

## 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: April 8, 1998

Revised: \_\_\_\_\_

Subject: Nonclinical Social Work Practice

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

### I. Summary:

This bill creates part XV of chapter 468, Florida Statutes, to provide for the initial regulation in Florida of nonclinical social work practice as defined in the bill. The bill creates a seven-member Advisory Council on Nonclinical Social Work Practice. The bill provides practice definitions and licensure requirements for nonclinical social work, prohibitions, violations, and exemptions to the nonclinical social work licensing requirements. The bill provides that any person who is not licensed as a social worker by January 1, 1999, and who desires to become licensed must register with the Department of Health, of his or her intent to become fully licensed no later than January 1, 2000. The bill repeals requirements for applicants to receive the designation "certified master social worker."

This bill creates the following sections of the Florida Statutes: 468.851, 468.852, 468.853, 468.855, 468.856, 468.857, 468.858, 468.859, 468.861, 468.862, 468.863, 468.864, 468.865, 468.866, 468.867, 468.868, and 468.869. The bill amends section 491.0149, Florida Statutes. The bill creates one section that is not designated in the Florida Statutes. The bill repeals sections 491.0145 and 491.015, Florida Statutes.

### II. Present Situation:

Chapter 491, Florida Statutes, provides for the regulation of the practice of psychotherapy by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling within the Department of Health. The chapter prohibits the practice of psychotherapy by any person unless that person meets the licensing requirements for clinical social work, marriage and family therapy, mental health counseling or is otherwise exempt from those requirements.

Section 491.015, F.S., authorizes the department to certify applicants for the designation as a “certified master social worker” and to exercise all functions reserved to boards under part II, ch. 455, F.S., with respect to the regulation of certified master social workers. Chapter 491, F.S., does not provide any penalties for individuals who use the title, “certified master social worker,” without being certified by the department under ch. 491, F.S. Applicants for the certification must have met requirements specified in s. 491.0145, F.S., including completion of a doctoral degree in social work from a graduate school of social work accredited by the United States Department of Education, or a master’s degree in social work with a major emphasis or specialty in clinical practice or administration, including agency administration and supervision, program planning and evaluation, staff development, research, community organization, community services, social planning, and human service advocacy from a graduate school of social work accredited by the Council on Social Work Education or the Canadian Association of Schools of Social Work, or an accreditation agency with comparable standards. An applicant for the designation of certified master social worker must have a minimum of 3 years of experience in clinical services or administrative activities, 2 years of which must be at the post-master’s level under the supervision of a person who meets the education and experience requirements for certification as a certified master social worker or licensure as a clinical social worker.

Section 491.0145(6), F.S., provides that nothing in the chapter may be construed to authorize a certified master social worker to provide clinical services. A person who holds a certified master social work designation is prohibited from providing clinical social work services unless he or she meets the licensing requirements for psychotherapists. According to the Department of Health, there are 6 persons who currently hold the designation “certified master social worker.” As of March, 1998, the certified master social workers had incurred a deficit of \$117,500 in the trust fund used by the Department of Health to implement their professional regulation.

The Sunrise Act, codified in s. 11.62, F.S., requires the Legislature to consider specific factors in determining whether to regulate a new profession or occupation. The act requires that all legislation proposing regulation of a previously unregulated profession or occupation be reviewed by the Legislature based on a showing of the following: (1) that substantial risk of harm to the public is a risk of no regulation; (2) that the skills the profession requires are specialized and readily measurable; (3) that other forms of regulation do not or cannot adequately protect the public; and (4) that the overall cost-effectiveness and economic impact of the proposed regulation is favorable. The act requires proponents of regulation of a previously unregulated profession to provide the agency that is proposed to have jurisdiction over the regulation and the legislative committees of reference information concerning the effect of proposed legislation to initially regulate a previously unregulated profession on the agency’s resources to implement and enforce the regulation.

In response to a Sunrise questionnaire, the Florida Chapter of the National Association of Social Workers estimates that, as of April, 1998, there are approximately 12,000 professional social workers practicing in Florida. Social workers provide services to an array of client populations in both public and private settings. The proponents of the regulation of social work practice assert that there is a two-tiered standard for the provision of social work services for those unable to pay

for services, who are restricted to public social services, and for those who are able to pay. The proponents for the regulation of social work practice note that unregulated practice allows persons who do not have professional training or who complete educational programs that do not meet the national standards of accreditation for social work education to provide services to clients. Proponents of the regulation indicated that some form of regulation for social work practice exists in all fifty states: 37 states regulate multiple levels of social work practice; 44 states identify exempt categories; 12 states require licensure of clinical social work; 4 states require licensure of non-clinical social work; and 36 states require ongoing continuing education. According to the proponents of the regulation, it is probable that most instances of harm to the public resulting from the actions of untrained and incompetent “social workers” are not documented or reported.

Proponents indicate that the functions and tasks of the profession of social work are clearly defined: a licensed bachelor social worker provides basic social work services including the use of scientific and applied knowledge, theories, and methods to provide assessment and referral, needed information and education to clients, case management and supportive services to individuals, families, groups, and communities, problem-solving intervention, client-centered advocacy, and research; and a licensed master social worker provides advanced social work services, including the use of scientific and applied knowledge, theories, and methods to provide assessment and referral, casework management, and supportive services to individuals, families, groups, and communities, needed education to clients, client-centered advocacy, planning, community organization, supervision and formulation, program development and implementation, problem-solving intervention, and research and program evaluation.

Chapter 468, F.S., contains regulatory provisions for fourteen miscellaneous professions and occupations. The chapter contains fourteen parts. The health care professions regulated under this chapter include: speech-language pathology and audiology; nursing home administration; occupational therapy; radiologic technology; respiratory therapy; dietetics and nutrition practice; athletic trainers; and orthotics, prosthetics, and pedorthics.

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

**Section 1.** Creates part XV of chapter 468, Florida Statutes, to provide for the initial regulation in Florida of nonclinical social work practice as defined in the bill. The bill creates a seven-member Advisory Council on Nonclinical Social Work Practice. The bill provides for the practice of nonclinical social work by two levels of practitioner: 1) licensed graduate social work, and 2) licensed bachelor social work. The bill defines the scope of practice for “licensed graduate social work” as the provision of advanced nonclinical social work services, to provide nonclinical social work assessment and referral, nonclinical casework management, and supportive services to individuals, families, groups, and communities, and advanced nonclinical social work management. The scope of practice for a “licensed bachelor social worker” is defined as the provision of generalist nonclinical social work services, to provide nonclinical social work assessment and referral, needed nonclinical social work information and education to clients, nonclinical social work case management and supportive services to individuals, families, groups,

and communities. No provision of the regulation of nonclinical social work may be construed to limit persons from doing work or activities of a nature consistent with their licensure, education, or training so long as they do not hold themselves out to the public as possessing social work licensure or use a protected title limited to nonclinical social workers. Nothing in the practice definition for nonclinical social workers may be construed to permit the practice of psychotherapy.

The bill provides requirements for licensure of graduate social workers which include: payment of an application fee no greater than \$200, as set by department rule, plus the actual per applicant cost to the Department of Health for the purchase of the examination from the American Association of State Social Worker's Board or a similar national organization; receipt of a doctoral degree in social work from a graduate school of social work which at the time the applicant graduated was accredited by an accrediting agency recognized by the United States Department of Education or receipt of a master's degree in social work from a graduate school of social work which at the time the applicant graduated was accredited by the Council on Social Work Education or the Canadian Association of Schools of Social Work, or has been determined to be equivalent to programs approved by the Council on Social Work Education by the Foreign Equivalency Determination Service of the Council on Social Work Education; 2 years of post-master's level social work experience under the supervision of a licensed clinical social worker, a licensed graduate social worker, or the equivalent; passage of an examination; and demonstration of knowledge of the laws and rules governing the practice of graduate-level social work.

The bill provides requirements for licensure of bachelor social workers which include: payment of an application fee no greater than \$200, as set by department rule, plus the actual per applicant cost to the Department of Health for the purchase of the examination from the American Association of State Social Worker's Board or a similar national organization; receipt of a bachelor's degree in social work from a school of social work which at the time the applicant graduated was accredited by an accrediting agency recognized by the United States Department of Education or receipt of a bachelor's degree in social work from a graduate school of social work which at the time the applicant graduated was accredited by the Council on Social Work Education or the Canadian Association of Schools of Social Work, or has been determined to be equivalent to programs approved by the Council on Social Work Education by the Foreign Equivalency Determination Service of the Council on Social Work Education; 2 years of social work experience that takes place subsequent to the completion of the bachelor's social work degree under the supervision of a licensed clinical social worker, a licensed graduate social worker, a licensed bachelor social worker or the equivalent; passage of an examination; and demonstration of knowledge of the laws and rules governing the practice of bachelor-level social work.

Any person who meets the licensure requirements to be licensed as a graduate social worker or bachelor social worker and who applies for licensure after June 30, 1998 and before December 1, 1999, is exempt from the examination requirements. Initial licensure applicants must complete instruction on HIV/AIDS. The bill provides procedures and fees for renewal of nonclinical social worker licenses (no greater than \$150); inactive license (\$50); and license reactivation (\$50). The

bill provides grounds for which a nonclinical social worker may be subject to discipline for violating professional standards. The bill authorizes the department to adopt administrative rules for the approval of continuing education and to set a continuing education course provider approval fee no greater than \$300. The bill provides requirements for licensure by endorsement for social work practice. The bill provides prohibitions and criminal penalties for persons who practice nonclinical social work without a license. The bill prohibits the use of specified professional titles by persons other than those licensed under the bill.

The bill provides exemptions to nonclinical social work licensure requirements for: medical physicians, osteopathic physicians, psychologists, school guidance counselors, nurses, school psychologists, clinical social workers, marriage and family therapists, mental health counselors and qualified members of other professions doing work of a nature consistent with their training and licensure; clergymen of any religious denomination or sect when the activities are within the scope of performing their regular or specialized ministerial duties when no compensation is received by the clergyman when such activities are performed; students pursuing a course of study leading to a degree in a social work profession; nonresidents performing services for no more than 5 days in any month and no more than 15 days in any calendar year; persons who are employed or are independent contractors for a nursing home, home health agency, hospice, or long-term care facility licensed under pts. II, III, IV, or VI of ch. 400, F.S.; volunteers in public or private nonprofit or for profit social welfare agencies when the activities are within the scope of performance of his or her regular duties and no financial compensation is received by him or her; employees of governmental or nongovernmental agencies or organizations whose job responsibilities do not include psychotherapy; and persons who solely engage in behavior analysis. Such persons are exempt as long as they do not use a protected title or hold themselves out as licensed social workers, except clinical social workers may use the protected titles "social work," "licensed social worker," or "social worker."

The bill exempts from the social work licensure requirements until January 1, 2003, salaried employees of a government agency, developmental services program or mental health, alcohol, or drug abuse facility; subsidized child care; child care placement programs; domestic violence centers; accredited academic institution, or research institution; if the employee is performing duties for which he or she is trained and hired solely within the confines of the agency, facility or institution; and salaried employees of a private, nonprofit organization providing counseling services, if such services are provided for no charge and if the employee is performing duties for which he is trained and hired. After January 1, 2003, no person will be exempt under these conditions unless the person works in a program that administers and maintains a competency-based training program for employees providing social work services, or if the agency maintains external accreditation by an appropriate standard-setting body. The bill provides that the exemption from the nonclinical social work requirements do not apply to any person whose nonclinical social work license has been suspended or revoked by the Department of Health or in another jurisdiction.

The bill provides that any person who is not licensed as a nonclinical social worker by January 1, 1999, and who desires to become licensed must register with the Department of Health, of his or

her intent to become fully licensed no later than January 1, 2000. The bill allows any applicant who meets the educational requirements and has not less than 2 years of social work experience subsequent to completion of the nonclinical social education requirement to become licensed without completing the 2-year post graduate experience requirement for licensure as a graduate social worker or bachelor social worker, as appropriate, if the applicant applies before January 1, 2004.

The bill establishes the confidentiality of communications between nonclinical social workers and their clients and provides conditions under which secrecy may be waived. Licensees are required to maintain records and the department is authorized to adopt rules defining the minimum requirements for records and reports. The bill requires licensees to display their license at each location at which they practice and to use specified titles on promotional materials.

**Section 2.** Amends s. 491.0149, F.S., to conform to the bill's elimination of the designation "certified master social worker."

**Section 3.** Repeals ss. 491.0145 and 491.015, F.S., relating to requirements for applicants to receive the designation "certified master social worker."

**Section 4.** Provides for a continuation of the regulation of persons currently holding a valid and active certificate to practice master social work under s. 491.0145, F.S., until January 1, 1999, or until their certificate expires, whichever is sooner. After January 1, 1999, the provisions of part XV, ch. 468, F.S., will exclusively control to regulate nonclinical social work practice.

**Section 5.** Provides an effective date of July 1st of the year in which the bill is enacted.

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

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

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

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

The bill creates by implication, the need for public records and meetings law exemptions to the extent the existing exemptions for participation in the impaired practitioner treatment program and disciplinary actions applicable to professions in part II, chapter 455, F.S., apply to the newly created regulation for persons engaging in the practice of social work.

Senate Bill 870 if passed by the 1998 Legislature would provide that the public records and meetings exemptions for information concerning participation in the impaired practitioner treatment program, disciplinary complaints, and related investigative information, and the proceedings of the probable cause panel for health care professionals under the regulatory

jurisdiction of the Department of Health are extended to also apply to: licensed master social workers and licensed bachelor social workers. (This bill creates a licensure category for “licensed graduate social worker” not “licensed master social worker.” Senate Bill 870 will need to be amended.)

**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:**

The bill requires bachelor social worker and graduate social worker licensure applicants to pay the following fees: application fee no greater than \$200, as set by department rule, plus the actual per applicant cost to the Department of Health for the purchase of the licensure examination; social worker license renewal (no greater than \$150); inactive license (\$50); and license reactivation (\$50).

Social worker continuing education course providers are subject to an approval fee no greater than \$300.

**B. Private Sector Impact:**

Persons wishing to engage in activities that are comparable to the practice of nonclinical social work, unless otherwise exempt, will incur additional costs to meet the education and experience requirements to become licensed.

**C. Government Sector Impact:**

The Department of Health will incur costs to administer the nonclinical social worker regulation. According to the Department of Health, there are 6 persons who currently hold the designation “certified master social worker”. As of March, 1998, the certified master social workers had incurred a deficit of \$117,500 in the trust fund used by the Department of Health to implement their professional regulation.

The department estimates without taking into account the deficit of \$117,500 that it will incur additional expenditures of \$453,920 in 1998-1999 and \$408,104 in 1999-2000. Cost estimates include 4 full time positions and expenses for operations of a seven-member advisory council. The department estimates 5,000 licensed bachelor social worker applicants and 1,000 licensed graduate social worker applicants in 1998-1999 for revenue equal to \$3,900,000. For 1999-2000, the department estimates approximately 500 applicants in each social worker licensure category for revenue equal to \$650,000.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Under the bill, the practice of nonclinical social work and comparable activities as defined in the bill would be limited to persons who have met the minimum requirements of licensure under the bill, unless otherwise exempt. A number of persons and businesses perform activities that are comparable to the definition of the practice of social work in the bill which include businesses or persons that provide: research or consulting services (libraries, government employees, consultants, marketing firms, pollsters, advocacy groups or political organizations) and human services (charitable organizations, hospices, civic organizations, volunteers, churches and affiliated organizations, telephone and referral services, and mediators).

The bill's definition of practice for "licensed graduate social work" and "licensed bachelor social work" without modifiers that the practice is nonclinical social work do not adequately distinguish the functions and tasks unique to nonclinical social work from those used in comparable social science disciplines such as criminology and criminal justice, urban and regional planning, policy sciences, government, public administration, economics, business administration, finance and marketing, insurance, sociology, and anthropology. The practice definition includes an exemption that the regulation of nonclinical social work may not be construed to limit persons from doing work or activities of a nature consistent with their licensure, education, or training so long as they do not hold themselves out to the public as possessing social work licensure or use a protected title limited to persons licensed as nonclinical social workers.

**VIII. Amendments:**

None.