

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1312

SPONSOR: Health Aging and Long-Term Care Committee and Senator Saunders

SUBJECT: Public Health

DATE: April 2, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HC	Favorable/CS
2.	_____	_____	JU	_____
3.	_____	_____	AHS	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

The bill amends various provisions relating to the Department of Health’s mission. The bill: authorizes acceptance of abandoned newborn infants at emergency medical services stations; revises supervision requirements for nonmedical school district personnel performing health-related services; revises background screening of school health services personnel; amends the Florida Patient’s Bill of Rights and Responsibilities to expand provisions relating to physical handicaps to include all handicaps; modifies provisions relating to vital records; changes the date for the annual report of the child abuse death review; authorizes the Department of Health to fund injury prevention programs with Emergency Medical Services Trust Fund monies; authorizes the Department of Health to define by rule the equivalent of cardiopulmonary resuscitation courses for emergency medical technicians and paramedics; makes emergency medical services personnel examination questions and answers immune from discovery under specified circumstances and specifies procedures for a limited review in an administrative proceeding; eliminates a requirement for certain soil testing for radon; provides that a person who obtains legal power of attorney to provide medical consent for a minor has the power to consent to necessary surgical and general anesthesia services; requires school health programs to be consistent with all provisions governing state school health services; and creates an exception to the conflict of interest provisions applicable to public employees for public employees who are licensed medical or osteopathic physicians and who furnish medical services for the Children’s Medical Services network under specified conditions.

This bill substantially amends the following sections of the Florida Statutes: 39.201, 63.0423, 232.465, 381.0059, 381.026, 382.003, 382.004, 382.013, 382.016, 382.0255, 383.402, 383.50, 401.113, 401.27, 404.056, 742.10, 743.0645, 827.035, and 381.0056.

This bill creates s. 391.037, F.S.

## **II. Present Situation:**

### *Abandoned Newborn Infants*

Last year, the Legislature enacted ch. 2000-188, Laws of Florida, to provide an expedited process for the acceptance, emergency treatment, transfer of custody, termination of parental rights and adoption in cases of unclaimed abandoned newborn infants in the absence of actual or suspected child abuse or neglect. Section 383.50, F.S., allows a parent to abandon a newborn infant anonymously and with limited amnesty from criminal prosecution at a fire station or at a hospital unless there is actual or suspected child abuse or neglect.

Section 383.50, F.S., authorizes full-time firefighters or emergency medical technicians to accept and provide emergency treatment to abandoned newborn infants. Emergency medical technicians and paramedics provide emergency medical services under the supervision of a medical director. Emergency medical technicians provide basic life support in medical emergencies. Paramedics provide both basic and advanced life saving techniques to treat medical emergencies.

Chapter 2000-188, L.O.F., set forth the responsibilities and duties for fire stations, hospitals, licensed child-placing agencies, and the Department of Children and Family Services in the process for handling an abandoned newborn infant. Under s. 39.201, F.S., relating to mandatory reporting requirements of child abuse and neglect, the statewide central abuse hotline is required to document reports of abandoned newborn infants left at fire stations or hospitals. The hotline is also required to provide to the hospital the names of licensed child-placing agencies on a rotating list that are eligible and required to accept custody of abandoned newborn infants who were left at a fire station or hospital. In cases of actual or suspected child abuse or neglect, the hotline must accept the call as a report of abuse, abandonment or neglect.

Section 63.0423, F.S., provides procedures with respect to abandoned newborns. If a licensed child-placing agency accepts the newborn infant from the hospital or fire station, the agency is responsible for all medical costs of the newborn infant, must take physical custody of the newborn infant and must obtain an emergency custody order from the court. Within 7 days after accepting physical custody of the newborn infant, the licensed child-placing agency must initiate a diligent search to notify and to obtain consent from a parent who has left a newborn infant at a fire station or hospital in accordance with s. 383.50, F.S.

Section 827.035, F.S., creates an affirmative defense to the offense of abandonment of a newborn infant in accordance with section 383.50, F.S. A parent who proves that a newborn infant was left at a fire station or hospital in accordance with s. 383.50, F.S., and there is no other actual or suspected child abuse or neglect, may assert an affirmative defense if a criminal prosecution is brought against the parent under ch. 827, F.S., for abuse or neglect.

According to the Department of Health, in many rural counties of Florida where there are no hospitals, volunteers staff the county fire departments. Each county has at least one full-time emergency medical services provider that has at least one station that is staffed on a 24-hour basis.

### *School Health*

Section 381.0056, F.S., provides the School Health Services Act. As used in s. 381.0056(3)(b), F.S., an “entity” or “health care entity” is defined to mean any of the following in a public-private partnership with a county health department, school district, or school in the delivery of school health services: a local governmental unit, hospital, health maintenance organization, health insurer, community health center, migrant health center, federally qualified health center, non-profit organization, private industry, business, or philanthropic foundation. Section 381.0057, F.S., provides for school health funding.

Chapter 435, F.S., relating to employment screening, provides for two levels of review of an individual’s past. Level 1 screening requires criminal history screening through the Florida Department of Law Enforcement’s database and screening for a history of abuse, neglect, or exploitation of elderly or disabled persons through the Department of Children and Family Services. Level 2 screening, which is more comprehensive in that it is a national search involving use of a fingerprint card, includes search of delinquency records, and requires FBI screening. Level 2 screening includes a federal criminal history check, an elderly person or disabled adult abuse registry check (if applicable), and an attestation by the person subject to the screening, under penalty of perjury, that he or she will immediately disclose any conviction of any of the disqualifying offenses while in a position requiring this level of background screening.

Section 381.0059, F.S., requires background screening for persons providing school health services. Every person who provides services under a school health services plan must complete a Level 2 screening under ch. 435, F.S. A person who provides services under a school health services plan must be on probationary status pending the result of the background screening. The individual being screened, or his or her employer, must pay the cost of the background screening to the Department of Health. The Department of Health must establish a schedule of fees to cover the costs of the Level 2 screening and abuse registry check. The applicant desiring to provide services under a school health services plan, or his or her employer, may be reimbursed by the Department of Health for the costs of the background screening from funds designated for this purpose.

When the Department of Health has reasonable cause to believe that grounds exist for the disqualification of any person providing school health services, as a result of background screening, it must notify the person in writing, stating the specific record that indicated noncompliance with the Level 2 screening standards. The Department of Health must disqualify any person from providing school health services if the department finds that the person is not in compliance with the level 2 screening requirements. Anyone on a probationary status and who is disqualified may contest that disqualification. The Department of Health may grant exemptions to the disqualification to persons who provide school health services. Any person who refuses to undergo a background screening and who refuses to cooperate in such screening or refuses to submit necessary information is disqualified for employment or volunteering, or if employed must be dismissed. Unpaid volunteers who lecture students in group settings on health education topics are not considered to be persons who are providing school health services.

Section 232.465, F.S., prohibits nonmedical school district personnel from performing invasive medical services that require special medical knowledge, nursing judgment and nursing

assessment. Nonmedical assistive personnel are allowed to perform health-related services after successful completion of child-specific training by a registered nurse, a licensed practical nurse, a licensed medical or osteopathic physician, or a licensed physician assistant. All procedures must be monitored by the nurse. For any procedures that are not listed in the section, a registered nurse, a licensed practical nurse, a licensed medical physician, or a licensed osteopathic physician must determine whether nonmedical school district personnel should be allowed to perform such procedures.

### ***Florida Patient's Bill of Rights and Responsibilities***

Section 381.026, F.S., establishes the Florida Patient's Bill of Rights and Responsibilities. The section specifies rights of patients relating to individual dignity, provision of information, financial information and disclosure, access to health care, and experimental research. Under the section, patients have the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, physical handicap, or source of payment. Any licensed medical physician, osteopathic physician, or podiatric physician who treats a patient in an office or any hospital or ambulatory surgical center that provides emergency services and care or outpatient services and care to a patient, or admits and treats a patient must adopt and make available to the patient, in writing, a statement of the rights and responsibilities of patients.

Section 381.0261, F.S., requires health care providers and health care facilities to provide patients with information, if requested, about state agencies responsible for responding to patient complaints about alleged provider or facility noncompliance with licensure requirements. Health care providers and health care facilities must adopt policies and procedures that ensure inpatients are provided the opportunity, during their hospital stay, to be informed of their rights and how to file a complaint with the facility and the appropriate state regulatory agency. The Agency for Health Care Administration may levy an administrative fine against a health care facility of up to \$5,000 for nonwillful violations of the requirement to make available to patients a summary of their rights, and an administrative fine of up to \$25,000 for intentional and willful violations, with each intentional and willful violation constituting a separate offense. The appropriate regulatory board, or the Department of Health if there is no board, may levy an administrative fine against a health care provider of up to \$100 for nonwillful violations of the requirement to make available to patients a summary of their rights, and an administrative fine of up to \$500 for willful violations and each intentional and willful violation constitutes a separate violation that is subject to a separate fine. In determining the amount of the fine to be levied the Agency for Health Care Administration, Department of Health or the appropriate regulatory board must consider certain factors, which include the scope and severity of the violation, corrective actions taken, and any previous violation of the requirements of s. 381.0261, F.S.

### ***Vital Statistics***

Chapter 382, F.S., specifies the duties of the Office of Vital Statistics within the Department of Health to maintain, compile, store, and preserve all vital records in the State. The chapter requires the Department of Health to appoint a local registrar of vital statistics for each registration district located in Florida. The department may investigate cases of irregularity or violation of law and local registrars must aid the department in its investigations. The department must report any violations of law to the state attorney's office in the registration district in which

the violation occurred. The department is authorized to adopt rules necessary for the creation, issuance, recording, maintenance, and processing of vital records.

The Department of Health is authorized to photograph, microphotograph, reproduce on film, or reproduce by electronic means vital records in such a manner that the data on each page are in exact conformity with the original record. The department may destroy any of the original vital records after the records have been photographed or reproduced in exact conformity with the original record and after approval for destruction in accordance with ch. 257, F.S.

Section 382.013, F.S., establishes requirements for the registration of births. If a birth occurs in a hospital, birth center, or other health care facility, or in route thereto, the person in charge of the facility is responsible for preparing the certificate, certifying the facts of the birth, and filing the certificate with the local registrar. Under s. 382.013(2)(c), F.S., if the mother is not married at the time of birth, the name of the father may not be entered on the birth certificate without the execution of a consenting affidavit signed by both the mother and the person to be named as the father. Notice must be given to the mother and the person to be named as the father as to the rights and responsibilities that arise from acknowledging paternity and any benefits of voluntary establishment of paternity. Upon request of the mother and the person to be named as the father, the health care facility must assist in the execution of the affidavit.

Section 382.016, F.S., allows the Department of Health to amend a birth, death, or fetal record upon receipt of evidence documenting a misstatement, error, or omission in the record and payment of a fee. Until a child's first birthday, the child's name may be amended on his or her birth record with the affidavit signed by each parent named on the original birth certificate and payment of the required fee. The section sets forth procedures for amendment of birth records of registrants born out of wedlock upon acknowledgement of paternity. The section also provides procedures for the issuance of a substitute new certificate of birth for an original certificate. Section 382.0255, F.S., specifies the range of fees that the Department of Health may establish by rule for the search or retrieval of vital records, including those listed on electronic media.

### ***Child Abuse Death Review***

Section 383.402, F.S., establishes the responsibilities of state and local child abuse death review committees. The State Child Abuse Death Review Committee must prepare an annual statistical report on the incidence and causes of death resulting from child abuse in the state during the previous calendar year. The report must include recommendations, and be submitted to the Governor and the presiding officers of the Legislature by September 30 of each year.

### ***Establishment of Paternity***

Chapter 742, F.S., provides for determination of parentage under various circumstances. Section 742.10, F.S., provides for the establishment of paternity for children born out of wedlock. It specifies that ch. 742, F.S., provides the primary jurisdiction and procedures for the determination of paternity for children born out of wedlock.

### ***Florida Emergency Medical Services Grant Act***

Part II, ch. 401, F.S., provides for the Florida Emergency Medical Services Grant Act. Section 401.113, F.S., requires funds deposited in the Emergency Medical Services Trust Fund to be used solely to improve and expand prehospital emergency medical services in Florida. The Department of Health must annually dispense funds contained in the trust fund according to a formula. Paragraph 401.113(2)(b), F.S., authorizes forty percent of the moneys appropriated to the trust fund to be used by the department to make matching grants to local agencies, municipalities, and emergency medical services organizations for the purposes of conducting research, increasing existing levels of emergency medical services, evaluation, community education, and training in cardiopulmonary resuscitation and other life-saving and first aid techniques.

### ***Emergency Medical Services Personnel***

Part III, ch. 401, F.S., provides for the regulation of emergency medical services. Subsection 401.27(4), F.S., requires emergency medical technician certification or recertification applicants to hold a current American Heart Association cardiopulmonary resuscitation course card or an American Red Cross cardiopulmonary resuscitation course card as part of their certification or recertification. Paramedic applicants must hold a certificate of successful course completion in advanced cardiac life support from the American Heart Association or its equivalent as part of their certification or recertification under s. 401.27(4), F.S. Subsection 401.27(5), F.S., establishes the requirements for the Department of Health to provide certification examinations for emergency medical technicians and paramedics. Under s. 119.07(3)(a), F.S., the certification exams are exempt from the disclosure requirements of s. 119.07, F.S., and s. 24(a), Art. I of the State Constitution. A person who has taken such an examination shall have the right to review his or her own completed examination. The examination questions and answers are not immune from discovery and may be introduced into evidence in a subsequent administrative or civil proceeding.

### ***Environmental Radiation Standards and Programs***

Section 404.056(2), F.S., establishes the Florida Coordinating Council on Radon Protection and provides for its membership, organization, and responsibilities. Section 404.056(5), F.S., requires radon testing for specified facilities. The testing is required to be completed within specified times during construction and reports provided to the Department of Health by July 1st of the year the building is opened for occupancy. Under specified conditions, follow-up testing is required. Section 404.056(5), F.S., requires initial testing of fill soil where this soil is required for the construction of a regulated building and the results of such tests must be submitted to the Department of Health. During the period between 1988-1995, the Florida Radon Research Program studied fill soil as a predictor of elevated radon potential. The test results demonstrated that many other construction parameters such as foundation construction details, ventilation system construction and behavior, and native soils were better indicators of elevated radon potential than fill soil. In addition, fill soil parameters were rejected as a predictor when it was discovered that fill soil parameters were unreliable and not cost effective.

### *Consent to Medical Treatment for Minors*

The scope of authority to consent to medical care and treatment for a minor varies depending on the legal or custodial relationship between the minor and the person seeking to exercise the consent. The authority to consent to medical care and treatment of a minor primarily lies with a parent, legal custodian, or legal guardian. It may also arise directly from a statutory provision, court order, or legal power of attorney.

Under chapter 751, F.S., an extended family member who is awarded temporary legal custody of a minor may have medical consent authority awarded as well. An extended family member is defined to include the putative father, the child's grandparent, aunt, uncle, brother, sister or cousin. The consent is limited to "all necessary and reasonable medical and dental care for the child, including nonemergency surgery and psychiatric care" under s. 751.01(3), F.S. The authority may be expressly stated in a court order granting the temporary custody, or may instead be implied authority arising from s. 751.01(3)(a), F.S.

Chapter 709, F.S., provides that a parent may delegate to another through a power of attorney the authority to "make health care decisions" for the parent under s. 709.08(3)(c)3., F.S. The scope of such authority is by reference to, but is not limited to, the definition set forth in chapter 765, F.S. Under s. 765.101(5), F.S., a "health care decision" is defined to include "informed consent, refusal of consent or withdrawal of consent to any and all health care, including life-prolonging procedures." This language in chapter 765, F.S., is clearly directed toward personal end-of-life issues. Notwithstanding, chapter 765, F.S., may be construed to authorize the delegation of health care decisions for the minor child of the parent, if so explicitly provided within the power of attorney.

Chapter 744, F.S., states that an appointed guardian may be delegated authority "to consent to medical and mental health treatment" on behalf of a minor who is a ward under s. 744.3215(2)(f), F.S. A parent, brother, sister, next of kin, or other person who is interested in the welfare of a minor may petition for the appointment of a guardian under s. 744.3021, F.S. The chapter does not define the scope of the authority to provide medical consent.<sup>1</sup> However, specific procedures such as performance or participation in experimental biomedical or behavioral procedures, sterilization, or an abortion require additional court approval regardless of a guardian's consent under s. 744.3215(4)(b) and (e), F.S.

Under chapter 39, F.S., the Department of Children and Family Services has general statutory authority to consent to ordinary medical treatment for minors within its legal custody. The scope of that authority is defined by reference to chapter 743, F.S.<sup>2</sup> For specific medical procedures and treatments outside the realm of ordinary medical treatment, the department's authority to consent is governed by various provisions throughout chapter 39, F.S., and generally involves court review and approval.<sup>3</sup> In addition, a special statutory provision in chapter 39, F.S., allows a court to appoint a guardian advocate for a drug dependent newborn whose drug dependent parent has temporarily left the newborn with a relative or other adult, or has otherwise agreed to voluntary

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<sup>1</sup> As with chapter 765, F.S., the provisions of s. 744.3215, F.S., appear to be geared toward consent for care of an incapacitated adult, rather than the delegation of consent for the care of a minor. See also, s. 744.3115, F.S.

<sup>2</sup> See s. 39.407(2)(c), F.S.

<sup>3</sup> s. 39.407(2)(c), F.S.

family services.<sup>4</sup> The guardian advocate may consent to necessary medical treatment and other needs of the drug dependent newborn.

Chapter 743, F.S., provides that a medical emergency exception to consent for medical care of a minor is available when consent is unavailable or unattainable from a parent, legal custodian, or legal guardian.<sup>5</sup> Specified persons who do not have court-based or other specific legal authority may be authorized to consent to “medical care and treatment” of a minor for “ordinary and necessary medical and dental examination and treatment” under s. 743.0645(1)(b), F.S. In order of priority, those persons include: a person with a power of attorney for medical consent, a stepparent, a grandparent, an adult brother or sister of the minor, and an adult aunt or uncle of the minor, under s. 743.0645(2), F.S. Expressly excluded is authority to consent to: “surgery, general anesthesia, provision of psychotropic medications, or other extraordinary procedures for which a separate court order or informed consent as provided by law is required” under s. 743.0645(1)(b), F.S.

There appears to be an inconsistency regarding s. 743.0645, F.S. While a “person who possesses a power of attorney to provide medical consent for the minor”<sup>6</sup> expressly “may consent to the medical care or treatment of a minor,”<sup>7</sup> “medical care and treatment” expressly excludes “surgery, general anesthesia, provision of psychotropic medications, or other extraordinary procedures for which a separate court order or informed consent as provided by law is required.”<sup>8</sup> Thus, while a legal power of attorney appears to provide authority for a person to consent to surgery and psychiatric care for a minor under chapters 751, 709, 744, 765, and 39, F.S., it is questionable under chapter 743 due to the language of s. 743.0645, F.S. In addition, there may be a lack of general awareness that the authority to consent to medical care and treatment of a minor does not arise automatically from a person’s agreement to pay for a minor’s health care services. Consequently, it is not until a specific scheduled or emergency medical procedure for the minor requires express informed consent that a health care provider determines or learns that the person with custody of the minor may not have the legal authority to consent on behalf of the minor.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 39.201, F.S., relating to mandatory reports of child abuse, abandonment, or neglect, to add emergency medical services stations to the list of places where an abandoned newborn infant may be left pursuant to s. 383.50, F.S.

**Section 2.** Amends s. 63.0423, F.S., relating to procedures with respect to abandoned newborns, to add emergency medical services stations to the list of places where an abandoned newborn infant may be left pursuant to s. 383.50, F.S.

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<sup>4</sup> The appointment of a guardian advocate for a drug dependent newborn is an expedited judicial process under ss. 39.823-39.8295, F.S. The petition for the appointment of the guardian advocate can be filed by any of the child’s relatives, any licensed health care professional, or other interested person.

<sup>5</sup> The statutory provision is somewhat ambiguous as written such that it is presumed that “parental consent” also means consent from a legal custodian or legal guardian. See s. 743.064(2), F.S.

<sup>6</sup> s. 743.0645(2)(a), F.S.

<sup>7</sup> s. 743.0645(2), F.S.

<sup>8</sup> s. 743.0645(1)(b), F.S.



**Section 3.** Amends s. 232.465, F.S., relating to provision of medical services by nonmedical school district personnel, to specify that nonmedical assistive personnel may perform health related services upon the successful completion of child-specific training by a Florida-licensed registered nurse or an advanced registered nurse practitioner or a Florida-licensed osteopathic or allopathic physician or physician assistant and delete authorization for such training to be provided by a licensed practical nurse. Requirements for monitoring of health-related procedures are expanded to include advanced registered nurse practitioners licensed under ch. 464, F.S., physician assistants, or physicians. The section makes minor technical changes to the procedures nonmedical assistive personnel may be authorized to perform. The eligible list of personnel to perform invasive medical services not listed in this section is expanded to include advanced registered nurse practitioners, and to delete authorization for such procedures to be performed by a licensed practical nurse.

**Section 4.** Amends s. 381.0059, F.S., relating to background screening requirements for school health services personnel, to make technical changes regarding level 2 screening requirements for any person who provides services under a school health services plan pursuant to s. 382.0056, F.S. The background screening requirements are revised to allow a person to provide school health services pending the results of level 2 screening as long as that person is not left alone with a minor when providing such services. Requirements for any person providing school health services under a school health services plan are revised to specify that the person must attest to meeting the level 2 screening requirements for participation in the plan under penalty of perjury to her or his employer instead of the Department of Health. Unpaid volunteers are included in the definition of the term, “person who provides services under a school health services plan,” except for those who lecture students in group settings on health education topics.

**Section 5.** Amends s. 381.026, F.S., relating to the Florida Patient’s Bill of Rights and Responsibilities, which requires health care providers and health care facilities to acknowledge and provide to patients, in writing, a statement of their right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, *physical* handicap, or source of payment, to extend impartial access to such medical treatment or accommodations regardless of the type of handicap.

**Section 6.** Amends s. 382.003, F.S., relating to powers and duties of the Department of Health regarding vital statistics, to specify that the department report any criminal violation of ch. 382, F.S., to the state attorney in the registration district in which the violation occurs. The department is authorized to accept, use, and produce all records, reports, and documents necessary for carrying out the provisions of ch. 382, F.S., in paper or electronic form, and to adopt and enforce rules necessary for the acceptance, use, and production of such records, reports, and documents.

**Section 7.** Amends s. 382.004, F.S., relating to reproduction and destruction of records, to allow the Department of Health to reproduce or destroy vital records in a manner that the data on each page of such records are not in *exact* conformity to the original record. This change streamlines the department’s electronic retrieval and storage of vital records.

**Section 8.** Amends s. 382.013, F.S., relating to birth registration and paternity, to revise procedures for listing the name of the putative father of a child if the mother is not married at the time of the birth, to include the option of filing a voluntary written acknowledgement of paternity

signed by both the mother and the person named as the father instead of having the parties execute an affidavit. The Department of Health has indicated that this change conforms to the Department of Revenue's use of the voluntary written acknowledgement of paternity in its enforcement of child support. The procedures for birth registration are revised to clarify that the health care facility where the birth occurred must give notice orally or through the use of specifically identified methods any rights afforded due to minority status and the responsibility that arise from signing an acknowledgement of paternity if one parent is a minor. The requirement for the facility to provide the mother and the person to be named as the father with the affidavit is deleted. The requirement for health care facilities, upon request, to assist parties in the execution of the affidavit to list the putative father on the birth record is expanded to include assisting in the execution of the voluntary acknowledgement of paternity.

**Section 9.** Amends s. 382.016, F.S., relating to amendment of records, to grant the Department of Health specific rulemaking authority to adopt rules specifying the fees for amendments to birth, death, or fetal records. The Department of Health procedures for the amendment of a certificate of live birth are revised to include the acceptance of a voluntary acknowledgement of paternity or affidavit signed by the mother or father acknowledging the paternity of a registrant born out of wedlock.

**Section 10.** Amends s. 382.0255, F.S., relating to fees for vital records, to specify that the fee and cost apply to data records rather than vital records.

**Section 11.** Amends s. 383.402, F.S., relating to child abuse death review, to change the deadline for the state committee annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives from September 30 of each year to December 31 of each year.

**Section 12.** Amends s. 383.50, F.S., relating to treatment of abandoned newborn infants, to include those infants abandoned at emergency medical services (EMS) stations. The list of personnel required to accept abandoned newborn infants is expanded to include paramedics. A licensee as defined in s. 401.12, F.S., a fire department, on an employee or agent of a licensee or fire department is authorized to treat and transport an abandoned newborn infant. If the infant is placed in the physical custody of an employee or agent of a licensee or fire department, such placement shall be considered implied consent for treatment and transport. Immunity from criminal or civil liability for acting in good faith pursuant to s. 383.50, F.S., is extended to a licensee, a fire department, or an employee or agent of a licensee or fire department. However, the immunity does not extend to negligence.

**Section 13.** Amends s. 401.113, F.S., relating to the Department of Health's EMS powers and duties, to authorize the department to make EMS matching grants to recipients for injury prevention programs.

**Section 14.** Amends s. 401.27, F.S., relating to the Department of Health's standards and certification of EMS personnel, to authorize the department to define by rule the equivalent of cardiopulmonary resuscitation courses for emergency medical technicians and paramedics. Emergency medical services personnel certification examinations, examination questions and answers are exempt from discovery. The questions and answers are allowed to be introduced into

evidence and considered only “in camera” in ch. 120, F.S., relating to Administrative Procedure Act proceedings. The department must provide challenged examination questions and answers to the administrative law judge. The department must establish by rule the procedure by which an applicant, and the applicant’s attorney may review the examination questions and answers in accordance with s. 119.07(3)(a), F.S. Section 119.07(3)(a), F.S., provides a public records exemption for the examination questions and answers and grants examinees the right to review their own examination questions and answers.

**Section 15.** Amends s. 404.056, F.S., relating to environmental radiation standards and programs and radon protection, to delete a requirement for the testing of fill soil. The Department of Health’s rulemaking authority is expanded to include providing definitions of terms for the enforcement of regulations relating to radon protection.

**Section 16.** Amends s. 742.10, F.S., relating to establishment of paternity for children born out of wedlock, to expand the manner of establishing paternity within an adjudicatory hearing brought under the statutes governing inheritance, or dependency under workers’ compensation, or similar compensation programs, to allow parties to execute and file a notarized voluntary acknowledgement of paternity as provided in s. 382.013 or s. 382.016, F.S.

**Section 17.** Amends s. 743.0645, F.S., regarding other persons who may consent to medical care or treatment of a minor, to provide that a person with power of attorney may consent on behalf of a minor to general surgery and anesthesia services. The medical consent for a minor is effective as to those powers of attorney executed after July 1, 2001, and such powers of attorney include the authority to consent to medically necessary surgery and general anesthesia unless excluded by the individual executing the power of attorney.

**Section 18** Amends s. 827.035, F.S., relating to newborn infants, to expand the exceptions from criminal prosecution for neglect of a child pursuant to s. 827.03, F.S., or for contributing to the dependency of a child pursuant to s. 827.04, F.S., if a parent leaves a newborn infant at an emergency medical services station in compliance with s. 383.50, F.S.

**Section 19.** Amends s. 381.0056, F.S., to require school health programs funded by health care districts or entities to be supplementary to and consistent with the provisions of sections 381.0056-381.0059, F.S., relating to school health services programs.

**Section 20.** Creates s. 391.037, F.S., to provide that it is not a violation of prohibited conflicting employment or contractual relationships under s. 112.313(7), F.S., for a licensed medical or osteopathic physician who is providing private-sector services to clients of the Department of Health or who is employed by or has a contractual relationship with any business entity or agency that is a contract provider for the department to also be employed by the department to provide services under the Children’s Medical Services network or ch. 39, F.S., if certain requirements are met. The physician may not enter into contracts with the Department of Health on behalf of any business entity or agency with whom the physician is employed or has an employment or contractual relationship. The physician’s private sector employment or contractual relationship may not create a conflict between the physician’s private-sector interests and public duties or impede that physician’s duties as an employee of the department. The

physician's employment with the Department of Health may not compromise the ability of department clients to make voluntary choices for their medical care.

**Section 21.** Provides that the bill will take effect July 1, 2001.

**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 Art. VII, s. 18 of the Florida Constitution.

**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 Art. I, s. 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 Art. III, s. 19(f) of the Florida Constitution.

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

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill authorizes the Department of Health to use Emergency Medical Services Trust Fund monies for injury prevention programs. To the extent funds are awarded for this purpose, it will reduce the funding available to the existing purposes in s. 401.113, F.S.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill revises provisions that allow a parent, anonymously and with limited amnesty from criminal prosecution, to abandon a newborn infant at a fire station or at a hospital to also do so at an emergency medical services station. The term, "emergency medical services station" is vague and it is not clear if the term includes the location for which emergency medical personnel would typically expect patients for treatment or a satellite station for transportation. In a typical

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scenario, a person seeking emergency services would not know the location to find an emergency medical provider who is not located within a hospital. The person would simply call 911.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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