

FLORIDA HOUSE OF REPRESENTATIVES

FINAL BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: CS/CS/HB 277	COMPANION BILL: CS/CS/SB 910 (Collins)
TITLE: Veterans' Benefits Assistance	LINKED BILLS: None
SPONSOR(S): Albert, Alvarez, D.	RELATED BILLS: None
FINAL HOUSE FLOOR ACTION: 114 Y's 0 N's	GOVERNOR'S ACTION: Pending

SUMMARY

Effect of the Bill:

The bill establishes standards for persons assisting a veteran or any eligible beneficiary of a veteran, including his or her spouse or dependent child, in applying for benefits administered by the Florida Department of Veterans' Affairs or the United States Department of Veterans Affairs.

The bill provides that a person assisting a veteran in applying for benefits may only be compensated if they make certain disclosures to the veteran, including the existence of other organizations that provide assistance for free. The bill limits the amount of compensation a provider may receive for their services, prohibits guaranteeing a successful outcome or specific result, and requires the provider to follow certain procedures to protect the veteran's personally identifiable protected information. The bill also prohibits a person from receiving compensation for referring someone to a person who provides assistance in applying for benefits.

The bill provides that a violation of these requirements is a violation the Florida Deceptive and Unfair Trade Practices Act.

Fiscal or Economic Impact:

The bill may have an indeterminate negative impact on state government expenditures to the extent additional violations of the Florida Deceptive and Unfair Trade Practices Act are prosecuted.

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ANALYSIS

EFFECT OF THE BILL:

CS/CS/HB 277 passed as [CS/CS/SB 910](#). (Please note that bill section parentheticals do not contain hyperlinks to bill sections for Senate bills.)

The bill establishes standards for persons assisting a veteran or any eligible beneficiary of a veteran, including his or her spouse or dependent child, in applying for benefits administered by the [Florida Department of Veterans' Affairs \(FDVA\)](#) or the United States Department of Veterans Affairs (VA). (Section 1)

The bill adds FDVA to the list of agencies that may be screened as part of the Care Provider Background Screening Clearinghouse. (Section 1)

The bill prohibits any provider from receiving compensation for referring an individual to another person who will advise, assist, or consult with the applicant regarding a veterans' benefits matter. (Section 2)

The bill provides that a provider may receive compensation for providing services in connection to a claim filed within the one-year presumptive period after active-duty release as determined by the VA, but only if the veteran signs a waiver acknowledging that he or she is within the presumptive period and is choosing to deny the free services available. (Section 2)

The bill provides that a provider may receive compensation for advising, assisting, or consulting with an individual regarding any veterans' benefits if the service provider enters into a written agreement signed by both parties that

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DATE: 5/7/2025

specifies the terms of compensation and provides that compensation may only be paid if the veteran is successful in securing an increase in benefits. The bill limits the amount of compensation the service provider may receive at the lesser of four times the amount of the monthly increase in benefits awarded or \$12,500. (Section 1)

The bill requires the service provider to provide a written and oral disclosure stating:

- The provider is not affiliated with the FDVA or the VA.
- The services being provided are available free of charge from other organizations.
- The provider is not necessarily endorsed by any of the other organizations.
- The veteran may qualify for other veterans' benefits beyond the benefits for which they are receiving services. (Section 2)

The disclosure must meet certain criteria to ensure it is easily identifiable, must be signed by the veteran, and the service provider must retain a copy for at least six years after the service relationship ends. The provider must provide copies of all executed documents to the veteran being assisted. (Section 2)

The bill prohibits a provider from charging an initial or non-refundable fee or any interest charge on a payment plan agreed to between the parties. A service provider is also prohibited from guaranteeing a successful outcome or that a veteran will receive certain benefits or a specific level, percentage, or amount of veterans' benefits. (Section 2)

In the event a veteran dies before a claim is processed, the bill requires any expected compensation to be waived, provides that a charge, fee, or debt may not be collected, and requires any payment plan for services be terminated immediately. (Section 2)

The bill requires that the provider follow certain procedures to protect the veteran and the veteran's personally identifiable information, including prohibiting:

- The use of international call centers or data centers to directly solicit a veteran to enter into a business relationship with the provider or process a veteran's information.
- The use of a veteran's personal information to access certain data.
- The employment of a medical provider to conduct a secondary medical examination of the veteran.

The bill requires individuals who directly assist in a veterans' benefits matter undergo a level 2 [background screening](#) that screens for offenses related to fraud or deception before entering into any agreement with a veteran for a veterans' benefits matter. The bill requires a full set of fingerprints be submitted to the Florida Department of Law Enforcement (FDLE) or a vendor, entity, or agency authorized by [s. 943.053\(13\), F.S.](#) The fingerprints must be forwarded to FDLE for state processing. FDVA must forward the background screening results to the provider noting if the screening indicates whether an individual's background screening contains any of the specified offenses. The fees for state and federal fingerprint processing must be borne by the provider or individual. The bill states the background screening procedures do not imply endorsement, certification, or regulation of providers by FDVA. (Section 2)

If an individual files a complaint with the Consumer Protection Division of the Office of the Attorney General based on alleged absence of good faith as defined for negotiable instruments in the Uniform Commercial Code and if the veteran has not received a monthly monetary increase as a result of the provider's services, the provider may not receive compensation before the resolution of the complaint. The bill provides that a violation of any of these requirements is a violation of the Florida Deceptive and Unfair Trade Practices Act. (Section 2)

The bill does not apply to, limit, or expand requirements for agents or employees of the VA or agents or attorneys accredited and regulated by the VA. (Section 2)

Subject to the Governor's veto powers, the effective date of this bill is upon becoming a law. (Section 3)

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill may have an indeterminate negative impact on state government expenditures to the extent additional violations of the Florida Deceptive and Unfair Trade Practices Act are prosecuted.

PRIVATE SECTOR:

The bill may result in an indeterminate negative fiscal impact on a private provider of assistance with securing veterans' benefits.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

[Florida Department of Veterans' Affairs \(FDVA\)](#)

The FDVA is a nearly 1,500-member constitutionally chartered¹ department with a budget of \$218 million for Fiscal Year 2024-25.² FDVA operates a network of nine state veterans' homes and provides statewide outreach to connect veterans and their spouses with services, benefits, and support.³ FDVA is currently required to provide benefits and services in the fields of health care, mental health and substance abuse, claims support, education, employment, housing, burial benefits, and legal assistance to veterans and their spouses.⁴

Florida is home to 21 military installations⁵ and 66,971 military personnel.⁶ Florida also has the nation's third-largest veteran⁷ population, with almost 1.4 million veterans.⁸

The FDVA annually produces the Florida Veterans' Benefits Guide to connect veterans and their families with earned federal and state benefits, services, and support. The guide provides a comprehensive listing of services and benefits for veterans in the state.⁹

Veterans Claims Examiners

FDVA oversees and operates the Bureau of Veteran Claim Services (Bureau) within the Division of Veterans' Benefits and Assistance.¹⁰ Through the Bureau, veterans' claims examiners assist veterans in securing earned services, benefits, and support. FDVA houses claims examiner offices throughout the state and at the U.S. Department of Veterans Affairs (VA) Regional Office in Bay Pine, each VA medical center, and many VA outpatient clinics.¹¹ Claims assistance is provided at no cost and covers all state and federal veterans' programs.¹²

City and County Veteran Service Officers

City and county veteran service officers are hired locally by their local municipality or the board of county commissioners.¹³ To qualify, an applicant must be a veteran who:

- Served in the active military, naval, or air service.

¹ [Art. IV, s. 11, Fla. Const.](#)

² FDVA, [2024 Annual Report](#), pg. 3 (last visited Feb. 18, 2025).

³ FDVA, [Florida Department of Veterans' Affairs – Our Vision and Mission](#) (last visited Feb. 18, 2025).

⁴ FDVA, [Benefits & Services](#) (last visited Feb. 18, 2025).

⁵ Select Florida, [Defense & Homeland Security](#) (last visited Feb. 18, 2025).

⁶ Florida Commerce, [Florida Military & Defense: Economic Impact Summary \(January 2024\)](#) (last visited Feb. 18, 2025).

⁷ [Section 1.01\(14\), F.S.](#), defines a "veteran" as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions, or who later received an upgraded discharge under honorable conditions.

⁸ U.S. Department of Veterans Affairs, National Center for Veterans Analysis and Statistics, [VetPop2023 Living Veterans by State, Age Group, Gender, 2023-2053](#) (last visited Feb. 18, 2025). The Veteran Population Projection Model 2023 (VetPop2023) provides an official veteran population projection from the U.S. Department of Veterans Affairs.

⁹ FDVA, [Florida Veterans' Benefits Guide](#) (last visited Feb. 18, 2025).

¹⁰ S. [20.37\(2\), F.S.](#)

¹¹ FDVA, [Claims](#) (last visited Feb. 18, 2025).

¹² *Id.*

¹³ S. [292.11\(1\), F.S.](#)

- Was discharged or released under honorable conditions or who later received an upgraded discharge under honorable conditions.

The applicant must additionally have a minimum of a two-year degree from an accredited institute of higher education, a high school degree or its equivalent, and four years of administrative experience. A surviving spouse may be hired if the veteran spouse meets these qualifications.

FDVA provides required training for county and city veteran service officers to assist veterans, and every veteran service officer must successfully pass a test administered by FDVA.¹⁴ In addition, FDVA requires completion of periodic training refresher courses as a condition of continuing employment.

Federal Law on Paid Services for Benefit Assistance of Veterans

Federal law governs the payment of fees by a veteran to an accredited agent or attorney for representation in securing federal benefits.¹⁵ An attorney or an agent may receive fees for representation before an agency of original jurisdiction or the Board of Veterans' Appeals, subject to limitation.¹⁶ Any fee agreement for providing these services must include:

- The name of the veteran.
- The name of the claimant or appellant if other than the veteran.
- The name of any disinterested third-party payer and their relationship with the veteran, claimant, or appellant.
- The VA file number.
- Specific terms under which the amount to be paid for services is determined.
- If the VA is to pay the agent or attorney directly out of past due benefits.¹⁷

The fee agreement must also include the following statement, signed by the provider:

I certify that no agreement, oral or otherwise, exists under which the claimant or appellant will provide anything of value to the third-party payer in this case in return for payment of my fee or salary, including, but not limited to, reimbursement of any fees paid.¹⁸

Any fee charged for services must be reasonable, based on:

- The extent and type of services performed.
- The complexity of the case.
- The level of skill and competence required in giving the services.
- The amount of time spent on the case.
- The results achieved, including the amount of benefits recovered.
- The level of review to which the claim was taken and the representative retained.
- Rates charged by other representatives for similar services.
- Whether, and to what extent, the payment of fees is contingent upon the results achieved.
- If applicable, why an agent or attorney was discharged or withdrew from representation before the date of the decision awarding benefits.¹⁹

A presumption of reasonableness applies if a fee does not exceed 20 percent of a past-due benefit if the representative provided service through the date of the decision awarding benefits. If a fee exceeds 33 and 1/3 percent of a past-due benefit, it is considered unreasonable. Each presumption is disputable by showing clear and convincing evidence.²⁰

¹⁴ S. [291.11\(4\), F.S.](#)

¹⁵ 38 CFR s. 14.636.

¹⁶ See 38 CFR s. 14.636(c)(1)(i) and (ii), (2)(i) and (ii).

¹⁷ 38 CFR s. 14.636(g).

¹⁸ 38 CFR s. 14.636(d)(2)(iii).

¹⁹ 38 CFR s. 14.636(e).

²⁰ 38 CFR 14.636(f).

Filing of a Notice of Disagreement

A Notice of Disagreement is a filing by a claimant who disagrees with the decision made by the VA on a disability compensation claim.²¹ Although the claim decision by the VA becomes certified after 30 days, it is not final until one year after the date of the decision. Therefore, the claimant can file a Notice of Disagreement at any time up to one year from the date of decision.

Background Screening

Current law provides standard procedures for screening a prospective employee²² where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.²³ Chapter 435, F.S., establishes procedures for criminal history background screening of prospective employees and outlines the screening requirements. There are two levels of background screening: level 1 and level 2:

- Level 1: Screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,²⁴ and may include criminal records checks through local law enforcement agencies. A Level 1 screening may be paid for and conducted through FDLE's website, which provides immediate results.²⁵
- Level 2: Screening includes, at a minimum, fingerprinting for statewide criminal history records checks through FDLE and national criminal history checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.²⁶

All individuals subject to background screening must be confirmed to have not been arrested for and waiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of the 52 statutorily enumerated offenses that are prohibited under Florida law, or similar law of another jurisdiction.²⁷

Current law requires some positions to be screened for additional criminal offenses due to the nature of the position or the populations being served. For example, some positions under the authority of the Agency for Health Care Administration are screened for additional offenses, such as financial crimes like fraud.²⁸

The criminal history check process does not limit disqualification based on when an offense was committed. As such, any history of a listed offense is considered disqualifying regardless of when the offense was committed. Only through the exemption process can some offenses be disregarded dependent on when they were committed.

Systems for Processing Background Screenings

Florida has established different programs to facilitate background screenings. These include the Care Provider Background Screening Clearinghouse (Clearinghouse), which is used by state agencies for statutorily-required screenings; the Volunteer Employee Criminal History System, which is used for non-statutorily required screenings; and the Florida Shared School Results system. Level 2 screenings may also be run by state agencies outside of the Clearinghouse if an agency does not participate in the Clearinghouse.

The Clearinghouse provides the opportunity for participating agencies to share the results of criminal history checks and involves maintaining fingerprints as part of the Rap Back Service, which allows continual review of fingerprints against new criminal history information. Current agencies participating in the Clearinghouse include:

- The Agency for Health Care Administration.
- The Department of Health.

²¹ Veterans News, [How to File a Notice of Disagreement on your VA Compensation Claim](#) (last visited Mar. 19, 2025).

²² Section [435.02, F.S.](#), defines an "employee" as any person required by law to be screened pursuant to [ch. 435, F.S.], including, but not limited to, persons who are contractors, licensees, or volunteers.

²³ Ch. 435, F.S.

²⁴ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. Available at www.nsopw.gov (last visited Mar. 19, 2025).

²⁵ FDLE, [State of Florida Criminal History Records Check](#). (last visited Mar. 19, 2025).

²⁶ S. [435.04, F.S.](#)

²⁷ S. [435.04\(2\), F.S.](#)

²⁸ See [s. 408.809, F.S.](#)

- The Department of Children and Families.
- The Department of Elder Affairs.
- The Agency for Persons with Disabilities.
- The Department of Education.
- Regional workforce boards providing services as defined in [s. 445.002\(3\), F.S.](#)
- Local licensing agencies approved pursuant to [s. 402.307, F.S.](#), when these agencies are conducting state and national criminal history background screenings on persons who work with children or persons who are elderly or disabled.²⁹

Employers whose employees are screened through an agency participating the Clearinghouse must maintain the status of individuals being screened, updating the Clearinghouse regarding any employment changes within five business days.³⁰

Screenings are only as good as the date they are run. Without systems to continually match fingerprints against new arrests or convictions, any incidents occurring after the screening are not known until the person is rescreened or self-reports. The Clearinghouse requires use of the Rap Back Services that allows for constant review of new criminal history information. Once a person's screening record is in the Clearinghouse, that person may avoid the need for future state screens and related fees for screenings, depending on the screening agencies or organizations.³¹

Florida Deceptive and Unfair Trade Practices Act (FDUTPA)

The FDUTPA is a consumer and business protection measure that prohibits unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in trade or commerce.³² The FDUTPA is based on federal law, specifically section 5 of the Federal Trade Commission Act.³³

The state attorney or the Department of Legal Affairs (DLA) may bring FDUTPA actions on behalf of consumers or governmental entities.³⁴ The Office of the State Attorney (SAO) may enforce violations of the FDUTPA if the violations take place in its jurisdiction.³⁵ The DLA has enforcement authority if the violation is multi-jurisdictional, the state attorney defers in writing, or the state attorney fails to act within 90 days after a written complaint is filed. Consumers may also file suit through private actions.³⁶

The DLA and the SAO may investigate FDUTPA claims by administering oaths and affirmations, subpoenaing witnesses or matter, and collecting evidence.³⁷ Claims may be enforced by declaratory judgments, injunctive relief, recovery of actual damages on behalf of consumers and businesses, cease and desist orders, and civil penalties of up to \$10,000 per willful violation.³⁸ The maximum civil penalty increases to \$15,000 per violation if the victim is an active duty servicemember or a veteran or the spouse or dependent child of an active duty servicemember or veteran.³⁹

²⁹ S. [435.02\(5\), F.S.](#)

³⁰ S. [435.12\(2\)\(c\)2., F.S.](#)

³¹ Fingerprints are only retained for five years, so individuals do need to be refingerprinted and rescreened even if they are only working or volunteering with Clearinghouse agencies.

³² Ss. [501.202](#) and [501.203\(8\), F.S.](#) Trade or commerce includes the advertising, soliciting, or providing of a good or service.

³³ S. [501.204\(2\), F.S.](#) See also D. Matthew Allen, et. al., *The Federal Character of Florida's Deceptive and Unfair Trade Practices Act*, 65 U. Miami L. Rev. 1083 (Summer 2011).

³⁴ S. [501.207\(1\)\(c\) and \(2\), F.S.](#); see s. [501.203\(2\), F.S.](#) (defining "enforcing authority" and referring to the office of the state attorney if a violation occurs in or affects the judicial circuit under the office's jurisdiction; or the Department of Legal Affairs if the violation occurs in more than one circuit; or if the office of the state attorney defers to the department in writing; or fails to act within a specified period.); see also David J. Federbush, *FDUTPA for Civil Antitrust: Additional Conduct, Party, and Geographic Coverage: State Actions for Consumer Restitution*, 76 Fla. B.J. 52, Dec. 2002 (analyzing the merits of FDUTPA and the potential for deterrence of anticompetitive conduct in Florida).

³⁵ S. [501.203\(2\), F.S.](#)

³⁶ S. [501.211, F.S.](#)

³⁷ S. [501.206\(1\), F.S.](#)

³⁸ Ss. [501.207\(1\)](#), [501.208](#), and [501.2075, F.S.](#) Civil Penalties are deposited into general revenue. S. [501.2075, F.S.](#) Enforcing authorities may also request attorney fees and costs of investigation or litigation. S. [501.2105, F.S.](#)

³⁹ S. [501.2077\(2\), F.S.](#)

