The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SB 138
INTRODUCER:	Senator Book and others
SUBJECT:	Perinatal Mental Health
DATE:	February 26, 2018
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	**Favorable**
2.	Loe	Williams	AHS	**Recommend: Fav/CS**
3.	Loe	Hansen	AP	**Pre-meeting**

I. Summary:

SB 138 directs the Department of Health (DOH) to establish two toll-free perinatal mental health care hotlines by January 1, 2019 – one accessible to the public and one for health care providers. The public hotline must provide basic information on postpartum depression and perinatal care and may refer the caller to a local qualified provider. The health care provider hotline must provide information to assist a provider in addressing the mental health of pregnant or postpartum patients. The DOH must encourage obstetrical and mental health providers to attend continuing education on perinatal mental health care. The DOH must create public service announcements on perinatal mental health care that include the telephone number of the perinatal mental health care public hotline.

The bill expands the statutory responsibilities of birth centers and hospitals to require additional infant and maternal postpartum evaluations and follow-up, including a maternal mental health assessment, information on postpartum depression, and the telephone number of the DOH public perinatal mental health care hotline.

To implement its responsibilities under the bill, the DOH estimates it will need $1,156,520 from the General Revenue Fund in Fiscal Year 2018-2019, of which $854,700 is nonrecurring.

The effective date of the bill is July 1, 2018.

II. Present Situation:

Perinatal Mental Health Care and Child Birth

Perinatal Anxiety Disorders

There are four major mood and anxiety disorders that may affect women in the perinatal period:

- Bipolar Disorder (formerly Manic Depressive Disorder);
- Panic Disorder;
- Obsessive Compulsive Disorder; and
- Depression.[1]

Depression interferes with daily life and may last for weeks or months. Depression is a common and serious illness. A recent survey conducted by the United States Centers for Disease Control and Prevention (CDC) showed that about one in ten reproductive age women between the ages of 18 to 44 experienced symptoms of major depression.[2] Most women, even those with the most severe forms of depression, can get better with treatment.[3]

Recent studies suggest that approximately 10 to 16 percent of women experience clinically significant depression during pregnancy.[4] Particularly vulnerable are those women with histories of psychiatric illness who discontinue psychotropic medications during pregnancy. A recent study estimated that women who discontinued medication were five times as likely to relapse as compared to women who maintained treatment.[5]

While depression can occur among women with a healthy pregnancy and birth, the following experiences may put some women at a higher risk for perinatal depression:

- Symptoms of depression during or after a previous pregnancy;
- History of depression or bipolar disorder;
- Family history of depression;
- Stressful event before, during, or shortly after childbirth such as job loss, death of a loved one, domestic violence, or personal illness;
- Medical complications during childbirth such as premature delivery or an infant with medical problems;
- Mixed emotion about pregnancy;
- Lack of emotional support from a spouse, partner, family, or friend; or

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[1] Altshuler, M.D., Lori L., Hendrick, M.D., Victoria & Cohen, M.D., Lee S., *An Update on Mood and Anxiety Disorders During Pregnancy and the Postpartum Period*, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC181144/pdf/i1523-5998-002-06-0217.pdf (last visited Jan. 8, 2018).

[2] Journal of Women's Health, *Depression and treatment among U.S. pregnant and nonpregnant women of reproductive age, 2005-2009* (August 21, 2012), *available at* https://www.ncbi.nlm.nih.gov/pubmed/22691031 (last visited Jan. 9, 2018); Centers for Disease Control and Prevention, *Depression Among Women*, (Dec. 13, 2017), *available at* https://www.cdc.gov/reproductivehealth/depression/index.htm (last visited January 8, 2018).

[3] *See Supra* note 3.

[4] Massachusetts Center for Women's Mental Health, *Depression During Pregnancy is Often Not Treated*, (Feb. 10, 2007), *available at* https://womensmentalhealth.org/posts/depression-during-pregnancy-is-often-not-treated/ (last visited Jan. 8, 2018); Florida Department of Health, *After Pregnancy*, http://www.floridahealth.gov/programs-and-services/womens-health/pregnancy/after-pregnancy.html (last viewed Jan. 9, 2018); *See also Supra* note 2. This United States Centers for Disease Control and Prevention funded study indicated that 12 to 16 percent of new mothers experience postpartum depression.

[5] New Research, Psychiatric Disorders During Pregnancy, by Massachusetts Center for Women's Mental Health, *Relapse of Major Depression during Pregnancy* (April 22, 2006) *available at* https://womensmentalhealth.org/posts/243/ (last visited Jan. 8, 2018).

- Alcohol or drug abuse problems.[6]

Postpartum Blues vs. Depression

The "postpartum blues," or "baby blues," are common feelings experienced by approximately 75 to 80 percent of women in the first 10 days following childbirth. Symptoms include mood swings, crying spells, and feelings of sadness, fear, anger, irritability, or anxiety and usually go away within a few days to one to two weeks after childbirth.[7]

Postpartum depression is a major depressive episode that affects women after childbirth and commonly occurs within one and four weeks of delivery.[8] Postpartum depression can affect any woman regardless of age, race, ethnicity, or economic status.[9] Postpartum depression causes women to experience more intense feelings of depression and intensified feelings of sadness, fear, anger, anxiety, or despair that prevents them from being able to perform their activities of daily living.[10] Postpartum depression may begin shortly before or any time after childbirth. Postpartum depression commonly begins one to four weeks after childbirth[11] and can persist up to a year or more after giving birth.[12] Postpartum depression usually requires treatment due to the severity of symptoms.[13]

Regulation of Perinatal Mental Health Care and Child Birth Settings

The Department of Children and Families (DCF), the Agency for Healthcare Administration (AHCA), and the DOH have responsibilities related to the regulation and delivery of perinatal mental health care and childbirth. The DCF evaluates, researches, plans, and recommends to the Governor and the Legislature programs designed to reduce the occurrence, severity, duration,

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[6] National Institute of Mental Health, *Postpartum Depression Facts* https://www.nimh.nih.gov/health/publications/postpartum-depression-facts/postpartum-depression-brochure_146657.pdf (last visited Jan. 9, 2018).

[7] Florida Department of Health, After Pregnancy, *The "Baby Blues" and Postpartum Depression, available at* http://www.floridahealth.gov/programs-and-services/womens-health/pregnancy/after-pregnancy.html (last visited Jan. 9, 2018); United States Centers for Disease Control and Prevention, *Depression Among Women,* (Dec. 13, 2017) *available at* https://www.cdc.gov/reproductivehealth/depression/index.htm (last visited Jan. 8, 2018); Fitelson, E; Kim, Sarah; Scott-Baker, A.; and Leicht, K; International Journal of Women's Health, *Treatment of postpartum depression: clinical, psychological and pharmacological options,* (Dec. 30, 2010) *available at* https://www.ncbi.nlm.nih.gov/pubmed/?term=Leight%20K%5BAuthor%5D&cauthor=true&cauthor_uid=21339932 (last visited Jan. 9, 2018).

[8] American Psychiatric Association*; Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition, Washington DC, 1994, p. 386.

[9] *See supra* note 10.

[10] United States Centers for Disease Control and Prevention, *Maternal Depression,* (May 23, 2017) *available at* https://www.cdc.gov/features/maternal-depression/index.html (last visited Jan. 9, 2018).

[11] *See supra* note 10; *see also* Fitelson, E; Kim, Sarah; Scott-Baker, A.; and Leicht, K; International Journal of Women's Health, *Treatment of postpartum depression: clinical, psychological and pharmacological options* (Dec. 30, 2010), *available at* https://www.ncbi.nlm.nih.gov/pubmed/?term=Leight%20K%5BAuthor%5D&cauthor=true&cauthor_uid=21339932 (last visited Jan. 9, 2018).

[12] Fitelson, E; Kim, Sarah; Scott-Baker, A.; and Leicht, K; International Journal of Women's Health, *Treatment of postpartum depression: clinical, psychological and pharmacological options,* (Dec. 30, 2010) *available at* https://www.ncbi.nlm.nih.gov/pubmed/?term=Leight%20K%5BAuthor%5D&cauthor=true&cauthor_uid=21339932 (last visited Jan. 9, 2018).

[13] United States Centers for Disease Control and Prevention, *Depression Among Women,* (Dec. 13, 2017) *available at* https://www.cdc.gov/reproductivehealth/depression/index.htm (last visited Jan. 8, 2018).

and disabling aspects of mental, emotional, and behavioral disorders.[14] The DCF oversees and contracts for the delivery of mental health services funded with certain federal and state funds through the Substance Abuse and Mental Health (SAMH) program office. The AHCA regulates hospitals and birthing centers.[15]

The DOH is responsible for the state's public health system[16] and is the agency designated by the Legislature to administer and provide maternal and child health services.[17]

The DOH does not provide or perform mental health services.[18] The DOH, through its county health departments and other state programs, refer clients in need of mental health services to providers in local areas[19] and though its website provides information on the "baby blues" and postpartum depression.[20]

The DOH contracts for the provision of a toll-free Family Health Line[21] to provide consumers with information on community resources, pregnancy, prenatal care, childbirth, breastfeeding, family planning, infant and toddler care, parenting, smoking cessation, substance abuse and the Medicaid Family Planning Waiver Program. In 2016, the Family Health Line received 10,011 calls.[22,23]

Childbirth Settings

The Legislature has recognized the need for a person to have the freedom to choose the manner, cost, and setting for childbirth.[24] A woman may choose three settings for childbirth: at home, at a licensed birthing center, or at a hospital.[25]

The home delivery setting for childbirth is not regulated like birthing centers and hospitals, but the practices of physicians, physician assistants (PAs),[26] Advanced Registered Nurse

[14] Section 394.453, F.S.
[15] Sections 395.003 and 383.301, F.S.
[16] Section 381.001, F.S.
[17] Section 383.011, F.S. *See also* Department of Health, *Programs and Services*, http://www.floridahealth.gov/programs-and-services/index.html, (last visited Jan. 9, 2018). Some of the programs the DOH administers or provides to mothers and children include Breastfeeding, Birth Certificates, Children's Medical Services (CMS), Florida's Children's Medical Services Managed Care Plan, Drowning Prevention, Early Steps, Healthy Start, Kid Care, Lead Poisoning, Newborn Screening, School Health Program, and the Woman, Infants, and Children (WIC) federal nutrition program.
[18] Department of Health, *Senate Bill 138 Analysis* (August 15, 2017) (on file with the Senate Committee on Health Policy).
[19] *See supra* note 22.
[20] Department of Health, *After Pregnancy*, http://www.floridahealth.gov/programs-and-services/womens-health/pregnancy/after-pregnancy.html (last viewed Jan. 9, 2018).
[21] Department of Health, *Family Health Line*, http://www.floridahealth.gov/programs-and-services/womens-health/pregnancy/family-health-line.html (last visited Jan. 9, 2018).
[22] *See supra* note 22; the hotline costs $17,532.62 per month or $210,391 per year.
[23] *See supra* note 26.
[24] *See* s. 467.002, F.S.
[25] *See* chs. 383 and 467, F.S., Rules 59A-11 and 64B24-7, F.A.C.
[26] *See* ss. 458.347 and 459.022, F.S.

Practitioners (ARNPs), Certified Nurse Midwives (CNMs), and Licensed Midwives (LMs) who may attend a woman during a home delivery, are licensed and regulated by the DOH.[27]

A licensed physician may attend any birth in any setting, including home delivery, if he or she can do so with reasonable skill and safety, and within the standard of care.[28] A physician may also delegate any delivery to his or her PA.[29] There are no specific laws or administrative rules that address the required perinatal care required for a patient choosing home delivery by physicians and PAs.[30]

Section 464.012(4)(b), F.S., permits an ARNP-CNM to perform a postpartum examination to the extent authorized by an established protocol with a supervising physician, but does not specify that a perinatal mental health assessment is to be included in that examination or at any time during the perinatal period for a home delivery.

Licensed birth centers are places outside of the home or hospital where women with normal, uncomplicated, low risk pregnancies may choose to deliver their babies.[31] Sections 383.330 through 383.335, F.S., establish minimum standards of care for birth centers.[32] Birth centers are licensed by the AHCA, but the clinical staff of the birth centers must be physicians, ARNP-CNMs, or LMs licensed and regulated by the DOH.

In order for a pregnant woman to be accepted for childbirth by a licensed birth center, she must be initially determined to be at low maternal risk and be regularly evaluated throughout the pregnancy to assure that she remains at low risk for poor pregnancy outcomes.[33] The woman must receive specific prenatal,[34] intrapartum,[35] and postpartum care,[36] but regulatory rules do not include specific mental health screening or education for prenatal or postpartum depression.

The mother and infant must be discharged from the licensed birth center within 24 hours of birth except under unusual circumstances.[37] A postpartum examination of the mother is required to be performed within 72 hours after delivery and must include, at a minimum:

- Interval history;
- Blood pressure measurement; and
- Observation of the breasts, perineum, and abdomen.[38]

A second postpartum examination is required at four to six weeks postpartum that includes all of the above, and:

- Weight measurement;

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[27] *See supra* note 31.
[28] *See* ss. 458.347 and 459.022, F.S
[29] *See* ss. 458.347 and 459.022, F.S. See also Rules 64B8-30.001 and 64B15-6.001, F.A.C.
[30] *See* chs. 458 and 459, F.S., and Rules 64B8-9 and 64B15-14, F.A.C.
[31] Section 383.302(2), F.S.
[32] Section 383.309(1), F.S.
[33] Rule 59A-11.009, F.A.C.
[34] Rule 59A-11.012, F.A.C.
[35] Rule 59A-11.013, F.A.C.
[36] Rule 59A-11.016, F.A.C.
[37] Section 383.318, F.S., and Rule 59A-11.016(6), F.A.C.
[38] Rule 59A-11.016(6), F.A.C.

- Hemoglobin or hematocrit measurement; and,
- A bi-manual pelvic examination.[39]

The mother must also be counseled at some point during the postpartum period regarding:
- Breast feeding;
- Perineal care;
- Family planning;
- Signs of common complications;
- Activities and exercises;
- Sex relations;
- Care and feeding of the newborn; and
- Changing family relationships.[40]

None of the required postpartum examinations or counseling for mothers utilizing licensed birth centers require any type of mental health screening or education on postpartum depression. However, if complications occur during the postpartum period, which could include postpartum depression, a consultation or referral must be made to the appropriate source for secondary or tertiary care.[41]

Hospitals are regulated by the AHCA under ch. 395, F.S. Within the context of the bill, the only statutory requirement for a hospital providing birthing services is that women using the facility for childbirth must receive instruction on newborn care concerning safe sleep practices and possible causes of Sudden Unexpected Infant Death (SUID).[42] There are no other statutory or administrative requirements that a hospital providing birthing services require its medical staff to perform any type of postpartum mental health assessment, follow-up care, or postpartum depression education.

III. Effect of Proposed Changes:

Section 1 cites the act as the "Florida Families First Act."

Section 2 creates s. 383.014, F.S., direct the DOH to establish, by January 1, 2019, and maintain two perinatal mental health care toll-free hotlines – one accessible to the public and one for health care providers as defined in s. 408.07, F.S.[43] The hotline for public access:
- Provides basic information on postpartum depression and perinatal care;
- May recommend that the caller or patient be further evaluated by a qualified health care provider; and
- May refer a caller or patient to an appropriate health care provider in the caller's or patient's local area.

[39] *See* chs. 383 and 467, F.S., Rules 59A-11 and 64B24-7, F.A.C.
[40] *See* chs. 383 and 467, F.S., Rules 59A-11 and 64B24-7, F.A.C.
[41] *See* chs. 383 and 467, F.S., Rules 59A-11 and 64B24-7, F.A.C.
[42] Section 395.1053, F.S.
[43] Section 408.07(25), F.S., defines *health care providers* as those licensed under chs. 458 (allopathic doctor & PA), 459 (osteopathic doctor & PA), 460 (chiropractor), 461(podiatrist), 463 (optometrist), 464 (nurses), 465 (pharmacist), 466 (dentist and hygienist), 483, 484, 486, 490, 491, or 468, parts I (speech & language pathologists & audiologists), III (occupational therapists), IV (radiological technicians), V (respiratory therapists), or X (dietician and nutritionist).

The hotline for health care providers must:
- Provide information to assist health care providers in addressing the mental health of a pregnant or postpartum patient;
- Maintain and offer contact information for health care providers throughout the state who have experience in caring for pregnant or postpartum patients; and
- Compile resources to encourage the efficient and coordinated care of pregnant or postpartum patients.

The bill requires the DOH to create public service announcements (PSAs) to educate the public on perinatal mental health care. The PSAs must include the telephone number of the public perinatal mental health care hotline.

The DOH must also encourage mental health care providers, and health care providers who conduct postpartum evaluations or treat postpartum patients, to attend continuing medical education courses on perinatal mental health care.

Section 3 amends s. 383.318, F.S., to require licensed birth centers to provide the following additional postpartum services and follow-up care:
- A maternal postpartum assessment that includes mental health screening;
- Information on postpartum depression; and
- The telephone number of the public perinatal mental health care hotline.

Section 4 amends s. 395.1053, F.S., to require hospitals providing birthing services to provide similar postpartum education and care services as birthing centers, including:
- Physical examination of the infant;
- Metabolic screening tests required by s. 383.14, F.S.;[44]
- Referral to sources for pediatric care;
- Maternal postpartum assessment that incorporates mental health screening;
- Information on postpartum depression and the telephone number of the perinatal mental health care hotline established in s. 383.014, F.S.;
- Instruction in child care, including immunization and breastfeeding, in addition to information on safe sleep practices and possible causes of Sudden Unexpected Infant Death;
- Family planning services; and
- Referral to secondary or tertiary care, as indicated.

Section 5 provides the bill takes effect July 1, 2018.

[44] Section 383.14, F.S., requires the DOH to screen newborns for metabolic disorders before becoming one week of age. Currently the DOH screens for 53 total conditions. Department of Health, *Newborn Screening*, http://www.floridahealth.gov/programs-and-services/childrens-health/newborn-screening/index.html (last visited Jan. 8, 2018). Babies born in a hospital must be tested for metabolic disorders between 24 and 48 hours after birth. Babies discharged before 24 hours after birth must be tested before discharge, and again between 24 hours and five days after birth. Rule 64C-7.002, F.A.C.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Women who are experiencing, or may experience, perinatal mental health issues will potentially benefit if they avail themselves to the services contemplated by the bill.

Hospitals and birthing centers may incur additional costs due to the mandated evaluations and follow-up care, which will likely be billed to patients, insurers, and Medicaid.

C. Government Sector Impact:

SB 138 requires the DOH to establish and maintain two telephone hotlines– one for the public and one for health care providers. The DOH estimates that the cost of operating the two hotlines, producing public service announcements, and developing promotional and educational materials will be $1,156,520 from the General Revenue Fund in Fiscal Year 2018-2019, of which $854,700 is nonrecurring.[45]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 383.318 and 395.1053.

[45] *See supra* note 22.

The bill creates section 383.014 of the Florida Statutes.

The bill creates one undesignated section of law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.