

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/SB 444

INTRODUCER: Health Policy Committee and Senator Bean

SUBJECT: Pregnancy Support Services

DATE: January 17, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	<b>Fav/CS</b>
2.	Loe	Williams	AHS	<b>Recommend: Favorable</b>
3.	Loe	Hansen	AP	<b>Pre-meeting</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 444 creates s. 381.96, F.S., to codify the existing Pregnancy Support Services program (program) which has been funded by the state since the 2005-2006 fiscal year. The program provides pregnancy support and wellness services, such as direct client services, program awareness activities, and communication activities, through a statewide alliance of community organizations. The bill directs the Department of Health (DOH) to contract with the Florida Pregnancy Care Network (network) and specifies contract deliverables for the program, including financial reports, staffing requirements, and timeframes for achieving obligations. The network is to contract only with providers that exclusively promote and support childbirth.

The bill has no impact on state revenues or expenditures.

The bill takes effect on July 1, 2018.

## II. Present Situation:

### Florida's Birth Rate

In 2016, over 217,000 women aged 15 to 50 in Florida had a birth in the past 12 months.<sup>1</sup> Almost half (48 percent) of Florida's births are to unmarried mothers with 86 percent of the fathers acknowledged on the birth certificate.<sup>2</sup>

The state's infant mortality rate slightly increased to 6.2 infant deaths per 1,000 live births in 2015, and then back down to 6.1 for 2016 after reaching its lowest rate in Florida's history of 6.0 in 2014.<sup>3</sup> As the DOH notes in its *Florida Vital Statistics Annual Report-2015*, this represents less than half of the state's resident infant mortality rate of 1980.<sup>4</sup> The most frequently cited causes of resident infant fatality in 2015, and the numbers reported were:

- Perinatal period conditions (756 deaths);
- Congenital malformations (266 deaths);
- Unintentional injuries (98 deaths); and
- Sudden Infant Death Syndrome (59 deaths).<sup>5</sup>

These causes accounted for 84 percent of all resident infant fatalities in Florida.<sup>6</sup>

### The Florida Pregnancy Care Network

The Florida Pregnancy Care Network (network) is a private 501(c)(3)<sup>7</sup> nonprofit organization that provides financial and other support to pregnant women and their families through an alliance of pregnancy support organizations. A five-person board of directors oversees the network, and an executive director manages the daily operations of the network. The network includes over 50 sub-grantee resource organizations throughout the state that provide counseling, referral, material support, training, and education to pregnant mothers as they prepare to parent or place their babies for adoption.<sup>8</sup> In 2015, the organization reported gross receipts of \$3.6 million.<sup>9</sup>

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<sup>1</sup> United States Census Bureau, *American Fact Finder - Selected Characteristics in the United States, 2011-2015 American Community Survey 5-Year Estimates*, [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_15\\_5YR\\_DP02&src=pt](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_5YR_DP02&src=pt) (last visited Oct. 27, 2017).

<sup>2</sup> Florida Department of Health, *Pregnancy and Young Child Profile – 2015*, <http://www.flhealthcharts.com/ChartsReports/rdPage.aspx?rdReport=ChartsProfiles.PregnancyandYoungChild> (last visited Oct. 27, 2017).

<sup>3</sup> Florida Department of Health, *FL Health Charts, Infant Deaths Data – Per 1,000 Live Births Single Year Rates*, <http://www.flhealthcharts.com/charts/DataViewer/InfantDeathViewer/InfantDeathViewer.aspx> (last visited Oct. 27, 2017).

<sup>4</sup> Florida Department of Health, *Florida Vital Statistics Annual Report 2015, Executive Summary*, p. vi, <http://www.flpublichealth.com/VSBOOK/VSBOOK.aspx> (last visited Oct. 30, 2017).

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Section 501(c)(3) of the Internal Revenue Code. Organizations described in this section are commonly referred to as charitable organizations.

<sup>8</sup> I.R.S., Form 990, Return of Organization Exempt from Income Tax (2015) – Florida Pregnancy Care Network, Inc., Part I, Summary of organization's mission or most significant activities, *see profile at* <https://www.guidestar.org/profile/20-3707766> (last visited Oct. 30, 2017).

<sup>9</sup> Id.

## Florida Pregnancy Support Services Program

The network administers the Florida Pregnancy Support Services Program (program) through a contract with the DOH. The program has received continuous state funding since the 2005-2006 fiscal year, including a \$4 million appropriation from the General Revenue Fund for the 2017-2018 fiscal year.<sup>10</sup>

Proviso language in the Fiscal Year 2017-2018 General Appropriations Act (GAA) permits the funds to be used for wellness services, including but not limited to, high blood pressure screening, flu vaccines, anemia testing, thyroid screening, cholesterol, diabetes screening, assistance with smoking cessation, and tetanus vaccines.<sup>11</sup> Services may be purchased directly from qualified providers or vouchers may be offered. The GAA also requires that at least 85 percent of the funds appropriated be used for direct client services such as life skills, program awareness, and communications.<sup>12</sup> The DOH is directed to specifically contract with the program's current contract management provider and to provide the contractual oversight. Similar proviso language has been included in the GAA since the 2009-2010 fiscal year.

The DOH is authorized by the Fiscal Year 2017-2018 GAA to spend no more than \$500 per sub-contracted provider for contract oversight. Nine major deliverables with performance metrics and financial consequences are included in the contract with the network.<sup>13</sup>

Financial reimbursement through this contract is made to a minimum of 45 local pregnancy resource organizations for services to pregnant women and their families.<sup>14</sup> While many participating organizations may be faith-based, they are not permitted to share religious information and contracting entities must ensure that they will strictly adhere to this regulation.<sup>15</sup> The program also provides a statewide toll free number<sup>16</sup> that is available 24/7 via phone or text message, and a website that can also connect women and their families to available resources.<sup>17</sup> All services are available to women and their families free of charge and can continue for up to 12 months after the birth of the child.

Pregnant women and their families may use the program to prepare for pregnancy, childbirth, and parenting. The program offers free counseling and classes that cover these topics as well as nutrition and infant care. Participants may also receive items such as maternity and baby clothing, diapers, formula and baby food, baby bath items, cribs and infant carriers by

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<sup>10</sup> Chapter 2017-70, Specific Appropriation 445, Laws of Fla.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Contract between the State of Florida, Department of Health and Florida Pregnancy Care Network, Inc., pp. 16-22, July 1, 2017 – June 30, 2018, (Agency Contract ID# COHN6). For a copy of the contract, visit the Florida Accountability Contract Tracking System at: <https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=640000&ContractId=COHN6> (last visited Oct. 30, 2017).

<sup>14</sup> Id at 9.

<sup>15</sup> Id at 10.

<sup>16</sup> The toll-free Option Line number is 1-866-673-HOPE (4673) or participants can text the word "choice" to 313131.

<sup>17</sup> Florida Pregnancy Support Services, *I Might Be Pregnant* <http://www.floridapregnancysupportservices.com/i-might-be-pregnant/> (last visited Oct. 30, 2017).

participating in on-site classes and training.<sup>18</sup> For Fiscal Year 2016-2017, the program served 27,011 clients for pregnancy services and 1,615 for wellness services. In the prior fiscal year, the program served 24,184 total clients.<sup>19</sup>

### **Background Screenings for Qualified Entities**

The current contract between the DOH and the network requires all paid staff and volunteers to have a state and national criminal background check as described below if the staff or volunteer provides direct services to minors, the elderly, or individuals with disabilities.<sup>20</sup> If it is the individual's initial screening, the screening must include fingerprint checks through the Florida Department of Law Enforcement (FDLE) and the Federal Bureau of Investigation (FBI).<sup>21</sup> Currently, the DOH and the program utilize an existing User Agreement held by the DOH with the FBI to conduct these screenings. The results of those screenings are returned to the DOH, not the individual network subcontractors.<sup>22</sup>

The public may access Florida criminal history information under s. 943.053, F.S., at the cost of \$24.00 per record through the FDLE. A Level 1 background check in Florida is a state only name-based check and an employment history check. A Level 2 check includes a state and national fingerprint-based check and consideration of disqualifying offenses, and applies to statutorily designated employees who hold a position of trust and responsibility only.<sup>23</sup>

Under s. 943.0542, F.S., certain businesses and organizations that provide care or care placement services, or licenses or certifies to provide care or care placement services, may have access to criminal history information from the FDLE after registering with the FDLE and payment of any fees. The qualified entity<sup>24</sup> must submit fingerprints to the FDLE with its request for screening and maintain a signed waiver allowing the release of the state and national criminal history record to the qualified entity. The amount of the fee is set by the FBI for the national criminal history check in compliance with the National Child Protection Act of 1993, as amended.

The national criminal history data is available only for the purpose of screening employees and volunteers or persons applying to be employees or volunteers. The FDLE will provide the information directly to the qualified entity as permitted by a written waiver. Whether the individual is fit to be an employee or volunteer around children, the disabled, or the elderly is for the qualified entity to determine; the FDLE will not make that determination. The qualified

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<sup>18</sup> Florida Pregnancy Support Services, *I Am Pregnant and Considering Terminating My Pregnancy*, <http://www.floridapregnancysupportservices.com/i-am-pregnant-and-need-help/> (last visited Oct. 30, 2017).

<sup>19</sup> Email from Bryan Wendel, Florida Department of Health, (Oct. 31, 2017) (on file with the Senate Committee on Health Policy).

<sup>20</sup> Contract between the DOH and the Florida Pregnancy Care Network, Inc., *Supra* note 13, at 9.

<sup>21</sup> *Id.*

<sup>22</sup> Email from Bryan Wendel, Florida Department of Health, (Nov. 7, 2017) (on file with the Senate Committee on Health Policy).

<sup>23</sup> Florida Dep't of Law Enforcement, *Criminal History Record Checks/Background Checks Fact Sheet* (July 26, 2017), pp. 4-5, [https://www.fdle.state.fl.us/cms/Criminal-History-Records/Documents/BackgroundChecks\\_FAQ.aspx](https://www.fdle.state.fl.us/cms/Criminal-History-Records/Documents/BackgroundChecks_FAQ.aspx) (last visited Nov. 7, 2017).

<sup>24</sup> Federal law defines a "qualified entity" as a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services. "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation for children, the elderly, or individuals with disabilities. *See* 42 U.S.C. §5119c.

entity must notify the screened individual of his or her right to obtain a copy of the screening report as well as any criminal records.

### III. Effect of Proposed Changes:

**Section 1** creates s. 381.96, F.S., to codify in statute the Pregnancy Support Services Program, a program that has been funded through the General Appropriations Act since the 2005-2006 fiscal year. The bill implements most of the provisions from the prior years' proviso language with a few exceptions and additions as noted below:

- A specific directive to spend at least 90 percent of the contract funds on pregnancy support and wellness services rather than the currently required 85 percent of appropriated funds on direct client services, including life skills, program awareness, and communications.
- A specific requirement for background screening under s. 943.0542, F.S., for all paid staff and volunteers of a subcontractor if those individuals provide direct client services to a client who is a minor or an elderly person or who has a disability.

The bill directs the DOH to specify the contract deliverables with the network, including requirements to:

- Establish the financial and other reporting deliverables, the timeframes for achieving the contractual obligations, and any other requirements deemed necessary by the DOH, such as staffing and location requirements;
- Survey subcontractors annually and to specify the sanctions that shall be imposed for noncompliance with the terms of a subcontract;
- Establish and manage the subcontracts with a sufficient number of networks to ensure availability of pregnancy support and wellness services and to maintain delivery of those services throughout the contract term;
- Offer wellness services or vouchers or other appropriate payment arrangements that allow for the purchase of services from qualified providers;
- Subcontract only with providers that exclusively promote and support childbirth; and
- Ensure that informational materials provided to eligible clients are accurate, current, and cite a reference source of any medical statement.

The bill restricts the services provided under the contract to be non-coercive and instructional materials may not include faith-based content.

**Section 2** provides an effective date of July 1, 2018.

### 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:

Either the subcontracted pregnancy support organizations or the network will be paying the costs of the criminal background checks at the cost of \$36.00 per employee or \$28.75 per volunteer.<sup>25</sup> The current contract between the program and the department requires the program's subcontractors to follow these same screening requirements.<sup>26</sup> The current contract places this responsibility on the individual subcontractors.

C. Government Sector Impact:

The DOH is responsible for the contractual oversight of the state's funding of the program. Proviso language included in the Fiscal Year 2017-2018 GAA places a cap of \$50,000 on DOH administrative costs.<sup>27</sup> CS/SB 444 does not place a maximum or minimum funding amount for the DOH's administrative oversight functions.

The FDLE will be processing additional background checks for the program employees and volunteers. It is unknown at this time how many employees or volunteers will be processed under this requirement. The background check will cost \$36.00 for employees and \$28.75 for volunteers.<sup>28</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The DOH is concerned whether 10 percent of the appropriated funds is sufficient for the administrative and oversight responsibilities delineated in the bill for the DOH and the network.

Currently, in the network's contract, the DOH requires the network's subcontractors to conduct a Level 2 background screening on all staff and volunteers. These screenings are being performed under an existing User Agreement held by the DOH that may not be applicable to the new

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<sup>25</sup> Florida Department of Law Enforcement, *Criminal History Record Check Fee Schedule* (Effective October 1, 2016) [https://www.fdle.state.fl.us/cms/Criminal-History-Records/Documents/BackgroundChecks\\_FAQ.aspx](https://www.fdle.state.fl.us/cms/Criminal-History-Records/Documents/BackgroundChecks_FAQ.aspx), p. 8, (last visited Oct. 30, 2017)

<sup>26</sup> Contract between the DOH and the Florida Pregnancy Care Network, Inc., *Supra* note 13, at 9.

<sup>27</sup> *Supra* note 10.

<sup>28</sup> Contract between the DOH and the Florida Pregnancy Care Network, Inc., *Supra* note 13, at 9.

statutory language. FDLE recommended that the bill be amended to either specifically incorporate the screenings into a User Agreement specific to this purpose and hold the DOH responsible for the results or, alternatively, provide for the submission of fingerprints to FDLE and the FBI, provide that costs of the screening are to be borne by the applicant, and designate FDLE as the retention entity for screening results. The FDLE also recommended participation in the FBI's national retained fingerprint arrest notification program so that any future arrests would be reported to the DOH.

**VIII. Statutes Affected:**

This bill creates section 381.96 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Health Policy on November 7, 2017:**

The CS removes immunizations from the list of enumerated wellness services that may be provided by the network's subcontracted providers. The CS also adds wellness services to the services for which the DOH shall contract with the network.

- B. **Amendments:**

None.