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## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: March 31, 1998 Revised: \_\_\_\_\_

Subject: Health Insurance Coverage; Cleft Lip and Cleft Palate

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Williams</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

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### I. Summary:

Committee Substitute for Senate Bill 228 requires an insurance policy that covers a child under age 18 to provide coverage for treatment of cleft lip and cleft palate for the child. Insurers must cover medical, dental, speech therapy, audiology, and nutrition services only if such services are prescribed by a treating physician or surgeon and such physician or surgeon certifies that such services are medically necessary and consequent to treatment of cleft lip or cleft palate. The bill specifies that terms and conditions applicable to other benefits apply to these mandated benefits and specifies the inapplicability of the coverage requirement to certain limited policies. The bill applies this coverage requirement to a policy of individual, group, blanket, or franchise accident or health insurance, including an out-of-state group health insurance policy, and to a contract issued by a health maintenance organization.

The bill provides a statement of public necessity for such coverage requirements, in compliance with constitutional requirements regarding mandates on local governments.

The bill amends sections 627.6515, 627.6699, and 641.31; creates sections 627.64193 and 627.66911, Florida Statutes. The bill creates an undesignated section of law.

### II. Present Situation:

Some important and common disorders of the newborn musculoskeletal system can occur congenitally. Various cranio-facial abnormalities, or alterations in the natural form of the face or skull, arise from maldevelopment of the 1st and 2nd visceral arches, which form the facial bones and ears at about the 7th week of embryonic development. These malformations include cleft lip and cleft palate, and more serious abnormal bone and tissue formations in the mandibulo-facial

region, including deformities of the external and middle ear. Most infants with craniofacial abnormalities have normal intelligence.

Cleft lips and cleft palates are the most common 1st arch defects and may involve the hard or soft palate or both. They occur once in 700 to 800 live births. Cleft lips cause no disability but are cosmetically distressing, while a cleft palate interferes with feeding and with speech development. Use of a bulb syringe feeder with which formula can be delivered may help with feeding difficulties. Special cleft palate nipples and dental devices to occlude the cleft may help feeding. For either disorder, plastic surgery can result in significant improvement. Dental, orthodontic, and psychiatric care, as well as speech therapy may be medically indicated.

There are just under 190,000 births in Florida annually. Given the case rate of one child with a cleft lip or cleft palate for each 700 to 800 births, there are somewhere between 237 and 271 newborns in Florida in any given year with cleft lip or cleft palate.

The specialized needs of children with cranio-facial anomalies are best met by a multi-disciplinary team of providers who focus on different aspects of a child's problems. Over the past 25 years or so, major advances have occurred in surgical capabilities such that over a period of time and at various stages of growth and development, a child can be returned to a near normal state.

The provisions of chapter 627, F.S., relate to insurance coverage requirements. Part VI of this chapter, consisting of ss. 627.601-627.6499, F.S., relates to health insurance policies. Part VII, consisting of ss. 627.651-627.6699, F.S., relates to group, blanket, and franchise health insurance policies. In addition, part I of chapter 641, F.S., consisting of ss. 641.17-641.3922, F.S., provides health maintenance organization coverage requirements.

Various provisions contained in chapter 96-361, Laws of Florida, establish that, if an insurance policy or contract provides coverage for diagnostic or surgical procedures for bones and joints of the skeleton, then that policy cannot discriminate against coverage for similar diagnostic or surgical procedures for bones and joints of the jaw and facial region. According to the 1996 Final Bill Analysis and Economic Impact Statement prepared by the House of Representatives Committee on Insurance for Committee Substitute for House Bill 109, the relevant provisions of that bill were "designed primarily to address insurance coverage for treatment of disorders commonly referred to as orthognathic disorders, which include temporomandibular joint syndrome (TMJ) and craniomandibular jaw disorders, which are common problems that appear to be frequently excluded from insurance coverage." These provisions were included in the following sections of statute:

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Section	Action	Subject
s. 627.419	Amended	Construction of health insurance policies
s. 627.6515	Amended	Out-of-state group policies
s. 627.6573	Created	Nondiscrimination in coverage for surgical procedures in group health policies
s. 641.3109	Created	Nondiscrimination in coverage for surgical procedures under health maintenance organization contracts
s. 641.428	Created	Nondiscrimination in coverage for surgical procedures under prepaid health plan contracts

### III. Effect of Proposed Changes:

**Section 1.** Creates s. 627.64193, F.S., to require an individual health insurance policy that covers a child under age 18 to provide coverage for the treatment of cleft lip or cleft palate. The insurer must cover medical, dental, speech therapy, audiology, and nutrition services only if such services are prescribed by a treating physician or surgeon and such physician or surgeon certifies that such services are medically necessary and consequent to treatment of cleft lip or cleft palate. The coverage requirements are subject to terms and conditions applicable to other benefits, and do not apply to specified-accident, specified disease, hospital indemnity, limited benefit disability income, or long-term care insurance policies.

**Section 2.** Amends s. 627.6515(2)(c), F.S., relating to out-of-state group health insurance coverage requirements, to specify that such group insurance contracts provide coverage for treatment of cleft lip and cleft palate as specified in s. 627.66911, F.S., as created by section 3 of the bill.

**Section 3.** Creates s. 627.66911, F.S., to require a group health insurance policy that covers a child under age 18 to provide coverage for the treatment of cleft lip or cleft palate. The insurer must cover medical, dental, speech therapy, audiology, and nutrition services only if such services are prescribed by a treating physician or surgeon and such physician or surgeon certifies that such services are medically necessary and consequent to treatment of cleft lip or cleft palate. The coverage requirements are subject to terms and conditions applicable to other benefits, and do not apply to specified-accident, specified disease, hospital indemnity, limited benefit disability income, or long-term care insurance policies.

**Section 4.** Amends s. 627.6699 (12)(b), F.S., relating to small group health insurance coverage requirements, to specify that such group coverage contracts provide coverage for treatment of cleft lip and cleft palate as specified in s. 627.66911, F.S., as created in section 3 of the bill.

**Section 5.** Adds a new subsection (34) to section 641.31, relating to HMO coverage requirements, to require an HMO contract that covers a child under age 18 to provide coverage for the treatment of cleft lip or cleft palate. The HMO must cover medical, dental, speech therapy,

audiology, and nutrition services only if such services are prescribed by the primary care physician or physician to whom the child is referred and such physician certifies that such services are medically necessary and consequent to treatment of cleft lip or cleft palate. Required coverage is subject to terms and conditions applicable to other benefits.

**Section 6.** Specifies that the coverage requirements of the bill fulfill an important state interest.

**Section 7.** Indicates that the bill shall take effect October 1, 1998, and shall apply to policies and contracts issued or renewed on or after that date.

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

##### **A. Municipality/County Mandates Restrictions:**

Inasmuch as this bill may require the state and local governments to incur expenses, that is, to pay additional employee health insurance costs, the bill falls within the purview of Article VII, section 18 of the Florida Constitution, which provides that cities and counties are not bound by general laws requiring them to spend funds or to take an action which requires the expenditure of funds unless certain specified exemptions or exceptions are met. The law is binding on counties and municipalities if the Legislature determines that the law fulfills an important state interest. The bill requires similarly situated persons (private employee health care coverage) to comply with the provisions of the bill and, in section 6, states that the act fulfills an important state interest.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, subsections 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, subsection 19(f) of the Florida Constitution.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

Those parents of children with cleft lip or cleft palate who have insurance coverage that inadequately reimburses, or refuses to reimburse, for physician-ordered procedures relating to

these anomalies should receive enhanced insurance benefits under the provisions of this bill. Such coverage should reduce families' out-of-pocket costs for such services.

Those insurers and HMOs that do not reimburse for services related to cleft lip or cleft palate will see increased costs as a result of this bill. An estimate of the potential costs is unavailable.

**C. Government Sector Impact:**

To the extent that the bill is made applicable to local government insurance plans, those plans may experience some inestimable fiscal impact from the bill, as may the state's health insurance coverages.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Pursuant to s. 624.215, F.S., every person or organization seeking consideration of a legislative proposal which would mandate a health coverage or the offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, must submit to the Agency for Health Care Administration and the legislative committee having jurisdiction a report which assesses the social and financial impacts of the proposed coverage. Such a report has not been filed with the agency or committee staff for this bill.

**VIII. Amendments:**

None.