

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE  
HEALTH PROMOTION  
FINAL ANALYSIS**

**BILL #:** CS/HB 475

**RELATING TO:** Public Health

**SPONSOR(S):** Council for Healthy Communities and Representative Hogan and others

**TIED BILL(S):** HB 477

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) COMMITTEE ON HEALTH PROMOTION YEAS 11 NAYS 0
- (2) COMMITTEE ON JUDICIAL OVERSIGHT YEAS 9 NAYS 0
- (3) COMMITTEE ON STATE ADMINISTRATION YEAS 4 NAYS 0
- (4) COUNCIL FOR HEALTHY COMMUNITIES YEAS 13 NAYS 0
- (5)

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**I. SUMMARY:**

CS/HB 475 revises various provisions relating to public health. The CS:

- Authorizes acceptance of abandoned newborn infants at emergency medical services stations; expands implied consent for treatment of abandoned newborn infants to include those left at emergency medical services stations; and authorizes treatment by an emergency medical services (EMS) licensee as defined in statute, or the employee or agent of the licensee;
- Specifies purposes for which reserve amounts must be maintained in the County Health Department Trust Fund;
- Amends school health provisions relating to supervision of nonmedical school district personnel, requirements for locally-funded school health programs, and background screening requirements;
- Expands the Florida Patient's Bill of Rights and Responsibilities to include nonphysical handicaps;
- Modifies provisions relating to vital records;
- Expands acknowledgement of paternity for certain records to include a "notarized voluntary acknowledgment of paternity" and provides that such an acknowledgment constitutes establishment of paternity under certain statutes;
- Requires postnatal infant tests and screenings to be performed by the State Public Health Laboratory;
- Specifies that the provision of medical services by Children's Medical Services (CMS) physicians under specified conditions does not constitute a conflict of interest;
- Provides for use of grant funds from the EMS Trust Fund for injury prevention programs;
- Exempts EMS tests and answers from discovery, provides introduction of such evidence in an administrative proceeding, and requires the department to establish, by rule, for review of such evidence;
- Repeals outdated radon provisions;
- Authorizes a Modified Class II institutional pharmacy to obtain a retail pharmacy wholesaler's permit;
- Revises provisions related to food service employee training programs, including auditing, revocation, and rulemaking authority;
- Provides that a power of attorney to provide consent for medical care for a minor includes the power to consent to surgery, general anesthesia services, provision of psychotropic medications, or other extraordinary procedures; and
- Repeals a sunset of a provision of law that requires background screening of certain applicants for licensure, certification, or registration.

This bill, as amended, appears to have an insignificant fiscal impact on state expenditures. See "Fiscal Analysis & Economic Impact Statement."

Except as otherwise provided, the effective date of the bill is July 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**Abandoned Newborns**

Chapter 2000-188, Laws of Florida, provided a process for the abandonment of newborns at designated locations under certain circumstances.

Section 39.201, F.S., provides procedures and requirements for reporting calls to the central abuse hotline related to abandoned newborns. Section 63.0423, F.S., relating to abandoned newborns, provides a process by which a person can anonymously, and with limited amnesty from criminal prosecution, abandon a newborn infant at a fire station or hospital. This law provides a streamlined process for the acceptance, emergency treatment, transfer of custody, termination of parental rights, and adoption in cases of unclaimed abandoned newborn infants which bypasses involvement by the Department of Children and Family Services unless there is evidence of actual or suspected child abuse or neglect. This section also establishes 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.

Section 63.0423, F.S., provides procedures with respect to abandoned newborns. Among other requirements, this section:

- Requires a licensed child-placing agency that takes physical custody of a newborn infant left at a hospital or a fire station pursuant to s. 383.50, F.S., to assume responsibility for all medical costs and all other costs associated with the emergency services and care of the newborn infant from the time the licensed child-placing agency takes physical custody of the newborn infant.
- Requires the licensed child-placing agency, within 7 days after accepting physical custody of the newborn infant, to initiate a diligent search to notify and obtain consent from a parent whose identify or location is unknown, other than the parent who has left a newborn infant at a fire station or hospital in accordance with s. 383.50, F.S., relating to the treatment of abandoned newborns.
- Provides that if a claim of parental rights of a newborn infant is made before the judgment to terminate parental rights is entered, the circuit court must hold the action for termination of parental rights in abeyance for a period of time not to exceed 60 days and the court may not terminate parental rights solely on the basis that the parent left a newborn infant at a hospital or fire station.

- Provides that except to the extent expressly provided in this section, proceedings initiated by a licensed child-placing agency for the termination of parental rights and subsequent adoption of a newborn left at a hospital or fire station in accordance with s. 383.50, F.S., shall be conducted pursuant to chapter 63, F.S., relating to adoption.

Subsections 383.50(1), (3), (5), (6), and (9), F.S., provide for the treatment of abandoned newborns left at hospitals and fire stations. These sections authorize acceptance of abandoned newborns by firefighters or emergency medical technicians.

Section 827.035, F.S. provides that, if a parent leaves a newborn infant at a hospital or fire station or brings the infant to an emergency room and expresses an intent to leave the infant and not return, the act shall not constitute neglect of a child or contributing to the dependency of a child.

In many rural counties of Florida, there are no hospitals, and volunteers staff the county fire departments. By contrast, each county has at least one full-time emergency medical service provider, which has at least one station staffed 24 hours a day. Paramedics often operate these stations. Paramedics have a higher level of medical training than emergency medical technicians and firefighters but are not currently included in the statute as personnel authorized to accept the abandoned newborns.

### **School Health**

Section 232.465, F.S., prohibits nonmedical assistive personnel from performing invasive medical services; however, they 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. 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.

Section 381.0056, F.S., the "School Health Services Act," provides for the establishment and administration of health services programs for students in school districts and schools statewide. 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.

Section 381.0059, F.S., requires that persons providing school health services must undergo background screening. 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. 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**

Section 381.026, F.S, is known as the "Florida Patient's Bill of Rights and Responsibilities." The act specifies the rights of patients relating to individual dignity, provision of information, financial information and disclosure, access to health care, and experimental research. 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 facilities to provide patients with information, if requested, about which state agency is responsible for responding to complaints about an alleged provider or facility noncompliance with licensure requirements. 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's internal grievance process 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**

Subsection 382.003(6), F.S., authorizes the Department of Health to investigate cases of irregularity or violation of law and requires all local registrars of Vital Statistics to assist the department in such investigations, and requires the department, when necessary, to report such cases to the appropriate state attorney's office.

The Office of Vital Statistics receives reports from hospitals, physicians, funeral homes, Clerks of Court, and the general public. Over time due to statutory changes and changes in technology, some of the provisions of subsection 382.003(10), F.S., relating to receipt and processing of records, have become outdated or need clarification.

Subsection 382.003(10), F.S., also authorizes the department to adopt, promulgate, and enforce rules necessary for the issuance, recording, maintenance, and processing of vital records and for carrying out the provisions of specified statutes.

Subsection 382.004(1), F.S., requires the department to photograph, microphotograph, reproduce on film, or by electronic means vital records in exact conformity to the original record.

Subsection 382.004(2), F.S., authorizes the department to destroy original vital records after they have been photographed or reproduced in exact conformity with the original record.

Subsection 382.013(1), F.S., provides procedures for amendment of records upon the receipt of fees, for records amended on the basis of specified documentary evidence. This subsection also provides for exemption from the necessity of a court order for amendment to death certificate for specified reasons.

Paragraph 382.013(2)(c), F.S., provides that 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 father. Provides that the facility must give notice to the mother and the person to be named as the father as to the benefits of voluntarily establishing paternity and information provided by the Title IV-D agency. Provides that the notice must include certain specified information. Requires that, upon request of the mother and the person to be named as the father, the facility must provide assistance in executing the affidavit.

Subsections 382.016(2) and (3), F.S., establish the requirements related to certificate of live birth amendments. These paragraphs contain outdated language. The Child Support Enforcement Office in the Department of Revenue no longer requires an affidavit (which must be notarized) for such acknowledgements.

Subsection 382.016(4), F.S., provides the procedure for the issuance of a substitute new certificate of birth for an original certificate.

Paragraph 382.0255(1)(h), F.S., authorizes departmental fees relating to vital records as determined by rule.

### **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.

### **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.

### **Screening for Metabolic Disorders, Other Hereditary and Congenital Disorders, and Environmental Risk Factors**

Section 383.14, F.S., provides for screening for metabolic disorders, other hereditary congenital disorders, and environmental risk factors, and requires the Department of Health to promote the screening of all infants born in Florida for phenylketonuria and other metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, as screening programs accepted by current medical practice become available and practical in the judgment of the department. The department is also required to promote the identification and screening of all infants born in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts are required to begin prior to and immediately following the birth of the child by the attending health care provider and all such efforts are required to be conducted in hospitals, perinatal centers, county health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.

## **Children's Medical Services**

The Children's Medical Services (CMS) program of the Department of Health provides children with special health care needs a family-centered, comprehensive, and coordinated statewide managed system of care that links community-based health care with multidisciplinary, regional, and tertiary pediatric care. Children with special health care needs are those children under age 21 whose serious or chronic physical or developmental conditions require extensive preventive and maintenance care beyond that required by typically healthy children. CMS offers a full range of care which includes prevention and early intervention services, primary and specialty care, as well as long term care for medically complex, fragile children.

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

Paragraph 401.113(2)(b), F.S., authorizes 40 percent of the moneys appropriated to the Emergency Medical Services 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 lifesaving and first aid techniques.

## **Emergency Medical Services Personnel**

Subsection 401.27(5), F.S., establishes the requirements for the department to offer monthly certification examinations for emergency medical technicians and paramedics. Creation of new exams typically cost approximately \$500 per question. Currently, when a lawsuit is filed the certification examinations can become part of the court record during the lawsuit. Typically, profession and certification examinations are exempt from discovery in a law suit, including the following: subsection 445.229(2), F.S., relating to the Department of Business and Professional Regulation; and subsection 456.041(2), F.S., relating to health professions.

## **Environmental Radiation Standards and Programs**

Subsection 404.056(2), F.S., establishes the Florida Coordinating Council on Radon Protection and provides for its membership, organization, and responsibilities.

Subsection 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 by July 1 of the year the building is opened for occupancy. Follow-up testing is required, subject to specified conditions. Requires initial testing of fill soil where such soil is required for the construction of a regulated building and submission requirements of the results of such testing to the department.

During the period between 1988-1995, the Florida Radon Research Program studied fill soil testing as a predictor of elevated radon potential. Results showed that many other construction parameters such as foundation construction details, ventilation system construction and behavior, and native soils were the leading indicator of elevated radon potential and were better predictors 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.

## **County Health Department Trust Fund**

Under part I of chapter 154, F.S., relating to county health departments, the County Health Department Trust Fund is the repository for all state and local funds to be expended by county health departments. Federal funds can also be deposited into the trust fund. Section 154.02, F.S.,

provides for a distribution scheme for each county health department and participating county. A 2000 Senate Interim Project recommended 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.

### **Wholesaler Pharmacy Permits**

Part I of chapter 499, F.S., specifies prohibited acts and requirements for the distribution of drugs, cosmetics, and devices by pharmacies and other entities, and 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. Section 499.012, F.S., relating to the regulation of drugs, cosmetics, and household products, prohibits retail wholesale pharmacy permits from being issued to Modified Class II Institutional pharmacies, a consequence of which is that the Class II Institutional pharmacies are precluded from the wholesale distribution of prescription drugs.

### **Food Service Safety Employee Training Programs**

Chapter 509, F.S., authorizes the Division of Hotels and Restaurants [division] of the Department of Business and Professional Regulation to regulate public lodging and public food service establishments.

Florida Administrative Code 61C-4.010, provides that public food service establishments shall be subject to the provisions of federal law, Chapter 3, Food Code, for purposes of food safety and sanitation issues, except when specifically authorized otherwise by rule. Combined, the Federal Food Code and Florida's Administrative Code provide comprehensive food service safety standards.

Section 509.039, F.S., requires the division to implement training and certification standards for all *food service managers* who are responsible for the storage, preparation, display, or serving of foods to the public. These standards provide for a certification program which authorizes private or public agencies to conduct an approved test and certify the results of those tests to the division. The fee for the test may not exceed \$50. Section 509.039, F.S., does not require the division to maintain a database for the examination and certification of food service managers. The division has adopted, by rule, the Conference for Food Protection's recommended accredited examination providers as those approved to examine individuals employed as food managers in the state. Certifications provided by these examinations are recognized and have nation-wide reciprocity. This information is maintained by the certifying organizations, in accordance with division rule, and provided to the division upon request.

Similarly, s. 509.049, F.S., requires the Division of Hotels and Restaurants to adopt, by rule, minimum food safety protection standards for *food service employees*. These standards are to be used in the training of food service employees who are responsible for the storage, preparation, display, or serving of food to the public in establishments subject to the regulation of chapter 509, F.S.

Amendments to this statute by the 2000 Legislature implemented a food safety training certificate program for food service employees to be administered by a private nonprofit provider. Persons employed in food service on the effective date of the bill were required to receive certification by January 1, 2001. Food service employees hired after November 1, 2000, are required to receive certification within 60 days after their employment. Food service establishment operators are

authorized to designate a certified food service manager to administer the program to the operator's employees. Certification is valid for three years and the division is authorized to establish, by rule, a per employee fee sufficient to cover the contracted price for the program. The fee is presently established at \$6.

Following the issuance of a request for competitive sealed proposals, this four-year contract was awarded to the Florida Restaurant Association. Approximately 100 other established food safety training programs that were being utilized on the effective date of the 2000 amendments to s. 509.049, F.S., and met the division's standards for qualification, were also approved for use throughout the state under the grandfather provision included in the law.

The division estimates that there are approximately one-half million food service employees working in Florida at any given time. Additionally, according to statistics provided to the division by the National Restaurant Association, the restaurant industry is transitory and has an employee turnover rate in excess of 100 percent with an estimated 64 percent working in food service for less than three years with their current employer.

The division is currently promulgating rules to require each establishment with an approved program to issue their own certificate cards and maintain their own records that can be presented to the division upon request for verification of an employee's training status. The division has already established as a condition of program approval that providers maintain appropriate records, and the current rules require that establishments maintain the curriculum and materials used to conduct training.

### **Employment Background Screening**

In 1998, the Legislature expanded the applicability of caregiver background screening requirements to include owners and operators of the majority of health care facilities licensed, certified, or registered by the Agency for Health Care Administration. Section 435.04, F.S., relating to employment screening, requires all employees in positions designated by statute as positions of trust or responsibility to undergo a security background investigation as a condition of employment and continued employment. Section 71 of ch. 98-171, Laws of Florida, provides for the sunset of the requirement of Level II background screening of applicants for licensure, certification, or registration, of health care facilities licensed, certified, or registered on June 30, 2001, unless reviewed and saved from repeal by the Legislature.

#### **C. EFFECT OF PROPOSED CHANGES:**

See SECTION-BY-SECTION ANALYSIS, which follows.

#### **D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Amends paragraph 39.201(2)(f), F.S., relating to mandatory reports of child abuse, abandonment, or neglect, to expand provisions relating to mandatory reporting of abandoned newborn infants to include reporting by an emergency medical services station.

**Section 2.** Amends subsections 63.0423(1), (4), (7)(c), and (10), F.S., relating to procedures with respect to abandoned newborns, to expand provisions relating to abandoned newborn infants to include those abandoned at emergency medical service stations.

**Section 3.** Adds subsection (5) to s. 154.02, F.S., relating to the County Health Department Trust Fund, to require that, at a minimum, the trust fund consist of: an operating reserve balance of 8.5 percent for the purpose of maintaining adequate cash flow from non-state sources; 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 health emergencies; and fixed capital outlay reserve funds for planned facility infrastructure improvements for new and replacement facilities.

**Section 4.** Amends subsections 232.465(2) and (3), F.S., relating to provision of medical services by nonmedical school district personnel, as follows:

- Specifies that nonmedical assistive personnel may perform health related services upon the successful completion of child-specific training by an advanced registered nurse practitioner (ARNP) licensed under chapter 464, F.S. and deletes authorization for such training to be provided by a licensed practical nurse (LPN);
- Expands monitoring of procedures to include ARNPs licensed under chapter 464, F.S., physician assistants, or physicians;
- Clarifies language relating to procedures permitted to be performed by eligible nonmedical assistive personnel; and
- Expands the eligible list of personnel to perform invasive medical services not listed in this section to include ARNPs, and deletes authorization for such procedures to be performed by an LPN.

**Section 5.** Amends s. 381.0056, F.S., relating to the school health services program, adding subsection (11) requiring such programs, when funded by health care districts or entities defined in subsection (3), to be supplementary to and consistent with the requirements of this section and s. 381.0057, F.S., relating to funding for school health services, and s. 381.0059, F.S., relating to background screening requirements for school health services personnel.

**Section 6.** Amends s. 381.0059, F.S., relating to background screening requirements for school health services personnel, as follows:

- Renumbers part of paragraph (1)(a) as subsection (1), providing a technical change, providing reference to chapter 435, F.S., related to employment screening, requiring any person who provides services under a school health services plan, pursuant to s. 381.0056, F.S., relating to school health services programs, to meet the Level 2 screening requirements as described in s. 435.04, F.S.
- Designates part of the paragraph as subsection (2), making technical changes, providing clarification that a person may provide services under such a plan pursuant to s. 381.0056, F.S., prior to completion of the Level 2 screening; however, such a person is prohibited from being alone with a minor.
- Existing paragraphs (1)(b), (c), and (2)(a), relating to criteria for Level 2 screening contained under this section and the department's disqualification process, are deleted, as this process is cross-referenced in s. 435.04, F.S.
- Existing paragraph (2)(b) is renumbered as subsection (3), providing clarification relating to exemption from disqualification.
- Existing paragraph (2)(c), relating to exemptions from disqualification, and existing subsection (3), relating to background screening and failure to cooperate, are deleted.

Subsection (4) is amended to clarify language relating to perjury by a person who provides services under a school health plan for failure to disclose a disqualifying offense.

Subsection (5) clarifies that the term "person who provides services under a school health care plan" includes unpaid volunteers except for those who lecture students in group settings on health education topics.

**Section 7.** Amends s. 381.026, F.S., relating to the Florida Patient's Bill of Rights and Responsibilities, as follows:

Amends paragraph (d) of subsection (4) and subsection (6), which requires health care providers and health care facilities to acknowledge and provide to patients, in writing, a statement of their rights. The current list of rights includes the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, physical handicap, or source of payment. Extends the right to impartial access to such medical treatment or accommodations regardless of the type of handicap.

**Section 8.** Amends s. 382.003, F.S., relating to Vital Statistics' powers and duties of the Department of Health, as follows:

Subsection (6) to clarify language relating to the state attorney and reporting of cases of violations of any provisions of chapter 382, F.S.; and

Subsection (10) to authorize the acceptance, use, and production of all records, reports, and documents necessary for carrying out the provisions of chapter 382, F.S., in paper or electronic form, and for rules necessary for the acceptance, use, and production of such records, reports, and documents.

**Section 9.** Amends subsections 382.004(1) and (2), F.S., relating to reproduction and destruction of records, to delete the requirement that departmental reproductions of records provide data on each page in exact conformity to the original record, and allowing for destruction of original records that have been reproduced in accordance with subsection (1) and chapter 257, F.S., relating to state archiving procedures.

**Section 10.** Amends paragraph 382.013(2)(c), F.S., relating to birth registration and paternity, as follows:

- Clarifies that the facility must give notice orally or through the use of specifically identified methods any rights afforded due to minority status and the responsibility that arises from signing an acknowledgement of paternity if one parent is a minor;
- Deletes the requirement for the facility to provide the mother and the person to be named as the father with the affidavit; and
- Expands the requirement for the facilities to assist in the execution of the affidavit to include assisting in the execution of a notarized voluntary acknowledgement of paternity.

**Section 11.** Amends section 382.016, F.S., relating to amendment of vital statistics records, as follows:

Undesignates subsection (1); makes grammatical changes; deletes court order exception related to misspelling or omission on death certificates. [Note: The exception is re-created in subsection (2).]

Redesignates subsection (2) as paragraph (1)(a), relating to certificate of live birth amendment.

Redesignates subsection (3) as paragraph (1)(b) and expands acknowledgement of paternity to include a notarized voluntary acknowledgement of paternity.

Deletes designation of subsection (4) and language referring to previous subsection (3).

Redesignates subsection (5) as paragraph (1)(c).

Adds new subsection (2) relating to death amendments, providing an exception to the requirement of a court order if change relates to misspelling or omission on death certificates.

**Section 12.** Amends paragraph 382.0255(1)(h), F.S., relating to fees, as follows:

- Clarifies that the fee and cost apply to data records rather than vital records; and
- Clarifies the statutory authority for the rule relating to reasonable charges for the cost of preparation.

**Section 13.** Amends paragraph 383.402(3)(c), 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 14.** Amends paragraph 383.14(b), F.S., relating to metabolic disorders, other hereditary and congenital disorders, and environmental risk factors, to require that tests and screenings must be performed by the State Public Health Laboratory, in coordination with Children's Medical Services.

**Section 15.** Amends s. 383.50, F.S., relating to treatment of abandoned newborn infants, to include those infants abandoned at emergency medical services (EMS) stations, including EMS personnel.

Specifies that a licensee, as defined in s. 401.23, F.S., relating to emergency medical transportation services, a fire department, or an employee or agent of a licensee or fire department is authorized to treat and transport a newborn infant pursuant to this section. Provides that if a newborn infant is placed in the physical custody of such, as listed previously, such placement shall be considered implied consent for treatment and transport. Provides immunity from criminal or civil liability for such individuals who act in good faith pursuant to this section.

**Section 16.** Creates section 391.037, F.S., relating to physicians and private-sector services. Provides that it does not constitute a conflict of interest for specified licensed physicians who are providing private-sector services to clients of the Department of Health or who are employed by or have 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 this chapter or chapter 39, F.S., relating to proceedings relating to children, if:

Subsection (1): The physician does not enter into contracts with the department on behalf of any business entity or agency with whom the physician is employed or has an employment or contractual relationship.

Subsection (2): The physician's private-sector employment or contractual relationship does not create a conflict between the physician's private-sector interests and the public duties or impede the full and faithful discharge of the physician's public duties as an employee of the department.

Subsection (3): The physician's employment with the department does not compromise the ability of department clients to make voluntary choice among department-referred physicians and private providers for their medical services.

**Section 17.** Amends paragraph 401.113(2)(b), 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 18.** Amends subsections (4) and (5) of s. 401.27, F.S, relating to EMS personnel standards and certification, to provide for certain equivalency standards specific to emergency medical technicians and paramedics, and to authorize the department to establish by rule the procedure by which an applicant, and the applicant's attorney, may review examination questions and answers in accordance with s. 119.07(3)(a), F.S., relating to exceptions to inspection, examination, and duplication of records.

**Section 19.** Amends section 404.056, F.S., relating to environment radiation standards and programs and radon protection, as follows:

Subsection (2), relating to the Florida Coordinating Council on Radon, is repealed. [NOTE: The law relating to radon activities was repealed in 1995 and the council should have been repealed at that time.] Subsequent subsections are renumbered.

Existing subsection (5) is renumbered as subsection (4) and outdated language related to required testing of fill soil is deleted.

Existing subsection (7) is renumbered as subsection (6) and amended to specify that the Department of Health's rulemaking authority for this section includes providing definition of terms.

**Section 20.** Amends section 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 will presumably allow smaller pharmacies such as hospital pharmacies to wholesale small quantities of prescription drugs to physicians, jails, and day clinics.

**Section 21.** Designates subsections and amends s. 509.049, F.S., relating to food safety training programs for employees, numbers and amends current statutory language as follows:

Designates as subsection (1) existing language which authorizes the division 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 foods to the public in establishments regulated by this chapter. Existing language also provides that these standards shall not include an examination, but shall provide for a food safety training certificate program for food service employees to be administered by a private nonprofit provider chosen by the division.

Designates as subsection (2) existing language requiring the division to issue a request for competitive sealed proposals which includes a statement of the contractual services sought and all terms and conditions applicable to the contract. Existing language give direction for the awarding of contracts, based on specific criteria; grants specific rulemaking authority to the division; and provides specific factors to be considered in awarding contracts.

Designates and amends subsection (3) to provide that the operator of a food safety training program established and administered prior to July 1, 2000, may be submitted by the operator or the provider to the division for its review and approval. Provides that if the program is found to be in substantial compliance with the division's required criteria and is approved by the division, nothing in this section precludes any other operator of a food service establishment from also utilizing the approved program, or requires the employees of any operator to receive training from or pay a fee to the division's contracted provider. Provides that review and approval of a program or programs

by the division must include, but is not limited to, the minimum food safety standards adopted by the division.

Adds subsection (4) to provide that approval of a program is subject to the provider's continued compliance with the division's minimum program standards. Authorizes the division to: conduct random audits of approved programs to determine compliance; audit any program if it has reason to believe a program is not in compliance; and revoke a program's approval if it finds a program to be in noncompliance with this section or rules adopted under this section.

Designates and amends subsection (5) existing language relating to the duty of the license of the public food service establishment. Authorizes the licensee to designate a certified food service manager to perform this function. Deletes language requiring food service employees to receive certification by January 1, 2001. Clarifies language requiring food service employees to receive certification within 60 days after employment.

Adds subsection (6) to authorize the division to adopt rules that may require the following:

- 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 22.** Amends s. 742.10, F.S., relating to establishment of paternity for children born out of wedlock, as follows:

Subsection (1) is amended 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 include a notarized voluntary acknowledgement of paternity as provided in s. 382.013 or 382.06, F.S. Makes conforming technical changes to the subsection.

Subsection (3) is amended to make a conforming technical change.

**Section 23.** Amends s. 743.0645, F.S., relating to other persons who may consent to medical care or treatment of a minor, as follows:

Amends paragraph (b) of subsection (1) to provide that a person with a power of attorney may consent on behalf of a minor for surgery, general anesthesia, provision of psychotropic medications, or other extraordinary procedures.

Amends paragraph (a) of subsection (2) to provide that a power of attorney executed after July 1, 2001, to provide medical consent for a minor includes the power to consent to medically necessary surgical and general anesthesia services for the minor unless such services are excluded by the individual executing the power of attorney.

**Section 24.** Amends section 827.035, F.S., related to newborn infants, to expand the exceptions to neglect of a child pursuant to s. 827.03, F.S., or to 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.

**Section 25.** Repeals subsection (1) of section 71 of chapter 98-171, Laws of Florida, relating to the sunset provision of employee background screenings, repealing the sunset requirement, effective June 1, 2001, of Level II background screenings for medical care facilities' applicants for licensure, certification, or registration of owners and operators.

**Section 26.** Provides for the bill to take effect July 1, 2001, except as otherwise provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate.

D. FISCAL COMMENTS:

**Section 15.** Emergency Medical Services Trust Funds: Expands the department's use of these funds to include injury prevention programs. If funds are awarded for these purposes, it will reduce the funding available for the existing purposes.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

**NOTE: HB 477, a tied bill to CS/HB 475 providing for a public records exemption for parents abandoning newborns at emergency medical stations, did not pass.**

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 6, 2001, the Committee on Health Promotion adopted the following amendments to the bill as filed:

Amendment 1 corrects a drafting error; expands documents acceptable for establishment of paternity; provides an exception for requiring an order for release of certain documents; and provides a procedure for subsequent issuance of certain amended birth certificates.

Amendment 2 provides for court ordered treatment for certain tuberculosis patients and provides for appointment of a limited guardian for certain tuberculosis patients.

Amendments 3 and 4 insert the word "notarized" before the phrase "voluntary notice of paternity."

Amendment 5 retains reference to s. 382.016, F.S., as currently found in statute.

Amendment 6 requires any school health care program to comply with certain statutes relating to state school health standards.

The bill, as amended, was then reported favorably with six amendments.

On March 20, 2001, the Committee on Judicial Oversight adopted five amendments:

Amendment 7 deletes section 12 from the bill, thus maintaining funding for the Pediatric Tumor Program.

Amendment 8 removes section 21 from the bill, thus maintaining funding for the Kidney Disease Education Program.

Amendment 9 amends Amendment 1 to remove language that would have allowed the Bureau of Vital Statistics to administratively examine and approve a parent's request for name change for a child without a court order.

Amendment 10 amends Amendment 1 to remove language regarding access to birth records that may have had the unintended effect of opening up some sealed adoption records.

Amendment 11 was withdrawn.

Amendment 12 adds a section to the bill regarding consent to medical care for minors. A minor cannot consent to medical procedures; a parent or legal guardian must consent on behalf of the minor child. Under current law, the parent or legal guardian of a minor child may execute a written power of attorney by which a caretaker of the minor child is authorized to consent to medical care for the minor child. Current law is unclear whether such a power of attorney gives legal authority to consent to surgical treatment. This amendment provides that a written consent for medical treatment regarding a minor includes the right of the caretaker to consent to surgical procedures and anesthesia.

The bill was then reported favorably, as amended.

On April 12, 2001, the Committee on State Administration adopted a strike-everything amendment to HB 475. It incorporates all of the traveling amendments from the Committee on Health Promotion and the Committee on Judicial Oversight, with the exception of amendment 2. The strike-everything amendment and the bill provide the same provisions, except the strike-everything amendment:

- Makes technical and editorial changes;
- Extends immunity from criminal or civil liability for acting in good faith to a licensee, a fire department, or an employee or agent of a licensee or fire department;
- Removes provisions for the appointment of guardian advocates for tuberculosis patients who have been found incompetent to consent to treatment;
- Provides that it is not a violation for a licensed physician, who is providing private services to Department of Health (DOH), to also be employed by DOH, if: the physician does not enter into contracts with DOH on behalf of that physician's employing business entity or agency; the physician's private-sector employment or contractual relationship does not create a conflict between the physician's private-sector interests and public duties; and the physician's employment with DOH does not compromise the ability of DOH clients to make a voluntary choice among department-referred physicians and private providers; and
- Requires DOH to establish by rule the procedure by which an applicant, and the applicant's attorney, may review the EMS certification examination questions and answers.

The bill was reported favorably with the "strike-everything" amendment.

On April 18, 2001, the Council for Healthy Communities adopted four amendments to the traveling "strike-everything." The four amendments:

- Requires that the County Health Department Trust Fund, at a minimum, consist of 8.5 percent of the annual operating budget, an emergency reserve of \$500,000 derived from non-state sources, and a fixed capital outlay reserve for certain nonrecurring expenses.
- Clarifies the original intent of ch. 499, F.S.; allows hospital pharmacies to wholesale small quantities of prescription drugs to physicians, jails, and day clinics who obtain permits from the Department of Health as Modified Class II institutional pharmacies.
- Requires the Department of Business and Professional Regulation to adopt rules for the administration of food service training; alters the approval process for grandfathering existing programs; deletes prohibition of the Department of Business and Professional Regulation regarding the use of its contracted provider or paying a fee to the provider; and requires all training be administered by a certified food service manager.



- Repeals subsection (1) of section 71 of chapter 98-171, Laws of Florida, repealing the June 30, 2001, sunset provision of background screening requirements for certain applicants for licensure, certification, or registration.

The bill, as amended, was approved as a Council Substitute.

On May 1, 2001, the House passed, with an amendment, CS/HB 475 with 116 Yeas and 1 Nay. The amendment expanded the current authorization of Miami-Dade County to impose a discretionary sales surtax to be used by the Health Policy Authority (created to replace the Miami-Dade Public Health Trust).

On May 3, 2001, the Senate substituted CS/HB 475, First Engrossed, for CS/CS/SB 1312. An amendment was adopted deleting the expansion of the current authorization of Miami-Dade County to impose a discretionary sales surtax to be used by the Health Policy Authority. The bill was passed, as amended and returned to the House.

On May 4, 2001, the House concurred with the Senate amendment and unanimously approved the bill.

VII. SIGNATURES:

COMMITTEE ON COMMITTEE ON HEALTH PROMOTION:

Prepared by:

Tonya Sue Chavis, J.D.

Staff Director:

Phil E. Williams

AS REVISED BY THE COMMITTEE ON COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Nathan L. Bond, J.D.

Staff Director:

Lynne Overton, J.D.

AS FURTHER REVISED BY THE COMMITTEE ON COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

Heather A. Williamson, M.S.W.

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

AS FURTHER REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:

Tonya Sue Chavis, J.D.

Council Director:

Mary Pat Moore

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**DATE:** July 20, 2001

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**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON HEALTH PROMOTION:**

Prepared by:

Staff Director:

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Tonya Sue Chavis, J.D.

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Phil E. Williams