

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/CS/SB 1312

SPONSOR: Judiciary and Health Aging and Long-Term Care Committees and Senator Saunders

SUBJECT: Public Health

DATE: April 18, 2001 REVISED: _____

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

I. Summary:

The bill amends various provisions relating to public health as follows:

- Requires a minimum operating balance reserve in the County Health Department Trust Fund, requires a public emergency reserve of \$500,000, and requires fixed capital outlay funds
- Expands provisions relating to abandoned newborns to apply to paramedics and emergency medical services stations;
- Revises supervision requirements for nonmedical school district personnel performing health-related services;
- Revises background screening of school health services personnel;
- Makes the physical handicap provisions under the Florida Patient’s Bill of Rights applicable to all handicaps;
- Modifies provisions relating to vital records, including amendments to those records;
- Changes the annual reporting date for the child abuse death review;
- Authorizes use of the Emergency Medical Services Trust Fund monies to fund injury prevention programs;
- Grants the Department of Health rulemaking authority to define the equivalent of cardiopulmonary resuscitation courses for emergency medical technicians and paramedics;
- Limits discovery of emergency medical services personnel examination questions and answers and specifies procedures for a limited review in an administrative proceeding;
- Eliminates outdated requirement for certain soil testing for radon;
- Clarifies scope of medical consent for a minor under a power of attorney under chapter 743, F.S., to include 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;
- 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;
- Repeals a prospective repeal provision in chapter 98-171, L.O.F., relating to background screening requirements for licensure, certification and registration of health-related facilities;
- Makes food safety employee training programs subject to the provider's continued compliance with minimum program standards;
- Authorizes the Department of Business and Professional Regulation's Division of Hotels and Restaurants (division) to conduct random audits and to audit any program which it has reason to believe is not in compliance with the statute; and
- Authorizes the Department of Business and Professional Regulation's Division of Hotels and Restaurants to revoke a program's approval if there is finding of noncompliance.

This bill substantially amends the following sections of the Florida Statutes: 39.201, 63.0423, 154.02, 232.465, 381.0059, 381.026, 382.003, 382.004, 382.013, 382.016, 382.0255, 383.14, 383.402, 383.50, 401.113, 401.27, 404.056, 499.012, 742.10, 509.049, 743.0645, 827.035, and 381.0056. This bill also creates s. 391.037, F.S. It repeals subsection (1) of s.71 of ch.98-171, L.O.F.

II. Present Situation:

Abandoned Newborn Infants

There is a statutory framework by which a person can anonymously abandon a newborn at a fully-staffed fire station or at a hospital, without criminal prosecution under specified circumstances. *See* ch. 2000-188, Laws of Florida; *see also* ss. 39.201, 63.0423, 383.50, and 827.035, F.S.¹ It provides 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. A parent has a right to reclaim or claim an abandoned newborn within specified timeframes. The Department of Children and Families, fire stations, hospitals, and licensed child-placing agencies each have statutory duties and responsibilities and limited civil immunity as may arise from a case of an abandoned newborn, as follows:

- The Department of Children and Families' statewide central abuse hotline is required to document reports of abandoned newborn infants left at fire stations or hospitals, to accept a report of an abused or neglected abandoned newborn as a report of abuse, abandonment or neglect, and 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 are not otherwise abused or neglected. *See* s. 39.201, F.S.
- A licensed child-placing agency who accepts such abandoned newborn is responsible for all medical costs of the newborn infant, must take physical custody of the newborn,

¹ The Department of Children and the Department of Health are responsible for conducting a media campaign to promote safe alternatives for placement of abandoned newborns.

obtain an emergency custody court order, and initiate a diligent search for the parent within 7 days of accepting the newborn infant. *See* s. 63.0423, F.S.

- Full-time firefighters or emergency medical technicians must accept and provide emergency treatment to abandoned newborn infants. *See* s. 383.50, F.S.

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. 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.

County Health Department Trust Fund

Under chapter 154, F.S., relating to public health facilities, the County Health Department Trust Fund is the repository for all state and local funds to be expended by county health departments. *See* s. 154.02, F.S. Federal funds can also be deposited into the Fund. Section 154.02, F.S., also provides for a distribution scheme for each county health department and participating county. According to the Department of Health, it was a legislative recommendation that a minimum balance of 8.5% be maintained as an operating reserve to ensure the financial solvency of the trust fund in the event of an unforeseen depletion of federal or local funding. In addition, it was recommended that an emergency reserve of \$500,000 be established for public health emergencies and that funds be available for planned facility infrastructure improvements.

School Health

The School Health Services Act provides for the establishment and administration of health services programs for students in school districts and schools statewide. *See* s. 381.0056, F.S. A county health department, school district, or school may enter into a public-private partnership with 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, to provide for the delivery of school health services. Section 381.0057, F.S., provides for school health funding.

Although prohibited from performing invasive medical services, nonmedical assistive personnel may 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. *See* s. 232.465, F.S. The nurse must monitor all listed procedures. For any unlisted procedures, 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.

Persons providing school health services must undergo a background screening. *See* s. 381.0059, F.S., Every person who provides services under a school health services plan must complete a Level 2 screening under ch. 435, F.S. and attest to the Department of Health that he or she will immediately disclose any conviction of disqualifying offense while in such employment

position.² 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 applicant (or his or her employer) may be reimbursed for the screening costs. Upon a finding of noncompliance with Level 2 screening standards, the person must be disqualified from providing school health services. Anyone on a probationary status who is disqualified may contest that disqualification. The Department of Health may grant exemptions. Refusal to undergo screening or refusal to cooperate in such screening or refusal to submit necessary information results in disqualification for volunteering or disqualification and dismissal from employment. Unpaid volunteers who lecture students in group settings on health education topics are not considered to be persons who are providing school health services.

Florida Patient's Bill of Rights and Responsibilities

The Florida Patient's Bill of Rights specifies the rights of patients relating to individual dignity, provision of information, financial information and disclosure, access to health care, and experimental research. *See* s. 381.026, F.S. 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.

In addition, health care providers and facilities must provide patients with information, if requested, by health care providers and facilities about which state agency is responsible for responding to complaints about an alleged provider or facility noncompliance with licensure requirements. *See* s. 381.0261, F.S. These providers and facilities must have policies and procedures in place for informing patients about their rights and how to file complaints with the facility and the appropriate state regulatory agency. A range of administrative fines may be levied by the appropriate regulatory body against a health care provider or health care facility for specified actions, including failing to provide a patient with a summary of his or her rights. 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

The Office of Vital Statistics within the Department of Health is responsible for the compilation and maintenance of all vital records in the state. *See* ch. 382, F.S. A local registrar of vital statistics is appointed in each registration district 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

² Chapter 435, F.S., provides two levels of employment screening of someone's past. Level 1 screening requires a criminal history check through the Department of Law Enforcement and a check through the Department of Children and Family Services for a history of abuse, neglect, or exploitation. Level 2 screening is more comprehensive and involves a national search including use of a fingerprint card, search of delinquency records, federal criminal history check including a FBI screening, and a check of elderly person or disabled adult abuse registries (if applicable).

the registration district in which the violation occurred. The Department of Health is authorized to photograph or reproduce 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.

Vital records include birth records. 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. *See* s. 382.013, F.S. If the mother is unmarried at the time of birth, the name of the father can only be entered on the birth certificate if an affidavit of consent is signed by both the mother and the alleged father. *See* s.382.013(2)(c). Notice of rights and responsibilities arising from such acknowledgment of paternity and any attendant benefits from voluntary establishment of paternity must be given to the mother and the alleged father. If requested, the health care facility must assist in the execution of the affidavit.

The Department of Health may 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. *See* s. 382.016, F.S. Up until the child's first birthday, a child's name may be amended on the 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.

Wholesaler Pharmacy Permits

Part I of chapter 499, F.S., F.S. Pt. I, ch. 499, F.S., specify prohibited acts and requirements for the distribution of drugs, cosmetics, and devices by pharmacies and other entities. legend drugs and legend devices by pharmacies and other entities. Section 499.012, F.S., governs wholesale distribution for prescription drugs and permitting for wholesale pharmacies. The term "wholesale distribution" means the distribution of prescription drugs to persons other than a consumer or patient with exceptions. Under current law, retail wholesale pharmacy permits can not be issued to Modified Class II Institutional pharmacies, which precludes them from wholesale distribution of prescription drugs. *See* s. 499.012, F.S.

Establishment of Paternity

Chapter 742, F.S., provides for the determination of parentage under various circumstances. Specifically, section 742.10, F.S., provides for the primary jurisdiction and procedures for the establishment of paternity for children born out of wedlock.

Florida Emergency Medical Services Grant Act

The Florida Emergency Medical Services Grant Act provides for a grants program to fund private-public partnerships or entities for the systematic provision of emergency medical services. See Part II, ch. 401, F.S. (ss.401.101-401.121, F.S.) Funds deposited in the Emergency Medical Services Trust Fund must be used solely to improve and expand pre-hospital emergency medical services in Florida. The Department of Health must disburse the trust funds under specified conditions as follows: 1) 45% to the counties, 2) 40% for matching grants, and 3) 15% for capital outlay, personal and other administrative costs.

Emergency Medical Services Personnel

Emergency medical services personnel are regulated under the Raymond H. Alexander, M.D., Emergency Medical Transportation Services Act. See Part III, ch. 401, F.S. (ss.401.2101-401.45) Emergency medical technician certification or re-certification applicants must 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 re-certification. See s. 401.27(4), F.S. 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 re-certification. *Id.* The Department of Health certify EMTs and paramedics through a certification examination. See s. 401.27(5), F.S. There is a public records exemption for the examination questions and answers under s. 119.07(3)(a), F.S. and s. 24(a), Art. I of the *Florida Constitution*. However, examinees have the right to review their own examination questions and answers. The examination questions and answers may be subject to discovery and admissible in a subsequent administrative or civil proceeding.

Environmental Radiation Standards and Programs

The Florida Coordinating Council on Radon Protection was established as an advisory body to the Department of Community Affairs in the development of construction and radon mitigation standards, and to the Department of Health to develop public information programs on radon and radon progeny. See s. 404.056(2), F.S. Initial mandatory radon testing of specified buildings is required and must 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. The results 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 depends 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 and may also arise directly from a court order, or legal power of attorney or a statutory provision as follows:

- Under chapter 751, F.S., an extended family member who is awarded temporary legal custody of a minor may have medical consent authority. An extended family member includes 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 non-emergency surgery and psychiatric care." *See* s. 751.01(3), F.S. The authority may be expressly stated in the court order granting the temporary custody, or may instead be implied authority arising from s. 751.01(3)(a), F.S.
- Under chapter 709, F.S., a parent may delegate through a power of attorney the authority to "make health care decisions" for his or her child. *See* 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.
- Under chapter 744, F.S., an appointed guardian may be delegated authority to consent to medical and mental health treatment" on behalf of a minor who is a ward. *See* 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.³ 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.⁴ 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.⁵ 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 family services.⁶ The guardian advocate may consent to necessary medical treatment and other needs of the drug dependent newborn.

³ 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.

⁴ *See* s. 39.407(2)(c), F.S.

⁵ s. 39.407(2)(c), F.S.

⁶ 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.

- Under chapter 743, F.S., 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.” *See* s. 743.0645(1)(b), F.S. If consent from a parent, legal custodian or legal guardian of a minor is unavailable or unattainable, current law provides for an exception for medical emergencies under chapter 743, F.S..⁷ 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.

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 whether that power of attorney can be exercised with the same authority under s. 743.0645, F.S. Section 743.0645, F.S., requires a person authorized to consent to medical care and treatment for a minor to secure a separate court order or informed consent for “surgery, general anesthesia, provision of psychotropic medications, or other extraordinary procedures.”

Pre-natal and Post-natal Screening for Health Disorders

Under chapter 383, F.S., current law requires that all newborns be screened for various health or genetic disorders. In practice, hospitals and birth centers send blood samples from the newborn’s heel to the state’s laboratory in Jacksonville. There is no current provision or requirement that the Children’s Medical Services be notified or otherwise become involved if a disorder is detected.

Food Service Safety Employee Training Programs

Section 509.049, F.S., requires the Department of Business and Professional Regulation’s Division of Hotels and Restaurants to adopt, by rule, minimum food safety protection standards for the training of all food service employees who are responsible for the storage, preparation, display, or serving of food to the public. Last year, the section was amended to require that the division enter into a contract for a food safety training certificate program to be administered by a private nonprofit provider chosen by the division. The division was authorized to promulgate by rule a per employee fee to cover the contracted price for the program administered by the provider. As an alternative to this contract program, the operator of a food safety training program established and administered to food handler employees at a public food service establishment prior to July 1, 2000, could submit that program to the division for its review and approval. The review was to include compliance with the minimum food safety standards. If the division approved the program, any other operator of a food service establishment could also utilize the approved program instead of the contract certification program. Food service employees were required to receive certification by January 1, 2001, with certification to remain valid for three years.

⁷ 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.

III. Effect of Proposed Changes:

Sections 1 and 2 amend respectively, s. 39.201, F.S.(relating to mandatory reports of child abuse) and s. 63.0423, F.S. (relating to procedures with respect to abandoned newborns), to apply to newborns abandoned at emergency medical services stations pursuant to s. 383.50, F.S.

Section 3 amends s. 154.02, F.S., relating to the County Health Department Trust Fund, to require a minimum operating reserve balance of 8.5% in the trust fund for the purpose of maintaining adequate cash flow in the events of delays in reimbursement or depletion of funding sources. It also requires an emergency reserve of \$500,000, derived from annual assessments on county health department funds based on their proportionate share of state general revenue be maintained for county health departments for public emergencies. Funds must also be made available for planned facility infrastructure improvements for new and replacement facilities.

Section 4 amends s. 232.465, F.S., to specify that nonmedical assistive personnel may perform health related services upon the successful completion of child-specific training by a registered nurse or an advanced registered nurse practitioner, osteopathic physician, or allopathic physician or physician assistant who are *Florida-licensed*. It deletes licensed practical nurse from the list of designated trainers. Monitoring requirements are expanded to include monitoring by advanced registered nurse practitioners licensed under ch. 464, F.S., physician assistants, or physicians. In addition, minor technical changes are made to the procedures nonmedical assistive personnel may be authorized to perform. It deletes the authority of a licensed practical nurse to conduct invasive medical services but it adds authority of an advanced registered nurse practitioner to conduct such services.

Section 5 amends s. 381.0059, F.S., to revise level 2 background screening requirements for school health services personnel to allow the person to provide such services pending screening results but prohibits that person from being alone with the minor. The person's employer in lieu of the Department of Health, is now responsible for receipt of confirming compliance with background screening. 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 6 amends s. 381.026, F.S., to expand the application and notice requirements relating to the Florida Patient's Bill of Rights and Responsibilities, to persons with any handicap, not just physical handicap.

Section 7 amends s. 382.003, F.S., to allow the Department of Health to report violations of chapter 382, F.S., to any state attorney (in lieu of the state attorney with misdemeanor prosecution authority), 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 8 amends s. 382.004, F.S., to allow the Department of Health to reproduce vital records in conformity or destroy them after they have been reproduced in conformity (in lieu of exact conformity to the original record). This change streamlines the department's electronic retrieval and storage of vital records.

Section 9 amends s. 382.013, F.S., relating to birth registration and paternity. It provides the option of filing a notarized voluntary written acknowledgment of paternity in lieu of an affidavit of paternity, provided it is signed by the birth mother and the putative father of the child born out of wedlock. The Department of Health has indicated that this change conforms to the Department of Revenue's use of the notarized 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 of 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 10 amends s. 382.016, F.S., to grant the Department of Health rulemaking authority to specify fees for amendments to birth, death, or fetal records. The amendatory procedure for live birth certificates is 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. In addition, a new subsection prohibits the department from amending the name of a surviving spouse on a death certificate other than for misspelling or omission except through a court order.

Section 11 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 12 amends s. 383.402, F.S., to change the annual reporting deadline for submission of the child abuse death review from September 30 to December 31 to allow sufficient time for investigations and reviews of child abuse deaths.

Section 13 amends s. 383.50, F.S., relating to treatment of abandoned newborn infants, to add emergency medical service (EMS) stations as an additional facility at which a newborn may be abandoned. Paramedics are added to the list of personnel authorized to accept and treat abandoned newborns. A licensee (a basic life support service, advanced life support service, or air ambulance service licensed under chapter 401, F.S.), or a fire department or an employee or agent thereof are authorized to treat and transport an abandoned newborn. 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. If the newborn is placed in the physical custody of such employee or agent of a licensee or fire department, such placement shall be considered implied consent for treatment and transport.

Section 14 amends s. 401.113, F.S., to authorize the Department of Health to make EMS matching grants to recipients for injury prevention programs.

Section 15 amends s. 401.27, F.S., to grant the Department of Health rulemaking authority to define the equivalent of cardiopulmonary resuscitation courses for EMTs and paramedics. Emergency medical services personnel certification examinations, examination questions and answers are no longer subject to discovery but may be admissible and considered only “in camera” in ch. 120, F.S., relating to Administrative Procedure Act proceedings. The challenged examination questions and answers must be submitted to the administrative law judge. The department must establish by rule the procedure for review of the examination questions and answers by the applicant, and the applicant’s attorney in accordance with s. 119.07(3)(a), F.S.

Section 16 amends s. 404.056, F.S., relating to environmental radiation standards and programs and radon protection, to delete a requirement for radon 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 17 amends s. 499.012, F.S., relating to wholesale distribution and wholesaler permits, to authorize a facility operating as a Modified Class II Institutional Pharmacy to obtain a wholesaler’s permit for purposes of wholesale distribution of prescription drugs. This would allegedly allow smaller pharmacies such as hospital pharmacies to wholesale small quantities of prescription drugs to physicians, jails and day clinics.

Section 18 amends s. 742.10, F.S., relating to establishment of paternity, to expand the manner of establishing paternity for children born out of wedlock 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 19 amends s. 743.0645, F.S., to define the scope of authority to consent to a minor’s medical care or treatment, under a power of attorney, to include consent to general surgery and anesthesia services unless otherwise expressly exclude in the power of attorney. This provision applies to those powers of attorney executed after July 1, 2001.

Section 20 amends s. 827.035, F.S., to expand the criminal immunity provisions to persons who abandon a newborn at an emergency medical services station in compliance with s. 383.50, F.S.

Section 21 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 22 creates s. 391.037, F.S., to provide an exception to the prohibition against conflicting employment or contractual relationships of public officers or government employees under s. 112.313(7), F.S. 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 may

also be employed by the Department of Health to provide services under the Children Medical Services network or ch. 39, F.S., if three requirements are met:

- 1) The physician does not contract 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.
- 2) The physician's private employment or contractual relationship does not pose a conflict between the physician's private-sector interests and the physician's public duties or impede that physician's duties as a department employee.
- 3) The physician's employment with the Department of Health does not compromise the ability of department clients to make voluntary choices for their medical care.

Section 23 amends s. 383.14, F.S., relating to pre-natal and post-natal screening for specified health disorders, to require that such testing be conducted by the State Public Health Laboratory in coordination with the Children's Medical Services which codifies in part existing practice.

Section 24 repeals subsection (1) of s.71 of ch. 98-71, Laws of Florida, which provides for the prospective repeal of provisions requiring background screening for the licensure, certification or registration of specified health related facilities.

Section 25 amends s.509.049, F.S., relating to food safety training programs for employees. Currently, s. 509.049, F.S., provides that the operator of a food safety training program established and administered to food handler employees at a public food service establishment prior to July 1, 2000, can submit that program to the division for its review and approval. This section allows a provider who is not an operator to submit a program for approval as well. It also conditions the approval of a program upon the provider's continued compliance with minimum program standards. The division may conduct random audits and may audit any program which it has reason to believe is not in compliance with the statute. The division may revoke a program's approval if it finds it not to be in compliance with the statute or rules. It specifies that the division may adopt rules that may require:

- Application forms which identify program training components and require an applicant affidavit attesting to the accuracy of the information provided in the application;
- A provider to maintain information relating to establishments where it provides training;
- Specific food safety related subject matter training program components;
- Licensee responsibility for providing proof of employee training, with the division authorized to request such information during an inspection of the establishment.

Section 26 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:

Indeterminate.

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.

The impact on the government sector is otherwise indeterminate as no formal updated agency analysis or fiscal impact statement regarding the amendments engrossed into CS/CS/SB 1312 was available.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill adds “emergency medical services stations” to the list of locations (fire stations and hospitals) where a parent may, anonymously and with limited amnesty from criminal prosecution, abandon a newborn infant. No definition is provided for “emergency medical services station; however, no definition has ever been provided in the chapter 401, F.S., regulating emergency medical services personnel

Section 383.50, F.S., relating to treatment of abandoned newborn infants, is amended to encompass newborns abandoned at emergency medical service (EMS) stations as well as treatment of such newborns by paramedics. There is some concern that language as drafted referring to a “licensee as defined in s. 401.23” may be broadening the category of persons who may accept, treat, and transport abandoned newborns beyond those already listed (i.e., firefighter, emergency medical technicians, or paramedics). In addition, the term “fire

department” is used in lieu of “fire station” which has been the term used in existing law and elsewhere in the bill. [See section 12, page 18, lines 15-22]

VIII. Amendments:

None.

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