its agencies or subdivisions.

2475 Section 42. Paragraph (c) of subsection (1) of section
2476 934.255, Florida Statutes, is amended to read:

2477 934.255 Subpoenas in investigations of sexual offenses.—

2478 (1) As used in this section, the term:

2479 (c) "Sexual abuse of a child" means a criminal offense
2480 based on any conduct described in s. 39.01 ~~s. 39.01(77)~~.

2481 Section 43. Subsection (5) of section 960.065, Florida
2482 Statutes, is amended to read:

2483 960.065 Eligibility for awards.—

2484 (5) A person is not ineligible for an award pursuant to
2485 paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c) if that
2486 person is a victim of sexual exploitation of a child as defined
2487 in s. 39.01 ~~s. 39.01(77) (g)~~.

2488 Section 44. Section 1009.898, Florida Statutes, is created
2489 to read:

2490 1009.898 Pathway to Prosperity grants.—

2491 (1) The Pathway to Prosperity program shall administer the
2492 following grants for youth and young adults aging out of foster
2493 care:

2494 (a) For financial literacy instruction, with curriculum

12-01375A-23

20231384__

2495 developed by the Department of Financial Services.

2496 (b) For SAT and ACT preparation, including one-on-one
2497 support and fee waivers for the examination.

2498 (c) For youth and young adults planning to pursue trade
2499 careers or paid apprenticeships.

2500 (2) If a youth who is aging out of foster care is
2501 reunited with his or her parents, the grants remain available
2502 for the youth for 6 months after reunification with the parents.

2503 Section 45. The Division of Law Revision is requested to
2504 prepare a reviser's bill for the 2024 Regular Session of the
2505 Legislature to substitute the term "Statewide Guardian Ad Litem
2506 Office" for the term "Statewide Guardian ad Litem Office"
2507 throughout the Florida Statutes.

2508 Section 46. 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 1384

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

SUBJECT: Legal Proceedings for Children

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuzynski	Cox	CF	CS/Fav
2.			ACJ	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1384 adjusts the role and operations of the Statewide Guardian ad Litem Office (Office). The bill specifies the duties and responsibilities of the office, guardians ad litem (GAL), and attorneys ad litem (AAL). Specifically, the bill, in part:

- Allows an AAL to be appointed if the court believes the child needs such representation and determines the child has a rational and factual understanding of the proceedings and sufficient present ability to consult with a lawyer with a reasonable degree of rational understanding and standardizes that throughout the statutes.
- Specifies that all children are represented by a GAL and removes the current “special needs” criteria to be eligible for the appointment of an attorney.
- Allows the GAL and AAL to inspect records.
- Requires the GAL to receive invitation to a multidisciplinary staffing for a placement change.
- Requires the written description of programs and services required in the case plan for a child who is 13 years of age or older must include age-appropriate activities for the child’s development of relationships, coping skills, and emotional well-being.
- Requires the Statewide GAL Office to provide oversight and technical assistance to AALs; develop a training program in collaboration with dependency court stakeholders, including, but not limited to, dependency judges, representatives from legal aid providing AAL representation, and an AAL appointed from a registry maintained by the chief judge. The office is required to offer consultation and technical assistance to chief judges in maintaining attorney registries and assist in recruiting, training, and mentoring of AAL as needed.
- Removes language authorizing GALs to transport a child.

- Creates a mentoring initiative within the Statewide Guardian ad Litem Office to assist youth in meeting supportive adults with the hope of creating an ongoing relationship; collaboration with the Department of Children and Families Office of Continuing Care; and requires the Statewide Guardian ad Litem Office to develop a mobile application to identify and locate resources for youth transitioning into independent living.
- Authorizes the executive director of the Statewide GAL Office to create or designate local direct support organizations (DSO) in addition to a state DSO and adds local DSOs to all provisions related to the state DSO.
- Creates the Pathway to Prosperity Program in the Department of Education for youth and young adults aging out of foster care providing financial literacy instruction, SAT and ACT preparation, including one-on-one support and fee waivers for the examination, and assisting those persons pursuing trade careers or paid apprenticeships.

The bill likely has a significant fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

An estimated 3.9 million referrals of alleged child abuse and neglect were made nationwide in 2021.¹ Of that 3.9 million, approximately 2 million met the requirements for an investigation² leading to approximately 588,000 children with a finding of maltreatment.³ More than 4.28 million children live in Florida, a vast majority of which, fortunately, never come to the attention of Florida's child welfare system.⁴ In 2021, the Department of Children and Families (DCF) investigated 256,060 reports of potential child abuse and approximately 11 percent (27,394) of those investigations resulted in a finding of maltreatment.⁵

Congress appropriates federal funds through various grants to the DCF to supplement state general revenue funds for the implementation of child welfare programs.⁶ The DCF uses these funds to contract with community-care based lead agencies (CBCs) to provide services.⁷

Florida's Child Welfare System - Generally

Chapter 39, F.S., creates Florida's dependency system that is charged with protecting the welfare of children; this system is often referred to as the "child welfare system." The DCF Office of

¹ U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Report on Child Maltreatment 2021*, p. 8, available at <https://www.acf.hhs.gov/sites/default/files/documents/cb/cm2021.pdf> (last viewed March 29, 2023).

² *Id.* at 13; referred to as "screened in referrals."

³ *Id.* at 21; referred to as "victims from reporting states."

⁴ U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Child Population Data for Florida*, available at <https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/florida.html> (last viewed March 29, 2023).

⁵ *Id.*

⁶ The main federal grant programs that supplement state-level child welfare programs are Titles IV-E and IV-B of the Social Security Act.

⁷ Part V of ch. 409, F.S.

Child and Family Well-Being works in partnership with local communities and the courts to ensure the safety, timely permanency, and well-being of children.

Child welfare services are directed toward the prevention of abandonment,⁸ abuse,⁹ and neglect¹⁰ of children.¹¹ The DCF practice model is based on the safety of the child within his or her home, using in-home services such as parenting coaching and counseling to maintain and strengthen that child's natural supports in his or her home environment. Such services are coordinated by the DCF-contracted community-based care lead agencies (CBC).¹² The DCF remains responsible for a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.¹³ Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.¹⁴

Department of Children and Families

The DCF's statutory mission is to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.¹⁵ The DCF must develop a strategic plan to fulfill this mission and establish measurable goals, objectives, performance standards, and quality assurance requirements to ensure the DCF is accountable to taxpayers.¹⁶

The DCF is required to provide services relating to:

- Adult protection.

⁸ Section 39.01(1), F.S., defined to mean 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. For purposes of this subsection, "establish or maintain a substantial and positive relationship" includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child.

⁹ Section 39.01(2), F.S., defined to mean 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 See s. 39.01(50), F.S., defined, in part, to mean 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.

¹¹ Section 39.001(8), F.S.

¹² Section 409.986(1), F.S.; See generally The Department of Children and Families (The DCF), *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 viewed March 29, 2023).

¹³ Office of Program Policy Analysis and Government Accountability, *Child Welfare System Performance Mixed in First Year of Statewide Community-Based Care*, Report 06-50, June 2006, p. 2, available at <https://oppaga.fl.gov/Documents/Reports/06-50.pdf> (last viewed March 29, 2023).

¹⁴ *Id.*

¹⁵ Section 20.19(1)(a), F.S.

¹⁶ Section 20.19(1)(b), F.S.

- Child care regulation.
- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.¹⁷

The DCF must also deliver services by contract through private providers to the extent allowed by law and funding.¹⁸ These private providers include CBCs delivering child welfare services and managing entities (MEs) delivering behavioral health services.¹⁹

Dependency Case Process

When child welfare necessitates that the DCF remove a child from the home to ensure his or her safety, a series of dependency court proceedings must occur to place that child in an out-of-home placement, adjudicate the child dependent, and, if necessary, terminate parental rights and free that child for adoption. Steps in the dependency process usually include:

- A report to the Florida Abuse Hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in their child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption after termination of parental rights.²⁰

Dependency Proceeding	Description of Process	Controlling Statute(s)
Removal	The DCF may remove a child from his or her home after a protective investigation determines that conditions in that child's home are unsafe and a safety plan cannot make the conditions safe.	s. 39.401, F.S.
Shelter Hearing	The court must hold a shelter hearing within 24 hours after removal. At this hearing, the judge determines whether there was probable cause to remove the child and whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	The DCF must file a petition for dependency within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.

¹⁷ Section 20.19(4)(a), F.S.,

¹⁸ Section 20.19(1)(c), F.S.

¹⁹ Part V of ch. 409, F.S., and s. 394.9082, F.S.

²⁰ The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. Section 63.022, F.S.

Dependency Proceeding	Description of Process	Controlling Statute(s)
Arrestment Hearing and Shelter Review	The court must hold an arrestment and shelter review within 28 days of the shelter hearing. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any previous shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	The court must hold an adjudicatory trial within 30 days of arrestment. The judge determines whether a child is dependent during this trial.	s. 39.507, F.S.
Disposition Hearing	The court must hold a disposition hearing within 15 days of arrestment (if the parents admits or consents to adjudication) or 30 days of adjudication if a court finds the child dependent. At this hearing, the judge reviews the case plan and placement of the child and orders the case plan and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition Change of Custody Hearing	The court may change the temporary out-of-home placement of a child at a postdisposition 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 at least every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	If the DCF determines that reunification is no longer a viable goal and 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	The court must hold an advisory hearing 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	The court must hold an adjudicatory trial 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.

Community-Based Care Organizations and Services

The DCF contracts for case management, out-of-home care (foster care), adoption, and other child welfare related services with the CBCs. This model is designed to increase local community ownership of service delivery and design of child welfare services.²¹

²¹ 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 29, 2023).

The DCF, through the CBCs, administers a system of care²² 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.²³

The CBCs must give priority to services that are evidence-based and trauma informed.²⁴ 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.²⁵ 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.²⁶

In-Home Services

The DCF is required to make all efforts to keep children with their families and provide interventions that allow children to remain safely in their own homes.²⁷ 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. As of September 30, 2022, there were 30,217 children receiving in-home services.²⁸

Out-of-home Placement

When a child protective investigator determines that in-home services are not enough to ensure safety, the investigator removes and places the child with a safe and appropriate temporary out-of-home placement, often referred to as “foster care”.²⁹ These out-of-home placements provide housing, support, and services to a child until the conditions in his or her home are safe enough to return or the child achieves permanency with another family through another permanency option, like adoption.³⁰

²² *Id.*

²³ *Id.*; Also see generally s. 409.988, F.S.

²⁴ Section 409.988(3), F.S.

²⁵ 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 29, 2023).

²⁶ Section 409.988(1), F.S.

²⁷ Sections 39.402(7), 39.521(1)(f), and 39.701(d), F.S.

²⁸ The DCF, *Child Welfare Key Indicators Monthly Report*, January 2023, p. 30, available at https://www2.myflfamilies.com/service-programs/child-welfare/kids/results-oriented-accountability/performanceManagement/docs/KI_Monthly_Report_Jan2023.pdf (last viewed March 29, 2023) (hereinafter cited as “DCF Key Indicators Report”)

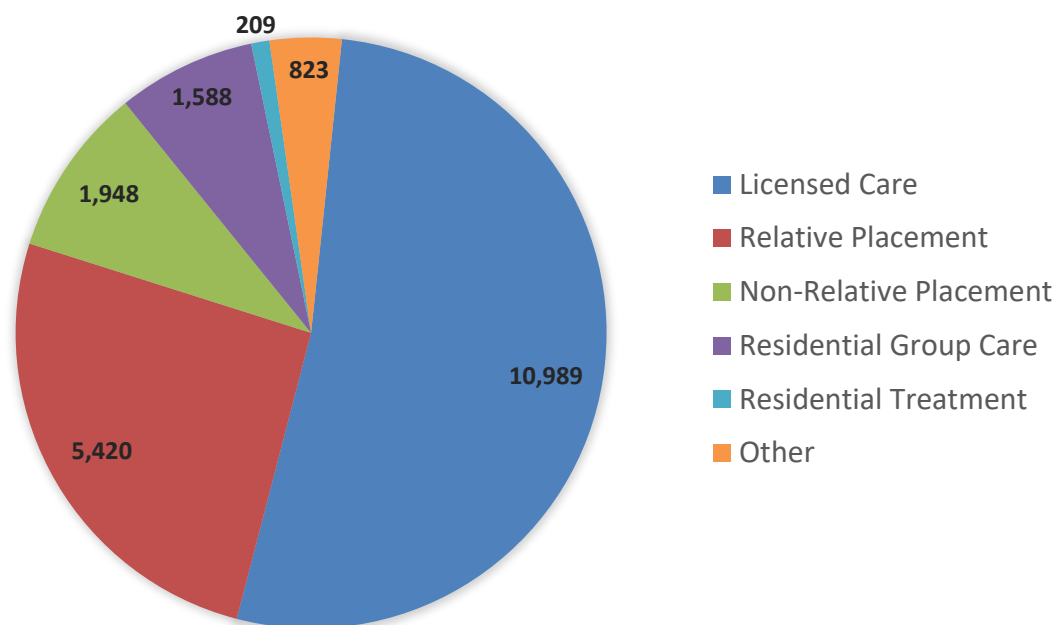
²⁹ Sections 39.401 through 39.4022, F.S.

³⁰ The Office of Program Policy and Government Accountability, *Program Summary*, available at <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=5053> (last visited March 29, 2023).

The CBCs must maintain and license various out-of-home placement types³¹ to place children in the most appropriate available setting after conducting an assessment using child-specific factors.³² Legislative intent is to place a child in the least restrictive, most family-like environment in close proximity to parents when removed from his or her home.³³

The DCF, through the CBCs, places children in a variety of settings. As of January 31, 2023, there were 21,066 children in out-of-home care with 5,420 with non-licensed relatives; 1,948 with non-licensed non-relative kin; 10,989 in licensed family foster homes (to include Level I licensed family and kin); and 1,588 in residential group care.³⁴

Out-of-home Placements as of January 31, 2023



Source: Department of Children and Families, *Child Welfare Key Indicators Monthly Report, January 2023*, p. 31.

Case planning

For all children and families requiring services in the child welfare system, the DCF must develop and draft a case plan.³⁵ The purpose of a case plan is to develop a documented plan that details the identified concerns and barriers within the family unit, the permanency goal or goals, and the services designed to ameliorate those concerns and barriers and achieve the permanency goal.³⁶

³¹ Chapter 65C-45, F.A.C.

³² 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.

³³ Sections 39.001(1) and 39.4021(1), F.S.

³⁴ DCF Key Indicators Report, p. 31.

³⁵ See Part VII of ch. 39, F.S.

³⁶ Section 39.6012(1), F.S.

The services detailed in a case plan must be designed in collaboration with the parent and stakeholders to improve the conditions in the home and aid in maintaining the child in the home, facilitate the child's safe return to the home, ensure proper care of the child, or facilitate the child's permanent placement.³⁷ The services offered must be the least intrusive possible into the life of the parent and child and must provide the most efficient path to quick reunification or other permanent placement.³⁸

Multidisciplinary Teams

Because of the complex nature of child abuse and neglect investigations and family assessments and interventions, multidisciplinary team staffings (MDTs) are used to enhance and improve child protective investigations and responses necessary for children and families to recover and succeed.³⁹ MDT's are becoming more widely used to involve a variety of individuals, both professional and non-professional, that interact and coordinate their efforts to plan for children and families receiving child welfare services.⁴⁰

MDTs can help eliminate, or at least reduce, many barriers to effective action, including a lack of understanding by the members of one profession of the objectives, standards, conceptual bases, and ethics of the others; lack of effective communication; confusion over roles and responsibilities; interagency competition; mutual distrust; and institutional relationships that limit interprofessional contact.⁴¹ As a result, a number of states are using a MDT team model, also known as a "Child and Family Team".⁴² This model is premised on the notion that children and families have the capacity to resolve their problems if given sufficient support and resources to help them do so.⁴³

Currently, Florida law and the DCF rules provide for the use of MDT's in a number of circumstances, such as:

- Child Protection Teams under s. 39.303, F.S.;
- Child advocacy center multidisciplinary case review teams under s. 39.3035, F.S.;
- Initial placement decisions for a child who is placed in out-of-home care, changes in physical custody after the child is placed in out-of-home care, changes in a child's educational

³⁷ *Id.*

³⁸ *Id.*

³⁹ Child Welfare Information Gateway, *Multidisciplinary Teams in Child Abuse & Neglect Investigations*, available at <https://www.childwelfare.gov/topics/responding/iaa/investigation/multidisciplinary/> (last viewed March 29, 2023).

⁴⁰ *Id.*

⁴¹ National Center on Child Abuse and Neglect, U.S. Children's Bureau, Administration for Children, Youth and Families, Office of Human Development Services, U.S. Department of Health, Education, and Welfare, *Multidisciplinary Teams In Child Abuse And Neglect Programs*, 1978, p. 8, available at <https://www.ojp.gov/pdffiles1/Digitization/51625NCJRS.pdf> (last viewed March 29, 2023).

⁴² See e.g. Clark County Department of Family Services, *Child and Family Team Meetings Nevada Case Planning and Assessment Policies*, available at https://www.childwelfare.gov/pubPDFs/NV_CaseManagementTrainingFacilitator.pdf; State of Tennessee Department of Children's Services, *Administrative Policies and Procedures: 31.7*, available at <https://files.dcs.tn.gov/policies/chap31/31.7.pdf>; and Indiana Department of Child Services, *Child Welfare Policy*, Jan. 1, 2020, available at <https://www.in.gov/dcs/files/5.07%20Child%20and%20Family%20Team%20Meetings.pdf> (all sites last viewed March 29, 2023).

⁴³ California Department of Social Services, *About Child and Family Teams*, available at <https://www.cdss.ca.gov/inforesources/foster-care/child-and-family-teams/about> (last visited March 29, 2023).

placement, and any other important, complex decisions in the child's life for which an MDT would be necessary, under s. 39.4022, F.S.; and

- When a child is suspected of being a victim of human trafficking under ss. 39.524 and 409.1754, F.S.

The multidisciplinary team (MDT) approach to representing children is increasingly popular and widely considered a good practice, dramatically improving case outcomes and a child's experience in foster care. Research shows that MDTs lead to quicker case resolution and preserved family connections more often.⁴⁴ Children served by an MDT had fewer removals after intervention, fewer adjudications of jurisdiction, and fewer petitions to terminate parental rights.⁴⁵ When children were removed from the home, and a MDT was assigned to the cases, the children were more likely to be placed with relatives and less likely to be placed in foster care.⁴⁶

Well-being of Children in Florida's Child Welfare System

While there are no standardized definitions or measures for well-being, there is general consensus in the literature and among stakeholders regarding common elements, including financial security, obtaining education, securing housing, finding and maintaining stable employment, independence from public assistance, permanent connections and social supports.⁴⁷ DCF has also identified areas that have the most significant systemic impact on improving permanency and well-being⁴⁸ and evaluated progress toward achieving permanency, safety, and well-being for children in the welfare system.⁴⁹

In FY 2021-2022, the DCF gave 17 of 20 circuits a score of 3 or higher, indicating that the circuit's performance exceeds established standards.⁵⁰ A score of 2.00-2.99 indicated the circuit's performance does not meet established standards:⁵¹

⁴⁴ Duquette, et al., *Children's Justice: How to Improve Legal Representation for Children in the Child Welfare System* [University of Michigan Law School Scholarship Repository, 2021], secs. 12.5 and 13.8, available at <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1109&context=books> (last viewed March 29, 2023)

⁴⁵ *Id.*

⁴⁶ *Id.*

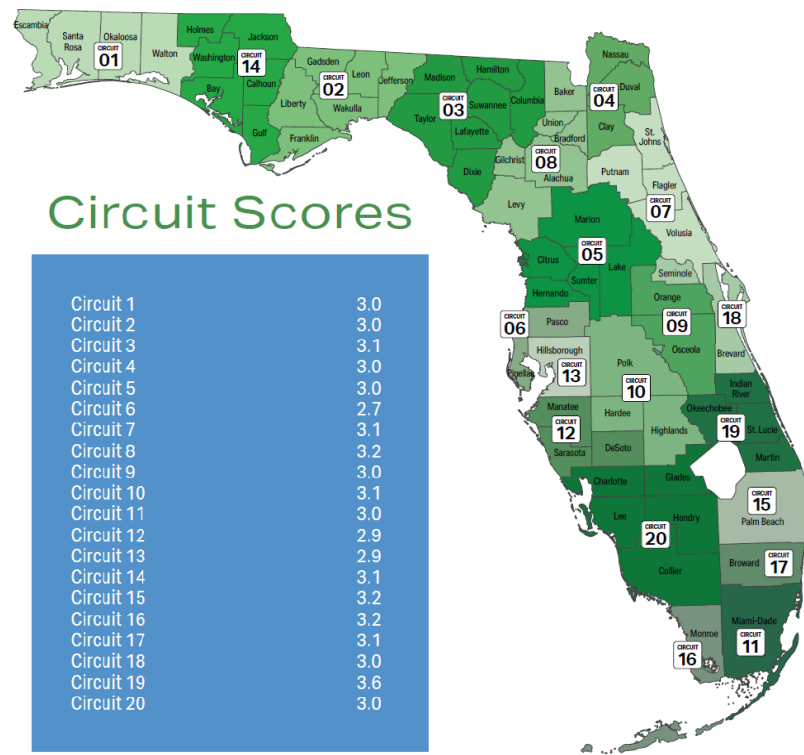
⁴⁷ The OPPAGA, *Presentation on Independent Living Services*, Senate Committee on Children, Families, and Elder Affairs, January 24, 2023, available at https://oppaga.fl.gov/Documents/Presentations/OPPAGA%20ILS%20Senate%20Presentation_final.pdf (last visited March 31, 2023).

⁴⁸ The DCF, *Annual Accountability Report on the Health of Florida's Child Welfare System, Fiscal Year 2021-2022*, pg. 3, available at https://www.myflfamilies.com/sites/default/files/2022-12/Accountability_System_Report_2022-revision12DEC22.pdf (last visited March 11, 2023) (hereinafter cited as "DCF Accountability Report")

⁴⁹ *Id.*

⁵⁰ *Id.* at p. 6.

⁵¹ *Id.* at p. 7.



The Legislature recognizes the need to focus on creating and preserving family relationships so that young adults have a permanent, lifelong connection with at least one committed adult who provides a safe and stable parenting relationship.⁵² Science shows that children who do well despite serious hardship have had at least one stable and committed relationship with a supportive adult.⁵³

Transition to Adulthood

Young adults who age out of the foster care system more frequently have challenges achieving self-sufficiency compared to young adults who never came to the attention of the foster care system. Young adults who age out of the foster care system are less likely to earn a high school diploma or GED and more likely to have lower rates of college attendance.⁵⁴ They suffer more from mental health problems, have a higher rate of involvement with the criminal justice system, and are more likely to have difficulty achieving financial independence.⁵⁵ These young adults also have a higher need for public assistance and are more likely to experience housing instability and homelessness.⁵⁶

⁵² Section 409.1451, F.S.

⁵³ National Scientific Council on the Developing Child (2015), *Supportive Relationships and Active Skill-Building Strengthen the Foundations of Resilience: Working Paper No. 13*, available at <https://harvardcenter.wpenginepowered.com/wp-content/uploads/2015/05/The-Science-of-Resilience2.pdf> (last visited March 29, 2023).

⁵⁴ Gypen, L., Vanderfaeillie, J., et al., “Outcomes of Children Who Grew Up in Foster Care: Systematic-Review”, *Children and Youth Services Review*, vol. 76, pp. 74-83, available at <http://dx.doi.org/10.1016/j.childyouth.2017.02.035> (last visited March 29, 2023).

⁵⁵ *Id.*

⁵⁶ *Id.*

Extended Foster Care

In 2013, the Legislature created a path for youth who have not achieved permanency and turned 18 years of age while in licensed care to remain in licensed care and receive case management services until the date of the young adult's 21st birthday.⁵⁷ This program is commonly referred to as “extended foster care” or “EFC.” To be eligible for extended foster care (EFC), a young adult must be:

- Completing secondary education or a program leading to an equivalent credential;
- Enrolled in an institution that provides postsecondary or vocational education;
- Participating in a program or activity designed to promote or eliminate barriers to employment;
- Employed at least 80 hours per month; or
- Unable to participate in the above listed activities due to a physical, intellectual, emotional, or psychiatric condition that limits participation.⁵⁸

Independent Living Services

Florida's Independent Living service array is designed to assist youth and young adults in obtaining skills and support in six federally identified outcome areas⁵⁹ as they transition to adulthood. Independent Living programs include:

- Extended Foster Care (EFC) – a program that allows young adults to remain in foster care until the age of 21 while they participate in school, work or work training, and live in a supervised living arrangement;
- Postsecondary Education Services and Support- a program that helps pay for housing, and other expenses related to attending an educational institution; and
- Aftercare Services - a temporary needs-based program intended to be a bridge between EFC and PESS programs that may include mentoring, tutoring, mental health and substance abuse services, counseling, and financial assistance.⁶⁰

Independent Living Services Advisory Council

The DCF formed the Independent Living Services Advisory Council (ILSAC) in 2005 to improve interagency policy and service coordination to better support older eligible foster youth in the successful transition to adulthood. The purpose of ILSAC is to review and make recommendations concerning the implementation of Florida's EFC program and independent living services.⁶¹

The DCF's Secretary appoints members of the ILSAC. The membership of the council must include, at a minimum, representatives from the DCF's headquarters and regional offices, CBC's, the Department of Juvenile Justice, the Department of Economic Opportunity, the

⁵⁷ Chapter 2013-178 s. 5, L.O.F., codified as s. 39.6251, F.S.

⁵⁸ *Id.*

⁵⁹ The six federally identified outcome areas are increasing financial self-sufficiency, improving educational attainment, increasing connections to caring adults, reducing homelessness, reducing high-risk behavior, and improving access to health insurance.

⁶⁰ See generally The DCF, Office of Child and Family Well-Being, Legislatively Mandated Reports, Independent Living Services Annual Report FY 2020-21, January 31, 2022, available at https://www.myflfamilies.com/sites/default/files/2023-02/Independent_Living_Services_Report_2021.pdf (last visited April 1, 2023).

⁶¹ Section 409.1451(7), F.S.

Department of Education, the Agency for Health Care Administration, the State Youth Advisory Board, CareerSource Florida, the Statewide Guardian ad Litem Office, foster parents, recipients of independent living services, and advocates for children in care.⁶²

The ILSAC is required to provide an annual report on the implementation of Florida's independent living services, efforts to publicize the availability of independent living services, the success of the services, problems identified, recommendations for the DCF or legislative action, and the DCF's implementation of the recommendations contained in the report.⁶³

The 2020 Annual ILSAC Report provided several recommendations to strengthen the independent living services in Florida, including the need for a more standardized approach to reaching young people to educate them on the independent living supports and services available.⁶⁴

Office of Continuing Care

In 2020, the Legislature created the Office of Continuing Care within the DCF to help individuals who have aged out of the child welfare system.⁶⁵ The office provides ongoing support and care coordination needed for young adults to achieve self-sufficiency. Duties of the office include, but are not limited to:

- Informing young adults who age out of the foster care system of the purpose of the office, the types of support the office provides, and how to contact the office.
- Serving as a direct contact to the young adult in order to provide information on how to access services to support the young adult's self-sufficiency, including but not limited to, food assistance, behavioral health services, housing, Medicaid, and educational services.
- Assisting in accessing services and supports for the young adult to attain self-sufficiency, including, but not limited to, completing documentation required to apply for services.
- Collaborating with the CBC's to identify local resources that can provide support to young adults served by the office.⁶⁶

Guardian ad Litem Program

In 2003, the Legislature created the statewide Guardian ad Litem Office (Office) within the Justice Administrative Commission.⁶⁷ The Office has oversight responsibilities for and provides technical assistance to all guardian ad litem programs located within the judicial circuits.⁶⁸

⁶² Section 409.1451(7)(c), F.S.

⁶³ Section 409.1454(7)(b), F.S.

⁶⁴ The DCF, *The Independent Living Services Advisory Council 2020 Annual Report*, available at https://www.myflfamilies.com/sites/default/files/2023-02/ILSAC_Annual_Report_2020.pdf (last viewed March 29, 2023).

⁶⁵ Chapter 2021-169 s. 20, L.O.F.; codified as s. 414.56, F.S.

⁶⁶ Section 414.56, F.S.

⁶⁷ Chapter 2003-53 s. 1, L.O.F.; codified as s. 39.8296, F.S.

⁶⁸ Section 39.8296(2)(b), F.S.

The court must appoint a Guardian ad Litem (GAL) to represent a child as soon as possible in any child abuse, abandonment, or neglect proceeding.⁶⁹ Florida law outlines requirements to serve as a GAL.⁷⁰ A person appointed as guardian ad litem must be:

- Certified by the GAL Program pursuant to s. 39.821, F.S.;
- Certified by a not-for-profit legal aid organization as defined in s. 68.096, F.S.; or
- An attorney who is a member in good standing of The Florida Bar.

“Guardian ad litem” for the purposes of ch. 39, F.S., proceedings is defined as the Statewide Guardian Ad Litem Office, which includes circuit guardian ad litem programs, a duly certified volunteer, a staff member, a staff attorney, a contract attorney, pro bono attorney working on behalf of a GAL; court-appointed attorney; or responsible adult who is appointed by the court to represent the best interest of a child in a proceeding.⁷¹

In cases that involve an allegation of child abuse, abandonment, or neglect as defined in s. 39.01, F.S., the court must appoint a guardian ad litem at the earliest possible time to represent the child.⁷² The guardian ad litem must be a party to any judicial proceeding from the date of the appointment until the date of discharge.⁷³

The Office has more than 180 attorneys on staff and relies on more than 200 pro bono attorneys volunteering their services.⁷⁴ In 2021, the Office served more than 37,000 kids and had more than 13,000 volunteers.⁷⁵

Federal and Florida law provide that a GAL must be appointed to represent the child in every case.⁷⁶ The Child Abuse Prevention and Treatment Act (CAPTA) makes the approval of CAPTA grants contingent on an eligible state plan, which must include provisions and procedures to appoint a GAL in every case.⁷⁷ The GAL must be appointed to:

- Obtain first-hand knowledge of the child’s situation and needs; and
- Make recommendations to the court regarding the best interest of the child.⁷⁸

The FY 23-24 Long Range Program Plan for the GAL Program details the following statistics regarding FY 2021-22:

- The program represented on average:
 - 24,993 children per month, and 36,948 total children during that fiscal year.⁷⁹

⁶⁹ Section 39.822, F.S.

⁷⁰ Sections 61.402 and 39.821, F.S.

⁷¹ Section 39.820(1), F.S.

⁷² Section 39.822, F.S.

⁷³ Section 39.820(1), F.S.

⁷⁴ Florida Statewide Guardian ad Litem Office, *About Us*, available at <https://guardianadlitem.org/about/> (last visited on March 29, 2023).

⁷⁵ *Id.*

⁷⁶ 42 U.S.C. 67 §5106a.(b)(2)(xiii); S. 39.822(1), F.S.

⁷⁷ 42 U.S.C. 67 §5106a.(b)(2)(xiii).

⁷⁸ *Id.*

⁷⁹ Statewide Guardian ad Litem Office, *Long Range Program Plan*, Fiscal Years 2023-24 through 2027-28; Sept. 30, 2022, p. 13, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=24413&DocType=PDF> (last viewed on March 29, 2023).

- 85.2% of children in the dependency system each month.⁸⁰
- 1,671 new volunteers were certified, with a total of 9,342 volunteers active each month on average.⁸¹

Transportation of Children by GAL Volunteers

In 2012, the Legislature, allowed GAL volunteers to transport a child on his or her caseload.⁸² This is intended to promote normalcy for the child as well as establish and promote trust between a court-appointed volunteer and the child.⁸³

GAL Qualifications Committee

Section 39.8296(2), F.S., creates a Guardian ad Litem Qualification Committee that is composed of five members⁸⁴ to provide for advertisement and the receiving of applications for the position of the executive director of the Office. Current law provides that an executive director serves a 3-year term and may be allowed to serve more than one term.⁸⁵

GAL Program Direct Support Organization

Section 39.8298, F.S., allows the Office to create a Direct-Support Organization (DSO). The direct-support organization must conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the Office.⁸⁶ The executive director of the Office appoints the board of directors.⁸⁷

Direct-Support Organizations

DSOs are statutorily created private entities that are generally required to be non-profit corporations who are authorized to carry out specific tasks in support of public entities or public causes.⁸⁸ The functions, purpose, and scope of a DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the DSO was created or designated to support. In 2014, the Legislature created s. 20.058, F.S., to establish a comprehensive set of transparency and reporting requirements for DSOs created or designated pursuant to law.⁸⁹

Most local GAL programs currently have affiliations with various non-profit organizations that support the child welfare system and provide fundraising and monetary support for children and

⁸⁰ *Id.*

⁸¹ *Id.* at p. 14.

⁸² Chapter 2012-123 s. 5, L.O.F.; codified as s. 39.8296(2)(b)7., F.S.

⁸³ *Id.*

⁸⁴ Two appointed by the Governor, two appointed by the Chief Justice of the Supreme Court, and one appointed by the Guardian ad Litem Association.

⁸⁵ Section 39.8296(2)(a), F.S.

⁸⁶ Section 39.8298(1)(b) and (3), F.S.

⁸⁷ Section 39.8298(3), F.S.

⁸⁸ *See generally* s. 20.058, F.S.

⁸⁹ Chapter 201-96, L.O.F.

families in local communities. These local non-profits are not currently considered DSOs and are not regulated under s. 20.058, F.S.

Legal Representation of Children in the Child Welfare System

Child representation in dependency proceedings varies but in most instances is based on what is in the child's best interest, direct representation, or a hybrid approach.⁹⁰ The table below provides a summary of the different models and how they operate:⁹¹

Exhibit 3

States' Models of Representation for Children in Dependency Proceedings Fall Into Six Categories

Representation Model	Number of States That Use Model	Description
Age Dependent	4	Children in these states receive different types of representation depending on their age. In these states, older children receive a client-directed attorney, and younger children receive a GAL.
Best Interest (attorney or professional)	20	Children in these states always receive a GAL who is required to be either an attorney or a professional (e.g., professional GAL or mental health counselor). These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.
Best Interest (lay volunteer)	12	Children in these states always receive a GAL, who is not required to be an attorney. These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.
Client-Directed Attorney	7	Children in these states always receive a client-directed attorney. These states may also allow for the appointment of a separate GAL or CASA at the discretion of the judge or in certain circumstances.
Hybrid	6	Children in these states always receive both a client-directed attorney and a GAL.
Multidisciplinary Team	2	Children in these states are represented by a GAL team, made up of a volunteer, a staff advocate, and an attorney.

Source: OPPAGA analysis of state statutes and court rules.

Appointment of an Attorney for a Special Needs Child

The Office currently has a role in the appointment of an attorney for a special needs child. The court must ask the Office for a recommendation for an attorney willing to work without additional compensation, prior to the court appointing an attorney on a compensated basis.⁹² That attorney must be available for services within 15 days after the court's request.⁹³ If, however, the Office does not make a recommendation within 15 days after the court's request, the court may appoint a compensated attorney.⁹⁴ An attorney appointed for a specific purpose is commonly referred to as attorney ad litem (AAL); however, that term is not defined in statute.

An AAL representing a child provides the complete range of legal services from removal from the home or initial appointment through all appellate proceedings.⁹⁵ With court permission, the attorney is authorized to arrange for supplemental or separate counsel to handle appellate

⁹⁰ The Office of Program Policy Analysis and Government Accountability (OPPAGA), *OPPAGA Review of Florida's Guardian ad Litem Program, Presentation to the Senate Committee on Children, Families, and Elder Affairs*, p. 9, January 26, 2021, available at <https://oppaga.fl.gov/Documents/Presentations/GAL%20Presentation%201-26-21.pdf> (last visited March 29, 2023).

⁹¹ OPPAGA, *OPPAGA Review of Florida's Guardian ad Litem Program*, p. 5 and 34, December 2020 (on file with the Committee on Children, Families, and Elder Affairs).

⁹² Section 39.01305, F.S.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ Section 39.01305(4)(b), F.S.

matters.⁹⁶ The Justice Administrative Commission contracts with appointed attorneys, whose fees are limited to \$1,000 per child per year subject to appropriations and to review by the Commission for reasonableness.⁹⁷ Notwithstanding the specific procedures to appoint an attorney for a special needs child, the court has the general authority to appoint an attorney for a dependent child in any proceeding under ch. 39, F.S.⁹⁸

III. Effect of Proposed Changes:

The bill amends numerous sections of ch. 39, F.S., governing proceedings relating to children, to adjust the role and operations of the Statewide Guardian ad Litem office. The bill amends s. 39.822, F.S., to provide that a GAL is a fiduciary that provides independent representation of a child using a best interest standard of decision-making and advocacy and further outlines the role of a GAL by:

- Relocating the responsibilities of a GAL from s. 39.807, F.S., and other sections of law, which include to:
 - Be present at all court hearings unless excused by the court.
 - Investigate issues related to the best interest of the child who is the subject of the appointment, review all disposition recommendations and changes in placement, and file written reports and recommendations to the court in accordance with law.
 - Represent the child until the court's jurisdiction over the child terminates or excused by the court.
 - Advocate for the child's participation in the proceedings and report the child's wishes to the court to the extent the child has the ability and desire to express his or her preferences.
 - Perform such other duties as are consistent with the scope of the appointment.
- Requiring a GAL to have immediate and unlimited access to the child or children they represent.
- Allowing a GAL to file an acceptance of the appointment instead of being required to post bond.
- Ensuring a GAL is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.

The bill amends s. 39.001(10), F.S., to include the Statewide Guardian ad Litem Office in the agencies listed to participate in the development of the state plan for the promotion of adoption, support of adoptive families, and prevention of abuse, abandonment, and neglect of children.

The bill amends s. 39.01, F.S., to relocate the definitions of “guardian ad litem” and “guardian advocate” from s. 39.820, F.S., and expand and clarify the meaning of “guardian ad litem” to mean an individual or entity that is a fiduciary appointed by the court to represent a child in any civil, criminal, or administrative proceeding to which the child is a party, including, but not limited to, ch. 39, F.S., who uses a best interests standard for decision-making and advocacy. For purposes of ch. 39, F.S., a guardian ad litem includes, but is not limited to the following:

⁹⁶ *Id.*

⁹⁷ Section 39.01305(5), F.S.

⁹⁸ Section 39.01305(8), F.S.

- The Statewide Guardian ad Litem Office, which includes all circuit guardian ad litem offices and duly certified volunteers, staff, and attorneys assigned by the Statewide Guardian ad Litem Office to represent children;
- A court-appointed attorney; or
- A responsible adult who is appointed by the court.

A guardian ad litem is a party to the judicial proceeding as a representative of the child, and serves until the jurisdiction of the court over the child terminates or until excused by the court. The bill defines “attorney ad litem” to mean an attorney appointed by the court to represent the child in a dependency case who has an attorney-client relationship with the child under the rules regulating the Florida Bar. The bill also changes the definition of “party” to remove “the representative of the guardian ad litem program when the program has been appointed” to conform with the new definition of guardian ad litem.

The bill amends s. 39.013, F.S., to require the court to appoint a GAL at the earliest possible time to represent the child throughout the proceedings, including any appeals. The bill also *authorizes* the court to appoint an AAL for a child and amends s. 39.01305, F.S., to remove any of the enumerated categories in current law that require the appointment of an AAL for cases involving certain special needs categories. The bill instead broadly provides that an AAL may be appointed if the court believes that the child needs such representation and determines that the child has a rational and factual understanding of the proceedings and sufficient present ability to consult with an attorney with a reasonable degree of rational understanding. The bill also clarifies that an order appointing an AAL must be in writing and the court must discharge the AAL if the need for representation is resolved. The bill limits these changes related to AAL appointments to any appointments made after July 1, 2023. The bill also amends s. 39.522, F.S., to remove the requirement to appoint the child an AAL during an initial case status hearing for postdisposition change of custody, which was enacted as part of CS/CS/CS SB 80 (2021).⁹⁹

The bill specifies the duties and responsibilities of the Office, guardians ad litem, and attorneys ad litem. Specifically, the bill:

- Amends s. 39.001, F.S., to include that permanency for youth transitioning from foster care to independent living includes naturally occurring, lifelong, kin-like connections between youth and supportive adults to the purposes of ch. 39, F.S., when reunification or adoption is not possible.
- Amends s. 39.4085, F.S., to add a provision to the list of goals for dependent children to include establishing naturally occurring, lifelong, kin-like connections.
- Creates s. 39.6036, F.S., to require the Office to work in coordination with the DCF’s OCC to identify at least one supportive adult with whom the youth can enter into a formal agreement for an ongoing relationship and document that agreement in the court file.
- Amends s. 39.6241, F.S., to require the GAL, when the court has approved another planned permanent living arrangement as a permanency goal, to provide the court with information related to the child’s connections with supportive adults, whether there is a formal agreement between a child and adult, and if such agreement is in existence, requires the GAL to ensure the agreement is documented in the court file.

⁹⁹ Chapter 2021-169 s. 10, L.O.F.

- Amends s. 39.701, F.S., to require the court to determine whether a child has entered into a formal agreement for an ongoing relationship with a supportive adult in a review hearing for youth 16 and 17 years of age, if a child decides to remain in foster care upon turning 18.

The bill amends s. 39.6012, F.S., to require a case plan to include written description of programs and services required in the case plan for a child who is 13 years of age or older to include age-appropriate activities for the child's development of relationships, coping skills, and emotional well-being.

The bill repeals s. 39.820, F.S., as this section only contained the definitions of "guardian ad litem" and "guardian advocate" and the bill moves those definitions to s. 39.01, F.S.

The bill amends s. 39.8296, F.S., related to the operation of the Statewide Guardian ad Litem Office to make the following substantive changes:

- Provides that the executive director of the Office may serve more than one 3-year term without the necessity of convening the GAL Qualifications Committee as is required in current law.
- Requires the Office to ensure that all children have an attorney assigned to their case and, within available resources, be represented using multidisciplinary teams that may include volunteers, pro bono attorneys, social workers, and mentors. Current law does not require the Office to ensure assignment of an attorney for all children in the dependency system and only requires the statewide Office to provide support to the local program offices and determine the feasibility of new concepts of organization, administration, financing, or service delivery to preserve the rights and meet the needs of dependent children.¹⁰⁰
- Requires the Office to provide oversight and technical assistance to AALs and chief judges; assist with recruitment of AALs; and develop an AAL training program, to be updated regularly.
- Expands who may transport children within the GAL Program from just volunteers to any person defined as a guardian ad litem under the expanded definition.

The bill amends s. 39.8298, F.S., to authorize the executive director of the Office to create or designate local DSOs in addition to the state DSO, and adds all provisions of the state DSO to local DSOs. The bill also makes the service of board members of a local DSO to be at the pleasure of the statewide executive director. Current law authorizes the Office to create a statewide DSO only. This change will centralize the ability to create or designate local non-profits to serve as DSOs for those local GAL offices allowing the statewide Office to have more oversight over the local nonprofits that are helping achieve the mission of the GAL.

The bill creates s. 1009.898, F.S., to establish the Pathway to Prosperity Program, administered by the Department of Education, to award grants to youth and young adults who are aging out of foster care, and requires the grants to extend for a certain period of time after a recipient is reunited with his or her parents. The grants are to be used for:

- Financial literacy instruction, with curriculum developed by the Department of Financial Services.

¹⁰⁰ See generally s. 39.8296, F.S. (2022)

- SAT and ACT preparation, including one-on-one support and fee waivers for the examination.
- Youth and young adults planning to pursue trade careers or paid apprenticeships.

The bill makes numerous conforming and cross-reference changes throughout ch. 39, F.S.,¹⁰¹ and ss. 119.071, 322.09, 394.495, 627.746, 768.28, 934.255, and 960.06, F.S., to implement the substantive provisions of the bill.

The bill also requests the Division of Law Revision to prepare a reviser's bill for the 2024 regular session to substitute "Statewide Guardian Ad Litem Office" for the term "Statewide Guardian ad Litem Office" throughout statute.

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:

At common law, children cannot legally enter into contractual agreements. The inability to contract is due to an unemancipated minors' lack of mental capacity to conduct business, known as the disability of non-age. The disability of non-age is expressly recognized in the Florida Constitution and in statute.¹⁰² Due to the disability of non-age, "an adult person of reasonable judgment and integrity" must conduct any litigation for the minor in judicial proceedings."¹⁰³ It follows that unemancipated minors cannot engage legal counsel on their own unless there is a constitutional right or legislative act

¹⁰¹ Sections 39.001, 39.00145, 39.01305, 39.0132, 39.0136, 39.0139, 39.202, 39.302, 39.402, 39.4022, 39.4023, 39.407, 39.4085, 39.521, 39.522, 39.6012, 39.621, 39.6241, 39.701, 39.801, 39.807, 39.808, 39.815, 39.821, 39.822, 39.827, 39.8296, 39.8297, and 39.8298, F.S.

¹⁰² Fla. Const. Art. III, §11(a)(17); s. 743.01, 07, F.S.

¹⁰³ *Garner v. I. E. Schilling Co.*, 174 So. 837, 839 (Fla. 1937).

allowing such engagement.¹⁰⁴ The U.S. Supreme Court has only found a constitutional right to counsel for minors in delinquency proceedings.¹⁰⁵

The Supreme Court held in In re Gault that juveniles need counsel in delinquency proceedings because such actions may result in a loss of liberty, which is comparable in seriousness to a felony prosecution for adults.¹⁰⁶

The Florida Legislature has authorized appointment of legal counsel for minors:

- If the disability of non-age has been removed under chapter 743, F.S.,
- At the discretion of the judge in domestic relations cases, under s. 61.401, F.S.,
- At the discretion of the judge in a dependency proceeding, under s. 39.4085, F.S., or
- If the child is within one of the five categories requiring mandatory appointment in dependency proceedings.¹⁰⁷

In all other circumstances, “an adult person of reasonable judgment and integrity should conduct the litigation for the minor in judicial proceedings.”¹⁰⁸

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Attorneys ad Litem

The bill has an indeterminate, but potentially significant, fiscal impact on state government due to the cost of appointing attorneys ad litem. It is unknown how many attorneys ad litem would be assigned pursuant to the bill provisions.

¹⁰⁴ Buckner v. Family Services of Central Florida, Inc., 876 So.2d 1285 (Fla. 5th DCA 2004).

¹⁰⁵ In re Gault, 387 U.S. 1, 41 (1967).

¹⁰⁶ Id. at p. 36.

¹⁰⁷ Section 39.01305, F.S., requires an attorney to be appointed for a dependent child who:

- Resides in a skilled nursing facility or is being considered for placement in a skilled nursing home;
- Is prescribed a psychotropic medication but declines assent to the psychotropic medication;
- Has a diagnosis of a developmental disability as defined in [s. 393.063, F.S.](#);
- Is being placed in a residential treatment center or being considered for placement in a residential treatment center;
- or
- Is a victim of human trafficking as defined in [s. 787.06\(2\)\(d\), F.S.](#)

¹⁰⁸ Garner v. I. E. Schilling Co., 174 So. 837, 839 (Fla. 1937).

Pathways to Prosperity

The fiscal impact of the Pathways to Prosperity grant program is indeterminate, but likely significant on state government. The Office projects an approximate cost of just over 12 million dollars to implement and operate the program, detailed as follows:¹⁰⁹

Expense	Cost per unit	Units	Total Cost
Trade School Grants	\$9,000.00	400	\$3,600,000.00
Paid Apprenticeship	\$16,793.40	400	\$6,717,360.00
Financial Literacy	-	0	-
SAT/ACT Prep	\$699.00	2000	\$1,398,000.00
Governmental Operations Consultant III (Grant Managers	\$77,000.00	1	\$77,000.00
Program Specialist II	\$50,900.81	2	\$101,801.62
Child Advocate	\$63,700.00	2	\$127,400.00
Training Specialist	\$70,000.00	1	\$70,000.00
Total Estimated Expenses			\$12,091,561.62

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 39.001, 39.00145, 39.00146, 39.0016, 39.01, 39.013, 39.01305, 39.0132, 39.0136, 39.0139, 39.202, 39.302, 39.402, 39.4022, 39.4023, 39.407, 39.4085, 39.521, 39.522, 39.6012, 39.621, 39.6241, 39.701, 39.801, 39.807, 39.808, 39.815, 39.821, 39.822, 39.827, 39.8296, 39.8297, 39.8298, 119.071, 322.09, 394.495, 627.746, 768.28, 934.255, and 960.065 of the Florida Statutes.

This bill creates sections 39.6036 and 1009.898 of the Florida Statutes.

This bill repeals section 39.820 of the Florida Statutes.

¹⁰⁹ The Statewide Guardian ad Litem Office, Bill Analysis, *SB 1384*, p. 9, March 12, 2023 (on file with Committee for Children, Families, and Elder Affairs).

IX. Additional Information:

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

CS by Children, Families, and Elder Affairs on April 4, 2023:

The Committee Substitute reinserts inadvertently deleted language related to the transportation of children by GAL volunteers and deletes the word “volunteer” from “guardian ad litem volunteer” allowing GAL staff, not just volunteers, to transport children.

- B. **Amendments:**

None.

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



634954

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 1925 - 1932
and insert:
attorneys ad litem as needed.

9. In an effort to promote normalcy and establish trust between a ~~court-appointed volunteer~~ guardian ad litem and a child alleged to be abused, abandoned, or neglected under this chapter, a guardian ad litem may transport a child. However, a guardian ad litem ~~volunteer~~ may not be required by a guardian ad



634954

11 litem circuit office or ordered by ~~or directed by the program or~~
12 a court to transport a child.

13 10.8. The office shall submit to the Governor, the
14 President



497712

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/04/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 2027 - 2028
and insert:
organization or a local direct-support organization which is
created or designated by the executive director after July 1,
2023 shall serve at the pleasure of the executive director. The
term of any board member of an organization in existence prior
to July 1, 2023 that is designated as a direct-support
organization for a local guardian ad litem office after July 1,



497712

2023 may only be terminated in accordance with that
organization's bylaws in existence prior to July 1, 2023 or by
the executive director of the Statewide Guardian ad Litem Office
for cause, which may include, but need not be limited to, the
board member violating his or her duty of loyalty to the mission
of the Statewide Guardian ad Litem Program or the local guardian
ad litem office that the organization is designated to support.

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

And the title is amended as follows:

 Delete line 124

and insert:

 designate such organizations; providing for
 termination of certain board members in specified
 instances;

By Senator Book

35-01192A-23

20231440__

A bill to be entitled

An act relating to court proceedings; amending s. 39.013, F.S.; authorizing individuals to appear at or attend dependency proceedings through audio-video communication technology; providing an exception to such authorization; amending s. 39.0131, F.S.; requiring parties in certain proceedings to provide their primary e-mail address to the court; requiring the court to advise parties on how such addresses will be used; authorizing the court to excuse such requirement for good cause shown; requiring the court to excuse such requirement under certain circumstances; amending s. 39.402, F.S.; requiring that court notices for shelter hearings held through audio-video communication technology include certain information; amending s. 39.502, F.S.; authorizing parties to consent to service or notice by e-mail for shelter hearings and hearings regarding medical emergencies; requiring that certain summons or notices include instructions for appearing through audio-video communication technology, if applicable; authorizing a party to consent to service of a summons by e-mail; requiring the court to provide certain instructions for hearings conducted through audio-video communication technology; requiring the attorney for the Department of Children and Families to provide instructions for appearance through audio-video communication technology to certain relatives, if applicable; making technical changes; amending s.

35-01192A-23

20231440__

39.506, F.S.; conforming provisions to changes made by the act; requiring each party to provide a permanent e-mail address at an arraignment hearing; requiring the court to advise parties on how such addresses will be used; authorizing the court to excuse such requirement for good cause shown; requiring the court to excuse such requirement under certain circumstances; amending s. 39.521, F.S.; requiring that disposition orders issued by the court include instructions for appearance at certain hearings through audio-video communication technology, if applicable; amending s. 39.801, F.S.; requiring that notices for advisory hearings for petition for termination of parental rights include instructions for appearance through audio-video communication technology, if applicable; authorizing a party to consent to service or notice of such advisory hearing by e-mail; conforming provisions to changes made by the act; specifying that if a person fails to appear at an advisory hearing either physically or through audio-video communication technology, it constitutes consent to termination of parental rights; requiring the court to provide instructions for appearance by audio-video communication technology, if applicable, at an adjudicatory hearing for the petition of termination of parental rights; specifying that failure to appear, either physically or through audio-video communication technology, at an adjudicatory hearing constitutes consent to termination of parental

35-01192A-23

20231440__

rights; amending s. 92.54, F.S.; authorizing that the testimony of children be given through audio-video communication technology under certain circumstances; amending s. 985.319, F.S.; requiring that a summons provide instruction on how to attend a hearing if the hearing is to be held through audio-video communication technology; providing an effective date.

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

Section 1. Subsection (13) is added to section 39.013, Florida Statutes, to read:

39.013 Procedures and jurisdiction; right to counsel.—

(13) Except as otherwise provided in this chapter, an individual's appearance or attendance at dependency proceedings may be through his or her physical appearance or attendance or, at the discretion of the court, through audio-video communication technology, unless the court determines that appearance through audio-video communication technology is inconsistent with the United States Constitution, the State Constitution, a statute, a rule of court, or a court order.

Section 2. Section 39.0131, Florida Statutes, is amended to read:

39.0131 Permanent mailing and primary e-mail address designation.—Upon the first appearance before the court, each party shall provide to the court a permanent mailing address and primary e-mail address. The court shall advise each party that these addresses ~~this address~~ will be used by the court and the petitioner for notice purposes unless and until the party

35-01192A-23

20231440__

88 notifies the court and the petitioner in writing of a new
89 mailing or e-mail address. The court may excuse a party from the
90 requirement to provide an e-mail address for good cause shown.
91 The court must excuse a party who is incarcerated and is not
92 represented by an attorney from the requirement to provide an e-
93 mail address.

94 Section 3. Subsection (16) of section 39.402, Florida
95 Statutes, is amended to read:

96 39.402 Placement in a shelter.—

97 (16) At the conclusion of a shelter hearing, the court
98 shall notify all parties in writing of the next scheduled
99 hearing to review the shelter placement. If the hearing will be
100 held through audio-video communication technology, the written
101 notice must include all relevant information needed to attend
102 the proceeding. The hearing must ~~shall~~ be held no later than 30
103 days after placement of the child in shelter status, in
104 conjunction with the arraignment hearing, and at such times as
105 are otherwise provided by law or determined by the court to be
106 necessary.

107 Section 4. Subsections (1), (4), (5), (18), and (19) of
108 section 39.502, Florida Statutes, are amended to read:

109 39.502 Notice, process, and service.—

110 (1) Unless parental rights have been terminated, all
111 parents must be notified of all proceedings or hearings
112 involving the child. Notice in cases involving shelter hearings
113 and hearings resulting from medical emergencies must be provided
114 in the manner ~~that~~ most likely to result in actual notice to the
115 parents. A party may consent to service or notice by e-mail by
116 providing a primary e-mail address to the clerk of the court. In

35-01192A-23

20231440__

all other dependency proceedings, notice must be provided in accordance with subsections (4)-(9), except when a relative requests notification pursuant to s. 39.301(14)(b), in which case notice shall be provided pursuant to subsection (19).

(4) The summons must ~~shall~~ require the person on whom it is served to appear for a hearing at a time and place specified, not less than 72 hours after service of the summons. If applicable, the summons must also include instructions for appearing at the hearing through audio-video communication technology. A copy of the petition shall be attached to the summons.

(5) The summons must ~~shall~~ be directed to, and must ~~shall~~ be served upon, all parties other than the petitioner. A party may consent to service by e-mail by providing a primary e-mail address to the clerk of the court.

(18) In all proceedings under this part, the court shall provide to the parent or legal custodian of the child, at the conclusion of any hearing, a written notice containing the date of the next scheduled hearing. The court shall also include the date of the next hearing in any order issued by the court. If the hearing is to be conducted through audio-video communication technology, the instructions for appearance must also be included.

(19) In all proceedings and hearings under this chapter, the attorney for the department shall notify, orally or in writing, a relative requesting notification pursuant to s. 39.301(14)(b) of the date, time, and location of such proceedings and hearings and, if applicable, the instructions for appearance through audio-video communication technology, and

35-01192A-23

20231440__

146 notify the relative that he or she has the right to attend all
147 subsequent proceedings and hearings, to submit reports to the
148 court, and to speak to the court regarding the child, if the
149 relative so desires. The court has the discretion to release the
150 attorney for the department from notifying a relative who
151 requested notification pursuant to s. 39.301(14)(b) if the
152 relative's involvement is determined to be impeding the
153 dependency process or detrimental to the child's well-being.

154 Section 5. Subsections (3) and (4) of section 39.506,
155 Florida Statutes, are amended to read:

156 39.506 Arraignment hearings.—

157 (3) Failure of a person served with notice to ~~personally~~
158 appear at the arraignment hearing constitutes the person's
159 consent to a dependency adjudication. The document containing
160 the notice to respond or appear must contain, in type at least
161 as large as the balance of the document, the following or
162 substantially similar language: "FAILURE TO ~~PERSONALLY~~ APPEAR AT
163 THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE ADJUDICATION
164 OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN)
165 AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR
166 CHILDREN)." If a person appears for the arraignment hearing and
167 the court orders that person to ~~personally~~ appear, either
168 physically or through audio-video communication technology, at
169 the adjudicatory hearing for dependency, stating the date, time,
170 and place, and, if applicable, the instructions for appearance
171 through audio-video communication technology, of the
172 adjudicatory hearing, then that person's failure to appear for
173 the scheduled adjudicatory hearing constitutes consent to a
174 dependency adjudication.

35-01192A-23

20231440__

175 (4) At the arraignment hearing, each party shall provide to
176 the court a permanent mailing address and a primary e-mail
177 address. The court shall advise each party that these addresses
178 ~~this address~~ will be used by the court and the petitioner for
179 notice purposes unless and until the party notifies the court
180 and the petitioner in writing of a new mailing or e-mail
181 address. The court may, for good cause shown, excuse a party
182 from the requirement to provide an e-mail address. The court
183 must excuse a party who is incarcerated and is not represented
184 by an attorney from the requirement to provide an e-mail
185 address.

186 Section 6. Paragraph (e) of subsection (1) of section
187 39.521, Florida Statutes, is amended to read:

188 39.521 Disposition hearings; powers of disposition.—

189 (1) A disposition hearing shall be conducted by the court,
190 if the court finds that the facts alleged in the petition for
191 dependency were proven in the adjudicatory hearing, or if the
192 parents or legal custodians have consented to the finding of
193 dependency or admitted the allegations in the petition, have
194 failed to appear for the arraignment hearing after proper
195 notice, or have not been located despite a diligent search
196 having been conducted.

197 (e) The court shall, in its written order of disposition,
198 include all of the following:

- 199 1. The placement or custody of the child.
- 200 2. Special conditions of placement and visitation.
- 201 3. Evaluation, counseling, treatment activities, and other
202 actions to be taken by the parties, if ordered.
- 203 4. The persons or entities responsible for supervising or

35-01192A-23

20231440__

204 monitoring services to the child and parent.

205 5. Continuation or discharge of the guardian ad litem, as
206 appropriate.

207 6. The date, time, and location of the next scheduled
208 review hearing and, if applicable, instructions for appearance
209 through audio-video communication technology, which must occur
210 within the earlier of:

- 211 a. Ninety days after the disposition hearing;
- 212 b. Ninety days after the court accepts the case plan;
- 213 c. Six months after the date of the last review hearing; or
- 214 d. Six months after the date of the child's removal from
215 his or her home, if no review hearing has been held since the
216 child's removal from the home.

217 7. If the child is in an out-of-home placement, child
218 support to be paid by the parents, or the guardian of the
219 child's estate if possessed of assets which under law may be
220 disbursed for the care, support, and maintenance of the child.
221 The court may exercise jurisdiction over all child support
222 matters, shall adjudicate the financial obligation, including
223 health insurance, of the child's parents or guardian, and shall
224 enforce the financial obligation as provided in chapter 61. The
225 state's child support enforcement agency shall enforce child
226 support orders under this section in the same manner as child
227 support orders under chapter 61. Placement of the child is not
228 ~~shall not be~~ contingent upon issuance of a support order.

229 8.a. If the court does not commit the child to the
230 temporary legal custody of an adult relative, legal custodian,
231 or other adult approved by the court, the disposition order must
232 include the reasons for such a decision and shall include a

35-01192A-23

20231440__

determination as to whether diligent efforts were made by the department to locate an adult relative, legal custodian, or other adult willing to care for the child in order to present that placement option to the court instead of placement with the department.

b. If no suitable relative is found and the child is placed with the department or a legal custodian or other adult approved by the court, both the department and the court must ~~shall~~ consider transferring temporary legal custody to an adult relative approved by the court at a later date, but neither the department nor the court is obligated to so place the child if it is in the child's best interest to remain in the current placement.

For the purposes of this section, "diligent efforts to locate an adult relative" means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed.

9. Other requirements necessary to protect the health, safety, and well-being of the child, to preserve the stability of the child's child care, early education program, or any other educational placement, and to promote family preservation or reunification whenever possible.

Section 7. Paragraphs (a) and (d) of subsection (3) of section 39.801, Florida Statutes, are amended to read:

39.801 Procedures and jurisdiction; notice; service of process.—

(3) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the

35-01192A-23

20231440__

following requirements must be met:

(a) Notice of the date, time, and place of the advisory hearing for the petition to terminate parental rights; if applicable, instructions for appearance through audio-video communication technology; and a copy of the petition must be personally served upon the following persons, specifically notifying them that a petition has been filed:

1. The parents of the child.
2. The legal custodians of the child.
3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.
4. Any person who has physical custody of the child.
5. Any grandparent entitled to priority for adoption under s. 63.0425.
6. Any prospective parent who has been identified under s. 39.503 or s. 39.803, unless a court order has been entered pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which indicates no further notice is required. Except as otherwise provided in this section, if there is not a legal father, notice of the petition for termination of parental rights must be provided to any known prospective father who is identified under oath before the court or who is identified by a diligent search of the Florida Putative Father Registry. Service of the notice of the petition for termination of parental rights is not required if the prospective father executes an affidavit of nonpaternity or a consent to termination of his parental rights which is accepted by the court after notice and opportunity to be heard by all parties to address the best interests of the

35-01192A-23

20231440__

child in accepting such affidavit.

7. The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

A party may consent to service or notice by e-mail by providing a primary e-mail address to the clerk of the court. The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: "FAILURE TO ~~PERSONALLY~~ APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

(d) If the person served with notice under this section fails to ~~personally~~ appear at the advisory hearing, either physically or, at the discretion of the court, through audio-video communication technology, the failure to ~~personally~~ appear constitutes ~~shall constitute~~ consent for termination of parental rights by the person given notice. If a parent appears for the advisory hearing and the court orders that parent to ~~personally~~ appear at the adjudicatory hearing for the petition for termination of parental rights, stating the date, time, and location of the said hearing and, if applicable, instructions for appearance through audio-video communication technology, then failure of that parent to ~~personally~~ appear, either physically or, at the discretion of the court, through audio-video communication technology, at the adjudicatory hearing

35-01192A-23

20231440__

constitutes ~~shall constitute~~ consent for termination of parental rights.

Section 8. Section 92.54, Florida Statutes, is amended to read:

92.54 Use of closed-circuit television and audio-video communication technology in proceedings involving a victim or witness under the age of 18 or who has an intellectual disability.—

(1) Upon motion and hearing in camera and upon a finding that there is a substantial likelihood that a victim or witness under the age of 18 or who has an intellectual disability will suffer at least moderate emotional or mental harm due to the presence of the defendant if such victim or witness is required to testify in open court, or is unavailable as defined in s. 90.804(1), the trial court may order that the testimony of the victim or witness be taken outside of the courtroom and shown by means of closed-circuit television or through audio-video communication technology.

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

(3) Only the judge, the prosecutor, the defendant, the attorney for the defendant, the operators of the videotape equipment, an interpreter, and some other person who, in the opinion of the court, contributes to the well-being of the child or the person who has an intellectual disability and who will not be a witness in the case may be in the room during the

35-01192A-23

20231440__

349 recording of the testimony.

350 (4) During the victim's or witness's testimony by closed-
351 circuit television or through audio-video communication
352 technology, the court may require the defendant to view the
353 testimony from the courtroom. In such a case, the court shall
354 permit the defendant to observe and hear the testimony of the
355 victim or witness, but must ensure that the victim or witness
356 cannot hear or see the defendant. The defendant's right to
357 assistance of counsel, which includes the right to immediate and
358 direct communication with counsel conducting cross-examination,
359 must be protected and, upon the defendant's request, such
360 communication must be provided by any appropriate electronic
361 method.

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

364 Section 9. Subsection (3) of section 985.319, Florida
365 Statutes, is amended to read:

366 985.319 Process and service.—

367 (3) The summons must ~~shall~~ have a copy of the petition
368 attached and must ~~shall~~ require the person on whom it is served
369 to appear for a hearing at a time and place specified. If the
370 hearing is to be held through audio-video communication
371 technology, the summons must provide instructions on how to
372 attend the hearing. Except in cases of medical emergency, the
373 time may not be less than 24 hours after service of the summons.
374 If the child is not detained by an order of the court, the
375 summons must ~~shall~~ require the custodian of the child to produce
376 the child at the said time and place.

377 Section 10. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1440

INTRODUCER: Senator Book

SUBJECT: Court Proceedings

DATE: April 3, 2023

REVISED: _____

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

I. Summary:

SB 1440 amends several statutes to authorize the use of audio-video communication technology in dependency and delinquency proceedings. This technology allows people to appear in proceedings remotely, rather than in person. When a court authorizes someone to appear remotely, he or she must receive instructions for the use of the technology.

The bill also requires each party in a dependency case to provide a primary e-mail address that, in addition to a permanent mailing address, will be used by the court for notice purposes.

The bill is based on procedures for using audio-video technology that were used by the state court system during the height of the COVID-19 pandemic.

The bill takes effect upon becoming a law.

II. Present Situation:

To help ensure public safety during the COVID-19 pandemic of 2020, state courts limited in-person appearances to essential matters before the trial courts. The courts authorized many court proceedings to be conducted remotely, rather than in person, which allowed attorneys and parties to appear by using video or audio technology.¹

¹ The Supreme Court of Florida, *In Re: Amendment to Florida Rules of Juvenile Procedure, Florida Family Law Rules of Procedure, and Florida Supreme Court Approved Family Law Forms* (July 14, 2022), available at <https://casetext.com/case/in-re-amendments-to-fla-rules-of-juvenile-procedure-9151> (last visited on April 1, 2023).

A workgroup² was established by the Florida Supreme Court to study whether certain remote proceedings, which produced effective results, should continue after the COVID-19 epidemic. The workgroup concluded “that permanent, broader authorization for remote proceedings was warranted” due to the positive results that were observed during the pandemic. Additional court-appointed committees having subject matter expertise made recommendations to the Court to amend court rules and authorize remote proceedings. The Court adopted the proposed amendments on July 14, 2022.³

Florida’s Child Welfare System - Generally

Chapter 39, F.S., creates Florida’s dependency system that is charged with protecting the welfare of children; this system is often referred to as the “child welfare system.” The DCF Office of Child and Family Well-Being works in partnership with local communities and the courts to ensure the safety, timely permanency, and well-being of children.

Child welfare services are directed toward the prevention of abandonment,⁴ abuse,⁵ and neglect⁶ of children.⁷ The DCF practice model is based on the safety of the child within his or her home, using in-home services such as parenting coaching and counseling to maintain and strengthen that child’s natural supports in his or her home environment. Such services are coordinated by the DCF-contracted community-based care lead agencies (CBC).⁸ The DCF remains responsible for a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children’s legal services.⁹ Ultimately,

² The workgroup was officially named the “Workgroup on the Continuity of Court Operations and Proceedings During and After COVID-19.”

³ The Supreme Court of Florida, *supra* note 1.

⁴ Section 39.01(1), F.S., defined to mean 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. For purposes of this subsection, “establish or maintain a substantial and positive relationship” includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child

⁵ Section 39.01(2), F.S., defined to mean 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.

⁶ *See s. 39.01(50)*, F.S., defined, in part, to mean 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.

⁷ Section 39.001(8), F.S.

⁸ Section 409.986(1), F.S.; *See generally* The Department of Children and Families (The DCF), *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 viewed March 29, 2023).

⁹ Office of Program Policy Analysis and Government Accountability, *Child Welfare System Performance Mixed in First Year of Statewide Community-Based Care*, Report 06-50, June 2006, p. 2, available at <https://oppaga.fl.gov/Documents/Reports/06-50.pdf> (last viewed March 29, 2023).

the DCF is responsible for program oversight and the overall performance of the child welfare system.¹⁰

Department of Children and Families

The DCF's statutory mission is to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.¹¹ The DCF must develop a strategic plan to fulfill this mission and establish measurable goals, objectives, performance standards, and quality assurance requirements to ensure the DCF is accountable to taxpayers.¹²

The DCF is required to provide services relating to:

- Adult protection.
- Child care regulation.
- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.¹³

The DCF must also deliver services by contract through private providers to the extent allowed by law and funding.¹⁴ These private providers include CBCs delivering child welfare services and managing entities (MEs) delivering behavioral health services.¹⁵

Dependency Case Process

When child welfare necessitates that the DCF remove a child from the home to ensure his or her safety, a series of dependency court proceedings must occur to place that child in an out-of-home placement, adjudicate the child dependent, and, if necessary, terminate parental rights and free that child for adoption. Steps in the dependency process usually include:

- A report to the Florida Abuse Hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in their child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption after termination of parental rights.¹⁶

¹⁰ *Id.*

¹¹ Section 20.19(1)(a), F.S.

¹² Section 20.19(1)(b), F.S.

¹³ Section 20.19(4)(a), F.S.,

¹⁴ Section 20.19(1)(c), F.S.

¹⁵ Part V of ch. 409, F.S., and s. 394.9082, F.S.

¹⁶ The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. Section 63.022, F.S.

Dependency Proceeding	Description of Process	Controlling Statute(s)
Removal	The DCF may remove a child from his or her home after a protective investigation determines that conditions in that child's home are unsafe and a safety plan cannot make the conditions safe.	s. 39.401, F.S.
Shelter Hearing	The court must hold a shelter hearing within 24 hours after removal. At this hearing, the judge determines whether there was probable cause to remove the child and whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	The DCF must file a petition for dependency 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	The court must hold an arraignment and shelter review within 28 days of the shelter hearing. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any previous shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	The court must hold an adjudicatory trial within 30 days of arraignment. The judge determines whether a child is dependent during this trial.	s. 39.507, F.S.
Disposition Hearing	The court must hold a disposition hearing within 15 days of arraignment (if the parents admits or consents to adjudication) or 30 days of adjudication if a court finds the child dependent. At this hearing, the judge reviews the case plan and placement of the child and orders the case plan and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition Change of Custody Hearing	The court may change the temporary out-of-home placement of a child at a postdisposition 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 at least every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	If the DCF determines that reunification is no longer a viable goal and 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	The court must hold an advisory hearing 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.

Dependency Proceeding	Description of Process	Controlling Statute(s)
Adjudicatory Hearing	The court must hold an adjudicatory trial 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.

Chapter 92, F.S., governs witness, records, and documents. Chapter 985, F.S., governs juvenile justice proceedings. These chapters have not been updated to permit the use of audio-video technology or provide e-mail addresses for receiving correspondence from the courts.

III. Effect of Proposed Changes:

The bill amends several statutes in ch. 39, F.S., to authorize the use of audio-video communication technology. When audio-video communication is permitted, instructions for its use must also be provided. The bill requires parties to provide a primary e-mail address in addition to a permanent mailing address for the court to use in contacting the party. However, the court may excuse a party from this requirement to provide an e-mail address if good cause is shown, but must excuse the party from providing the e-mail address if the party is incarcerated and is not represented by an attorney.

Section 1 – Section 39.013(13), F.S., - Dependency Jurisdiction and Procedures

Section 39.013, F.S., sets forth jurisdiction requirements and the general procedures that govern dependency cases. A new subsection is added which specifies that an individual's appearance or attendance at dependency proceedings may be made through physical appearance or attendance or, at the court's discretion, through audio-video communication technology, unless the court determines that it is inconsistent with the U. S. Constitution, the State Constitution, a statute, a rule of court, or a court order.

Section 2 – Section 39.0131, F. S. – Permanent Mailing and Primary E-mail Address Designation

Section 39.0131, F.S., requires each party in a dependency action, upon first appearance before the court, to provide a permanent mailing address which will be used for notice purposes. New language is added that also requires a party to provide a primary e-mail address. However, the court *may* excuse a party from providing an e-mail address for good cause shown. The court *must* excuse a party from providing an e-mail address if he or she is incarcerated and not represented by an attorney.

Section 3 – Section 39.402(16), F.S., Shelter Placements

Section 39.402, F.S., sets forth the procedures that must be followed when a child is being placed into a shelter. "Shelter" means a placement with a relative or a nonrelative, or in a licensed home of facility, for the temporary care of a child who is alleged to be or who has been found to be dependent.¹⁷ Section 39.402(16), F.S., states that at the conclusion of a shelter hearing, the court

¹⁷ Section 39.01(78), F.S.

must notify all parties in writing of the next scheduled hearing to review the shelter placement. This provision is amended to provide that, if the next hearing will be held using audio-video communication technology, the written notice must include all relevant information that is needed to attend the proceeding.

Section 4 – Section 39.502(1), (4), (5), (18), and (19), F.S. – Notice, Process, and Service to Parents in Dependency Matters

Section 39.502(1), F.S.

Section 39.502, F.S., outlines the requirements for providing notice, process, and service of dependency petitions.¹⁸ Unless parental rights have been terminated, parents must be notified of all proceedings or hearings involving their child. This statute is amended to authorize a party to consent to service or notice by e-mail by giving a primary e-mail address to the clerk of court.

Section 39.502(4), F.S.

This statute is amended to provide that, when a summons is issued notifying the person to appear for a hearing, if audio-video communication technology is applicable, the summons must also include instructions for appearing at the hearing through the use of the audio-video communication technology.

Section 39.502(5), F.S.

This subsection is amended to allow a party to consent to service by e-mail by providing a primary e-mail address to the clerk of the court.

Section 39.502(18), F.S.

At the conclusion of any hearing, the court must provide the parent or legal custodian of the child a written notice containing the date of the next scheduled hearing. This provision is amended to provide that, if the hearing is going to be conducted through audio-video communication technology, the instructions for an appearance must also be included.

Section 39.502(19), F.S.

The attorney for the Department of Children and Families is required to provide oral or written notice to a relative who requests notification of the date, time, and location of the proceeding and hearings. This statute is amended to state that, if applicable, the attorney must provide relatives with instructions for appearance through audio-video communication technology.

Section 5 – Section 39.506(3) and (4), F.S. – Arraignment Hearings

Section 39.506(3), F.S., states that, if a person served with notice does not “personally” appear at an arraignment hearing, he or she consents to a dependency adjudication. The document containing the notice to respond or appear must contain language stating that their failure to “personally” appear at the arraignment hearing constitutes consent to the adjudication of the

¹⁸ A dependency petition is filed by the Department of Children and Families to initiate proceedings to determine whether a child is dependent. Section 39.501, F.S.

child or children as dependent and may ultimately result in the loss of custody of the child or children. If a person appears for an arraignment hearing and the court orders that person to “personally” appear at the adjudicatory hearing for dependency, then the failure to appear for the adjudicatory hearing constitutes consent to a dependency adjudication.

This provision is amended to delete references to “personally” appear and permits an appearance either physically or through audio-video communication technology. If the audio-video communication technology is used, the instructions for using that technology must be provided.

Section 39.506(4), F.S., is amended to require each party at an arraignment hearing to provide the court with a permanent mailing address. This subsection is amended to require each party to also provide a primary e-mail address. However, the court may, for good cause shown, excuse a person from providing a primary e-mail address if he or she is incarcerated and not represented by an attorney.

Section 6 – Section 39.521, F.S. – Disposition Hearings and Powers of Disposition

A disposition hearing is a hearing in which the court determines which protection services are the most appropriate for a child as well as placement of the child in dependency cases.¹⁹ The court must include in its written order of disposition several findings, including the date, time, and location of the next scheduled review hearing. The statute is amended to provide that if the next hearing is conducted by the use of audio-video communications technology, instructions for an appearance must accompany the written order of disposition.

Section 7 – Section 39.801(3), F.S. - Termination of Parental Rights; Notice and Service of Notice

Before a court may terminate parental rights, notice of the date, time, and place of the advisory hearing must be served upon certain persons listed in the statute, including the parents and legal custodians of the child. The statute is amended to state that, if it is applicable, instructions for appearance through audio-video communications technology, must also be included.

Additionally, the statute is amended to permit a party to consent to service or notice by e-mail by providing a primary e-mail address to the clerk of the court. If a person served with notice fails to appear at the advisory hearing, either physically or, at the discretion of the court, through audio-video communications technology, that failure to appear constitutes consent for termination of parental rights. If the court permits an appearance through the use of audio-video communication technology, instructions for that appearance must be included.

The existing references in the statute to someone “personally” appearing are removed and new language is supplied authorizing physical appearance or an appearance through audio-video communication technology.

¹⁹ Section 39.01(24), F.S.

Section 8 – Section 92.54, F.S. – Victim and Witness Testimony Taken Outside a Courtroom and Shown by Closed-Circuit Television

Section 92.54, F.S., authorizes a court to order the testimony of a victim or witness under the age of 18, or who has an intellectual disability, to be taken outside of the courtroom and shown by closed-circuit television. The statute is amended to also permit the testimony to be shown by means of audio-video communication technology.

Section 9 – Section 985.319, F.S., Process and Service

Chapter 985, F.S., contains the laws governing juvenile justice. Proceedings that seeks to find that a child has committed a delinquent act or violated a law are initiated by the filing of a petition for delinquency by the state attorney. After the petition is filed, the clerk's office issues a summons that requires the person served to appear for a hearing at a certain time and place. This statute is amended to permit the hearing to be held through the use of audio-video communication technology. If the hearing is held using that technology, the summons must provide instructions on how to attend the hearing.

The bill takes effect upon becoming a law.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

By allowing individuals to appear remotely through the use of audio-video equipment, there could be a significant savings to people who would otherwise need to take time away from their jobs to appear in court.

C. Government Sector Impact:

According to the Office of the State Courts Administrator, the effect on the judicial workload will not be significant because the courts already allow appearances using audio-video communication technology. The actual effect on the court system workload will depend on how many courts ultimately use this technology to allow court appearances, but that effect is not currently known.²⁰

Because the data needed to quantify the increase in the workload is not available, the fiscal impact of this legislation cannot be accurately determined.²¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 39.013, 39.0131, 39.402, 39.502, 39.506, 39.521, 39.801, 92.54, and 985.319 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.

²⁰ Office of the State Courts Administrator, *Senate Bill 1440 Judicial Impact Statement* (March 14, 2023) <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=31409&yr=2023> (on file with the Senate Committee on Judiciary).

²¹ *Id.*

By Senator Garcia

36-00756A-23

20231540__

A bill to be entitled

An act relating to elder abuse and vulnerable adult abuse fatality review teams; amending s. 415.1103, F.S.; revising provisions related to elder abuse fatality review teams; revising the scope of such review teams to include review of fatal and near-fatal incidents of abuse, exploitation, or neglect of vulnerable adults in addition to elderly persons; revising the permissible jurisdictions of such review teams; providing purposes of the review teams; revising membership, meetings, and duties of the review teams; authorizing elder abuse fatality review teams existing on a specified date to continue to do so and requiring them to comply with specified provisions; revising annual reporting requirements; providing that certain persons have immunity from monetary liability; providing an exception and construction; providing that certain information and records acquired by a review team are not subject to discovery or introduction into evidence in civil and criminal proceedings; providing an exception; providing that certain persons may not testify in certain proceedings; providing exceptions and construction; providing an effective date.

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

Section 1. Section 415.1103, Florida Statutes, is amended to read:

36-00756A-23

20231540__

415.1103 Elder abuse and vulnerable adult abuse fatality
review teams.—

(1) (a) An elder abuse or a vulnerable adult ~~A state~~
~~attorney, or his or her designee, may initiate an elder abuse~~
fatality review team may be established at a local or regional
level or at the state level ~~in his or her judicial circuit~~ to
review fatal and near-fatal incidents of ~~deaths of elderly~~
~~persons caused by, or related to, abuse, exploitation, or~~
neglect of elderly persons and vulnerable adults.

(b) The purpose of the review teams is to learn how to
prevent abuse and abuse-related deaths of elderly persons and
otherwise vulnerable adults and to improve the system response
to instances of such abuse, exploitation, or neglect.

(2) (a) An elder abuse or a vulnerable adult abuse fatality
review team may include, but need is not be limited to,
representatives from any of the following entities or to the
following persons, as applicable ~~located in the review team's~~
~~judicial circuit:~~

1. Law enforcement agencies.
2. The state attorney.
3. The medical examiner.
4. A county court judge.
5. Adult protective services.
6. The area agency on aging.
7. The State Long-Term Care Ombudsman Program.
8. The Agency for Health Care Administration.
9. The Agency for Persons with Disabilities.
10. The Office of the Attorney General.
11. ~~10.~~ The Office of the State Courts Administrator.

36-00756A-23

20231540__

59 ~~12.11.~~ The clerk of the court.
60 ~~13.12.~~ A victim services program.
61 ~~14.13.~~ An elder law attorney.
62 ~~15.14.~~ Emergency services personnel.
63 ~~16.15.~~ A certified domestic violence center.
64 ~~17.16.~~ An advocacy organization for victims of sexual
65 violence.
66 ~~18.17.~~ A funeral home director.
67 ~~19.18.~~ A forensic pathologist.
68 ~~20.19.~~ A geriatrician.
69 ~~21.20.~~ A geriatric nurse.
70 ~~22.21.~~ A geriatric psychiatrist or other individual
71 licensed to offer behavioral health services.
72 ~~23.22.~~ A hospital discharge planner.
73 ~~24.23.~~ A public guardian.
74 ~~25.24.~~ Any other persons who have knowledge regarding fatal
75 or near-fatal incidents of elder abuse, vulnerable adult abuse,
76 domestic violence, or sexual violence, or suicide, including
77 knowledge of research, policy, law, and other matters connected
78 with such incidents involving elderly persons and vulnerable
79 adults ~~elders, or who are recommended for inclusion by the~~
80 ~~review team.~~
81 ~~(b)(e)~~ Participation in a review team is voluntary. Members
82 of a review team shall serve without compensation and may not be
83 reimbursed for per diem or travel expenses.
84 (c) Except as required under subsection (4), the structure
85 and activities of a review team, including the number and type
86 of incidents it chooses to review, are determined by the members
87 of the review team. ~~Members shall serve for terms of 2 years, to~~

36-00756A-23

20231540__

88 ~~be staggered as determined by the co chairs.~~

89 ~~(d) The state attorney may call the first organizational~~
90 ~~meeting of the team. At the initial meeting, members of a review~~
91 ~~team shall choose two members to serve as co chairs. Chairs may~~
92 ~~be reelected by a majority vote of a review team for not more~~
93 ~~than two consecutive terms. At the initial meeting, members of a~~
94 ~~review team shall establish a schedule for future meetings. Each~~
95 ~~review team shall meet at least once each fiscal year.~~

96 ~~(e) Each review team shall determine its local operations,~~
97 ~~including, but not limited to, the process for case selection.~~
98 ~~The state attorney shall refer cases to be reviewed by each~~
99 ~~team. Reviews must be limited to closed cases in which an~~
100 ~~elderly person's death was caused by, or related to, abuse or~~
101 ~~neglect. All identifying information concerning the elderly~~
102 ~~person must be redacted by the state attorney in documents~~
103 ~~received for review. As used in this paragraph, the term "closed~~
104 ~~case" means a case that does not involve information considered~~
105 ~~active as defined in s. 119.011(3)(d).~~

106 ~~(d)(f)~~ (d) Administrative costs of operating the review team
107 must be borne by the team members or entities they represent.

108 ~~(3)(2)~~ (3) An elder abuse fatality review team in existence on
109 July 1, 2023 ~~2020~~, may continue to exist and must comply with
110 the requirements of this section.

111 ~~(4)(3)~~ (4) An elder abuse or a vulnerable adult abuse fatality
112 review team shall do all of the following:

113 (a) Review fatal and near-fatal incidents involving deaths
114 of elderly persons or otherwise vulnerable adults in the team's
115 jurisdiction ~~in its judicial circuit~~ which are found to have
116 been caused by, or related to, abuse, exploitation, or neglect.

36-00756A-23

20231540__

(b) Take into consideration the events leading up to a fatal or near-fatal incident, available community resources, current law and policies, ~~and~~ the actions taken by systems or individuals related to the fatal or near-fatal incident, and any information deemed relevant by the review team, including a review of public records and records for which a public records exemption is granted, if available to the review team.

(c) Identify potential gaps, deficiencies, or problems in the delivery of services to elderly persons or otherwise vulnerable adults by public and private agencies which may be related to incidents ~~deaths~~ reviewed by the team.

(d) Whenever possible, develop communitywide approaches to address the causes of, and contributing factors to, incidents ~~deaths~~ reviewed by the team.

(e) Develop recommendations and potential changes in law, rules, and policies to support the care of elderly persons and otherwise vulnerable adults and to prevent abuse-related incidents ~~elder abuse deaths~~.

~~(5)-(4)-(a)~~ An elder abuse or a vulnerable adult abuse fatality A review team may share with other review teams in this state any relevant information that pertains to incidents identified or reviewed by the team ~~the review of the death of an elderly person.~~

~~(b) A review team member may not contact, interview, or obtain information by request directly from a member of the deceased elder's family as part of the review unless a team member is authorized to do so in the course of his or her employment duties. A member of the deceased elder's family may voluntarily provide information or any record to a review team~~

36-00756A-23

20231540__

146 ~~but must be informed that such information or any record is~~
147 ~~subject to public disclosure unless a public records exemption~~
148 ~~applies.~~

149 (6) (a) ~~(5) (a)~~ Annually by September 1, each elder abuse or
150 vulnerable adult abuse fatality review team shall submit a
151 summary report to the Department of Elderly Affairs which
152 includes, but is not limited to, all of the following:

153 1. Descriptive statistics regarding cases reviewed by the
154 team, including demographic information on victims and the
155 causes and nature of their fatal or near-fatal incidents of
156 abuse, exploitation, or neglect. ~~deaths;~~

157 2. Current policies, procedures, rules, or statutes the
158 review team has identified as contributing to the incidence of
159 ~~elder~~ abuse and ~~elder~~ deaths of elderly persons or otherwise
160 vulnerable adults, and recommendations for system improvements
161 and needed resources, training, or information dissemination to
162 address such identified issues. ~~and~~

163 3. Any other recommendations to prevent fatal or near-fatal
164 incidents ~~deaths~~ from ~~elder~~ abuse, exploitation, or neglect,
165 based on an analysis of the data and information presented in
166 the report.

167 (b) Annually by November 1, the Department of Elderly
168 Affairs shall prepare a summary report of the review team
169 information submitted under paragraph (a). The department shall
170 submit its summary report to the Governor, the President of the
171 Senate, the Speaker of the House of Representatives, and the
172 Department of Children and Families.

173 (7) (a) ~~(6)~~ There is no monetary liability on the part of,
174 and a cause of action for damages may not arise against, any

36-00756A-23

20231540__

175 member of an elder abuse or a vulnerable adult abuse fatality
176 review team or any person who serves as a witness for, reports
177 an incident to, or conducts an investigation for a review team,
178 for any act or proceeding taken or performed within the scope
179 and functions of the team ~~due to the performance of his or her~~
180 ~~duties as a review team member in regard to any discussions by,~~
181 ~~or deliberations or recommendations of, the team or the member~~
182 unless such person ~~member~~ acted in bad faith, with wanton and
183 willful disregard of human rights, safety, or property.

184 (b) This subsection does not affect or supersede the
185 requirements of s. 768.28.

186 (8) (a) All information and records acquired by an elder
187 abuse or a vulnerable adult abuse fatality review team are not
188 subject to discovery or introduction into evidence in any civil
189 or criminal action or administrative or disciplinary proceeding
190 by any department or employing agency if the information or
191 records arose out of matters that are the subject of an
192 evaluation and review by the review team. However, information,
193 documents, and records otherwise available from other sources
194 are not immune from discovery or introduction into evidence
195 solely because the information, documents, or records were
196 presented to or reviewed by a review team.

197 (b) A person who attends a meeting or other authorized
198 activity of a review team may not testify in any civil,
199 criminal, administrative, or disciplinary proceedings as to any
200 records or information produced or presented to the review team
201 during its meetings or other activities authorized by this
202 section.

203 (c) This subsection does not prohibit:

36-00756A-23

20231540__

204 1. A person who testifies before a review team or is a
205 member of a review team from testifying in a civil, criminal,
206 administrative, or disciplinary proceeding to matters otherwise
207 within his or her knowledge; or

208 2. A member of a review team from testifying in a policy-
209 related hearing or matter, as long as the member of the review
210 team does not disclose records or information that would
211 identify the victim or victim's family or any other confidential
212 or exempt records or information pertaining to a matter reviewed
213 by the review team.

214 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: CS/SB 1540

INTRODUCER: Committee on Children, Families, and Elder Affairs and Senator Garcia

SUBJECT: Elder Abuse and Vulnerable Adult Abuse Fatality Review Teams

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	Fav/CS
2.			AHS	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1540 expands the scope of the existing Elder Abuse Fatality Review Teams to include vulnerable adults and changes their name to the “Elder and Vulnerable Adult Abuse Fatality Review Teams” (EV-FRTs), with the specified purpose of learning how to prevent certain abuse and abuse-related deaths and improve the system response of such instances. The bill also expands the scope of the teams to include “near fatal” incidents and incidents which are the result of exploitation and expands the membership. The bill provides a definition for the term “vulnerable adult” and allows the members of an EV-FRT to determine the number and types of incidents it chooses to review.

The bill allows the following persons or entities to initiate an EV-FRT:

- A state attorney, or his or her designee;
- A law enforcement agency;
- The Department of Children and Families (the DCF);
- The Office of the Attorney General; and
- The Agency for Persons with Disabilities (the APD);

The bill expands the records that may be reviewed by the team to include open and closed cases from entities other than a state attorney by removing the provision that restricted teams to review only closed cases referred and redacted by a state attorney.

The bill requires all members of an EV-FRT to sign a confidentiality agreement acknowledging the requirement to protect from unauthorized disclosure any confidential and exempt oral or written communications, information, or records produced or acquired by the review team. The bill also provides a criminal penalty for the knowing and willful disclosure of certain information produced or acquired by an EV-FRT, and requires confidentiality agreements to reference such penalties.

The bill creates provisions to protect individuals interviewed and information collected by EV-FRTs from being used in a civil or criminal trial or administrative or disciplinary proceeding. However, the bill provides that information, documents, and records otherwise available from other sources are not immune from disclosure, discovery, or introduction into evidence solely because such information was presented to or reviewed by an EV-FRT.

The bill makes conforming changes in the remainder of s. 415.1103, F.S., to align with the changes relating to the scope of the EV-FRTs, and limits the circumstances under which members of a team may directly contact members of a deceased elder's family.

The Department of Elder Affairs (the DOEA) does not anticipate that the bill will have a fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Elder Population

As the country's "baby-boomer" population reaches retirement age and life expectancy increases, the nation's elder population, persons 65 years of age and older, is projected to increase from 54.1 million in 2019 to 80.8 million by 2040 and 94.7 million by 2060.¹ Florida has long been a destination state for senior citizens and has the highest percentage of senior residents in the entire nation. There are currently approximately 5.5 million residents age 60 or older in Florida, and the state ranks first in the nation for population size of individuals over 65 years old.²

Elder Abuse

Elder populations are vulnerable to abuse and exploitation due to risk factors associated with aging, such as physical and mental infirmities and social isolation.³ In general, elder abuse is a

¹ The Administration for Community Living, *Projected Future Growth of Older Population*, available at <https://acl.gov/aging-and-disability-in-america/data-and-research/projected-future-growth-older-population> (last visited March 19, 2023).

² The Florida Department of Elder Affairs (the DOEA), *About Us*, available at <https://elderaffairs.org/about-us/#:~:text=Florida%20is%20home%20to%20nearly%205.5%20million%20residents,health%2C%20and%20physical%20security%20of%20our%20elder%20population>; see also Pew Research Center, *Where Do the Oldest Americans Live?*, July 9, 2015, available at <https://www.pewresearch.org/fact-tank/2015/07/09/where-do-the-oldest-americans-live/> (all sites last visited March 28, 2023).

³ National Center on Elder Abuse, *FAQs: What Causes Elder Abuse to Happen*, available at <https://ncea.acl.gov/FAQ.aspx> (last visited March 28, 2023).

term referring to any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to an older adult.⁴

In Florida, almost 1.5 million senior citizens live in medically underserved areas and over 1.5 million suffer from one or more disabilities.⁵ According to the Department of Justice, approximately 1 in 10 seniors is abused each year in the United States. The trauma of elder abuse can result in premature death, the deterioration of physical and psychological health, destruction of social and familial ties, devastating financial loss and more.⁶ Elder abuse can have significant physical and emotional effects on an older adult, and can lead to premature death.⁷ Victims of elder abuse are four times more likely to be admitted to a nursing home and three times more likely to be admitted to a hospital.⁸

Up to five million older Americans are abused annually, and the annual loss by victims of financial abuse is estimated to be at least \$36.5 billion.⁹ Abusers can be both women and men, and in almost 60% of elder abuse and neglect incidents, the perpetrator is a family member.¹⁰ Approximately two thirds of perpetrators are adult children or spouses.¹¹

Department of Elder Affairs

The Florida Department of Elder Affairs (the DOEA) provides most direct services through its Division of Statewide Community-Based Services, which works through the state's 11 Area Agencies on Aging and local service providers to deliver essential services to a vital segment of the population.¹²

The major focus of the DOEA is to provide home and community-based services to seniors who are at risk of being placed into a long-term care facility because of their degree of frailty.¹³ The goal of the DOEA is to use resources to ensure that the greatest number of elders possible get to choose where they live while living healthy, active, and fulfilling lives in their communities.¹⁴

Florida Long-Term Care Ombudsman Program

The federal Older Americans Act (OAA) requires each state to create a Long-Term Care Ombudsman Program (the Program) to be eligible to receive funding associated with programs

⁴ *Id.* at *FAQs: What is Elder Abuse*

⁵ The DOEA, *2021 Profile of Older Floridians*, available at <https://elderaffairs.org/wp-content/uploads/Florida-Profile-2021.pdf> (last visited March 28, 2023).

⁶ The U.S. Department of Justice (DOJ), *About Elder Abuse*, available at <https://www.justice.gov/elderjustice/about-elder-abuse> (last visited March 28, 2023).

⁷ *Id.*

⁸ The DOJ, *Elder Justice*, available at <https://www.justice.gov/usao-ndwv/programs/elder-justice> (last visited March 28, 2023).

⁹ The National Council on Aging, *Get the Facts on Elder Abuse*, available at <https://www.ncoa.org/article/get-the-facts-on-elder-abuse> (last visited March 28, 2023).

¹⁰ *Id.*

¹¹ *Id.*

¹² The Florida Department of Elder Affairs, *About Us*, available at <https://elderaffairs.org/about-us/> (last visited March 30, 2023).

¹³ *Id.*

¹⁴ *Id.*

under the OAA.¹⁵ The Program was founded in 1975 as a result of the OAA, which grants a special set of residents' rights to individuals who live in long-term care facilities such as nursing homes, assisted living facilities (ALFs), and adult family care homes.¹⁶ Volunteer ombudsmen seek to ensure the health, safety, welfare and rights of these residents throughout Florida.

The Program is administratively housed in the DOEA and is headed by the State Long-Term Care Ombudsman, who is appointed by the DOEA Secretary.¹⁷ The Program is required to establish a statewide toll-free telephone number for receiving complaints concerning matters adversely affecting the health, safety, welfare, or rights of residents of ALFs, nursing homes, and adult family care homes.¹⁸ Every resident or representative of a resident must receive, upon admission to a long-term care facility, information regarding the program and the statewide toll-free telephone number for receiving complaints.¹⁹ In addition to investigating and resolving complaints, ombudsmen conduct unannounced visits to assess the quality of care in facilities, referred to as administrative assessments.²⁰

The State Ombudsman carries out his or her responsibilities under Florida and federal law through the training and certification of volunteers who operate through district and local councils, and through staff positions in the state and district offices established to coordinate and assist the local councils.²¹

Federal regulations provide that the State Ombudsman may designate employees or volunteers within the Program office to carry out the duties of the office as "representatives of the office," subject to the training and certification requirements for representatives of the office.²² However, Florida law specifies certain categories of individuals who may not be appointed as ombudsmen, including, in part, "An employee of the [DOEA], except for staff certified as ombudsmen in the district offices."²³ "Offices" in this context refers to the district offices of the State Long-Term Care Ombudsman Program.²⁴ Read together, these provisions exempt staff in the Program's district offices from the general prohibition against appointment of DOEA employees as ombudsmen, but they do not permit staff in the Program's state office to be appointed as ombudsmen.²⁵

¹⁵ See s. 400.0061(1), F.S.; see also the Office of Program Policy Analysis and Governmental Accountability, *Department of Elder Affairs, Older Americans Act Programs*, available at <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=5026> (last visited March 16, 2023).

¹⁶ The Florida Ombudsman Program, *About Us*, available at <https://ombudsman.elderaffairs.org/about-us/> (last visited March 13, 2023).

¹⁷ Section 400.0063(2), F.S.

¹⁸ Section 400.0078(1), F.S.

¹⁹ Section 400.0078(2), F.S.

²⁰ See s. 400.0074, F.S.

²¹ The Department of Elder Affairs (the DOEA), *Agency Analysis of SB 1396*, p. 2, February 11, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as "The DOEA Analysis").

²² *Id.*

²³ See s. 400.0069(4)(b)4., F.S.

²⁴ The DOEA Analysis at p. 2; see also s. 400.0060(7), F.S.

²⁵ *Id.*

Aging and Disability Resource Centers

The DOEA administers programs and services for elders across the state of Florida through 11 Area Agencies on Aging, which operate as Aging and Disability Resource Centers (ADRCs).²⁶ These ADRCs function as a single, coordinated system for information and access to services for all Floridians seeking long-term care resources.²⁷ The ADRCs provide information and assistance about state and federal benefits, as well as available local programs and services.²⁸ The primary functions of the ADRCs include providing information and referral services, ensuring that eligibility determinations are done properly and efficiently, triaging clients who require assistance, and managing the availability of financial resources for certain key long-term care programs targeted for elders to ensure financial viability and stability.²⁹

Florida's 11 ADRCs are distributed throughout the state as shown in the map below:³⁰



²⁶ The DOEA, *Aging and Disability Resource Centers (ADRCs)*, available at <https://elderaffairs.org/resource-directory/aging-and-disability-resource-centers-adrcs/> (last visited March 13, 2023).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

Office of Public and Professional Guardians

In 1999, the Legislature created the “Public Guardianship Act” and established the Statewide Public Guardianship Office (SPGO) within the DOEA.³¹ In 2016, the Legislature renamed the Statewide Public Guardianship Office within the DOEA as the Office of Public and Professional Guardians (OPPG), required OPPG to regulate professional guardians and investigate complaints, and added six full-time equivalent positions to the OPPG, including an attorney and investigators.³² The OPPG appoints local public guardian offices to provide guardianship services to people who have neither adequate income nor assets to afford a private guardian, nor any willing family or friend to serve.³³

There are 17 public guardian offices that serve all 67 counties.³⁴ Since 2016, approximately 550 professional guardians have registered with the OPPG.³⁵

Florida’s Adult Protective Services System

Chapter 415, F.S., creates Florida’s Adult Protective Services (APS)³⁶ under the Department of Children and Families (the DCF). The DCF protects vulnerable adults,³⁷ including elders, from abuse, neglect, and exploitation through mandatory reporting and investigation of suspected abuse.³⁸ This includes deaths allegedly due to abuse, neglect, and exploitation.³⁹ In 2022, the DCF received and investigated 30,581 reports of abuse, neglect, or exploitation of persons aged 60 years or older.⁴⁰

Central Abuse Hotline

The DCF maintains a statewide 24/7 toll-free central abuse hotline where anyone can report known or suspected abuse, neglect, or exploitation.⁴¹ This includes, but is not limited to, vulnerable adults. Any person that knows or has reasonable cause to suspect abuse, neglect, or exploitation of a vulnerable adult is required to immediately report this knowledge or suspicion to the central abuse hotline.⁴² The hotline number must be provided to clients in nursing homes⁴³

³¹ Chapter 99-277, L.O.F.

³² Chapter 2016-40, L.O.F.

³³ The DOEA, *Office of Public and Professional Guardians*, available at <https://elderaffairs.org/programs-services/office-of-public-professional-guardians-oppg/> (last visited February 7, 2023).

³⁴ The DOEA, *Office of Public and Professional Guardians (OPPG)*, available at <https://elderaffairs.org/programs-services/office-of-public-professional-guardians-oppg/> (last visited February 7, 2023).

³⁵ *Id.*

³⁶ Section 415.101(1), F.S.

³⁷ A vulnerable adult is a person 18 years of age or older whose ability to perform normal activities of daily living or to provide for his or her own care or protection is impaired due to mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. Section 415.102(28), F.S.

³⁸ Section 415.101(2), F.S.

³⁹ The Department of Children and Families (the DCF), *CF Operating Procedure No. 140-2: Adult Protective Services*, October 11, 2022, pp. 4-9 - 4-10, https://www.myflfamilies.com/sites/default/files/2022-12/cfop_140-02_adult_protective_services.pdf (last visited March 28, 2023) (hereinafter, cited as “DCF CFOP”).

⁴⁰ E-mail from Tarah Yeager, DCF Gubernatorial Fellow, March 22, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁴¹ Section 415.103(1), F.S.

⁴² Section 415.1034(1), F.S.

⁴³ Section 408.810(5)(a)2., F.S.

and publicly displayed in every health facility licensed by the Agency for Health Care Administration (AHCA).⁴⁴ The number is also listed on the agency websites for the DCF, AHCA, and the Department of Elder Affairs (DOEA).⁴⁵

Additionally, any person who is required to investigate allegations of abuse, neglect, or exploitation, and who has reasonable cause to suspect that a vulnerable adult died as result of such harm, must report that suspicion to the DCF, the appropriate medical examiner, and appropriate criminal justice agency.⁴⁶ Medical examiners in turn are required to consider this information in their cause of death determinations and report their findings to the DCF and the appropriate criminal justice agency and state attorney.⁴⁷

Protective Investigations

Once the DCF believes there is reasonable cause to suspect abuse or neglect of a vulnerable adult, an investigation must begin within 24 hours, to be conducted in cooperation with law enforcement and the state attorney.⁴⁸ The DCF investigators determine, among other things, whether the vulnerable adult is in need of services; whether there is evidence of abuse, neglect, or exploitation; the nature and extent of any harm; and what is necessary to ensure the victim's safety and well-being.⁴⁹ The DCF investigators must complete their investigations and submit their recommendations within 60 days of the initial report.⁵⁰ If the DCF determines that a victim is in need of protective services or supervision, it will provide or facilitate the provision of those services to the victim.⁵¹ If a victim dies during an open investigation, DCF investigators must verify the cause of death before closing the case to determine if the death was related to abuse or neglect.⁵²

If there is a report that a death occurred due to elder abuse, neglect, or exploitation, the DCF investigator notifies the DCF's registered nurse specialist (RNS) staffing his or her region within 24 hours. If the alleged victim resided with other vulnerable adults, the DCF conducts an on-site investigation to ensure the safety of these individuals as well.⁵³

The DCF investigator and RNS work together to gather all relevant medical investigative information, including but not limited to medical records, the death certificate, the autopsy report, and specific questions to be included in the investigative process.⁵⁴ The DCF

⁴⁴ Section 400.141(1)(m), F.S. The AHCA poster is available at https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Long_Term_Care/docs/Nursing_Homes/Posters/NURSING_HOME_POSTER_ENGLISH_LETTER.pdf (last visited March 28, 2023).

⁴⁵ The DCF, *Report Abuse Neglect or Exploitation*, available at <http://www.myflfamilies.com/service-programs/abuse-hotline/report-online>; the AHCA, *Complaint Administration Unit*, available at http://ahca.myflorida.com/MCHQ/Field_Ops/CAU.shtml; the DOEA, *Elder Protection Programs*, available at <https://elderaffairs.org/programs-services/elder-protection-programs/> (all sites last visited March 28, 2023).

⁴⁶ Section 415.1034(2), F.S.

⁴⁷ *Id.*

⁴⁸ Section 415.104(1), F.S.

⁴⁹ Section 415.104(3), F.S.

⁵⁰ Section 415.104(4), F.S.

⁵¹ Section 415.105(1), F.S.

⁵² DCF CFOP at p. 15-2.

⁵³ *Id.* at p. 21-1.

⁵⁴ *Id.* at p. 21-2.

investigators also gather other relevant information such as copies of any related law enforcement investigations; criminal history and abuse reports relating to the alleged perpetrator; and prior adult protective services records relating to the victim or perpetrator, including the facilities where the death occurred.⁵⁵

The DCF investigators review all of this information before making their determinations as to the cause of death and will summarize their findings in a report.⁵⁶ In these cases involving an elder abuse death, the DCF designates a second party to review the DCF investigators' findings before closing the case.⁵⁷ The second party reviews the investigation process to ensure that it was thorough and that all issues were properly addressed, reviews the reports for completeness and accuracy, and documents its review for DCF's records.⁵⁸

Guardianship

A guardian is someone who is appointed by the court to act on behalf of a ward (an individual who has been adjudicated incapacitated) regarding his or her person or property or both.⁵⁹ The process to determine an individual's incapacity and the subsequent appointment of a guardian begins with a verified petition detailing the factual information supporting the reasons the petitioner believes the individual to be incapacitated, including the rights the alleged incapacitated person is incapable of exercising.⁶⁰ Once a person has been adjudicated incapacitated (termed a "ward"), the court appoints a guardian, and the letters of guardianship are issued.⁶¹ The order appointing a guardian must be consistent with the ward's welfare and safety, must be the least restrictive appropriate alternative, and must reserve to the ward the right to make decisions in all matters commensurate with his or her ability to do so.⁶²

Elder Abuse Fatality Review Teams

Beginning in 2020, Florida law has authorized the creation of elder abuse fatality review teams (EA-FRTs).⁶³

A state attorney, or his or her designee, may initiate an elder abuse fatality review team in his or her judicial circuit to review deaths of elderly persons caused by, or related to, abuse or neglect.⁶⁴ EA-FRTs may include, but need not be limited to, representatives from any of the following entities or persons located in the review team's judicial circuit:

- Law enforcement agencies.
- The state attorney.
- The medical examiner.
- A county court judge.

⁵⁵ *Id.*

⁵⁶ *Id.*, at pp. 21-2 - 21-3

⁵⁷ *Id.* at p. 21-3.

⁵⁸ *Id.*

⁵⁹ Section 744.102(9), F.S.

⁶⁰ Section 744.3201(2), F.S.

⁶¹ Sections 744.3371-744.345, F.S.

⁶² Section 744.2005, F.S.

⁶³ Chapter 2020-17, L.O.F.

⁶⁴ Section 415.1103(1)(a), F.S.

- Adult protective services.
- The area agency on aging.
- The State Long-Term Care Ombudsman Program.
- The Agency for Health Care Administration.
- The Office of the Attorney General.
- The Office of the State Courts Administrator.
- The clerk of the court.
- A victim services program.
- An elder law attorney.
- Emergency services personnel.
- A certified domestic violence center.⁶⁵
- An advocacy organization for victims of sexual violence.
- A funeral home director.
- A forensic pathologist.
- A geriatrician.
- A geriatric nurse.
- A geriatric psychiatrist or other individual licensed to offer behavioral health services.
- A hospital discharge planner.
- A public guardian.⁶⁶
- Any other persons who have knowledge regarding fatal incidents of elder abuse, domestic violence, or sexual violence, including knowledge of research, policy, law, and other matters connected with such incidents involving elders, or who are recommended for inclusion by the review team.⁶⁷

Participation in an EA-FRT is voluntary; members serve 2-year terms, to be staggered as determined by the co-chairs, without compensation.⁶⁸ The state attorney of the relevant circuit calls the first organizational meeting of the team, during which two members are chosen to serve as co-chairs.⁶⁹ Members also establish schedules for future meetings at the initial meeting.⁷⁰ Chairs may be reelected by a majority vote of an EA-FRT for no more than two consecutive terms, and each team must meet at least once each fiscal year.⁷¹

Each EA-FRT determines its local operations, including, but not limited to, the process for case selection.⁷² The state attorney refers cases to be reviewed by each EA-FRT, with reviews limited

⁶⁵ Section 39.905, F.S. outlines requirements of certified domestic violence centers.

⁶⁶ The Office of Public & Professional Guardians (OPPG), housed within the DOEA, appoints local public guardians to provide guardianship services to persons who do not have adequate income or assets to afford a private guardian and there are no willing family or friends to serve. The OPPG contracts with 16 local Offices of Public Guardianship throughout Florida. *See The Office of Public and Professional Guardians (OPPG)*, available at <https://elderaffairs.org/programs-services/office-of-public-professional-guardians-oppg/#:~:text=The%20Office%20of%20Public%20%26%20Professional,family%20or%20friends%20to%20serve> (last visited March 30, 2023).

⁶⁷ Section 415.1103(1)(b), F.S.

⁶⁸ Section 415.1103(1)(c), F.S.

⁶⁹ Section 415.1103(1)(d), F.S.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Section 415.1103(1)(e), F.S.

to closed cases⁷³ in which an elderly person's death was caused by, or related to, abuse or neglect.⁷⁴ All identifying information concerning the elderly person must be redacted by the state attorney in documents received for review.⁷⁵ Administrative costs of operating the EA-FRT must be borne by the team members or entities they represent.⁷⁶

EA-FRTs are required to do all of the following:

- Review deaths of elderly persons in the team's judicial circuit which are found to have been caused by, or related to, abuse or neglect;
- Take into consideration the events leading up to a fatal incident, available community resources, current law and policies, and the actions taken by systems or individuals related to the fatal incident;
- Identify potential gaps, deficiencies, or problems in the delivery of services to elderly persons by public and private agencies which may be related to deaths reviewed by the EA-FRT;
- Whenever possible, develop communitywide approaches to address the causes of, and contributing factors to, deaths reviewed by the EA-FRT; and
- Develop recommendations and potential changes in law, rules, and policies to support the care of elderly persons and to prevent elder abuse deaths.⁷⁷

An EA-FRT may share any relevant information that pertains to the review of the death of an elderly person with other review teams throughout Florida.⁷⁸ An EA-FRT member may not contact, interview, or obtain information by request directly from a member of the deceased elder's family as part of the review unless a team member is authorized to do so in the course of his or her employment duties.⁷⁹ A member of the deceased elder's family may voluntarily provide information or any record to an EA-FRT but must be informed that such information or any record is subject to public disclosure unless a public records exemption applies.⁸⁰

Annually by September 1, each EA-FRT is required to submit a summary report to the DOEA which includes, but is not limited to:

- Descriptive statistics regarding cases reviewed by the team, including demographic information on victims and the causes and nature of their deaths;
- Current policies, procedures, rules, or statutes the review team has identified as contributing to the incidence of elder abuse and elder deaths, and recommendations for system

⁷³ The term "closed case" means a case that does not involve information considered active as defined in s. 119.011(3)(d), F.S. Section 119.011(3)(d), F.S., defines "active" to mean criminal intelligence information which is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities. Criminal investigative information must be considered "active" as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future. In addition, criminal intelligence and criminal investigative information must be considered "active" while such information is directly related to pending prosecutions or appeals. The word "active" does not apply to information in cases which are barred from prosecution under the provisions of s. 775.15, F.S., or other statute of limitation.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ Section 415.1103(1)(f), F.S.

⁷⁷ Section 415.1103(3), F.S.

⁷⁸ Section 415.1103(4)(a), F.S.

⁷⁹ Section 415.1103(4)(b), F.S.

⁸⁰ *Id.*

improvements and needed resources, training, or information dissemination to address such identified issues; and

- Any other recommendations to prevent deaths from elder abuse or neglect, based on an analysis of the data and information presented in the report.⁸¹

Annually by November 1, the DOEA is required to prepare a summary report of the EA-FRT information submitted.⁸² The DOEA must submit its summary report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the DCF.⁸³

Members of EA-FRTs do not incur any monetary or civil liability as a result of the performance of their duties as a review team member in regard to any discussions by, or deliberations or recommendations of, the team or the member unless such member acted in bad faith, with wanton and willful disregard of human rights, safety, or property.⁸⁴

Active EA-FRTs

There are currently two EA-FRTs in Florida: one in the 4th Judicial Circuit⁸⁵ and the other in the 5th Judicial Circuit.⁸⁶ The 4th Circuit team reviews cases in Clay, Duval, and Nassau counties and considers case facts that led to the fatal incident — this includes community resources, current laws and policies, and actions taken by systems or individuals.⁸⁷ The 5th Circuit team reviews cases in Citrus, Hernando, Lake, Marion, and Sumter Counties.⁸⁸

The 4th Circuit EA-FRT submitted their second annual report to the DOEA in September 2022. The 4th Circuit EA-FRT spent much of its inaugural year training members and implementing appropriate case selection and review procedures.⁸⁹ According to the team, when it came time for actual case selections and reviews the 4th Circuit EA-FRT encountered several unanticipated challenges, which ultimately prevented the team from effectively conducting any fatality case reviews in 2021.⁹⁰ The report detailed these challenges in the following reported findings:

- Finding # 1: The current language provided in s. 415.1103, F.S., inhibits effective case identification and significantly restricts the case selection process for elder abuse fatality review teams;
- Finding # 2: The current language provided in s. 415.1103, F.S., prevents the EA-FRT from locating, identifying, and requesting records from sources other than the SAO, and places an undue burden upon the SAO with respect to records productions;

⁸¹ Section 415.1103(5)(a), F.S.

⁸² *Id.*

⁸³ Section 415.1103(5)(b), F.S.

⁸⁴ Section 415.1103(6), F.S.

⁸⁵ Office of the State Attorney for the Fourth Judicial Circuit, *Elder Abuse Fatality Review Team (EA-FRT)*, available at <https://sao4th.com/resources/for-the-public/elder-abuse-fatality-review-team-eafrt/> (last visited March 28, 2023) (hereinafter cited as, “The 4th Circuit EA-FRT Page”).

⁸⁶ Office of the State Attorney for the Fifth Judicial Circuit, *State Attorney Creates Elder Abuse Fatality Review Team*, available at <https://www.sao5.org/State-Attorney-Creates-Elder-Abuse-Fatality-Review-Team-1-9147.html> (last visited March 28, 2023) (hereinafter cited as, “The 5th Circuit EA-FRT Page”).

⁸⁷ The 4th Circuit EA-FRT Page.

⁸⁸ The 5th Circuit EA-FRT Page.

⁸⁹ The 4th Judicial Circuit EAFRT, *Second Annual Report to the Department of Elder Affairs* at p. 6, available at [EAFRT-Second-Annual-Report-2022.pdf](https://sao4th.com/Second-Annual-Report-2022.pdf) (sao4th.com) (last visited March 28, 2023).

⁹⁰ *Id.*

- Finding # 3: The lack of public records exemptions limits what information may be reviewed and held by the EA-FRT for review;
- Finding # 4: The public meeting requirements under Sunshine Law prevents the EA-FRT from thoroughly discussing case information or conducting meaningful case reviews; and
- Finding # 5: As noted in the First Annual EA-FRT Report (2021), exploitation is a form of elder abuse, which may contribute to a vulnerable, older adult victim's death.⁹¹

In an attempt to address the issues identified above, the report included a number of legislative recommendations, including:

- Amending s. 415.1103, F.S., to allow all members of the team to identify and refer cases for fatality review by the EA-FRT;
- Amending s. 415.1103, F.S., to allow any member of the EA-FRT to contribute relevant case-related records accessible to him or her through the agency or organization the member represents on the team (so long as permitted by Florida law and agency rules or standards), as well as to allow the EA-FRT to request any additional records necessary to conducting a fatality case review;
- The adoption of new or amended legislation to add all public records law exemptions necessary to protecting the confidentiality and integrity of case-related information and victim information;
- The adoption of new or amended legislation exempting all EA-FRT's from Sunshine Law public meeting requirements for any meeting at which specific case review information is anticipated to be discussed; and
- Amending s. 415.1103, F.S., to add exploitation to the listed maltreatments-related to a victim's death, which would authorize a fatality case review by the EA-FRT.⁹²

Florida's Domestic Violence Fatality Review Teams

Florida law also authorizes Domestic Violence Fatality Review Teams (DV-FRT), which are multidisciplinary teams that review fatal and near-fatal incidents of domestic violence, related domestic violence matters, and suicides.⁹³ DV-FRTs can be established at the local, regional, or state level.⁹⁴ The DV-FRTs are assigned to the DCF for administrative purposes only, so the structure and activities of a team are determined at the local level.⁹⁵

The DV-FRTs have a similar membership to the EA-FRTs and include, but are not limited to, representatives from the following agencies or organizations:

- Law enforcement agencies;
- The state attorney's office;
- The medical examiner's office;
- Certified domestic violence centers;
- Child protection service providers;
- The office of the court administration;

⁹¹ *Id.* at p. 17-18.

⁹² *Id.* at p. 19.

⁹³ Section 741.316(1), F.S.

⁹⁴ Section 741.316(2), F.S.

⁹⁵ Sections 741.316(5) and 741.316(2), F.S.

- The clerk of the court;
- Victim services programs;
- Child death review teams;
- Members of the business community;
- County probation or corrections agencies; and
- Any other persons who have knowledge regarding domestic violence fatalities, nonlethal incidents of domestic violence or suicide, including research, policy, law or other related matters.⁹⁶

The DV-FRTs review events leading up to the domestic violence incident, available community resources, current laws and policies, actions taken by systems and individuals related to the incident and parties, and any information or action deemed relevant by the team.⁹⁷ The teams' purpose is to learn how to prevent domestic violence by intervening early and improving the response of an individual and the system to domestic violence.⁹⁸ Each team determines the number and type of incidents it will review and makes policy and other recommendations as to how incidents of domestic violence may be prevented.⁹⁹

Active DV-FRTs

As of 2019 there were 25 local DV-FRTs and one statewide team.¹⁰⁰ In the past reviews have revealed that 26% percent of those committing the homicides in domestic violence cases were known to have exhibited alleged stalking behavior.¹⁰¹ There were known allegations of death threats made by the perpetrator toward the decedent in more than 50% of the reviewed fatalities, and 17% were known to have made previous attempts to kill the decedent.¹⁰² Reviewers identified that nearly 70% of perpetrators had a known prior history of committing acts of domestic violence against the decedent, and that 77% of perpetrators had a known history of substance abuse.¹⁰³

III. Effect of Proposed Changes:

The bill changes the name of s. 415.1003, F.S., from “Elder abuse fatality review teams” to “Elder abuse and vulnerable adult abuse fatality review teams” (EV-FRTs). The bill provides that the purpose of the EV-FRTs is to learn how to prevent abuse and abuse-related deaths of elderly persons and otherwise vulnerable adults by intervening early and to improve the system response to instances of such abuse, exploitation, or neglect.

⁹⁶ Section 741.316(1), F.S.

⁹⁷ Section 741.316(2), F.S.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ Report of the Attorney General’s Statewide Domestic Violence Fatality Review Team, *Faces of Fatality*, Vol. IX, June 2019, at p. 4, available at <https://www2.myflfamilies.com/service-programs/domestic-violence/docs/FACES%20OF%20FATALITY%20IX.pdf> (last visited March 28, 2023).

¹⁰¹ *Id.* at p. 5.

¹⁰² *Id.*

¹⁰³ *Id.* at p. 4.

The bill provides a definition for the term “vulnerable adult” applicable to ss. 415.1103 and 415.1104, F.S. The term includes a disabled adult and elderly person as those terms are defined in ss. 825.101(3)¹⁰⁴ and (4)¹⁰⁵, F.S.

Establishment and Membership of the EV-FRT

The bill allows EV-FRTs to be established at the local, regional, or state level to review fatal and near-fatal incidents of abuse, exploitation, or neglect of elderly persons and vulnerable adults. In this regard, the bill expands the scope of the types of incidents that can be reviewed by authorizing EV-FRTs to review “near fatal” as well as fatal incidents, and incidents which are the result of exploitation in addition to abuse and neglect.

The bill allows the following persons or entities to initiate an EV-FRT:

- A state attorney, or his or her designee;
- A law enforcement agency;
- The Department of Children and Families (the DCF);
- The Office of the Attorney General; and
- The Agency for Persons with Disabilities (the APD).

The bill requires the person or entity who initiates an EV-FRT to specify the geographic area in which the team will serve. The bill also removes the requirement that teams be initiated by the state attorney or their designee in the state attorney’s judicial circuit.

The bill modifies the above-described list of enumerated entities that are currently authorized to serve on the EV-FRT. Specifically, the bill adds a disability rights attorney to the list of entities and persons who may be included on an EV-FRT, removes a representative of adult protective services, and modifies one of the authorized enumerated representatives from “any other persons who have knowledge regarding fatal incidents of elder abuse, domestic violence, or sexual violence, including knowledge of research, policy, law, and other matters connected with such incidents involving elders, or who are recommended for inclusion by the review team” to “any other persons who are identified and invited by the team, and who have knowledge regarding fatal or near-fatal incidents of elder abuse, vulnerable adult abuse, domestic violence, sexual violence, or suicide, including knowledge of research, policy, law, and other matters connected with such incidents involving elderly persons and vulnerable adults.”

The bill no longer requires team members to serve staggered, 2-year terms, and removes the requirement for members to choose chairs and establish a schedule for future meetings. Additionally, the state attorney is no longer required to call the first organizational meeting of the team and does not substitute any other government or other specified entity as an authorized

¹⁰⁴ Section 825.101(3), F.S., defines a “disabled adult” to mean a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living.

¹⁰⁵ Section 825.101(4), F.S., defines an “elderly person” to mean a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.

team initiator. The bill also removes the requirement that teams meet at least once each fiscal year.

Purview of Review for the EV-FRT

With limited exception, the bill tasks the members of the EV-FRT with determining the structure and activities of the team, including the number and type of incidents it chooses to review.

The bill requires EV-FRTs to review cases within the team's jurisdiction, rather than in its judicial circuit as under current law. It also specifically adds exploitation to the list of causes of death which can merit review. The bill specifies that EV-FRTs may review any information the team deems relevant, including a review of public records and records for which a public records exemption is granted, if available to the team. The tied bill, SB 1542, allows EV-FRTs to access public records. The bill deletes the provision that restricted teams to reviewing only closed cases that have been referred and redacted by the state attorney.

Confidentiality of Records Reviewed by EV-FRT

The bill mirrors provisions of the law governing domestic violence fatality review teams (s. 741.316, F.S.), specifically that all oral and written communications, information and records acquired by an EV-FRT are not subject to disclosure, discovery, or introduction into evidence in any civil or criminal action or administrative or disciplinary proceeding by any department or employing agency if the information or records arose out of matters that are the subject of evaluation and review by the EV-FRT.

The bill requires each member of an EV-FRT to sign a confidentiality agreement acknowledging the requirement to protect from unauthorized disclosure any confidential and exempt oral or written communications, information, or records produced or acquired by the review team. Any EV-FRT member who knowingly and willfully discloses such communications, information, or records commits a second degree misdemeanor punishable as provided in ss. 775.082 and 775.083, F.S. The bill requires confidentiality agreements to reference these criminal penalties.

The bill clarifies that oral or written communications, information, documents, and records otherwise available from other sources are not immune from discovery or introduction into evidence solely because the information, documents, or records were presented to or reviewed by a team.

A person who has attended a meeting of a domestic violence fatality review team may not testify in any civil, criminal, administrative, or disciplinary proceedings as to any oral or written communications, records or information produced or presented to the team during meetings or other activities authorized for the EV-FRT. The bill also clarifies that any person who testifies before an EV-FRT or who is a member of an EV-FRT is still permitted to testify as to matters otherwise within his or her knowledge. The bill also clarifies that there is no monetary liability on the part of any person acting as a witness to, incident reporter to, or investigator for an EV-FRT, for any act or proceeding taken or performed within the scope and functions of the team, unless such person acted in bad faith, with wanton and willful disregard of human rights, safety, or property.

Miscellaneous Provisions

The bill clarifies that elder abuse fatality review teams in existence on the bill's effective date may continue to exist and must comply with the provisions of the bill.

The bill makes conforming changes in the remainder of s. 415.1103, F.S., to align with the changes relating to the scope of the review teams, and limits the circumstances under which members of a team may directly contact members of a deceased elder's family. Specifically, a member of an EV-FRT may not contact, interview, or obtain information by request directly from a team member as part of the review unless:

- A team member is authorized to do so in the course of his or her employment duties; or
- Such contact, interview, or request is necessary for the EV-FRT to complete its review and determine findings and such information is not obtainable through any other means.

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 DOEA anticipates that the bill will not have an impact on the agency.¹⁰⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 415.1103 of the Florida Statutes.

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

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

CS by Children, Families, and Elder Affairs Committee on April 4, 2023

The Committee Substitute:

- Clarifies that review teams may be established at the local, regional, or state level to review incidents of abuse, exploitation, or neglect of elderly persons and vulnerable adult believed to have caused or contributed to a fatal or near-fatal incident.
- Restricts the entities capable of initiating a review team to specified governmental entities;
- Requires review teams to include a representative from the person or entity initiating the team, who must be an active participant on the team.
- Specifies that a review team may include persons or entities who may initiate a team and a number of specified persons or entities. The amendment specifically removes adult protective services and adds a disability rights attorney to the list, and clarifies that outside of the enumerated list, only other persons who are both identified and invited by the team and have the requisite knowledge of fatal or near-fatal incidents may be a part of the team.
- Clarifies that the structure, local operations, and activities of a review team, including the number and type of incidents it chooses to review, are determined by the team members.
- Requires each member of a review team to sign a confidentiality agreement acknowledging the requirement to protect from unauthorized disclosure any confidential and exempt oral or written communications, information, or records produced or acquired by the review team.

¹⁰⁶ The DOEA, *Statement on SB 1540*, March 9, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).

- Any review team member who knowingly and willfully discloses such communications, information, or records commits a second degree misdemeanor. The amendment requires confidentiality agreements to reference the criminal penalties.
- Restores from current law a prohibition on review teams contacting family members as part of the review. The amendment specifies that review team members may only contact, interview, or obtain information from members of the family of the individual in specified instances.
- Clarifies that there is no monetary liability on the part of any person acting as a witness to, incident reporter to, or investigator for an EV-FRT, for any act or proceeding taken or performed within the scope and functions of the team, unless such person acted in bad faith, with wanton and willful disregard of human rights, safety, or property.
- Specifies that oral or written communications, information, and records produced or acquired by the review team and are not subject to disclosure, discovery, or introduction into evidence in any civil, criminal, administrative, or disciplinary proceeding, if the communications, information, or records arose out of matters that are the subject of an evaluation and review by the team.

B. Amendments:

None.



393150

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/05/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 34 - 191
and insert:
fatality review team may be established at a local, regional, or state level ~~in his or her judicial circuit~~ to review incidents of abuse, exploitation, or neglect of elderly persons and vulnerable adults that are believed to have caused or contributed to a fatal or near-fatal incident ~~deaths of elderly persons caused by, or related to, abuse or neglect.~~



393150

(b)1. An elder or vulnerable adult abuse fatality review team may be initiated by any of the following persons or entities:

a. A state attorney, or his or her designee.

b. A law enforcement agency.

c. The Department of Children and Families.

d. The Office of the Attorney General.

e. The Agency for Persons with Disabilities.

2. The person or entity who initiates a review team under this paragraph must specify the geographic area in which the team shall serve.

(c) The purpose of a review team is to learn how to prevent elder and vulnerable adult abuse and abuse-related deaths by intervening early and improving the system response to elder and vulnerable adult abuse, exploitation, or neglect.

(2) For purposes of this section and s. 415.1104, the term "vulnerable adult" includes a disabled adult and elderly person as those terms are defined in s. 825.101(3) and (4), respectively.

(3) (a) A ~~An elder abuse fatality~~ review team ~~must~~ may include a representative from the person or entity initiating the team, who must be an active participant on the team.

(b) A review team may include, ~~but is not limited to,~~ representatives from ~~any of the~~ persons or entities that may initiate a team under paragraph (1) (b) and any of the following persons or entities ~~or persons located in the review team's judicial circuit:~~

~~1. Law enforcement agencies.~~

~~2. The state attorney.~~



393150

40 ~~1.3.~~ The medical examiner.
41 ~~2.4.~~ A county court judge.
42 ~~5.~~ ~~Adult protective services.~~
43 ~~3.6.~~ The area agency on aging.
44 ~~4.7.~~ The State Long-Term Care Ombudsman Program.
45 ~~5.8.~~ The Agency for Health Care Administration.
46 ~~9.~~ ~~The Office of the Attorney General.~~
47 ~~6.10.~~ The Office of the State Courts Administrator.
48 ~~7.11.~~ The clerk of the court.
49 ~~8.12.~~ A victim services program.
50 ~~9.13.~~ An elder law or disability rights attorney.
51 ~~10.14.~~ Emergency services personnel.
52 ~~11.15.~~ A certified domestic violence center.
53 ~~12.16.~~ An advocacy organization for victims of sexual
54 violence.
55 ~~13.17.~~ A funeral home director.
56 ~~14.18.~~ A forensic pathologist.
57 ~~15.19.~~ A geriatrician.
58 ~~16.20.~~ A geriatric nurse.
59 ~~17.21.~~ A geriatric psychiatrist or other individual
60 licensed to offer behavioral health services.
61 ~~18.22.~~ A hospital discharge planner.
62 ~~19.23.~~ A public guardian.
63 ~~20.24.~~ Any other persons who are identified and invited by
64 the team, and who have knowledge regarding fatal or near-fatal
65 incidents of elder abuse, vulnerable adult abuse, domestic
66 violence, or sexual violence, or suicide, including knowledge of
67 research, policy, law, and other matters connected with such
68 incidents involving vulnerable adults or elderly persons ~~elders,~~



393150

~~or who are recommended for inclusion by the review team.~~

(4) (a) ~~(e)~~ Participation in a review team is voluntary.

Members of a review team shall serve without compensation and may not be reimbursed for per diem or travel expenses. ~~Members shall serve for terms of 2 years, to be staggered as determined by the co-chairs.~~

~~(d) The state attorney may call the first organizational meeting of the team. At the initial meeting, members of a review team shall choose two members to serve as co-chairs. Chairs may be reelected by a majority vote of a review team for not more than two consecutive terms. At the initial meeting, members of a review team shall establish a schedule for future meetings. Each review team shall meet at least once each fiscal year.~~

~~(e) Each review team shall determine its local operations, including, but not limited to, the process for case selection. The state attorney shall refer cases to be reviewed by each team. Reviews must be limited to closed cases in which an elderly person's death was caused by, or related to, abuse or neglect. All identifying information concerning the elderly person must be redacted by the state attorney in documents received for review. As used in this paragraph, the term "closed case" means a case that does not involve information considered active as defined in s. 119.011(3)(d).~~

(b) Except as provided in subparagraph (1)(b)2., a review team may determine its structure, local operations, and activities, including the number and type of incidents it chooses to review.

(c) Administrative costs of operating the review team must be borne by the team members or entities they represent.



393150

(d) Each member of a review team must sign a confidentiality agreement acknowledging the requirement to protect confidential and exempt oral or written communications, information, or records produced or acquired by the review team from unauthorized disclosure. A review team member who knowingly and willfully discloses confidential and exempt oral or written communications, information, or records produced or acquired by the review team commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The confidentiality agreement must reference such penalties.

~~(5)(2)~~ A ~~An elder abuse fatality~~ review team in existence on July 1, 2023 ~~July 1, 2020~~, may continue to exist and must comply with the requirements of this section.

~~(6)(3)~~ A ~~An elder abuse fatality~~ review team must ~~shall~~ do all of the following:

(a) Review incidents ~~deaths~~ of abuse, exploitation, or neglect of elderly persons and vulnerable adults in the team's jurisdiction ~~in its judicial circuit which~~ that are believed ~~found~~ to have ~~been~~ caused or contributed to a fatal or near-fatal incident ~~by, or related to, abuse or neglect.~~

(b) Take into consideration the events leading up to a fatal or near-fatal incident, available community resources, current law and policies, ~~and~~ the actions taken by systems or individuals related to the fatal or near-fatal incident, and any information considered relevant by the team, including a review of public records and records for which a public records exemption is granted.

(c) Identify potential gaps, deficiencies, or problems in the delivery of services to elderly persons or vulnerable adults



393150

by public and private agencies which may be related to incidents
~~deaths~~ reviewed by the team.

(d) Whenever possible, develop communitywide approaches to
address the causes of, and contributing factors to, incidents
~~deaths~~ reviewed by the team.

(e) Develop recommendations and potential changes in law,
rules, and policies to support the care of elderly persons and
vulnerable adults and to prevent abuse-related incidents ~~elder~~
~~abuse deaths~~.

(7) (a) (4) (a) A review team may share with other review
teams in this state any relevant information that pertains to
incidents identified or reviewed by the team ~~the review of the~~
~~death of an elderly person~~.

(b) 1. A review team member may not contact, interview, or
obtain information by request directly from a member of the
elder or vulnerable adult's ~~deceased elder's~~ family as part of
the review unless:

a. A team member is authorized to do so in the course of
his or her employment duties; or

b. Such contact, interview, or request is necessary for the
review team to complete its review and determine findings and
such information is not obtainable through any other means.

2. A member of the elder or vulnerable adult's ~~deceased~~
~~elder's~~ family may voluntarily provide information or any record
to a review team but must be informed that such information or
any record is subject to public disclosure unless a public
records exemption applies.

(8) (a) (5) (a) Annually by September 1, each ~~elder abuse~~
~~fatality~~ review team shall submit a summary report to the



393150

Department of Elderly Affairs which includes, but is not limited to:

1. Descriptive statistics regarding cases reviewed by the team, including demographic information on victims and the causes and nature of their fatal or near-fatal incidents of abuse, exploitation, or neglect.~~deaths;~~

2. Current policies, procedures, rules, or statutes the review team has identified as contributing to the incidence of elder or vulnerable adult abuse and abuse-related ~~elder~~ deaths, and recommendations for system improvements and needed resources, training, or information dissemination to address such identified issues.~~;~~and

3. Any other recommendations to prevent fatal or near-fatal incidents ~~deaths~~ from ~~elder~~ abuse, exploitation, or neglect, based on an analysis of the data and information presented in the report.

(b) Annually by November 1, the Department of Elderly Affairs shall prepare a summary report of the review team information submitted under paragraph (a). The department shall submit its summary report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Department of Children and Families.

(9) (a) - (6) There is no monetary liability on the part of, and a cause of action for damages may not arise against, any member of a an elder abuse fatality review team, or any person acting as a witness to, incident reporter to, or investigator for a review team, for any act or proceeding taken or performed within the scope and functions of the team, due to the performance of his or her duties as a review team member in



393150

~~regard to any discussions by, or deliberations or~~
~~recommendations of, the team or the member~~ unless such person
~~member~~ acted in bad faith, with wanton and willful disregard of
human rights, safety, or property.

(b) This subsection does not affect the requirements of s.
768.28.

(10) (a) Oral or written communications, information, and
records produced or acquired by the review team and are not
subject to disclosure, discovery, or introduction into evidence
in any civil, criminal, administrative, or disciplinary
proceeding, if the communications, information, or records arose
out of matters that are the subject of an

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete lines 4 - 22
and insert:

F.S.; authorizing the establishment of elder and
vulnerable adult abuse fatality review teams in
certain areas and for certain purposes; authorizing
certain persons and entities to initiate a review
team; revising the definition of the term "vulnerable
adult"; requiring certain representatives to be active
participants on a review team; revising review team
membership; removing provisions relating to state
attorney requirements; authorizing a review team to
determine the number and types of incidents to review;
requiring members of a review team to sign a
confidentiality agreement; creating a criminal
penalty; requiring confidentiality agreements to



393150

reference certain criminal penalties; authorizing
continuance for review teams in existence on a certain
date; revising review team requirements to conform to
changes made by the act; modifying a prohibition from
contacting, interviewing, or obtaining information
from the family of a victim; providing specified
exceptions to such prohibition; expanding immunity
from monetary liability to certain persons; providing
construction; providing that oral and written
communications, information, and records acquired by a
review team are not subject to discovery or
introduction into evidence in certain proceedings
under certain circumstances; specifying that
provisions of law relating to a waiver of sovereign
immunity still apply; providing that a person who
attends a meeting or other authorized activities of a
review team may not testify in

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 1542

INTRODUCER: Committee on Children, Families, and Elder Affairs and Senator Garcia

SUBJECT: Public Records and Public Meetings/Elder Abuse or Vulnerable Adult Abuse Fatality Review Team

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	Fav/CS
2.			AHS	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1542 creates public record and public meeting exemptions related to elder and vulnerable adult fatality review teams (EV-FRTs). Specifically, the bill requires that any information obtained by an EV-FRT for the purposes of conducting a case review which is exempt or confidential and exempt from public records requirements retains its exempt or confidential and exempt status when held by an EV-FRT. The bill also creates a public record exemption for records created or held by an EV-FRT which reveals the identity of a victim, the identity of persons responsible for the welfare of the victim, and such information is confidential and exempt under the bill.

Any information that is maintained as exempt or confidential and exempt within ch. 415, F.S., retains its exempt or confidential and exempt status when held by the review team.

The bill creates a public meeting exemption for portions of an EV-FRT meeting in which the identity of the victim, the identity of the person responsible for the welfare of the victim, or otherwise exempt or confidential and exempt information is discussed. Records created by an EV-FRT during such portions of meetings are also exempt from public disclosure.

The bill includes a public necessity statement and states that the public record and public meeting exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2028, unless saved from repeal by reenactment by the Legislature.

The bill is not expected to have a fiscal impact. See Section V. Fiscal Impact Statement.

The bill will become effective on the same date that SB 1540 (2023) or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person who acts on behalf of the government.²

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes that relate to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a] ll 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.

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity which justifies the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill that enacts an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.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 Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

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 violations of those laws.

⁹ FLA CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST., art. I, s. 24(c)

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. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ 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.

date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

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.¹⁹ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption *and* it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- The release of sensitive personal information would be defamatory or jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is 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.²⁵

Open Meeting Laws

The State Constitution provides that the public has a right to access governmental meetings.²⁶ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

²³ Section 119.15(6)(a), F.S. The specific 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?

²⁴ FLA. CONST., art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ FLA. CONST., art. I, s. 24(b).

discussed.²⁷ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.²⁸

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the “Government in the Sunshine Law,”²⁹ or the “Sunshine Law,”³⁰ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.³¹ The board or commission must provide the public reasonable notice of such meetings.³² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.³³ Minutes of a public meeting must be promptly recorded and open to public inspection.³⁴ Failure to abide by open meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.³⁵ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.³⁶

The Legislature may create an exemption to open meetings requirements by passing a general law by at least a two-thirds vote of each house of the Legislature.³⁷ The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.³⁸ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.³⁹

Elder Abuse Fatality Review Teams

Beginning in 2020, Florida law has authorized the creation of elder abuse fatality review teams (EA-FRTs).⁴⁰

²⁷ *Id.*

²⁸ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

²⁹ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

³⁰ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

³¹ Section 286.011(1)-(2), F.S.

³² *Id.*

³³ Section 286.011(6), F.S.

³⁴ Section 286.011(2), F.S.

³⁵ Section 286.011(1), F.S.

³⁶ Section 286.011(3), F.S.

³⁷ FLA. CONST., art. I, s. 24(c).

³⁸ *Id.*

³⁹ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

⁴⁰ Chapter 2020-17, L.O.F.

A state attorney, or his or her designee, may initiate an elder abuse fatality review team in his or her judicial circuit to review deaths of elderly persons caused by, or related to, abuse or neglect.⁴¹ EA-FRTs may include, but need not be limited to, representatives from any of the following entities or persons located in the review team's judicial circuit:

- Law enforcement agencies.
- The state attorney.
- The medical examiner.
- A county court judge.
- Adult protective services.
- The area agency on aging.
- The State Long-Term Care Ombudsman Program.
- The Agency for Health Care Administration.
- The Office of the Attorney General.
- The Office of the State Courts Administrator.
- The clerk of the court.
- A victim services program.
- An elder law attorney.
- Emergency services personnel.
- A certified domestic violence center.⁴²
- An advocacy organization for victims of sexual violence.
- A funeral home director.
- A forensic pathologist.
- A geriatrician.
- A geriatric nurse.
- A geriatric psychiatrist or other individual licensed to offer behavioral health services.
- A hospital discharge planner.
- A public guardian.
- Any other persons who have knowledge regarding fatal incidents of elder abuse, domestic violence, or sexual violence, including knowledge of research, policy, law, and other matters connected with such incidents involving elders, or who are recommended for inclusion by the review team.⁴³

Participation in an EA-FRT is voluntary; members serve 2-year terms, to be staggered as determined by the co-chairs, without compensation.⁴⁴ The state attorney of the relevant circuit calls the first organizational meeting of the team, during which two members are chosen to serve as co-chairs.⁴⁵ Members also establish schedules for future meetings at the initial meeting.⁴⁶ Chairs may be reelected by a majority vote of an EA-FRT for no more than two consecutive terms, and each team must meet at least once each fiscal year.⁴⁷

⁴¹ Section 415.1103(1)(a), F.S.

⁴² Section 39.905, F.S. outlines requirements of certified domestic violence centers.

⁴³ Section 415.1103(1)(b), F.S.

⁴⁴ Section 415.1103(1)(c), F.S.

⁴⁵ Section 415.1103(1)(d), F.S.

⁴⁶ *Id.*

⁴⁷ *Id.*

Each EA-FRT determines its local operations, including, but not limited to, the process for case selection.⁴⁸ The state attorney refers cases to be reviewed by each EA-FRT, with reviews limited to closed cases⁴⁹ in which an elderly person's death was caused by, or related to, abuse or neglect.⁵⁰ All identifying information concerning the elderly person must be redacted by the state attorney in documents received for review.⁵¹ Administrative costs of operating the EA-FRT must be borne by the team members or entities they represent.⁵²

EA-FRTs are required to do all of the following:

- Review deaths of elderly persons in the team's judicial circuit which are found to have been caused by, or related to, abuse or neglect;
- Take into consideration the events leading up to a fatal incident, available community resources, current law and policies, and the actions taken by systems or individuals related to the fatal incident;
- Identify potential gaps, deficiencies, or problems in the delivery of services to elderly persons by public and private agencies which may be related to deaths reviewed by the EA-FRT;
- Whenever possible, develop communitywide approaches to address the causes of, and contributing factors to, deaths reviewed by the EA-FRT; and
- Develop recommendations and potential changes in law, rules, and policies to support the care of elderly persons and to prevent elder abuse deaths.⁵³

An EA-FRT may share any relevant information that pertains to the review of the death of an elderly person with other review teams throughout Florida.⁵⁴ An EA-FRT member may not contact, interview, or obtain information by request directly from a member of the deceased elder's family as part of the review unless a team member is authorized to do so in the course of his or her employment duties.⁵⁵ A member of the deceased elder's family may voluntarily provide information or any record to an EA-FRT but must be informed that such information or any record is subject to public disclosure unless a public records exemption applies.⁵⁶

Annually by September 1, each EA-FRT is required to submit a summary report to the DOEA which includes, but is not limited to:

⁴⁸ Section 415.1103(1)(e), F.S.

⁴⁹ The term "closed case" means a case that does not involve information considered active as defined in s. 119.011(3)(d), F.S. Section 119.011(3)(d), F.S., defines "active" to mean criminal intelligence information which is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities. Criminal investigative information must be considered "active" as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future. In addition, criminal intelligence and criminal investigative information must be considered "active" while such information is directly related to pending prosecutions or appeals. The word "active" does not apply to information in cases which are barred from prosecution under the provisions of s. 775.15, F.S., or other statute of limitation.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Section 415.1103(1)(f), F.S.

⁵³ Section 415.1103(3), F.S.

⁵⁴ Section 415.1103(4)(a), F.S.

⁵⁵ Section 415.1103(4)(b), F.S.

⁵⁶ *Id.*

- Descriptive statistics regarding cases reviewed by the team, including demographic information on victims and the causes and nature of their deaths;
- Current policies, procedures, rules, or statutes the review team has identified as contributing to the incidence of elder abuse and elder deaths, and recommendations for system improvements and needed resources, training, or information dissemination to address such identified issues; and
- Any other recommendations to prevent deaths from elder abuse or neglect, based on an analysis of the data and information presented in the report.⁵⁷

Annually by November 1, the DOEA is required to prepare a summary report of the EA-FRT information submitted.⁵⁸ The DOEA must submit its summary report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the DCF.⁵⁹

Members of EA-FRTs do not incur any monetary or civil liability as a result of the performance of their duties as a review team member in regard to any discussions by, or deliberations or recommendations of, the team or the member unless such member acted in bad faith, with wanton and willful disregard of human rights, safety, or property.⁶⁰

Active EA-FRTs

There are currently two EA-FRTs in Florida: one in the 4th Judicial Circuit⁶¹ and the other in the 5th Judicial Circuit.⁶² The 4th Circuit team reviews cases in Clay, Duval, and Nassau counties and considers case facts that led to the fatal incident — this includes community resources, current laws and policies, and actions taken by systems or individuals.⁶³ The 5th Circuit team reviews cases in Citrus, Hernando, Lake, Marion, and Sumter Counties.⁶⁴

The 4th Circuit EA-FRT submitted their second annual report to the DOEA in September 2022. The 4th Circuit EA-FRT spent much of its inaugural year training members and implementing appropriate case selection and review procedures.⁶⁵ According to the team, when it came time for actual case selections and reviews the 4th Circuit EA-FRT encountered several unanticipated challenges, which ultimately prevented the team from effectively conducting any fatality case reviews in 2021.⁶⁶ The report detailed these challenges in the following reported findings:

⁵⁷ Section 415.1103(5)(a), F.S.

⁵⁸ *Id.*

⁵⁹ Section 415.1103(5)(b), F.S.

⁶⁰ Section 415.1103(6), F.S.

⁶¹ Office of the State Attorney for the Fourth Judicial Circuit, *Elder Abuse Fatality Review Team (EA-FRT)*, available at <https://sao4th.com/resources/for-the-public/elder-abuse-fatality-review-team-eaftr/> (last visited March 28, 2023) (hereinafter cited as, “The 4th Circuit EA-FRT Page”).

⁶² Office of the State Attorney for the Fifth Judicial Circuit, *State Attorney Creates Elder Abuse Fatality Review Team*, available at <https://www.sao5.org/State-Attorney-Creates-Elder-Abuse-Fatality-Review-Team-1-9147.html> (last visited March 28, 2023) (hereinafter cited as, “The 5th Circuit EA-FRT Page”).

⁶³ The 4th Circuit EA-FRT Page.

⁶⁴ The 5th Circuit EA-FRT Page.

⁶⁵ The 4th Judicial Circuit EAFRT, *Second Annual Report to the Department of Elder Affairs* at p. 6, available at [EAFRT-Second-Annual-Report-2022.pdf \(sao4th.com\)](https://sao4th.com/Second-Annual-Report-2022.pdf) (last visited March 28, 2023).

⁶⁶ *Id.*

- Finding # 1: The current language provided in s. 415.1103, F.S., inhibits effective case identification and significantly restricts the case selection process for elder abuse fatality review teams;
- Finding # 2: The current language provided in s. 415.1103, F.S., prevents the EA-FRT from locating, identifying, and requesting records from sources other than the SAO, and places an undue burden upon the SAO with respect to records productions;
- Finding # 3: The lack of public records exemptions limits what information may be reviewed and held by the EA-FRT for review;
- Finding # 4: The public meeting requirements under Sunshine Law prevents the EA-FRT from thoroughly discussing case information or conducting meaningful case reviews; and
- Finding # 5: As noted in the First Annual EA-FRT Report (2021), exploitation is a form of elder abuse, which may contribute to a vulnerable, older adult victim's death.⁶⁷

In an attempt to address the issues identified above, the report included a number of legislative recommendations, including:

- Amending s. 415.1103, F.S., to allow all members of the team to identify and refer cases for fatality review by the EA-FRT;
- Amending s. 415.1103, F.S., to allow any member of the EA-FRT to contribute relevant case-related records accessible to him or her through the agency or organization the member represents on the team (so long as permitted by Florida law and agency rules or standards), as well as to allow the EA-FRT to request any additional records necessary to conducting a fatality case review;
- The adoption of new or amended legislation to add all public records law exemptions necessary to protecting the confidentiality and integrity of case-related information and victim information;
- The adoption of new or amended legislation exempting all EA-FRT's from Sunshine Law public meeting requirements for any meeting at which specific case review information is anticipated to be discussed; and
- Amending s. 415.1103, F.S., to add exploitation to the listed maltreatments-related to a victim's death, which would authorize a fatality case review by the EA-FRT.⁶⁸

Findings 3 and 4 of the 4th Circuit EAFRT

Due to the risk of revealing confidential and sensitive victim-related and case-related information, the 4th Circuit EAFRT states that it has been unable to possess or review any information from cases ripe for review unless it is completely redacted beforehand by the state attorney's office.⁶⁹ Additionally, the 4th Circuit EAFRT stated that given the sensitive and potentially inflammatory information that the EAFRT is responsible for reviewing in a fatality case review, all EAFRT meetings during which cases are reviewed should be confidential and closed to the public.⁷⁰ The EAFRT believes it would benefit from having the same public records and open meeting exemptions and victim confidentiality protections provided to domestic violence fatality review teams under ss. 741.316 and 741.3165.⁷¹

⁶⁷ *Id.* at p. 17-18.

⁶⁸ *Id.* at p. 19.

⁶⁹ *Id.* at p. 18.

⁷⁰ *Id.*

⁷¹ *Id.*

Florida's Domestic Violence Fatality Review Teams

Florida law also authorizes Domestic Violence Fatality Review Teams (DV-FRT), which are multidisciplinary teams that review fatal and near-fatal incidents of domestic violence, related domestic violence matters, and suicides.⁷² DV-FRTs can be established at the local, regional, or state level.⁷³ The DV-FRTs are assigned to the DCF for administrative purposes only, so the structure and activities of a team are determined at the local level.⁷⁴

The DV-FRTs have a similar membership to the EA-FRTs and include, but are not limited to, representatives from the following agencies or organizations:

- Law enforcement agencies;
- The state attorney's office;
- The medical examiner's office;
- Certified domestic violence centers;
- Child protection service providers;
- The office of the court administration;
- The clerk of the court;
- Victim services programs;
- Child death review teams;
- Members of the business community;
- County probation or corrections agencies; and
- Any other persons who have knowledge regarding domestic violence fatalities, nonlethal incidents of domestic violence or suicide, including research, policy, law or other related matters.⁷⁵

The DV-FRTs review events leading up to the domestic violence incident, available community resources, current laws and policies, actions taken by systems and individuals related to the incident and parties, and any information or action deemed relevant by the team.⁷⁶ The teams' purpose is to learn how to prevent domestic violence by intervening early and improving the response of an individual and the system to domestic violence.⁷⁷ Each team determines the number and type of incidents it will review and makes policy and other recommendations as to how incidents of domestic violence may be prevented.⁷⁸

Active DV-FRTs

As of 2019 there were 25 local DV-FRTs and one statewide team.⁷⁹ In the past reviews have revealed that 26 percent of those committing the homicides in domestic violence cases were

⁷² Section 741.316(1), F.S.

⁷³ Section 741.316(2), F.S.

⁷⁴ Sections 741.316(5) and 741.316(2), F.S.

⁷⁵ Section 741.316(1), F.S.

⁷⁶ Section 741.316(2), F.S.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ Report of the Attorney General's Statewide Domestic Violence Fatality Review Team, *Faces of Fatality, Vol. IX*, June 2019, at p. 4, available at <https://www2.myflfamilies.com/service-programs/domestic-violence/docs/FACES%20OF%20FATALITY%20IX.pdf> (last visited March 28, 2023).

known to have exhibited alleged stalking behavior.⁸⁰ There were known allegations of death threats made by the perpetrator toward the decedent in more than 50 percent of the reviewed fatalities, and 17 percent were known to have made previous attempts to kill the decedent.⁸¹ Reviewers identified that nearly 70 percent of perpetrators had a known prior history of committing acts of domestic violence against the decedent, and that 77 percent of perpetrators had a known history of substance abuse.⁸²

III. Effect of Proposed Changes:

The bill creates both a public records exemption and a Sunshine Law exemption, for information held and reviewed by an elder or vulnerable adult abuse fatality review team (EV-FRT) and portions of public meetings of EV-FRTs, respectively.

The bill specifies that information that is exempt or confidential and exempt retains such status when held by an EV-FRT if the information is:

- Confidential or exempt from s. 119.07(1), F.S., and Article 1, s. 24(a) of the State Constitution; and
- Obtained by an EV-FRT while executing its duties under the bill.

The bill also creates a public records exemption for any information contained in a record created by an EV-FRT which reveals the identity of a victim of abuse, exploitation, or neglect or the identity of persons responsible for the welfare of a victim.

Additionally, any information maintained as exempt or confidential and exempt within ch. 415, F.S., retains such status while held by an EV-FRT.

The bill also exempts certain portions of EV-FRT meetings from the public meeting requirements of s. 286.011, F.S., and Article 1, s. 24(b) of the State Constitution. Specifically, the bill creates an exemption for portions of meetings relating to abuse, exploitation, or neglect or abuse-related deaths of elderly persons or otherwise vulnerable adults, and the prevention of such abuse, exploitation, neglect, or deaths, during which exempt or confidential and exempt information, information protected within ch. 415, F.S., the identity of the victim, or the identity of persons responsible for the welfare of the victim is discussed.

The public records and meetings exemptions created by the bill stand repealed on October 2, 2028, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act.

As it relates to the public records exemptions created in the bill, the bill includes legislative findings and a public necessity statement, specifying that information that is exempt or confidential and exempt from s. 119.07(1), F.S., and Article 1, s. 24(a) of the State Constitution remain exempt or confidential and exempt when held by an EV-FRT. The public necessity statement also provides that information which reveals the identity of a victim of elder or vulnerable adult abuse, exploitation, or neglect or the identity of persons responsible for the

⁸⁰ *Id.* at p. 5.

⁸¹ *Id.*

⁸² *Id.* at p. 4.

welfare of such victim must be confidential and exempt from public records requirements. The bill provides as a reason that the disclosure of such sensitive personal information could hamper the open communication and coordination among the parties involved in the EV-FRT, and the harm that would result from the release of such information substantially outweighs any public benefit that would be achieved by disclosure.

The public necessity statement also addresses open meetings requirements, providing that it is a public necessity that portions of meetings of an EV-FRT during which exempt or confidential and exempt information, the identity of the victim, or the identity of persons responsible for the welfare of the victim is discussed, are exempt from s. 119.07(1), F.S., and Article 1, s. 24(b) of the State Constitution. The failure to close the portions of the meetings in which such sensitive personal information is discussed would defeat the purpose of the exemptions. The bill provides additional legislative findings, stating that the exemption is narrowly tailored to apply to only those portions of the meetings in which such sensitive personal information is discussed and that the remainder of such meetings are to remain open to allow for public oversight.

The bill provides that the act shall take effect on the same date that SB 1540 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law. SB 1540 has an effective date of 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 creates public records exemptions and a public meeting exemption; therefore, it requires a two-thirds vote.

Public Necessity Statement

Article I, section 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records or open meetings requirements to state with specificity the public necessity justifying the exemption. Section 2 includes a public necessity statement for both exemptions.

Breadth of Exemption

Public Records Exemption

Article I, section 24(c), of the State Constitution requires exemptions to both public records and open meetings requirements to be no broader than necessary to accomplish

the stated purpose of the law. The purpose of the law is to protect information that reveals the identity of elder or vulnerable adult abuse victims, information that reveals the identity of persons responsible for the welfare of such victims, and otherwise existing confidential and exempt information. This bill exempts only such information from the public records requirements. Therefore, the exemption does not appear to be broader than necessary to accomplish the purpose of the law.

Public Meetings 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. Like the public records exemption, the stated purpose of the law is to protect information that reveals the identity of elder or vulnerable adult abuse victims, information that reveals the identity of persons responsible for the welfare of such victims, and otherwise existing confidential and exempt information. The bill appears to only exempt the portions of the meetings during which such information is discussed. Therefore, the exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 415.1103 of the Florida Statutes.

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

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

CS by Children, Families, and Elder Affairs on April 4, 2023:

The Committee Substitute:

- Links the effective date of SB 1542 to that of SB 1540, 2023 Regular Session (SB 1540 has an effective date of July 1, 2023).
- Clarifies that any information that is exempt or confidential and exempt retains its status as such when reviewed by an EV-FRT.
- Clarifies that portions of meetings during which exempt or confidential and exempt information is reviewed are exempt from disclosure requirements. The amendment also makes a similar change to the bill's public necessity statement as it related to the open meetings exemption.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/05/2023	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (9) is added to section 415.1103,
Florida Statutes, as amended by SB 1540, 2023 Regular Session,
to read:

415.1103 Elder abuse and vulnerable adult abuse fatality
review teams.—

(9)(a)1. Any information that is exempt or confidential and



747598

exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is obtained by an elder or vulnerable adult abuse fatality review team while executing its duties under this section retains its exempt or confidential and exempt status when held by the review team.

2. Any information contained in a record created by a review team pursuant to this section which reveals the identity of a victim of abuse, exploitation, or neglect or the identity of persons responsible for the welfare of a victim is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. Any information that is maintained as exempt or confidential and exempt within this chapter retains its exempt or confidential and exempt status when held by a review team.

(b) Portions of meetings of a review team relating to abuse, exploitation, or neglect or abuse-related deaths of elderly persons or otherwise vulnerable adults, and the prevention of such abuse, exploitation, neglect, or deaths, during which exempt or confidential and exempt information, information protected within this chapter, the identity of the victim, or the identity of persons responsible for the welfare of the victim is discussed, are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that information that is exempt or confidential and



747598

exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
Article I of the State Constitution remains exempt or
confidential and exempt when held by an elder abuse or
vulnerable adult abuse fatality review team. Additionally, the
Legislature finds that it is a public necessity that information
that reveals the identity of a victim of abuse, exploitation, or
neglect or the identity of persons responsible for the welfare
of such victim be confidential and exempt from public records
requirements because the disclosure of such sensitive personal
information could impede the open communication and coordination
among the parties involved in the review team. The harm that
would result from the release of such information substantially
outweighs any public benefit that would be achieved by
disclosure.

(2) The Legislature further finds that it is a public
necessity that portions of meetings of a review team during
which exempt or confidential and exempt information, information
protected within this chapter, the identity of the victim, or
the identity of persons responsible for the welfare of the
victim is discussed, are exempt from s. 286.011 and s. 24(b),
Art. I of the State Constitution. Failure to close the portions
of the meetings in which such sensitive personal information is
discussed would defeat the purpose of the public records
exemption. Further, the Legislature finds that the exemption is
narrowly tailored to apply to only those portions of the
meetings in which such sensitive personal information is
discussed and that the remainder of such meetings remain open to
allow for public oversight.

Section 3. This act shall take effect on the same date that



747598

69 SB 1540 or similar legislation takes effect, if such legislation
70 is adopted in the same legislative session or an extension
71 thereof and becomes a law.

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

73 And the title is amended as follows:

74 Delete everything before the enacting clause
75 and insert:

76 A bill to be entitled
77 An act relating to public records and public meetings;
78 amending s. 415.1103, F.S.; specifying that
79 information obtained by an elder abuse or a vulnerable
80 adult abuse fatality review team which is exempt or
81 confidential and exempt from public records
82 requirements retains its protected status; providing
83 an exemption from public records requirements for
84 personal identifying information of an abuse victim
85 and other specified information contained in records
86 held by a review team; providing an exemption from
87 public meetings requirements for portions of review
88 team meetings during which certain exempt or
89 confidential and exempt information is discussed;
90 providing for future legislative review and repeal of
91 the exemption; providing statements of public
92 necessity; providing an effective date.

By Senator Thompson

15-00973D-23

20231578__

A bill to be entitled
An act relating to Florida Children's Initiatives;
amending s. 409.147, F.S.; revising legislative
findings; revising the definition of the term
"resident"; revising the objectives for certain
working groups; providing that the Florida Children's
Initiatives are administratively housed in the
Department of Children and Families but are not
subject to certain control, supervision, or direction
by the department; clarifying provisions relating to a
corporation established for a specified purpose;
revising legislative intent; clarifying provisions
relating to the creation, implementation, and
operation of Florida Children's Initiatives; providing
an effective date.

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

Section 1. Paragraph (a) of subsection (1), paragraph (d)
of subsection (3), paragraph (a) of subsection (4), paragraphs
(a), (b), (d), and (g) of subsection (6), and subsections (7)
through (14) of section 409.147, Florida Statutes, are amended
to read:

409.147 Florida Children's Initiatives.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that:

1. There are neighborhoods in the state where the
infrastructure and opportunities that middle-class communities
take for granted are nonexistent or so marginal that they are

15-00973D-23

20231578__

ineffective.

2. In many instances, children living in these neighborhoods are not read to by an adult on a regular basis and attend a prekindergarten education program at a much lower rate than children in other communities. These children experience below-average performance on standardized tests and graduate from high school in fewer numbers. Most of these children are eligible for the free or reduced-price school lunch program.

3. Children in these neighborhoods often suffer from high rates of asthma, a higher risk of lead poisoning, and inadequate health care, and they are routinely exposed to violence and crime.

4. In spite of these obstacles, these neighborhoods are many times home to strong individuals and institutions that are committed to making a difference in the lives of children and their families.

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

(d) "Resident" means a person who lives in or operates a small community-based business or organization within the boundaries of the children's initiative.

(4) CHILDREN'S INITIATIVE NOMINATING PROCESS.—A county or municipality, or a county and one or more municipalities together, may apply to the Ounce to designate an area as a Florida Children's Initiative after the governing body:

(a) Adopts a resolution that:

1. Finds that an area exists in such county or municipality, or in the county and one or more municipalities, that chronically exhibits extreme and unacceptable levels of poverty, unemployment, physical deterioration, as well as

15-00973D-23

20231578__

59 limited access to quality educational, health care, and social
60 services.

61 2. Determines that the rehabilitation, conservation, or
62 redevelopment, or a combination thereof, of the area is
63 necessary for ~~in~~ the interest of improving the health, wellness,
64 education, living conditions, and livelihoods of the children
65 and families who live in the county or municipality.

66 3. Determines that the revitalization of the area can occur
67 only if the state and the private sector invest resources to
68 improve infrastructure and the provision of services.

69 (6) CHILDREN'S INITIATIVE STRATEGIC COMMUNITY PLAN.—After
70 the governing body adopts the resolution described in subsection
71 (4), the working groups shall develop objectives and identify
72 strategies for each focus area. The objectives, specified by
73 focus area, for a working group may include, but not be limited
74 to:

75 (a) Early development and care of children.

76 1. Providing resources to enable every child to be
77 adequately nurtured during the first 3 years of life.

78 2. Ensuring that all schools are ready for children and all
79 children are ready for school by the time they reach
80 kindergarten.

81 3. Facilitating enrollment in half-day or full-day
82 prekindergarten for all 3-year-old and 4-year-old children.

83 4. Strengthening parent and guardian relationships with
84 care providers.

85 5. Providing support and education for families and child
86 care providers.

87 (b) Education of children and youth.

15-00973D-23

20231578__

1. Increasing the level and degree of knowledge and
accountability of persons who are responsible for the
development and well-being of all children in the Florida
Children's Initiatives Initiative.

2. Transforming ~~Changing~~ the structure and function of
schools to increase the quality and amount of time spent on
instruction and increase programmatic options and offerings.

3. Creating a safe and respectful environment for student
learning.

4. Identifying and supporting points of alignment between
the children's initiative community plan and the school
district's strategic plan.

(d) Youth support.

1. Increasing the high school graduation, postsecondary
enrollment, and postsecondary completion rates among
neighborhood youth ~~rate~~.

2. Increasing leadership development and employment
opportunities for youth.

(g) Community safety.

1. Providing a safe environment for all children at home,
in school, and in the community.

2. Eliminating the economic, political, and social forces
that lead to a lack of safety within the family, the community,
schools, and institutional structures.

3. Assessing policies and practices, including sentencing,
incarceration, detention, and data reporting, ~~in order~~ to reduce
youth incarceration, violence, crime, and recidivism.

(7) CHILDREN'S INITIATIVE CORPORATION.—

(a) The Florida Children's Initiatives as specified in

15-00973D-23

20231578__

subsections (9)-(13) are administratively housed within the Department of Children and Families. However, these initiatives are not subject to control, supervision, or direction by the Department of Children and Families or any department of the state.

(b) After the governing body adopts the resolution described in subsection (4), establishes the planning team as provided in subsection (5), and develops and adopts the strategic community plan as provided in subsection (6), the county or municipality shall either identify an existing, qualified not-for-profit corporation, or create a not-for-profit corporation ~~not for profit which shall be~~ registered, incorporated, organized, and operated in compliance with chapter 617. The purpose of the corporation is to facilitate fundraising, to secure broad community ownership of the Florida Children's Initiative, and, if the area selected by the governing body is designated as a Florida Children's Initiative, to:

1. Begin to transfer responsibility for planning from the planning team to the corporation.

2. Begin the implementation and governance of the children's initiative community plan.

3. Update the strategic community plan every 5 years to reflect, at a minimum, the current status of the area served by the Florida Children's Initiative; the goals, objectives, and strategies for each focus area; and the tasks required to implement the strategies for the upcoming year.

(c) ~~(b)~~ The Ounce must provide technical assistance to the corporation to facilitate the achievement of the plans created

15-00973D-23

20231578__

under subsection (6).

(8) REQUIREMENTS FOR RECEIVING STATE FUNDING.—Unless otherwise specified in the general appropriations act:

(a) State funding for Florida Children's Initiatives must be awarded through a performance-based contract that links payments to the achievement of outcomes directly related to the goals, objectives, strategies, and tasks outlined in the strategic community plan.

(b) This act is intended to support the development of a network of Florida Children's Initiatives sites in disadvantaged neighborhoods throughout this state. To that end, counties that do not currently have a Florida Children's Initiative and are trying to establish an initiative have priority for designation by the Ounce funding available under this subsection.

(9) ~~CREATION OF MIAMI CHILDREN'S INITIATIVE, INC.—~~

(a) There is created within the Liberty City neighborhood in Miami-Dade County a ~~10-year~~ project called the Miami Children's Initiative ~~that shall be~~ managed by an entity organized as a not-for-profit corporation ~~not for profit which shall be~~ registered, incorporated, organized, and operated in compliance with chapter 617 and this section. ~~An entity may not be incorporated until the governing body has adopted the resolution described in subsection (4), has established the planning team as provided in subsection (5), and has developed and adopted the strategic community plan as provided in subsection (6). The corporation shall be known as The Miami Children's Initiative, Inc., and shall be administratively housed within the Department of Children and Families. However, Miami Children's Initiative, Inc., is not subject to control,~~

15-00973D-23

20231578__

175 ~~supervision, or direction by the Department of Children and~~
176 ~~Families in any manner. The Legislature determines, however,~~
177 ~~that~~ Public policy dictates that the Miami Children's Initiative
178 operates ~~corporation operate~~ in the most open and accessible
179 manner consistent with its public purpose. Therefore, the
180 Legislature specifically declares that the Miami Children's
181 Initiative ~~the corporation~~ is subject to chapter 119, relating
182 to public records, chapter 286, relating to public meetings and
183 records, and chapter 287, relating to the procurement of
184 commodities or contractual services.

185 (b) This initiative is designed to encompass an area that
186 is large enough to include all of the necessary components of
187 community life, including, but not limited to, schools, places
188 of worship, recreational facilities, commercial areas, and
189 common space, yet small enough to allow programs and services to
190 reach every willing member of the neighborhood.

191 (10) ~~CREATION OF THE NEW TOWN SUCCESS ZONE.~~

192 (a) There is created within the City of Jacksonville
193 Council District 9 in Duval County a ~~10-year~~ project called the
194 New Town Success Zone ~~that shall be managed by an entity~~
195 organized as a not-for-profit corporation ~~not for profit that is~~
196 registered, incorporated, organized, and operated in compliance
197 with chapter 617 and this section. ~~The New Town Success Zone is~~
198 ~~not subject to control, supervision, or direction by any~~
199 ~~department of the state in any manner. The Legislature~~
200 ~~determines, however, that~~ Public policy dictates that the New
201 Town Success Zone operates ~~corporation operate~~ in the most open
202 and accessible manner consistent with its public purpose.
203 Therefore, the Legislature declares that the New Town Success

15-00973D-23

20231578__

Zone ~~corporation~~ is subject to chapter 119, relating to public records, chapter 286, relating to public meetings and records, and chapter 287, relating to the procurement of commodities or contractual services.

(b) This initiative is designed to encompass an area that is large enough to include all of the necessary components of community life, including, but not limited to, schools, places of worship, recreational facilities, commercial areas, and common space, yet small enough to allow programs and services to reach every member of the neighborhood who is willing to participate in the project.

(11) ~~CREATION OF THE~~ ORLANDO PARRAMORE KIDZ ZONES ~~ZONE.~~—

(a) There is created within the City of Orlando in Orange County a ~~10-year~~ project called the Orlando Kidz Zones managed by an entity organized as a not-for-profit corporation ~~not for profit that is~~ registered, incorporated, organized, and operated in compliance with chapter 617 and this section. ~~The Parramore Kidz Zone program is not subject to the control, supervision, or direction of any department of the state. The Legislature determines, however, that~~ Public policy dictates that the Orlando Kidz Zones operates ~~corporation operate~~ in the most open and accessible manner consistent with its public purpose. Therefore, the Legislature ~~specifically~~ declares that the Orlando Kidz Zones are ~~corporation is~~ subject to chapter 119, relating to public records, chapter 286, relating to public meetings and records, and chapter 287, relating to the procurement of commodities or contractual services.

(b) This initiative is designed to encompass the Orlando neighborhoods of Parramore, Mercy Drive, and Englewood. All

15-00973D-23

20231578__

three of these neighborhoods are ~~an area that is~~ large enough to include all of the necessary components of community life, including, but not limited to, schools, places of worship, recreational facilities, commercial areas, and common space, yet small enough to allow programs and services to reach every member of the neighborhood who is willing to participate in the project.

(12) ~~CREATION OF THE TAMPA SULPHUR SPRINGS NEIGHBORHOOD OF PROMISE (SSNOP) SUCCESS ZONE.~~—

(a) There is created within the City of Tampa in Hillsborough County a ~~10-year~~ project called the Tampa Sulphur Springs Neighborhood of Promise (SSNOP) ~~that shall be~~ managed by an entity organized as a not-for-profit corporation ~~not for profit that is~~ registered, incorporated, organized, and operated in compliance with chapter 617 and this section. ~~The Tampa SSNOP Success Zone is not subject to control, supervision, or direction by any department of the state in any manner. The Legislature determines, however, that~~ Public policy dictates that the Tampa SSNOP operates ~~corporation operate~~ in the most open and accessible manner consistent with its public purpose. Therefore, the Legislature declares that the Tampa SSNOP ~~corporation~~ is subject to chapter 119, relating to public records, chapter 286, relating to public meetings and records, and chapter 287, relating to the procurement of commodities or contractual services.

(b) This initiative is designed to encompass an area that is large enough to include all of the necessary components of community life, including, but not limited to, schools, places of worship, recreational facilities, commercial areas, and

15-00973D-23

20231578__

common space, yet small enough to allow programs and services to reach every member of the neighborhood who is willing to participate in the project.

(13) CREATION OF THE OVERTOWN CHILDREN AND YOUTH COALITION.—

(a) There is created within the City of Miami in Miami-Dade County a ~~10-year~~ project called the Overtown Children and Youth Coalition ~~that shall be~~ managed by an entity organized as a not-for-profit corporation ~~not for profit that is~~ registered, incorporated, organized, and operated in compliance with chapter 617 and this section. ~~The Overtown Children and Youth Coalition is not subject to control, supervision, or direction by any department of the state in any manner. The Legislature determines, however, that~~ Public policy dictates that the Overtown Children and Youth Coalition operates ~~corporation operate~~ in the most open and accessible manner consistent with its public purpose. Therefore, the Legislature declares that the Overtown Children and Youth Coalition ~~corporation~~ is subject to chapter 119, relating to public records, chapter 286, relating to public meetings and records, and chapter 287, relating to the procurement of commodities or contractual services.

(b) This initiative is designed to encompass an area that is large enough to include all of the necessary components of community life, including, but not limited to, schools, places of worship, recreational facilities, commercial areas, and common space, yet small enough to allow programs and services to reach every member of the neighborhood who is willing to participate in the project.

(14) IMPLEMENTATION.—

15-00973D-23

20231578__

(a) The Miami Children's Initiative, Inc., the New Town Success Zone, the Orlando Parramore Kidz Zones ~~Zone~~, the Tampa SSNOP ~~Success Zone~~, and the Overtown Children and Youth Coalition have been designated as Florida Children's Initiatives consistent with the legislative intent and purpose of s. 16, chapter 2009-43, Laws of Florida, and as such shall each assist the disadvantaged areas of this ~~the~~ state in creating a community-based service network and programming that develops, coordinates, and provides quality education, accessible health care, youth development programs, opportunities for employment, and safe and affordable housing for children and families living within their boundaries.

(b) In order to implement this section for the Florida Children's Initiatives listed in this section ~~Miami Children's Initiative, Inc.~~, the Department of Children and Families shall contract with a not-for-profit corporation, to work in collaboration with the governing body to adopt the resolution described in subsection (4), to establish the planning team as provided in subsection (5), and to develop and adopt the strategic community plan as provided in subsection (6). The not-for-profit corporation is also responsible for the development of a strategic business ~~business~~ plan and for the evaluation, fiscal management, and oversight of the Florida Children's Initiatives ~~Miami Children's Initiative, Inc.~~

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: CS/SB 1578

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

SUBJECT: Florida Children's Initiatives

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Cox	CF	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1578 makes numerous changes to s. 409.147, F.S., to restructure, streamline, and clarify the requirements and objectives of children's initiatives. Specifically, the bill:

- Renames s. 409.147, F.S. from "Children's Initiatives" to "Florida Children's Initiatives".
- Renames the Parramore Kidz Zone to the "Orlando Kidz Zones" and expands the reach of the initiative to encompass the Orlando neighborhoods of Parramore, Mercy Drive, and Englewood.
- Renames the Tampa Sulphur Springs Neighborhood of Promise Success Zone (SSNOP) to the "Tampa Sulphur Springs Neighborhood of Promise".
- Removes the specification that existing children's initiatives are 10-year projects, and makes changes throughout to extend current requirements and exemptions enumerated for children's initiatives to all Florida Children's Initiatives, including requirements for public records and meetings and procurement of commodities or contractual services.
- Expands the ways in which a county or municipality shall recognize a not-for-profit corporation that will serve as a children's initiative to allow a county to identify an existing, qualified not-for-profit corporation, as a children's initiative instead of creating one.
- Grants counties that do not currently have a children's initiative and are trying to establish an initiative priority for designation as a children's initiative.
- Expands the youth support objectives of the children's initiative working group to include increasing "postsecondary enrollment, and postsecondary completion rates among neighborhood youth" not just "increasing high school graduation." and the safety objectives

of the working group to “reduce youth incarceration” in addition to the currently required “reduce youth violence, crime, and recidivism.”

- Makes technical and conforming changes throughout to implement the substantive changes of the bill.

The bill is not expected to have a fiscal impact on state government. See Section V. Fiscal Impact Statement.

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

II. Present Situation:

Florida Children’s Initiatives

In 2008, the Legislature created Children’s Initiatives.¹ Florida children’s initiatives assist disadvantaged areas within the state in creating a community-based service network that develops, coordinates, and provides quality education, accessible health care, youth development programs, opportunities for employment, and safe and affordable housing for children and families living within that area.²

Section 409.147, F.S., outlines the process for a county or municipality (or designated area) to apply to the Ounce of Prevention Fund of Florida, Inc. to designate an area as a children’s initiative. The governing body of the county or municipality must first adopt a resolution finding the area has issues related to poverty, that changes are necessary for the area to improve, and that resources are necessary for revitalization of the area.³ The county or municipality must then establish a children’s initiative planning team and develop and adopt a strategic community plan.⁴ Once a county or municipality has completed these steps, it must create a not-for-profit corporation to facilitate fundraising and secure broad community ownership of the children’s initiative.⁵

Currently, there are five recognized children’s initiatives in Florida:⁶

- Miami Children’s Initiative.⁷
- New Town Success Zone in Jacksonville.⁸
- Parramore Kidz Zone in Orlando.⁹
- Sulphur Springs Neighborhood of Promise in Tampa.¹⁰
- Overtown Children and Youth Coalition in Miami.¹¹

¹ Chapter 2008-96 s. 1, L.O.F.; codified as s. 409.147, F.S.

² Section 409.147(1)(b), F.S.

³ Section 409.147(4)(a), F.S.

⁴ Section 409.147(5), 409.147(6), F.S.

⁵ Section 409.147(7), F.S.

⁶ The Ounce of Prevention Fund of Florida, *Children’s Initiative Communities in Florida*, available at https://www.ounce.org/fci_communities.html (last visited March 30, 2023).

⁷ See s. 409.147(9), F.S.

⁸ See s. 409.147(10), F.S.

⁹ See s. 409.147(11), F.S.

¹⁰ See s. 409.147(12), F.S.

¹¹ See s. 409.147(13), F.S.

Section 409.147, F.S., sets requirements for children's initiatives to receive funding. Unless otherwise specified in the general appropriations act, children's initiatives must be awarded state funding through performance-based contracts that link payments to achievement of outcomes directly related to the goals, objectives, strategies, and tasks outlined in the strategic community plan. Counties that do not currently have an initiative and are trying to establish one have priority for funding.¹²

Children's initiatives must update strategic community plans every five years to reflect, at a minimum, the current status of the area served by the children's initiative, the goals, objectives, and strategies for each focus area, and the tasks required to implement the strategies the following year.¹³ Existing children's initiatives are designated in statute as 10-year projects, but some initiatives have been around longer than 10 years, such as the New Town Success Zone.¹⁴ To facilitate achievement of the strategic community plans, the Ounce of Prevention Fund of Florida (the Ounce)¹⁵ must provide technical assistance to the children's initiative corporations.¹⁶

The Ounce of Prevention Fund of Florida

The Ounce is a private, nonprofit corporation dedicated to shaping prevention policy and investing in innovative prevention programs that provide measurable benefits to Florida's children, families, and communities.¹⁷ The Ounce identifies, funds, supports, and tests programs to improve the life outcomes of children, preserve and strengthen families, and promote healthy behavior and functioning in society.¹⁸ Current law identifies the Ounce as the only organization able to designate areas in Florida as children's initiatives.¹⁹ The Department of Children and Families (DCF) was appropriated \$4.2 million dollars in 2022 to fund new or existing Children's Initiatives²⁰ and the Ounce was contracted to manage that \$4.2 million dollar appropriation.²¹

Exemptions and Requirements for Children's Initiatives

Florida law states that each children's initiative shall be managed by an entity that is registered, incorporated, organized, and operated in compliance with ch. 617, F.S., relating to corporations not for profit. Children's initiatives are designed to encompass an area large enough to include all of the necessary components of community life, including, but not limited to, schools, places of worship, recreational facilities, commercial areas, and common space, yet small enough to allow programs and services to reach every member of the neighborhood who is willing to participate in the project.

¹² Section 409.147(8)(b), F.S.

¹³ Section 409.147(7)(a)3., F.S.

¹⁴ See generally New Town Success Zone, *Five Year Report to the Community*, Spring 2012, available at <https://www.coj.net/departments/childrens-commission/docs/new-town-success-zone/ntsz-5yr-report.aspx> (last viewed March 30, 2023).

¹⁵ Section 409.147(3)(b), F.S.

¹⁶ Section 409.147(7)(b), F.S.

¹⁷ The Ounce of Prevention Fund of Florida, available at <https://www.ounce.org/> (last viewed March 30, 2023).

¹⁸ *Id.*

¹⁹ Section 409.147(4), F.S.

²⁰ Chapter 2022-156, L.O.F., specific appropriation 318.

²¹ Department of Financial Services, Florida Accountability Contract Tracking System, Grant Disbursement Information, available at <https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=600000&ContractId=LJ210>, (last viewed March 23, 2023).

Non-profit corporations created and designated as children’s initiatives are not subject to the control, supervision, or direction by any department of the state in any manner. However, the corporations are subject to ch. 119, F.S., relating to public records; ch. 286, F.S., relating to public meetings and records; and ch. 287, F.S., relating to procurement of commodities or contractual services. Corporations must comply with these requirements to “operate in the most open and accessible manner,” consistent with their public purpose.²²

New Children’s Initiatives

Mercy Drive and Englewood Kidz Zones aim to reduce juvenile crime, teen pregnancies, child abuse and neglect and high school drop-out rates among Orlando’s most vulnerable youth.²³ The initiatives are modeled after successful initiatives such as the Harlem Children’s Zone and the Parramore Kidz Zone. From its inception in 2009 to 2019, the Parramore Zone recorded that:²⁴

- It had served more than 6,000 children.
- Juvenile arrests in were down 78.3 percent.
- Teen births were down 63.4 percent.
- Infants, toddlers and preschoolers attending early learning programs were up 117 percent.
- Verified cases of child abuse and neglect were down 62.4 percent.

The geographic area of the new initiatives was carefully selected based on need and consideration of areas where infrastructure and programming were already being built out.²⁵

III. Effect of Proposed Changes:

The bill makes numerous changes to s. 409.147, F.S., to streamline and clarify the requirements and objectives of children’s initiatives. The bill renames s. 409.147, F.S., from “Children’s Initiatives” to “Florida Children’s Initiatives” to better conform with the substantive changes of the bill.

The bill further amends s. 409.147, F.S., to rename the Parramore Kidz Zone to the “Orlando Kidz Zones” and expands the reach of the initiative to encompass the Orlando neighborhoods of Parramore, Mercy Drive, and Englewood. The bill states that all three of these neighborhoods are large enough to include all of the necessary components of community life. This adds two new areas in Orlando to statute.

The bill also changes the name of the Tampa Sulphur Springs Neighborhood of Promise Success Zone (SSNOP) to the “Tampa Sulphur Springs Neighborhood of Promise”.

The bill amends s. 409.147, F.S., to remove the specification that existing children’s initiatives are 10-year projects, and makes changes throughout to extend current requirements and exemptions enumerated for children’s initiatives to all Florida Children’s Initiatives, including

²² See Section 409.147, F.S.

²³ City of Orlando, Orlando Kidz Zones, available at <https://www.orlando.gov/Our-Government/Departments-Offices/FPR/Orlando-Kidz-Zones>, (last viewed March 30, 2023).

²⁴ *Id.*

²⁵ Fox 35, Orlando, *Orlando expanding Kidz Zone model to 3 neighborhoods to help at-risk youth*, available at <https://www.fox35orlando.com/news/orlando-expanding-kidz-zone-model-to-3-neighborhoods-to-help-at-risk-youth>, June 15, 2021 (last viewed March 30, 2023).

requirements for public records and meetings and procurement of commodities or contractual services.

The bill expands the ways in which a county or municipality must recognize a not-for-profit corporation that will serve as a children's initiative. Current law requires a county or municipality to create a not-for-profit corporation as a children's initiative; however, the bill language allows a county to identify an existing, qualified not-for-profit corporation.

The bill states that counties that do not currently have a children's initiative and are trying to establish an initiative have priority for "designation by the Ounce."

The bill also expands the objectives of the working groups involved in the formation of the children's initiative strategic community plan. The bill expands the youth support objectives²⁶ of a working group to include increasing "postsecondary enrollment, and postsecondary completion rates among neighborhood youth" not just "increasing high school graduation." The bill also expands the community safety objectives²⁷ of the working group to "reduce youth incarceration" in addition to the currently required "reduce youth violence, crime, and recidivism."

The bill makes technical and conforming changes throughout to implement the substantive changes of the bill.

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.

²⁶ Section 409.147(6)(d), F.S.

²⁷ Section 409.147(6)(g), F.S.

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 section 409.147 of the Florida Statutes.

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

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

CS by Children, Families, and Elder Affairs Committee on April 4, 2023:

The Committee Substitute adds “higher rates of childhood obesity” to the list of adverse health outcomes experienced by children within the geographical areas that qualify for a Children’s Initiative.

B. Amendments:

None.



220640

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 39
and insert:
rates of asthma, a higher risk of lead poisoning, higher rates
of childhood obesity, and inadequate

By the Committee on Health Policy; and Senator Garcia

588-03144-23

20231596c1

A bill to be entitled

An act relating to provider accountability; amending s. 400.022, F.S.; revising the rights of residents of nursing home facilities; amending s. 408.809, F.S.; providing additional disqualifying offenses for purposes of background screening of employees of certain health care providers; amending s. 408.812, F.S.; creating a cause of action for ex parte injunctive relief against continued unlicensed activity relating to health care provider facilities; authorizing the Agency for Health Care Administration to petition the court for such injunctive relief; providing requirements for the petition; prohibiting courts from requiring bond in such proceedings; limiting the types of evidence that may be presented in such proceedings; providing that a denial of such injunctive relief must be by written order of the court noting the legal grounds for the denial; providing construction; providing for ex parte temporary injunctive relief under certain circumstances; requiring that temporary injunctions be effective for a fixed period not exceeding 30 days; requiring the agency to conduct an inspection of the identified premises of unlicensed activity within a specified timeframe after such temporary injunction is issued; requiring the agency to dismiss its petition if the respondent complies with the injunction; providing for a permanent injunction within a specified timeframe if the unlicensed activity

588-03144-23

20231596c1

continues; requiring that a full hearing be set as soon as practicable thereafter; authorizing the agency to move for an extension of the injunction until disposition of the proceedings; providing for service of an ex parte injunction; providing construction; authorizing the agency to provide any inspection records to local law enforcement agencies and state attorney offices upon request and without redaction; amending s. 435.04, F.S.; providing additional disqualifying offenses for employment background screening requirements; amending ss. 458.328 and 459.0138, F.S.; requiring that a physician's office seeking registration to perform office surgeries must be inspected by the Department of Health before it may be registered; providing for immediate suspension of a registration under specified circumstances; providing construction; requiring physicians performing gluteal fat grafting procedures in an office surgery setting to adhere to specified standards of practice; authorizing the Board of Medicine and the Board of Osteopathic Medicine, respectively, to adopt certain rules; providing an effective date.

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

Section 1. Paragraph (o) of subsection (1) of section 400.022, Florida Statutes, is amended to read:

400.022 Residents' rights.—

(1) All licensees of nursing home facilities shall adopt

588-03144-23

20231596c1

59 and make public a statement of the rights and responsibilities
60 of the residents of such facilities and shall treat such
61 residents in accordance with the provisions of that statement.
62 The statement shall assure each resident the following:

63 (o) The right to be free from mental and physical abuse,
64 sexual abuse, neglect, exploitation, corporal punishment,
65 extended involuntary seclusion, and from physical and chemical
66 restraints, except those restraints authorized in writing by a
67 physician for a specified and limited period of time or as are
68 necessitated by an emergency. In case of an emergency, restraint
69 may be applied only by a qualified licensed nurse who shall set
70 forth in writing the circumstances requiring the use of
71 restraint, and, in the case of use of a chemical restraint, a
72 physician shall be consulted immediately thereafter. Restraints
73 may not be used in lieu of staff supervision or merely for staff
74 convenience, for punishment, or for reasons other than resident
75 protection or safety.

76 Section 2. Subsection (4) of section 408.809, Florida
77 Statutes, is amended to read:

78 408.809 Background screening; prohibited offenses.—

79 (4) In addition to the offenses listed in s. 435.04, all
80 persons required to undergo background screening pursuant to
81 this part or authorizing statutes must not have an arrest
82 awaiting final disposition for, must not have been found guilty
83 of, regardless of adjudication, or entered a plea of nolo
84 contendere or guilty to, and must not have been adjudicated
85 delinquent and the record not have been sealed or expunged for
86 any of the following offenses or any similar offense of another
87 jurisdiction:

588-03144-23

20231596c1

(a) Any authorizing statutes, if the offense was a felony.

(b) This chapter, if the offense was a felony.

(c) Section 409.920, relating to Medicaid provider fraud.

(d) Section 409.9201, relating to Medicaid fraud.

(e) Section 414.39, relating to fraud, if the offense was a felony.

(f) Section 741.28, relating to domestic violence.

(g)~~(f)~~ Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection.

(h)~~(g)~~ Section 784.03, relating to battery, if the victim is a vulnerable adult as defined in s. 415.102 or a patient or resident of a facility licensed under chapter 395, chapter 400, or chapter 429.

(i) Section 815.04, relating to offenses against intellectual property.

(j) Section 815.06, relating to offenses against users of computers, computer systems, computer networks, and electronic devices.

(k)~~(h)~~ Section 817.034, relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems.

(l)~~(i)~~ Section 817.234, relating to false and fraudulent insurance claims.

(m)~~(j)~~ Section 817.481, relating to obtaining goods by using a false or expired credit card or other credit device, if the offense was a felony.

(n)~~(k)~~ Section 817.50, relating to fraudulently obtaining goods or services from a health care provider.

(o)~~(l)~~ Section 817.505, relating to patient brokering.

588-03144-23

20231596c1

117 (p)~~(m)~~ Section 817.568, relating to criminal use of
118 personal identification information.

119 (q)~~(n)~~ Section 817.60, relating to obtaining a credit card
120 through fraudulent means.

121 (r)~~(o)~~ Section 817.61, relating to fraudulent use of credit
122 cards, if the offense was a felony.

123 (s)~~(p)~~ Section 831.01, relating to forgery.

124 (t)~~(q)~~ Section 831.02, relating to uttering forged
125 instruments.

126 (u)~~(r)~~ Section 831.07, relating to forging bank bills,
127 checks, drafts, or promissory notes.

128 (v)~~(s)~~ Section 831.09, relating to uttering forged bank
129 bills, checks, drafts, or promissory notes.

130 (w) Section 831.29, relating to making or having
131 instruments and material for counterfeiting driver licenses or
132 identification cards.

133 (x)~~(t)~~ Section 831.30, relating to fraud in obtaining
134 medicinal drugs.

135 (y)~~(u)~~ Section 831.31, relating to the sale, manufacture,
136 delivery, or possession with the intent to sell, manufacture, or
137 deliver any counterfeit controlled substance, if the offense was
138 a felony.

139 (z) Section 831.311, relating to unlawful sale,
140 manufacture, alteration, delivery, uttering, or possession of
141 counterfeit-resistant prescription blanks for controlled
142 substances.

143 (aa) Section 836.05, relating to threats and extortion.

144 (bb) Section 836.10, relating to written or electronic
145 threats to kill or do bodily injury or conduct a mass shooting

588-03144-23

20231596c1

or an act of terrorism.

(cc) Section 873.01, relating to the prohibited purchase or sale of human organs and tissue.

(dd)~~(v)~~ Section 895.03, relating to racketeering and collection of unlawful debts.

(ee)~~(w)~~ Section 896.101, relating to the Florida Money Laundering Act.

If, upon rescreening, a person who is currently employed or contracted with a licensee and was screened and qualified under s. 435.04 has a disqualifying offense that was not a disqualifying offense at the time of the last screening, but is a current disqualifying offense and was committed before the last screening, he or she may apply for an exemption from the appropriate licensing agency and, if agreed to by the employer, may continue to perform his or her duties until the licensing agency renders a decision on the application for exemption if the person is eligible to apply for an exemption and the exemption request is received by the agency no later than 30 days after receipt of the rescreening results by the person.

Section 3. Subsection (6) of section 408.812, Florida Statutes, is amended to read:

408.812 Unlicensed activity.—

(6) In addition to granting injunctive relief pursuant to subsection (2), if the agency determines that a person or entity is operating or maintaining a provider without obtaining a license and determines that a condition exists that poses a threat to the health, safety, or welfare of a client of the provider, the person or entity is subject to the same actions

588-03144-23

20231596c1

and fines imposed against a licensee as specified in this part, authorizing statutes, and agency rules.

(a) There is created a cause of action for an ex parte injunction against continued unlicensed activity.

(b) The agency may petition the circuit court for an ex parte injunction against continued unlicensed activity when agency personnel have verified, through an onsite inspection, that a person or entity is advertising, offering, or providing services for which licensure is required under this part and applicable statutes and such person or entity has previously received notification from the agency to discontinue such activity.

(c) A sworn petition seeking the issuance of an ex parte injunction against continued unlicensed activity must include the location of the unlicensed activity; the ownership and operators of the unlicensed provider; identification of the service provider type for which licensure is required under the applicable statutes; specific facts supporting the conclusion that the respondent engaged in unlicensed activity, specifying the date, time, and location at which the unlicensed provider was notified to discontinue such activity; whether the respondent prohibited the agency from conducting a subsequent investigation to determine compliance; any previous injunctive relief granted against the respondent; and any previous agency determinations that the respondent was previously identified as engaging in unlicensed activity.

(d) Bond may not be required by the court for the entry of an injunction under this subsection.

(e) Except as provided in s. 90.204, in an ex parte hearing

588-03144-23

20231596c1

for the purpose of obtaining such ex parte temporary injunction,
no evidence other than verified pleadings or affidavits by
agency personnel or others with first-hand knowledge of the
alleged unlicensed activity may be used as evidence, unless the
respondent appears at the hearing. A denial of a petition for an
ex parte injunction must be by written order noting the legal
grounds for denial. Nothing herein affects the agency's right to
promptly amend any petition or otherwise be heard in person on
any petition consistent with the Florida Rules of Civil
Procedure.

(f) If it appears to the court that the respondent is
engaged in unlicensed activity and has not discontinued that
activity after notification by the agency, the court may grant
an ex parte temporary injunction, pending a full hearing, and
may grant any relief the court deems appropriate, including an
injunction restraining the respondent from advertising,
offering, or providing services for which licensure is required
under this part and applicable statutes, and requiring the
respondent to provide agency personnel full access to facility
personnel, records, and clients for a future inspection of the
premises within 20 days after the injunction is issued to verify
respondent's compliance with the temporary injunction.

(g) An ex parte temporary injunction issued under this
subsection must be effective for a fixed period not to exceed 30
days.

(h) The agency must conduct an inspection of the identified
premises within 20 days after the injunction is issued to verify
the respondent's compliance with the temporary injunction. If
the respondent is found to have complied with the temporary

588-03144-23

20231596c1

injunction, the agency must voluntarily dismiss its injunction action. If the agency finds that unlicensed activity has continued in apparent violation of the temporary injunction, the agency may file a petition for permanent injunction within 10 days after such discovery, at which time a full hearing must be set as soon as practicable. Contemporaneous with the filing of a petition for permanent injunction, the agency may move for an extension of the ex parte injunction until disposition of the permanent injunction proceedings.

(i) Any ex parte injunction against continued unlicensed activity must be served by the sheriff of the county in which the respondent's activities are conducted.

(j) Remedies in this subsection are not exclusive but a supplement to any other administrative or criminal remedies for unlicensed activity.

(k) The agency is not required to exhaust its administrative remedies before seeking the injunctive relief provided by this subsection.

(l) The agency may provide any records of its inspections to local law enforcement agencies or state attorney offices upon request and without redaction.

Section 4. Subsection (2) of section 435.04, Florida Statutes, is amended to read:

435.04 Level 2 screening standards.—

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to,

588-03144-23

20231596c1

or have been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of state law or similar law of another jurisdiction:

(a) Section 39.205, relating to failure to report child abuse, abandonment, or neglect.

(b) Section 316.193(3)(c)3., relating to DUI manslaughter.

(c) Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

(d)~~(b)~~ Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

(e)~~(e)~~ Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.

(f)~~(d)~~ Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection.

(g)~~(e)~~ Section 782.04, relating to murder.

(h)~~(f)~~ Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.

(i)~~(g)~~ Section 782.071, relating to vehicular homicide.

(j)~~(h)~~ Section 782.09, relating to killing of an unborn child by injury to the mother.

(k)~~(i)~~ Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.

(l)~~(j)~~ Section 784.011, relating to assault, if the victim of the offense was a minor.

(m)~~(k)~~ Section 784.03, relating to battery, if the victim

588-03144-23

20231596c1

of the offense was a minor.

(n)~~(l)~~ Section 787.01, relating to kidnapping.

(o)~~(m)~~ Section 787.02, relating to false imprisonment.

(p)~~(n)~~ Section 787.025, relating to luring or enticing a child.

(q)~~(o)~~ Section 787.04(2), relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.

(r)~~(p)~~ Section 787.04(3), relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.

(s) Section 787.06, relating to human trafficking.

(t) Section 787.07, relating to human smuggling.

(u)~~(q)~~ Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

(v)~~(r)~~ Section 790.115(2) (b), relating to possessing an electric weapon or device, destructive device, or other weapon on school property.

(w) Section 790.166, relating to the manufacture, possession, sale, delivery, display, use, or attempted or threatened use of weapons of mass destruction or hoax weapons of mass destruction.

(x)~~(s)~~ Section 794.011, relating to sexual battery.

(y)~~(t)~~ Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

(z)~~(u)~~ Section 794.05, relating to unlawful sexual activity with certain minors.

(aa)~~(v)~~ Chapter 796, relating to prostitution.

588-03144-23

20231596c1

320 ~~(bb)~~~~(w)~~ Section 798.02, relating to lewd and lascivious
321 behavior.

322 ~~(cc)~~~~(x)~~ Chapter 800, relating to lewdness and indecent
323 exposure.

324 ~~(dd)~~~~(y)~~ Section 806.01, relating to arson.

325 ~~(ee)~~~~(z)~~ Section 810.02, relating to burglary.

326 ~~(ff)~~~~(aa)~~ Section 810.14, relating to voyeurism, if the
327 offense is a felony.

328 ~~(gg)~~~~(bb)~~ Section 810.145, relating to video voyeurism, if
329 the offense is a felony.

330 ~~(hh)~~~~(ee)~~ Chapter 812, relating to theft, robbery, and
331 related crimes, if the offense is a felony.

332 ~~(ii)~~~~(dd)~~ Section 817.563, relating to fraudulent sale of
333 controlled substances, only if the offense was a felony.

334 ~~(jj)~~~~(ee)~~ Section 825.102, relating to abuse, aggravated
335 abuse, or neglect of an elderly person or disabled adult.

336 ~~(kk)~~~~(ff)~~ Section 825.1025, relating to lewd or lascivious
337 offenses committed upon or in the presence of an elderly person
338 or disabled adult.

339 ~~(ll)~~~~(gg)~~ Section 825.103, relating to exploitation of an
340 elderly person or disabled adult, if the offense was a felony.

341 ~~(mm)~~~~(hh)~~ Section 826.04, relating to incest.

342 ~~(nn)~~~~(ii)~~ Section 827.03, relating to child abuse,
343 aggravated child abuse, or neglect of a child.

344 ~~(oo)~~~~(jj)~~ Section 827.04, relating to contributing to the
345 delinquency or dependency of a child.

346 ~~(pp)~~~~(kk)~~ Former s. 827.05, relating to negligent treatment
347 of children.

348 ~~(qq)~~~~(ll)~~ Section 827.071, relating to sexual performance by

588-03144-23

20231596c1

a child.

(rr) Section 838.015, relating to bribery.

(ss)~~(mm)~~ Section 843.01, relating to resisting arrest with violence.

(tt)~~(nn)~~ Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.

(uu)~~(oo)~~ Section 843.12, relating to aiding in an escape.

(vv)~~(pp)~~ Section 843.13, relating to aiding in the escape of juvenile inmates in correctional institutions.

(ww)~~(qq)~~ Chapter 847, relating to obscene literature.

(xx) Section 859.01, relating to poisoning food or water.

(yy) Section 873.01, relating to the prohibited purchase or sale of human organs and tissue.

(zz)~~(rr)~~ Section 874.05, relating to encouraging or recruiting another to join a criminal gang.

(aaa) Section 876.32, relating to treason.

(bbb)~~(ss)~~ Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

(ccc)~~(tt)~~ Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

(ddd)~~(uu)~~ Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

(eee)~~(vv)~~ Section 944.40, relating to escape.

(fff)~~(ww)~~ Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

588-03144-23

20231596c1

(ggg)~~(xx)~~ Section 944.47, relating to introduction of contraband into a correctional facility.

(hhh) Section 951.22, relating to county detention facilities and contraband articles.

(iii)~~(yy)~~ Section 985.701, relating to sexual misconduct in juvenile justice programs.

(jjj)~~(zz)~~ Section 985.711, relating to contraband introduced into detention facilities.

Section 5. Present subsection (2) of section 458.328, Florida Statutes, is redesignated as subsection (4), a new subsection (2) and subsection (3) are added to that section, and paragraph (e) of subsection (1) of that section is amended, to read:

458.328 Office surgeries.—

(1) REGISTRATION.—

(e)1. An office seeking registration under this section must be inspected by the department before the office may be registered. If a registered office refuses any subsequent inspection under subparagraph 2., the office's registration must be immediately suspended and may not be reinstated before completion of an inspection by the department. Completion of an inspection under this subparagraph does not guarantee a registration or reinstatement of a registration.

2. The department shall inspect a registered office at least annually, including a review of patient records, to ensure that the office is in compliance with this section and rules adopted hereunder unless the office is accredited by a nationally recognized accrediting agency approved by the board. The inspection may be unannounced, except for the inspection of

588-03144-23

20231596c1

an office that meets the description of a clinic specified in s. 458.3265(1)(a)3.h., and those wholly owned and operated physician offices described in s. 458.3265(1)(a)3.g. which perform procedures referenced in s. 458.3265(1)(a)3.h., which must be announced.

(2) GLUTEAL FAT GRAFTING PROCEDURES.—

(a) Physicians performing gluteal fat grafting procedures in an office surgery setting must adhere to standards of practice prescribed under this subsection. The board may adopt rules to prescribe additional requirements for the safe performance of gluteal fat grafting procedures, provided such rules do not conflict with this subsection.

(b) An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. A physician is not limited in the number of gluteal fat grafting procedures that he or she may safely perform in accordance with the applicable standard of care and as prescribed in this subsection. However, after a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.

(c) Before a physician may delegate any duties during a gluteal fat grafting procedure, the patient must provide written, informed consent to such delegation. Any duties delegated during a gluteal fat grafting procedure must be

588-03144-23

20231596c1

performed under the direct supervision of the physician performing the procedure. Gluteal fat extractions and injections must be performed by the physician performing the procedure and may not be delegated.

(d) Only the physician performing the gluteal fat grafting procedure may extract gluteal fat from, or inject gluteal fat into, the patient. The gluteal fat may be injected only into the subcutaneous space of the patient and may not cross the fascia overlying the gluteal muscle. Intramuscular and submuscular fat injections are prohibited.

(e) When the physician performing a gluteal fat grafting procedure injects gluteal fat into the subcutaneous space of the patient, the physician must use ultrasound guidance during the placement and navigation of a cannula to ensure that the fat is placed into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Ultrasound guidance is not required for other portions of the procedure.

(3) STANDARDS OF PRACTICE.—Surgeries performed in an office registered under this section may not:

(a) Result in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;

(b) Require major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, except for laparoscopic procedures;

(c) Involve major blood vessels performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or

(d) Be emergent or life threatening.

588-03144-23

20231596c1

Section 6. Present subsection (2) of section 459.0138, Florida Statutes, is redesignated as subsection (4), a new subsection (2) and subsection (3) are added to that section, and paragraph (e) of subsection (1) of that section is amended, to read:

459.0138 Office surgeries.—

(1) REGISTRATION.—

(e) 1. An office seeking registration under this section must be inspected by the department before the office may be registered. If a registered office refuses any subsequent inspection under subparagraph 2., the office's registration must be immediately suspended and may not be reinstated before completion of an inspection by the department. Completion of an inspection under this subparagraph does not guarantee a registration or reinstatement of a registration.

2. The department shall inspect a registered office at least annually, including a review of patient records, to ensure that the office is in compliance with this section and rules adopted hereunder unless the office is accredited by a nationally recognized accrediting agency approved by the board. The inspection may be unannounced, except for the inspection of an office that meets the description of clinic specified in s. 459.0137(1)(a)3.h., and those wholly owned and operated physician offices described in s. 459.0137(1)(a)3.g. which perform procedures referenced in s. 459.0137(1)(a)3.h., which must be announced.

(2) GLUTEAL FAT GRAFTING PROCEDURES.—

(a) Physicians performing gluteal fat grafting procedures in an office surgery setting must adhere to standards of

588-03144-23

20231596c1

494 practice prescribed under this subsection. The board may adopt
495 rules to prescribe additional requirements for the safe
496 performance of gluteal fat grafting procedures, provided such
497 rules do not conflict with this subsection.

498 (b) An office in which a physician performs gluteal fat
499 grafting procedures must at all times maintain a ratio of one
500 physician to one patient during all phases of the procedure,
501 beginning with the administration of anesthesia to the patient
502 and concluding with the extubation of the patient. A physician
503 is not limited in the number of gluteal fat grafting procedures
504 that he or she may safely perform in accordance with the
505 applicable standard of care and as prescribed in this
506 subsection. However, after a physician has commenced, and while
507 he or she is engaged in, a gluteal fat grafting procedure, the
508 physician may not commence or engage in another gluteal fat
509 grafting procedure or any other procedure with another patient
510 at the same time.

511 (c) Before a physician may delegate any duties during a
512 gluteal fat grafting procedure, the patient must provide
513 written, informed consent to such delegation. Any duties
514 delegated during a gluteal fat grafting procedure must be
515 performed under the direct supervision of the physician
516 performing the procedure. Gluteal fat extractions and injections
517 must be performed by the physician performing the procedure and
518 may not be delegated.

519 (d) Only the physician performing the gluteal fat grafting
520 procedure may extract gluteal fat from, or inject gluteal fat
521 into, the patient. The gluteal fat may be injected only into the
522 subcutaneous space of the patient and may not cross the fascia

588-03144-23

20231596c1

overlying the gluteal muscle. Intramuscular and submuscular fat injections are prohibited.

(e) When the physician performing a gluteal fat grafting procedure injects gluteal fat into the subcutaneous space of the patient, the physician must use ultrasound guidance during the placement and navigation of a cannula to ensure that the fat is placed into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Ultrasound guidance is not required for other portions of the procedure.

(3) STANDARDS OF PRACTICE.—Surgeries performed in an office registered under this section may not:

(a) Result in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;

(b) Require major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, except for laparoscopic procedures;

(c) Involve major blood vessels performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or

(d) Be emergent or life threatening.

Section 7. 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 1596

INTRODUCER: Health Policy Committee and Senator Garcia

SUBJECT: Provider Accountability

DATE: April 3, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	Fav/CS
2.	Delia	Cox	CF	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1596 amends ss. 408.809 and 435.04, F.S., relating to background screening of specific health care providers regulated by the Agency for Health Care Administration, to add additional crimes to the list of offenses that will disqualify a person from employment after undergoing a background screening.

The bill also amends nursing home residents' rights to specify that a nursing home resident has the right to be free from sexual abuse, neglect, and exploitation. The bill amends s. 408.812, F.S., to create a new cause of action to pursue an injunction against unlicensed activity by persons or entities who are providing services for which a license is required under ch. 408, F.S.

The bill also creates registration requirements and standards of practice for physician offices registered with the Department of Health (DOH) for the performance of office surgeries.

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

II. Present Situation:

Unlicensed Activity

Section 408.812, F.S., prohibits any person or entity from offering or advertising services that require a license under Part II of ch. 408, F.S., authorizing statutes, or applicable rules to the public without obtaining a valid license from the Agency for Health Care Administration (AHCA). The section allows the AHCA, or any state attorney, to bring action for an injunction to halt the unlicensed activity or enjoin further operation or maintenance of the unlicensed provider until compliance with laws and rules has been demonstrated to the satisfaction of the AHCA.¹ If a person or entity fails to cease operation after receiving notice from the AHCA, the person or entity is subject to penalties including a fine of up to \$1,000 per each day of noncompliance, the revocation of other licenses if the unlicensed entity has an interest in other licensed providers, and the imposition of the same licensure violations that a regularly licensed provider would incur if a condition exists that poses a threat to the health, safety, or welfare of a client.²

Limitations of the Current Statutory Scheme

Under the current regulatory scheme, where the unlicensed operation of a health care provider regulated by the AHCA is asserted, the AHCA may inspect the identified location to determine if the operators are providing services therein that meet the definition of a facility requiring licensure. Should the operator not provide consent for the inspection, the circuit court is empowered to issue an inspection warrant.³

If the AHCA determines, during an inspection of an unlicensed provider, that the operator is in fact engaging in unlicensed activity, the AHCA's sole immediate action is to issue a notice directed to the operator indicating that the operator is engaging in unlicensed activity. Thereafter, the AHCA may conduct a subsequent inspection to determine if the unlicensed activity has ceased or continues. Should the operator be found to have continued the unlicensed activity on this second inspection, the AHCA may proceed to impose administrative fines of \$1,000 per day.⁴

Though the statutory scheme authorizes the AHCA to seek injunctive relief, the principal of exhaustion of administrative remedies prior to seeking judicial relief essentially renders this provision ineffective. The imposition of administrative fines invokes the Administrative Procedure Act in ch. 120, F.S., and its inherent time delays, which does not result in an order, administrative or otherwise, directing the operator to cease the unlicensed activity.⁵

Thus, under the current legislative scheme, the AHCA has no statutory path to assure that unlicensed activity by an operator ceases in a timely manner to protect citizens from the health and safety risks presented by such unlicensed activity.

¹ Section 408.812(2), F.S.

² Section 408.812(4) through (6), F.S.

³ The AHCA, *Agency Analysis for SB 1596*, March 21, 2023, p. 2 (on file with Senate Health Policy Committee).

⁴ *Id.*

⁵ *Id.*

Examples of Unlicensed Activity

In addition to other instances of unlicensed activity identified by the AHCA, individuals currently may travel to the state to receive cheaper surgical and recovery options. Lower-cost cosmetic surgeries have created a market for similarly priced post-operative care. “Recovery homes” charge persons to stay and receive care post-surgery. Most recovery homes offer transportation services following surgery, provide beds, and some have nurses on site that can check vital signs.

The AHCA oversees assisted living facilities (ALF),⁶ defined as any home or building where housing, meals, and nonmedical services are provided for more than 24 hours to one or more people who are not related to the homeowner or facility manager.⁷ The AHCA is typically only made aware of the existence of recovery homes if a complaint is submitted. Since January 2017, the AHCA has cited unlicensed activity a total of 289 times, including 17 times in the first six months of 2022. The AHCA does not currently have the authority to specifically regulate or license post-operative recovery homes.

Since 2017, the number of recovery care home complaints has increased yearly, with complaints slowly beginning to escalate in 2018, and into 2019. Various law enforcement agencies, fire department, and code enforcement personnel also began to alert the AHCA of potential unlicensed ALF/recovery home activity.

In 2019 and early 2020, prior to the COVID-19 pandemic, there were approximately three or fewer recovery home complaints per month. In 2020, there were 14 unlicensed recovery home investigations with 12 being substantiated as unlicensed ALF’s during the pandemic. In 2021, there were 30 unlicensed recovery home investigations with 20 being substantiated as unlicensed ALF’s, and in 2022, there were 22 unlicensed recovery home investigations with 17 being substantiated.

As of March 3, 2023, four unlicensed recovery care home investigations have been conducted with three substantiated as unlicensed ALFs. Currently, the AHCA has 10 ongoing and/or pending investigations.⁸

Level 2 Background Screening

Section 435.04, F.S., establishes the standards for level 2 background screenings. The section specifies that a background screening under its provisions must include fingerprinting for statewide criminal history records checks through the FDLE and a national criminal history records checks through the FBI, and may include local criminal records checks through local law enforcement agencies. Fingerprints submitted must be submitted electronically to the FDLE, and agencies may contract with one or more vendors to perform all or part of the electronic fingerprinting.

⁶ See Part I of ch. 429, F.S.

⁷ Section 429.02(5), F.S.

⁸ *Supra* n. 3

In order to pass a level 2 background screening, an individual being screened may not have been arrested for and awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged, for any of the offenses listed in the section or similar provisions in other jurisdictions. The section provides additional disqualifying offenses applicable to participation in the Medicaid program.

Section 408.809, F.S., requires that the following persons who are associated with a licensee under Part II of ch. 408, F.S., must pass a level 2 background screening and be rescreened every five years:

- The licensee, if an individual;
- The administrator or a similarly titled person who is responsible for the day-to-day operation of the provider;
- The financial officer or similarly titled individual who is responsible for the financial operation of the licensee or provider;
- Any person who has a controlling interest;
- Any person, as required by authorizing statutes, seeking employment with a licensee or provider who is expected to, or whose responsibilities may require him or her to, provide personal care or services directly to clients or have access to client funds, personal property, or living areas; and
- Any person, as required by authorizing statutes, contracting with a licensee or provider whose responsibilities require him or her to provide personal care or personal services directly to clients, or contracting with a licensee or provider, to work 20 hours a week or more who will have access to client funds, personal property, or living areas.

The section also provides a list of disqualifying offenses which will prevent a person from passing the background screening and which is in addition to the disqualifying offenses listed in s. 435.04, F.S.

Exemptions

Section 435.07, F.S., allows heads of agencies to grant an exemption from disqualification for an employee who would be disqualified under s. 435.04, F.S., or other background screening provisions. These exemptions may be granted for:

- Felonies for which at least three years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony;
- Misdemeanors prohibited under any of the statutes cited in this chapter or under similar statutes of other jurisdictions for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court;
- Offenses that were felonies when committed but that are now misdemeanors and for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court; or
- Findings of delinquency. For offenses that would be felonies if committed by an adult and the record has not been sealed or expunged, the exemption may not be granted until at least three years have elapsed since the applicant for the exemption has completed or been

lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying offense.

In order to be granted an exemption, the employee seeking the exemption must provide clear and convincing evidence that he or she should not be disqualified from employment. The employing, or potentially employing, agency may consider crimes committed or that he or she has been arrested for after the disqualifying offense, even if the crime is not itself a disqualifying offense. The decision regarding whether to grant an exemption is subject to the due process provisions in ch. 120, F.S. Additionally, the section specifies that disqualification cannot be removed if the employee is seeking a child care position, if the employee is a sex offender, or if the disqualifying offense is one of a list of specified offenses.

Nursing Home Residents' Rights

Section 400.022, F.S., enumerates a number of rights for residents in a nursing home. The section requires each nursing home to adopt and make public a statement of the rights and responsibilities of residents in the facility. The facility is required to inform a resident of his or her rights and provide a copy of the statement to the resident and each staff member of the facility. The section specifies that a violation of residents' rights is grounds for AHCA licensure action and that a licensure inspection of the facility must include private informal conversations with a sample of residents to discuss their experiences with respect to residents' rights.

The section specifies that the statement of rights adopted by each facility must include the right for all residents to:

- Civil and religious liberties.
- Private and uncensored communication.
- Present grievances on behalf of themselves or others to the staff or administrator of the facility, to governmental officials, or to any other person; to recommend changes in policies and services to facility personnel; and to join with other residents or individuals within or outside the facility to work for improvements in resident care, free from restraint, interference, coercion, discrimination, or reprisal.
- Organize and participate in resident groups in the facility and the right to have their families meet in the facility with the families of other residents.
- Participate in social, religious, and community activities that do not interfere with the rights of other residents.
- Examine, upon reasonable request, the results of the most recent inspection of the facility conducted by a federal or state agency and any plan of correction in effect with respect to the facility.
- Manage their own financial affairs or to delegate such responsibility to the licensee, but only to the extent of the funds held in trust by the licensee for a resident.
- Be fully informed, in writing and orally, prior to or at the time of admission and during their stay, of services available in the facility and of related charges for such services.
- Be adequately informed of their medical condition and proposed treatment, unless they are determined to be unable to provide informed consent under Florida law, or the right to be fully informed in advance of any nonemergency changes in care or treatment that may affect their well-being.

- Participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated by their physician, and to know the consequences of such actions.
- Refuse medication or treatment and to be informed of the consequences of such decisions, unless determined unable to provide informed consent under state law.
- Receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with their resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the AHCA.
- Have privacy in treatment and in caring for personal needs; to close room doors and to have facility personnel knock before entering the room, except in the case of an emergency or unless medically contraindicated; and to security in storing and using personal possessions.
- Be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement and an oral explanation of the services provided by the licensee, including those required to be offered on an as-needed basis.
- Be free from mental and physical abuse, corporal punishment, extended involuntary seclusion, and from physical and chemical restraints, except those restraints authorized in writing by a physician for a specified and limited period of time or as are necessitated by an emergency.
- Be transferred only for specified reasons and to have no less than 30 days' notice of a transfer.
- Freedom of choice in selecting a personal physician and other related health care choices.
- Retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other residents or unless medically contraindicated as documented by a physician in their medical records.
- Have copies of the rules and regulations of the facility and an explanation of the responsibility of all residents to obey all reasonable rules and regulations of the facility and to respect the personal rights and private property of the other residents.
- Receive notice before their room in the facility is changed.
- Be informed of the bed reservation policy for a hospitalization.
- Challenge a decision by the facility to discharge or transfer, for Medicaid or Medicare certified facilities.

Regulation of Office Surgeries

The Board of Medicine and the Board of Osteopathic Medicine (boards) have authority to adopt rules to regulate practice of medicine and osteopathic medicine, respectively.⁹ The boards have authority to establish, by rule, standards of practice for particular settings.¹⁰ Such standards may include education and training; medications, including anesthetics; assistance of and delegation to other personnel; sterilization; performance of complex or multiple procedures; records; informed consent; and policy and procedures manuals.¹¹

⁹ Chapter 458, F.S., regulates the practice of allopathic medicine, and ch. 459, F.S., regulates the practice of osteopathic medicine.

¹⁰ Sections 458.331(v) and 459.015(z), F.S.

¹¹ *Id.*

The boards set forth the standards of practice that must be met for office surgeries. An office surgery is any surgery that is performed outside a facility licensed under ch. 390, F.S., or ch. 395, F.S.¹² There are several levels of office surgeries governed by rules adopted by the boards, which set forth the scope of each level of office surgeries, the equipment and medications that must be available, and the training requirements for personnel present during the surgery.

Registration

The boards require a licensed physician who performs liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed, Level II procedures planned to last more than five minutes, and Level III procedures, to register the office with the DOH.¹³ A physician who performs surgery in an office setting must ensure that the office is registered with DOH, regardless of whether other physicians practice in the office or the office is not owned by a physician.¹⁴ The registration requires a physician to document compliance with transfer agreement¹⁵ and training requirements. DOH must annually inspect registered offices or the office must be accredited by a national accreditation organization approved by the respective board. Currently, there are 719 offices registered with DOH.¹⁶

Standards of Practice

Prior to performing any surgery, a physician must evaluate the risk of anesthesia and of the surgical procedure to be performed.¹⁷ A physician must maintain a complete record of each surgical procedure, including the anesthesia record, if applicable, and written informed consent.¹⁸ The written consent must reflect the patient's knowledge of identified risks, consent to the procedure, type of anesthesia and anesthesia provider, and that a choice of anesthesia provider exists.¹⁹

Physicians performing office surgeries must maintain a log of all liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed and Level II and Level III surgical procedures performed, which includes:²⁰

- A confidential patient identifier;
- The time the patient arrives in the operating suite;

¹² Rules 64B8-9.009(1)(d) and 64B15-14.007(1)(d), F.A.C. Abortion clinics are licensed under ch. 390, F.S., and facilities licensed under ch. 395, F.S., include hospitals, ambulatory surgery centers, mobile surgical facilities, and certain intensive residential treatment programs.

¹³ Sections 458.309(3) and 459.005(2), F.S., see also Rules 64B8-9.0091 and 64B15-14.0076, F.A.C.

¹⁴ Rule 64B8-9.0091(1) and 64B15-14.0076(1), F.A.C.

¹⁵ A physician or the facility where a surgical procedure is being performed must have a transfer agreement with a licensed hospital within a reasonable proximity or within 30 minutes transport time to the hospital. Rules 64B8-9.009 and 64B15-14.007, F.A.C.

¹⁶ Department of Health, *License Verification – Office Surgery Registration, Practicing Statuses Only*, March 21, 2023, available at <https://mqa-internet.doh.state.fl.us/MQASearchServices/HealthCareProviders>.

¹⁷ Rules 64B8-9.009(2) and 64B15-14.007(2), F.A.C.

¹⁸ *Id.* A physician does not need to obtain written informed consent for minor Level I procedures limited to the skin and mucosa.

¹⁹ *Id.* A patient may use an anesthesiologist, anesthesiologist assistant, another appropriately trained physician, certified registered nurse anesthetist, or physician assistant.

²⁰ Rules 64B8-9.009(2)(a) and 64B15-14.007(2)(a), F.A.C.

- The name of the physician who provided medical clearance;
- The surgeon's name;
- The diagnosis;
- The CPT codes for the procedures performed;
- The patient's ASA classification;
- The type of procedure performed;
- The level of surgery;
- The anesthesia provider;
- The type of anesthesia used;
- The duration of the procedure;
- The type of post-operative care;
- The duration of recovery;
- The disposition of the patient upon discharge;
- A list of medications used during surgery and recovery; and
- Any adverse incidents.

Such log must be maintained for at least six years from the last patient contact and must be provided to DOH investigators upon request.²¹

For elective cosmetic and plastic surgery procedures performed in a physician's office:²²

- The maximum planned duration of all planned procedures cannot exceed eight hours.
- A physician must discharge the patient within 24 hours, and overnight stay may not exceed 23 hours and 59 minutes.
- The overnight stay is strictly limited to the physician's office.
- If the patient has not sufficiently recovered to be safely discharged within the 24-hour period, the patient must be transferred to a hospital for continued post-operative care.

Levels of Office Surgeries

Level I

Level I involves the most minor of surgeries, which require minimal sedation²³ or local or topical anesthesia, and have a remote chance of complications requiring hospitalization.²⁴ Level I procedures include:²⁵

- Minor procedures such as excision of skin lesions, moles, warts, cysts, lipomas and repair of lacerations, or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia not involving drug-induced alteration of consciousness other than minimal pre-operative tranquilization of the patient;
- Liposuction involving the removal of less than 4000cc supernatant fat; and

²¹ *Id.*

²² Rules 64B8-9.009(2)(f) and 64B15-14.007(2)(f), F.A.C.

²³ Minimal sedation is a drug-induced state during which the patient responds normally to verbal commands. Although cognitive function and physical coordination may be impaired, airway reflexes, and ventilator and cardiovascular functions are not impaired. Controlled substances are limited to oral administration in doses appropriate for the unsupervised treatment of insomnia, anxiety, or pain.

²⁴ Rules 64B8-9.009(3) and 64B15-14.007(3), F.A.C.

²⁵ *Id.*

- Incision and drainage of superficial abscesses, limited endoscopies such as proctoscopies, skin biopsies, arthrocentesis, thoracentesis, paracentesis, dilation of urethra, cystoscopic procedures, and closed reduction of simple fractures or small joint dislocations (i.e., finger and toe joints).

Level II

Level II office surgeries involve moderate sedation²⁶ and require the physician office to have a transfer agreement with a licensed hospital that is no more than 30 minutes from the office.²⁷

Level II office surgeries, include but are not limited to:²⁸

- Hemorrhoidectomy, hernia repair, large joint dislocations, colonoscopy, and liposuction involving the removal of up to 4,000cc supernatant fat; and
- Any surgery in which the patient's level of sedation is that of moderate sedation and analgesia or conscious sedation.

A physician performing a Level II office surgery must:²⁹

- Have staff privileges at a licensed hospital to perform the same procedure in that hospital as the surgery being performed in the office setting;
- Demonstrate to the appropriate board that he or she has successfully completed training directly related to and include the procedure being performed, such as board certification or eligibility to become board-certified; or
- Demonstrate comparable background, training or experience.

A physician, or a facility where the procedure is being performed, must have a transfer agreement with a licensed hospital within a reasonable proximity³⁰ if the physician performing the procedure does not have staff privileges to perform the same procedure at a licensed hospital within a reasonable proximity.

Anesthesiology must be performed by an anesthesiologist, a certified registered nurse anesthetist (CRNA), or a qualified physician assistant (PA). An appropriately-trained physician, PA, or registered nurse with experience in post-anesthesia care, must be available to monitor the patient in the recovery room until the patient is recovered from anesthesia.³¹

Level IIA

Level IIA office surgeries are those Level II surgeries with a maximum planned duration of five minutes or less and in which chances of complications requiring hospitalization are remote.³² A

²⁶ Moderate sedation or conscious sedation is a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulations. No interventions are needed to manage the patient's airway and spontaneous ventilation is adequate. Cardiovascular function is maintained. Reflex withdrawal from a painful stimulus is not considered a purposeful response.

²⁷ Rules 64B8-9.009(4) and 64B15-14.007(4), F.A.C.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Transport time to the hospital must be 30 minutes or less.

³¹ *Id.* The assisting practitioner must be trained in advanced cardiovascular life support, or for pediatric patients, pediatric advanced life support.

³² Rules 64B-9.009(5) and 64B15-14.007(5), F.A.C.

physician, physician assistant, registered nurse, or licensed practical nurse must assist the surgeon during the procedure and monitor the patient in the recovery room until the patient is recovered from anesthesia.³³ The assisting health care practitioner must be appropriately certified in advanced cardiac life support, or in the case of pediatric patients, pediatric advanced life support.³⁴

Level III

Level III office surgeries are the most complex and require deep sedation or general anesthesia.³⁵ A physician performing the surgery must have staff privileges to perform the same procedure in a hospital.³⁶ The physician must also have knowledge of the principles of general anesthesia.

Only patients classified under the American Society of Anesthesiologist's (ASA) risk classification criteria as Class I or II³⁷ are appropriate candidates for Level III office surgery. For all ASA Class II patients above the age of 50, the surgeon must obtain a complete workup performed prior to the performance of Level III surgery in a physician office setting.³⁸ If the patient has a cardiac history or is deemed to be a complicated medical patient, the patient must have a preoperative EKG and be referred to an appropriate consultant for medical optimization. The referral to a consultant may be waived after evaluation by the patient's anesthesiologist.³⁹ All Level III surgeries on patients classified as ASA III⁴⁰ and higher must be performed in a hospital or an ambulatory surgery center.

During the procedure, the physician must have one assistant who has current certification in advanced cardiac life support. Additionally, the physician must have emergency policies and procedures related to serious anesthesia complications, which address:

- Airway blockage (foreign body obstruction);

³³ *Id.*

³⁴ *Id.*

³⁵ Deep sedation is a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. A patient may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. General anesthesia is a drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. The use of spinal or epidural anesthesia is considered Level III.

³⁶ Rules 64B8-9.009(6) and 64B15-14.007(6), F.A.C. The physician may also document satisfactory completion of training directly related to and include the procedure being performed.

³⁷ An ASA Class I patient is a normal, healthy, non-smoking patient, with no or minimal alcohol use. An ASA Class II patient is a patient with mild systemic disease without substantive functional limitations. Examples include current smoker, social alcohol drinker, pregnancy, obesity, well-controlled hypertension with diabetes, or mild lung disease. *See American Society of Anesthesiologists, ASA Physical Status Classification System*, (Oct. 15, 2014, last amended Dec. 13, 2020), available at <https://www.asahq.org/standards-and-guidelines/asa-physical-status-classification-system> (last visited on March 21, 2023).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ An ASA Class III patient is a patient with severe systemic disease who has substantive functional limitations and/or one or more moderate to severe diseases. This may include poorly controlled diabetes or hypertension, chronic obstructive pulmonary disease, morbid obesity, active hepatitis, alcohol dependence or abuse, implanted pacemaker, premature infant, recent history of myocardial infarction, cerebrovascular disease, transient ischemic attack, or coronary artery disease.

- Allergic reactions;
- Bradycardia;
- Bronchospasm;
- Cardiac arrest;
- Chest pain;
- Hypoglycemia;
- Hypotension;
- Hypoventilation;
- Laryngospasm;
- Local anesthetic toxicity reaction; and
- Malignant hypothermia.

Adverse Incident Reporting

A physician must report any adverse incident that occurs in an office practice setting to DOH within 15 days after the occurrence any adverse incident.⁴¹ An adverse incident in an office setting is defined as an event over which the physician or licensee could exercise control and which is associated with a medical intervention and results in one of the following patient injuries:⁴²

- The death of a patient;
- Brain or spinal damage to a patient;
- The performance of a surgical procedure on the wrong patient;
- If the procedure results in death; brain or spinal damage; permanent disfigurement; the fracture or dislocation of bones or joints; a limitation of neurological, physical, or sensory functions; or any condition that required the transfer of a patient, the performance of:
 - A wrong-site surgical procedure;
 - A wrong surgical procedure; or
 - A surgical repair of damage to a patient resulting from a planned surgical procedure where the damage is not a recognized specific risk as disclosed to the patient and documented through the informed consent process;
- A procedure to remove unplanned foreign objects remaining from a surgical procedure; or
- Any condition that required the transfer of a patient to a hospital from an ambulatory surgical center or any facility or any office maintained by a physician for the practice of medicine which is not licensed under ch. 395, F.S.

The DOH must review each adverse incident report to determine if discipline against the practitioner's license is warranted.⁴³

⁴¹ Sections 458.351 and 459.026, F.S.

⁴² Sections 458.351(4) and 459.026(4), F.S.

⁴³ Sections 458.351(5) and 459.026(5), F.S.

III. Effect of Proposed Changes:

Background Screening

CS/SB 1596 amends ss. 408.809 and 435.04, F.S., to add to the lists of disqualifying offenses in those sections. The following offenses are added to s. 408.809, F.S., for violations of:

- Section 414.39, F.S., relating to fraud, if the offense was a felony.
- Section 815.04, F.S., relating to offenses against intellectual property.
- Section 815.06, F.S., relating to offenses against users of computers, computer systems, computer networks, and electronic devices.
- Section 831.29, F.S., relating to making or having instruments and material for counterfeiting driver licenses or identification cards.
- Section 831.311, F.S., relating to unlawful sale, manufacture, alteration, delivery, uttering, or possession of counterfeit-resistant prescription blanks for controlled substances.
- Section 836.05, F.S., relating to threats and extortion.
- Section 836.10, F.S., relating to written or electronic threats to kill or do bodily injury or conduct a mass shooting or an act of terrorism.
- Section 873.01, F.S., relating to the prohibited purchase or sale of human organs and tissue.

The following offenses are added to s. 435.04, F.S., for violations of:

- Section 39.205, F.S., relating to failure to report child abuse, abandonment, or neglect.
- Section 316.193(3)(c)3., F.S., relating to DUI manslaughter.
- Section 787.06, F.S., relating to human trafficking.
- Section 787.07, F.S., relating to human smuggling.
- Section 790.166, F.S., relating to the manufacture, possession, sale, delivery, display, use, or attempted or threatened use of weapons of mass destruction or hoax weapons of mass destruction.
- Section 838.015, F.S., relating to bribery.
- Section 859.01, F.S., relating to poisoning food or water.
- Section 873.01, F.S., relating to the prohibited purchase or sale of human organs and tissue.
- Section 876.32, F.S., relating to treason.
- Section 951.22, F.S., relating to county detention facilities and contraband articles.

Unlicensed Activity

The bill amends s. 408.812, F.S., to add a new cause of action for an ex parte injunction against continued unlicensed activity. The bill specifies that the AHCA may petition the circuit court for an ex parte injunction against continued unlicensed activity when AHCA personnel have verified, through an onsite inspection, that a person or entity is advertising, offering, or providing services for which licensure is required under this part and applicable statutes and such person or entity has previously received notification from the AHCA to discontinue such activity.

A sworn petition seeking the issuance of an ex parte injunction against continued unlicensed activity must include:

- The location of the unlicensed activity;
- The ownership and operators of the unlicensed provider;

- Identification of the service provider type for which licensure is required under the applicable statutes;
- Specific facts supporting the conclusion that the respondent engaged in unlicensed activity, specifying the date, time, and location at which the unlicensed provider was notified to discontinue such activity;
- Whether the respondent prohibited the agency from conducting a subsequent investigation to determine compliance;
- Any previous injunctive relief granted against the respondent; and
- Any previous AHCA determinations that the respondent was previously identified as engaging in unlicensed activity.

The bill prohibits a bond from being required by the court for the issuance of the injunction and also prohibits, except as provided in s. 90.204,⁴⁴ F.S., evidence being used at the hearing other than verified pleadings or affidavits by AHCA personnel or others with first-hand knowledge of the alleged unlicensed activity, unless the respondent appears at the hearing. Any denial of a petition must be by written order noting the legal grounds for denial. The bill specifies that nothing in the subsection affects the AHCA's right to promptly amend any petition or otherwise be heard in person consistent with the Florida Rules of Civil Procedure.

Should the court find that the respondent is engaged in unlicensed activity, the bill allows the court to grant an ex parte temporary injunction, pending a full hearing, and other relief the court deems appropriate such as an injunction restraining the respondent from advertising, offering, or providing services for which licensure is required under this part and applicable statutes, and requiring the respondent to provide agency personnel full access to facility personnel, records, and clients for a future inspection of the premises. An ex parte injunction must be effective for a fixed period not to exceed 30 days and must be served by the sheriff of the county in which the respondent's activities are conducted.

The AHCA is required to inspect the premises within 20 days after the injunction is issued to verify the respondent's compliance with the injunction. If the respondent is found to have complied with the temporary injunction, the AHCA must voluntarily dismiss its injunction action. If the AHCA finds that unlicensed activity has continued in apparent violation of the temporary injunction, the AHCA may file a petition for permanent injunction within 10 days after such discovery, at which time a full hearing must be set as soon as practicable. Contemporaneous with the filing of a petition for permanent injunction, the AHCA may move for an extension of the ex parte injunction until disposition of the permanent injunction proceedings.

The bill specifies that:

- Remedies provided in the bill are not exclusive but a supplement to any other administrative or criminal remedies for unlicensed activity;
- The AHCA is not required to exhaust its administrative remedies before seeking the injunctive relief provided by this subsection; and
- The AHCA may provide any records of its inspections to local law enforcement agencies or state attorney offices upon request and without redaction.

⁴⁴ Relating to the determination of propriety of judicial notice and nature of matter noticed.

Residents' Rights in Nursing Homes

The bill amends s. 400.022, F.S., to add that a resident in a nursing home has the right to be free from sexual abuse, neglect, and exploitation.

Office Surgeries

The bill amends ss. 458.328 and 459.0138, F.S., which regulate office surgeries under the Medical Practice Act and the Osteopathic Medicine Practice Act, respectively. The bill provides that:

- A physician office seeking registration must be inspected by the DOH before the office may be registered.
- If a registered office refuses any subsequent inspection required by the DOH, the office's registration must be immediately suspended and may not be reinstated before completion of an inspection by the DOH.
- Physicians performing gluteal fat grafting procedures in an office surgery setting must adhere to standards of practice provided under the bill, including:
 - An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient.
 - A physician is not limited in the number of gluteal fat grafting procedures that he or she may safely perform in accordance with the applicable standard of care and as prescribed in the bill; however, after a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.
 - Before a physician may delegate any duties during a gluteal fat grafting procedure, the patient must provide written, informed consent to such delegation.
 - Any duties delegated during a gluteal fat grafting procedure must be performed under the direct supervision of the physician performing the procedure.
 - Gluteal fat extractions and injections must be performed by the physician performing the procedure and may not be delegated.
 - Gluteal fat may be injected only into the subcutaneous space of the patient and may not cross the fascia overlying the gluteal muscle. Intramuscular and submuscular fat injections are prohibited.
 - When the physician performing a gluteal fat grafting procedure injects gluteal fat into the subcutaneous space of the patient, the physician must use ultrasound guidance during the placement and navigation of a cannula to ensure that the fat is placed into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Ultrasound guidance is not required for other portions of the procedure.

The bill authorizes the boards to adopt rules to prescribe additional requirements for the safe performance of gluteal fat grafting procedures, provided such rules do not conflict with the standards created under the bill.

The bill also provides standards of practice that apply to all surgeries performed in a registered office. Under the bill, surgeries performed in an office registered by the DOH may not:

- Result in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;
- Require major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, except for laparoscopic procedures;
- Involve major blood vessels performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or
- Be emergent or life threatening.

Effective date

The bill provides an effective date of 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:

CS/SB 1596 may have a negative fiscal impact on a person who is employed, or is seeking employment, with a provider and who would fail a background screening based on one of the added disqualifying offenses if the person would not have failed such background screening otherwise.

Physician offices registered with the DOH for the performance of office surgeries may incur indeterminate costs to comply with the standards of practice created by the bill.

C. Government Sector Impact:

The AHCA's analysis of SB 1596 does not indicate that the bill will have a fiscal impact on the AHCA.⁴⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.022, 408.809, 408.812, 435.04, 458.328, and 459.0138.

IX. Additional Information:

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

CS by Health Policy on March 27, 2023:

The CS adds to the bill new requirements for physician offices registered with the DOH for the performance of office surgeries and new standards of practice for surgeries performed in such settings.

B. Amendments:

None.

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

⁴⁵ *Supra* n. 3