Health Care Appropriations Subcommittee

Meeting Packet

April 10, 2013
8:30 AM—11:00 AM
Webster Hall

Will Weatherford
Speaker

Matt Hudson
Chair

The Florida House of Representatives

Appropriations Committee

Health Care Appropriations Subcommittee

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AGENDA
April 10, 2013
Webster Hall (212 Knott)

I. Call to Order/Roll Call

II. CS/HB 1319—Assisted Living Facilities by Gonzalez

III. HB 7139—Mental Health First Aid Training Program by Harrell

IV. CS/HB 1315—Independent Living by Perry

V. HB 7153—Quality Cancer Care & Research by Oliva

VI. HB 4031—Home Health Agencies by J. Diaz

VII. CS/HB 317—Mental Health Treatment by Schwartz

VIII. Closing Remarks and Adjournment

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1319 Assisted Living Facilities
SPONSOR(S): Health Innovation Subcommittee; Gonzalez
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 646

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee	11 Y, 1 N, As CS	Guzzo	Shaw
2) Health Care Appropriations Subcommittee		Clark	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The proposed committee substitute strengthens the regulation of Assisted Living Facilities (ALFs) and makes other regulatory changes to improve the quality of ALFs.

Specifically, the bill:

- Clarifies who is responsible for assuring that mental health residents in an ALF receive necessary services.
- Requires ALFs to provide information to new residents upon admission that retaliatory action cannot be taken against a resident for presenting grievances or for exercising any other resident right.
- Creates a provisional Extended Congregate Care (ECC) license for new ALFs and specifies when the Agency for Health Care Administration (AHCA) may deny or revoke a facility's ECC license.
- Reduces by half the number of monitoring visits AHCA must conduct for ALFs with Limited Nursing Services (LNS) licenses and ECC licenses.
- Requires facilities with one or more, rather than three or more, state supported mental health residents obtain a limited mental health (LMH) license.
- Allows AHCA to revoke the license of a facility with a controlling interest that has or had a 25 percent or greater financial or ownership interest in a second facility which closed due to financial inability to operate or was the subject of other specified administrative sanctions.
- Clarifies the criteria under which AHCA must revoke or deny a facility's license.
- Specifies circumstances under which AHCA must impose an immediate moratorium on a facility.
- Sets fines for all classes of violations to a fixed amount at the midpoint of the current range and multiplies these new fine amounts for facilities licensed for 100 or more beds by 1.5 times.
- Allows AHCA to impose a fine for a class I violation even if it is corrected before AHCA inspects a facility.
- Doubles fines for repeated serious violations.
- Requires that fines be imposed for repeat minor violations regardless of correction.
- Doubles the fines for minor violations if a facility is cited for the same minor violation three or more times over the course of three licensure inspections.
- Specifies a fine amount of $500 for ALFs that are not in compliance with background screening requirements.
- Adds certain responsible parties and agency personnel to the list of people who must report abuse or neglect to the Department of Children and Families' (the DCF) central abuse hotline.
- Requires new facility staff, who have not previously completed core training, to attend a 2 hour pre-service orientation before interacting with residents.
- Requires AHCA to conduct a study of inter-surveyor reliability in order to determine the consistency with which regulations are applied to facilities.
- Requires AHCA to propose a plan for an ALF rating system by November 1, 2013.
- Requires AHCA to create a website to assist consumers in selecting an ALF by January 1, 2014.

The bill has an insignificant positive fiscal impact due to increased fines; however, AHCA will require additional staff resources to implement the provisions of the legislation. The additional fine revenue is expected to exceed the cost of the additional resources.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Assisted Living Facility Reform

In April of 2011, the Miami Herald completed a three part investigative series relating to assisted living facilities (ALFs). This series highlighted concerns with the management and administration of ALFs and garnered the attention of not only the public, but many state lawmakers, stakeholders, and facility residents and their families.

Assisted Living Facility Workgroups

In July 2011, Governor Rick Scott directed AHCA to examine the regulation and oversight of ALFs. In response, AHCA created the ALF workgroup. The workgroup's objective was to make recommendations to the Governor and Legislature that would improve the monitoring of safety in ALFs to help ensure the well-being of residents. After a series of meetings, the workgroup produced a final report and recommendations that they felt could strengthen oversight and reassure the public that ALFs are safe. Such recommendations included increasing administrator qualifications, expanding training for administrators and other staff, increasing survey inspection activity, and improving the integration of information among all agencies involved in the regulation of ALFs. The workgroup also noted several other issues that would require more time to evaluate and recommended they be examined by a Phase II workgroup.

Phase II of the workgroup began meeting in June 2012 to resume examining those issues not addressed by Phase I of the workgroup. Phase II of the workgroup will concluded in October, 2012 and produced a final report and recommendations to the Governor and the Legislature on November 26, 2012.

The issue of improving inter-agency communication was included in the workgroup's recommendations. Specifically, the workgroup recommended improving coordination between various federal, state and local agencies with any role in long-term care facilities oversight, especially ALFs. This includes AHCA, the Long Term Care Ombudsman Program, local fire authorities, local health departments, the Department of Children and Families, the Department of Elder Affairs, local law enforcement and the Attorney General's Office.[1]

Assisted Living Facility Negotiated Rulemaking Committee

In June, 2012, DOEA, in consultation with AHCA, DCF, and DOH, began conducting negotiated rulemaking meetings to address ALF regulation. The purpose of the meetings was to draft and amend mutually acceptable proposed rules addressing the safety and quality of services and care provided to residents within ALFs. Most of the issues addressed by the Committee were identified by Phase I of the workgroup as areas of concern that could be reformed via the rulemaking process. The Committee produced a Final Summary Report containing all the proposed rule changes agreed upon by the Committee. These proposed rule changes are currently in the final stages of the standard proposed rule changing process required by law.

[1] Florida Assisted Living Workgroup, Phase II Recommendations, November 26, 2012, available at http://www.ahca.myflorida.com/SCHSCommitteesCouncils/ALWG/index.shtm.

Assisted Living Facilities - General

An ALF is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.[2,3] A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.[4] Activities of daily living include: ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.[5]

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility.[6] The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on certain criteria.[7] If a resident no longer meets the criteria for continued residency, or the facility is unable to meet the resident's needs, as determined by the facility administrator or health care provider, the resident must be discharged in accordance with the Resident Bill of Rights.[8]

There are currently 3,036 licensed ALFs in Florida with 85,413 beds.[9] An ALF must have a standard license issued by AHCA, pursuant to part I of ch. 429, F.S., and part II of ch. 408, F.S.

Specialty Licensed Facilities

In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include: limited nursing services,[10] limited mental health services,[11] and extended congregate care services.[12]

Limited Mental Health License

A mental health resident is "an individual who receives social security disability income due to a mental disorder as determined by the Social Security Administration or receives supplemental security income due to a mental disorder as determined by the Social Security Administration and receives optional state supplementation."[13] A LMH license is required for any facility serving 3 or more mental health residents. [14] To obtain this license, the facility may not have any current uncorrected deficiencies or violations and facility administrator, as well as staff providing direct care to residents must complete 6 hours of training related to LMH duties, which is either provided by or approved by DCF.[15] A LMH license can be obtained during initial licensure, during relicensure, or upon request of the licensee.[16] There are 1,073 facilities with LMH licenses.[17]

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[2] Section 429.02(5), F.S.
[3] An ALF does not include an adult family-care home or a non-transient public lodging establishment.
[4] Section 429.02(16), F.S.
[5] Section 429.02(1), F.S.
[6] For specific minimum standards see Rule 58A-5.0182, F.A.C.
[7] S. 429.26, F.S., and Rule 58A-5.0181, F.A.C.
[8] S. 429.28, F.S.
[9] Agency for Health Care Administration, information provided to the Health Innovation Subcommittee February 4, 2013.
[10] S. 429.07(3)(c), F.S.
[11] S. 429.075, F.S.
[12] Section 429.07(3)(b), F.S.
[13] S. 429.02, F.S.
[14] S. 429.075, F.S.
[15] S. 429.075, F.S.
[16] S. 429.075, F.S.
[17] Agency for Health Care Administration, information provided to the Health Innovation Subcommittee February 4, 2013.

Extended Congregate Care License

The ECC specialty license allows an ALF to provide, directly or through contract, services performed by licensed nurses and supportive services to individuals who would otherwise be disqualified from continued residency in an ALF.[18] There are 279 facilities with ECC licenses.[19]

In order for ECC services to be provided, AHCA must first determine that all requirements in law and rule are met. ECC licensure is regulated pursuant to s. 429.07, F.S., and Rule 58A-5, F.A.C.

The primary purpose of ECC services is to allow residents, as their acuity level rises, to remain in a familiar setting. An ALF licensed to provide ECC services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the ECC facility. A licensed facility must adopt its own requirements within guidelines for continued residency set forth by rule. However, the facility may not serve residents who require 24-hour supervision.

Licensed ECC facilities may provide the following additional services:[20]

- Total help with bathing, dressing, grooming, and toileting;
- Nursing assessments conducted more frequently than monthly;
- Measuring and recording basic vital functions and weight;
- Dietary management, including providing special diets, monitoring nutrition, and observing the resident's food and fluid intake and output;
- Assisting with self-administered medications;
- Supervising residents with dementia and cognitive impairments;
- Health education, counseling, and implementing health-promoting programs;
- Rehabilitative services; and
- Escort services to health-related appointments.

Before being admitted to an ECC licensed facility to receive ECC services, the prospective resident must undergo a medical examination.[21] The ALF must develop a service plan that sets forth how the facility will meet the resident's needs and must maintain a written progress report on each resident who receives ECC services.

ALFs with an ECC license must meet the following staffing requirements:[22]

- Specify a staff member to serve as the ECC supervisor if the administrator does not perform this function;
- The administrator of an ECC licensed facility must have a minimum of 2 years of managerial, nursing, social work, therapeutic recreation, or counseling experience in a residential, long-term care, or acute care setting; and
- A baccalaureate degree may be substituted for one year of the required experience and a nursing home administrator licensed under chapter 468, F.S., shall be considered qualified.

An ECC administrator or supervisor, if different from the administrator, must complete the core training required of a standard licensed ALF administrator (26 hours plus a competency test), and 4 hours of initial training in ECC care within 3 months of beginning employment. The administrator must complete a minimum of 4 hours of continued education every 2 years. [23]

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[18] S. 429.07(3)(b), F.S.
[19] *See supra* at FN 17.
[20] Rule 58A-5.030(8)(b), F.A.C.
[21] Rule 58A-5.030(6), F.A.C.
[22] Rule 58A-5.030(4), F.A.C.
[23] Rule 58A-5.0191(7), F.A.C.

All staff providing direct ECC care to residents must complete at least 2 hours of initial service training, provided by the administrator, within 6 months of beginning employment.[24]

ALFs with a standard license must pay a biennial license fee of $300 per license, with an additional fee of $50 per resident. The total fee may not exceed $10,000. In addition to the total fee assessed for standard licensed ALFs, facilities providing ECC services must pay an additional fee of $400 per license, with an additional fee of $10 per resident.[25]

Limited Nursing Services License

Limited nursing services are services beyond those provided by standard licensed ALFs. A facility with a LNS specialty license may provide the following services:[26]

- Passive range of motion exercises;
- Ice caps or heat relief;
- Cutting toenails of diabetic residents;
- Ear and Eye irrigations;
- Urine dipstick tests;
- Replacement of urinary catheters;
- Digital stool removal therapies;
- Applying and changing routine dressings that do not require packing or irrigation;
- Care for stage 2 pressure sores;
- Caring for casts, braces and splints;
- Conducting nursing assessments;
- Caring for and monitoring the application of anti-embolism stockings or hosiery;
- Administration and regulation of portable oxygen;
- Applying, caring for and monitoring a transcutaneous electric nerve stimulator; and
- Catheter, colostomy, ileostomy care and maintenance.

A facility holding only a standard or LNS license must meet the admission and continued residency criteria contained in Rule 59A-5.0181, F.A.C.[27] The following admission and continued residency criteria for potential residents must be met:[28]

- Be at least 18 years of age;
- Be free from signs and symptoms of any communicable disease;
- Be able to perform the activities of daily living;
- Be able to transfer, with assistance if necessary;
- Be capable of taking their own medications with assistance from staff if necessary;
- Not be a danger to themselves or others;
- Not require licensed professional mental health treatment on a 24-hour a day basis;
- Not be bedridden;
- Not have any stage 3 or 4 pressure sores;
- Not require nursing services for oral or other suctioning, assistance with tube feeding, monitoring of blood gases, intermittent positive pressure breathing therapy, or treatment of surgical incisions or wounds;
- Not require 24-hour nursing supervision;
- Not require skilled rehabilitative services; and

[24] *Id.*
[25] S.429.07(4), F.S.
[26] Rule 58A-5.031(1), F.A.C.
[27] Rule 58A-5.031(2), F.A.C.
[28] Rule 58A-5.0181(1), F.A.C.

- Have been determined by the administrator to be appropriate for admission to the facility.

Facilities licensed to provide limited nursing services must employ or contract with a nurse to provide necessary services to facility residents.[29] Licensed LNS facilities must maintain written progress reports on each resident receiving LNS. A registered nurse representing AHCA must visit these facilities at least twice a year to monitor residents and determine compliance.[30] A nursing assessment must be conducted at least monthly on each resident receiving limited nursing services.[31]

Facilities licensed to provide LNS must pay the standard licensure fee of $300 per license, with an additional fee of $50 per resident and the total fee may not exceed $10,000. In addition the standard fee, in order to obtain the LNS specialty license facilities must pay an additional biennial fee of $250 per license, with an additional fee of $10 per bed.[32] There are 1,084 facilities with LNS licenses.[33]

Staff Training

Administrators and Managers

Administrators and other ALF staff must meet minimum training and education requirements established by the DOEA by rule.[34,35] This training and education is intended to assist facilities to appropriately respond to the needs of residents, maintain resident care and facility standards, and meet licensure requirements.[36]

The current ALF core training requirements established by the DOEA consist of a minimum of 26 hours of training and passing a competency test. Administrators and managers must successfully complete the core training requirements within 3 months after becoming a facility administrator or manager. The minimum passing score for the competency test is 75 percent.[37]

Administrators and managers must participate in 12 hours of continuing education in topics related to assisted living every 2 years. A newly hired administrator or manager, who has successfully completed the ALF core training and continuing education requirements, is not required to retake the core training. An administrator or manager, who has successfully completed the core training but has not maintained the continuing education requirements, must retake the ALF core training and retake the competency test.[38]

Staff with Direct Care Responsibilities

Facility administrators or managers are required to provide or arrange for 6 hours of in-service training for facility staff who provide direct care to residents. The training covers a variety of topics as provided by rule.[39] Staff training requirements must generally be met within 30 days after staff begin employment at the facility, however, staff must have at least 1 hour of infection control training before providing direct care to residents. Also, nurses, certified nursing assistants, and home health aides who are on staff with an ALF are exempt from many of the training requirements. In addition to the standard 6 hours of in-service training, staff must also complete 1 hour of elopement training and 1 hour of training

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[29] Rule 58A-5.031(2), F.A.C.
[30] S. 429.07(2)(c), F.S.
[31] *Id.*
[32] S. 429.07(4)(c), F.S.
[33] *See supra* at FN 17.
[34] Rule 58A-5.0191, F.A.C.
[35] Many of the training requirements in rule may be subject to change due to the recent DOEA negotiated rulemaking process.
[36] Section 429.52(1), F.S.
[37] Administrators who have attended core training prior to July 1, 1997, and managers who attended the core training program prior to April 20, 1998, are not required to take the competency test. Administrators licensed as nursing home administrators in accordance with Part II of Chapter 468, F.S., are exempt from this requirement.
[38] Rule 58A-5.0191, F.A.C.
[39] See note 26.

on do not resuscitate orders, and may have to complete training on special topics such as self-administration of medication and persons with Alzheimer's disease, if applicable.

ECC Specific Training

The administrator and ECC supervisor, if different from the administrator, must complete 4 hours of initial training in extended congregate care prior to the facility receiving its ECC license or within 3 months after beginning employment in the facility as an administrator or ECC supervisor. They must also complete a minimum of 4 hours of continuing education every 2 years in topics relating to the physical, psychological, or social needs of frail elderly and disabled persons, or persons with Alzheimer's disease or related disorders.[40]

All direct care staff providing care to residents in an ECC program must complete at least 2 hours of in-service training, provided by the facility administrator or ECC supervisor, within 6 months after beginning employment in the facility. The training must address ECC concepts and requirements, including the delivery of personal care and supportive services in an ECC facility.[41]

LMH Specific Training

Administrators, managers, and staff, who have direct contact with mental health residents in a licensed LMH facility must receive a minimum of 6 hours of specialized training in working with individuals with mental health diagnoses and a minimum of 3 hours of continuing education dealing with mental health diagnoses or mental health treatment every 2 years.[42]

Inspections and Surveys

AHCA is required to conduct a survey, investigation, or monitoring visit of an ALF:

- Prior to the issuance of a license.
- Prior to biennial renewal of a license.
- When there is a change of ownership.
- To monitor facilities licensed to provide LNS or ECC services, or facilities cited in the previous year for a class I or class II, or four or more uncorrected class III, violations.[43]
- Upon receipt of an oral or written complaint of practices that threaten the health, safety, or welfare of residents.
- If AHCA has reason to believe a facility is violating a provision of part III of ch. 429, F.S., relating to adult day care centers, or an administrative rule.
- To determine if cited deficiencies have been corrected.
- To determine if a facility is operating without a license.[44]

Abbreviated Surveys

An applicant for licensure renewal is eligible for an abbreviated biennial survey by AHCA if the applicant does not have any:

- Class I or class II violations or uncorrected class III violations.
- Confirmed long-term care ombudsman council complaints reported to AHCA by the council.
- Confirmed licensing complaints within the two licensing periods immediately preceding the current renewal date.[45]

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[40] Rule 58A-5.0191(7)(b), F.A.C.
[41] Rule 58A-5.0191(7)(c), F.A.C.
[42] S. 429.075, F.S. and Rule 58A-5.0191(8), F.A.C.
[43] *See below* information under subheading "Violations and Penalties" for a description of each class of violation.
[44] *See* s. 429.34, F.S., and Rule 58A-5.033, F.A.C.
[45] Rule 58A-5.033(2), F.A.C.

An abbreviated survey allows for a quicker and less intrusive survey by narrowing the range of items that AHCA must inspect.[46] AHCA is required to expand an abbreviated survey or conduct a full survey if violations which threaten or potentially threaten the health, safety, or security of residents are identified during an abbreviated survey.[47]

Monitoring Visits

Facilities with LNS or ECC licenses are subject to monitoring visits by AHCA in which the agency inspects the facility for compliance with the requirements of the specialty license type. An LNS licensee is subject to monitoring inspections at least twice a year. At least one registered nurse must be included in the inspection team to monitor residents receiving LNS and to determine if the facility is complying with applicable regulatory requirements.[48] An ECC licensee is subject to quarterly monitoring inspections. At least one registered nurse must be included in the inspection team. AHCA may waive one of the required yearly monitoring visits for an ECC facility that has been licensed for at least 24 months, if the registered nurse who participated in the monitoring inspections determines that the ECC services are being provided appropriately, and there are no serious violations or substantiated complaints about the quality of service or care.[49]

Violations and Penalties

Part II of ch. 408, F.S., provides general licensure standards for all facilities regulated by AHCA. Under s. 408.813, F.S., ALFs may be subject to administrative fines imposed by AHCA for certain types of violations. Violations are categorized into four classes according to the nature of the violation and the gravity of its probable effect on residents.

- Class I violations are those conditions that AHCA determines present an imminent danger to residents or a substantial probability of death or serious physical or emotional harm. Examples include resident death due to medical neglect, risk of resident death due to inability to exit in an emergency, and the suicide of a mental health resident in an ALF licensed for Limited Mental Health. AHCA must issue a fine between $5,000 and $10,000 for each violation.
- Class II violations are those conditions that AHCA determines directly threaten the physical or emotional health, safety, or security of the clients. Examples include having no qualified staff in the facility, the failure to call 911 in a timely manner for resident in a semi-comatose state, and rodents in food storage area. AHCA must issue a fine a between $1,000 and $5,000 for each violation.
- Class III violations are those conditions that AHCA determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients. Examples include missing or incomplete resident assessments, erroneous documentation of medication administration, and failure to correct unsatisfactory DOH food service inspection findings in a timely manner. AHCA must issue a fine between $500 and $1,000 for each violation, but no fine may be imposed if the facility corrects the violation.
- Class IV violations are those conditions that do not have the potential of negatively affecting clients. Examples include failure to file an adverse incident report, incorrect phone numbers posted for advocacy resources, and failure to post current menus. AHCA can only fine a facility (between $100 and $200 for each violation) if the problem is not corrected. [50,51]

[46] Rule 58A-5.033(2)(b)
[47] *Id.*
[48] S. 429.07(3)(c), F.S.
[49] S. 429.07(3)(b), F.S.
[50] When fixing the amount of the fine, the AHCA must consider the following factors: the gravity of the violation and the extent to which any laws or rules were violated, actions taken to correct the violations, any previous violations, the financial benefit of committing or continuing the violation, and the licensed capacity of the facility. Section 429.19(3), F.S.
[51] Section 429.19(2), F.S.

In addition to financial penalties, AHCA can take other actions against a facility. AHCA may deny, revoke, and suspend any license for any of the actions listed in s. 429.14(1)(a)-(k), F.S. AHCA is required to deny or revoke the license of an ALF that has two or more class I violations that are similar to violations identified during a survey, inspection, monitoring visit, or complaint investigation occurring within the previous 2 years.[52] AHCA may also impose an immediate moratorium or emergency suspension on any provider if it determines that any condition presents a threat to the health, safety, or welfare of a client.[53] AHCA is required to publicly post notification of a license suspension or revocation, or denial of a license renewal, at the facility.[54] Finally, Florida's Criminal Code, under ch. 825, F.S., provides criminal penalties for the abuse, neglect, and exploitation of elderly persons[55] and disabled adults.[56]

Central Abuse Hotline

The Department of Children and Families (DCF) is required under s. 415.103, F.S., to establish and maintain a central abuse hotline to receive reports, in writing or through a single statewide toll-free telephone number, of known or suspected abuse, neglect, or exploitation of a vulnerable adult[57] at any hour of the day or night, any day of the week.[58] Persons listed in s. 415.1034, F.S., who know, or have reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited are required to immediately report such knowledge or suspicion to the central abuse hotline.[59]

Long-Term Care Ombudsman Program

The Long-Term Care Ombudsman program within the Department of Elder Affairs (DOEA), must "identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities relating to actions or omissions by providers or representatives of providers of long-term care services, other public or private agencies, guardians, or representative payees that may adversely affect."[60] The program consists of a state and local council, both of which serve under the ombudsman,[61] an individual appointed by Secretary of DOEA to head the ombudsman program.[62] The complaints, as well as the identities of the complainants made to the Ombudsman councils are confidential, with few exceptions.[63] Upon admission to an ALF, residents must be provided a brochure with contact information of the local ombudsman council,[64] to enable the residents to report mistreatments within the ALF.

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[52] Section 429.14(4), F.S.
[53] Section 408.814, F.S.
[54] Section 429.14(7), F.S.
[55] "Elderly person" means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction, to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired. Section 825.101(5), F.S. It does not constitute a defense to a prosecution for any violation of this chapter that the accused did not know the age of the victim. Section 825.104, F.S.
[56] "Disabled adult" means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living. Section 825.101(4), F.S.
[57] "Vulnerable adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. Section 415.102(27), F.S.
[58] The central abuse hotline is operated by the DCF to: accept reports for investigation when there is a reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited; determine whether the allegations require an immediate, 24-hour, or next-working-day response priority; when appropriate, refer calls that do not allege the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might better resolve the reporter's concerns; immediately identify and locate prior reports of abuse, neglect, or exploitation through the central abuse hotline; Section 415.103(1), F.S.
[59] Section 415.1034, F.S.
[60] S. 400.0065, F.S.
[61] S. 400.0065, F.S.
[62] S. 400.0060, F.S.
[63] S. 400.0077, F.S.
[64] Rule 58A-5.0181, F.A.C.

AHCA Development/Updates

AHCA has taken steps to help provide more efficient and effective care to residents of ALFs. From July 1, 2011 through June 1, 2012, AHCA has:[65]

- Issued 595 final orders for ALFs;
- Issued 11 suspensions and moratoria;
- Issued 9 denials;
- Issued 11 revocations;
- Closed 38 facilities; and
- Imposed $1,513,046 in sanctions by final order.

AHCA has also initiated several proactive approaches, including:[66]

- Issuing monthly press releases regarding sanctions, closures, and other actions;
- Holding monthly interagency meetings with Agency partners;
- Establishing an ALF enforcement unit;
- Revising the ALF survey process to include resident interviews; and
- Providing statewide joint training for administrators, providers, and associations.

Effect of Proposed Changes

The bill amends s. 394.4574, F.S., to clarify that Medicaid prepaid behavioral health plans are responsible for enrolled state supported mental health residents and that managing entities under contract with the DCF are responsible for such residents who are not enrolled with a Medicaid prepaid behavioral health plan. This section requires a mental health resident's community living support plan be completed and provided to the administrator of the facility when the facility admits a mental health resident and be updated when there is a significant change to the resident's behavioral health status. The resident's case manager must keep a 2-year record of any face-to-face interaction with the resident. Finally, this section charges the entity responsible for a mental health resident to ensure that there is adequate and consistent monitoring of the community living support plan and to report any concerns about a regulated provider failing to provide services or otherwise acting in a manner with the potential to cause harm to the resident.

The bill amends s. 400.0078, F.S., to require that ALFs provide information to new residents upon admission to the facility that retaliatory action cannot be taken against a resident for presenting grievances or for exercising any other resident right.

The bill amends s. 429.07, F.S., to make changes to improve the regulation of facilities with ECC and LNS specialty licenses. These changes include:

- Requiring that an ALF be licensed for 2 or more years before being issued an ECC license that is not provisional.
- Creating a provisional ECC license for ALFs that have been licensed for less than 2 years.
- The provisional license lasts for a period of 6 months.
- The facility must inform AHCA when it has admitted one or more residents requiring ECC services.
- After the facility admits one or more ECC residents, AHCA must inspect the facility for compliance with the requirements of the ECC license.
- If the licensee demonstrates compliance with the requirements of an ECC license, AHCA must grant the facility an ECC license that is not provisional.

[65] Assisted Living Facility Workgroup Phase II, AHCA presentation, June 25, 2012, available at http://www.ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/index.shtm.
[66] *Id.*

- If the licensee fails to demonstrate compliance with the requirements of an ECC license, the licensee must immediately suspend ECC services and the provisional ECC license expires.
- Reducing monitoring visits for facilities with ECC licenses from quarterly to twice a year, and for facilities with LNS licenses from twice a year to once a year.
- Clarifying under what circumstances the AHCA may waive one of the required monitoring visits for facilities with ECC licenses and also allowing AHCA to waive the required monitoring visit for facilities with an LNS license under the same conditions.
- Clarifying under what circumstances AHCA may deny or revoke a facility's ECC license.

The bill amends s. 429.075, F.S., to require:

- Facilities with one or more mental health residents to obtain a LMH license.
- ALFs to provide written documentation that the facility requested an assessment of a mental health resident for appropriateness of placement, within 72 hours of the resident being admitted.

The bill amends s. 429.14, F.S., to:

- Allow AHCA to revoke, rather than just deny, a license for a facility with a controlling interest that has, or had, a 25 percent or greater financial or ownership interest in a second facility that closed due to financial inability to operate or was the subject of other specified administrative sanctions.
- Add additional criteria under which AHCA must deny or revoke a facility's license unless there are mitigating circumstances. The criteria include:
    - Applicant or licensee had a license that was revoked or denied by AHCA, DCF, DJJ, or APD.
    - There are 2 moratoria issued within a 2-year period.
    - The facility is cited for 2 or more class I violations arising from unrelated circumstances during the same investigation.
    - The facility is cited for 2 or more class I violations within 2 years.
- Require AHCA to impose an immediate moratorium on a facility that fails to provide AHCA with access to the facility, prohibits a regulatory inspection, denies access to records, or prohibits the confidential interview of facility staff or residents.
- Exempt a facility from the 45-day notice requirement in s. 429.28(k), F.S., if that facility is required to relocate all or some of its residents due to action by AHCA.

The bill amends s. 429.19, F.S., relating to the impositions of fines in order to reduce the discretion of AHCA and to make such penalties more predictable. Specifically, the bill would:

- Amend the dollar amount for fines at $7,500 for class I violations, $3,000 for class II violations, $750 for class III violations, and $150 for class IV violations for facilities licensed for few than 100 beds at the time of the violation. This is the midpoint of the current ranges for fines in current law.
- Multiply fine amounts by 1.5 times for facilities licensed for 100 or more beds, so that the fine is $11,250 for class I violations, $4,500 for class II violations, $1,125 for class IV violations, and $225 for class IV violations.
- Allow the AHCA to impose a fine on a facility for a class I violation, even if the facility corrects the violation before the AHCA conducts an investigation. Facilities can still challenge such fines through an administrative hearing pursuant to ch. 120, F.S.
- Double the fines for facilities with repeat class I and class II violations.
- Impose a fine on facilities with repeat class III and class IV violations, regardless of correction. Current law prohibiting the AHCA from assessing fines for corrected class III and IV violations continues for the first survey finding such violations.

- Double the fines for class III or class IV violations if a facility is cited for two or more such violations, stemming from the same regulation, during the AHCA's last two licensure inspections.
- Fine a facility $500 for failure to comply with background screening requirements. This fine will take the place of fines based on the class of the violation.

The bill amends s. 429.41 to clarify that an abbreviated biennial inspection may not be used for a facility that has confirmed ombudsman or licensure complaints, if those complaints resulted in a citation for licensure violation.

The bill amends s. 429.52, F.S., to:

- Require ALFs to provide a 2 hour pre-service orientation for new facility employees who have not previously completed core training. The pre-service orientation must cover topics that help the employee provide responsible care and respond to the needs of the residents. The employee and the facility's administrator must sign an affidavit that the employee completed the orientation and the facility must keep the affidavit in the employee's work file.
- Require AHCA in conjunction with DOEA to establish a database for the collection of documentation relating to the training and competency testing of employees and administrators.

The bill amends s. 429.54, F.S., to require AHCA, DOEA, DCF, and APD to develop or modify electronic systems of communication among state-supported automated systems to ensure that important information is being shared and coordinated timely and effectively to facilitate the protection of residents.

The bill creates s. 429.55, F.S., to require AHCA to conduct a study of inter-surveyor reliability to determine if different surveyors consistently apply licensure standards. AHCA must report its findings and make recommendations to the Governor, the President of the Senate, and the Speaker of the House by November 1, 2013.

The bill creates s. 429.56, F.S., to:

- Require AHCA to propose a rating system for ALFs to assist consumers in selecting the best facility for themselves. AHCA must submit the proposal to the Governor, the President of the Senate, and the Speaker of the House by November 1, 2013.
- Require AHCA to create a webpage, that is easily accessible through the front page of the AHCA website, which contains information on each licensed ALF, including, but not limited to: types of licenses held and its history of violations.
    - The name and address of the facility.
    - The types of licenses held by the facility.
    - The facility's license expiration date and status.
    - Any other relevant information that AHCA currently collects.
    - A list of the facility's violations, including, a summary of the violation, any sanctions imposed by final order, and the date of the correction.
    - Links to inspection reports on file with AHCA.

Finally, the bill provides an appropriation for two full-time equivalent positions, with associated salary rate, in order to address the increased workload associated with additional appeals and litigation related to the regulatory changes included in the legislation. Additionally, the bill provides nonrecurring budget authority for the cost of the data systems required in the legislation.

B. SECTION DIRECTORY:

Section 1: Amends s. 394.4574, F.S., relating to responsibilities for coordination of services for a mental health resident who resides in an assisted living facility that holds a limited mental health license.
Section 2: Amends s. 400.0078, F.S., relating to citizen access to State Long-Term Care Ombudsman Program services.
Section 3: Amends s. 429.07, F.S., relating to license required; fee.
Section 4: Amends s. 429.075, F.S., relating to limited mental health licenses.
Section 5: Amends s. 429.14, F.S., relating to administrative penalties.
Section 6: Amends s. 429.19, F.S., relating to violations; imposition of administrative fines; grounds.
Section 7: Amends s. 429.41, F.S., relating to rules establishing standards.
Section 8: Amends s. 429.52, F.S., relating to staff training and educational programs; and core educational requirements.
Section 9: Amends s. 429.54, F.S., relating to collection of information; local subsidy.
Section 10: Creates s. 429.55, F.S., relating to inter-surveyor reliability.
Section 11: Creates s. 429.56, F.S., relating to consumer information.
Section 12: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill amends the administrative penalties and fines for all classes of violations. AHCA estimates there will be minimal fiscal increase from the fines on facilities with less than 100 beds. Facilities that exceed 100 beds will have their fine amounts increased over the current maximum fees for certain violations. Over a six year period, beginning in Fiscal Year 2006-07, in excess of $5.4 million in fines and penalties have been imposed on ALFs, with over $1.6 million imposed in FY 2011-12. Fine revenues of $398,070 are expected and will provide sufficient revenues to pay for the expenses of the proposed legislation.[67]

2. Expenditures:

AHCA estimates an increase in the number of legal cases that will be generated as a result of the increased administrative penalties and fines. AHCA anticipates that an additional 143 legal cases will be created and will need two full-time equivalent Senior Attorney positions to process the additional cases. The total fiscal impact is $159,308 for Year 1 and $151,322 for each recurring year. AHCA estimates that the additional fines collected will exceed the cost of the two full-time equivalent positions.

Additionally, AHCA has indicated that they will experience nonrecurring costs associated with creating the ALF administrator and employee training database and with creating the website containing information about ALFs for the public. AHCA estimates a Year 1 cost of $200,080 ($100,040 for each system). AHCA estimates that the additional fines collected will exceed the cost of the data systems.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

[67] Agency for Health Care Administration, Bill Analysis & Economic Impact Statement for HB 1319, April 5, 2013.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill revises fines used to sanction facilities with violations, but such fines can still be challenged and settled through ch. 120, F.S. Facilities with fewer than 100 beds with class I violations will now be assessed a fine of $7,500 (current law allows the fine to be between $5,000 and $10,000). Some facilities will see a reduction in their fine, while other will see an increase. The range for fines for class II, III, and IV violations are replaced with an amount equal to the midpoint of the range. Fines for facilities with 100 beds or more will see higher fines.

Facilities would also be assessed a fine for class I violations even if they are corrected when the AHCA visits the facility. Facilities violating the background screening requirements would be levied a fine of $500. Currently, facilities are cited for a class II or III violation for not screening the background of facility staff so the fine amount can vary. All fines are subject to challenge through an administrative hearing under ch. 120, F.S.

Facilities would be required to provide new employees that have not already gone through the ALF core training program with a 2 hour pre-service training session before they work with residents. The cost of this training is not expected to be significant and in many cases is already provided.

Facilities with specialty licenses that meet licensure standards would see fewer monitoring visits from the AHCA. This will positively impact the facilities as they will have less interruption of staff time due to such visits.

Facilities with any state supported mentally ill residents would have to meet limited mental health licensure requirements with one or more mental health residents. Facilities with one or two state supported mentally ill residents that do not meet these requirements may see increased costs to comply. Some facilities with one or two such residents however, may already meet the requirements for a limited mental health license.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

No additional rule-making authority is necessary to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to assisted living facilities; amending s. 394.4574, F.S.; providing that Medicaid prepaid behavioral health plans are responsible for enrolled mental health residents; providing that managing entities under contract with the Department of Children and Families are responsible for mental health residents who are not enrolled with a Medicaid prepaid behavioral health plan; providing responsibilities for Medicaid prepaid behavioral health plans and managing entities; deleting provisions relating to coordination of health care services with an assisted living facility under certain circumstances and notice of procedures relating to resident emergent conditions; requiring that the community living support plan be completed and provided to the administrator of a facility upon admission of a mental health resident; requiring the community living support plan to be updated under certain conditions relating to a resident's behavioral health status; requiring the case manager assigned to a mental health resident of an assisted living facility that holds a limited mental health license to keep specified records regarding interactions with the resident and provide those records to the responsible entity and maintain the records for a specified time; requiring the monitoring and enforcement of community living support plans and cooperative agreements by the

case manager; amending s. 400.0078, F.S.; requiring that, upon admission to a long-term care facility, a resident or the representative of a resident be informed that retaliatory action cannot be taken against a resident for presenting grievances or for exercising any other resident right; amending s. 429.07, F.S.; requiring an extended congregate care license to be issued to certain facilities that have been licensed as assisted living facilities under certain circumstances; providing the purpose of an extended congregate care license; providing that the initial extended congregate care license of an assisted living facility is provisional under certain circumstances; requiring the licensee to notify the Agency for Health Care Administration whenever it accepts a resident who qualifies for extended congregate care services; revising the frequency of and conditions for monitoring visits to facilities providing extended congregate care or limited nursing services to residents; authorizing the agency to deny or revoke a facility's extended congregate care license under certain circumstances; providing that the agency's monitoring visits may be in conjunction with other agency inspections; amending s. 429.075, F.S.; requiring an assisted living facility that serves one or more mental health residents to obtain a limited mental health license; revising the methods employed by a limited mental health facility relating

to placement requirements to include providing the Department of Children and Families that a request for documentation was sent within a specified period of time after admission; amending s. 429.14, F.S.; revising the actions under which the agency may deny, revoke, or suspend the license of an assisted living facility or impose an administrative fine; revising the criteria upon which the agency must deny or revoke the license of an assisted living facility; providing that the licensee may present certain factors in mitigation of the revocation of a license; requiring the agency to impose an immediate moratorium on the license of an assisted living facility under certain circumstances; deleting a requirement that the agency to provide a list of facilities with denied, suspended, or revoked licenses to the Department of Business and Professional Regulation; exempting a facility from the 45-day notice requirement if the agency requires the facility to relocate residents under certain circumstances; amending s. 429.19, F.S.; revising provisions relating to the determination of and the amounts and uses of administrative fines; amending s. 429.41, F.S.; revising provisions relating to agency inspections of a facility that has been cited for certain licensure violations; amending s. 429.52, F.S.; requiring new employees of assisted living facilities to attend an orientation; requiring verification of completion of the orientation by the

employee and requiring this information to be maintained by the assisted living facility; conforming a cross-reference; requiring the agency in conjunction with the Department of Elder Affairs to establish a database for the collection of employee and administrator training documentation; amending s. 429.54, F.S.; requiring the development of electronic systems of communication among all agencies involved in the regulation of assisted living facilities; creating s. 429.55, F.S.; requiring the agency to submit a report to the Governor and the Legislature; creating s. 429.56, F.S.; requiring the agency to propose a rating system of assisted living facilities for consumers; providing criteria for the content and a timetable for the implementation of the rating system; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 394.4574, Florida Statutes, is amended to read:

394.4574 ~~Department~~ Responsibilities for coordination of services for a mental health resident who resides in an assisted living facility that holds a limited mental health license.—

(1) As used in this section, the term "mental health resident~~,~~" ~~for purposes of this section,~~ means an individual who receives social security disability income due to a mental disorder as determined by the Social Security Administration or

receives supplemental security income due to a mental disorder as determined by the Social Security Administration and receives optional state supplementation.

(2) Medicaid prepaid behavioral health plans are responsible for enrolled mental health residents, and managing entities under contract with the department are responsible for mental health residents who are not enrolled with a Medicaid prepaid behavioral health plan. Each responsible entity shall ~~The department must~~ ensure that:

(a) A mental health resident has been assessed by a psychiatrist, clinical psychologist, clinical social worker, or psychiatric nurse, or an individual who is supervised by one of these professionals, and determined to be appropriate to reside in an assisted living facility. The documentation must be provided to the administrator of the facility within 30 days after the mental health resident has been admitted to the facility. An evaluation completed upon discharge from a state mental hospital meets the requirements of this subsection related to appropriateness for placement as a mental health resident if it was completed within 90 days before ~~prior to~~ admission to the facility.

(b) A cooperative agreement, as required in s. 429.075, is developed between the mental health care services provider that serves a mental health resident and the administrator of the assisted living facility with a limited mental health license in which the mental health resident is living. ~~Any entity that provides Medicaid prepaid health plan services shall ensure the appropriate coordination of health care services with an~~

~~assisted living facility in cases where a Medicaid recipient is both a member of the entity's prepaid health plan and a resident of the assisted living facility. If the entity is at risk for Medicaid targeted case management and behavioral health services, the entity shall inform the assisted living facility of the procedures to follow should an emergent condition arise.~~

(c) The community living support plan, as defined in s. 429.02, has been prepared by a mental health resident and a mental health case manager of that resident in consultation with the administrator of the facility or the administrator's designee. The plan must be completed and provided to the administrator of the assisted living facility with a limited mental health license in which the mental health resident lives upon the resident's admission. The support plan and the agreement may be in one document.

(d) The assisted living facility with a limited mental health license is provided with documentation that the individual meets the definition of a mental health resident.

(e) The mental health services provider assigns a case manager to each mental health resident for whom the entity is responsible ~~who lives in an assisted living facility with a limited mental health license~~. The case manager is responsible for coordinating the development of and implementation of the community living support plan defined in s. 429.02. The plan must be updated at least annually or when there is a significant change to the resident's behavioral health status, such as an inpatient admission, medications, level of service, or residence. Each case manager shall keep a record of the date and

time of any face-to-face interaction with the resident and make the record available to the responsible entity for inspection. The record must be retained for at least 2 years after the date of the most recent interaction.

(f) Adequate and consistent monitoring and enforcement of community living support plans and cooperative agreements are conducted by the resident's case manager.

(g) Concerns are reported to the appropriate regulatory oversight organization if a regulated provider fails to deliver appropriate services or otherwise acts in a manner that has the potential to result in harm to the resident.

(3) The Secretary of Children and Families ~~Family Services~~, in consultation with the Agency for Health Care Administration, shall ~~annually~~ require each district administrator to develop, with community input, a detailed annual plan that demonstrates ~~detailed plans that demonstrate~~ how the district will ensure the provision of state-funded mental health and substance abuse treatment services to residents of assisted living facilities that hold a limited mental health license. These plans must be consistent with the substance abuse and mental health district plan developed pursuant to s. 394.75 and must address case management services; access to consumer-operated drop-in centers; access to services during evenings, weekends, and holidays; supervision of the clinical needs of the residents; and access to emergency psychiatric care.

Section 2. Subsection (2) of section 400.0078, Florida Statutes, is amended to read:

400.0078 Citizen access to State Long-Term Care Ombudsman Program services.—

(2) ~~Every resident or representative of a resident shall receive,~~ Upon admission to a long-term care facility, each resident or representative of a resident must receive information regarding the purpose of the State Long-Term Care Ombudsman Program, the statewide toll-free telephone number for receiving complaints, information that retaliatory action cannot be taken against a resident for presenting grievances or for exercising any other resident right, and other relevant information regarding how to contact the program. Residents or their representatives must be furnished additional copies of this information upon request.

Section 3. Paragraphs (b) and (c) of subsection (3) of section 429.07, Florida Statutes, are amended to read:

429.07 License required; fee.—

(3) In addition to the requirements of s. 408.806, each license granted by the agency must state the type of care for which the license is granted. Licenses shall be issued for one or more of the following categories of care: standard, extended congregate care, limited nursing services, or limited mental health.

(b) An extended congregate care license shall be issued to facilities that have been licensed as assisted living facilities for 2 years or more and that provide ~~providing~~, directly or through contract, services beyond those authorized in paragraph (a), including services performed by persons licensed under part I of chapter 464 and supportive services, as defined by rule, to

persons who would otherwise be disqualified from continued residence in a facility licensed under this part. An extended congregate care license may also be issued to those facilities that have provisional extended congregate care licenses and meet the requirements for licensure under subparagraph 2. The primary purpose of extended congregate care services is to allow residents, as they become more impaired, the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency. A facility licensed to provide extended congregate care services may also admit an individual who exceeds the admission criteria for a facility with a standard license if the individual is determined appropriate for admission to the facility.

1. In order for extended congregate care services to be provided, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided and whether the designation applies to all or part of the facility. Such designation may be made at the time of initial licensure or relicensure, or upon request in writing by a licensee under this part and part II of chapter 408. The notification of approval or the denial of the request shall be made in accordance with part II of chapter 408. Existing facilities qualifying to provide extended congregate care services must have maintained a standard license and may not have been subject to administrative sanctions during the previous 2 years, or since initial licensure if the facility has been licensed for less than 2 years, for any of the following

reasons:

a. A class I or class II violation;

b. Three or more repeat or recurring class III violations of identical or similar resident care standards from which a pattern of noncompliance is found by the agency;

c. Three or more class III violations that were not corrected in accordance with the corrective action plan approved by the agency;

d. Violation of resident care standards which results in requiring the facility to employ the services of a consultant pharmacist or consultant dietitian;

e. Denial, suspension, or revocation of a license for another facility licensed under this part in which the applicant for an extended congregate care license has at least 25 percent ownership interest; or

f. Imposition of a moratorium pursuant to this part or part II of chapter 408 or initiation of injunctive proceedings.

2. If an assisted living facility has been licensed for less than 2 years but meets all other licensure requirements for an extended congregate care license, the facility shall be issued a provisional extended congregate care license for 6 months. Within the first 3 months after the provisional license is issued, the licensee shall notify the agency when the facility has admitted an extended congregate care resident, after which an unannounced inspection shall be made to determine compliance with requirements of an extended congregate care license. If the licensee demonstrates compliance with all of the requirements of an extended congregate care license during the

inspection, the licensee shall be issued an extended congregate care license. In addition to sanctions authorized under this part, if violations are found during the inspection and the licensee fails to demonstrate compliance with all assisted living requirements during a followup inspection, the licensee shall immediately suspend extended congregate care services and the provisional extended congregate care license expires.

3.~~2.~~ A facility that is licensed to provide extended congregate care services shall maintain a written progress report on each person who receives services which describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse, or appropriate designee, representing the agency shall visit the facility at least twice a year ~~quarterly~~ to monitor residents who are receiving extended congregate care services and to determine if the facility is in compliance with this part, part II of chapter 408, and relevant rules. One of the visits may be in conjunction with the regular survey. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall serve as part of the team that inspects the facility. The agency may waive one of the required yearly monitoring visits for a facility ~~that has been licensed for at least 24 months to provide extended congregate care services, if, during the inspection, the registered nurse determines that extended congregate care services are being provided appropriately, and~~ if the facility has held an extended congregate care license during the last 24 months, has had no

class I or class II violations, has had ~~and~~ no uncorrected class III violations, and has had no confirmed ombudsman council complaints that resulted in a citation for licensure. ~~The agency must first consult with the long-term care ombudsman council for the area in which the facility is located to determine if any complaints have been made and substantiated about the quality of services or care. The agency may not waive one of the required yearly monitoring visits if complaints have been made and substantiated.~~

4.~~3.~~ A facility that is licensed to provide extended congregate care services must:

a. Demonstrate the capability to meet unanticipated resident service needs.

b. Offer a physical environment that promotes a homelike setting, provides for resident privacy, promotes resident independence, and allows sufficient congregate space as defined by rule.

c. Have sufficient staff available, taking into account the physical plant and firesafety features of the building, to assist with the evacuation of residents in an emergency.

d. Adopt and follow policies and procedures that maximize resident independence, dignity, choice, and decisionmaking to permit residents to age in place, so that moves due to changes in functional status are minimized or avoided.

e. Allow residents or, if applicable, a resident's representative, designee, surrogate, guardian, or attorney in fact to make a variety of personal choices, participate in developing service plans, and share responsibility in

decisionmaking.

f. Implement the concept of managed risk.

g. Provide, directly or through contract, the services of a person licensed under part I of chapter 464.

h. In addition to the training mandated in s. 429.52, provide specialized training as defined by rule for facility staff.

5.~~4.~~ A facility that is licensed to provide extended congregate care services is exempt from the criteria for continued residency set forth in rules adopted under s. 429.41. A licensed facility must adopt its own requirements within guidelines for continued residency set forth by rule. However, the facility may not serve residents who require 24-hour nursing supervision. A licensed facility that provides extended congregate care services must also provide each resident with a written copy of facility policies governing admission and retention.

~~5. The primary purpose of extended congregate care services is to allow residents, as they become more impaired, the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency. A facility licensed to provide extended congregate care services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the extended congregate care facility.~~

6. Before the admission of an individual to a facility licensed to provide extended congregate care services, the

individual must undergo a medical examination as provided in s. 429.26(4) and the facility must develop a preliminary service plan for the individual.

7. If ~~When~~ a facility can no longer provide or arrange for services in accordance with the resident's service plan and needs and the facility's policy, the facility must ~~shall~~ make arrangements for relocating the person in accordance with s. 429.28(1)(k).

~~8. Failure to provide extended congregate care services may result in denial of extended congregate care license renewal.~~

The agency may deny or revoke a facility's extended congregate care license for not meeting the standards of an extended congregate care license or for any of the grounds listed in this paragraph.

(c) A limited nursing services license shall be issued to a facility that provides services beyond those authorized in paragraph (a) and as specified in this paragraph.

1. In order for limited nursing services to be provided in a facility licensed under this part, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided. Such designation may be made at the time of initial licensure or licensure renewal ~~relicensure~~, or upon request in writing by a licensee under this part and part II of chapter 408. Notification of approval or denial of such request shall be made in accordance with part II

of chapter 408. An existing facility that qualifies ~~facilities qualifying~~ to provide limited nursing services must ~~shall~~ have maintained a standard license and may not have been subject to administrative sanctions that affect the health, safety, and welfare of residents for the previous 2 years or since initial licensure if the facility has been licensed for less than 2 years.

2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide limited nursing services shall maintain a written progress report on each person who receives such nursing services. The~~,~~ ~~which~~ report must describe ~~describes~~ the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse representing the agency shall visit the facility ~~such facilities~~ at least annually ~~twice a year~~ to monitor residents who are receiving limited nursing services and to determine if the facility is in compliance with applicable provisions of this part, part II of chapter 408, and related rules. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall also serve as part of the team that inspects such facility. Visits may be in conjunction with other agency inspections. The agency may waive one of the required yearly monitoring visits for a facility that has:

a. A limited nursing services license for at least 24 months;

b. No class I or class II violations and no uncorrected class III violations; and

c. No confirmed ombudsman council complaints that resulted in a citation for licensure.

3. A person who receives limited nursing services under this part must meet the admission criteria established by the agency for assisted living facilities. When a resident no longer meets the admission criteria for a facility licensed under this part, arrangements for relocating the person shall be made in accordance with s. 429.28(1)(k), unless the facility is licensed to provide extended congregate care services.

Section 4. Section 429.075, Florida Statutes, is amended to read:

429.075 Limited mental health license.—An assisted living facility that serves one ~~three~~ or more mental health residents must obtain a limited mental health license.

(1) To obtain a limited mental health license, a facility must hold a standard license as an assisted living facility, must not have any current uncorrected ~~deficiencies or~~ violations, and must ensure that, within 6 months after receiving a limited mental health license, the facility administrator and the staff of the facility who are in direct contact with mental health residents must complete training of no less than 6 hours related to their duties. Such designation may be made at the time of initial licensure or relicensure or upon request in writing by a licensee under this part and part II of chapter 408. Notification of approval or denial of such request shall be made in accordance with this part, part II of chapter 408, and applicable rules. This training must ~~will~~ be provided by or approved by the Department of Children and

Families ~~Family Services~~.

(2) A facility that is ~~Facilities~~ licensed to provide services to mental health residents must ~~shall~~ provide appropriate supervision and staffing to provide for the health, safety, and welfare of such residents.

(3) A facility that has a limited mental health license must:

(a) Have a copy of each mental health resident's community living support plan and the cooperative agreement with the mental health care services provider. The support plan and the agreement may be combined.

(b) Have documentation that is provided by the Department of Children and Families ~~Family Services~~ that each mental health resident has been assessed and determined to be able to live in the community in an assisted living facility that has ~~with~~ a limited mental health license or provide written evidence that a request for documentation was sent to the Department of Children and Families within 72 hours of admission.

(c) Make the community living support plan available for inspection by the resident, the resident's legal guardian, the resident's health care surrogate, and other individuals who have a lawful basis for reviewing this document.

(d) Assist the mental health resident in carrying out the activities identified in the individual's community living support plan.

(4) A facility that has ~~with~~ a limited mental health license may enter into a cooperative agreement with a private mental health provider. For purposes of the limited mental

health license, the private mental health provider may act as the case manager.

Section 5. Section 429.14, Florida Statutes, is amended to read:

429.14 Administrative penalties.—

(1) In addition to the requirements of part II of chapter 408, the agency may deny, revoke, and suspend any license issued under this part and impose an administrative fine in the manner provided in chapter 120 against a licensee for a violation of any provision of this part, part II of chapter 408, or applicable rules, or for any of the following actions by a licensee, for the actions of any person subject to level 2 background screening under s. 408.809, or for the actions of any facility staff ~~employee~~:

(a) An intentional or negligent act seriously affecting the health, safety, or welfare of a resident of the facility.

(b) A ~~The~~ determination by the agency that the owner lacks the financial ability to provide continuing adequate care to residents.

(c) Misappropriation or conversion of the property of a resident of the facility.

(d) Failure to follow the criteria and procedures provided under part I of chapter 394 relating to the transportation, voluntary admission, and involuntary examination of a facility resident.

(e) A citation of any of the following violations ~~deficiencies~~ as specified in s. 429.19:

1. One or more cited class I violations ~~deficiencies~~.

2. Three or more cited class II violations ~~deficiencies~~.

3. Five or more cited class III violations ~~deficiencies~~ that have been cited on a single survey and have not been corrected within the times specified.

(f) Failure to comply with the background screening standards of this part, s. 408.809(1), or chapter 435.

(g) Violation of a moratorium.

(h) Failure of the license applicant, the licensee during relicensure, or a licensee that holds a provisional license to meet the minimum license requirements of this part, or related rules, at the time of license application or renewal.

(i) An intentional or negligent life-threatening act in violation of the uniform firesafety standards for assisted living facilities or other firesafety standards which ~~that~~ threatens the health, safety, or welfare of a resident of a facility, as communicated to the agency by the local authority having jurisdiction or the State Fire Marshal.

(j) Knowingly operating any unlicensed facility or providing without a license any service that must be licensed under this chapter or chapter 400.

(k) Any act constituting a ground upon which application for a license may be denied.

(2) Upon notification by the local authority having jurisdiction or by the State Fire Marshal, the agency may deny or revoke the license of an assisted living facility that fails to correct cited fire code violations that affect or threaten the health, safety, or welfare of a resident of a facility.

(3) The agency may deny or revoke a license of an ~~to any~~

applicant or controlling interest as defined in part II of chapter 408 which has or had a 25-percent or greater financial or ownership interest in any other facility that is licensed under this part, or in any entity licensed by this state or another state to provide health or residential care, if that ~~which~~ facility or entity during the 5 years prior to the application for a license closed due to financial inability to operate; had a receiver appointed or a license denied, suspended, or revoked; was subject to a moratorium; or had an injunctive proceeding initiated against it.

(4) The agency shall deny or revoke the license of an assisted living facility if:

(a) The applicant or licensee had a license that was revoked by the agency, the Department of Children and Families, the Department of Juvenile Justice, or the Agency for Persons with Disabilities;

(b) There are two moratoria, issued pursuant to this part or part II of chapter 408, within a 2-year period which are imposed by final order;

(c) The facility is cited for two or more class I violations arising from unrelated circumstances during the same survey or investigation; or

(d) The facility is cited for two or more class I violations arising from separate surveys or investigations within a 2-year period ~~that has two or more class I violations that are similar or identical to violations identified by the agency during a survey, inspection, monitoring visit, or complaint investigation occurring within the previous 2 years~~.

The licensee may present factors in mitigation of revocation, and the agency may make a determination not to revoke a license based upon a showing that revocation is inappropriate under the circumstances.

(5) An action taken by the agency to suspend, deny, or revoke a facility's license under this part or part II of chapter 408, in which the agency claims that the facility owner or an employee of the facility has threatened the health, safety, or welfare of a resident of the facility must be heard by the Division of Administrative Hearings of the Department of Management Services within 120 days after receipt of the facility's request for a hearing, unless that time limitation is waived by both parties. The administrative law judge shall ~~must~~ render a decision within 30 days after receipt of a proposed recommended order.

(6) The agency shall impose an immediate moratorium, as provided under s. 408.814, on an assisted living facility that fails to provide the agency access to the facility or prohibits the agency from conducting a regulatory inspection. The licensee may not restrict agency staff in accessing and copying records or in conducting interviews with facility staff or any individual who receives services from the facility ~~provide to the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, on a monthly basis, a list of those assisted living facilities that have had their licenses denied, suspended, or revoked or that are involved in an appellate proceeding pursuant to s. 120.60 related to the denial, suspension, or revocation of a license~~.

(7) Agency notification of a license suspension or revocation, or denial of a license renewal, shall be posted and visible to the public at the facility.

(8) If a facility is required to relocate some or all of its residents due to agency action, that facility is exempt from the 45 days' notice requirement in s. 429.28(1)(k). This provision does not exempt the facility from any deadlines for corrective action set by the agency.

Section 6. Section 429.19, Florida Statutes, is amended to read:

429.19 Violations; imposition of administrative fines; grounds.—

(1) In addition to the requirements of part II of chapter 408, the agency shall impose an administrative fine in the manner provided in chapter 120 for the violation of any provision of this part, part II of chapter 408, and applicable rules by an assisted living facility, for the actions of any person subject to level 2 background screening under s. 408.809, for the actions of any facility employee, or for an intentional or negligent act seriously affecting the health, safety, or welfare of a resident of the facility.

(2) Each violation of this part and adopted rules must ~~shall~~ be classified according to the nature of the violation and the gravity of its probable effect on facility residents. The agency shall indicate the classification on the written notice of the violation as follows:

(a) Class "I" violations are defined in s. 408.813. The agency shall impose an administrative fine of $7,500 for each ~~a~~

cited class I violation in a facility that is licensed for fewer than 100 beds at the time of the violation ~~in an amount not less than $5,000 and not exceeding $10,000 for each violation~~. The agency shall impose an administrative fine of $11,250 for each cited class I violation in a facility that is licensed for 100 or more beds at the time of the violation. If the noncompliance occurs within the prior 12 months, the fine must be levied for violations that are corrected before an inspection.

(b) Class "II" violations are defined in s. 408.813. The agency shall impose an administrative fine of $3,000 for each ~~a~~ cited class II violation in a facility that is licensed for fewer than 100 beds at the time of the violation ~~in an amount not less than $1,000 and not exceeding $5,000 for each violation~~. The agency shall impose an administrative fine of $4,500 for each cited class II violation in a facility that is licensed for 100 or more beds at the time of the violation.

(c) Class "III" violations are defined in s. 408.813. The agency shall impose an administrative fine of $750 for each ~~a~~ cited class III violation in a facility that is licensed for fewer than 100 beds at the time of the violation ~~in an amount not less than $500 and not exceeding $1,000 for each violation~~. The agency shall impose an administrative fine of $1,125 for each cited class III violation in a facility that is licensed for 100 or more beds at the time of the violation.

(d) Class "IV" violations are defined in s. 408.813. The agency shall impose an administrative fine of $150 for each ~~a~~ cited class IV violation in a facility that is licensed for fewer than 100 beds at the time of the violation ~~in an amount~~

~~not less than $100 and not exceeding $200 for each violation~~. The agency shall impose an administrative fine of $225 for each cited class IV violation in a facility that is licensed for 100 or more beds at the time of the violation.

(e) Any fine imposed for a class I or class II violation must be doubled if a facility was previously cited for one or more class I or class II violations during the agency's last licensure inspection or any inspection or complaint investigation since the last licensure inspection.

(f) Notwithstanding s. 408.813(2)(c) and (d) and s. 408.832, a fine must be imposed for each class III or class IV violation, regardless of correction, if a facility was previously cited for one or more class III or class IV violations during the agency's last licensure inspection or any inspection or complaint investigation since the last licensure inspection for the same regulatory violation. A fine imposed for a class III or class IV violation must be doubled if a facility was previously cited for one or more class III or class IV violations during the agency's last two licensure inspections for the same regulatory violation.

(g) Regardless of the class of violation cited, instead of the fine amounts listed in paragraphs (a)-(d), the agency shall impose an administrative fine of $500 if a facility is found not to be in compliance with the background screening requirements as provided in s. 408.809.

~~(3) For purposes of this section, in determining if a penalty is to be imposed and in fixing the amount of the fine, the agency shall consider the following factors:~~

~~(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to a resident will result or has resulted, the severity of the action or potential harm, and the extent to which the provisions of the applicable laws or rules were violated.~~

~~(b) Actions taken by the owner or administrator to correct violations.~~

~~(c) Any previous violations.~~

~~(d) The financial benefit to the facility of committing or continuing the violation.~~

~~(e) The licensed capacity of the facility.~~

(3) ~~(4)~~ Each day of continuing violation after the date established by the agency ~~fixed~~ for correction ~~termination~~ of the violation~~, as ordered by the agency,~~ constitutes an additional, separate, and distinct violation.

(4) ~~(5)~~ An ~~Any~~ action taken to correct a violation shall be documented in writing by the owner or administrator of the facility and verified through followup visits by agency personnel. The agency may impose a fine and, in the case of an owner-operated facility, revoke or deny a facility's license when a facility administrator fraudulently misrepresents action taken to correct a violation.

(5) ~~(6)~~ A ~~Any~~ facility whose owner fails to apply for a change-of-ownership license in accordance with part II of chapter 408 and operates the facility under the new ownership is subject to a fine of $5,000.

(6) ~~(7)~~ In addition to any administrative fines imposed, the agency may assess a survey fee, equal to the lesser of one

half of the facility's biennial license and bed fee or $500, to cover the cost of conducting initial complaint investigations that result in the finding of a violation that was the subject of the complaint or monitoring visits conducted under s. 429.28(3)(c) to verify the correction of the violations.

(7) ~~(8)~~ During an inspection, the agency shall make a reasonable attempt to discuss each violation with the owner or administrator of the facility, prior to written notification.

(8) ~~(9)~~ The agency shall develop and disseminate an annual list of all facilities sanctioned or fined for violations of state standards, the number and class of violations involved, the penalties imposed, and the current status of cases. The list shall be disseminated, at no charge, to the Department of Elderly Affairs, the Department of Health, the Department of Children and Families ~~Family Services~~, the Agency for Persons with Disabilities, the area agencies on aging, the Florida Statewide Advocacy Council, and the state and local ombudsman councils. The Department of Children and Families ~~Family Services~~ shall disseminate the list to service providers under contract to the department who are responsible for referring persons to a facility for residency. The agency may charge a fee commensurate with the cost of printing and postage to other interested parties requesting a copy of this list. This information may be provided electronically or through the agency's Internet site.

Section 7. Subsection (5) of section 429.41, Florida Statutes, is amended to read:

429.41 Rules establishing standards.—

(5) In order to allocate resources effectively, the agency may use an abbreviated biennial standard licensure inspection that consists of a review of key quality-of-care standards in lieu of a full inspection in a facility that has a good record of past performance. However, a full inspection must be conducted in a facility that has a history of class I or class II violations, uncorrected class III violations, confirmed ombudsman council complaints that resulted in a citation for licensure, or confirmed licensure complaints which resulted in a citation for a licensure violation, within the previous licensure period immediately preceding the inspection or if a potentially serious problem is identified during the abbreviated inspection. The agency, in consultation with the department, shall develop the key quality-of-care standards with input from the State Long-Term Care Ombudsman Council and representatives of provider groups for incorporation into its rules.

Section 8. Present subsections (1) through (11) of section 429.52, Florida Statutes, are renumbered as subsections (2) through (12), respectively, new subsections (1) and (11) are added to that section, and present subsection (9) of that section is amended, to read:

429.52 Staff training and educational programs; core educational requirement.—

(1) Effective October 1, 2013, each new assisted living facility employee who has not previously completed core training must attend a preservice orientation provided by the facility before interacting with residents. The preservice orientation must be at least 2 hours in duration and cover topics that help

the employee provide responsible care and respond to the needs of residents of the facility. Upon completion, the employee and the administrator of the facility must sign an affidavit stating that the employee completed the required preservice orientation. The facility must keep the affidavit in the employee's work file.

(10) ~~(9)~~ The training required by this section must ~~shall~~ be conducted by persons registered with the department as having the requisite experience and credentials to conduct the training. A person seeking to register as a trainer must provide the department with proof of completion of the minimum core training education requirements, successful passage of the competency test established under this section, and proof of compliance with the continuing education requirement in subsection (5) ~~(4)~~.

(11) The agency in conjunction with the department shall establish a database for collection of training requirements, competency testing, and documentation required under this part. The database shall be used by administrators and licensees to determine eligibility of staff. The department may adopt additional reporting requirements by rule. Effective July 1, 2014, organizations and individuals providing training, testing, or documentation under this part must submit electronically the following information to the agency:

(a) The trainee's name and identifying information; dates of training, tests, or certificates of successful passage, completion, and attendance; and scores for competency testing for persons trained, tested, or issued certificates.

(b) Identifying information for the organization or individual providing the training, testing, or certificates.

Failure to comply with reporting requirements may result in suspension of the authority to offer training, testing, or issue certificates.

Section 9. Subsection (3) is added to section 429.54, Florida Statutes, to read:

429.54 Collection of information; local subsidy.—

(3) Subject to the availability of funds, the agency, the department, the Department of Children and Families, and the Agency for Persons with Disabilities shall develop or modify electronic systems of communication among state-supported automated systems to ensure that relevant information pertaining to the regulation of assisted living facilities and facility staff is timely and effectively communicated among agencies in order to facilitate the protection of residents.

Section 10. Section 429.55, Florida Statutes, is created to read:

429.55 Intersurveyor reliability.—The Legislature finds that consistent regulation of assisted living facilities benefits residents and operators of such facilities. To determine whether all surveys are consistent, the agency shall conduct a study of intersurveyor reliability for assisted living facilities. By November 1, 2013, the agency shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives of its findings and make any recommendations to improve intersurveyor reliability.

Section 11. Section 429.56, Florida Statutes, is created to read:

429.56 Consumer information.—The Legislature finds that consumers need additional information on the quality of care and service provided in assisted living facilities in order to select the best facility for themselves or their loved ones. Therefore, the agency shall:

(1) Propose a rating system for assisted living facilities. The proposal must include, but is not limited to, the data elements to be used, the method of collecting the data, the method of determining the rating, an estimate of the initial and ongoing costs of a rating system to both the agency and assisted living facilities, and a timetable for the implementation of the rating system for assisted living facilities. The agency shall submit its proposal to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2013.

(2) By January 1, 2014, create a content that is easily accessible through the front page of the agency's website. At a minimum, the content must include:

(a) Information on each licensed assisted living facility, including, but not limited to:

1. The name and address of the facility.

2. The number and type of licensed beds in the facility.

3. The types of licenses held by the facility.

4. The facility's license expiration date and status.

5. Other relevant information that the agency currently collects.

(b) A list of the facility's violations, including, for each violation:

1. A summary of the violation which is presented in a manner understandable by the general public;

2. Any sanctions imposed by final order; and

3. The date of the correction.

(c) Links to inspection reports that the agency has on file.

Section 12. This act shall take effect July 1, 2013.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Health Care Appropriations Subcommittee

Representative Gonzalez offered the following:

Amendment (with title amendment)

Remove line 849 and insert:

Section 12. For Fiscal Year 2013-2014, two full-time equivalent positions, with associated salary rate of $103,651, are authorized and the sums of $151,322 in recurring funds and $7,986 in nonrecurring funds from the Administrative Trust Fund of the Agency for Health Care Administration and $200,080 in nonrecurring funds from the Health Care Trust Fund of the Agency for Health Care Administration are hereby appropriated to the Agency for Health Care Administration for the purpose of carrying out all regulatory activities provided in this act.

Section 13. This act shall take effect July 1, 2013.

Amendment No. 1

T I T L E A M E N D M E N T

Remove line 100 and insert:

system; providing an appropriation; providing an effective date.

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Health Care Appropriations Subcommittee

Representative Pafford offered the following:

Amendment (with directory and title amendments)

Between lines 801 and 802, insert:

(4) The Secretary of Health Care Administration shall designate and, as needed, shall request that other agency heads designate personnel as early interventionists to prevent abuse, harm, neglect or exploitation of residents of facilities licensed pursuant to this part. The interventionists shall use available resources, sources and authorities to identify early warnings of imminent harm to residents of assisted living facilities, to initiate intervention actions and to prevent, curtail or minimize injury or harm to residents of facilities licensed pursuant to this part. The Secretary of Health Care Administration and the interventionists shall encourage facilities licensed pursuant to this part to timely advise the interventionists of circumstances which could lead to abuse, harm, neglect or exploitation of residents in their facilities

and to seek assistance, as available, from governmental and private sector sources. This subsection does not preclude any agency from taking actions otherwise authorized by law.

(5) The Agency for Health Care Administration is designated the central agency for receiving and tracking complaints to ensure that allegations or complaints received by any agency regarding facilities licensed pursuant to this part are responded to timely and that licensure enforcement action is initiated, if warranted. Any state agency regulating or providing services to residents of facilities licensed under this part must report to the agency as soon as reasonably possible any allegation or complaint received concerning or referencing a facility licensed under this part.

(6) The Aged and Disabled Resource Centers (ADRC) shall maintain a roster of facilities in the ADRC's district boundaries that are licensed under this part and a list of available residential placement openings in those facilities. The licensed facilities under this part shall report to their respective ADRC residential placement openings and facility restrictions on those placements. Upon request, the Aged and Disabled Resource Centers shall relay to the public information about the availability of residential placement openings and facility restrictions on the placements.

D I R E C T O R Y A M E N D M E N T

Amendment No. 2

Remove line 791 and insert:

Section 9. Subsections (3), (4), (5), and (6) are added to section 429.54,

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T I T L E A M E N D M E N T

Between lines 93 and 94, insert:

providing for early interventionists; providing that the agency is designated as the central agency for receiving and tracking facility complaints; providing the Aged and Disabled Resource Centers shall maintain a roster of facilities a list of available residential placement openings;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7139 (PCB HFS 13-03) Mental Health First Aid Training Program
SPONSOR(S): Healthy Families Subcommittee; Harrell
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Healthy Families Subcommittee	10 Y, 0 N	Entress	Schoolfield
1) Health Care Appropriations Subcommittee		Fontaine VSF	Pridgeon
2) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill requires the Department of Children and Families (DCF) to establish a Mental Health First Aid Training Program. The Program is intended to help the public identify and understand the signs of mental illnesses and substance use disorders and provide the public key skills to help someone who is developing or experiencing a mental health or substance use problem.

The bill directs that training be provided through contract providers and that first priority for the training be given to the staff of public schools.

The fiscal impact of the bill is estimated to be approximately $150,000, which is included in the proposed General Appropriations Act for Fiscal Year 2013-14.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Mental Health First Aid (MHFA) is a public education program that helps the public identify, understand, and respond to signs of mental illnesses and substance use disorders.[1] MHFA was created by Professor Anthony Jorm, a respected mental health literacy professor, and Betty Kitchener, a nurse specializing in health education. The MHFA program is a trademark name and is currently being used around the world including the United States. MHFA USA is managed, operated, and disseminated by the National Council for Community Behavioral Healthcare, the Maryland Department of Health and Mental Hygiene, and the Missouri Department of Mental Health. Mental Health First Aid was developed in Australia in 2001.[2] MHFA was brought to the US through a collaborative effort between the National Council for Community Behavioral Healthcare, the Maryland State Department of Health and Mental Hygiene, and the Missouri Department of Mental Health.[3]

Training

MHFA is an interactive 12-hour course that presents an overview of mental illness and substance use disorders in the U.S. and introduces participants to risk factors and warning signs of mental health problems, builds understanding of their impact, and overviews common treatments.[4] Those who take the 12-hour course to certify as Mental Health First Aiders learn a 5-step action plan encompassing the skills, resources and knowledge to help an individual in crisis connect with appropriate professional, peer, social, and self-help care.

The MHFA can be conducted as one two-day seminars, two one day events spaced over a short period of time or as four 3-hour sessions.[5] MHFA certification must be renewed every three years, and introduces participants to risk factors and warning signs of mental health problems, builds understanding of their impact and overviews common treatments.

Specifically, participants learn:

- The potential risk factors and warning signs for a range of mental health problems, including: depression, anxiety/trauma, psychosis, eating disorders, substance use disorders, and self-injury.
- An understanding of the prevalence of various mental health disorders in the U.S. and the need for reduced stigma in their communities.
- A 5-step action plan encompassing the skills, resources and knowledge to assess the situation, to select and implement appropriate interventions, and to help the individual in crisis connect with appropriate professional care.
- The evidence-based professional, peer, social, and self-help resources available to help someone with a mental health problem.

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[1] "Other States' Mental Health First Aid Initiatives," Florida Council for Community Mental Health, February 15, 2013, *accessible at*: http://www.fccmh.org/resources/docs/OtherStatesMHFAInitiatives2-15-13.pdf.
[2] "About the Program: Overview," Mental Health First Aid USA, *accessible at*: http://www.mentalhealthfirstaid.org/cs/program_overview/.
[3] "Other States' Mental Health First Aid Initiatives," Florida Council for Community Mental Health, February 15, 2013, *accessible at*: http://www.fccmh.org/resources/docs/OtherStatesMHFAInitiatives2-15-13.pdf.
[4] "About the Program: Overview," Mental Health First Aid USA, *accessible at*: http://www.mentalhealthfirstaid.org/cs/program_overview/.
[5] "About the Program: What You Learn" Mental Health First Aid USA, *accessible at*: http://www.mentalhealthfirstaid.org/cs/what_you_learn.

The 12-hour MHFA USA course has been used by a variety of audiences and key professions, including: primary care professionals, employers and business leaders, faith communities, school personnel and educators, state police and corrections officers, nursing home staff, mental health authorities, state policymakers, volunteers, young people, families and the general public.[6]

Mental Health First Aid Instructors

The 12-hour MHFA training must be taught by an instructor certified by MHFA USA. Instructors are required to complete a 5-day Instructor Training Program and pass a written exam for certification. It is not guaranteed that all participants who attend the instructor training will achieve certification.[7]

The MHFA Instructor training is taught by two authorized MHFA trainers connected to at least one of the Mental Health First Aid – USA Authorities. Courses typically run from 9am-5pm each day of the program, with dedicated time on day three for independent preparation for presentations delivered on days four and five. The first two days of the program are an interactive overview of the core course, where instructor candidates get to see expert trainers model the full course content. The third day reviews the background of the program, target audiences reached, marketing ideas, training tips and tricks, and expectations and privileges for instructors. Day three provides ample opportunity for the group to discuss the program & brainstorm how to best deliver and market the course, and ask instructor-related questions. During the last two days of the training, each participant will present an assigned portion of the MHFA course to the group. Trainers will conduct an individual evaluation of each participant in addition to the peer feedback provided. Participants are expected to be active in providing peer reviews on days four and five.[8]

The MHFA instructor training is held throughout the country. There are no instructor training opportunities in Florida for 2013.[9] There are currently six remaining instructor training opportunities for 2013 and the national authorities of Mental Health First Aid USA plan to add at least three additional training opportunities for the fall and winter of 2013.[10]

State use of Mental Health First Aid

Arizona, Colorado, Georgia, Maryland, and Missouri have statewide programs requiring some people to complete this training as part of their job.[11] For example, in Rhode Island, the course is part of police officer training and in Austin, Texas, the course is offered to every public library employee.[12] Mental Health First Aid Colorado is implemented though a statewide private-public partnership of local mental health centers, the Colorado Department of Public Safety, the Colorado Sheriff's Association, the Colorado Division of Behavioral Health, Mental Health America of Colorado, and the Western Interstate Commission for Higher Education. Mental Health First Aid was introduced in Colorado in 2008 and the program has grown to include 136 Instructors reaching a variety of audiences statewide.

Outcomes

Participants of Mental Health First Aid training have reported favorable results. An evaluation of the Mental Health First Aid England reported that the proportion of participants rating their knowledge in supporting people with mental health problems as 'Good' or 'Excellent' increase from 32% to 90% with the use of the Mental Health First Aid Program. The program also reported that use of the program caused individuals rating their confidence in supporting people with mental health problems as 'Good' or 'Excellent' to

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[6] About the Program: Overview," Mental Health First Aid USA, *accessible at*: http://www.mentalhealthfirstaid.org/cs/program_overview/.
[7] Mental Health First Aid USA: Become an instructor, on file with Healthy Families Subcommittee Staff.
[8] Mental Health First Aid USA: Become an instructor, on file with Healthy Families Subcommittee Staff.
[9] "In Your Community: Become an Instructor", Mental Health First Aid USA, *accessible at*: http://www.mentalhealthfirstaid.org/cs/become_an_instructor#trainers.
[10] Phone conversation with Margaret Jaco, Mental Health First Aid Program Associate, National Council for Community Behavioral Healthcare, March 25, 2013.
[11] "Other States' Mental Health First Aid Initiatives," Florida Council for Community Mental Health, February 15, 2013, *accessible at*: http://www.fccmh.org/resources/docs/OtherStatesMHFAInitiatives2-15-13.pdf.
[12] *Id.*

increase from 27% to 89%.[13] An evaluation of the Mental Health Fist Aid Training in Wales produced similar results. 58% of participants reported that they felt better prepared to help someone in mental distress after attending the training.[14]

Effect of Proposed Changes

The bill requires the Department of Children and Families (DCF) to establish a Mental Health First Aid Training Program (Program). The Program is intended to help the public identify and understand the signs of mental illnesses and substance use disorders and provide the public key skills to help someone who is developing or experiencing a mental health or substance use problem.

The bill requires the Program to provide an interactive, 12-hour Mental Health First Aid training course through contracts with Behavioral Health Managing Entities or other appropriate community providers. The bill requires the contracting entity to work cooperatively with local school districts to give first priority for training to the staff in public schools as appropriate.

The bill requires the mental health first aid training to contain:

- An overview of mental illnesses and substance use disorders and the need to reduce the stigma of mental illness;
- Information on the potential risk factors and warning signs and common treatments of mental illnesses or substance use disorders, including depression, anxiety, psychosis, eating disorders, and self-injury; and
- An action plan that encompasses the skills, resources, and knowledge to assess the situation, select and implement appropriate interventions, and help an individual with appropriate professional, peer, social, or self-help care.

The bill requires DCF to establish certification requirements for instructors of the Mental Health Aid First Aid course.

The bill gives DCF rulemaking authority to implement the Mental Health Fist Aid Program.

The bill provides an effective date of July 1, 2013.

B. SECTION DIRECTORY:

Section 1: Creates s. 394.909, F.S., relating to mental health first aid.

Section 2: Provides and effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

[13] "Mental Health First Aid England and North East Mental Health Development Unit Partnership Project," Mental Health First Aid England, *accessible at*: http://www.nemhdu.org.uk/silo/files/mhfa-england-evaluation-report-march-2011.pdf.
[14] "Evaluations of the Mental Health Fist Aid Training Course," Welsh Assembly Government, *accessible at:* http://www.mentalhealthfirstaid.ca/EN/about/Documents/Evaluation%20of%20the%20Mental%20Health%20First%20Aid%20Training%20Course%20-%20Wales.pdf.

2. Expenditures:

This analysis includes the cost to train up to 44 Instructors in Mental Health First Aid who would then provide the local training of a 12 hour course as required by the bill. This estimate is based on a total cost not to exceed $150,000.

Training course for one trainer	$2,000
Travel to training:	
Airfare	$342[15]
Food per person for (5 days x $36 per day)	$180[16]
Lodging	$880[17]
Total Travel per person:	$1,402

Total Cost per Instructor Training	$3,402
44 Individuals attending Instructor Training	x 44
Total Cost	$149,688

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There will be a cost to recipients of the training which is approximately $15.95 per person.[18] There may be additional indeterminate fiscal costs for the trainer.

D. FISCAL COMMENTS:

The cost of the bill depends upon the number of trainers determined necessary by DCF to administer the Program. The bill provides DCF the discretion to determine how to allocate these training opportunities. For example, DCF could authorize one individual from each of 40 community mental health centers statewide to attend instructor training or authorize approximately six individuals from each of the seven managing entities.

The fiscal impact of the bill is estimated to be approximately $150,000, which is included in the proposed General Appropriations Act for Fiscal Year 2013-14.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

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[15] flight from Orlando to Milwaukee, WI (8/18-8/24) Flight price from Kayak.com, *last accessed:* March 25, 2013.
[16] Based on an estimate of $36/day
[17] Hotel per person (8/18-8/24 x $110 per night)=Based on an estimate of the Ramada, from Hotels.com.
[18] Phone conversation with Susan Partain, National Council for Community Behavioral Healthcare, March 26, 2013.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides DCF rulemaking authority for implementation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to a mental health first aid training program; creating s. 394.909, F.S.; requiring the Department of Children and Families to establish a Mental Health First Aid Training program; providing for a Mental Health First Aid course to be offered by behavioral health managing entities or other community providers; providing course requirements; requiring the department to establish certification requirements for instructors of the course; providing rulemaking authority; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 394.909, Florida Statutes, is created to read:

394.909 Mental Health First Aid Training program.—

(1) The department shall establish a Mental Health First Aid Training program to help the public identify and understand the signs of mental illness and substance use disorders and to provide the public with skills to help a person who is developing or experiencing a mental health or substance use problem.

(2) The program shall provide an interactive, 12-hour Mental Health First Aid Training course through contracts with behavioral health managing entities or other appropriate community providers. The contracting entity shall work cooperatively with local school districts to provide first

priority for training to the staff in public schools, as appropriate.

(3) The mental health first aid training shall consist of the following:

(a) An overview of mental illnesses and substance use disorders and the need to reduce the stigma of mental illness.

(b) Information on the potential risk factors and warning signs of mental illness or substance use disorders, including depression, anxiety, psychosis, eating disorders, and self-injury, and common treatments for those conditions.

(c) An action plan that encompasses the skills, resources, and knowledge to assess the situation; select and implement appropriate interventions; and help an individual with appropriate professional, peer, social, or self-help care.

(4) The department shall establish certification requirements for instructors of the Mental Health First Aid Training course.

(5) The department may adopt rules to implement the Mental Health First Aid Training program.

Section 2. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1315 Independent Living
SPONSOR(S): Healthy Families Subcommittee; Perry
TIED BILLS: **IDEN./SIM. BILLS:** SB 1036

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthy Families Subcommittee	10 Y, 0 N, As CS	Entress	Schoolfield
2) Health Care Appropriations Subcommittee		Fontaine	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill extends foster care to the age of 21 to allow youth to finish high school, earn a GED, pursue a post-secondary education, or begin a career. The bill provides eligibility requirements for the extension of foster care and provides a method for young adults who have left foster care to reapply for extended foster care.

The bill requires judicial review hearings during extended foster care. The bill requires the court to address additional issues during the last review hearing before the child turns 18.

The bill changes the requirements related to foster parents, to align their requirements with the quality parenting initiative. The bill creates the reasonable and prudent parent standard to be used by foster parents when deciding whether to allow a child to participate in extracurricular, enrichment, and social activities. The bill codifies room and board rates for foster care and requires an annual cost of living increase. The bill allows a supplemental monthly payment to foster parents to provide independent life skills to foster children.

The bill restructures the Road-to-Independence Program to accommodate the differing needs of young adults. The bill creates new requirements for eligibility of the program, including a requirement that the young adult be pursuing a post-secondary education.

The bill requires the Department of Children and Families to ensure that former foster care youth have a post-secondary mentor and creates campus coaching positions to provide former foster care youth with on-campus support at post-secondary educational institutions.

The cost of the Independent Living program proposed in this bill is projected to be $48,252,405 for FY 2013-14, and $47,675,193 for FY 2014-15. These costs are not expected to exceed current expenditures for the program.

The bill provides an effective date of October 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

Independent Living Transition Services

The Department of Children and Family Services (DCF) administers a system of independent living transition services to assist older children in foster care and 18 year olds exiting foster care to transition into self-sufficient adults.[1] This program was created in 2002, utilizing both state and federal funds to provide a continuum of services and financial assistance to prepare current and former foster youth to live independently.[2] Under the program, DCF serves children who have reached 13 years of age but are not 18 years of age and are in foster care.[3] DCF also serves young adults who have turned 18 years old but are not 23 years old and were in foster care when they turned 18 years old. They also serve youth, who after turning 16 years old were adopted from foster care or placed with a court approved dependency guardian and spent at least 6 months in foster care within the 12 months preceding placement or adoption.[4] The DCF program provides services to assist young adults in obtaining life skills and education for independent living and employment.[5] DCF contracts with community based care (CBC) lead agencies to provide these services.[6]

Former foster care youth are eligible for Medicaid until the age of 21 if they are eligible to participate in the Road-to-Independence Program.[7] As of January 2014, each child who has been in foster care is eligible and enrolled in Medicaid until the age of 26.[8] Each child who was or is in the foster care system at age 18, or who spent 6 months in foster care after reaching age 16 is automatically exempt from tuition and fees to a state college or university, until age 28.[9]

Children who are in the foster care program will begin to receive services in preparation for young adulthood at age 13 continuing through age 17. There are 5,000 children aged 13-17 residing in out-of-home care placement.[10] Services for these children include:

- Life skills training, educational field trips and conferences;
- Banking, and budgeting skills, educational support and employment training;
- Subsidized Independent Living is available to some 16-17 year old youth who demonstrate self-sufficiency skills. The program allows youth to live independently of the daily care and supervision of an adult.

Once a child reaches the age of 18, they are considered "aged out" of the foster care system and can continue to receive some services through DCF until the age of 22. Those services include:

- Financial assistance up to $1,256 per month for educational and vocational training through the Road-to-Independence Program;
- Aftercare services to help develop the skills and abilities for independent living including tutoring, counseling and skills training; and
- Short term services including financial, housing, counseling and employment assistance.

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[1] S. 409.1451, F.S.
[2] *Id*
[3] S. 409.1451(2)(a)
[4] S. 409.1451(2)(b), F.S.
[5] S. 409.1451(1)(b), F.S.
[6] S. 409.1671, F.S.
[7] S. 409.903(4), F.S.
[8] 42 U.S.C. 1396a
[9] S. 1009.25, F.S.
[10] The Independent Living Services Advisory Council Annual Report, 2012. http://www.myflfamilies.com/service-programs/independent-livingarchive-data. (last visited 1/17/13).

There are 4,000 young adults' aged 18-22 receiving financial assistance for educational and vocational training.[11] Of the 4,000 young adults receiving financial assistance, 38.1% of them are still receiving benefits at age 20.[12] During the 2012 year, about 57% of these young adults received either their high school diploma or the Graduate Equivalency Degree (GED), about 7% went on to complete a post-secondary education, and 19% have a job, part-time or otherwise.[13]

Expenditures for the Independent Living program were $51.8 million in FY 2009-10, $52.2 million in FY 2010-11, and $49 million during FY 2011-12.[14] Expenditures by program area for FY 2011-12, include:

Case Coordination:	$13,066,982
Road to Independence	$29,858,300
Aftercare services	$628,794
Subsidized independent Living	$276,761
Transitional support Services	$5,208,321
Total FY 2011-12	$49,039,158 [15]

The source of expenditures for 2011-12 includes $29,476,721 budgeted for independent living and $19,562,437 from other program areas of CBC contracts

Road-to-Independence Program Eligibility

The Road-to-Independence (RTI) Program provides financial assistance to former foster care. The amount is based on the living and educational needs of the young adult, and may be up to the amount of earnings the individual would have been eligible to earn working a 40-hour per week job at federal minimum wage. The amount of the award is reduced if the young adult receives other income, grants, or earnings. To be eligible the young adult must:

- Have been a dependent child, living in foster care or subsidized independent living
  - at the time of his or her 18th birthday,
  - currently, or
  - spent at least 6 months in foster care and was adopted or placed with a dependency guardian after the age of 16;
- Have spent at least 6 months living in foster care before the age of 18;
- Be a resident of Florida; and
- Either:
  - Have earned a high school diploma or its equivalent,
  - Be enrolled full time in an accredited high school, or
  - Be enrolled full time in an accredited adult education program designed to provide the student with a high school diploma or its equivalent.[16]

Judicial Review Hearings

Under current law, courts involving proceedings related to children hold judicial review hearings for children removed from their homes.[17] These hearings are held at least every six months until the child reaches permanency status.[18] At every judicial review hearing, the social service agency is required to make an investigation and social study concerning all pertinent details relating to the child and furnish a written report to the court. This report must include a variety of information including a description of the placement of the child, the services provided to the foster family or legal custodian in an effort to

[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] Department of Children and Families 2/7/13 presentation on Independent Living to Healthy Families Subcommittee.
[15] Department of Children and Families Comparison of Actual FY 2011-12 independent living expenditures to FY 2013-14 proposed budget for extended foster care and independent living, dated 3/8/13, (on file with Healthy Families Committee Staff)
[16] S. 409.1451(5)(b), F.S.
[17] S. 39.701(3)(a), F.S.
[18] S. 39.701(2)(a), F.S.

address the needs of the child as indicated in the case plan, and a statement concerning the frequency, duration, and results of the parent-child visitation.[19]

The court is required to hold a judicial review hearing within 90 days of a child's 17th birthday.[20] The social study report at this hearing is required to include additional information.[21] The report is required to include written verification that the child:

- Has been provided with a current Medicaid card and has all necessary information concerning the Medicaid program sufficient to prepare the youth to apply for coverage upon reaching age 18, if such application would be appropriate;
- Has been provided with a certified copy of his or her birth certificate and, if the child does not have a valid driver's license, a Florida identification card;
- Has been provided information relating to Social Security Insurance benefits if the child is eligible for these benefits. If the child has received these benefits and they are being held in trust for the child, a full accounting of those funds must be provided and the child must be informed about how to access those funds;
- Has been provided with information and training related to budgeting skills, interviewing skills, and parenting skills;
- Has been provided with all relevant information related to the Road-to-Independence Program, including, but not limited to, eligibility requirements, forms necessary to apply, and assistance in completing the forms. The child shall also be informed that, if he or she is eligible for the Road-to-Independence Program, he or she may reside with the licensed foster family or group care provider with whom the child was residing at the time of attaining his or her 18th birthday or may reside in another licensed foster home or with a group care provider arranged by the department;
- Has an open bank account, or has identification necessary to open an account, and has been provided with essential banking skills;
- Has been provided with information on public assistance and how to apply;
- Has been provided a clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and what educational program or school he or she will be enrolled in;
- Has been provided with notice of the youth's right to petition for the court's continuing jurisdiction for 1 year after the youth's 18th birthday and with information on how to obtain access to the court; and
- Has been encouraged to attend all judicial review hearings occurring after his or her 17th birthday.[22]

In addition to the social study report, at this review hearing, DCF must provide the court with an updated case plan that includes specific information related to independent living services that have already been provided to the child. If the court determines that DCF has not complied with its obligations in the case plan or in the provision of independent living services, the court must issue a show cause order. If cause is shown for failure to comply, the court must give DCF 30 days to comply and if they do not comply, DCF may be held in contempt.[23]

[19] S. 39.401(8), F.S.
[20] S. 39.701(7)(a), F.S.
[21] *Id.*
[22] *Id.*
[23] S. 39.701(7), F.S.

Independent Living Services Advisory Council

The Independent Living Services Advisory Council (ILSAC) reviews and makes recommendations concerning the implementation and operation of independent living transition services. The ILSAC keeps DCF informed of problems experienced with the services, barriers to the effective and efficient integration of services and support across systems, and successes that the system of services has achieved. DCF is required to consider the recommendations of the ILSAC.

The secretary of DCF appoints members to the ILSAC and the secretary has discretion regarding the length of term to be served by each member, up to a four year term. At a minimum, the ILSAC must include representatives from headquarters and regional offices of:

- DCF;
- CBC lead agencies;
- The Department of Education;
- The Agency for Health Care Administration,
- The State Youth Advisory Board,
- Workforce Florida, Inc.,
- the Statewide Guardian Ad Litem Office,
- Foster parents;
- Recipients of services and funding through the RTI Program; and
- Advocates for children in care.

Fostering Connections Act:[24]

The Fostering Connections to Success and Increasing Adoptions Act (Act) was established by Congress in 2008 to provide new supports and services to promote permanency and improve the well-being of older youth in foster care.[25] The new supports include foster care, adoption or guardianship assistance payments to children after the age of 18. One feature of the Act provides for the extension of foster care assistance to youth up to age 21. The Act also provides DCF the opportunity to receive additional federal funding.[26] In order for Florida to participate in the Act, DCF must amend their state plan for Title IV E services.

Effect of Proposed Changes:

The bill creates the option for young adults who have not found permanency[27] before the age of 18, to remain in care up to the age of 21, in order to finish high school, earn a GED, pursue post-secondary education or begin a career. The bill also restructures the Road-To-Independence Program, strengthens the role and authority of foster parents and group home parents, and codifies the concept of normalcy for children in care. The bill states that the primary goal for a child in care is permanency. The bill states that the permanency goal for a young adult who chooses to remain in care is transition from licensed care to independent living.

[24] P.L.110-351.
[25] Fostering Connections Resource Program, http://www.fosteringconnections.org/. (last visited on 3/17/2013).
[26] DCF Staff Analysis of HB 1241, March 9, 2011.
[27] S. 39.621 (2), F.S., provides goals for permanency including reunification; adoption, if a petition for termination of parental rights has been or will be filed; permanent guardianship of a dependent child under s. 39.6221; permanent placement with a fit and willing relative under s. 39.6231; or placement in another planned permanent living arrangement under s. 39.6241.

Foster Care

Eligibility for Extended Foster Care

The bill creates the option for young adults to remain in foster care between the ages of 18 and 21 in order to finish high school, earn a GED, pursue post-secondary education or begin a career. To continue in foster care past the age of 18, the young adult must:

- Be living in licensed care on his or her 18th birthday;
- Have not yet achieved permanency under s. 39.621, F.S.;
- Meet one of the following criteria:
    - Be completing secondary education or a program leading to an equivalent credential;
    - Be enrolled in a postsecondary education or vocational education institution;
    - Be participating in a program or activity designed to promote or eliminate barriers to employment;
    - Be employed for at least 80 hours per month; or
    - Be unable to participate in any of the abovementioned programs due to a physical, intellectual, emotional, or psychiatric condition that limits participation; and
- Be under the age of 21 or under the age of 22 if the individual has a disability.

The bill requires DCF to establish a procedure for a young adult to appeal a determination of eligibly to remain in care. The procedure must be readily available to young adults, provide timely decisions, and provide an appeal to DCF. DCF's decision constitutes final agency action and is reviewable by the court as provided in s. 120.68, F.S.

Conditions of Extended Foster Care

To remain in foster care, the bill requires the young adult to reside in a supervised living environment which is approved by DCF or a CBC lead agency. These living arrangements include a licensed foster home, licensed group home, college dorm, shared housing, apartment, or another housing arrangement. The bill states that a licensed foster home is preferable over other options, and a young adult may continue to reside with the same foster family or group care provider with whom he or she was residing at the time of their 18th birthday. The bill states that the young adult will live independently, but in an environment where he or she is provided supervision, case management, and support services by DCF or a CBC agency. The environment must offer developmentally appropriate freedom and responsibility to prepare the young adult for adulthood. Before DCF or a CBC lead agency can approve a residential setting in which the young adult will live, they must ensure that:

- The young adult will be provided a level of supervision consistent with his or her individual education, health care needs, permanency plan, and independent living goal, as assessed by DCF or a CBC lead agency with input from the young adult (24-hour onsite supervision is not required but 24-hour crisis intervention and support is required); and
- The young adult will live in an independent living environment that offers life skills training, counseling, educational support, employment preparation, employment placement, and development of support networks. The type and duration of services required must be based on the young adult's assessed needs, interest, and input and must be consistent with the goals in the young adult's case plan.

While in care, the bill requires the CBC lead agency to provide regular case management reviews, including at least monthly contact with the case manager. If a young adult lives outside the service area of his or her CBC lead agency, the contact may occur via phone. While the young adult is in care, the court maintains jurisdiction to ensure that DCF and the lead agencies are providing services and coordinating, and to maintain oversight of with other agencies involved in implementing the young adult's case plan, individual education, and transition plan. Every 6 months the court must review the status of the young adult and every year the court must hold a permanency review hearing. The bill also allows the court to appoint a guardian ad litem or continue the appointment of a guardian ad litem. The bill allows the young adult or any other party to request an additional hearing or review.

Readmission

The bill allows young adults between the ages of 18 and 21 to return to care if they have left care. In order to do so, the young adult must apply to the CBC lead agency for readmission and the CBC lead agency must readmit the young adult if he or she meets the eligibility requirements for care. DCF must develop a standard procedure and application packet for readmission to care and all CBC lead agencies must use this packet. If the young adult has been readmitted to care, within thirty days the CBC lead agency must assign a case manager to the young adult to update the case plan and transitional plan, and arrange for required services. The young adult must be consulted in updating these activities. DCF must petition the court to reinstate jurisdiction over the young adult.

The bill limits eligibility for foster care to the earliest date of the following events:

- The young adult reaches 21 years of age, or 22 years of age if they have a disability;
- The young adult leaves care to live in a permanent home consistent with his or her permanency plan; or
- The young adult knowingly and voluntarily withdraws his or her consent to participate in extended care. Withdrawal of consent to participate must be verified by the court, unless the young adult refuses to participate in any further court proceeding.

The bill specifies that a young adult who chooses to leave foster care at the age of 18 will not remain under the jurisdiction of foster care. Similarly, a young adult must continue to meet the eligibility requirements for foster care created in this bill in order to remain in foster care after age 18.

Judicial Review Hearings

The bill requires the court to review the status of a young adult remaining in foster care every six months and annually hold a permanency review hearing to individuals over 18 and in foster care. This is currently required for children under the age of 18 in foster care.

The bill also requires DCF and the CBC lead agency to prepare a report, developed in collaboration with the young adult, which addresses the young adult's progress in meeting goals in the case plan. This must include progress information related to the young adult's independent living and transition plan and propose modifications as necessary to further the young adult's goals. DCF and the CBC lead agency must submit this report to the court.

The bill requires the court to consult with the young adult regarding the proposed permanency plan, case plan, and individual education plan for the young adult and ensure that the young adult understood the conversation in all permanency hearings or hearings regarding the transition of the young adult from care to independent living.

If a young adult has chosen to remain in extended foster care after the age of 18, the bill prohibits DCF from closing a case and prohibits the court from terminating jurisdiction until the court has found, following a hearing (that the young adult has attended) the court has found that:

- The young adult has been informed by DCF of his or her right to attend the hearing and provided written consent to waive this right and the young adult has been informed of the potential negative effects of early termination of care, the option to reenter care before the age of 21, the procedure for reentering care, the limitations on reentering care, and the availability of alternative services, and has signed a document attesting that the young adult has been informed and understands these provisions; or
- The young adult has voluntarily left the program, has signed the document attesting that the young adult has been informed and understands these provisions, and is unwilling to participate in any further court proceedings.

Final Judicial Review Hearing Before the Child Reaches the Age of 18

The bill adds to the list of requirements for the last review hearing before the child reaches the age of 18, to include the following:

- Address whether the child plans to remain in foster care and if the child plans to do so, ensure the child's transition plan includes a plan for meeting one or more of the required criteria.;
- Ensure that the transition plan includes an approved supervised living arrangement;
- Ensure the child has been informed of the right to continued support and services from DCF and the CBC lead agency, the right to request termination of dependency jurisdiction and be discharged from foster care, and the opportunity to reenter foster care; and
- Ensure that if the young adult requests termination of dependency jurisdiction and discharge from foster care, the young adult be informed of services or benefits for which the young adult may be eligible based on his or her former placement of foster care, services or benefits that may be lost through termination of dependency jurisdiction, and other federal, state, local or community-based services or supports available to the young adult.

Current law requires the social service agency to make an investigation and social study concerning all pertinent details relating to a child and write a report before every judicial review hearing. This judicial review social study report (report) must include written verification of a number of things. The bill changes the information required to be in the report and adds a requirement to include written verification that the child has been provided:

- Information on participation in the Road-to-Independence Program and assistance in gaining admission into the program;
- Information related to the ability of the child to remain in care until the age of 21;
- A letter providing the dates that the child is under jurisdiction of the court;
- When applicable, a letter stating that the child is in compliance with financial aid documentation requirements;
- The child's educational records;
- The child's entire health and mental health records; and
- The process for accessing the child's case file.

The bill also requires the report to include written verification that the child has a social security card.

The bill deletes requirement from the report which are precluded by the proposed bill to include written verification that the child has been provided:

- Information and training related to interviewing skills and parenting skills;
- Forms necessary to apply to the Road-to-Independence Program and assistance in completing the forms; and
- Notice of the youth's right to petition for the court's continuing jurisdiction for one year after the youth's 18th birthday and information on how to obtain access to the court.

Social Study Report

The bill names the written report involving the investigation and social study under s. 39.701(8), "social study report for judicial review." The bill requires that the caregiver of children between 13 and 18 years old give a statement on the progress the child has made in acquiring independent living skills for the social study report for judicial review. Currently, the study is required to include the results of the pre-independent living, life skills, or independent living assessment, the specific services needed, and the status of the delivery of identified services. However, the pre-independent living and life skills programs are eliminated by the bill and these responsibilities are absorbed by the caregiver.

The bill clarifies that the social study report for judicial review is only applicable for review hearings for children under 18 years old.

Foster Care Transition Plan

The bill creates a transition plan, which must be developed during the 180-day period after a child reaches 17 years of age. The transition plan must be developed by the child, with assistance from DCF and the CBC provider, in collaboration with the caregiver and any other individual the child would like to include. The bill specifies that the transition plan is in addition to standard case management requirements and must address specific options for the child to use in obtaining services, including housing, health insurance, education, and workforce support and employment services. The bill also requires the plan to consider establishing and maintaining naturally occurring mentoring relationships and other personal support services. The plan can be as detailed as the child choses. To develop the plan, DCF and the CBC provider must:

- Provide the child with notice of permanency hearings by a citizen review panel, copies of the citizen review panel's reports, copies of the proposed recommended orders, and copies of the panel's recommended orders to the court; and
- Coordinate the transition plan with the independent living provisions in the case plan and the Individuals with Disabilities Education Act transition plan for children with disabilities.

The bill requires DCF and the child to schedule a time, date, and place to meet and assist the child in drafting the transition plan. This must be convenient for the child and any individual the child would like to include. The meeting is required to be in the child's primary language. The bill requires the transition plan to be reviewed periodically with the child, DCF, and any individuals the child would like to include. The bill also requires the plan to be updated when necessary before each judicial review while the child or young adult is in care. The bill requires that if the child is planning on leaving care at 18 years old, the transition plan be approved by the court before the child leaves care and the court terminates jurisdiction. *Foster Parent Room and Board Rates*

The bill puts monthly foster care rates in statute, as of October 1, 2013. The rates are as follows:

Ages 0-5:	$429/month
Ages 6-12:	$440/month
Ages 13-21:	$515/month

The bill provides an annual cost of living increase to foster parents receiving the rates above. The bill requires DCF to calculate the new room and board rate increase equal to the percent change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, not seasonally adjusted, or successor reports, for the preceding December compared to the prior December as initially reported by the United States Department of Labor. The bill also allows the amount of the monthly foster parent room and board rate to be increased upon agreement among DCF, the CBC lead agency, and the foster parent. If a foster parent is receiving more than the minimum amount required for foster care, it is unclear whether the increase will be based on the rate paid or on the rate in statute. It is also unclear whether the foster parents who begin caring for children after 2013 will receive the base rate named in statute and receive an annual cost of living increase based on that amount, or if they will receive the higher rate that existing foster parents are receiving.

The bill also allows CBC lead agencies providing care under contract with DCF to pay a supplemental room and board payment to foster care parents for providing independent life skills and normalcy supports to children ages 13-17 placed in their care. The supplemental payment must be paid monthly to the foster care parents on a per-child basis in addition to the current monthly room and board rate payment. The supplemental monthly payment is ten percent of the monthly room and board rate for children ages 13-21, and is adjusted annually. The bill gives DCF rulemaking authority to implement these requirements.

Community-Based System of Care

The bill requires the child welfare system of DCF to operate as a coordinated community-based system of care which empowers all caregivers of children in foster care to provide quality parenting, including approving or disapproving a child's participation in activities based on the caregiver's assessment of "reasonable and prudent parent" standard. Currently, DCF is required to conduct, supervise and

administer a program for dependent children and their families.[28] The bill changes this requirement to instead require DCF to develop, implement, and administer a coordinated community-based system of care (rather than program) for children who are found to be dependent and their families. The bill also changes the goals of the system of care and retains some of goals of the program to also apply to the system of care. The bill adds the following goals to the system of care:

- Intervention to allow children to remain safely in their homes;
- The reunification of families who have had children removed from their care;
- Safety for children who are separated from their families by providing alternative emergency or longer-term parenting arrangements; and
- Well-being of children through emphasis on maintaining educational stability and providing timely health care.

The bill keeps the following goals from the program, to also apply to the new system of care:

- Prevention of separation of children from their families; and
- Permanency for children of whom reunification with their families is not possible or is not in the best interest of the child.

The bill expands the goal relating to transition to self-sufficiency for older children who continue in foster care as adolescents. The bill states that the goal is also to transition to independence, as well as self-sufficiency and expands the group of children the goal applies to include those who remain in foster care through adolescence.

All other goals from the program are deleted by the bill, and do not apply to the new system of care.

The bill deletes the requirement that the children listed in statute are subject to the protection, care, guidance, and supervision of DCF or any duly licensed public or private agency. This applies to children who have been taken from the custody of their parents, custodians, or guardians, children in need of protective supervision, and children voluntarily placed in DCF's foster care program. The bill also deletes the requirement that circuit courts cooperate with DCF to carry this out, in relation to juvenile jurisdictions.

The bill removes DCF's authorization to accept children on a permanent basis by order of a court of competent jurisdiction for the purpose of adoption placement of these children. The bill also removes DCF's authorization to provide necessary services to place these children ordered to DCF on a permanent basis. The bill removes the option that the funds appropriated by counties for child welfare services be matched by state and federal funds and the requirement that these funds be utilized by DCF for the benefit of children is those counties.

The bill also removes the requirement that when a child is placed under the protection, care, and guidance of DCF or a duly licensed agency, that DCF or the agency try to obtain information concerning the family medical history of a child and the natural parents, as soon as possible. The bill also removes the requirement that the information be kept on file with DCF or the agency for future use.

The bill also removes the requirement that when a child is placed by DCF in a shelter home, foster home, or other residential placement, DCF make available to the operator of the shelter home, foster home, other residential placement or other residential caretaker all relevant information concerning the child's demographic social and medical history as soon as possible.

[28] S. 409.145(1), F.S.

Quality Parenting and Normalcy

The bill provides for increased responsibility to caregivers (e.g. foster parents) and encouragement for them to be involved in the lives of youth in their care. In addition caregivers are encouraged to make decisions about the care of the children as if they were their own children, by using a reasonable and prudent parenting standard. This is to try and create as normal life as possible for children growing up in foster care.

Caregivers

The bill creates a section on quality parenting in s. 409.175. The bill requires that children in foster care be placed only with a caregiver who has the ability to care for the child, is willing to accept the responsibility for providing care, and is willing and able to learn about and be respectful of the child's culture, religion and ethnicity, special physical or psychological needs, unique circumstances, and family relationships. The bill specifies that DCF, the CBC lead agency, and other agencies must provide the caregiver with all available information necessary to assist the caregiver in determining whether the caregiver is able to appropriately care for a particular child. The bill also specifies the roles and responsibilities of a caregiver, and requires caregivers to:

- Participate in developing the case plan for the child and his or her family and work with others involved in his or her care to implement the plan (participation includes the caregiver's involvement in all team meetings or court hearings related to the child's care);
- Complete all training needed to improve skills in parenting a child who has experienced trauma due to neglect, abuse, or separation from home, to meet the child's special needs and to work effectively with the child welfare agencies, the court, the schools, and other community and governmental agencies;
- Respect and support the child's ties to members of his or her biological family and assist the child in maintaining allowable visitation and other forms of communication;
- Effectively advocate for the child in the caregiver's care with the child welfare system, the court, and community agencies, including the school, child care providers, health and mental health providers, and employers;
- Participate fully in the child's medical, psychological, and dental care as the caregiver would for his or her biological child;
- Support the child's school success by participating in school activities and meetings, including individual education plan meetings, assisting with school assignments, supporting tutoring programs, meeting with teachers, working with an educational surrogate if one has been appointed, and encouraging the child's participation in extracurricular activities;
- Work in partnership with other stakeholders to obtain and maintain records that are important to the child's well-being, including child resource records, medical records, school records, photographs, and records of special events and achievements;
- Ensure that children between the ages of 13 and 17 learn and master independent living skills;
- Ensure that children are aware of the requirements and benefits of the Road-to-Independence Program; and
- Work to enable children to establish and maintain naturally occurring mentoring relationships.

The bill creates roles and responsibilities applicable to DCF, the CBC lead agency, and other agency staff regarding caregivers. The bill requires DCF, the CBC lead agency, and other agency staff to:

- Include a caregiver in the development and implementation of the case plan for the child and the child's family. The bill authorizes the caregiver to participate in all team meetings or curt hearings related to the child's care and future plans. The bill requires the caregiver to be given timely notification, requires an inclusive process, and requires alternative methods of participation for a caregiver who cannot be physically present;
- Develop and make available to the caregiver the information, service, training and support that the caregiver needs to improve his or her skills in parenting children who have experience trauma due to neglect, abuse, or separation from home, to meet these children's special needs, and to advocate effectively with child welfare agencies, the courts, schools, and other community and governmental agencies; and

- Provide the caregiver with all information related to services and other benefits available to the child.

The bill also creates a section in s. 409.145, F.S., regarding transitions. The bill states that once a caregiver accepts the responsibility of caring for a child, the child will be removed from the home of that caregiver only if:

- The caregiver is clearly unable to safely or legally care for the child;
- The child and his or her biological family are reunified;
- The child is being placed in a legally permanent home pursuant to the case plan or a court order;
- The removal is demonstrably in the child's best interest; or
- The caregiver is no longer able or willing to care for the child.

The bill specifies that if the child leaves the caregiver's home for any of these reasons, the transition must be accomplished according to a plan that involves cooperation and sharing of information among all persons involved, respects the child's developmental state and psychological needs, ensures the child has all of his or her belongings, and allows for gradual transition from the caregiver's home. If possible, the transition must allow for continued contact with the caregiver after the child leaves. These transition requirements do not apply in the case of an emergency.

The bill requires DCF and any additional provider to make available all relevant information concerning a child to the caregiver when a foster home or residential group home assume responsibility for the care of a child. This information must be made available as soon as practicable. The required information includes:

- Medical, dental, psychological, psychiatric, and behavioral history and ongoing evaluation or treatment needs;
- School records;
- Copies of the child's birth certificate and immigration status documents (if appropriate);
- Consents signed by parents;
- Comprehensive behavioral assessments and other social assessments;
- Court orders;
- Visitation and case plans;
- Guardian ad litem reports;
- Staffing forms; and
- Judicial or citizen review panel reports and attachments filed with the court, except for confidential medical, psychiatric, and psychological information regarding any party or participant other than the child.

The bill requires all caregivers employed by residential group homes to meet the same education, training, and background and other screening as foster parents.

Reasonable and Prudent Parent Standard

The bill creates a section in s. 409.145 regarding a reasonable and prudent parent standard. The bill defines the terms "age-appropriate," "caregiver," and "reasonable and prudent parent standard." The bill makes the reasonable and prudent parent standard the standard used by a caregiver when determining whether to allow a child to participate in extracurricular, enrichment, and social activities. The standard is characterized by reasonable and sensible parental decisions that maintain the child's health, safety, and best interest while at the same time encouraging the child's emotional and developmental growth. The bill states that every child who comes into out-of-home care is entitled to participate in age-appropriate, extracurricular, enrichment, and social activities and that each caregiver must use this standard when determining whether to give permission for a child to participate in one of these activities. The bill states that when using the standard the parent must consider:

- The child's age, maturity, and developmental level to maintain the overall health and safety of the child;
- The potential risk factors and appropriateness of the extracurricular, enrichment, or social activity;

- The best interest of the child, based on information known by the caregiver;
- The importance of encouraging the child's emotional and developmental growth; and
- The behavior history of the child and the child's ability to safely participate in the proposed activity.

The bill requires DCF and each CBC lead agency to verify that private agencies providing out-of-home care services to dependent children have policies in place consistent with the use of the reasonable and prudent parent standard. DCF and each CBC lead agency must also ensure that these agencies are promoting and protecting the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities.

The bill states that a caregiver is not liable for harm caused to a child who participates in an activity approved by the caregiver, as long as the caregiver has acted in accordance with the reasonable and prudent parent standard.

Road-to-Independence Program

The bill restructures the current Road-To-Independence Program to accommodate the differing needs of young adults who are either remaining in foster care or choosing to leave and are pursuing a postsecondary skill, trade, or higher education.

The bill provides legislative findings and intent relating to the resilience of young adults and children, their ability to be successful adults with adequate support, and the need for young adults and children create and preserve permanent connections and relationships with safe and stable adults. The bill also states that the legislature intends that young adults who choose to participate in the Road-to-Independence Program receive the skills, education, and support necessary to become self-sufficient and leave foster care with a lifelong connection to a supportive adult through aftercare services or postsecondary education services.

The bill eliminates the pre-independent living services, which were life skills training, educational field trips, and conferences available for children between 13 and 14 years old who are in foster care.[29]

Eligibility

Under the bill, a young adult is eligible for services and support for postsecondary education services and support if the young adult:

- Was living in licensed care on the young adult's 18th birthday, is currently living in licensed care, or was at least 16 years old when adopted from foster care or placed with a court-approved dependency guardian after spending at least 6 months in licensed care within the 12 months immediately preceding the placement or adoption;
- Spent at least 6 months in licensed care before reaching the young adult's 18th birthday;
- Earned a high school diploma or its equivalent;
- Has been admitted for enrollment as a full-time student or its equivalent in an eligible postsecondary educational institution, unless the individual has a recognized disability preventing attendance;
- Is between the ages of 18 and 22;
- Has applied for any other grants and scholarships (with assistance from their caregiver and CBC lead agency);
- Submitted a complete and error-free Free Application for Federal Student Aid; and
- Signed an agreement to allow DCF and the CBC lead agency to access school records.

To be eligible for a renewal award for the subsequent year, the young adult must:

- Be enrolled for or have completed the number of hours or the equivalent to be considered a full-time student by the eligible postsecondary educational institution in which the young adult is enrolled, unless the young adult has a disability preventing full-time attendance; and

[29] S. 409.1451 (4)(a), F.S.

- Maintain appropriate progress as required by the educational institution, but if the young adult's progress is insufficient to renew the award at any time during the eligibility period, the young adult may restore eligibility by improving his or her progress to the required level.

The bill specifies the amount of financial assistance available to young adults who qualify for services and support for postsecondary education services and support.

- Young adults who do not remain in foster care and are attending postsecondary educational institutions are provided $1,256/month. This payment will be made to the CBC lead agency to secure housing and utilities, and the balance will be paid directly to the young adult, until the CBC lead agency and the young adult determine that the young adult can successfully manage the full amount of the assistance.
- Foster parents are provided $515/month for young adults who remain in foster care and are attending a postsecondary educational institution and continue to reside in a licensed foster home. The payment will be made directly to the foster parent.
- Young adults who remain in foster care and are attending a postsecondary educational institution, but temporarily resides away from a licensed foster home for educational purposes, the amount is $1,256/month while the child is at school. This payment will be made to the CBC lead agency to secure housing and utilities, and the balance will be paid directly to the young adult. The payment while the child is residing at home is the board rate and is paid directly to the foster parent.
- Young adults who remain in foster care and are attending a postsecondary educational institution, and continue to reside in a licensed group home, the amount is negotiated between the CBC lead agency and the licensed group home provider. The payment will be made directly to the licensed group home. However, while the child resides at school the payment is $1,256/month and is paid the CBC lead agency to secure housing and utilities, and the balance will be paid directly to the young adult
- Young adults who remain in foster care, are attending a postsecondary educational institution, and temporarily reside out of the licensed group home for educational purposes, the amount is $1,256, which takes the place of the negotiated room and board rate. The payment will be made directly to the licensed group home.

The bill specifies that the money a young adult receives under this section cannot be considered when determining eligibly for, or the amount of any other federal or federally supported assistance. The bill also specifies that a young adult is eligible to receive these funds during the months when enrolled in a postsecondary educational institution.

The bill requires funds to be terminated during the interim between an award and the evaluation if DCF or the agency under contract with the department determines that the award recipient is no longer enrolled in an educational institution or is no longer a resident of the state.

The bill requires DCF to advertise the availability of the stipend and provide notification of the criteria and application procedures for the stipend to children and young adults leaving or where were formerly in foster care; caregivers; case managers; guidance and family services counselors; principals or other relevant school administrators; and guardians ad litem. The bill also requires the award to be transferred with the recipient if an award recipient transfers from one eligible institution to another and continue to meet eligibility. The bill also requires DCF or an agency under contract with DCF to evaluate each Road-to-Independence award for renewal eligibility annually. The bill requires DCF or an agency under contract with DCF must notify a recipient who is terminated and inform the recipient of his or her right to appeal. The bill specifies that an award recipient who does not qualify for a renewal award or who chooses not to renew the award may immediately apply for reinstatement. The application for reinstatement must be made before the young adult is 23 years old. The bill specifies that the young adult must meet the eligibility criteria and criteria for award renewal for the program in order to be eligible for reinstatement. The bill limits a student from applying for reinstatement to one time.

Appeals Process

The bill maintains the requirement that DCF have a procedure for young adults to appeal DCF's refusal to provide Road-to-Independence (RTI) Program services or support, the termination of RTI support, or the termination of RTI services. However, current law requires this to be done by rule,[30] where the bill does not specify that a rule is necessary.

Portability

The bill requires RTI Program services are portable across county lines and between lead agencies. The service needs identified in the transition plan must be provided by the lead agency where the young adult is currently residing but must be funded by the lead agency that initiated the transition plan. The bill requires the lead agency with primary case management responsibilities provide maintenance payments, case planning, and regular case reviews that conform with all federal scheduling and content requirements for all children in foster care who are placed or visiting out-of-state. This includes a written description of all services that will assist a child 16 years old or older to prepare for transition from care to independence.

Advisory Council

The bill maintains the ILSAC and requires representation from two additional agencies: the Department of Economic Opportunity and the Department of Juvenile Justice. The bill maintains the requirement that the ILSAC report to the Secretary of DCF regarding the RTI Program and requires the report to also include an analysis of the system of independent living transition services for young adults who are 18 years old while in foster care before completing high school and include recommendations for DCF or legislative action. The bill requires the ILSAC to assess and report the most effective method of assisting these young adults to complete high school or its equivalent by examining the practices of other states.

Current RTI Program Recipients

The bill allows individuals who are participating in the RTI Program as of October 1, 2013 to continue in the program as it exists through December 31, 2013. As of January 1, 2014, individuals in the RTI Program will be transferred to the program services explained in this bill. However, for these individuals, the monthly stipend may not be reduced, the method of payment of the monthly stipend may not be changed, and the young adult cannot be required to change his or her living arrangement. These conditions will remain in effect for a child or young adult until he or she no longer meets eligibility for the RTI program, according the eligibility requirements when that individual first entered the RTI Program. All individuals applying to or reapplying to the RTI Program after October 1, 2012, must apply according to the requirements contained in the bill.

Postsecondary Mentors

The bill requires DCF or an agency under contract with DCF to ensure that former foster care young adults attending a postsecondary educational institution have a designated mentor. The bill explains that a mentor is a caring, responsible adult who serves as a positive role model and provides ongoing information, guidance, and support to a young adult transitioning to postsecondary education and adulthood. The bill requires Road-to-Independence mentors to be mutually agreed up by either DCF or an agency under contract with DCF and the student. The bill requires all Road-to-Independence mentors to submit to a level 2 background screening, paid for by the CBC lead agency. The bill requires agencies under contract with DCF to make a current list available to DCF as needed of all assigned mentors and those young adults that do not have a mentor. Annually, the agencies must confirm and document that a mentor is willing to continue mentoring.

[30] S. 409.1451(5)(e)(1), F.S.

Campus Coaching

The bill requires DCF to acquire postsecondary educational campus coaching positions to provide former foster care youth with dedicated on-campus support to aid these individuals in transitioning from foster care to graduation. The positions are required to be integrated into state colleges' and university institutions' general support services structure and are required to be funded with the use of existing independent living services funding. The bill requires the number and distribution of these positions to be determined by the number of former foster care youth attending postsecondary educational institutions receiving RTI education tuition waivers within a given community.

The bill also requires the creation of a network coordination position, which is responsible for overseeing startup, implementation, and evaluation of the support program. The network coordinator's position is required to be a state full-time equivalent position, and will be funded from the existing independent living services funding.

Advisory Council

The bill maintains the Independent Living Service Advisory Council (ILSAC) and requires representation from two additional agencies: the Department of Economic Opportunity and the Department of Juvenile Justice. The bill maintains the requirement that the ILSAC report to the Secretary of DCF regarding the RTI Program and requires the report to also include an analysis of the system of independent living transition services for young adults who are 18 years old while in foster care before completing high school and include recommendations for DCF or legislative action. The bill requires the ILSAC to assess and report the most effective method of assisting these young adults to complete high school or its equivalent by examining the practices of other states.

The bill provides an effective date of October 1, 2013.

B. SECTION DIRECTORY:

Section 1: Amends s. 39.013, F.S., related to procedures and jurisdiction
Section 2: Amends s. 39.6013, F.S., related to case plan amendments
Section 3: Creates s. 39.6035, F.S., related to transition plan
Section 4: Creates s. 39.6251, F.S., related to continuing care for young adults
Section 5: Amends s. 39.701, F.S., related to judicial review
Section 6: Amends s. 409.145, F.S., related to care of children
Section 7: Amends s. 409.1451, F.S., related to the Road-to-Independence Program
Section 8: Amends s. 409.175, F.S., related to the Licensure of family foster homes, residential child-caring agencies, and child-placing agencies
Section 9: Amends s. 409.903, F.S., related to mandatory payments for eligible persons
Section 10: Creates an unnumbered section of law, related to campus coaching positions
Section 11: Provides effective dates pursuant to the Road-to-Independence Program.
Section 12: Relates to the establishment of a special category in the General Appropriations Act.
Section 13. Provides an effective date of October 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

DCF has estimated a cost of $48,252,405 during FY 2013-14 and a cost of $47,675,193 during FY 2014-15, for the cost associated with the Independent Living program proposed in this bill.[31] This cost model assumes that 79% of young adults turning 18 participate in extended foster care or RTI and that of that 79%, 76% opt into extended foster care and 24% enroll in RTI program.

The following chart provides a comparison of Independent Living expenditure categories for FY 2011-12, FY 2013-14, and FY 2014-15. The chart also includes DCF narrative explaining the basis for the change in cost between years.[32] The funding for the Independent Living program expenditures during FY 2011-12 consists of $29.4 million in budgeted funds for Independent Living and $19.5 million in other funds provided to Community Based Care lead agencies.[33]

SERVICE CATEGORIES	FY 2011-12 EXPENDITURES	FY 2013-14 PROPOSED BUDGET	FY 2014-15 PROPOSED BUDGET	ESTIMATED BASIS FOR CHANGE
Independent Living (IL) Case Coordination (CC)	$13,066,982	$8,136,373	$3,651,864	For the first half of FY 2013-14, IL CC will be provided to the existing population for 18 to 22 year olds in high school and post-secondary education. For the second half of the year, IL CC will only be provided to post-secondary education participants. In FY 2014-15, the decrease in the proposed budget is due to a reduction in eligible participants.
Road-to-Independence (RTI)	$29,858,300	$25,467,042	$20,976,243	For FY 2011-12, 3,418 received at least one payment during the year. It is projected that during FY 2013-14, 2,548 will receive a RTI payment. In FY 2014-15 the estimated number of RTI participants is 2,023. As of October 1, 2013 eligibility for the new program is limited to students enrolled in post-secondary education institutions. The proposed budgets for FY 2013-14 and 2014-15 include the "grandfather in" existing population who will retain their current RTI payment amounts until they leave the program.
Transitional Support Services/Aftercare Services	$5,837,115	$2,443,244	$866,144	For July - Sept 2013 Transitional Support Services have been included in Aftercare. The amount for Transitional Support Services for the first quarter is $1,362,715 and Aftercare is $136,021. The computation for the first quarter was based on an average of FY 2011-12 and FY 2012-13 actual expenditures. The amount for Aftercare for the remaining 3/4 of the year is $944,508 which was projected using a percentage of eligible population multiplied by $1,121 (average payment for Aftercare in FY 2011-12). As of October 1, 2013 the bill eliminates Transitional Support Services. For FY 2014-15 Aftercare is projected using a percentage of eligible population multiplied by $1,121. The budget is reduced due to the change in eligibility requirements. Aftercare is only available to young adults who opted out of foster care and are not enrolled in the RTI program.
Subsidized Independent Living	$276,761	$0	$0	The proposed bill eliminates this service category effective October 1. 2013.
Foster Care Case Management (for 18-21 year olds in extended foster care)	$0	$6,764,219	$13,408,572	This is a new component of foster care for 18 - 21 year olds who choose to remain in foster care. It is projected that 1,409 will receive case management at a cost of $821 per case per month for six months in FY 2013-14. For FY 2014-15 it is projected that 1,361 will receive case management at a cost of $821 per case per month.
Florida Safe Families Network	$0	$1,020,000	$200,000	For FY 2013-14 modifications to the FSFN system are necessary due to changes in the IL and

[31]. The expenditures for the Independent Living program during FY 2011-12 was $49,039,158

[32] Department of Children and Families comparison of actual FY 2011-12 independent living expenditures to FY 2013-14 proposed budget for extended foster care and independent living, dated 3/8/13, (on file with Healthy Families Committee Staff)

[33] DCF presentation on Independent Living to the 2/7/13 Healthy Families Subcommittee.

SERVICE CATEGORIES	FY 2011-12 EXPENDITURES	FY 2013-14 PROPOSED BUDGET	FY 2014-15 PROPOSED BUDGET	ESTIMATED BASIS FOR CHANGE
(FSFN)				Extended Foster Care programs. Ongoing maintenance for the system is included in FY 2014-15.
Children's Legal Services (CLS)	$0	$627,363	$601,029	In FY 2013-14 seven additional attorneys are needed for the judicial reviews for the extended foster care population and the budget includes the nonrecurring expenses for these positions.
Extended Foster Care 18-21 (Room and Board Rate)	$0	$1,461,570	$4,639,792	Foster care room and board payments are added for the extension of foster care to 18 - 21 year olds who elect to remain in foster care effective October 2013 to June 30, 2014. It is estimated that there will be 430 new participants. The monthly room and board rate is $515. For FY 2014-15 it is estimated that there will be 833 participants with a room and board rate of $527.46. In addition, the proposed budgets include estimates of $243,595 for FY 2013-14 and $773,299 for FY 2014-15 based on 20% of the minimum allowance to account for CBC negotiation flexibility. It should be noted that this population under the old program would have received an average monthly RTI payment of $1,152.
Background Screening for Post-Secondary Education Mentors	$0	$76,253	$50,898	It is estimated that 1,883 new mentors will need to complete a Level 2 background screening at a cost of $40.50 per screening. (1,882.8 * $40.50) in FY 2013-14. For FY 2014-15 it is estimated that 1,257 new mentors will need to have background screenings competed.
College Coaches/Network Coordinator[34]	$0	$564,651	$913,027	Ten college coaches (starting in January 2014) and one network coordinator (starting in October 2013) (DCF employee) to provide post-secondary education support for RTI students. For FY 2014-15 the costs are projected for twelve months.
Supplemental Room and Board Rate	$0	$390,731	$713,391	Provides payments to the foster parents of the 13 - 17 year olds for the Life Skills and normalcy activities. For FY 2013-14 the monthly payment per child is 10% ($51.50) of the room and board rate ($515). In FY 2014-15 the monthly payment per child is 10% ($52.75) of the room and board rate ($527.46) due the provision of a cost of living increase based on the Consumer Price Index. During FY 2014-15 20% of the children placed in group homes are projected to move into foster homes in an effort to provide youth with family connections.
Foster Care Cost of Living Increase	$0	$52,452	$225,534	In FY 2013-14 the foster care monthly room and board rates are increased that are below the minimum to the statutorily mandated minimum board rates. $429 for 0 - 5 years, $440 for 6 - 12 years and $515 for 13 - 21 years. In FY 2014-15 all of the board rates are increased by 2.42% (average of ten years of the Consumer Price Index).
Foster Parent Life Skills Training	$0	$1,040,377	$511,804	The responsibility for Life Skills Training for 13 - 17 year olds has been transferred from providers to foster parents. In FY 2011-12 the costs for Life Skills Training was included in the total expenditures for Case Coordination. However, the amount associated with it is unable to be determined. For FY 2013-14 the proposed budget includes: curriculum development for 4 levels/12 modules per level of Life Skills Training, participant materials, trainer manuals, pre and post tests and

[34] An alternative analysis provided by representation of the Community-Based Care lead agencies indicates the total cost estimate for the college mentoring program of this bill to be $3,806,250 (on file with committee staff).

SERVICE CATEGORIES	FY 2011-12 EXPENDITURES	FY 2013-14 PROPOSED BUDGET	FY 2014-15 PROPOSED BUDGET	ESTIMATED BASIS FOR CHANGE
				formal Levels 1 and 2 classroom training for foster parents. In addition an online training curriculum and pre and post tests for 18 -21 year olds will be developed to prepare young adults transitioning to adulthood. For FY 2014-15 the budget includes formal classroom training on all levels.
Maintenance Adoption Subsidy (MAS) For the Extended Foster Care for 18-21 Year Olds	$0	$208,130	$896,925	MAS will need to be extended for the 18 - 21 year olds who meet the eligibility requirements. It was projected that there will be 86 phased in during FY 2013-14. In FY 2014-15 the 86 will receive payments for twelve months and 86 new participants will be phased in over the year.
Total	$49,039,158	48,252,405	$47,675,193	

Note: Since the proposed bill introduces a new program for Independent Living, the choices which will be made by youth turning 18 may be different than proposed in the cost above. For comparison, purposes, DCF prepared two alternative models, illustrated in the chart below.

	Scenario	Year 1	Year 2
Model 1	100% of young adults turning 18 remain in extended foster care.	$49,695,958	$56,140,919
Model 2	0% of young adults turning age 18 opt into extended foster care and 24% enroll in RTI.	$44,752,327	$34,745,275

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill does not provide additional financial resources for the Independent Living program, which is funded with $29,476,721 of designated Independent Living budget authority and $19,562,437 of flexible budget from other CBC state fund sources, for a total program cost of $49,039,158. If program costs exceed the designated budget, CBCs will be required to utilize the more flexible budget used for other CBC services.

The CBC state fund sources include those appropriated for core services (e.g., child protective services, adoption services, licensure and oversight of foster or group homes) and the "carry forward" of prior years' unexpended funds. Carry forward funding is used by CBCs to mitigate instances when operational costs exceed the annual contract amount. To the extent the actual fiscal impact varies from this estimate, CBCs will either realize a program savings or be required to use additional core service funds, reduce services, fundraise, or use carry forward. In FY 2011-12, all 20 CBC contracts amounted to $764,876,288, with a total carry forward balance of $26,964,324, or 0.8 percent of the total contract amount. There were two CBCs operating in deficit. In the same year, the total program cost was $49,039,158, of which $6,504,452 -- or 13.3 percent – was funded with carry forward.

The expenditure impact provided in Section II of this analysis is based on 14 categories identified by DCF as having either a positive or negative fiscal impact upon the program. In many categories, the FY 2011-12 actual expenditure data is used to forecast the bill's impact on fiscal years 2013-14

and 2014-15. While based on actual data, it is not necessarily indicative of foster children's future behavior as the options in this bill were not available during FY 2011-12. The actual fiscal impact to state government will be determined by the individual choices the young adults make and the types of services they may require.

The estimates provided by DCF separate Foster Care and RTI. It is unclear whether DCF accounted for young adults who choose to remain in foster care and also receive RTI benefits. The estimates fail to note the future impact that may result from the cost of living increase to the foster parent board rate. Additionally, the Maintenance Adoption Subsidy (MAS) cost will increase under the bill, since they will be extended to all individuals in extended foster care who are adopted up to age 21. It's projected that if CBCs reach their adoption targets in the current year, the Maintenance Adoption Subsidy (MAS) may create an approximate $2 million deficit for FY 2012-13.[35]

The bill requires those who stay in foster care to have judicial review hearings. The State Court System acknowledges this workload increase but anticipates it can be absorbed within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill provides DCF rulemaking authority for implementation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2013, the Healthy Families Subcommittee adopted a strike-all amendment. The amendment made the following changes:

- Makes a number of technical changes;
- Clarifies the payment rate and process for young adults who choose to leave their foster home or group home temporarily for post-secondary education purposes;
- Makes the definition of reasonable and prudent parent standard consistent with HB 215 which has already passed the House this session;
- Specifies that the annual cost of living increase applies to the minimum board rate paid to foster parents;
- Clarifies that DCF will make the determination that a child is unable to participate in programs or activities due to a disability, as required to be eligible for extended foster care; and
- Requires a child to be removed from a caregiver's home if the caregiver is no longer able or willing to care for the child.

[35] Phone conversation with Nevin Smith, budget director at the Department of Children and Families, March 15, 2013.

A bill to be entitled

An act relating to independent living; amending s. 39.013, F.S.; providing that when the court obtains jurisdiction over a child who has been found to be dependent, the court retains jurisdiction until the child reaches a certain age; providing exceptions; amending s. 39.6013, F.S.; conforming a cross-reference; creating s. 39.6035, F.S.; requiring the Department of Children and Families, the community-based care provider, and others to assist a child in developing a transition plan after the child reaches a specified age and requiring a meeting to develop the plan; specifying requirements and procedures for the transition plan; requiring periodic review of the transition plan; requiring the court to approve the transition plan before the child leaves foster care and the court terminates jurisdiction; creating s. 39.6251, F.S.; providing definitions; providing that a young adult may remain in foster care under certain circumstances after attaining 18 years of age; specifying criteria for extended foster care; providing that the permanency goal for a young adult who chooses to remain in care is transition from care to independent living; specifying dates for eligibility for a young adult to remain in extended foster care; providing for supervised living arrangements in extended foster care; authorizing a young adult to return to foster care under certain

circumstances; specifying services that must be provided to the young adult; directing the court to retain jurisdiction and hold review hearings; amending s. 39.701, F.S.; revising judicial review of foster care cases; making technical changes; providing criteria for review hearings for children younger than 18 years of age; providing criteria for review hearings for children 17 years of age; requiring the department to verify that the child has certain documents; requiring the department to update the case plan; providing for review hearings for young adults in foster care; amending s. 409.145, F.S.; requiring the department to develop and implement a system of care for children in foster care; specifying the goals of the foster care system; requiring the department to assist foster care caregivers to achieve quality parenting; specifying the roles and responsibilities of caregivers, the department, and others; providing for transition from a caregiver; requiring information sharing; providing for the adoption and use of a reasonable and prudent parent standard; defining terms; providing for the application for the standard of care; providing for limiting liability of caregivers; specifying foster parent room and board rates; authorizing community-based care service providers to pay a supplemental monthly room and board payment to foster parents for providing certain services; directing the department to adopt rules;

deleting obsolete provisions; amending s. 409.1451, F.S.; providing for the Road-to-Independence program; providing legislative findings and intent; providing for postsecondary services and support; requiring former foster care young adults attending a postsecondary educational institution to have an assigned mentor; requiring community-based care service providers to maintain a listing of all available mentors; specifying aftercare services; providing for appeals of a determination of eligibility; providing for portability of services across county lines and between lead agencies; providing for accountability; requiring a report to the Legislature; creating the Independent Living Services Advisory Council; providing for membership and specifying the duties and functions of the council; requiring reports and recommendations; providing for a young adult to retain personal property; requiring the department to document enrollment of eligible young adults in Medicaid; directing the department to adopt rules; amending s. 409.175, F.S.; allowing young adults remaining in care to be considered in the total number of children placed in a foster home; amending s. 409.903, F.S.; conforming a cross-reference; requiring the department to acquire postsecondary educational campus coaching positions for certain purposes; providing for a network coordinator to provide oversight; providing

for a transfer of services; providing for the cost of foster care to be paid from a special category in the General Appropriations Act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 39.013, Florida Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel.—

(2) The circuit court has exclusive original jurisdiction of all proceedings under this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, and of the adoption of children whose parental rights have been terminated under this chapter. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition, or a petition for an injunction to prevent child abuse issued pursuant to s. 39.504, is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, caregiver, or some other person, or was not in the physical or legal custody of any person when the event or condition occurred that brought the child to the attention of the court. When the court obtains jurisdiction of any child who has been found to be dependent, the court shall retain jurisdiction, unless relinquished by its

order, until the child reaches 21 ~~18~~ years of age, with the following exceptions:

(a) If a young adult chooses to leave foster care upon reaching 18 years of age, the court shall relinquish jurisdiction.

(b) If a young adult does not meet the eligibility requirements to remain in foster care under s. 39.6251, the court shall relinquish jurisdiction.

(c) ~~However,~~ If a young adult ~~youth~~ petitions the court at any time before his or her 19th birthday requesting the court's continued jurisdiction, the juvenile court may retain jurisdiction under this chapter for a period not to exceed 1 year following the young adult's ~~youth's~~ 18th birthday for the purpose of determining whether appropriate ~~aftercare support, Road-to-Independence Program, transitional support, mental health, and developmental disability~~ services that were required to be provided to the young adult~~, to the extent otherwise authorized by law, have been provided to the formerly dependent child who was in the legal custody of the department immediately~~ before his or her 18th birthday were provided.

(d) If a petition for special immigrant juvenile status and an application for adjustment of status have been filed on behalf of a foster child and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction over the dependency case solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings for the child shall be set solely for the purpose of

determining the status of the petition and application. The court's jurisdiction terminates upon the final decision of the federal authorities. Retention of jurisdiction in this instance does not affect the services available to a young adult under s. 409.1451. The court may not retain jurisdiction of the case after the immigrant child's 22nd birthday.

Section 2. Subsection (6) of section 39.6013, Florida Statutes, is amended to read:

39.6013 Case plan amendments.—

(6) The case plan is deemed amended as to the child's health, mental health, and education records required by s. 39.6012 when the child's updated health and education records are filed by the department under s. 39.701(2)(a) ~~39.701(8)(a)~~.

Section 3. Section 39.6035, Florida Statutes, is created to read:

39.6035 Transition plan.—

(1) During the 180-day period after a child reaches 17 years of age, the department and the community-based care provider, in collaboration with the caregiver and any other individual who the child would like to include, shall assist the child in developing a transition plan. The required transition plan is in addition to standard case management requirements. The transition plan must address specific options for the child to use in obtaining services, including housing, health insurance, education, and workforce support and employment services. The plan must also consider establishing and maintaining naturally occurring mentoring relationships and other personal support services. The transition plan may be as

detailed as the child chooses. In developing the transition plan, the department and the community-based provider shall:

(a) Provide the child with the documentation required pursuant to s. 39.701(2).

(b) Coordinate the transition plan with the independent living provisions in the case plan and, for a child with a disability, the Individuals with Disabilities Education Act transition plan.

(2) The department and the child shall schedule a time, date, and place for a meeting to assist the child in drafting the transition plan. The time, date, and place must be convenient for the child and any individual who the child would like to include. This meeting shall be conducted in the child's primary language.

(3) The transition plan shall be reviewed periodically with the child, the department, and other individuals of the child's choice and updated when necessary before each judicial review so long as the child or young adult remains in care.

(4) If a child is planning to leave care upon reaching 18 years of age, the transition plan must be approved by the court before the child leaves care and the court terminates jurisdiction.

Section 4. Section 39.6251, Florida Statutes, is created to read:

39.6251 Continuing care for young adults.—

(1) As used in this section, the term "child" means an individual who has not attained 21 years of age and the term

"young adult" means an individual who has attained 18 years of age but who has not attained 21 years of age.

(2) The primary goal for a child in care is permanency. A child who is living in licensed care on his or her 18th birthday and who has not achieved permanency under s. 39.621 is eligible to remain in licensed care under the jurisdiction of the court and in the care of the department. A child is eligible to remain in licensed care if he or she is:

(a) Completing secondary education or a program leading to an equivalent credential;

(b) Enrolled in an institution that provides postsecondary or vocational education;

(c) Participating in a program or activity designed to promote or eliminate barriers to employment;

(d) Employed for at least 80 hours per month; or

(e) Unable to participate in programs or activities listed in paragraphs (a)-(d) full time due to a physical, intellectual, emotional, or psychiatric condition that limits participation. Any such barrier to participation must be supported by documentation in the child's case file or school or medical records of a physical, intellectual, or psychiatric condition that impairs the child's ability to perform one or more life activities. This decision is to be made by the department, and is subject to judicial review.

(3) The permanency goal for a young adult who chooses to remain in care is transition from licensed care to independent living.

(4)(a) The young adult must reside in a supervised living environment that is approved by the department or a community-based care lead agency. The young adult shall live independently but in an environment in which he or she is provided supervision, case management, and supportive services by the department or lead agency. Such an environment must offer developmentally appropriate freedom and responsibility to prepare the young adult for adulthood. For the purposes of this subsection, a supervised living arrangement may include a licensed foster home, licensed group home, college dormitory, shared housing, apartment, or another housing arrangement if the arrangement is approved by the community-based care lead agency and is acceptable to the young adult, with first choice being a licensed foster home. A young adult may continue to reside with the same licensed foster family or group care provider with whom he or she was residing at the time he or she reached the age of 18 years.

(b) Before approving the residential setting in which the young adult will live, the department or community-based care lead agency must ensure that:

1. The young adult will be provided with a level of supervision consistent with his or her individual education, health care needs, permanency plan, and independent living goals as assessed by the department or lead agency with input from the young adult. Twenty-four hour onsite supervision is not required; however, 24-hour crisis intervention and support must be available.

2. The young adult will live in an independent living environment that offers, at a minimum, life skills instruction, counseling, educational support, employment preparation and placement, and development of support networks. The determination of the type and duration of services shall be based on the young adult's assessed needs, interests, and input and must be consistent with the goals set in the young adult's case plan.

(5) Eligibility for a young adult to remain in extended foster care ends on the earliest of the dates that the young adult:

1. Reaches 21 years of age or, in the case of a young adult with a disability, reaches 22 years of age;

2. Leaves care to live in a permanent home consistent with his or her permanency plan; or

3. Knowingly and voluntarily withdraws his or her consent to participate in extended care. Withdrawal of consent to participate in extended care shall be verified by the court pursuant to s. 39.701, unless the young adult refuses to participate in any further court proceeding.

(6) A young adult who has reached 18 years of age but is not yet 21 years of age and who has left care may return to care by applying to the community-based care lead agency for readmission. The community-based care lead agency shall readmit the young adult if he or she continues to meet the eligibility requirements of this section.

(a) The department shall develop a standard procedure and application packet for readmission to care to be used by all community-based care lead agencies.

(b) Within 30 days after the young adult has been readmitted to care, the community-based care lead agency shall assign a case manager to update the case plan and the transition plan and to arrange for the required services. Such activities shall be undertaken in consultation with the young adult. The department shall petition the court to reinstate jurisdiction over the young adult.

(7) During each period of time that a young adult is in care, the community-based care lead agency shall provide regular case management reviews that must include at least monthly contact with the case manager. If a young adult lives outside the service area of his or her community-based care lead agency, monthly contact may occur by telephone.

(8) During the time that a young adult is in care, the court shall maintain jurisdiction to ensure that the department and the lead agencies are providing services and coordinate with, and maintain oversight of, other agencies involved in implementing the young adult's case plan, individual education plan, and transition plan. The court shall review the status of the young adult at least every 6 months and hold a permanency review hearing at least annually. The court may appoint a guardian ad litem or continue the appointment of a guardian ad litem with the young adult's consent. The young adult or any other party to the dependency case may request an additional hearing or review.

(9) The department shall establish a procedure by which a young adult may appeal a determination of eligibility to remain in care that was made by a community-based care lead agency. The procedure must be readily accessible to young adults, must provide for timely decisions, and must provide for an appeal to the department. The decision of the department constitutes final agency action and is reviewable by the court as provided in s. 120.68.

Section 5. Section 39.701, Florida Statutes, is amended to read:

39.701 Judicial review.—

(1) GENERAL PROVISIONS.—

(a) The court shall have continuing jurisdiction in accordance with this section and shall review the status of the child at least every 6 months as required by this subsection or more frequently if the court deems it necessary or desirable.

(b) The court shall retain jurisdiction over a child returned to his or her parents for a minimum period of 6 months following the reunification, but, at that time, based on a report of the social service agency and the guardian ad litem, if one has been appointed, and any other relevant factors, the court shall make a determination as to whether supervision by the department and the court's jurisdiction shall continue or be terminated.

(c)1.~~(2)(a)~~ The court shall review the status of the child and shall hold a hearing as provided in this part at least every 6 months until the child reaches permanency status. The court may dispense with the attendance of the child at the hearing,

but may not dispense with the hearing or the presence of other parties to the review unless before the review a hearing is held before a citizen review panel.

2.~~(b)~~ Citizen review panels may conduct hearings to review the status of a child. The court shall select the cases appropriate for referral to the citizen review panels and may order the attendance of the parties at the review panel hearings. However, any party may object to the referral of a case to a citizen review panel. Whenever such an objection has been filed with the court, the court shall review the substance of the objection and may conduct the review itself or refer the review to a citizen review panel. All parties retain the right to take exception to the findings or recommended orders of a citizen review panel in accordance with Rule 1.490(h), Florida Rules of Civil Procedure.

3.~~(c)~~ Notice of a hearing by a citizen review panel must be provided as set forth in paragraph (f) ~~subsection (5)~~. At the conclusion of a citizen review panel hearing, each party may propose a recommended order to the chairperson of the panel. Thereafter, the citizen review panel shall submit its report, copies of the proposed recommended orders, and a copy of the panel's recommended order to the court. The citizen review panel's recommended order must be limited to the dispositional options available to the court in paragraph (2)(d) ~~subsection (10)~~. Each party may file exceptions to the report and recommended order of the citizen review panel in accordance with Rule 1.490, Florida Rules of Civil Procedure.

(d)1.~~(3)(a)~~ The initial judicial review hearing must be held no later than 90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, whichever comes first, but in no event shall the review be held later than 6 months after the date the child was removed from the home. Citizen review panels may ~~shall~~ not conduct more than two consecutive reviews without the child and the parties coming before the court for a judicial review.

2.~~(b)~~ If the citizen review panel recommends extending the goal of reunification for any case plan beyond 12 months from the date the child was removed from the home, the case plan was adopted, or the child was adjudicated dependent, whichever date came first, the court must schedule a judicial review hearing to be conducted by the court within 30 days after receiving the recommendation from the citizen review panel.

3.~~(c)~~ If the child is placed in the custody of the department or a licensed child-placing agency for the purpose of adoptive placement, judicial reviews must be held at least every 6 months until the adoption is finalized.

4.~~(d)~~ If the department and the court have established a formal agreement that includes specific authorization for particular cases, the department may conduct administrative reviews instead of the judicial reviews for children in out-of-home care. Notices of such administrative reviews must be provided to all parties. However, an administrative review may not be substituted for the first judicial review, and in every case the court must conduct a judicial review at least every 6

months. Any party dissatisfied with the results of an administrative review may petition for a judicial review.

5.~~(e)~~ The clerk of the circuit court shall schedule judicial review hearings in order to comply with the mandated times cited in this section.

6.~~(f)~~ In each case in which a child has been voluntarily placed with the licensed child-placing agency, the agency shall notify the clerk of the court in the circuit where the child resides of such placement within 5 working days. Notification of the court is not required for any child who will be in out-of-home care no longer than 30 days unless that child is placed in out-of-home care a second time within a 12-month period. If the child is returned to the custody of the parents before the scheduled review hearing or if the child is placed for adoption, the child-placing agency shall notify the court of the child's return or placement within 5 working days, and the clerk of the court shall cancel the review hearing.

(e)~~(4)~~ The court shall schedule the date, time, and location of the next judicial review during the judicial review hearing and shall list same in the judicial review order.

(f)~~(5)~~ Notice of a judicial review hearing or a citizen review panel hearing, and a copy of the motion for judicial review, if any, must be served by the clerk of the court upon all of the following persons, if available to be served, regardless of whether the person was present at the previous hearing at which the date, time, and location of the hearing was announced:

1.~~(a)~~ The social service agency charged with the supervision of care, custody, or guardianship of the child, if that agency is not the movant.

2.~~(b)~~ The foster parent or legal custodian in whose home the child resides.

3.~~(c)~~ The parents.

4.~~(d)~~ The guardian ad litem for the child, or the representative of the guardian ad litem program if the program has been appointed.

5.~~(e)~~ The attorney for the child.

6.~~(f)~~ The child, if the child is 13 years of age or older.

7.~~(g)~~ Any preadoptive parent.

8.~~(h)~~ Such other persons as the court may direct.

(g)~~(6)~~ The attorney for the department shall notify a relative who submits a request for notification of all proceedings and hearings pursuant to s. 39.301(14)(b). The notice shall include the date, time, and location of the next judicial review hearing.

~~(7)(a) In addition to paragraphs (1)(a) and (2)(a), the court shall hold a judicial review hearing within 90 days after a youth's 17th birthday. The court shall also issue an order, separate from the order on judicial review, that the disability of nonage of the youth has been removed pursuant to s. 743.045. The court shall continue to hold timely judicial review hearings thereafter. In addition, the court may review the status of the child more frequently during the year prior to the youth's 18th birthday if necessary. At each review held under this subsection, in addition to any information or report provided to~~

~~the court, the foster parent, legal custodian, guardian ad litem, and the child shall be given the opportunity to address the court with any information relevant to the child's best interests, particularly as it relates to independent living transition services. In addition to any information or report provided to the court, the department shall include in its judicial review social study report written verification that the child:~~

~~1. Has been provided with a current Medicaid card and has been provided all necessary information concerning the Medicaid program sufficient to prepare the youth to apply for coverage upon reaching age 18, if such application would be appropriate.~~

~~2. Has been provided with a certified copy of his or her birth certificate and, if the child does not have a valid driver's license, a Florida identification card issued under s. 322.051.~~

~~3. Has been provided information relating to Social Security Insurance benefits if the child is eligible for these benefits. If the child has received these benefits and they are being held in trust for the child, a full accounting of those funds must be provided and the child must be informed about how to access those funds.~~

~~4. Has been provided with information and training related to budgeting skills, interviewing skills, and parenting skills.~~

~~5. Has been provided with all relevant information related to the Road-to-Independence Program, including, but not limited to, eligibility requirements, forms necessary to apply, and assistance in completing the forms. The child shall also be~~

~~informed that, if he or she is eligible for the Road-to-Independence Program, he or she may reside with the licensed foster family or group care provider with whom the child was residing at the time of attaining his or her 18th birthday or may reside in another licensed foster home or with a group care provider arranged by the department.~~

~~6. Has an open bank account, or has identification necessary to open an account, and has been provided with essential banking skills.~~

~~7. Has been provided with information on public assistance and how to apply.~~

~~8. Has been provided a clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and what educational program or school he or she will be enrolled in.~~

~~9. Has been provided with notice of the youth's right to petition for the court's continuing jurisdiction for 1 year after the youth's 18th birthday as specified in s. 39.013(2) and with information on how to obtain access to the court.~~

~~10. Has been encouraged to attend all judicial review hearings occurring after his or her 17th birthday.~~

~~(b) At the first judicial review hearing held subsequent to the child's 17th birthday, in addition to the requirements of subsection (8), the department shall provide the court with an updated case plan that includes specific information related to independent living services that have been provided since the child's 13th birthday, or since the date the child came into foster care, whichever came later.~~

~~(c) At the time of a judicial review hearing held pursuant to this subsection, if, in the opinion of the court, the department has not complied with its obligations as specified in the written case plan or in the provision of independent living services as required by s. 409.1451 and this subsection, the court shall issue a show cause order. If cause is shown for failure to comply, the court shall give the department 30 days within which to comply and, on failure to comply with this or any subsequent order, the department may be held in contempt.~~

(2)~~(8)~~ REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF AGE.—

(a) Social study report for judicial review.—Before every judicial review hearing or citizen review panel hearing, the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing, including the safety of the child and the continuing necessity for and appropriateness of the placement.

2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the plan.

3. The amount of fees assessed and collected during the period of time being reported.

4. The services provided to the foster family or legal custodian in an effort to address the needs of the child as indicated in the case plan.

5. A statement that either:

a. The parent, though able to do so, did not comply substantially with the case plan, and the agency recommendations;

b. The parent did substantially comply with the case plan; or

c. The parent has partially complied with the case plan, with a summary of additional progress needed and the agency recommendations.

6. A statement from the foster parent or legal custodian providing any material evidence concerning the return of the child to the parent or parents.

7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency recommendations for an expansion or restriction of future visitation.

8. The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.

9. The number of times a child's educational placement has been changed, the number and types of educational placements which have occurred, and the reason for any change in placement.

10. If the child has reached 13 years of age but is not yet 18 years of age, a statement from the caregiver on the

progress the child has made in acquiring independent living skills ~~the results of the preindependent living, life skills, or independent living assessment; the specific services needed; and the status of the delivery of the identified services~~.

11. Copies of all medical, psychological, and educational records that support the terms of the case plan and that have been produced concerning the parents or any caregiver since the last judicial review hearing.

12. Copies of the child's current health, mental health, and education records as identified in s. 39.6012.

(b) Submission and distribution of reports.—

1. A copy of the social service agency's written report and the written report of the guardian ad litem must be served on all parties whose whereabouts are known; to the foster parents or legal custodians; and to the citizen review panel, at least 72 hours before the judicial review hearing or citizen review panel hearing. The requirement for providing parents with a copy of the written report does not apply to those parents who have voluntarily surrendered their child for adoption or who have had their parental rights to the child terminated.

2.~~(c)~~ In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If the child cannot be placed for adoption, a report on the progress made by the child towards alternative permanency goals or placements, including, but not limited to, guardianship, long-term custody, long-term licensed custody, or independent living, must be submitted to the court.

The report must be submitted to the court at least 72 hours before each scheduled judicial review.

3.~~(d)~~ In addition to or in lieu of any written statement provided to the court, the foster parent or legal custodian, or any preadoptive parent, shall be given the opportunity to address the court with any information relevant to the best interests of the child at any judicial review hearing.

(c)~~(9)~~ Review determinations.—The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent, the foster parent or legal custodian, the guardian ad litem or surrogate parent for educational decisionmaking if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

1.~~(a)~~ If the parent was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

2.~~(b)~~ If the parent has been advised of the right to have counsel present at the judicial review or citizen review

hearings. If not so advised, the court or citizen review panel shall advise the parent of such right.

3.~~(c)~~ If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.

4.~~(d)~~ Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.

5.~~(e)~~ The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

6.~~(f)~~ The compliance or lack of compliance with a visitation contract between the parent and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

7.~~(g)~~ The compliance or lack of compliance of the parent in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply if such is the case.

8.~~(h)~~ Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the

child's best interests and special needs, and including maintaining stability in the child's educational placement, as documented by assurances from the community-based care provider that:

a.~~1.~~ The placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

b.~~2.~~ The community-based care agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

9.~~(i)~~ A projected date likely for the child's return home or other permanent placement.

10.~~(j)~~ When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party participation in a case plan were sufficient.

11.~~(k)~~ For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for adulthood and independent living.

12.~~(l)~~ If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

(d)~~(10)(a)~~ Orders.—

1. Based upon the criteria set forth in paragraph (c) ~~subsection (9)~~ and the recommended order of the citizen review panel, if any, the court shall determine whether or not the

social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, continue the child in out-of-home care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Amendments to the case plan must be prepared as prescribed in s. 39.6013. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for the creation of the case plan have been remedied to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered.

2.~~(b)~~ The court shall return the child to the custody of the parents at any time it determines that they have substantially complied with the case plan, if the court is satisfied that reunification will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

3.~~(c)~~ If, in the opinion of the court, the social service agency has not complied with its obligations as specified in the written case plan, the court may find the social service agency in contempt, shall order the social service agency to submit its plans for compliance with the agreement, and shall require the social service agency to show why the child could not safely be returned to the home of the parents.

4.~~(d)~~ If, at any judicial review, the court finds that the parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, on its own motion, the court may order the filing of a petition for termination of parental rights, whether or not the time period as contained in the case plan for substantial compliance has expired.

5.~~(e)~~ Within 6 months after the date that the child was placed in shelter care, the court shall conduct a judicial review hearing to review the child's permanency goal as identified in the case plan. At the hearing the court shall make findings regarding the likelihood of the child's reunification with the parent or legal custodian within 12 months after the removal of the child from the home. If the court makes a written finding that it is not likely that the child will be reunified with the parent or legal custodian within 12 months after the child was removed from the home, the department must file with the court, and serve on all parties, a motion to amend the case plan under s. 39.6013 and declare that it will use concurrent planning for the case plan. The department must file the motion within 10 business days after receiving the written finding of the court. The department must attach the proposed amended case plan to the motion. If concurrent planning is already being used, the case plan must document the efforts the department is taking to complete the concurrent goal.

6.~~(f)~~ The court may issue a protective order in assistance, or as a condition, of any other order made under

this part. In addition to the requirements included in the case plan, the protective order may set forth requirements relating to reasonable conditions of behavior to be observed for a specified period of time by a person or agency who is before the court; and the order may require any person or agency to make periodic reports to the court containing such information as the court in its discretion may prescribe.

(3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—

(a) In addition to the review and report required under paragraphs (1)(a) and (2)(a), respectively, the court shall hold a judicial review hearing within 90 days after a child's 17th birthday. The court shall also issue an order, separate from the order on judicial review, that the disability of nonage of the child has been removed pursuant to s. 743.045 and shall continue to hold timely judicial review hearings. If necessary, the court may review the status of the child more frequently during the year before the child's 18th birthday. At each review hearing held under this subsection, in addition to any information or report provided to the court by the foster parent, legal custodian, or guardian ad litem, the child shall be given the opportunity to address the court with any information relevant to the child's best interest, particularly in relation to independent living transition services. The department shall include in the social study report for judicial review written verification that the child has:

1. A current Medicaid card and all necessary information concerning the Medicaid program sufficient to prepare the child

to apply for coverage upon reaching the age of 18, if such application is appropriate.

2. A certified copy of the child's birth certificate and a valid driver license or, if the child does not have a valid driver license, a Florida identification card issued under s. 322.051.

3. A social security card and information relating to social security insurance benefits if the child is eligible for those benefits. If the child has received such benefits and they are being held in trust for the child, a full accounting of these funds must be provided and the child must be informed as to how to access those funds.

4. All relevant information related to the Road-to-Independence Program, including, but not limited to, eligibility requirements, information on participation, and assistance in gaining admission to the program. If the child is eligible for the Road-to-Independence Program, he or she must be advised that he or she may continue to reside with the licensed family home or group care provider with whom the child was residing at the time the child attained his or her 18th birthday, in another licensed family home, or with a group care provider arranged by the department.

5. An open bank account or the identification necessary to open a bank account and to acquire essential banking and budgeting skills.

6. Information on public assistance and how to apply for public assistance.

7. A clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and the educational program or school in which he or she will be enrolled.

8. Information related to the ability of the child to remain in care until he or she reaches 21 years of age under s. 39.013.

9. A letter providing the dates that the child is under the jurisdiction of the court.

10. When applicable, a letter stating that the child is in compliance with financial aid documentation requirements.

11. The child's educational records.

12. The child's entire health and mental health records.

13. The process for accessing his or her case file.

14. A statement encouraging the child to attend all judicial review hearings occurring after the child's 17th birthday.

(b) At the first judicial review hearing held subsequent to the child's 17th birthday, the department shall provide the court with an updated case plan that includes specific information related to the independent living skills that the child has acquired since the child's 13th birthday, or since the date the child came into foster care, whichever came later.

(c) If the court finds at the judicial review hearing that the department has not met with its obligations to the child as stated in the written case plan or in the provision of independent living services, the court may issue an order directing the department to show cause as to why it has not done

so. If the department cannot justify its noncompliance, the court may give the department 30 days within which to comply. If the department fails to comply within 30 days, the court may hold the department in contempt.

(d) At the last review hearing before the child reaches 18 years of age, and in addition to the requirements of subsection (2), the court shall:

1. Address whether the child plans to remain in foster care, and, if so, ensure that the child's transition plan includes a plan for meeting one or more of the criteria specified in s. 39.6251.

2. Ensure that the transition plan includes a supervised living arrangement under s. 39.6251.

3. Ensure the child has been informed of:

a. The right to continued support and services from the department and the community-based care lead agency.

b. The right to request termination of dependency jurisdiction and be discharged from foster care.

c. The opportunity to reenter foster care pursuant to s. 39.6251.

4. Ensure that the young adult, if he or she requests termination of dependency jurisdiction and discharge from foster care, has been informed of:

a. Services or benefits for which the young adult may be eligible based on his or her former placement in foster care.

b. Services or benefits that may be lost through termination of dependency jurisdiction.

c. Other federal, state, local, or community-based services or supports available to him or her.

(4) REVIEW HEARINGS FOR YOUNG ADULTS IN FOSTER CARE.—During each period of time that a young adult remains in foster care, the court shall review the status of the young adult at least every 6 months and must hold a permanency review hearing at least annually.

(a) The department and community-based care lead agency shall prepare and submit to the court a report, developed in collaboration with the young adult, which addresses the young adult's progress in meeting the goals in the case plan. The report must include progress information related to the young adult's independent living plan and transition plan, if applicable, and shall propose modifications as necessary to further the young adult's goals.

(b) The court shall attempt to determine whether the department and any service provider under contract with the department are providing the appropriate services as provided in the case plan.

(c) If the court believes that the young adult is entitled under department policy or under a contract with a service provider to additional services to achieve the goals enumerated in the case plan, it may order the department to take action to ensure that the young adult receives the identified services.

(d) The young adult or any other party to the dependency case may request an additional hearing or judicial review.

(e) Notwithstanding the provisions of this subsection, if a young adult has chosen to remain in extended foster care after

he or she has reached 18 years of age, the department may not close a case and the court may not terminate jurisdiction until the court finds, following a hearing, that the following criteria have been met:

1. Attendance of the young adult at the hearing; or

2. Findings by the court that:

a. The young adult has been informed by the department of his or her right to attend the hearing and has provided written consent to waive this right; and

b. The young adult has been informed of the potential negative effects of early termination of care, the option to reenter care before reaching 21 years of age, the procedure for, and limitations on, reentering care, and the availability of alternative services, and has signed a document attesting that he or she has been so informed and understands these provisions; or

c. The young adult has voluntarily left the program, has not signed the document in sub-subparagraph b., and is unwilling to participate in any further court proceeding.

(f) In all permanency hearings or hearings regarding the transition of the young adult from care to independent living, the court shall consult with the young adult regarding the proposed permanency plan, case plan, and individual education plan for the young adult and ensure that he or she has understood the conversation.

Section 6. Section 409.145, Florida Statutes, is amended to read:

409.145 Care of children; quality parenting; "reasonable and prudent parent" standard.—The child welfare system of the department shall operate as a coordinated community-based system of care which empowers all caregivers for children in foster care to provide quality parenting, including approving or disapproving a child's participation in activities based on the caregiver's assessment using the "reasonable and prudent parent" standard.

(1) SYSTEM OF CARE.—The department shall develop, implement ~~conduct, supervise~~, and administer a coordinated community-based system of care ~~program~~ for ~~dependent~~ children who are found to be dependent and their families. This system of care must ~~The services of the department are to~~ be directed toward the following goals:

(a) ~~The~~ Prevention of separation of children from their families.

(b) Intervention to allow children to remain safely in their own homes.

(c) ~~(b)~~ ~~The~~ Reunification of families who have had children removed from their care ~~placed in foster homes or institutions~~.

(d) Safety for children who are separated from their families by providing alternative emergency or longer-term parenting arrangements.

(e) Well-being of children through emphasis on maintaining educational stability and providing timely health care.

(f) ~~(c)~~ Permanency for ~~The permanent placement of~~ children for whom reunification ~~who cannot be reunited~~ with their

families is not possible or ~~when reunification would~~ is not ~~be~~ in the best interest of the child.

~~(d) The protection of dependent children or children alleged to be dependent, including provision of emergency and long-term alternate living arrangements.~~

(g) ~~(e)~~ The transition to independence and self-sufficiency for older children who remain in foster care through adolescence ~~continue to be in foster care as adolescents~~.

~~(2) The following dependent children shall be subject to the protection, care, guidance, and supervision of the department or any duly licensed public or private agency:~~

~~(a) Any child who has been temporarily or permanently taken from the custody of the parents, custodians, or guardians in accordance with those provisions in chapter 39 that relate to dependent children.~~

~~(b) Any child who is in need of the protective supervision of the department as determined by intake or by the court in accordance with those provisions of chapter 39 that relate to dependent children.~~

~~(c) Any child who is voluntarily placed, with the written consent of the parents or guardians, in the department's foster care program or the foster care program of a licensed private agency.~~

~~(3) The circuit courts exercising juvenile jurisdiction in the various counties of this state shall cooperate with the department and its employees in carrying out the purposes and intent of this chapter.~~

~~(4) The department is authorized to accept children on a permanent placement basis by order of a court of competent jurisdiction for the single purpose of adoption placement of these children. The department is authorized to provide the necessary services to place these children ordered to the department on a permanent placement basis for adoption.~~

~~(5) Any funds appropriated by counties for child welfare services may be matched by state and federal funds, such funds to be utilized by the department for the benefit of children in those counties.~~

~~(6) Whenever any child is placed under the protection, care, and guidance of the department or a duly licensed public or private agency, or as soon thereafter as is practicable, the department or agency, as the case may be, shall endeavor to obtain such information concerning the family medical history of the child and the natural parents as is available or readily obtainable. This information shall be kept on file by the department or agency for possible future use as provided in ss. 63.082 and 63.162 or as may be otherwise provided by law.~~

~~(7) Whenever any child is placed by the department in a shelter home, foster home, or other residential placement, the department shall make available to the operator of the shelter home, foster home, other residential placement, or other caretaker as soon thereafter as is practicable, all relevant information concerning the child's demographic, social, and medical history.~~

(2) QUALITY PARENTING.—A child in foster care shall be placed only with a caregiver who has the ability to care for the

child, is willing to accept responsibility for providing care, and is willing and able to learn about and be respectful of the child's culture, religion and ethnicity, special physical or psychological needs, unique circumstances, and family relationships. The department, the community-based care lead agency, and other agencies shall provide such caregiver with all available information necessary to assist the caregiver in determining whether he or she is able to appropriately care for a particular child.

(a) Roles and responsibilities of caregivers.—A caregiver shall:

1. Participate in developing the case plan for the child and his or her family and work with others involved in his or her care to implement this plan. This participation includes the caregiver's involvement in all team meetings or court hearings related to the child's care.

2. Complete all training needed to improve skills in parenting a child who has experienced trauma due to neglect, abuse, or separation from home, to meet the child's special needs, and to work effectively with child welfare agencies, the court, the schools, and other community and governmental agencies.

3. Respect and support the child's ties to members of his or her biological family and assist the child in maintaining allowable visitation and other forms of communication.

4. Effectively advocate for the child in the caregiver's care with the child welfare system, the court, and community

agencies, including the school, child care providers, health and mental health providers, and employers.

5. Participate fully in the child's medical, psychological, and dental care as the caregiver would for his or her biological child.

6. Support the child's school success by participating in school activities and meetings, including individual education plan meetings, assisting with school assignments, supporting tutoring programs, meeting with teachers and working with an educational surrogate if one has been appointed, and encouraging the child's participation in extracurricular activities.

7. Work in partnership with other stakeholders to obtain and maintain records that are important to the child's well-being, including child resource records, medical records, school records, photographs, and records of special events and achievements.

8. Ensure that the child who has reached 13 years of age but is not yet 17 years of age learns and masters independent living skills.

9. Ensure that the child is aware of the requirements and benefits of the Road-to-Independence Program.

10. Work to enable the child to establish and maintain naturally occurring mentoring relationships.

(b) Roles and responsibilities of the department, the community-based care lead agency, and other agency staff.—The department, the community-based care lead agency, and other agency staff shall:

1. Include the caregiver in the development and implementation of the case plan for the child and his or her family. The caregiver shall be authorized to participate in all team meetings or court hearings related to the child's care and future plans. The caregiver's participation shall be facilitated through timely notification, an inclusive process, and alternative methods for participation for a caregiver who cannot be physically present.

2. Develop and make available to the caregiver the information, services, training, and support that the caregiver needs to improve his or her skills in parenting children who have experienced trauma due to neglect, abuse, or separation from home, to meet these children's special needs, and to advocate effectively with child welfare agencies, the courts, schools, and other community and governmental agencies.

3. Provide the caregiver with all information related to services and other benefits that are available to the child.

(c) Transitions.—

1. Once a caregiver accepts the responsibility of caring for a child, the child will be removed from the home of that caregiver only if:

a. The caregiver is clearly unable to safely or legally care for the child;

b. The child and his or her biological family are reunified;

c. The child is being placed in a legally permanent home pursuant to the case plan or a court order;

d. The removal is demonstrably in the child's best interest; or

e. The caregiver is no longer able or willing to care for the child.

2. In the absence of an emergency, if a child leaves the caregiver's home for a reason provided under subparagraph 1., the transition must be accomplished according to a plan that involves cooperation and sharing of information among all persons involved, respects the child's developmental stage and psychological needs, ensures the child has all of his or her belongings, and allows for a gradual transition from the caregiver's home and, if possible, for continued contact with the caregiver after the child leaves.

(d) Information sharing.—Whenever a foster home or residential group home assumes responsibility for the care of a child, the department and any additional providers shall make available to the caregiver as soon as is practicable all relevant information concerning the child. Records and information that are required to be shared with caregivers include, but are not limited to:

1. Medical, dental, psychological, psychiatric, and behavioral history, as well as ongoing evaluation or treatment needs.

2. School records.

3. Copies of his or her birth certificate and, if appropriate, immigration status documents.

4. Consents signed by parents.

5. Comprehensive behavioral assessments and other social assessments.

6. Court orders.

7. Visitation and case plans.

8. Guardian ad litem reports.

9. Staffing forms.

10. Judicial or citizen review panel reports and attachments filed with the court, except confidential medical, psychiatric, and psychological information regarding any party or participant other than the child.

(e) Caregivers employed by residential group homes.-All caregivers in residential group homes shall meet the same education, training, and background and other screening requirements as foster parents.

(3) REASONABLE AND PRUDENT PARENT STANDARD.—

(a) Definitions.—As used in this subsection, the term:

1. "Age-appropriate" means generally accepted as suitable for a child of the same chronological age or level of maturity. Age appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity which is typical for an age or age group.

2. "Caregiver" means a person with whom the child is placed in out-of-home care, or a designated official for a group care facility licensed by the department under s. 409.175.

3. "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interest while at the same time encouraging the child's

emotional and developmental growth, that a caregiver shall use when determining whether to allow a child in out-of-home care to participate in extracurricular, enrichment, and social activities.

(b) Application of standard of care.—

1. Every child who comes into out-of-home care pursuant to this chapter is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.

2. Each caregiver shall use the reasonable and prudent parent standard in determining whether to give permission for a child living in out-of-home care to participate in extracurricular, enrichment, or social activities. When using the reasonable and prudent parent standard, the caregiver must consider:

a. The child's age, maturity, and developmental level to maintain the overall health and safety of the child.

b. The potential risk factors and the appropriateness of the extracurricular, enrichment, or social activity.

c. The best interest of the child, based on information known by the caregiver.

d. The importance of encouraging the child's emotional and developmental growth.

e. The importance of providing the child with the most family-like living experience possible.

f. The behavioral history of the child and the child's ability to safely participate in the proposed activity.

(c) Verification of services delivered.—The department and each community-based care lead agency shall verify that private

agencies providing out-of-home care services to dependent children have policies in place which are consistent with this section and that these agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities.

(d) Limitation of liability.—A caregiver is not liable for harm caused to a child who participates in an activity approved by the caregiver, provided that the caregiver has acted in accordance with the reasonable and prudent parent standard. This paragraph may not be interpreted as removing or limiting any existing liability protection afforded by law.

(4) FOSTER PARENT ROOM AND BOARD RATES.—

(a) Effective October 1, 2013, monthly room and board rates paid to foster parents are as follows:

Monthly Foster Care Rate	0-5 Years Age	6-12 Years Age	13-21 Years Age
	$429	$440	$515

(b) Foster parents who are receiving the minimum room and board rate as provided in paragraph (a) shall receive an annual cost-of-living increase. The department shall calculate the new room and board rate increase equal to the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, not seasonally adjusted, or successor reports, for the preceding December compared to the prior

December as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(c) The amount of the monthly foster parent room and board rate may be increased upon agreement among the department, the community-based care lead agency, and the foster parent.

(d) Community-based care lead agencies providing care under contract with the department may pay a supplemental room and board payment to foster care parents for providing independent life skills and normalcy supports to children who are age 13 through 17 placed in their care. The supplemental payment shall be paid monthly to the foster care parents on a per-child basis in addition to the current monthly room and board rate payment. The supplemental monthly payment shall be based on 10 percent of the monthly room and board rate for children age 13 through 21 as provided under this section and adjusted annually.

(5) RULEMAKING.—The department shall adopt by rule procedures to administer this section.

Section 7. Section 409.1451, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.1451, F.S., for present text).

409.1451 The Road-to-Independence Program.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature recognizes that most children and young adults are resilient and, with adequate support, can expect to be successful as independent adults. Not unlike many young adults, some young adults who have lived in foster care

need additional support and resources for a period of time after reaching 18 years of age.

(b) The Legislature finds that while it is important to provide young adults who have lived in foster care with education and independent living skills, there is also a need to focus more broadly on creating and preserving family relationships so that young adults have a permanent connection with at least one committed adult who provides a safe and stable parenting relationship.

(c) It is the intent of the Legislature that young adults who choose to participate in the program receive the skills, education, and support necessary to become self-sufficient and leave foster care with a lifelong connection to a supportive adult through the Road-to-Independence Program, either through postsecondary education services and support, as provided in subsection (2), or aftercare services.

(2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

(a) A young adult is eligible for services and support under this subsection if he or she:

1. Was living in licensed care on his or her 18th birthday or is currently living in licensed care, or was at least 16 years of age and was adopted from foster care or placed with a court-approved dependency guardian after spending at least 6 months in licensed care within the 12 months immediately preceding such placement or adoption;

2. Spent at least 6 months in licensed care before reaching his or her 18th birthday;

3. Earned a standard high school diploma or its equivalent pursuant to s. 1003.428, s. 1003.4281, s. 1003.429, s. 1003.43, or s. 1003.435;

4. Has been admitted for enrollment as a full-time student or its equivalent in an eligible postsecondary educational institution as provided in s. 1009.533 unless the young adult has a recognized disability preventing full-time attendance;

5. Has reached 18 years of age but is not yet 23 years of age;

6. Has applied, with assistance from the young adult's caregiver and the community-based care lead agency, for grants and scholarships;

7. Submitted a Free Application for Federal Student Aid which is complete and error free; and

8. Signed an agreement to allow the department and the community-based care lead agency access to school records.

(b) The amount of the financial assistance shall be as follows:

1. For a young adult who does not remain in foster care and is attending a postsecondary educational institution as provided in s. 1009.533, the amount is $1,256 monthly.

2. For a young adult who remains in foster care, is attending a postsecondary educational institution as provided in s. 1009.533, and continues to reside in a licensed foster home, the amount is the established room and board rate for foster parents as provided in s. 409.145(4).

3. For a young adult who remains in foster care, but temporarily resides away from a licensed foster home for

purposes of attending a postsecondary educational institution as provided in s. 1009.533, the amount is $1,256 monthly while the young adult resides away from the licensed group home. The amount is the board rate while the child resides in the foster home, instead of the $1,256.

4. For a young adult who remains in foster care, is attending a postsecondary educational institution as provided in s. 1009.533, and continues to reside in a licensed group home, the amount is negotiated between the community-based care lead agency and the licensed group home provider.

5. For a young adult who remains in foster care but temporarily resides away from a licensed group home for purposes of attending a postsecondary educational institution as provided in s. 1009.533, the amount is $1,256 monthly while the young adult resides away from the licensed group home. The amount is negotiated between the licensed group home and the community-based care lead agency while the young adult resides in the licensed group home, instead of the $1,256.

6. The amount of the award may be disregarded for purposes of determining the eligibility for, or the amount of, any other federal or federally supported assistance.

7. A young adult is eligible to receive financial assistance during the months when enrolled in a postsecondary educational institution.

(c) Payment of financial assistance for a young adult who:

1. Has chosen not to remain in foster care and is attending a postsecondary educational institution as provided in s. 1009.533 shall be made to the community-based care lead

agency in order to secure housing and utilities, with the balance being paid directly to the young adult until such time the lead agency and the young adult determine that the young adult can successfully manage the full amount of the assistance.

2. Has remained in foster care, is attending a postsecondary educational institution as provided in s. 1009.533, and is residing in a foster home or group home shall be made directly to the foster parent or group home provider.

3. Has chosen to reside temporarily away from a licensed foster home or group home for purposes of attending postsecondary educational institution as provided in s. 1009.533 shall be made to the community-based care lead agency in order to secure housing and utilities, with the balance being paid directly to the young adult while they temporarily reside away from a licensed foster home or group home for purposes of attending postsecondary school. When the young adult returns to reside in the foster home or group home, the payment will be paid directly to the foster parent or licensed group home.

(d)1. The department must advertise the availability of the stipend and must provide notification of the criteria and application procedures for the stipend to children and young adults leaving, or who were formerly in, foster care; caregivers; case managers; guidance and family services counselors; principals or other relevant school administrators; and guardians ad litem.

2. If the award recipient transfers from one eligible institution to another and continues to meet eligibility requirements, the award shall be transferred with the recipient.

3. The department, or an agency under contract with the department, shall evaluate each Road-to-Independence award for renewal eligibility on an annual basis. In order to be eligible for a renewal award for the subsequent year, the young adult must:

a. Be enrolled for or have completed the number of hours, or the equivalent, to be considered a full-time student by the eligible postsecondary educational institution in which the young adult is enrolled, unless the young adult has a recognized disability preventing full-time attendance.

b. Maintain appropriate progress as required by the educational institution, except that if the young adult's progress is insufficient to renew the award at any time during the eligibility period, the young adult may restore eligibility by improving his or her progress to the required level.

4. Funds may be terminated during the interim between an award and the evaluation for a renewal award if the department, or an agency under contract with the department, determines that the award recipient is no longer enrolled in an educational institution as described in subparagraph (a)4. or is no longer a resident of this state.

5. The department, or an agency under contract with the department, shall notify a recipient who is terminated and inform the recipient of his or her right to appeal.

6. An award recipient who does not qualify for a renewal award or who chooses not to renew the award may immediately apply for reinstatement. An application for reinstatement must be made before the young adult reaches 23 years of age, and a

student may not apply for reinstatement more than once. In order to be eligible for reinstatement, the young adult must meet the eligibility criteria and the criteria for award renewal for the program.

(3) POSTSECONDARY EDUCATIONAL MENTORS.—

(a) The department, or an agency under contract with the department, shall ensure that former foster care young adults attending a postsecondary educational institution have a designated mentor.

(b) A mentor is a caring, responsible adult who serves as a positive role model and provides ongoing information, guidance, and support to a young adult transitioning to postsecondary education and adulthood.

(c) All Road-to-Independence mentors shall be mutually agreed upon by either the department, or an agency under contract with the department, and the student.

(d) All Road-to-Independence mentors shall submit to a level 2 background screening that is paid for by the community-based care lead agency in a manner that is consistent with the screening requirements provided under s. 435.04.

(e) The agencies under contract with the department shall maintain a current listing, and make it available to the department as needed, of assigned mentors and those young adults that do not currently have a mentor. The agencies shall confirm and document on at least an annual basis that a mentor is willing to continue mentoring.

(4) AFTERCARE SERVICES.—

(a) Aftercare services are available to young adults who have chosen not to remain in foster care after reaching 18 years of age and who are not receiving financial assistance under subsection (2) to pursue postsecondary education. These aftercare services include, but are not limited to, the following:

1. Mentoring and tutoring.

2. Mental health services and substance abuse counseling.

3. Life skills classes, including credit management and preventive health activities.

4. Parenting classes.

5. Job and career skills training.

6. Counselor consultations.

7. Temporary financial assistance for emergency situations.

8. Financial literacy skills training.

The specific services to be provided under this paragraph shall be determined by an assessment of the young adult and may be provided by the community-based care provider or through referrals in the community.

(b) Temporary assistance provided to prevent homelessness shall be provided as expeditiously as possible and within the limitations defined by the department.

(c) A young adult who has reached 18 years of age but is not yet 23 years of age who leaves foster care at 18 years of age may request and is eligible for such services before reaching 23 years of age.

(5) APPEAL PROCEDURE.—

(a) The department shall have a procedure by which a young adult may appeal the department's refusal to provide Road-to-Independence Program services or support, or the termination of such services or support if funds for such services or support are available.

(b) The appeal procedure must be readily accessible to young adults, must provide for timely decisions, and must provide for an appeal to the department. The decision of the department constitutes final agency action and is reviewable by the court as provided in s. 120.68.

(6) PORTABILITY.—The services provided under this section are portable across county lines and between lead agencies.

(a) The service needs that are identified in the original or updated transition plan, pursuant to s. 39.6035, shall be provided by the lead agency where the young adult is currently residing but shall be funded by the lead agency that initiated the transition plan.

(b) The lead agency with primary case management responsibilities shall provide maintenance payments, case planning, including a written description of all services that will assist a child 16 years of age or older in preparing for the transition from care to independence, and regular case reviews that conform with all federal scheduling and content requirements for all children in foster care who are placed or visiting out-of-state.

(7) ACCOUNTABILITY.—The department shall develop outcome measures for the program and other performance measures in order

to maintain oversight of the program. No later than January 31 of each year, the department shall prepare a report on the outcome measures and the department's oversight activities and submit the report to the President of the Senate, the Speaker of the House of Representatives, and the committees with jurisdiction over issues relating to children and families in the Senate and the House of Representatives. The report must include:

(a) An analysis of performance on the outcome measures developed under this section reported for each community-based care lead agency and compared with the performance of the department on the same measures.

(b) A description of the department's oversight of the program, including, by lead agency, any programmatic or fiscal deficiencies found, corrective actions required, and current status of compliance.

(c) Any rules adopted or proposed under this section since the last report. For the purposes of the first report, any rules adopted or proposed under this section must be included.

(8) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.—The secretary shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of the provisions of s. 39.6015 and the Road-to-Independence Program. The advisory council shall function as specified in this subsection until the Legislature determines that the advisory council can no longer provide a valuable contribution

to the department's efforts to achieve the goals of the services designed to enable a young adult to live independently.

(a) The advisory council shall assess the implementation and operation of the Road-to-Independence Program and advise the department on actions that would improve the ability of these Road-to-Independence Program services to meet the established goals. The advisory council shall keep the department informed of problems being experienced with the services, barriers to the effective and efficient integration of services and support across systems, and successes that the system of services has achieved. The department shall consider, but is not required to implement, the recommendations of the advisory council.

(b) The advisory council shall report to the secretary on the status of the implementation of the Road-To-Independence Program, efforts to publicize the availability of the Road-to-Independence Program, the success of the services, problems identified, recommendations for department or legislative action, and the department's implementation of the recommendations contained in the Independent Living Services Integration Workgroup Report submitted to the appropriate substantive committees of the Legislature by December 31, 2013. The department shall submit a report by December 31 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes a summary of the factors reported on by the advisory council and identifies the recommendations of the advisory council and either describes the department's actions to implement the recommendations or

provides the department's rationale for not implementing the recommendations.

(c) Members of the advisory council shall be appointed by the secretary of the department. The membership of the advisory council must include, at a minimum, representatives from the headquarters and regional offices of the Department of Children and Families, community-based care lead agencies, the Department of Juvenile Justice, the Department of Economic Opportunity, the Department of Education, the Agency for Health Care Administration, the State Youth Advisory Board, Workforce Florida, Inc., the Statewide Guardian Ad Litem Office, foster parents, recipients of services and funding through the Road-to-Independence Program, and advocates for children in care. The secretary shall determine the length of the term to be served by each member appointed to the advisory council, which may not exceed 4 years.

(d) The department shall provide administrative support to the Independent Living Services Advisory Council to accomplish its assigned tasks. The advisory council shall be afforded access to all appropriate data from the department, each community-based care lead agency, and other relevant agencies in order to accomplish the tasks set forth in this section. The data collected may not include any information that would identify a specific child or young adult.

(e) The advisory council report required under paragraph (b) must include an analysis of the system of independent living transition services for young adults who reach 18 years of age while in foster care before completing high school or its

equivalent and recommendations for department or legislative action. The council shall assess and report on the most effective method of assisting these young adults to complete high school or its equivalent by examining the practices of other states.

(9) PERSONAL PROPERTY.—Property acquired on behalf of a young adult in this program shall become the personal property of the young adult and is not subject to the requirements of chapter 273 relating to state-owned tangible personal property. Such property continues to be subject to applicable federal laws.

(10) MEDICAL ASSISTANCE FOR YOUNG ADULTS FORMERLY IN CARE.—The department or community-based care lead agency shall document that eligible young adults are enrolled in Medicaid under s. 409.903(4).

(11) RULEMAKING.—The department shall adopt rules to administer this section.

Section 8. Paragraph (a) of subsection (3) of section 409.175, Florida Statutes, is amended to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption.—

(3)(a) The total number of children placed in each family foster home shall be based on the recommendation of the department, or the community-based care lead agency where one is providing foster care and related services, based on the needs of each child in care, the ability of the foster family to meet the individual needs of each child, including any adoptive or

biological children or young adults remaining in foster care living in the home, the amount of safe physical plant space, the ratio of active and appropriate adult supervision, and the background, experience, and skill of the family foster parents.

Section 9. Subsection (4) of section 409.903, Florida Statutes, is amended to read:

409.903 Mandatory payments for eligible persons.—The agency shall make payments for medical assistance and related services on behalf of the following persons who the department, or the Social Security Administration by contract with the Department of Children and Family Services, determines to be eligible, subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(4) A child who is eligible under Title IV-E of the Social Security Act for subsidized board payments, foster care, or adoption subsidies, and a child for whom the state has assumed temporary or permanent responsibility and who does not qualify for Title IV-E assistance but is in foster care, shelter or emergency shelter care, or subsidized adoption. This category includes a young adult who is eligible to receive services under s. 409.1451~~(5)~~, until the young adult reaches 21 years of age, without regard to any income, resource, or categorical eligibility test that is otherwise required. This category also includes a person who as a child was eligible under Title IV-E of the Social Security Act for foster care or the state-provided

foster care and who is a participant in the Road-to-Independence Program.

Section 10. (1) The Department of Children and Families shall acquire, through the use of existing independent living services funding and via contract, postsecondary educational campus coaching positions. These positions shall be integrated into state colleges' and university institutions' general support services structure to provide former foster care youth with dedicated, on-campus support to aid these youth in transitioning from foster care toward graduation. The number and distribution of these positions shall be determined by the department based on the availability of funds and overall need, as determined by the number of former foster care youth attending postsecondary educational institutions receiving Road-to-Independence education tuition waivers within a given community.

(2) The existing independent living services funding shall also provide for a network coordinator, who shall be responsible for overseeing startup, implementation, and evaluation of the support program described in subsection (1). The network coordinator's position shall be a state full-time equivalent position.

Section 11. Effective October 1, 2013, a child or young adult who is a participant in the Road-to-Independence Program may continue in the program as it exists through December 31, 2013. Effective January 1, 2014, a child or young adult who is a participant in the program shall transfer to the program services provided in this act, and his or her monthly stipend

may not be reduced, the method of payment of the monthly stipend may not be changed, and the young adult may not be required to change his or her living arrangement. These conditions shall remain in effect for a child or young adult until he or she ceases to meet the eligibility requirements under which he or she entered the Road-to-Independence Program. A child or young adult applying or reapplying for the Road-to-Independence Program on or after October 1, 2013, may apply for program services only as provided in this act.

Section 12. The cost of foster care payments for children in foster care from age 18 until age 21, and the cost of independent living services for those qualified former foster care children until the age of 23, shall be paid from a special category established for that purpose in the General Appropriations Act. The amount and fund source in this special category will be set each year by the Legislature.

Section 13. This act shall take effect October 1, 2013.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Health Care Appropriations Subcommittee

Representative Perry offered the following:

Amendment (with title amendment)

Remove lines 1324-1345

T I T L E A M E N D M E N T

Remove lines 60-65 and insert:

for postsecondary services and support; specifying aftercare services;

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Health Care Appropriations Subcommittee

Representative Perry offered the following:

Amendment (with title amendment)

Remove lines 1578-1584

T I T L E A M E N D M E N T

Remove lines 85-87 and insert:

for a transfer of services; providing an effective

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7153 (PCB HQS 13-01) Quality Cancer Care and Research
SPONSOR(S): Health Quality Subcommittee; Oliva
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1660

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Quality Subcommittee	12 Y, 0 N	Holt	O'Callaghan
1) Health Care Appropriations Subcommittee		Rodriguez	Pridgeon
2) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill creates the Cancer Center of Excellence Award to recognize hospitals, treatment centers, and other providers in Florida that demonstrate excellence in patient-centered, coordinated care for persons undergoing cancer treatment and therapy. This bill provides for the development of performance measures, a rating system, and a rating standard that must be achieved to be eligible for the three-year recognition. A team of independent evaluators is established by the bill to determine if such performance measures and standards are achieved or exceeded. The award and designation may be used in the provider's advertising and marketing for up to three years and it entitles the recipient to preferential consideration in competitive solicitations by a state agency or state university.

The bill also provides for endowments to cancer research institutions in the state to establish a funded research chair that will attract and retain a promising researcher in order to serve as a catalyst to attract other national grant-producing researchers to the state. The endowments are contingent upon funding in the General Appropriations Act.

This bill, if funds are appropriated, would have a fiscal impact on the state and no fiscal impact on local governments.

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Cancer is the leading cause of death in Florida. Florida has the second-highest number of new diagnosed cancer cases in the U.S., even though; it is the fourth-largest state in terms of population. However, there is only one National Cancer Institute - Designated Comprehensive Cancer Center in the state.[1] The National Cancer Institute designation is nationally recognized as a marker of high-quality in cancer care and research and is linked to higher federal funding for cancer treatment. Florida has fewer designated cancer centers than peer states. For example, New York has four centers, Texas has three, and California has ten.[2]

The Biomedical Research Program

The Florida Biomedical Research Program within the Department of Health (DOH) includes two distinct programs: the James and Esther King Biomedical Research Program and the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program.

James and Esther King Biomedical Research Program

In 1999, the Legislature created the Florida Biomedical Research Program in DOH to support research initiatives that address the health care problems of Floridians in the areas of cancer, cardiovascular disease, stroke, and pulmonary disease.[3] A component of the Biomedical Research Program was the Biomedical Research Advisory Council (BRAC).[4] BRAC was created to advise the State Surgeon General on the direction and scope of the state's biomedical research program, to include:

- Providing advice on program priorities, emphases, and overall program budget;
- Participating in periodic program evaluation;
- Assisting in developing guidelines for fairness, neutrality, principles of merit, and quality in the conduct of the program;
- Assisting in developing linkages to nonacademic entities such as voluntary organizations, health care delivery institutions, industry, government agencies, and public officials;
- Developing guidelines, criteria and standards for the solicitation, review, and award of research grants and fellowships; and
- Developing and providing oversight regarding mechanisms for disseminating research results.

BRAC is composed of 11 members:

- Two appointees by the Speaker of the House of Representatives from a professional medical organization or a comprehensive cardiovascular program with experience in biomedical research approved by the American College of Cardiology, and from a cancer program approved by the American College of Surgeons;
- Two appointees by the President of the Senate with expertise in behavioral or social research, and from a cancer program approved by the American College of Surgeons;
- Four appointees by the Governor with two members having expertise in biomedical research, one from a research university in Florida, and one representing the general public;

[1] H. Lee Moffitt Cancer Center is the only designated cancer center.
[2] Department of Health Bill Analysis for SB 1660 dated March 8, 2013, on file with the House Health Quality Subcommittee staff.
[3] Chapter 99-167, L.O.F.
[4] Section 215.5602(3), F.S.

- A representative of the American Cancer Society;
- A representative of the American Heart Association; and
- A representative of the American Lung Association.

At inception, the program was intended to be supported by funds from the Lawton Chiles Endowment Fund,[5] but a specific appropriation amount was not statutorily indicated.[6] Statute[7] further stipulated that appropriated funds were to be used by the Florida Biomedical Research Program to provide grants and fellowships for research relating to the diagnosis and treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease, and administrative expenditures.

In 2001, the Legislature amended the legislative purpose of the program, stating that the intent for the program was to provide an annual and perpetual source of funding to support research initiatives that address the health care problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease.[8] In 2003, the Florida Biomedical Research Program was renamed the "James and Esther King Biomedical Research Program (King Program)."[9]

The goals of the King Program are to:

- Improve the health of Floridians by researching better prevention, diagnoses, treatments, and cures for cancer, cardiovascular disease, stroke, and pulmonary disease.
- Expand the foundation of biomedical knowledge relating to the prevention, diagnosis, treatment, and cure of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.
- Improve the quality of the state's academic health centers by bringing the advances of biomedical research into the training of physicians and other health care providers.
- Increase the state's per capita funding for research by undertaking new initiatives in public health and biomedical research that will attract additional funding from outside the state.
- Stimulate economic activity in the state in areas related to biomedical research, such as the research and production of pharmaceuticals, biotechnology, and medical devices.

Bankhead-Coley Program

In 2006, the Legislature created the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley Program) within DOH. The purpose of the program was to advance progress towards cures for cancer through grant awards. The funds are distributed as grants to researchers seeking cures for cancer, with emphasis given to the efforts that significantly expand cancer research capacity in the state.[10]

The goals of the Bankhead-Coley Program are to significantly expand cancer research capacity and cancer treatment in the state by:

- Identifying ways to attract new research talent and attendant national grant-producing researchers to cancer research facilities in this state;
- Implementing a peer-reviewed, competitive process to identify and fund the best proposals to expand cancer research institutes in this state;
- Funding, through available resources, proposals that demonstrate the greatest opportunity to attract federal research grants and private financial support;

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[5]Section 215.5601(1)(d), F.S.
[6]Chapter 99-167, L.O.F.
[7]Section 215.5602(2), F.S.
[8]Chapter 2001-73, L.O.F.
[9]Chapter 2003-414, L.O.F.
[10]The efforts to improve cancer research are outlined in s. 381.921, F.S.

- Encouraging the employment of bioinformatics in order to create a cancer informatics infrastructure that enhances information and resource exchange and integration through researchers working in diverse disciplines to facilitate the full spectrum of cancer investigations;
- Facilitating the technical coordination, business development, and support of intellectual property as it relates to the advancement of cancer research;
- Aiding in other multidisciplinary, research-support activities for the advancement of cancer research;
- Improving both research and treatment through greater participation in clinical trials networks; and
- Reducing the impact of cancer on disparate groups.

Biomedical Research Program Funding

The Florida Biomedical Research Program distributes grant awards for one-, two-, or three-year increments. Unspent awards are deposited back into the Biomedical Research Trust Fund after five years. Any university or research institute in Florida may apply for grant funding to support the goals of either the King Program or Bankhead-Coley Program. All qualified investigators in the state, regardless of the institution, have an equal opportunity to compete for funding. Applications are accepted annually and awards are announced every June/July. After the awards are announced, the program obtains a signed contract, final budget, and the required study approvals from the grant recipient. Funds are only released to recipients on an as-needed basis and the undispersed, but obligated funds, are held in an interest bearing account. The accrued interest is held in the Biomedical Research Trust Fund of DOH.

The extent of funding for these programs has varied significantly from year-to-year. In FY 2012-13, funding for biomedical research occurred through several appropriations:

The King Program received $7.2 million from funds in the Biomedical Research Trust Fund. This funding was allocated through grants.[11]

- The total awarded under the King Program has been approximately $3.9M for this fiscal year.
- The largest research award under the King Program was $400,000.

The Bankhead-Coley Program received $5 million from funds in the Biomedical Research Trust Fund. These funds were allocated through grants.[12]

- The total awarded under the Bankhead/Coley Program has been approximately $3.6M for this fiscal year.
- The largest research award under the Bankhead/Coley Program was $374,000.

Direct appropriations to institutions:[13]

- H. Lee Moffitt Cancer Center and Research Institute (Moffitt Cancer Center) received $5 million from funds in the Biomedical Research Trust Fund and $10,576,930 in the General Appropriations Act, Section 2 – Education: Division of Universities.
- Shands Cancer Hospital received $5 million from funds in the Biomedical Research Trust Fund and $2.5 million from nonrecurring General Revenue.
- Sylvester Comprehensive Cancer Center at the University of Miami received $5 million from funds in the Biomedical Research Trust Fund and $2.5 million from nonrecurring General Revenue.
- Sanford-Burnham Medical Research Institute received $3 million from General Revenue.

[11] Email correspondence with DOH staff, on file with the Health Quality Subcommittee staff.
[12] *Id.*
[13] *Id.*

Other Cancer Related Bodies in Florida

Cancer Control and Research Advisory Council (CCRAB)

In 1979, the Florida Cancer Control and Research Act was created pursuant to, s. 1004.435, F.S., along with the Cancer Control Research Advisory Council (CCRAB). CCRAB is housed within the H. Lee Moffitt Cancer Center and Research Institute, Inc. CCRAB consists of 35 members, including appointees by: the Governor, Speaker of the House of Representatives, President of the Senate and other persons representing the following: [14]

> American Cancer Society, Florida Tumor Registrars Association, Sylvester Comprehensive Cancer Center of the University of Miami, DOH, University of Florida Shands Cancer Center, Agency for Health Care Administration, Florida Nurses Association, Florida Osteopathic Medical Association, American College of Surgeons, School of Medicine of the University of Miami, College of Medicine of the University of Florida, NOVA Southeastern College of Osteopathic Medicine, College of Medicine of the University of South Florida, College of Public Health of the University of South Florida, Florida Society of Clinical Oncology, Florida Obstetric and Gynecologic Society, Florida Ovarian Cancer Alliance Speaks, Florida Medical Association, Florida Pediatric Society, Florida Radiological Society, Florida Society of Pathologists, Moffitt, Florida Dental Association, Florida Hospital Association, Association of Community Cancer Centers, statutory teaching hospitals, Florida Association of Pediatric Tumor Programs, Inc., Cancer Information Services, Florida Agricultural and Mechanical University Institute of Public Health, Florida Society of Oncology Social Workers, and consumer advocates from the general public.

CCRAB formulates and makes recommendations to the State Surgeon General, the Board of Governors, and the Florida Legislature. These recommendations include, but are not limited to, approval of the state cancer plan, cancer control initiatives, and the awarding of grants and contracts, as funds are available, to establish, or conduct programs in cancer control or prevention, cancer education and training, and cancer research. Technical Advisory Groups are formed by the Council to review such areas as the state cancer plan evaluation, tobacco use prevention, cancer disparities, cancer-related data, and legislative initiatives.

Regional Cancer Control Collaborative

According to the Florida Cancer Plan, due to Florida's geography and diversity, there was a need for more localized planning to create a true comprehensive cancer control plan.[15] Thus, in 2000, the U.S. Congress appropriated funds to develop comprehensive regional cancer control plans in Florida. Funding was awarded to the University of Miami, Sylvester Comprehensive Cancer Center through a cooperative agreement with the CDC as part of their Cancer Control Collaborative (CCC) Program. This resulted in the Florida Comprehensive Cancer Control Initiative, which established four regional cancer control collaboratives covering all 67 Florida counties (see map below).[16] From 2000 to 2003, cancer control stakeholders in each of the four regions were invited to participate in a strategic planning process. From this, four regional cancer control plans were developed. In addition to regional goals, objectives, and strategies, each plan included detailed county-level cancer and demographic data, as well as a directory of cancer resources. The regional plans are an integrated Florida Cancer Plan.[17]

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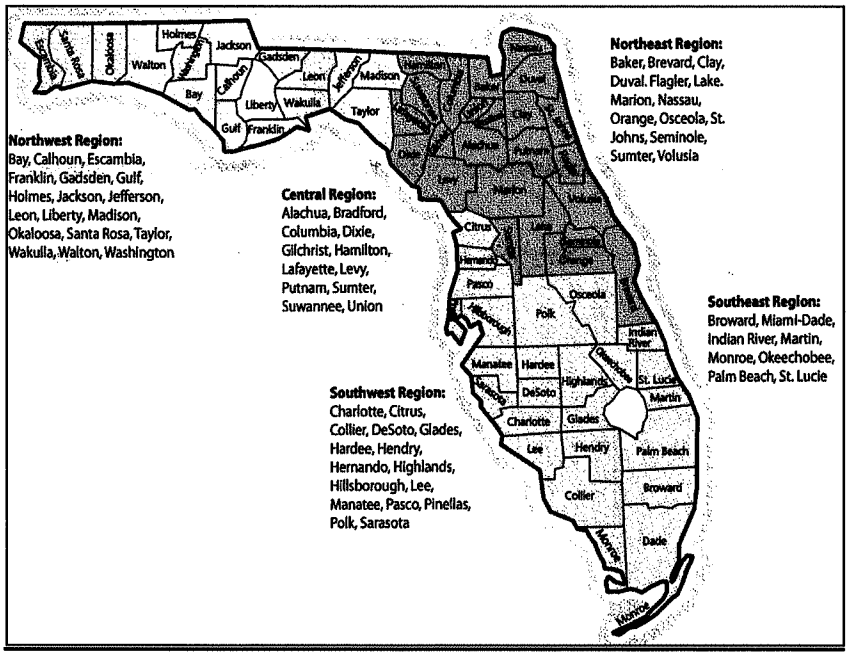
[14] Section 1004.435(4)(a), F.S.
[15] Florida Department of Health, Florida State Cancer Plan 2010, available at: http://www.doh.state.fl.us/Family/cancer/ccc/plan/index.html (last viewed March 27, 2011).
[16] *Id.*
[17] *Id.*



Statewide Cancer Registry

Section 385.202, F.S., requires each hospital or other licensed facility to report to DOH information that indicates diagnosis, stage of disease, medical history, laboratory data, tissue diagnosis, and radiation, surgical, or other methods of diagnosis or treatment for each cancer diagnosed or treated by that facility to include Prostate Cancer.[18] DOH, or a medical organization pursuant to a contract with DOH, is required to maintain and make available for research such information in a statewide cancer registry.

Commission on Cancer for the American College of Surgeons

The Commission on Cancer (CoC) Accreditation Program encourages hospitals, treatment centers, and other facilities to improve their quality of patient care through various cancer-related programs. These programs focus on prevention, early diagnosis, pretreatment evaluation, staging, optimal treatment, rehabilitation, surveillance for recurrent disease, support services, and end-of-life care. [19]

Accredited cancer programs are assigned an accreditation category that describes the services available at the facility and the number of cases. Category assignments are made by CoC staff and are retained, unless there are changes to the services provided or the facility caseload over a three-year period. The cancer accreditation categories include the:[20]

- Academic Comprehensive Cancer Program;
- Community Cancer Program;
- Comprehensive Community Cancer Program;
- Free Standing Cancer Center Program;
- Hospital Associate Cancer Program;
- Integrated Network Cancer Program;
- NCI-Designated Comprehensive Cancer Center Program;
- Pediatric Cancer Program; and
- Veterans Affairs Cancer Program.

[18] Chapter 78-171, L.O.F.
[19] American Colleges of Surgeons, Cancer Programs: Accreditation, *available* at: http://www.facs.org/cancer/coc/approval.html (last visited on March 12, 2013).
[20] American College of Surgeons Cancer Programs Categories of Accreditation for a description of the distinguishing characteristics of these categories, *available* at: http://www.facs.org/cancer/coc/categories3.html (last visited on March 12, 2013).

Effects of Proposed Changes

Cancer Center of Excellence Award

The bill creates s. 381.925, F.S., the Cancer Center of Excellence Award. The three-year award recognizes hospitals, treatment centers, or other providers in Florida that demonstrate excellence in patient-centered, coordinated care for persons undergoing cancer treatment and therapy.

Winning the award affords the recipient preference in competitive solicitations for state funds. Moreover, the award may be used in advertising and marketing campaigns.

DOH must conduct biannual application cycles and to qualify for the award the applicant must at least:

- Maintain a license in this state which authorizes health care services be provided.
- Not have been disciplined or subject to any administrative enforcement action by the state or federal regulatory authority within the preceding three years.
- Be accredited by the Commission on Cancer of the American College of Surgeons.
- Actively participate in at least one regional cancer control collaborative that is operating pursuant to DOH's cooperative agreement with the CDC's National Comprehensive Cancer Control Program.
- Meet enhanced cancer care coordination standards set by CCRAB and BRAC that focus on:

    - Coordination of care by cancer specialists, nursing and allied health professionals.
    - Psychosocial assessment and services.
    - Suitable and timely referrals and follow-up.
    - Providing accurate and complete information on treatment options, including clinical trials, which consider each person's needs, preferences, and resources, whether provided by the center or other providers.
    - Participation in a comprehensive network of cancer specialists of multiple disciplines allowing the patient to consult with variety of experts to evaluate other treatment options.
    - Family services and support.
    - Aftercare and survivor services.
    - Patient and family satisfaction survey results.

The State Surgeon General is required to appoint a five member team of independent evaluators to assess applicants to determine eligibility. Also, an application is to be evaluated independently of any other application. The team is comprised of the following in any combination:

- No more than five health care practitioners or health care facilities not licensed in Florida that provide cancer treatment or diagnosis;
- No more than three members from the Florida Cancer Control and Research Advisory Council;
- No more than two members from the Biomedical Research and Advisory Council; and
- No more than one layperson member who has experience as a cancer patient or family member who did not receive care from the facility being evaluated.

Evaluators are to be independent and free of any conflict of interest with respect to a health care provider or facility licensed in the state. Evaluators are required to sign a conflict of interest attestation before appointment. Two evaluators are permitted, as needed, to verify onsite documentation submitted with an application.

Each evaluator must report to the State Surgeon General the applicants that achieved or exceeded the required score based on a rating system developed jointly by CCRAB and BRAC. CCRAB and BRAC are also required to develop an application form, rigorous performance measures, and a rating standard that must be achieved to document and distinguish a cancer center that excels in providing quality, comprehensive, and patient-centered coordinated care program. CCRAB and BRAC are directed to advise the State Surgeon General with respect to the Cancer Center for Excellence Award.

The bill requires the State Surgeon General to notify the Governor of the providers that are eligible for an award and submit an annual report to the Legislature beginning January 31, 2014. The report must include the status of implementation; metrics on the number of applicants, number of award recipients by application cycle, list of awardees, and recommendations for legislation to strengthen the program.

The bill clarifies that the application submitted for a Cancer Center for Excellence Award is not an application for licensure, and therefore the provisions of s. 120.60, F.S., related to licensure do not apply. Additionally, the bill states that the notification by the State Surgeon General to the Governor of an eligible award entity is not considered final agency action, thus the provisions in ch.120, F.S., relating to challenges to agency action do not apply.

The bill grants DOH authority to adopt rules related to the application cycles and the submission of the application form.

Bankhead-Coley Endowments for Research Chair

The bill creates s. 381.922(4), F.S., under the Bankhead-Coley Program, to authorize the establishment of endowments for cancer research institutions within the state to fund an endowed research chair.

The endowment requires a specific appropriation, which will be used to establish endowment awards enabling a cancer research institution to provide stable funding for at least seven years to recruit and retain experienced promising researchers. The endowed chairs are intended to specialize in a cancer-related field of research that will facilitate coordination among research institutions within the state and attract other promising researchers and national funding.

The research institution that receives an endowed chair must submit a report to the Governor, the President of the Senate and Speaker of the House of Representatives describing the research program and the responsibilities of the endowed chair. Upon final selection of the researcher, or if a replacement is needed for the original endowed chair, the research institution must notify the chairs of the appropriations committees of the Senate and House of Representatives of the name of the researcher and specific information about the endowment budget and research responsibilities. The research institution is required to report annually to the President of the Senate and the Speaker of the House of Representatives the following information pertaining to the endowment:

- Chair's name.
- Current salary.
- Research responsibilities.
- Percentage of time devoted to research if the chair also serves as a member of faculty.
- Reports on research progress and progress toward achieving the goals of the Bankhead-Coley program.
- Endowment expenditures and balance.
- Interest rate and interest earned on the endowment.

B. SECTION DIRECTORY:

Section 1. Creates s. 381.925, F.S., related to the Cancer Center of Excellence Award.
Section 2. Amends s. 215.5602, F.S., related to the James and Esther King Biomedical Research program.

Section 3. Amends s. 381.922, F.S., related to the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program.

Section 4. Amends s. 1004.435, F.S., relating to the Florida Cancer Control and Research Advisory Council; creation; and composition.

Section 5. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Although application for the Cancer Center of Excellence Award is voluntary, providers in the state who wish to be designated as such will incur indeterminable costs to align their programs with the standards contemplated by this bill. Providers receiving the award may be able to secure additional patient revenues as a result of the distinction of their care.

D. FISCAL COMMENTS:

The amount of the endowments for the research chairs are subject to an unknown appropriation amount, to be specified in the General Appropriations Act, and would be significant. DOH may incur additional administrative costs to support the two programs established in the bill, but these costs are not expected to be significant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DOH sufficient authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Although the bill requires the Surgeon General to notify the Governor regarding the providers that are "eligible" to receive the Cancer Center of Excellence Award, it is not clear who actually grants the award and whether all those eligible to receive the award are automatically granted an award.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to quality cancer care and research; creating s. 381.925, F.S.; providing legislative intent and goals; establishing a Cancer Center of Excellence Award for providers that excel in providing cancer care and treatment in this state; requiring the Florida Cancer Control and Research Advisory Council and the Biomedical Research Advisory Council to jointly develop performance measures, a rating system, and a rating standard in accordance with specified criteria for applicants to qualify for the award; providing minimum standards; authorizing a provider to apply to the Department of Health for the award; requiring the Florida Cancer Control and Research Advisory Council and the Biomedical Research Advisory Council to jointly develop an application form; requiring the department to conduct two application cycles each year; specifying that ch. 120, F.S., does not apply to the applications or notification of entities that are eligible for the award; requiring the State Surgeon General to assemble an evaluation team to assess applications; requiring each application to be evaluated independently of any other application; providing membership of and requirements for the evaluation team; providing duties of the members of the evaluation team; requiring the State Surgeon General to notify the Governor of the providers that are eligible to receive the award;

limiting the duration of the award; authorizing an award-winning cancer provider to use the designation in its advertising and marketing; providing that an award-winning cancer provider is granted preference in competitive solicitations for a specified period of time; requiring the State Surgeon General to report to the Legislature by a specified date, and annually thereafter, the status of implementing the award program; requiring the Department of Health to adopt rules related to the application cycles and submission of the application forms; amending s. 215.5602, F.S.; revising the responsibilities of the Biomedical Research Advisory Council with regard to the Cancer Center of Excellence Award program; amending s. 381.922, F.S.; authorizing endowments under the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program for establishing funded research chairs at research institutions contingent upon an appropriation; requiring submission of proposals; requiring that research institutions report certain information regarding the selected research chair of the endowment and other information about the endowment to the Governor and Legislature; providing for qualifications of the chair; specifying the use of the funds in the endowment; amending s. 1004.435, F.S.; revising the responsibilities of the Florida Cancer Control and Research Advisory Council with regard to the Cancer Center of Excellence Award

program; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 381.925, Florida Statutes, is created to read:

381.925 Cancer Center of Excellence Award program.—

(1) The Legislature intends to recognize hospitals, treatment centers, and other providers in this state which demonstrate excellence in patient-centered, coordinated care for persons undergoing cancer treatment and therapy in this state. The goal of this program is to encourage excellence in cancer care in this state, attract and retain the best cancer care providers to the state, and help Florida providers be recognized nationally as a preferred destination for quality cancer care. The Cancer Center of Excellence Award will recognize providers that exceed service standards and excel in providing a quality, comprehensive, and patient-centered, coordinated care program.

(2) The Florida Cancer Control and Research Advisory Council, established in s. 1004.435, and the Biomedical Research Advisory Council, established in s. 215.5602, shall jointly develop rigorous performance measures, a rating system, and a rating standard that must be achieved to document and distinguish a cancer center that excels in providing a quality, comprehensive, and patient-centered coordinated care program. At a minimum, the criteria must require that each hospital, treatment center, or other provider:

(a) Maintain a license in this state which authorizes

health care services to be provided. A provider may not have been disciplined or subjected to any administrative enforcement action by state or federal regulatory authorities within the preceding 3 years.

(b) Be accredited by the Commission on Cancer of the American College of Surgeons.

(c) Actively participate in at least one regional cancer control collaborative that is operating pursuant to the Florida Comprehensive Cancer Control Program's cooperative agreement with the Centers for Disease Control and Prevention's National Comprehensive Cancer Control Program.

(d) Meet enhanced cancer care coordination standards set by the councils which, at a minimum, focus on:

1. Coordination of care by cancer specialists and nursing and allied health professionals.

2. Psychosocial assessment and services.

3. Suitable and timely referrals and followup.

4. Providing accurate and complete information on treatment options, including clinical trials, which consider each person's needs, preferences, and resources, whether provided by that center or available through other health care providers.

5. Participation in a comprehensive network of cancer specialists of multiple disciplines, which enables the patient to consult with a variety of experts to examine treatment alternatives.

6. Family services and support.

7. Aftercare and survivor services.

8. Patient and family satisfaction survey results.

(3)(a) A provider may apply to the Department of Health for a Cancer Center of Excellence Award. The Florida Cancer Control and Research Advisory Council and the Biomedical Research Advisory Council shall jointly develop an application form that requires, among other things, submission of documentation by the provider which demonstrates that the criteria in subsection (2) have been met.

(b) The Department of Health shall annually conduct two application cycles. The applications are not applications for licensure, the notification by the State Surgeon General to the Governor of the entities that are eligible for the award is not final agency action, and the Cancer Center of Excellence Award program is not subject to the provisions of chapter 120.

(4)(a) The State Surgeon General shall appoint a team of independent evaluators to assess applicants to determine eligibility for the award. An application is to be evaluated independently of any other application. The team shall consist of five evaluators to be selected, in any combination, from the following:

1. No more than five health care practitioners or health care facilities not licensed in this state which provide health care services involving cancer diagnoses or treatment;

2. No more than three members from the Florida Cancer Control and Research Advisory Council;

3. No more than two members from the Biomedical Research Advisory Council; and

4. No more than one layperson who has experience as a

cancer patient or as a family member of a cancer patient if that person or his or her family member did not receive care from the applicant or providers being evaluated.

(b) Each evaluator must be independent and free of any conflict of interest with respect to a health care provider or facility licensed in this state. Each person selected to participate on the evaluation team must sign a conflict of interest attestation before being appointed to the evaluation team.

(5)(a) Two evaluation team members may, as necessary, verify onsite documentation submitted with an application for the award.

(b) Each member on the evaluation team shall report to the State Surgeon General those applicants that achieved or exceeded the required score based on the rating system developed in subsection (2) which demonstrates the cancer center excels in providing a quality, comprehensive, and patient-centered coordinated care program.

(6) The State Surgeon General shall notify the Governor regarding the providers that are eligible to receive the Cancer Center of Excellence Award.

(7) The award shall be recognized for a period of 3 years from the date of the award. A provider may reapply for subsequent awards.

(8) A provider that receives a Cancer Center of Excellence Award may use the designation in its advertising and marketing for up to 3 years from the date of the award. In addition, a provider that receives a Cancer Center of Excellence Award may

be granted, for 3 years from the date of the award, a preference in competitive solicitations undertaken by a state agency or state university.

(9) The State Surgeon General shall report to the President of the Senate and the Speaker of the House of Representatives by January 31, 2014, and annually thereafter, the status of implementing the Cancer Center of Excellence Award program, metrics on the number of applications received and the number of award recipients by application cycle, a list of award recipients, and recommendations for legislation to strengthen the program.

(10) The Department of Health shall adopt rules related to the application cycles and submission of the application form.

Section 2. Paragraph (j) is added to subsection (4) of section 215.5602, Florida Statutes, to read:

215.5602 James and Esther King Biomedical Research Program.—

(4) The council shall advise the State Surgeon General as to the direction and scope of the biomedical research program. The responsibilities of the council may include, but are not limited to:

(j) With the Florida Cancer Control and Research Advisory Council, jointly developing performance measures, a rating system, a rating standard, and an application form for the Cancer Center of Excellence Award created in s. 381.925. The council shall also support the State Surgeon General in implementing the award program by ensuring that at least two members of the council, who must be independent of the

applicants for the award, are available to serve on the evaluation team as requested by the State Surgeon General. The council shall advise the State Surgeon General with respect to the Cancer Center of Excellence Award program.

Section 3. Subsection (4) of section 381.922, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to that section to read:

381.922 William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program.—

(4) In order to attract and retain experienced research talent and attendant national grant-producing researchers to cancer research institutions in this state, the Department of Health shall award endowments to cancer research institutions for establishing a funded research chair, pursuant to the General Appropriations Act specifying an appropriation for this purpose. The purpose of the endowment is to provide a secure funding for at least 7 years to attract an experienced and promising researcher whose continued employment for this period is not contingent upon grant awards associated with time-limited research projects. In addition, the Legislature intends for a chair to specialize in a cancer-related research field that will facilitate coordination among research institutions within the state and attract other promising researchers and funding to the state.

(a) Any research institution funded pursuant to this subsection shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report that must, at a minimum, describe the research program and

general responsibilities of the researcher who is to be selected for the endowed chair. Upon final selection of the research chair, or if it becomes necessary to identify a replacement research chair, the research institution shall notify the chair of the Appropriations Committee of the Senate and the chair of the Appropriations Committee of the House of Representatives the research chair's name, the endowment budget, and the specific research responsibilities.

(b) The research institution shall annually report to the President of the Senate and the Speaker of the House of Representatives regarding:

1. The research chair's name, his or her current salary and research responsibilities, and the percentage of the chair's time devoted to research if the chair also serves as a member of the faculty;

2. Research progress and progress toward achieving the goals of this program; and

3. Endowment expenditures and balance, interest rate, and interest earned on the endowment.

Section 4. Paragraph (r) of subsection (4) of section 1004.435, Florida Statutes, is redesignated as paragraph (s), and a new paragraph (r) is added to that subsection to read:

1004.435 Cancer control and research.—

(4) FLORIDA CANCER CONTROL AND RESEARCH ADVISORY COUNCIL; CREATION; COMPOSITION.—

(r) The council shall, with the Biomedical Research Advisory Council, jointly develop performance measures, a rating system, a rating standard, and an application form for the

Cancer Center of Excellence Award created in s. 381.925. The council shall also support the State Surgeon General in implementing the Cancer Center of Excellence Award program by ensuring that at least three members of the council, who must be independent of the applicants for the award, are available to serve on the evaluation team as requested by the State Surgeon General. The council shall advise the State Surgeon General with respect to the Cancer Center of Excellence Award program.

Section 5. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4031 Home Health Agencies
SPONSOR(S): Diaz
TIED BILLS: **IDEN./SIM. BILLS:** SB 1094

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee	11 Y, 0 N	Poche	Shaw
2) Health Care Appropriations Subcommittee		Clark	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

A home health agency is an organization that provides home health services and staffing services. Home health services provided by a home health agency include health and medical services and medical equipment provided to an individual in his or her home, such as nursing care, physical and occupational therapy, and home health aide services. Home health agencies are regulated by the Agency for Health Care Administration (AHCA) pursuant to part III of chapter 400, F.S.

House Bill 4031 deletes the requirement that a home health agency submit a report, on a quarterly basis to the AHCA, which provides the following information:

- The number of insulin dependent diabetic patients receiving insulin-injection services from the home health agency;
- The number of patients receiving both home health services from the home health agency and hospice services;
- The number of patients receiving home health services from that home health agency; and
- The names and license numbers of nurses whose primary job responsibility is to provide home health services to patients and who received remuneration from the home health agency in excess of $25,000 during the calendar quarter.

As a result of the elimination of the report, a home health agency will no longer face a fine of $5,000 for failing to submit the report on a quarterly basis. Additionally, AHCA will see a decrease in staff workload to provide technical assistance to home health agencies in completing the quarterly reports, preparation of fine notices, responding to inquiries from home health agencies that receive fine notices, the number of litigation appeals, and the necessity to testify at administrative hearings when the fine is challenged.

The bill has an indeterminate, but likely insignificant fiscal impact on state government.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Home Health Agencies and Regulation

A home health agency is an organization that provides home health services and staffing services.[1] Home health services provided by a home health agency include health and medical services and medical equipment provided to an individual in his or her home, such as nursing care, physical and occupational therapy, and home health aide services.[2] Home health agencies are regulated by the Agency for Health Care Administration (AHCA) pursuant to part III of chapter 400, F.S.

AHCA is authorized to deny, revoke, or suspend the license of a home health agency.[3] AHCA is required to impose a fine against a home health agency that commits certain acts.[4] One of these acts is the failure of the home health agency to submit a report to AHCA, within 15 days after the end of each calendar quarter, which includes the following information:

- The number of insulin dependent diabetic patients receiving insulin-injection services from the home health agency;
- The number of patients receiving both home health services from the home health agency and hospice services;
- The number of patients receiving home health services from that home health agency; and
- The names and license numbers of nurses whose primary job responsibility is to provide home health services to patients and who received remuneration from the home health agency in excess of $25,000 during the calendar quarter.[5]

These data items help identify possible fraud, such as billing for a high number of injection visits for insulin-dependent patients who could self-inject insulin, fraudulent billing for patients who did not receive the visits, possible duplicate payment for patients receiving both hospice and home health services, and nurses earning well above the average salary that could indicate false billing. The results of each quarter's reporting are shared with the U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services" Medicare Program Integrity Miami Satellite Division, the AHCA"s Medicaid Program Integrity Office, and the Medicare Fraud Investigations Manager at SafeGuard Services, LLC.[6] The data is also provided to the public in response to public records requests.[7]

The amount of the fine for failing to submit the report to AHCA is $5,000.[8] From January 1, 2009 to December 31, 2012, 1,407 fines have been imposed.[9] For fiscal year 2011-2012, fines totaling $932,750 were imposed by final order.[10] AHCA has seen a decrease in the number of home health agencies that have failed to submit the report in a timely manner; for the fourth quarter of 2012, 41 of the 2,250 licensed home health agencies, or less than 2 percent, failed to submit the report.[11]

Effect of Proposed Changes

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[1] S. 400.462(12), F.S.
[2] S. 400.462(14)(a)-(c), F.S.
[3] S. 400.474(1), F.S.
[4] S. 400.474(3)-(6), F.S.
[5] S. 400.474(6)(f), F.S.
[6] Agency for Health Care Administration, *2013 Bill Analysis & Economic Impact Statement-HB 4031*, page 1 (on file with Health Innovation Subcommittee staff).
[7] Id.
[8] S. 400.474(6), F.S.
[9] See supra, FN 4.
[10] Id.
[11] Id.

The bill eliminates the requirement that a licensed home health agency submit a report every calendar quarter. As a result of the elimination of the report, a home health agency will no longer face a fine of $5,000 each quarter for failing to submit the report.

B. SECTION DIRECTORY:

Section 1: Amends s. 400.474, F.S., relating to administrative penalties.
Section 2: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

AHCA will see the elimination of the collection of fines from home health agencies for failing to submit the required report. In recent years, the number of home health agencies that fail to submit the quarterly reports has been declining; therefore, the decrease in revenues is estimated to be insignificant.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Licensed home health agencies will no longer be subject to a fine of $5,000 for failing to submit the report in a timely fashion at the end of each calendar quarter.

D. FISCAL COMMENTS:

AHCA will see a decrease in staff workload to provide technical assistance to home health agencies in completing the quarterly reports. AHCA will also see a decrease in preparation of fine notices, responding to inquiries from home health agencies that receive fine notices, the number of litigation appeals, and the necessity to testify at administrative hearings when the fine is challenged. The House proposed General Appropriations Act includes an issue to reduce OPS authority funded through the Health Care Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

AHCA has appropriate rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to home health agencies; amending s. 400.474, F.S.; deleting requirements for the quarterly reporting by a home health agency of certain data submitted to the Agency for Health Care Administration; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 400.474, Florida Statutes, is amended to read:

400.474 Administrative penalties.—

(6) The agency may deny, revoke, or suspend the license of a home health agency and shall impose a fine of $5,000 against a home health agency that:

(a) Gives remuneration for staffing services to:

1. Another home health agency with which it has formal or informal patient-referral transactions or arrangements; or

2. A health services pool with which it has formal or informal patient-referral transactions or arrangements,

unless the home health agency has activated its comprehensive emergency management plan in accordance with s. 400.492. This paragraph does not apply to a Medicare-certified home health agency that provides fair market value remuneration for staffing services to a non-Medicare-certified home health agency that is part of a continuing care facility licensed under chapter 651 for providing services to its own residents if each resident

receiving home health services pursuant to this arrangement attests in writing that he or she made a decision without influence from staff of the facility to select, from a list of Medicare-certified home health agencies provided by the facility, that Medicare-certified home health agency to provide the services.

(b) Provides services to residents in an assisted living facility for which the home health agency does not receive fair market value remuneration.

(c) Provides staffing to an assisted living facility for which the home health agency does not receive fair market value remuneration.

(d) Fails to provide the agency, upon request, with copies of all contracts with assisted living facilities which were executed within 5 years before the request.

(e) Gives remuneration to a case manager, discharge planner, facility-based staff member, or third-party vendor who is involved in the discharge planning process of a facility licensed under chapter 395, chapter 429, or this chapter from whom the home health agency receives referrals.

~~(f) Fails to submit to the agency, within 15 days after the end of each calendar quarter, a written report that includes the following data based on data as it existed on the last day of the quarter:~~

~~1. The number of insulin-dependent diabetic patients receiving insulin-injection services from the home health agency;~~

~~2. The number of patients receiving both home health~~

~~services from the home health agency and hospice services;~~

~~3. The number of patients receiving home health services from that home health agency; and~~

~~4. The names and license numbers of nurses whose primary job responsibility is to provide home health services to patients and who received remuneration from the home health agency in excess of $25,000 during the calendar quarter.~~

(f) ~~(g)~~ Gives cash, or its equivalent, to a Medicare or Medicaid beneficiary.

(g) ~~(h)~~ Has more than one medical director contract in effect at one time or more than one medical director contract and one contract with a physician-specialist whose services are mandated for the home health agency in order to qualify to participate in a federal or state health care program at one time.

(h) ~~(i)~~ Gives remuneration to a physician without a medical director contract being in effect. The contract must:

1. Be in writing and signed by both parties;

2. Provide for remuneration that is at fair market value for an hourly rate, which must be supported by invoices submitted by the medical director describing the work performed, the dates on which that work was performed, and the duration of that work; and

3. Be for a term of at least 1 year.

The hourly rate specified in the contract may not be increased during the term of the contract. The home health agency may not execute a subsequent contract with that physician which has an

increased hourly rate and covers any portion of the term that was in the original contract.

(i) ~~(j)~~ Gives remuneration to:

1. A physician, and the home health agency is in violation of paragraph (g) ~~(h)~~ or paragraph (h) ~~(i)~~;

2. A member of the physician's office staff; or

3. An immediate family member of the physician,

if the home health agency has received a patient referral in the preceding 12 months from that physician or physician's office staff.

(j) ~~(k)~~ Fails to provide to the agency, upon request, copies of all contracts with a medical director which were executed within 5 years before the request.

(k) ~~(l)~~ Demonstrates a pattern of billing the Medicaid program for services to Medicaid recipients which are medically unnecessary as determined by a final order. A pattern may be demonstrated by a showing of at least two such medically unnecessary services within one Medicaid program integrity audit period.

Nothing in paragraph (e) or paragraph (i) ~~(j)~~ shall be interpreted as applying to or precluding any discount, compensation, waiver of payment, or payment practice permitted by 42 U.S.C. s. 1320a-7(b) or regulations adopted thereunder, including 42 C.F.R. s. 1001.952 or s. 1395nn or regulations adopted thereunder.

Section 2. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 317 Mental Health Treatment
SPONSOR(S): Healthy Families Subcommittee; Schwartz and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1420

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthy Families Subcommittee	10 Y, 0 N, As CS	Entress	Schoolfield
2) Criminal Justice Subcommittee	11 Y, 0 N	Cox	Cunningham
3) Health Care Appropriations Subcommittee		Fontaine WEF	Pridgeon
4) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill makes changes to ch. 916, F.S., Mentally Deficient and Mentally Ill Defendants, and section 985.19, F.S., Incompetency in Juvenile Delinquency Cases as follows:

- An admitting physician for a state forensic or civil facility may continue the administration of psychotherapeutic medication previously prescribed in jail, when a forensic client lacks the capacity to make an informed decision and the cessation of medication could risk the health and safety of the client. This authority is limited to the time period required to obtain a court order for the medication.
- The bill establishes a 30 day time frame for a competency hearing after the court receives notification that the defendant no longer meets criteria for continued commitment.
- The bill establishes standards for the evaluation of competency and the mental condition of juveniles, under s. 985.19, F.S.
- The bill reduces the number of years, from five to three, that an individual charged with a nonviolent crime and declared incompetent to proceed, must wait until the charges against that individual are dismissed under s. 916.145, F.S.

The bill does not appear to have a fiscal impact on state government.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Adult Competency and Competency Evaluations – Generally

The Department of Children and Families (DCF) serves individuals who have been committed to DCF, pursuant to ch. 916, F.S., due to having been adjudicated incompetent to proceed at trial due to mental illness or because they have been found not guilty by reason of insanity. DCF currently provides competency restoration training and mental health services in four state forensic facilities (two state operated and two operated under contract with a private provider), with a total of 1,108 beds.[1] In FY 2011-12, DCF reported serving 2,531 individuals as a result of a chapter 916, F.S., commitment.[2]

Competency Hearings

Sections 916.13 and 916.15, F.S., set forth the criteria under which a court may involuntarily commit a defendant charged with a felony who has been adjudicated incompetent to proceed, or who has been found not guilty by reason of insanity. If a person is committed pursuant to either statute, the administrator at the commitment facility must submit a report to the court:

- No later than 6 months after a defendant's admission date and at the end of any period of extended commitment; or
- At any time the administrator has determined that the defendant has regained competency or no longer meets the criteria for involuntary commitment.[3]

The statutes are silent as to a time frame in which the court must hold a hearing to determine continued competency or the continued need for involuntary commitment. However, the Florida Rules of Criminal Procedure require the court to hold a hearing within 30 days of receiving a report from a facility administrator that indicates that a person adjudicated incompetent to proceed or not guilty by reason of insanity no longer meets the criteria for commitment.[4]

Effect of the Bill

The bill amends ss. 916.13 and 916.15, F.S., to require a competency hearing to be held within 30 days after the court has been notified that a defendant is competent to proceed, or no longer meets the criteria for continued commitment. This requirement is consistent with Rule 3.212(c)(6), Florida Rules of Criminal Procedure and should help ensure timely processing by the courts for persons who have completed competency training regimens in state facilities.

Psychotherapeutic Medication Treatment

Current law requires that forensic clients must give express and informed consent to treatment. If they refuse and the situation is deemed an emergency that puts the client's safety at risk, then treatment may be given for 48 hours. If the person still refuses to give consent, then a court order must be sought for continuation of the treatment. In non-emergency situations, the treatment may not be given (without consent) and a court order must be sought for continued treatment.[5] DCF reports that in the non-emergency situations, the abrupt halt of medications to the individual can place them at risk for significant harm to their health and safety.[6]

Effect of the Bill

The bill requires jail physicians to provide a current psychotherapeutic medication order at the time of an inmate's transfer to a forensic or civil facility. The bill authorizes an admitting physician at a state

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[1] DCF Analysis of HB 317 dated February 1, 2013. On file with Healthy Families Subcommittee staff.
[2] *Id.*
[3] S. 916.13(2), F.S.; S. 916.15(3), F.S.
[4] Rules 3.212(c)(6) and 3.218(b) Florida Rules of Criminal Procedure.
[5] S. 916.107(3), F.S.
[6] DCF Analysis of HB 317 dated February 1, 2013. On file with Healthy Families Subcommittee staff.

forensic or civil facility to order the continued administration of psychotherapeutic medications previously prescribed in jail, when a forensic client lacks the capacity to make an informed decision and the cessation of medication could risk the health and safety of the client during the time a court order to medicate is pursued. This authority is for non-emergency situations[7] and is limited to the time period required to obtain a court order for the medication. This provision would apply to all forensic clients since it appears in the general provisions of ch. 916, F.S. Therefore, forensic clients who are either mentally ill, or have autism or mental retardation as a diagnosis would be subject to this provision when admitted to facilities operated by DCF or the APD.

The bill specifies that the administrator or designee of the civil or forensic facility must petition the committing court or the circuit court serving the county where the facility is located within 5 days after the inmate's admission, excluding weekends and legal holidays, for an order authorizing the continued treatment.[8] Court ordered medication of an individual has been the subject of judicial review.[9]

Dismissal of Charges Based on Continued Incompetency

Currently, Florida Statute requires all charges against any defendant adjudicated incompetent to proceed due to mental illness be dropped if the defendant remains incompetent to proceed after five years of the initial determination. However, the charges will not be dropped if the court specifies in its order reasons for believing that the defendant will become competent to proceed in the foreseeable future and specifies a timeframe in which the defendant is expected to become competent to proceed.[10] According to the Department of Children and Families, forensic data from the last thirteen fiscal years shows that 99.6% of individuals restored to competency were restored in three years or less.[11]

Effect of the Bill

The bill amends s. 916.145, F.S., to require that charges be dismissed for an individual who is incompetent to proceed after 3 years, rather than the current 5 year requirement, unless the court in its order specifies its reason for believing that the defendant will become competent to proceed in the foreseeable future and specifies a timeframe in which the defendant is expected to become competent to proceed. However, the bill maintains the 5 year requirement if the individual who is incompetent to proceed is charged with allegations related to a violent crime against a person.

Juvenile Competency and Competency Evaluations

Chapter 985, F.S., relating to juvenile justice, provides DCF, the Agency for Persons with Disabilities (APD), and the Department of Juvenile Justice (DJJ) with delegated authority and legislative guidance as to delinquency and competency issues for juveniles. If the court has reason to believe that a child named in a petition may be incompetent to proceed with the hearing, the court on its own motion may, or on the motion of the child's attorney or state attorney must, stay all proceedings and order an evaluation of the child's mental condition.[12] The evaluation of the juvenile's mental health must specifically state the basis for determinations of juvenile incompetency.[13] DCF is directed by statute to provide competency training for juveniles who have been found incompetent to proceed to trial as a result of mental illness, mental retardation or autism.[14] In FY 2011-12, DCF reported that it served 405 children who were adjudicated incompetent to proceed.[15]

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[7] Emergency treatment is already addressed in s. 916.107(3)(a)1., F.S.

[8] The administrator or designee has the authority to choose which court is petition or the order authorizing continued treatment.

[9] See Myers v. Alaska Psychiatric Institute , 138 P.3d 238 (Alaska 2006)(Noting that statutory provisions governing authorization of nonconsensual treatment with psychotropic medications violated the patient's state constitutional guarantees of liberty and privacy and in the absence of emergency, could not authorize the state to administer such medication, unless this was in the best interests of the patient and that no less intrusive treatment was available.) Currently, Florida law provides that a forensic client may, in the existence of an immediate danger to the safety of themselves or others, be given medication for no more than 48 hours. S. 916.107(3)(a)1., F.S.

[10] S. 916.145, F.S.

[11] DCF Analysis of HB 317 dated February 1, 2013. On file with Healthy Families Subcommittee staff.

[12] S. 985.19(1), F.S.

[13] S. 985.19(1)(b), F.S.

[14] S. 985.19(4), F.S.

[15] DCF Analysis of HB 317 dated February 1, 2013. On file with Healthy Families Subcommittee staff.

In the juvenile system, the court appoints 2-3 mental health experts to conduct competency evaluations.[16] For incompetency evaluations related to mental illness, DCF must provide the court a list of experts who have completed DCF-approved training.[17] A child is deemed competent to proceed if the child has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and the child has a rational and factual understanding of the present proceedings.[18]

Effect of the Bill
The bill establishes criteria that a forensic evaluator must use when reporting to the court as to whether a child is competent to proceed. The bill keeps the standard that a child is competent to proceed if the child has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and the child has a rational and factual understanding of the present proceedings, but changes the finding which must be included in the report. The expert's competency evaluation report must specifically state the basis for the determination of the child's mental condition and include written findings which:

- Identify the specific matters referred for evaluation;
- Identify the sources of information used by the expert;
- Describe the procedures, techniques, and diagnostic tests used in the examination to determine the basis of the child's mental condition;
- Address the child's capacity to:
    - Appreciate the charges or allegations against the child.
    - Appreciate the range and nature of possible penalties that may be imposed in the proceedings against the child, if applicable.
    - Understand the adversarial nature of the legal process.
    - Disclose to counsel facts pertinent to the proceedings at issue.
    - Display appropriate courtroom behavior.
    - Testify relevantly.
- Present the factual basis for the expert's clinical findings and opinions of the child's mental condition, with a separate section of "summary of the findings" including:
    - The date and length of time of the face-to-face diagnostic clinical interview;
    - A statement that identifies the mental health disorder, including the DSM name and associated diagnostic code;
    - A statement of how the child would benefit from competency restoration in the community or in a secure residential treatment facility;
    - An assessment of probable treatment length, and whether the juvenile will attain competence in the future; and
    - A description of recommended mental health treatment and education; and
- Report the mental disorder that forms the basis of the finding that the child is incompetent to proceed.

B. SECTION DIRECTORY:

Section 1: Amends s. 916.107, F.S., relating to rights of forensic clients.
Section 2: Amends s. 916.13, F.S., relating to involuntary commitment of defendant adjudicated incompetent.
Section 3: Amends s. 916.145, F.S., relating to dismissal of charges.
Section 4: Amends s. 916.15, F.S., relating to involuntary commitment of defendant adjudicated not guilty by reason of insanity.
Section 5: Amends s. 985.19, F.S., relating to incompetency in juvenile cases.
Section 6: Provides for an effective date.

[16] S. 985.19(1)(b), F.S.
[17] S. 985.19(1)(d), F.S
[18] S. 985.19(1)(f), F.S.

II. 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:

None.

D. FISCAL COMMENTS:

According to the State Court System, the bill's requirement that courts hold competency and commitment hearing within 30 days will have no fiscal or workload impact because this requirement currently exist pursuant to the Florida Rules of Criminal Procedure 3.212 and 3.218.[19]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   Statutes which purport to create or modify a procedural rule of court, rather than substantive rule of court, are constitutionally infirm.[20] This principle is grounded in Art. V, Section 2(a) of the Florida Constitution, which requires the Florida Supreme Court to adopt rules for the practice and procedure in all courts. Furthermore, Art. II, Section 3, of the Florida Constitution, the separation of powers provision, provides that powers constitutionally bestowed upon the courts may not be exercised by the Legislature.

   The bill amends ss. 916.13 and 916.15, F.S., to require a competency hearing to be held within 30 days after the court has been notified that a defendant is competent to proceed, or no longer meets the criteria for continued commitment. This provision could be challenged on grounds that it violates the separation of powers provision of the state constitution by dealing with procedural matters that are the province of the court.

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[19] Judicial Impact Statement dated March 26, 2013. On file with Health Care Appropriations Subcommittee.

[20] *State v. Raymond*, 906 So.2d 1045 (Fla. 2005) citing *Markert v. Johnston,* 367 So.2d 1003 (Fla.1978) and *Military Park Fire Control Tax Dist. No. 4 v. DeMarois,* 407 So.2d 1020 (Fla. 4th DCA 1981).

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 13, 2013, the Healthy Families Subcommittee adopted a strike-all amendment and an amendment to the strike-all amendment for House Bill 317.

The amendments made the following changes to the bill:

- Retained the provision to allow an admitting physician for a state forensic or civil facility continue the administration of psychotherapeutic medication previously prescribed in jail, when a forensic client lacks the capacity to make an informed decision and the cessation of medication could risk the health and safety of the client. This authority is limited to the time period required to obtain a court order for the medication.
- Retained the provision to establish a 30 day time frame for a competency hearing after the court receives notification that the defendant no longer meets criteria for continued commitment.
- Retained the provision to establish standards for the evaluation of competency and the mental condition of juveniles.
- Added a provision to reduce the number of years that an individual charged with a nonviolent crime and declared incompetent to proceed must wait until the charges against that individual are dismissed.
- Deleted the provision which would require court appointed mental health experts who conduct competency evaluations in both adult and juvenile settings to complete training once every five years in order to conduct evaluations for the court and remain on the forensic evaluator registry.

The bill was reported favorably as a committee substitute. The analysis reflects the committee substitute.

A bill to be entitled

An act relating to mental health treatment; amending s. 916.107, F.S.; authorizing forensic and civil facilities to order the continuation of psychotherapeutics for individuals receiving such medications in the jail before admission; amending s. 916.13, F.S.; providing timeframes within which competency hearings must be held; amending s. 916.145, F.S.; revising the time for dismissal of certain charges for defendants that remain incompetent to proceed to trial; amending s. 916.15, F.S.; providing a timeframe within which commitment hearings must be held; amending s. 985.19, F.S.; standardizing the protocols, procedures, diagnostic criteria, and information and findings that must be included in an expert's competency evaluation report; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (3) of section 916.107, Florida Statutes, is amended to read:

916.107 Rights of forensic clients.—

(3) RIGHT TO EXPRESS AND INFORMED CONSENT.—

(a) A forensic client shall be asked to give express and informed written consent for treatment. If a client refuses such treatment as is deemed necessary and essential by the client's multidisciplinary treatment team for the appropriate care of the

client, such treatment may be provided under the following circumstances:

1. In an emergency situation in which there is immediate danger to the safety of the client or others, such treatment may be provided upon the written order of a physician for a period not to exceed 48 hours, excluding weekends and legal holidays. If, after the 48-hour period, the client has not given express and informed consent to the treatment initially refused, the administrator or designee of the civil or forensic facility shall, within 48 hours, excluding weekends and legal holidays, petition the committing court or the circuit court serving the county in which the facility is located, at the option of the facility administrator or designee, for an order authorizing the continued treatment of the client. In the interim, the need for treatment shall be reviewed every 48 hours and may be continued without the consent of the client upon the continued written order of a physician who has determined that the emergency situation continues to present a danger to the safety of the client or others.

2. In a situation other than an emergency situation, the administrator or designee of the facility shall petition the court for an order authorizing necessary and essential treatment for the client.

a. If the client has been receiving psychotherapeutic medications at the jail at the time of transfer to the forensic or civil facility and lacks the capacity to make an informed decision regarding mental health treatment at the time of admission, the admitting physician may order continued

administration of psychotherapeutic medications if, in the clinical judgment of the physician, abrupt cessation of psychotherapeutic medications could pose a risk to the health or safety of the client during the time a court order to medicate is pursued. The administrator or designee of the civil or forensic facility shall, within 5 days after admission, excluding weekends and legal holidays, petition the committing court or the circuit court serving the county in which the facility is located, at the option of the facility administrator or designee, for an order authorizing the continued treatment of a client. The jail physician shall provide a current psychotherapeutic medication order at the time of transfer to the forensic or civil facility or upon request of the admitting physician after the client is evaluated.

b. The court order shall allow such treatment for up to ~~a period not to exceed~~ 90 days after ~~following~~ the date of the entry of the order. Unless the court is notified in writing that the client has provided express and informed consent in writing or that the client has been discharged by the committing court, the administrator or designee shall, before ~~prior to~~ the expiration of the initial 90-day order, petition the court for an order authorizing the continuation of treatment for another 90 days ~~90-day period~~. This procedure shall be repeated until the client provides consent or is discharged by the committing court.

3. At the hearing on the issue of whether the court should enter an order authorizing treatment for which a client was unable to or refused to give express and informed consent, the

court shall determine by clear and convincing evidence that the client has mental illness, retardation, or autism, that the treatment not consented to is essential to the care of the client, and that the treatment not consented to is not experimental and does not present an unreasonable risk of serious, hazardous, or irreversible side effects. In arriving at the substitute judgment decision, the court must consider at least the following factors:

a. The client's expressed preference regarding treatment;

b. The probability of adverse side effects;

c. The prognosis without treatment; and

d. The prognosis with treatment.

The hearing shall be as convenient to the client as may be consistent with orderly procedure and shall be conducted in physical settings not likely to be injurious to the client's condition. The court may appoint a general or special magistrate to preside at the hearing. The client or the client's guardian, and the representative, shall be provided with a copy of the petition and the date, time, and location of the hearing. The client has the right to have an attorney represent him or her at the hearing, and, if the client is indigent, the court shall appoint the office of the public defender to represent the client at the hearing. The client may testify or not, as he or she chooses, and has the right to cross-examine witnesses and may present his or her own witnesses.

Section 2. Subsection (2) of section 916.13, Florida Statutes, is amended to read:

916.13 Involuntary commitment of defendant adjudicated incompetent.—

(2) A defendant who has been charged with a felony and who has been adjudicated incompetent to proceed due to mental illness, and who meets the criteria for involuntary commitment ~~to the department~~ under ~~the provisions of~~ this chapter, may be committed to the department, and the department shall retain and treat the defendant.

(a) Within ~~No later than~~ 6 months after the date of admission and at the end of any period of extended commitment, or at any time the administrator or designee has ~~shall have~~ determined that the defendant has regained competency to proceed or no longer meets the criteria for continued commitment, the administrator or designee shall file a report with the court pursuant to the applicable Florida Rules of Criminal Procedure.

(b) A competency hearing must be held within 30 days after the court receives notification that the defendant is competent to proceed or no longer meets the criteria for continued commitment.

Section 3. Section 916.145, Florida Statutes, is amended to read:

916.145 Dismissal of charges.—The charges against any defendant adjudicated incompetent to proceed due to the defendant's mental illness shall be dismissed without prejudice to the state if the defendant remains incompetent to proceed 3 ~~5~~ years after such determination or 5 years after such determination if a charge related to commitment includes an allegation of a violent crime against a person, unless the court

in its order specifies its reasons for believing that the defendant will become competent to proceed within the foreseeable future and specifies the time within which the defendant is expected to become competent to proceed. The charges against the defendant are dismissed without prejudice to the state to refile the charges should the defendant be declared competent to proceed in the future.

Section 4. Subsection (5) is added to section 916.15, Florida Statutes, to read:

916.15 Involuntary commitment of defendant adjudicated not guilty by reason of insanity.—

(5) The commitment hearing must be held within 30 days after the court receives notification that the defendant no longer meets the criteria for continued commitment.

Section 5. Subsection (1) of section 985.19, Florida Statutes, is amended to read:

985.19 Incompetency in juvenile delinquency cases.—

(1) If, at any time prior to or during a delinquency case, the court has reason to believe that the child named in the petition may be incompetent to proceed with the hearing, the court on its own motion may, or on the motion of the child's attorney or state attorney must, stay all proceedings and order an evaluation of the child's mental condition.

(a) Any motion questioning the child's competency to proceed must be served upon the child's attorney, the state attorney, the attorneys representing the Department of Juvenile Justice, and the attorneys representing the Department of Children and Families ~~Family Services~~. Thereafter, any motion,

notice of hearing, order, or other legal pleading relating to the child's competency to proceed with the hearing must be served upon the child's attorney, the state attorney, the attorneys representing the Department of Juvenile Justice, and the attorneys representing the Department of Children and Families ~~Family Services~~.

(b) All determinations of competency must ~~shall~~ be made at a hearing, with findings of fact based on an evaluation of the child's mental condition made by at least ~~not less than~~ two but not ~~nor~~ more than three experts appointed by the court. ~~The basis for the determination of incompetency must be specifically stated in the evaluation. In addition, a recommendation as to whether residential or nonresidential treatment or training is required must be included in the evaluation.~~ Experts appointed by the court to determine the mental condition of a child shall be allowed reasonable fees for services rendered. State employees may be paid expenses pursuant to s. 112.061. The fees shall be taxed as costs in the case.

(c) A child is competent to proceed if the child has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and the child has a rational and factual understanding of the present proceedings. The expert's competency evaluation report must specifically state the basis for the determination of the child's mental condition and must include written findings that:

1. Identify the specific matters referred for evaluation.

2. Identify the sources of information used by the expert.

3. Describe the procedures, techniques, and diagnostic

tests used in the examination to determine the basis of the child's mental condition.

4. Address the child's capacity to:

a. Appreciate the charges or allegations against the child.

b. Appreciate the range and nature of possible penalties that may be imposed in the proceedings against the child, if applicable.

c. Understand the adversarial nature of the legal process.

d. Disclose to counsel facts pertinent to the proceedings at issue.

e. Display appropriate courtroom behavior.

f. Testify relevantly.

5. Present the factual basis for the expert's clinical findings and opinions of the child's mental condition. The expert's factual basis of his or her clinical findings and opinions must be supported by the diagnostic criteria found in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association and must be presented in a separate section of the report entitled "summary of findings." This section must include:

a. The day, month, year, and length of time of the face-to-face diagnostic clinical interview to determine the child's mental condition.

b. A statement that identifies the DSM clinical name and associated diagnostic code for the specific mental disorder that forms the basis of the child's incompetency.

c. A statement of how the child would benefit from competency restoration services in the community or in a secure residential treatment facility.

d. An assessment of the probable duration of the treatment to restore competence and the probability that the child will attain competence to proceed in the foreseeable future.

e. A description of recommended treatment or education appropriate for the mental disorder.

6. If the evaluator determines the child to be incompetent to proceed to trial, the evaluator must report on the mental disorder that forms the basis of the incompetency.

(d) ~~(c)~~ All court orders determining incompetency must include specific written findings by the court as to the nature of the incompetency and whether the child requires secure or nonsecure treatment or training environment ~~environments~~.

(e) ~~(d)~~ For competency ~~incompetency~~ evaluations related to mental illness, the Department of Children and Families ~~Family Services~~ shall maintain and annually provide the courts with a list of available mental health professionals who have completed a training program approved by the Department of Children and Families ~~Family Services~~ to perform the evaluations.

(f) ~~(e)~~ For competency ~~incompetency~~ evaluations related to mental retardation or autism, the court shall order the Agency for Persons with Disabilities to examine the child to determine if the child meets the definition of "retardation" or "autism" in s. 393.063 and, provide a clinical opinion as to ~~if so~~, whether the child is competent to proceed with delinquency proceedings.

~~(f) A child is competent to proceed if the child has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and the child has a rational and factual understanding of the present proceedings. The report must address the child's capacity to:~~

~~1. Appreciate the charges or allegations against the child.~~

~~2. Appreciate the range and nature of possible penalties that may be imposed in the proceedings against the child, if applicable.~~

~~3. Understand the adversarial nature of the legal process.~~

~~4. Disclose to counsel facts pertinent to the proceedings at issue.~~

~~5. Display appropriate courtroom behavior.~~

~~6. Testify relevantly.~~

(g) Immediately upon the filing of the court order finding a child incompetent to proceed, the clerk of the court shall notify the Department of Children and Families ~~Family Services~~ and the Agency for Persons with Disabilities and fax or hand deliver to the department and to the agency a referral packet that includes, at a minimum, the court order, the charging documents, the petition, and the court-appointed evaluator's reports.

(h) After placement of the child in the appropriate setting, the Department of Children and Families ~~Family Services~~ in consultation with the Agency for Persons with Disabilities, as appropriate, must, within 30 days after placement of the child, prepare and submit to the court a treatment or training

plan for the child's restoration of competency. A copy of the plan must be served upon the child's attorney, the state attorney, and the attorneys representing the Department of Juvenile Justice.

Section 6. This act shall take effect July 1, 2013.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Health Care Appropriations Subcommittee

Representative Schwartz offered the following:

Amendment (with title amendment)

Remove lines 132-147 and insert:

Section 3. Section 916.145, Florida Statutes, is amended to read:

916.145 Dismissal of charges.—

(1) The charges against any defendant adjudicated incompetent to proceed due to mental illness shall be dismissed without prejudice to the state if the defendant remains incompetent to proceed:

(a) 3 years after such determination; or

(b) 5 years after such determination if the charge related to commitment is:

1. Arson;

2. Sexual battery;

3. Robbery;

4. Kidnapping;

5. Aggravated child abuse;

6. Aggravated abuse of an elderly person or disabled adult;

7. Aggravated assault with a deadly weapon;

8. Murder;

9. Manslaughter;

10. Aggravated manslaughter of an elderly person or disabled adult;

11. Aggravated manslaughter of a child;

12. Unlawful throwing, projecting, placing, or discharging of a destructive device or bomb;

13. Armed burglary;

14. Aggravated battery; or

15. Aggravated stalking.

Unless the court, in an order, specifies reasons for believing that the defendant will become competent to proceed, and specifies a reasonable time within which the defendant is expected to become competent.

(2) Nothing in this section of law shall be construed to prohibit the state from refiling dismissed charges, should the defendant be declared to be competent to proceed in the future.

T I T L E A M E N D M E N T

Remove line 11 and insert:

proceed to trial; providing exceptions; amending s. 916.15, F.S.; providing