



---

# Healthy Families Subcommittee

## Meeting Packet

**Tuesday, March 18, 2014**  
**9:00 AM – 12:00 PM**  
**12 HOB**

**Will Weatherford**  
**Speaker**

**Gayle B. Harrell**  
**Chair**

**Committee Meeting Notice**  
**HOUSE OF REPRESENTATIVES**

**Healthy Families Subcommittee**

**Start Date and Time:** Tuesday, March 18, 2014 09:00 am  
**End Date and Time:** Tuesday, March 18, 2014 12:00 pm  
**Location:** 12 HOB  
**Duration:** 3.00 hrs

**Consideration of the following bill(s):**

HB 837 Mental Health Treatment by Schwartz

**Consideration of the following proposed committee bill(s):**

PCB HFS 14-03 -- Child Protection and Child Welfare Services

**Consideration of the following proposed committee substitute(s):**

PCS for HB 479 -- Substance Abuse Services

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members is 6:00 p.m., Monday, March 17, 2014.

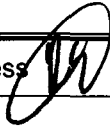

By request of the chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, March 17, 2014.

**NOTICE FINALIZED on 03/14/2014 16:06 by Villar.Melissa**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 837 Mental Health Treatment  
**SPONSOR(S):** Schwartz  
**TIED BILLS:** IDEN./SIM. BILLS: SB 944

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthy Families Subcommittee		Entress 	Brazzell 
2) Criminal Justice Subcommittee			
3) Health Care Appropriations Subcommittee			
4) Health & Human Services Committee			

### SUMMARY ANALYSIS

The bill addresses issues related to administration of psychotherapeutic medications, evaluations of individuals' competency, and dismissal of charges. The bill makes changes to ch. 916, F.S., and s. 985.19, F.S., as follows:

- Permits an admitting physician in a state forensic or civil facility to 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.
- 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.
- Establishes standards for the evaluation of competency and the mental condition of juveniles, and
- 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.

The bill provides an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

###### Competency

The Department of Children and Families (DCF) and the Agency for Persons with Disabilities (APD) serve 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, intellectual disability, or autism, or because they have had their charges acquitted by reason of insanity.<sup>1</sup>

Chapter 985, F.S., relating to juvenile justice, provides DCF, 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.<sup>2</sup> The evaluation of the juvenile's mental health must specifically state the basis for determinations of juvenile incompetency.<sup>3</sup> 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.<sup>4</sup> In FY 2012-13, DCF reported that it served 407 children who were adjudicated incompetent to proceed.<sup>5</sup>

###### Competency Evaluation

###### *Adults*

Currently, courts are required to appoint no more than three experts to provide adult competency evaluations.<sup>6</sup> Experts must be a psychiatrist, licensed psychologist, or physician and must, to the extent possible, have completed DCF-approved forensic evaluator training.<sup>7</sup> DCF is required to maintain and annually provide the courts with a list of available mental health professionals who have completed the approved training as experts.<sup>8</sup> However, current law does not require attendance at a DCF approved training or training renewal in order for a person to be appointed as an expert.<sup>9</sup>

###### *Children*

In the juvenile system, the court appoints 2-3 mental health experts to conduct competency evaluations.<sup>10</sup> For incompetency evaluations related to mental illness, DCF must provide the court a list of experts who have completed DCF-approved training.<sup>11</sup>

---

<sup>1</sup> S. 985.10 (1), F.S.

<sup>2</sup> S. 985.19(1), F.S.

<sup>3</sup> S. 985.19(1)(b), F.S.

<sup>4</sup> S. 985.19(4), F.S.

<sup>5</sup> DCF Analysis of HB 837, dated February 13, 2014. On file with Healthy Families Subcommittee staff.

<sup>6</sup> S. 916.115(1), F.S.

<sup>7</sup> S. 916.115(1)(a), F.S.

<sup>8</sup> S. 916.115(1)(b), F.S.

<sup>9</sup> S. 916.115(1)(a), F.S.

<sup>10</sup> S. 985.19(1)(b), F.S.

<sup>11</sup> S. 985.19(1)(d), F.S.

### Competency Hearing

Currently, 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.<sup>12</sup>

### Dismissal of Charges

Currently, s. 916.145, F.S., 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 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.<sup>13</sup> According to the Department of Children and Families, forensic data from the last fifteen fiscal years shows that 99.6% of individuals restored to competency were restored in three years or less.<sup>14</sup>

### Psychotherapeutic Medication Treatment

Current law requires that forensic clients<sup>15</sup> must give express and informed consent to treatment.<sup>16</sup> 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.<sup>17</sup> 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 the client's consent and a court order must be sought for continued treatment.<sup>18</sup>

### **Effect of Proposed Changes**

#### Dismissal of Charges

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.

#### Competency Hearings

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.

#### Determinations of Incompetency for Juvenile Delinquency Cases

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 provides that a child is competent to proceed if the child has

<sup>12</sup> Rules 3.212(c)(6) and 3.218(b) Florida Rules of Criminal Procedure.

<sup>13</sup> S. 916.145, F.S.

<sup>14</sup> DCF Analysis of HB 837 dated February 13, 2014, on file with Healthy Families Subcommittee staff.

<sup>15</sup> Forensic clients are individuals who have been committed to DCF, pursuant to ch. 916, F.S., because they are adjudicated incompetent, adjudicated not guilty by reason of insanity, or determined to be incompetent to proceed

<sup>16</sup> S. 916.107(3)(a), F.S.

<sup>17</sup> S. 916.107(3)(a)(1), F.S.

<sup>18</sup> S. 916.107(3), F.S.

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.

If the child is determined to be incompetent, the bill requires the evaluator to specify a mental disorder that forms the basis of the incompetency. The bill requires that the basis for the determination of a child's mental condition be specifically stated in the expert's competency evaluation report and must include written findings that:

- 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;
- Present the factual basis for the expert's clinical findings and opinions of the child's mental condition; and
- 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.

The bill also requires the evaluator to include in his or her competency evaluation report a "summary of findings" section that includes:

- The date and length of time of the face-to-face diagnostic clinical interview;
- A statement that identifies the mental health disorder;
- 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.

#### *Continuation of Psychotherapeutic Medication*

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 forensic or civil facility to 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 during the time a court order to medicate is pursued. This authority is for non-emergency situations<sup>19</sup> 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 APD.

The bill does not specify a timeframe for the pursuit of a court order or place any limits on the continuation of the medication while awaiting the order. Court ordered medication of an individual has been the subject of judicial review.<sup>20</sup>

<sup>19</sup> Emergency treatment is already addressed in s. 916.107(3)(a)1., F.S.

<sup>20</sup> 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

**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.

**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:**

None.

**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:  
None.



**B. RULE-MAKING AUTHORITY:**

The bill does not appear to create a need for rulemaking or rulemaking authority.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill is the substance of HB 317 (2013), which was vetoed by the Governor. The provision in the bill that the Governor opposed reduced 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 Governor stated in the veto message that he vetoed the bill because the bill "does not maintain [the current five-year requirement to regain competency] for attempted violent crimes or other serious crimes."

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



27 treatment as is deemed necessary and essential by the client's  
 28 multidisciplinary treatment team for the appropriate care of the  
 29 client, such treatment may be provided under the following  
 30 circumstances:

31 1. In an emergency situation in which there is immediate  
 32 danger to the safety of the client or others, such treatment may  
 33 be provided upon the written order of a physician for a period  
 34 not to exceed 48 hours, excluding weekends and legal holidays.  
 35 If, after the 48-hour period, the client has not given express  
 36 and informed consent to the treatment initially refused, the  
 37 administrator or designee of the civil or forensic facility  
 38 shall, within 48 hours, excluding weekends and legal holidays,  
 39 petition the committing court or the circuit court serving the  
 40 county in which the facility is located, at the option of the  
 41 facility administrator or designee, for an order authorizing the  
 42 continued treatment of the client. In the interim, the need for  
 43 treatment shall be reviewed every 48 hours and may be continued  
 44 without the consent of the client upon the continued written  
 45 order of a physician who has determined that the emergency  
 46 situation continues to present a danger to the safety of the  
 47 client or others.

48 2. In a situation other than an emergency situation, the  
 49 administrator or designee of the facility shall petition the  
 50 court for an order authorizing necessary and essential treatment  
 51 for the client.

52 a. If the client has been receiving psychotherapeutic

53 medications at the jail at the time of transfer to the forensic  
 54 or civil facility and lacks the capacity to make an informed  
 55 decision regarding mental health treatment at the time of  
 56 admission, the admitting physician may order continued  
 57 administration of psychotherapeutic medications if, in the  
 58 clinical judgment of the physician, abrupt cessation of  
 59 psychotherapeutic medications could pose a risk to the health or  
 60 safety of the client during the time a court order to medicate  
 61 is pursued. The administrator or designee of the civil or  
 62 forensic facility shall, within 5 days after admission,  
 63 excluding weekends and legal holidays, petition the committing  
 64 court or the circuit court serving the county in which the  
 65 facility is located, at the option of the facility administrator  
 66 or designee, for an order authorizing the continued treatment of  
 67 a client. The jail physician shall provide a current  
 68 psychotherapeutic medication order at the time of transfer to  
 69 the forensic or civil facility or upon request of the admitting  
 70 physician after the client is evaluated.

71 b. The court order shall allow such treatment for up to a  
 72 period not to exceed 90 days after following the date of the  
 73 entry of the order. Unless the court is notified in writing that  
 74 the client has provided express and informed consent in writing  
 75 or that the client has been discharged by the committing court,  
 76 the administrator or designee shall, before the expiration of  
 77 the initial 90-day order, petition the court for an order  
 78 authorizing the continuation of treatment for another 90 days

79 ~~90-day period.~~ This procedure shall be repeated until the client  
 80 provides consent or is discharged by the committing court.

81 3. At the hearing on the issue of whether the court should  
 82 enter an order authorizing treatment for which a client was  
 83 unable to or refused to give express and informed consent, the  
 84 court shall determine by clear and convincing evidence that the  
 85 client has mental illness, intellectual disability, or autism,  
 86 that the treatment not consented to is essential to the care of  
 87 the client, and that the treatment not consented to is not  
 88 experimental and does not present an unreasonable risk of  
 89 serious, hazardous, or irreversible side effects. In arriving at  
 90 the substitute judgment decision, the court must consider at  
 91 least the following factors:

- 92 a. The client's expressed preference regarding treatment;
- 93 b. The probability of adverse side effects;
- 94 c. The prognosis without treatment; and
- 95 d. The prognosis with treatment.

96  
 97 The hearing shall be as convenient to the client as may be  
 98 consistent with orderly procedure and shall be conducted in  
 99 physical settings not likely to be injurious to the client's  
 100 condition. The court may appoint a general or special magistrate  
 101 to preside at the hearing. The client or the client's guardian,  
 102 and the representative, shall be provided with a copy of the  
 103 petition and the date, time, and location of the hearing. The  
 104 client has the right to have an attorney represent him or her at

105 the hearing, and, if the client is indigent, the court shall  
 106 appoint the office of the public defender to represent the  
 107 client at the hearing. The client may testify or not, as he or  
 108 she chooses, and has the right to cross-examine witnesses and  
 109 may present his or her own witnesses.

110 Section 2. Subsection (2) of section 916.13, Florida  
 111 Statutes, is amended to read:

112 916.13 Involuntary commitment of defendant adjudicated  
 113 incompetent.-

114 (2) A defendant who has been charged with a felony and who  
 115 has been adjudicated incompetent to proceed due to mental  
 116 illness, and who meets the criteria for involuntary commitment  
 117 ~~to the department under the provisions of~~ this chapter, may be  
 118 committed to the department, and the department shall retain and  
 119 treat the defendant.

120 (a) Within ~~No later than~~ 6 months after the date of  
 121 admission and at the end of any period of extended commitment,  
 122 or at any time the administrator or designee has ~~shall have~~  
 123 determined that the defendant has regained competency to proceed  
 124 or no longer meets the criteria for continued commitment, the  
 125 administrator or designee shall file a report with the court  
 126 pursuant to the applicable Florida Rules of Criminal Procedure.

127 (b) A competency hearing must be held within 30 days after  
 128 the court receives notification that the defendant is competent  
 129 to proceed or no longer meets the criteria for continued  
 130 commitment.

HB 837

2014

131 Section 3. Section 916.145, Florida Statutes, is amended  
 132 to read:

133 (Substantial rewording of section. See  
 134 s. 916.145, F.S., for present text.)  
 135 916.145 Dismissal of charges.-

136 (1) The charges against a defendant adjudicated  
 137 incompetent to proceed due to mental illness shall be dismissed  
 138 without prejudice to the state if the defendant remains  
 139 incompetent to proceed:

140 (a) Three years after such determination; or

141 (b) Five years after such determination if the charge  
 142 related to commitment is:

143 1. Arson;

144 2. Sexual battery;

145 3. Robbery;

146 4. Kidnapping;

147 5. Aggravated child abuse;

148 6. Aggravated abuse of an elderly person or disabled  
 149 adult;

150 7. Aggravated assault with a deadly weapon;

151 8. Murder;

152 9. Manslaughter;

153 10. Aggravated manslaughter of an elderly person or  
 154 disabled adult;

155 11. Aggravated manslaughter of a child;

156 12. Unlawful throwing, projecting, placing, or discharging

157 of a destructive device or bomb;

158 13. Armed burglary;

159 14. Aggravated battery; or

160 15. Aggravated stalking,

161

162 unless the court, in an order, specifies reasons for believing

163 that the defendant will become competent to proceed, and

164 specifies a reasonable time within which the defendant is

165 expected to become competent.

166 (2) This section does not prohibit the state from refileing

167 dismissed charges if the defendant is declared to be competent

168 to proceed in the future.

169 Section 4. Subsection (5) is added to section 916.15,

170 Florida Statutes, to read:

171 916.15 Involuntary commitment of defendant adjudicated not  
172 guilty by reason of insanity.-

173 (5) The commitment hearing must be held within 30 days

174 after the court receives notification that the defendant no

175 longer meets the criteria for continued commitment.

176 Section 5. Subsection (1) of section 985.19, Florida

177 Statutes, is amended to read:

178 985.19 Incompetency in juvenile delinquency cases.-

179 (1) If, at any time prior to or during a delinquency case,

180 the court has reason to believe that the child named in the

181 petition may be incompetent to proceed with the hearing, the

182 court on its own motion may, or on the motion of the child's



183 attorney or state attorney must, stay all proceedings and order  
 184 an evaluation of the child's mental condition.

185 (a) Any motion questioning the child's competency to  
 186 proceed must be served upon the child's attorney, the state  
 187 attorney, the attorneys representing the Department of Juvenile  
 188 Justice, and the attorneys representing the Department of  
 189 Children and Families ~~Family Services~~. Thereafter, any motion,  
 190 notice of hearing, order, or other legal pleading relating to  
 191 the child's competency to proceed with the hearing must be  
 192 served upon the child's attorney, the state attorney, the  
 193 attorneys representing the Department of Juvenile Justice, and  
 194 the attorneys representing the Department of Children and  
 195 Families ~~Family Services~~.

196 (b) All determinations of competency must ~~shall~~ be made at  
 197 a hearing, with findings of fact based on an evaluation of the  
 198 child's mental condition made by at least ~~not less than~~ two but  
 199 not ~~nor~~ more than three experts appointed by the court. ~~The~~  
 200 ~~basis for the determination of incompetency must be specifically~~  
 201 ~~stated in the evaluation. In addition, a recommendation as to~~  
 202 ~~whether residential or nonresidential treatment or training is~~  
 203 ~~required must be included in the evaluation.~~ Experts appointed  
 204 by the court to determine the mental condition of a child shall  
 205 be allowed reasonable fees for services rendered. State  
 206 employees may be paid expenses pursuant to s. 112.061. The fees  
 207 shall be taxed as costs in the case.

208 (c) A child is competent to proceed if the child has

209 sufficient present ability to consult with counsel with a  
 210 reasonable degree of rational understanding and the child has a  
 211 rational and factual understanding of the present proceedings.  
 212 The expert's competency evaluation report must specifically  
 213 state the basis for the determination of the child's mental  
 214 condition and must include written findings that:

- 215 1. Identify the specific matters referred for evaluation.
- 216 2. Identify the sources of information used by the expert.
- 217 3. Describe the procedures, techniques, and diagnostic  
 218 tests used in the examination to determine the basis of the  
 219 child's mental condition.

- 220 4. Address the child's capacity to:
  - 221 a. Appreciate the charges or allegations against the  
 222 child.
  - 223 b. Appreciate the range and nature of possible penalties  
 224 that may be imposed in the proceedings against the child, if  
 225 applicable.
  - 226 c. Understand the adversarial nature of the legal process.
  - 227 d. Disclose to counsel facts pertinent to the proceedings  
 228 at issue.

- 229 e. Display appropriate courtroom behavior.
- 230 f. Testify relevantly.
- 231 5. Present the factual basis for the expert's clinical  
 232 findings and opinions of the child's mental condition. The  
 233 expert's factual basis of his or her clinical findings and  
 234 opinions must be supported by the diagnostic criteria found in

235 the most recent edition of the Diagnostic and Statistical Manual  
 236 of Mental Disorders (DSM) published by the American Psychiatric  
 237 Association and must be presented in a separate section of the  
 238 report entitled "summary of findings." This section must  
 239 include:

240 a. The day, month, year, and length of time of the face-  
 241 to-face diagnostic clinical interview to determine the child's  
 242 mental condition.

243 b. A statement that identifies the DSM clinical name and  
 244 associated diagnostic code for the specific mental disorder that  
 245 forms the basis of the child's incompetency.

246 c. A statement of how the child would benefit from  
 247 competency restoration services in the community or in a secure  
 248 residential treatment facility.

249 d. An assessment of the probable duration of the treatment  
 250 to restore competence and the probability that the child will  
 251 attain competence to proceed in the foreseeable future.

252 e. A description of recommended treatment or education  
 253 appropriate for the mental disorder.

254 6. If the evaluator determines the child to be incompetent  
 255 to proceed to trial, the evaluator must report on the mental  
 256 disorder that forms the basis of the incompetency.

257 (d)-(e) All court orders determining incompetency must  
 258 include specific written findings by the court as to the nature  
 259 of the incompetency and whether the child requires secure or  
 260 nonsecure treatment or training environment ~~environments~~.

261           ~~(e)(d)~~ For competency ~~incompetency~~ evaluations related to  
 262 mental illness, the Department of Children and Families ~~Family~~  
 263 ~~Services~~ shall maintain and annually provide the courts with a  
 264 list of available mental health professionals who have completed  
 265 a training program approved by the Department of Children and  
 266 Families ~~Family Services~~ to perform the evaluations.

267           ~~(f)(e)~~ For competency ~~incompetency~~ evaluations related to  
 268 intellectual disability or autism, the court shall order the  
 269 Agency for Persons with Disabilities to examine the child to  
 270 determine if the child meets the definition of "intellectual  
 271 disability" or "autism" in s. 393.063 and, provide a clinical  
 272 opinion as to if so, whether the child is competent to proceed  
 273 with delinquency proceedings.

274           ~~(f) A child is competent to proceed if the child has~~  
 275 ~~sufficient present ability to consult with counsel with a~~  
 276 ~~reasonable degree of rational understanding and the child has a~~  
 277 ~~rational and factual understanding of the present proceedings.~~  
 278 ~~The report must address the child's capacity to:~~

- 279           ~~1. Appreciate the charges or allegations against the~~  
 280 ~~child.~~
- 281           ~~2. Appreciate the range and nature of possible penalties~~  
 282 ~~that may be imposed in the proceedings against the child, if~~  
 283 ~~applicable.~~
- 284           ~~3. Understand the adversarial nature of the legal process.~~
- 285           ~~4. Disclose to counsel facts pertinent to the proceedings~~  
 286 ~~at issue.~~

287 |       5. ~~Display appropriate courtroom behavior.~~

288 |       6. ~~Testify relevantly.~~

289 |       (g) Immediately upon the filing of the court order finding  
 290 | a child incompetent to proceed, the clerk of the court shall  
 291 | notify the Department of Children and Families ~~Family Services~~  
 292 | and the Agency for Persons with Disabilities and fax or hand  
 293 | deliver to the department and to the agency a referral packet  
 294 | that includes, at a minimum, the court order, the charging  
 295 | documents, the petition, and the court-appointed evaluator's  
 296 | reports.

297 |       (h) After placement of the child in the appropriate  
 298 | setting, the Department of Children and Families ~~Family Services~~  
 299 | in consultation with the Agency for Persons with Disabilities,  
 300 | as appropriate, must, within 30 days after placement of the  
 301 | child, prepare and submit to the court a treatment or training  
 302 | plan for the child's restoration of competency. A copy of the  
 303 | plan must be served upon the child's attorney, the state  
 304 | attorney, and the attorneys representing the Department of  
 305 | Juvenile Justice.

306 |       Section 6. This act shall take effect July 1, 2014.



Amendment No.

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	_____	

1 Committee/Subcommittee hearing bill: Healthy Families  
 2 Subcommittee

3 Representative Schwartz offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (a) of subsection (3) of section

8 916.107, Florida Statutes, is amended to read:

9 916.107 Rights of forensic clients.-

10 (3) RIGHT TO EXPRESS AND INFORMED CONSENT.-

11 (a) A forensic client shall be asked to give express and  
 12 informed written consent for treatment. If a client refuses such  
 13 treatment as is deemed necessary and essential by the client's  
 14 multidisciplinary treatment team for the appropriate care of the  
 15 client, such treatment may be provided under the following  
 16 circumstances:



Amendment No.

17 1. In an emergency situation in which there is immediate  
18 danger to the safety of the client or others, such treatment may  
19 be provided upon the written order of a physician for a period  
20 not to exceed 48 hours, excluding weekends and legal holidays.  
21 If, after the 48-hour period, the client has not given express  
22 and informed consent to the treatment initially refused, the  
23 administrator or designee of the civil or forensic facility  
24 shall, within 48 hours, excluding weekends and legal holidays,  
25 petition the committing court or the circuit court serving the  
26 county in which the facility is located, at the option of the  
27 facility administrator or designee, for an order authorizing the  
28 continued treatment of the client. In the interim, the need for  
29 treatment shall be reviewed every 48 hours and may be continued  
30 without the consent of the client upon the continued written  
31 order of a physician who has determined that the emergency  
32 situation continues to present a danger to the safety of the  
33 client or others.

34 2. In a situation other than an emergency situation, the  
35 administrator or designee of the facility shall petition the  
36 court for an order authorizing necessary and essential treatment  
37 for the client.

38 a. If the client has been receiving psychotherapeutic  
39 medications at the jail at the time of transfer to the forensic  
40 or civil facility and lacks the capacity to make an informed  
41 decision regarding mental health treatment at the time of  
42 admission, the admitting physician may order continued



Amendment No.

43 administration of psychotherapeutic medications if, in the  
44 clinical judgment of the physician, abrupt cessation of  
45 psychotherapeutic medications could pose a risk to the health or  
46 safety of the client during the time a court order to medicate  
47 is pursued. The administrator or designee of the civil or  
48 forensic facility shall, within 5 days after admission,  
49 excluding weekends and legal holidays, petition the committing  
50 court or the circuit court serving the county in which the  
51 facility is located, at the option of the facility administrator  
52 or designee, for an order authorizing the continued treatment of  
53 a client. The jail physician shall provide a current  
54 psychotherapeutic medication order at the time of transfer to  
55 the forensic or civil facility or upon request of the admitting  
56 physician after the client is evaluated.

57 b. The court order shall allow such treatment for up to a  
58 period not to exceed 90 days after following the date of the  
59 entry of the order. Unless the court is notified in writing that  
60 the client has provided express and informed consent in writing  
61 or that the client has been discharged by the committing court,  
62 the administrator or designee shall, before the expiration of  
63 the initial 90-day order, petition the court for an order  
64 authorizing the continuation of treatment for another 90 days  
65 90-day period. This procedure shall be repeated until the client  
66 provides consent or is discharged by the committing court.

67 3. At the hearing on the issue of whether the court should  
68 enter an order authorizing treatment for which a client was





Amendment No.

69 unable to or refused to give express and informed consent, the  
70 court shall determine by clear and convincing evidence that the  
71 client has mental illness, intellectual disability, or autism,  
72 that the treatment not consented to is essential to the care of  
73 the client, and that the treatment not consented to is not  
74 experimental and does not present an unreasonable risk of  
75 serious, hazardous, or irreversible side effects. In arriving at  
76 the substitute judgment decision, the court must consider at  
77 least the following factors:

- 78 a. The client's expressed preference regarding treatment;
- 79 b. The probability of adverse side effects;
- 80 c. The prognosis without treatment; and
- 81 d. The prognosis with treatment.

82  
83 The hearing shall be as convenient to the client as may be  
84 consistent with orderly procedure and shall be conducted in  
85 physical settings not likely to be injurious to the client's  
86 condition. The court may appoint a general or special magistrate  
87 to preside at the hearing. The client or the client's guardian,  
88 and the representative, shall be provided with a copy of the  
89 petition and the date, time, and location of the hearing. The  
90 client has the right to have an attorney represent him or her at  
91 the hearing, and, if the client is indigent, the court shall  
92 appoint the office of the public defender to represent the  
93 client at the hearing. The client may testify or not, as he or



Amendment No.

94 she chooses, and has the right to cross-examine witnesses and  
95 may present his or her own witnesses.

96 Section 2. Subsection (2) of section 916.13, Florida  
97 Statutes, is amended to read:

98 916.13 Involuntary commitment of defendant adjudicated  
99 incompetent.—

100 (2) A defendant who has been charged with a felony and who  
101 has been adjudicated incompetent to proceed due to mental  
102 illness, and who meets the criteria for involuntary commitment  
103 ~~to the department under the provisions of this chapter,~~ may be  
104 committed to the department, and the department shall retain and  
105 treat the defendant.

106 (a) Within No later than 6 months after the date of  
107 admission and at the end of any period of extended commitment,  
108 or at any time the administrator or designee has shall have  
109 determined that the defendant has regained competency to proceed  
110 or no longer meets the criteria for continued commitment, the  
111 administrator or designee shall file a report with the court  
112 pursuant to the applicable Florida Rules of Criminal Procedure.

113 (b) A competency hearing must be held within 30 days after  
114 the court receives notification that the defendant is competent  
115 to proceed or no longer meets the criteria for continued  
116 commitment.

117 Section 3. Section 916.145, Florida Statutes, is amended  
118 to read: (Substantial rewording of section. See s. 916.145,  
119 F.S., for present text.)



Amendment No.

- 120 916.145 Dismissal of charges.-
- 121 (1) The charges against a defendant adjudicated
- 122 incompetent to proceed due to mental illness shall be dismissed
- 123 without prejudice to the state if the defendant remains
- 124 incompetent to proceed 5 years after such determination, unless
- 125 the court in its order specifies its reasons for believing that
- 126 the defendant will become competent to proceed within the
- 127 foreseeable future and specifies the time within which the
- 128 defendant is expected to become competent to proceed. The court
- 129 may dismiss these charges between 3 and 5 years after such
- 130 determination, unless the charge is:
- 131 (a) Arson;
- 132 (b) Sexual battery;
- 133 (c) Robbery;
- 134 (d) Kidnapping;
- 135 (e) Aggravated child abuse;
- 136 (f) Aggravated abuse of an elderly person or disabled
- 137 adult;
- 138 (g) Aggravated assault with a deadly weapon;
- 139 (h) Murder;
- 140 (i) Manslaughter;
- 141 (j) Aggravated manslaughter of an elderly person or
- 142 disabled adult;
- 143 (k) Aggravated manslaughter of a child;
- 144 (l) Unlawful throwing, projecting, placing, or discharging
- 145 of a destructive device or bomb;



Amendment No.

- 146        (m) Armed burglary;  
147        (n) Aggravated battery; or  
148        (o) Aggravated stalking;  
149        (p) Any forcible felony as defined in Section 776.08,  
150 Florida Statutes, not listed above;  
151        (q) Any offense involving the possession, use, or discharge  
152 of a firearm;  
153        (r) An attempt to commit any of the above offenses;  
154        (s) Committed by a defendant who has had a forcible or  
155 violent felony conviction within the five years preceding the  
156 date of arrest of the non-violent felony sought to be dismissed;  
157        (t) Committed by a defendant who, after having been found  
158 incompetent and under court supervision in a community based  
159 program, is formally charged by a State Attorney with a new  
160 felony offense; or  
161        (u) Where there is an identifiable victim and such victim  
162 has not consented.  
163        (2) This section does not prohibit the state from refileing  
164 dismissed charges if the defendant is declared to be competent  
165 to proceed in the future.  
166        Section 4. Subsection (5) is added to section 916.15,  
167 Florida Statutes, to read:  
168        916.15 Involuntary commitment of defendant adjudicated not  
169 guilty by reason of insanity.—



Amendment No.

170       (5) The commitment hearing must be held within 30 days  
171 after the court receives notification that the defendant no  
172 longer meets the criteria for continued commitment.

173       Section 5. Subsection (1) of section 985.19, Florida  
174 Statutes, is amended to read:

175       985.19 Incompetency in juvenile delinquency cases.-

176       (1) If, at any time prior to or during a delinquency case,  
177 the court has reason to believe that the child named in the  
178 petition may be incompetent to proceed with the hearing, the  
179 court on its own motion may, or on the motion of the child's  
180 attorney or state attorney must, stay all proceedings and order  
181 an evaluation of the child's mental condition.

182       (a) Any motion questioning the child's competency to  
183 proceed must be served upon the child's attorney, the state  
184 attorney, the attorneys representing the Department of Juvenile  
185 Justice, and the attorneys representing the Department of  
186 Children and Families ~~Family Services~~. Thereafter, any motion,  
187 notice of hearing, order, or other legal pleading relating to  
188 the child's competency to proceed with the hearing must be  
189 served upon the child's attorney, the state attorney, the  
190 attorneys representing the Department of Juvenile Justice, and  
191 the attorneys representing the Department of Children and  
192 Families ~~Family Services~~.

193       (b) All determinations of competency must ~~shall~~ be made at  
194 a hearing, with findings of fact based on an evaluation of the  
195 child's mental condition made by at least ~~not less than~~ two but



Amendment No.

196 ~~not more~~ more than three experts appointed by the court. The  
197 ~~basis for the determination of incompetency must be specifically~~  
198 ~~stated in the evaluation. In addition, a recommendation as to~~  
199 ~~whether residential or nonresidential treatment or training is~~  
200 ~~required must be included in the evaluation.~~ Experts appointed  
201 by the court to determine the mental condition of a child shall  
202 be allowed reasonable fees for services rendered. State  
203 employees may be paid expenses pursuant to s. 112.061. The fees  
204 shall be taxed as costs in the case.

205 (c) A child is competent to proceed if the child has  
206 sufficient present ability to consult with counsel with a  
207 reasonable degree of rational understanding and the child has a  
208 rational and factual understanding of the present proceedings.  
209 The expert's competency evaluation report must specifically  
210 state the basis for the determination of the child's mental  
211 condition and must include written findings that:

- 212 1. Identify the specific matters referred for evaluation.
- 213 2. Identify the sources of information used by the expert.
- 214 3. Describe the procedures, techniques, and diagnostic  
215 tests used in the examination to determine the basis of the  
216 child's mental condition.
- 217 4. Address the child's capacity to:
  - 218 a. Appreciate the charges or allegations against the  
219 child.



Amendment No.

- 220        b. Appreciate the range and nature of possible penalties  
221 that may be imposed in the proceedings against the child, if  
222 applicable.
- 223        c. Understand the adversarial nature of the legal process.
- 224        d. Disclose to counsel facts pertinent to the proceedings  
225 at issue.
- 226        e. Display appropriate courtroom behavior.
- 227        f. Testify relevantly.
- 228        5. Present the factual basis for the expert's clinical  
229 findings and opinions of the child's mental condition. The  
230 expert's factual basis of his or her clinical findings and  
231 opinions must be supported by the diagnostic criteria found in  
232 the most recent edition of the Diagnostic and Statistical Manual  
233 of Mental Disorders (DSM) published by the American Psychiatric  
234 Association and must be presented in a separate section of the  
235 report entitled "summary of findings." This section must  
236 include:
- 237            a. The day, month, year, and length of time of the face-  
238 to-face diagnostic clinical interview to determine the child's  
239 mental condition.
- 240            b. A statement that identifies the DSM clinical name and  
241 associated diagnostic code for the specific mental disorder that  
242 forms the basis of the child's incompetency.
- 243            c. A statement of how the child would benefit from  
244 competency restoration services in the community or in a secure  
245 residential treatment facility.



Amendment No.

246 d. An assessment of the probable duration of the treatment  
247 to restore competence and the probability that the child will  
248 attain competence to proceed in the foreseeable future.

249 e. A description of recommended treatment or education  
250 appropriate for the mental disorder.

251 6. If the evaluator determines the child to be incompetent  
252 to proceed to trial, the evaluator must report on the mental  
253 disorder that forms the basis of the incompetency.

254 (d)-(e) All court orders determining incompetency must  
255 include specific written findings by the court as to the nature  
256 of the incompetency and whether the child requires secure or  
257 nonsecure treatment or training environment environments.

258 (e)-(d) For competency incompetency evaluations related to  
259 mental illness, the Department of Children and Families Family  
260 Services shall maintain and annually provide the courts with a  
261 list of available mental health professionals who have completed  
262 a training program approved by the Department of Children and  
263 Families Family Services to perform the evaluations.

264 (f)-(e) For competency incompetency evaluations related to  
265 intellectual disability or autism, the court shall order the  
266 Agency for Persons with Disabilities to examine the child to  
267 determine if the child meets the definition of "intellectual  
268 disability" or "autism" in s. 393.063 and, provide a clinical  
269 opinion as to if so, whether the child is competent to proceed  
270 with delinquency proceedings.





Amendment No.

- 271 ~~(f) A child is competent to proceed if the child has~~  
272 ~~sufficient present ability to consult with counsel with a~~  
273 ~~reasonable degree of rational understanding and the child has a~~  
274 ~~rational and factual understanding of the present proceedings.~~  
275 ~~The report must address the child's capacity to:~~
- 276 ~~1. Appreciate the charges or allegations against the~~  
277 ~~child.~~
  - 278 ~~2. Appreciate the range and nature of possible penalties~~  
279 ~~that may be imposed in the proceedings against the child, if~~  
280 ~~applicable.~~
  - 281 ~~3. Understand the adversarial nature of the legal process.~~
  - 282 ~~4. Disclose to counsel facts pertinent to the proceedings~~  
283 ~~at issue.~~
  - 284 ~~5. Display appropriate courtroom behavior.~~
  - 285 ~~6. Testify relevantly.~~
- 286 (g) Immediately upon the filing of the court order finding  
287 a child incompetent to proceed, the clerk of the court shall  
288 notify the Department of Children and Families ~~Family Services~~  
289 and the Agency for Persons with Disabilities and fax or hand  
290 deliver to the department and to the agency a referral packet  
291 that includes, at a minimum, the court order, the charging  
292 documents, the petition, and the court-appointed evaluator's  
293 reports.
- 294 (h) After placement of the child in the appropriate  
295 setting, the Department of Children and Families ~~Family Services~~  
296 in consultation with the Agency for Persons with Disabilities,



Amendment No.

297 as appropriate, must, within 30 days after placement of the  
298 child, prepare and submit to the court a treatment or training  
299 plan for the child's restoration of competency. A copy of the  
300 plan must be served upon the child's attorney, the state  
301 attorney, and the attorneys representing the Department of  
302 Juvenile Justice.

303 Section 6. This act shall take effect July 1, 2014.

304

305

306

-----

307

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

308

Remove everything before the enacting clause and insert:

309

Enter Amending Text Here



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 479 Substance Abuse Services  
**SPONSOR(S):** Healthy Families Subcommittee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Healthy Families Subcommittee		McElroy <i>CM</i>	Brazzell <i>HB</i>

### SUMMARY ANALYSIS

The bill defines "recovery residence" as a residential dwelling unit or other form of group housing that is offered or advertised through any form, including oral, written, electronic or printed means, by any person or entity to be a residence that provides a peer-supported, alcohol-free and drug-free living environment.

The bill establishes a program for voluntary certification of recovery residences. The bill defines "certified recovery residence" as a recovery residence that either:

- Holds a valid certificate of compliance; or
- Is actively managed by a certified recovery residence administrator.

The bill creates s. 397.487, F.S., governing voluntary certificates of compliance for recovery residences. It requires DCF to select a credentialing entity to issue certificates of compliance and establishes the criteria for selecting the entity. The bill requires the credentialing entity to inspect recovery residences prior to the initial certification and during every subsequent renewal period and to automatically terminate certification if it is not renewed within one year of the issuance date. The bill requires all recovery residence staff to pass a Level II background screening. It requires the credentialing agency to deny certification, and allows it to suspend or revoke the certification, if a recovery residence fails to meet and maintain certain criteria.

The bill creates s. 397.4871, F.S., to establish a voluntary certification for recovery residences administrators. The bill requires DCF to select a credentialing entity to develop and administer the program. The bill establishes the criteria DCF is to use when selecting a credentialing entity and creating the certification program. The bill requires that all certified recovery residence administrators pass a Level II background check. The bill authorizes the credentialing entity to suspend or revoke certification if a certified recovery residence administrator does not meet and maintain certain criteria.

The bill creates a first degree misdemeanor for any entity or person who advertises as a "certified recovery residence" or "certified recovery residence administrator", respectively, unless the entity or person has obtained certification under this section.

The bill creates s. 397.4872, F.S., to allow DCF to exempt an individual from the disqualifying offenses of a Level II background screening if the individual meets certain criteria and the recovery residence attests that it is in the best interest of the program. It also requires DCF to publish a list of all recovery residences and recovery residences administrators on its website but allows a recovery residence or recovery residence administrator to be excluded from the list upon written request to DCF.

The bill amends s. 397.407, F.S., to require, effective October 1, 2015, a licensed service provider to refer a current or discharged patient only to a recovery residence that holds a valid certificate of compliance, is actively managed by a certified recovery residence administrator, or both, or is owned and operated by a licensed service provider.

The bill has an indeterminate but insignificant, negative fiscal impact on the Department of Children and Families and may also have a negative jail bed impact.

The bill provides an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Recovery Residences

There is no universally accepted definition of “recovery residence” (also known as “sober home” or “sober living home”). One definition is that recovery residences:

- Are alcohol- and drug-free living environments for individuals in recovery who are attempting to maintain abstinence from alcohol and drugs;
- Offer no formal treatment but perhaps mandate or strongly encourage attendance at 12-step groups; and
- Are self-funded through resident fees, and residents may reside there as long as they are in compliance with the residence’s rules.<sup>1</sup>

Some recovery residences voluntarily join coalitions or associations<sup>2</sup> that monitor health, safety, quality, and adherence to the membership requirements for the specific coalition or association.<sup>3</sup> The exact number of recovery residences in Florida is currently unknown.<sup>4</sup>

Multiple studies have found that individuals benefit in their recovery by residing in a recovery residence. For example, an Illinois study found regarding those residing in an Oxford House, a very specific type of recovery residence, that:

[T]hose in the Oxford Houses... had significantly lower substance use (31.3% vs. 64.8%), significantly higher monthly income (\$989.40 vs. \$440.00), and significantly lower incarceration rates (3% vs. 9%). Oxford House participants, by month 24, earned roughly \$550 more per month than participants in the usual-care group. In a single year, the income difference for the entire Oxford House sample corresponds to approximately \$494,000 in additional production. In 2002, the state of Illinois spent an average of \$23,812 per year to incarcerate each drug offender. The lower rate of incarceration among Oxford House versus usual-care participants at 24 months (3% vs. 9%) corresponds to an annual saving of roughly \$119,000 for Illinois. Together, the productivity and incarceration benefits yield an estimated \$613,000 in savings per year, or an average of \$8,173 per Oxford House member.<sup>5</sup>

---

<sup>1</sup> *A Clean and Sober Place to Live: Philosophy, Structure, and Purported Therapeutic Factors in Sober Living Houses*, J Psychoactive Drugs, Jun 2008; 40(2): 153–159, Douglas L. Polcin, Ed.D., MFT and Diane Henderson, B.A.

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> *Recovery Residence Report*, Department of Children and Families, Office of Substance Abuse and Mental Health, October 1, 2013, available at <https://www.google.com/url?q=http://www.dcf.state.fl.us/programs/samh/docs/SoberHomesPR/DCFProvisoRpt-SoberHomes.pdf&sa=U&ei=Z6MkU4-nEZCqkAeFnIHoAg&ved=0CAYQFjAA&client=internal-uds-cse&usg=AFOjCNGWYVvZhtcEpRYTnWNvtqqVM3WoDg> (last visited on March 15, 2014). A commonly expressed theme has been that the number is currently unknown, given that the operation of a recovery residence has not come under the purview of a regulatory entity.

<sup>5</sup> L. Jason, B. Olson, J., Ferrari, and A. Lo Sasso, *Communal Housing Settings Enhance Substance Abuse Recovery*, 96 American Journal of Public Health (10), (2006), at 1727-1729.

A cost-benefit analysis regarding residing in Oxford Houses found:

While treatment costs were roughly \$3000 higher for the OH group, benefits differed substantially between groups. Relative to usual care, OH enrollees exhibited a mean net benefit of \$29,022 per person. The result suggests that the additional costs associated with OH treatment, roughly \$3000, are returned nearly tenfold in the form of reduced criminal activity, incarceration, and drug and alcohol use as well as increases in earning from employment... even under the most conservative assumption, we find a statistically significant and economically meaningful net benefit to Oxford House of \$17,800 per enrollee over two years.<sup>6</sup>

Additionally, a study in California which focused on recovery residences in Sacramento County and Berkley found:

- Residents at six months were sixteen times more likely to report being abstinent;
- Residents at twelve months were fifteen times more likely to report being abstinent; and
- Residents at eighteen months were six times more likely to report being abstinent.<sup>7</sup>

The Department of Children and Families (DCF) recently conducted a study of recovery residences in Florida. DCF sought public comment relating to community concern for recovery residences. Three common concerns for the recovery residences were the safety of the residents, safety of the neighborhoods and lack of governmental oversight.<sup>8</sup>

Participants at public meetings raised the following concerns:

- Residents being evicted with little or no notice;
- Drug testing might be a necessary part of compliance monitoring;
- Unscrupulous landlords, including an alleged sexual offender who was running a woman's program;
- A recovery residence owned by a bar owner and attached to the bar;
- Residents dying in recovery residences;
- Lack of regulation and harm to neighborhoods;
- Whether state agencies have the resources to enforce regulations and adequately regulate these homes;
- Land use problems, and nuisance issues caused by visitors at recovery residences, including issues with trash, noise, fights, petty crimes, substandard maintenance, and parking;
- Mismanagement of resident moneys or medication;
- Treatment providers that will refer people to any recovery residence;
- Lack of security at recovery residences and abuse of residents;
- The need for background checks of recovery residence staff;
- The number of residents living in some recovery residences and the living conditions in these recovery residences;
- Activities going on in recovery residences that require adherence to medical standards and that treatment services may be provided to clients in recovery residences. This included acupuncture and urine tests;
- Houses being advertised as treatment facilities and marketed as the entry point for treatment rather than as a supportive service for individuals who are exiting treatment;
- False advertising;

---

<sup>6</sup> A. Lo Sasso, E. Byro, L. Jason, J. Ferrari, and B. Olson, *Benefits and Costs Associated with Mutual-Help Community-Based Recovery Homes: The Oxford House Model*, 35 Evaluation and Program Planning (1), (2012).

<sup>7</sup> D. Polcin, R. Korcha, J. Bond, and G. Galloway, *Sober Living Houses for Alcohol and Drug Dependence: 18-Month Outcome*, 38 Journal of Substance Abuse Treatment, 356-365 (2010).

<sup>8</sup> *Recovery Residence Report*, *supra* footnote 4.

- Medical tourism;
- The allegation that medical providers capable of ordering medical tests, and billing insurance companies were doing so unlawfully;
- Lack of uniformity in standards; and
- Alleged patient brokering, in violation of Florida Statutes.<sup>9</sup>

## Federal Law

### *Americans with Disabilities Act*

The Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities.<sup>10</sup> The ADA requires broad interpretation of the term “disability” so as to include as many individuals as possible under the definition.<sup>11</sup> The ADA defines disability as a physical or mental impairment that substantially limits one or more major life activities.<sup>12</sup> Disability also includes individuals who have a record of such impairment, or are regarded as having such impairment.<sup>13</sup> The phrase “physical or mental impairment” includes, among others<sup>14</sup>, drug addiction and alcoholism.<sup>15</sup> However, this only applies to individuals in recovery as ADA protections are not extended to individuals who are actively abusing substances.<sup>16</sup>

### *Fair Housing Amendment Act*

The Fair Housing Amendment Acts of 1988 (FHA) prohibits housing discrimination based upon an individual’s handicap.<sup>17</sup> A person is considered to have a handicap if he or she has a physical or mental impairment which substantially limits one or more of his or her major life activities.<sup>18</sup> This includes individuals who have a record of such impairment, or are regarded as having such impairment.<sup>19</sup> Drug or alcohol addiction are considered to be handicaps under the FHA.<sup>20</sup> However, current users of illegal controlled substances and persons convicted for illegal manufacture or distribution of a controlled substance are not considered handicapped under the FHA.<sup>21</sup>

### *Case Law*

An individual in recovery from a drug addiction or alcoholism is provided protection from discrimination under the ADA and FHA. As a protected class, federal courts have held that mandatory conditions

<sup>9</sup> Id.

<sup>10</sup> 42 U.S.C. s. 12101. This includes prohibition against discrimination in employment, State and local government services, public accommodations, commercial facilities, and transportation. U.S. Department of Justice, *Information and Technical Assistance on the Americans with Disabilities Act*, available at [http://www.ada.gov/2010\\_regs.htm](http://www.ada.gov/2010_regs.htm) (last visited March 14, 2014).

<sup>11</sup> 42 U.S.C. s. 12102.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> 28 C.F.R. s. 35.104(4)(1)(B)(ii). The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic) and tuberculosis.

<sup>15</sup> 28 C.F.R. s. 35.104(4)(1)(B)(ii).

<sup>16</sup> 28 C.F.R. s. 35.131.

<sup>17</sup> 42 U.S.C. § 3604. Similar protections are also afforded under the Florida Fair Housing Act, s. 760.23, F.S., which provides that it is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of a person residing in or intending to reside in that dwelling after it is sold, rented, or made available. The statute provides that “discrimination” is defined to include a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

<sup>18</sup> 42 U.S.C. § 3602(h).

<sup>19</sup> Id.

<sup>20</sup> *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179, 1182 (E.D.N.Y. 1993).

<sup>21</sup> U.S. Department of Justice, *The Fair Housing Act*, available at [http://www.justice.gov/crt/about/hce/housing\\_coverage.php](http://www.justice.gov/crt/about/hce/housing_coverage.php) (last visited March 14, 2014);

placed on housing for people in recovery from either state or sub-state entities, such as ordinances, licenses or conditional use permits, may in application be overbroad and result in violations of the FHA and ADA.<sup>22</sup> Additionally, regulations which require registry of housing for protected classes, including recovery residences, have been invalidated by federal courts.<sup>23</sup> Further, federal courts have enjoined state action that is predicated on discriminatory local government decisions.<sup>24</sup>

State and local governments have the authority to enact regulations, including housing restrictions, which serve to protect the health and safety of the community.<sup>25</sup> However, this authority may not be used as a guise to impose additional restrictions on protected classes under the FHA.<sup>26</sup> Further, these regulations must not single out housing for disabled individuals and place requirements which are different and unique from the requirements for housing for the general population.<sup>27</sup> Instead, the FHA

<sup>22</sup> *Recovery Residence Report*, supra footnote 4. *Jeffrey O. v. City of Boca Raton*, 511 F. Supp. 2d 1339, (Court invalidated local zoning and density restrictions as being discriminatory to individuals in recovery); *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179 (Court held that city singled out plaintiffs for zoning enforcement and inspections, on the basis of disability, plaintiff demonstrated city was ignoring zoning violations from people without disabilities); *Marbrunak v. City of Stow, OH.*, 947 F. 2d 43, (6th Cir. 1992) (Court held conditional use permit requiring health and safety protections was an onerous burden); *U.S. v. City of Baltimore, MD*, 845 F. Supp. 2d. 640 (D. Md. 2012) (Court held that conditional ordinance was overbroad and discriminatory); *Children's Alliance v. City of Bellevue*, 950 F. Supp. 1491, (W.D. Wash. 1997) (Court held zoning scheme establishing classes of facilities was overbroad, and created an undue burden on a protected class); *Oxford House-Evergreen*, 769 F. Supp. 1329, (Court held that refusal to issue permit was based on opposition of neighbors, not on protection of health and safety as claimed); *Potomac Group Home, Inc.*, 823 F. Supp. 1285, (Court held that county requirement for evaluation of program offered at facility at public board. At review board, decisions were based on non-programmatic factors, such as neighbor concerns. Further to this, the court held that the requirement to notify neighboring property and enumerated civic organizations violated the FHA).

<sup>23</sup> *Recovery Residence Report*, supra footnote 6. *Nevada Fair Housing Center, Inc., v. Clark County, et. al.*, 565 F. Supp. 2d 1178, (D. Nev. 2008) (Invalidating state statute requiring Nevada State Health Department to operate a registry of group homes); *See, Human Resource Research and Management Group*, 687 F. Supp. 2d 237, (Court held that defendant-city failed to show that the requirement of registration, inspection and background checks was narrowly tailored to support a legitimate government interest); *Community Housing Trust et. al., v. Department of Consumer and Regulatory Affairs et. al.*, 257 F. Supp. 2d 208, (D.C. Cir. 2003) (Court held that the zoning administrators classification of plaintiff-facility, requiring a certificate of occupancy rose to discriminatory practice under FHA). *See, e.g., City of Edmonds v. Oxford House et. al.*, 574 U.S. 725 (1995) (City's restriction on composition of family violated FHAA); *Safe Haven Sober Houses LLC, et. al., v. City of Boston, et. al.*, 517 F. Supp. 2d 557, (D. Mass. 2007); *United States v. City of Chicago Heights*, 161 F. Supp. 2d 819, (N.D. Ill. 2001) (City violated FHA by requiring inspection for protected class housing that was not narrowly tailored to the protection of disabled); *Human Resource Research and Management Group*, 687 F. Supp. 2d 237, (Court held that the city's purported interest in the number of facilities, in relation to the zoning plan, was not a legitimate government interest. Further to this, the court found that there was insufficient evidence to justify action by the city in relation to the protection of this class. The city also failed to justify the requirement for a 24 hour staff member, certified by the New York State Office of Alcoholism and Substance Abuse Services).

<sup>24</sup> *Recovery Residence Report*, supra footnote 4. *See e.g., Larkin v. State of Mich.* 883 F. Supp. 172, (E.D. Mich. 1994), judgment aff'd 89 F. 3d 285, (6th Cir. 1996) (Court held there was no rational basis for denial of license on the basis of dispersal requirement, and local government's refusal to permit. The court did find, however, that the city was not a party to the law suit because the state statute did not mandate a variance); *Arc of New Jersey, Inc., v. State of N.J.* 950 F. Supp. 637, D.N.J. 1996) (Court held that municipal land use law, including conditional use, spacing and ceiling quotas violated FHA); *North Shore-Chicago Rehabilitation Inc. v. Village of Skokie*, 827 F. Supp. 497, (N.D. Ill. 1993) (Court held that municipalities could not rely on the absence of a state licensing scheme to deny an occupancy permit); *Easter Seal Soc. of New Jersey, Inc. v. Township of North Bergen*, 798 F. Supp. 228 (D.N.J. 1992) (Court held that city denial of permit on the basis of failure to obtain state license was due to the city's discriminatory enforcement of zoning enforcement); *Ardmore, Inc. v. City of Akron*, Ohio, 1990 WL 385236 (N.D. Ohio 1990) (Court held granted a preliminary injunction against the enforcement of an ordinance requiring conditional use permit, even though it was applied to everyone, because Congress intended to protect the rights of disabled individuals to obtain housing).

<sup>25</sup> 42 U.S.C. s. 3604(f)(9).

<sup>26</sup> *Recovery Residence Report*, supra footnote 4. *Bangerter v. Orem City Corp.*, 46 F.3d 1491, (10th Cir. 1995) (Any requirements placed on housing for a protected class based on the protection of the class must be tailored to needs or abilities associated with particular kinds of disabilities, and must have a necessary correlation to the actual abilities of the persons upon whom they are imposed); *Association for Advancement of the Mentally Handicapped, Inc. v. City of Elizabeth*, 876 F. Supp. 614, (D.N.J. 1994) (Court held state and local governments have the authority to protect safety and health, but that authority may be used to restrict the ability of protected classes to live in the community); *Pulcinella v. Ridley Tp.*, 822 F. Supp. 204, 822 F. Supp. 204, (Special conditions may not be imposed under the pretext of health and safety concerns).

<sup>27</sup> *Bangerter v. Orem City Corp.*, 46 F.3d 1491, (10th Cir. 1995) (Invalidating an act and ordinance that facially singles out the handicapped, and applies different and unique rules to them); *Human Resource Research and Management Group, Inc. v. County of*



and ADA require that a reasonable accommodation be made when necessary to allow a person with a qualifying disability equal opportunity to use and enjoy a dwelling.<sup>28</sup> The governmental entity bears the burden of proving through objective evidence that a regulation serves to protect the health and safety of the community and is not based upon stereotypes or unsubstantiated inferences.<sup>29</sup>

### Effect of Proposed Changes

The bill defines "recovery residence" as a residential dwelling unit or other form of group housing that is offered or advertised through any form, including oral, written, electronic or printed means, by any person or entity to be a residence that provides a peer-supported, alcohol-free and drug-free living environment.

The bill defines "recovery residence administrator" as the person responsible for overall management of the recovery residence, including the supervision of residents and of staff employed by, or volunteering for, the residence.

The bill defines "certified recovery residence" as a recovery residence that holds a valid certificate of compliance or that is actively managed by a certified recovery residence administrator.

The bill creates s. 397.487, F.S., to establish a voluntary certification of recovery residences program. The bill requires DCF to select a credentialing entity to develop and administer the program. The bill establishes the criteria DCF is to use when selecting a credentialing entity. The bill requires a recovery residence to provide the following documents to the credentialing entity:

- Policy and Procedures Manual;
- Rules for residents;
- Copies of all forms provided to residents;
- Intake procedures;
- Relapse policy;
- Fee schedule;
- Refund policy;
- Eviction procedures and policy;
- Code of ethics;
- Proof of insurance;
- Background screening; and
- Proof of satisfactory fire, safety, and health inspections.

---

*Suffolk*, 687 F. Supp. 2d 237 (E.D. N.Y. 2010), (It is undisputed that [the ordinance] is discriminatory on its face, in that it imposes restrictions and limitations solely upon a class of disabled individuals); *Potomac Group Home Corp. v. Montgomery County, Md.*, 823 F. Supp. 1285,, (No other county law or regulation imposed any similar requirement on a residence to be occupied by adult persons who do not have disabilities).

<sup>28</sup> *Recovery Residence Report*, *supra* footnote 4. 42 U.S.C. s. 3604(f)(3)(B); 42 U.S.C. s. 12131, *et. seq.*, 28 C.F.R. s. 35.130(b)(7). To comply with the reasonable accommodation provisions of the ADA, regulations have been promulgated for public entities (defined by 28 C.F.R. s. 35.104). This includes a self-evaluation plan of current policies and procedures and modify as needed (28 C.F.R. s. 35.105). This is subject to the exclusions of 28 C.F.R. s. 35.150. For interpretation by the judiciary, *see, Jeffrey O. v. City of Boca Raton*, 511 F. Supp. 2d 1339, (Court invalidated local ordinance because city failed to make reasonable accommodations for individuals with disabilities); *Oxford House Inc., v. Township of Cherry Hill*, 799 F. Supp. 450, (D.N.J. 1992) (Court held that a reasonable accommodation means changing some rule that is generally applicable to everyone so as to make it less burdensome for a protected class).

<sup>29</sup> *Oconomowoc Residential Programs, Inc., v. City of Milwaukee*, 300 F. 3d 775, (7th Cir. 2002) (Denial for a variance due to purported health and safety concerns for the disabled adults could not be based on blanket stereotypes); *Oxford House- Evergreen v. City of Plainfield*, 769 F. Supp. 1329 (D.N.J. 1991) ( Generalized assumptions, subjective fears and speculation are insufficient to prove direct threat to others), *Cason v. Rochester Housing Authority*, 748 F. Supp. 1002, (W.D.N.Y. 1990).

The bill requires the credentialing agency to conduct an on-site inspection of the recovery residence prior to the initial certification and then at least once a year for every subsequent renewal period. The bill requires the credentialing agency to deny certification, and authorizes suspension and revocation of the certification, if the recovery residence:

- Is not in compliance with any provision of this section;
- Has failed to remedy any deficiency identified by the credentialing entity within the time period specified;
- Provided false, misleading or incomplete information to the credentialing entity; and
- Has employed or volunteer staff who are subject to the disqualifying offenses set forth in the Level II background screening statute, unless an exemption has been provided.

The bill establishes that certification automatically terminates if not renewed within one year of the date of issuance. The bill also creates a first degree misdemeanor for any person or entity who advertises that any recovery residence is a "certified recovery residence," unless that recovery residence has obtained certification under this section.

The bill creates s. 397.4871, F.S., to establish a voluntary certification for recovery residence administrators. The bill requires DCF to select a credentialing entity to develop and administer the program. The bill establishes the criteria DCF is to use when selecting a credentialing entity and creating the certification program. The bill requires that all certified recovery residence administrators pass a Level II background check. The bill authorizes the credentialing entity to suspend or revoke certification if a certified recovery resident administrator:

- Fails to adhere to the continuing education requirements; or
- Becomes subject to the disqualifying offenses set forth in the Level II background screening statute, unless an exemption has been provided.

The bill creates a first degree misdemeanor for any person or entity who advertises that he or she is a "certified recovery residence administrator," unless he or she has obtained certification under this section.

The bill creates s. 397.4872, F.S., to provide an exemption for disqualifying offenses and create a publication requirement for DCF. The bill authorizes DCF to exempt an individual from disqualifying offenses if it has been at least three years since the individual has completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense. The exemption is not available to any individual who is a:

- Sexual predator as designated pursuant to s. 775.21, F.S.;
- Career offender pursuant to s. 775.261, F.S.; or
- Sexual offender pursuant to s. 943.0435, F.S., unless the requirement to register as a sexual offender has been removed pursuant to s. 943.04354, F.S.

The bill requires credentialing entities to provide a list to DCF no later than April 1, 2015, of all recovery residences or recovery residence administrators which it has certified and hold valid certificates of compliance. DCF in turn must publish these lists on its website. The bill allows a recovery residence or recovery residence administrator to be excluded from the list upon written request to DCF.

The bill amends s. 397.407, F.S., to require, effective October 1, 2015, that a licensed service provider refer a current or discharged patient only to a recovery residence that holds a valid certificate of compliance, is actively managed by a certified recovery residence administrator, or both, or is owned and operated by a licensed service provider.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 397.311, F.S., relating to definitions for substance abuse services.

**Section 2:** Creates s. 397.487, F.S., relating to voluntary certification of recovery residences.

**Section 3:** Creates s. 397.4871, F.S., relating to recovery residence administrator certification.

**Section 4:** Creates s.397.4872, F.S., relating to exemption from disqualification and publication.

**Section 5:** Provides an effective date of July 1, 2014.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

Indeterminate impact on DCF. The bill creates voluntary certification programs for recovery residences and recovery residence administrators. Any individual who has committed a disqualifying offense as set forth in s. 435.04 (2), F.S., (Level II background screening) is ineligible for certification as a recovery residence administrator and may not work or volunteer for a certified recovery residence. The bill provides for an exemption from disqualifying offenses if the recovery residence attests that it is in the best interest of the residence to do so. DCF is responsible for evaluating the exemption requests. The bill also creates a prohibition against licensed substance abuse facilities and providers referring patients to a recovery residence unless that recovery residence holds a valid certificate of compliance, is actively managed by a certified recovery residence administrator, or both, or is owned and operated by a licensed service provider. As the recovery residence and recovery residence administrator certification programs are both voluntary, the number of individuals and entities which may participate is unknown. It is anticipated however that DCF will incur an insignificant, negative fiscal impact

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

The bill creates a first degree misdemeanor for any person or entity who advertises that any recovery residence is a "certified recovery residence," unless that recovery residence has obtained certification under this section. The bill creates a first degree misdemeanor for any person or entity who advertises that he or she is a "certified recovery residence administrator," unless he or she has obtained certification under this section. This may result in an increase in the number of arrests for misdemeanor violations which would have a negative jail bed impact.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Indeterminate. The bill creates voluntary certification programs for recovery residences and recovery residence administrators. Application fees and renewal fees may not exceed \$100 for certification of a recovery residence. Recovery residence certification also requires inspection fees which are to be charged at costs. Application fees for a recovery residence administrator cannot exceed \$225 and renewal fees cannot exceed \$100. Fiscal impact will be based on the number of individuals and entities who elect to participate in the voluntary programs. However, it is anticipated that individuals and entities receiving certification will incur a negative fiscal impact and the credentialing entities will incur a positive fiscal impact.

**D. FISCAL COMMENTS:**

None.

**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:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



PCS for HB 479

ORIGINAL

YEAR

27 for certifying recovery residence administrators which  
 28 meet certain qualifications; requiring an approved  
 29 credentialing entity to establish certain fees;  
 30 authorizing the credentialing entity to suspend or  
 31 revoke certification; creating a crime if a recovery  
 32 residence administrator advertises he or she is a  
 33 "certified recovery residence administrator" unless he  
 34 or she has been certified under this section; creating  
 35 s. 397.4872; providing exemptions from disqualify  
 36 offenses; requiring credentialing entities to provide  
 37 a list of all certified recovery residences and  
 38 recovery residence administrators by a date certain;  
 39 requiring the Department of Children and Families to  
 40 publish the list of certified recovery residences and  
 41 recovery residence administrators on its website;  
 42 allowing recovery residences and recovery residence  
 43 administrators to be excluded from the list; amending  
 44 s. 397.407; requiring licensed service providers to  
 45 refer patients to certified recovery residences or  
 46 recovery residences owned and operated by licensed  
 47 service providers; providing an effective date.

48  
49 Be It Enacted by the Legislature of the State of Florida:

50  
51 Section 1. Subsections (40) through (45) are added to  
52 section 397.311, Florida Statutes, to read:

53 397.311 Definitions.— As used in this chapter, except part  
 54 VIII, the term:

55 (40) "Certificate of compliance" means a certificate that  
 56 is issued by a credentialing entity to a recovery residence or a  
 57 recovery residence administrator.

58 (41) "Certified recovery residence" means a recovery  
 59 residence that holds a valid certificate of compliance or that  
 60 is actively managed by a certified recovery residence  
 61 administrator.

62 (42) "Certified recovery residence administrator" means a  
 63 recovery residence administrator who holds a valid certificate  
 64 of compliance.

65 (43) "Credentialing entity" means a nonprofit organization  
 66 that develops and administers professional certification  
 67 programs according to nationally recognized certification and  
 68 psychometric standards.

69 (44) "Recovery Residence" means a residential dwelling  
 70 unit, or other form of group housing, that is offered or  
 71 advertised through any form, including oral, written, electronic  
 72 or printed means, by any person or entity to be a residence that  
 73 provides a peer-supported, alcohol-free and drug-free living  
 74 environment.

75 (45) "Recovery residence administrator" means the person  
 76 responsible for overall management of the recovery residence,  
 77 including the supervision of residents and of staff employed by,  
 78 or volunteering for, the residence.

79 Section 2. Section 397.487, Florida Statutes, is created to  
80 read:

81 397.487 Voluntary Certification of Recovery Residences.-

82 (1) The Legislature finds that a person suffering from  
83 addiction has a higher success rate of achieving long-lasting  
84 sobriety when given the opportunity to build a stronger  
85 foundation by living in a recovery residence after completing  
86 treatment. The Legislature finds further that these persons  
87 represent a vulnerable consumer population in need of adequate  
88 housing, whom this state and its subdivisions have a legitimate  
89 state interest in protecting. It is the intent of the  
90 Legislature to protect persons who reside in a recovery  
91 residence.

92 (2) The department shall approve one or more credentialing  
93 entities for the purpose of developing and administering a  
94 voluntary certification program for recovery residences. The  
95 approved credentialing entity shall:

96 (a) Establish recovery residence certification standards.

97 (b) Establish processes to:

98 1. Administer the application, certification,  
99 recertification, and disciplinary processes.

100 2. Monitor and inspect a recovery residence and its staff  
101 to ensure compliance with the certification requirements

102 3. Interview and evaluate residents and employed and  
103 volunteer staff on their knowledge and application of  
104 certification requirements.



- 105        (c) Provide training for owners, managers and staff
- 106 training.
- 107        (d) Develop a code of ethics.
- 108        (e) Establish application, inspection, and annual
- 109 certification renewal fees. The application fee may not exceed
- 110 \$100. The inspection fee shall reflect actual costs for
- 111 inspections. The annual certification renewal fee may not exceed
- 112 \$100.
- 113        (3) A credentialing entity shall require the following
- 114 recovery residence's documents to be submitted with the
- 115 completed application and fee:
- 116        (a) Policy and Procedures Manual, to contain:
- 117        (i) Job descriptions for all staff positions;
- 118        (ii) Drug testing procedures and requirements;
- 119        (iii) A prohibition against alcohol, illegal drugs, and use
- 120 of prescribed medications by an individual other than who was
- 121 prescribed the medication, on the premises.
- 122        (iv) Policies to support residents' recovery efforts.
- 123        (v) A good neighbor policy to address neighborhood concerns
- 124 and complaints.
- 125        (b) Rules for residents.
- 126        (c) Copies of all forms provided to residents.
- 127        (d) Intake procedures.
- 128        (e) Relapse policy.
- 129        (f) Fee schedule.
- 130        (g) Refund policy.

- 131        (h) Eviction procedures and policy.
- 132        (i) Code of ethics.
- 133        (j) Proof of insurance.
- 134        (k) Background screening.
- 135        (l) Proof of satisfactory fire, safety, and health
- 136 inspections.
- 137        (4) A credentialing entity shall conduct an on-site
- 138 inspection of the recovery residence prior to issuance of a
- 139 certificate of compliance. On site follow-up monitoring of any
- 140 certified recovery residence may be conducted by the
- 141 credentialing entity to determine continuing compliance with
- 142 certification requirements. Each certified recovery residence
- 143 shall be inspected at least once during each renewal period of
- 144 certification to ensure compliance.
- 145        (5) A credentialing entity shall require that all employed
- 146 and volunteer staff of a recovery residence pass a level 2
- 147 background screening as provided in s. 435.04.
- 148        (6) A credentialing entity shall issue a certificate of
- 149 compliance upon approval of the recovery residence's application
- 150 and inspection. The certification will automatically terminate
- 151 if not renewed within one year of the date of issuance.
- 152        (7) A credentialing entity shall deny a recovery
- 153 residence's application for certification, and may suspend or
- 154 revoke a certification, if the recovery residence:
- 155        (a) Is not in compliance with any provision of this
- 156 section;

PCS for HB 479

ORIGINAL

YEAR

157 (b) Has failed to remedy any deficiency identified by the  
 158 credentialing entity within the time period specified;

159 (c) Provided false, misleading or incomplete information to  
 160 the credentialing entity.

161 (d) Has employed or volunteer staff who are subject to the  
 162 disqualifying offenses set forth in s. 434.04(2), unless an  
 163 exemption has been provided under s. 397.4872.

164 (8) It is unlawful for a person to advertise to the public,  
 165 in any way or by any medium whatsoever, any recovery residence  
 166 as a "certified recovery residence" unless such recovery  
 167 residence has first secured a certificate of compliance under  
 168 this section. Any person who violates this subsection commits a  
 169 misdemeanor of the first degree, punishable as provided in s.  
 170 775.082 or s. 775.083.

171 Section 3. 397.4871, Florida Statutes, is created to read:  
 172 397.4871 Recovery residence administrator certification.

173 (1) It is the intent of the Legislature that a recovery  
 174 residence administrator voluntarily earn and maintain  
 175 certification from a credentialing entity approved by the  
 176 Department of Children and Families. The Legislature further  
 177 intends that certification ensure an administrator has the  
 178 competencies necessary to appropriately respond to the needs of  
 179 residents, to maintain residence standards, and to meet  
 180 residence certification requirements.

181 (2) The department shall approve one or more credentialing  
 182 entities for the purpose of developing and administering a

183 volunteer credentialing program for administrators. The approved  
184 credentialing entity shall:

185 (a) Establish recovery residence administrator core  
186 competencies, certification standards, testing instruments, and  
187 recertification according to nationally recognized certification  
188 and psychometric standards.

189 (b) Establish a process to administer the certification  
190 application, award, and maintenance processes.

191 (c) Demonstrate ability to administer:

192 1. A code of ethics and disciplinary process.

193 2. Biennial continuing education requirements and annual  
194 certification renewal requirements.

195 3. An education provider program to approve training  
196 entities that are qualified to provide precertification training  
197 to applicants and continuing education opportunities to  
198 certified persons.

199 (3) A credentialing entity shall establish a certification  
200 program which:

201 (a) Is established according to nationally recognized  
202 certification and psychometric standards.

203 (b) Is directly related to the core competencies.

204 (c) Establishes minimum requirements in each of the  
205 following categories:

206 1. Training.

207 2. On-the-job work experience.

208 3. Supervision.

209        4. Testing.

210        5. Biennial continuing education.

211        (d) Requires adherence to a code of ethics and provide for  
 212 a disciplinary process that applies to certified persons.

213        (e) Approves qualified training entities that provide  
 214 precertification training to applicants and continuing education  
 215 to certified recovery residence administrators. To avoid a  
 216 conflict of interest, a credentialing entity or its affiliate  
 217 may not deliver training to an applicant or continuing education  
 218 to a certificate-holder.

219        (4) A credentialing entity shall require each applicant to  
 220 a pass a level 2 background screening as provided in s. 435.04.

221        (5) A credentialing entity shall establish a fee for  
 222 application, examination, certification, and for annual  
 223 certification renewal. The fee for application, examination, and  
 224 certification may not exceed \$225. The fee for annual  
 225 certification renewal may not exceed \$100.

226        (6) The credentialing entity shall issue a certificate of  
 227 compliance upon approval of an individual's application. The  
 228 certification will automatically terminate if not renewed within  
 229 one year of the date of issuance.

230        (7) Any person who is subject to the disqualifying offenses  
 231 set forth in s. 434.04(2) is ineligible to become a certified  
 232 recovery residency administrator.

233        (8) The credentialing entity shall have the discretion to  
 234 suspend or revoke the recovery residence administrator's

PCS for HB 479

ORIGINAL

YEAR

235 certificate of compliance if the recovery residence  
 236 administrator:

237 (a) Fails to adhere to the continuing education  
 238 requirements.

239 (b) Becomes subject to the disqualifying offenses set forth  
 240 in s. 434.04(2), unless an exemption has been provided under s.  
 241 397.4872.

242 (9) It is unlawful for a person to advertise to the public,  
 243 in any way or by any medium whatsoever, any recovery residence  
 244 as a "certified recovery residence administrator" unless such  
 245 person has first secured a certificate of compliance under this  
 246 section. Any person who violates this subsection commits a  
 247 misdemeanor of the first degree, punishable as provided in s.  
 248 775.082 or s. 775.083.

249 Section 4. 397.4872, Florida Statutes, is created to read:  
 250 397.4872 Exemption from Disqualification; Publication.-

251 (1) Individual exemptions to staff disqualification or  
 252 administrator ineligibility may be requested if a recovery  
 253 residence deems the decision will benefit the program. Requests  
 254 for exemptions shall be submitted in writing to the department  
 255 and include justification for the exemption.

256 (2)The department may exempt an individual from subsection  
 257 s. 397.487(7)(d) and s. 397.4871 (7) if it has been at least  
 258 three years since the individual has completed or been lawfully  
 259 released from confinement, supervision, or sanction for the  
 260 disqualifying offense. An exemption from the disqualifying

PCS for HB 479

ORIGINAL

YEAR

261 offenses may not be given under any circumstances for any  
 262 individual who is a:  
 263 (a) Sexual predator as designated pursuant to s. 775.21;  
 264 (b) Career offender pursuant to s. 775.261; or  
 265 (c) Sexual offender pursuant to s. 943.0435, unless the  
 266 requirement to register as a sexual offender has been removed  
 267 pursuant to s. 943.04354.  
 268 (3) A credentialing entity shall submit a list to the  
 269 department, no later than April 1, 2015, of all recovery  
 270 residences or recovery residence administrators which it has  
 271 certified and hold valid certificates of compliance. Thereafter,  
 272 a credentialing entity shall notify the department within three  
 273 business days when any new recovery residence administrator  
 274 receives a certificate or when a recovery residence  
 275 administrator's certificate expires or is terminated. The  
 276 department shall publish on its website a list of each recovery  
 277 residence and recovery residence administrator who holds a valid  
 278 certificate of compliance. A recovery residence or recovery  
 279 residence administrator shall be excluded from the list upon  
 280 written request to the department.  
 281 Section 5. subsection 10 is added to section 397.407,  
 282 Florida Statutes, to read:  
 283 397.407 Licensure process; fees.-  
 284 (10) Effective October 1, 2015, service providers licensed under  
 285 this part may refer a current or discharged patient only to a  
 286 recovery residence that holds a valid certificate of compliance

PCS for HB 479

ORIGINAL

YEAR

287 | as provided in s. 397.487, is actively managed by a certified  
288 | recovery residence administrator as provided in s. 397.4871, or  
289 | both, or is owned and operated by a licensed service provider.  
290 | For purposes of this subsection, "refer" means informing by any  
291 | means about the name, address, or other details about the  
292 | recovery residence. However, nothing in this section requires a  
293 | licensed service provider to refer any patient to a recovery  
294 | residence.

295 |       Section 6. This act shall take effect July 1, 2014.





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	_____	

---

1 Committee/Subcommittee hearing PCB: Healthy Families  
2 Subcommittee

3 Representative Hager offered the following:

4 **Amendment**

5 Remove line 147 and insert:

6 background screening as provided in s. 435.04. The employee's  
7 and volunteer's fingerprints must be submitted by the  
8 department, an entity, or vendor as authorized by s.  
9 943.053(13)(a). The fingerprints shall be forwarded to the  
10 Department of Law Enforcement for state processing, and the  
11 Department of Law Enforcement shall forward them to the Federal  
12 Bureau of Investigation for national processing. Fees for state  
13 and national fingerprint processing shall be borne by the  
14 employer, employee or volunteer. The department shall screen  
15 background results to determine if an employee or volunteer  
16 meets certification requirements.



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	_____	

---

1 Committee/Subcommittee hearing PCB: Healthy Families  
2 Subcommittee  
3 Representative Hager offered the following:

**Amendment**

6 Remove line 220 and insert:  
7 pass a level 2 background screening as provided in s. 435.04.  
8 The applicant's fingerprints must be submitted by the  
9 department, an entity, or vendor as authorized by s.  
10 943.053(13)(a). The fingerprints shall be forwarded to the  
11 Department of Law Enforcement for state processing, and the  
12 Department of Law Enforcement shall forward them to the Federal  
13 Bureau of Investigation for national processing. Fees for state  
14 and national fingerprint processing shall be borne by the  
15 applicant. The department shall screen background results to  
16 determine if an applicant meets certification requirements.



PCB HFS 14-03a  
Changes from the Original Draft

Line Number on HFS 14-03 (Draft Bill)	Line Number on HFS 14-03a (Revised Bill)	Change	Explanation
215-227	228-244	Added DCF and CBC representatives as ex-officio members of the community alliance, and provided for sheriff's office to serve as ex-officio member if the sheriff's office provides child protective services.	Ensures that there is communication between the CBC, DCF, sheriff's offices, and the alliance.
N/A	309-339	Amended purposes of ch. 39 (dependency chapter) to: <ul style="list-style-type: none"> <li>• Focus on child safety as a paramount concern while having the least intrusive investigation</li> <li>• Requiring treatment to address developmental as well as social and emotional needs</li> <li>• Including as partners in the child welfare system the courts, law enforcement, and providers</li> <li>• Ensure parents provide not only names of family members but medical &amp; educational information</li> <li>• Ensure CPI's do complete, fair investigations in accordance with law</li> </ul>	Strengthens focus on child safety and well being and quality of investigations
N/A	447-456, 503-526	Amended definition of "comprehensive assessment", "preventive services", and "reunification services" to include consideration of developmental needs.	Addresses problem of children's developmental delays not being considered and addressed.
N/A	463-467	Deleted definition of "district administrator".	Deletes title no longer used after DCF reorganization.
N/A	468-472, 497-502	Defined "impending danger" and "present danger".	Defines terms that are used in statute that may not be clear on their face.

PCB HFS 14-03a  
Changes from the Original Draft

Line Number on HFS 14-03 (Draft Bill)	Line Number on HFS 14-03a (Revised Bill)	Change	Explanation
433-434	534-535	Modified definition of "sibling" to be correct grammatical tense.	Corrects grammar.
602	703	Added "specific" to the other adjectives (sufficient, feasible, and sustainable) describing what a safety plan must be.	Aligns with previously-stated requirements for the safety plan.
629-632	730-734	Placed a timeframe on the development of the safety plan to control impending danger (as soon as necessary to protect the safety of the child).	Ensures that a child is not unsafe while a safety plan is in development, since there was not a timeframe for the impending danger plan (though there was for the present danger plan).
797	896-903	Required the child protection team evaluating a report of medical neglect to <i>involve</i> rather than <i>consult with</i> a physician with experience in treating children with the same condition, and provides examples of medical professionals who could be involved.	Clarifies that a formal consultation is not necessary, and that physicians in a variety of roles could provide input.
892	996	Removed reference to the statutory cite for the definition of "medical neglect".	Unnecessary since definitions are to apply to whole chapter.
N/A	1140-1215	Extended requirements of Rilya Wilson Act (enrollment in day care/early learning program 5 days per week, if child is enrolled) to ages birth-3, not just 3-5, and requires incorporation in a safety plan.	Addresses younger ages, which are at high risk of serious injuries or death if abused/neglected.
1253	1435	Specified that the DCF-approved specializations in which individuals may earn certification shall be awarded by a DCF-approved third party credentialing entity.	Clarifies the intent.

PCB HFS 14-03a  
Changes from the Original Draft

Line Number on HFS 14-03 (Draft Bill)	Line Number on HFS 14-03a (Revised Bill)	Change	Explanation
1261-1311	1445-1500	Required CBC case managers and case manager supervisors to meet the bill's education requirements for CPI's and CPI supervisors.	Addresses education requirements for case managers as well as CPI's.
1312-1320	1501-1509	Specified that requirements for attorneys to receive pre-service training and to shadow caseworkers and child protective investigators only apply to attorneys employed by DCF and only require the core pre-service training.	Excludes other attorneys contracted by DCF (such as those in a state attorney's office), and specifies more precisely what training is required.
1347-1379	1569-1571	Permitted CBC's to fund loan forgiveness to case managers and case manager supervisors who are directly employed or subcontracted.	Allows CBC's to provide an additional benefit to case managers to encourage their retention in that role while facilitating the professionalization of the workforce.
1423	1615	Added the Agency for Persons with Disabilities to the Agency for Health Care Administration as entities DCF shall work with to provide home and community based services to maintain medically complex children in the least restrictive and most nurturing environment.	Includes other agencies that would be able to contribute toward this objective.
1589	1782	Added cite to the establishment of community alliances in s. 20.09(5) to ensure connection to such alliances.	Clarifies that the alliances in the new sections of ch. 409 are the alliances established in s. 20.09(5).
1608	1800	Required the department to post the CBC procurement schedule on its website.	Provides additional transparency about the procurement process.
1712	1905	Added trauma-informed as a descriptor of the types of innovative interventions CBC's may provide.	Highlights an aspect of children's needs.

PCB HFS 14-03a  
Changes from the Original Draft

Line Number on HFS 14-03 (Draft Bill)	Line Number on HFS 14-03a (Revised Bill)	Change	Explanation
2048	2241	Provided that the liability of a subcontractor of an eligible community-based care lead agency that is a direct provider of foster care and related services as described in this section shall be exclusive and in place of all other liability of such <i>provider</i> , rather than such <i>lead agency</i> .	Restores to current law.
2247	2440-2441	Required DCF to post on their website their written policies and procedures for monitoring CBC contracts.	Ensures that these are available.
2287-2288	N/A	Removed requirement for DCF to develop a curriculum for administering the certification testing program.	Clarifies language.
2310-2315	2503-2508	Made clarifying changes to the language requiring AHCA and DCF to work to ensure children have appropriate Medicaid screenings and services .	Clarifies language.
2494-2498	2686-2690	Detailed the ways in which community alliances may promote greater community involved in community-based care.	Provides additional direction to community alliances.
2499-2564	N/A	Removed the authority for the community alliances to create DSO's.	Addresses concerns about their implementation.
2599	2725-2726	Established the Florida Institute for Child Safety within the FSU College of Social Work rather than in DCF.	Provides additional independence for the institute.
2615 & 2689	2741 & 2821-2822	Added domestic violence advocacy organizations to the list of entities the Florida Institute for Child Safety is to work with and to the task force to be convened by the institute.	Includes the perspective of individuals knowledgeable about domestic violence, which is key risk factor for child abuse.

PCB HFS 14-03a  
Changes from the Original Draft

Line Number on HFS 14-03 (Draft Bill)	Line Number on HFS 14-03a (Revised Bill)	Change	Explanation
2671	2798-2802	Allowed the institute director to invite individuals from other university programs relevant to the institute's work, such as economics, management, and education, to contribute to the institute.	Allows other disciplines which can benefit the institute's work to be involved at the director's decision.
2682-2683	2813-2814	Specified that the FSU College of Social Work will administer the task force on improving the state's child welfare system only until the institute is operational.	Provides for a transition to the institute, which is to be the lead on developing knowledge for improving the state's child protection/welfare system.
2687	2819	Added the Florida Coalition for Children to the task force to be convened by the institute	Provides for the Florida Coalition for Children to contribute to the task force.
N/A	2829-2836	Required the task force to convene a workgroup on care of medically complex children within the child welfare system. Additional members with directly relevant experience and expertise may be appointed.	Provides for formal study and recommendations on care of medically complex children within the child welfare system.
2698-2701	2837-2841	Clarified that work group reports are submitted by the same dates as task force reports.	Clarifies when task force reports are due.



**HOUSE HEALTHY FAMILIES SUBCOMMITTEE**  
**PCB HFS 14-03a DRAFT**  
**CHILD PROTECTION AND CHILD WELFARE**

The bill is intended to:

- Enhance the quality of the child protection workforce and its leadership.
  - Establishes an Assistant Secretary for Child Welfare at the Department of Children and Families (DCF).
  - Increases the education and training requirements for new child protective investigators and supervisors and case managers and case manager supervisors.
  - Provides for specialization in skillsets and in serving specific populations within the system through training and certification.
  - Provides for tuition reimbursement and loan forgiveness for child protective investigators and supervisors to facilitate meeting new educational requirements, and allows CBC's to fund loan forgiveness for case managers and supervisors.
- Provide for increased transparency and expert review and consultation to improve DCF and the broader child welfare system's functioning
  - Requires basic information about child deaths reported to the child abuse hotline to be posted to a public website.
  - Creates a rapid response system for identifying root causes leading to child deaths and then determining process and policy improvements to address them.
  - Creates the Florida Institute for Child Welfare, a consortium of public and private universities offering degrees in social work, within a state university to work with all partners in the system to enhance the quality of the workforce and practice. The bill also requires workgroups on case manager retention/paperwork and on care for medically complex children within the child welfare system.
- Address gaps in law and procedure that put children at risk and deprive them of relationships with important people in their lives.
  - Strengthens requirements for keeping siblings together or at least maintaining relationships between them.
  - Addresses the "re-homing" of children (unlawful adoptions, sometimes to child abusers, often through the internet).
  - Creates statutory requirements for the use of safety plans to ensure they are used appropriately.
- Mandate a sensitive and informed response when parents of medically fragile children are accused of medical neglect or otherwise become involved in the child welfare system.
  - Establishes a procedure for investigation of medical neglect allegations which provides for expert consultation and the coordination of services for which the family is eligible to meet the child's needs.
- Update statutes relating to the community based care system to reflect the maturity of that system.
  - Facilitates community control of community-based care lead agencies through increased local involvement on governing boards.
  - Adds oversight of the child welfare system to the responsibilities of the existing community alliances and includes community alliances in the procurement process.  
Strengthens the accountability system by collecting, maintaining, and analyzing reliable data on critical outcomes and then using it to drive system change.

**HOUSE HEALTHY FAMILIES SUBCOMMITTEE  
PCB HFS 14-03a DRAFT  
CHILD PROTECTION AND CHILD WELFARE**

Section	Lines	Change
1	158-280	<ul style="list-style-type: none"> <li>• Creates an assistant secretary for child welfare within DCF.</li> <li>• Amends duties and membership of the community alliances to include oversight of the child protective and child welfare system.</li> <li>• Includes an advocate for children in the child protection and child welfare system on the alliances and representatives from the local CBC and sheriff's office as ex-officio members.</li> </ul>
2	281-435	<p>Amends the goals of the child welfare system to:</p> <ul style="list-style-type: none"> <li>• Focus on child safety as a paramount concern while having the least intrusive investigation.</li> <li>• Requiring treatment to address developmental as well as social and emotional needs.</li> <li>• Including as partners in the child welfare system the courts, law enforcement, and providers.</li> <li>• Ensure parents provide not only names of family members but medical and educational information.</li> <li>• Ensure CPI's do complete, fair investigations in accordance with law</li> <li>• Include preserving and strengthening families caring for medically complex children.</li> <li>• Require DCF to maintain a program of family-centered services and supports for medically complex children.</li> </ul>
3	436-535	<ul style="list-style-type: none"> <li>• Defines "impending danger", "medical neglect", "present danger", "sibling", and "safety plan".</li> <li>• Amended definitions of "diligent efforts by the parent", "comprehensive assessment", "preventive services", and "reunification services".</li> <li>• Removes the definition of "district administrator".</li> </ul>
4	536-608	<ul style="list-style-type: none"> <li>• Creates critical incident rapid response teams to conduct immediate investigations of deaths or other serious incidents to identify the root causes and determine the need for policy changes.</li> <li>• Specifies requirements and duties of these teams.</li> </ul>
5	609-634	<p>Requires public disclosure of basic facts related to all deaths of children reported to the child abuse hotline on DCF's website, such as the child's age, gender, date of death, allegations of cause of death and verified cause of death, child's placement, involvement of the CBC or other entities, and whether the child was the subject of verified abuse reports.</p>
6	635-805	<ul style="list-style-type: none"> <li>• Requires safety plans and provides standards for them.</li> <li>• Adds new limitations regarding offering services for voluntary acceptance to address situations where parents will be unable to make an informed decision or are unlikely to comply.</li> </ul>

**HOUSE HEALTHY FAMILIES SUBCOMMITTEE  
PCB HFS 14-03a DRAFT  
CHILD PROTECTION AND CHILD WELFARE**

7	806-992	<ul style="list-style-type: none"> <li>• Deletes outdated language.</li> <li>• Requires the child protection team evaluating a report of medical neglect to involve a physician with experience in treating children with the same condition, and provides examples of medical professionals who could be involved.</li> </ul>
8	993-1032	<ul style="list-style-type: none"> <li>• Requires child protective investigators to be in prompt and close contact with medical experts on the child protection team when an investigation involves a medically complex child.</li> <li>• Requires a family-centered approach to serving medically complex children.</li> <li>• Requires staffings involving multiple agencies when cases involve a medically complex child.</li> </ul>
9	1033-1116	Requires DCF to make reasonable efforts to keep siblings together when removed from their home, or to arrange for visitation.
10	1117-1139	<ul style="list-style-type: none"> <li>• Requires that a petition for dependency include information regarding whether a parent has complied with a safety plan.</li> <li>• Requires DCF to provide safety assessments and safety plans to the court.</li> </ul>
11	1140-1215	• Extends requirements of Rilya Wilson Act (enrollment in day care/early learning program 5 days per week, if child is enrolled) to ages birth-3, not just 3-5, and requires incorporation in a safety plan.
12	1216-1363	<ul style="list-style-type: none"> <li>• Requires judicial review hearings for children to include information regarding sibling contact.</li> <li>• Requires review hearings for 17 year olds to include information regarding whether removal of the disability of nonage is in the best interest of the child.</li> </ul>
13	1364-1372	Removes the specification that a DCF employee must sign a petition to terminate parental rights if DCF is the petitioner to allow contracted legal services providers (state attorney's or attorney general's offices) to conduct filings on DCF's behalf.
14	1373-1407	<ul style="list-style-type: none"> <li>• Expands the child abuse death review to all child deaths reported to the abuse hotline (rather than only those deaths with verified abuse).</li> <li>• Changes the due date for the child abuse death review committee report from December 31 to October 1 of each year.</li> </ul>
15	1408-1442	<ul style="list-style-type: none"> <li>• Authorizes DCF to approve certification specializations for child protective investigators and other personnel in serving specific populations or certain skillsets relevant to child protection.</li> <li>• Updates outdated language.</li> </ul>

**HOUSE HEALTHY FAMILIES SUBCOMMITTEE  
PCB HFS 14-03a DRAFT  
CHILD PROTECTION AND CHILD WELFARE**

16	1443-1509	<ul style="list-style-type: none"> <li>• Defines the terms “human services related field” and “relevant coursework”.</li> <li>• Requires newly hired child protective investigators, case managers, and supervisors to have either a degree in social work, a degree in a human services related field and 12 hours of relevant coursework, or a degree in a human services related field and to complete 12 hours of relevant coursework (which may be in a specialized area) within 3 years.</li> <li>• Requires all child protective investigators and supervisors to complete specialized training in serving specific populations or certain skillsets relevant to child protection.</li> <li>• Requires newly hired attorneys employed by DCF to receive the same core training the CPIs receive and to shadow a child protective investigator and a case manager.</li> </ul>
17	1510-1533	<ul style="list-style-type: none"> <li>• Establishes a tuition exemption program for child protective investigators working towards a degree in social work or completing additional relevant coursework.</li> <li>• Establishes standards for participation.</li> </ul>
18	1534-1571	<ul style="list-style-type: none"> <li>• Establishes a loan forgiveness program for child protective investigators and child protective investigators with a degree in social work.</li> <li>• Establishes standards for participation.</li> <li>• Permits CBC’s to fund loan forgiveness to case managers and case manager supervisors who are directly employed or subcontracted.</li> </ul>
19	1572-1651	<ul style="list-style-type: none"> <li>• Requires DCF to work with the Agency for Health Care Administration and the Agency for Persons with Disabilities in caring for medically complex children in the least restrictive and most nurturing environment.</li> <li>• Specifies that DCF is authorized to place a medically complex child with a person approved by DCF to serve as a medical foster home.</li> <li>• Allows funds to be used for out-of-home placement for medically complex child.</li> </ul>
20	1652-1711	<p>Requires managed care plans serving children in DCF custody to maintain complete medical, dental, and behavioral health information, which AHCA and DCF shall use to determine plan compliance with standards and whether children are receiving necessary services.</p>
21	1712-1715	<p>Creates part V of Ch. 409 to be titled “Community-Based Child Welfare.”</p>
22	1716-1790	<ul style="list-style-type: none"> <li>• Moves sections of current statutes related to community-based care organizations to a new section of law and updates outdated language.</li> <li>• Adds a child protection and child welfare outcome related to children developing capacity for independent living and competency as an adult.</li> <li>• Defines the terms “child,” “dependent child,” “care,” “community-based care lead agency,” “community-based care alliance”, and “related services.”</li> </ul>

**HOUSE HEALTHY FAMILIES SUBCOMMITTEE  
PCB HFS 14-03a DRAFT  
CHILD PROTECTION AND CHILD WELFARE**



23	1791-1838	<ul style="list-style-type: none"> <li>• Moves sections of current statutes related to community-based care lead agencies to a new section of law and updates outdated language.</li> <li>• Requires that procurements initiated after July 1, 2014, require membership of the community-based care lead agency's board of directors to have at least 75% of members residing in Florida and at least 51% of members residing in the service area of the community-based care lead agency.</li> <li>• Requires that the board of the community-based care lead agency include representation from local government, law enforcement, a school district, a children's services council, and the United Way or other local funding organization.</li> <li>• Requires that DCF's procurement team for procuring a community-based care lead agency include individuals from the community and requires that procurement meetings are held in the area to be served by the contract.</li> </ul>
24	1839-1926	<ul style="list-style-type: none"> <li>• Moves sections of current statutes related to community-based care organizations to a new section of law and updates outdated language.</li> <li>• Requires greater accountability for community-based care lead agencies.</li> <li>• Requires service providers to use services that are supported by research.</li> </ul>
25	1927-2059	<ul style="list-style-type: none"> <li>• Moves sections of current statutes related to the fiscal requirements and operation of community-based care organizations to a new section of law.</li> <li>• Updates outdated language.</li> </ul>
26	2060-2079	<ul style="list-style-type: none"> <li>• Moves sections of current statutes related to allocation of funds for community-based care organizations to a new section of law.</li> <li>• Updates outdated language.</li> </ul>
27	2080-2102	<ul style="list-style-type: none"> <li>• Moves sections of current statutes related to lead agency expenditures to a new section of law.</li> <li>• Updates outdated language.</li> </ul>
28	2103-2260	<ul style="list-style-type: none"> <li>• Moves sections of current statutes related to subcontractor and lead agency liability to a new section of law and updates outdated language.</li> <li>• Removes language in current law related to automatic annual increases in conditional limitations on damages.</li> </ul>
29	2261-2405	<ul style="list-style-type: none"> <li>• Moves sections of current statutes related to receiverships to a new section of law.</li> <li>• Updates outdated language.</li> </ul>
30	2406-2554	<ul style="list-style-type: none"> <li>• Moves sections of current statutes related to contracts with lead agencies and DCF oversight to a new section of law.</li> <li>• Updates outdated language.</li> </ul>
31	2555-2654	Requires DCF to develop a child welfare outcome-based accountability system and to provide an annual report on system performance to the Legislature and the Governor.

**HOUSE HEALTHY FAMILIES SUBCOMMITTEE  
PCB HFS 14-03a DRAFT  
CHILD PROTECTION AND CHILD WELFARE**

32	2655-2690	<ul style="list-style-type: none"> <li>• Provides the following duties of the community alliances:               <ul style="list-style-type: none"> <li>○ Conduct a needs assessment and establish community priorities;</li> <li>○ Review the performance of DCF, sheriff's offices providing child protective services, and lead agencies;</li> <li>○ Recommend a competitive procurement for the lead agency if performance is poor, and then to be involved in developing the procurement document;</li> <li>○ Recommend a contract extension if performance is superior;</li> <li>○ Work with the institute to improve child welfare and protection services; and</li> <li>○ Promote community involvement.</li> </ul> </li> </ul>
33	2691-2720	<ul style="list-style-type: none"> <li>• Defines the terms "abandons," "abandonment," "care," "caregiver," "child," and "relative".</li> <li>• Specifies that a caregiver who abandons a child (such as by leaving him or her with a stranger found through the internet) has committed a 3<sup>rd</sup> degree felony.</li> <li>• Clarifies that a person who surrenders a newborn infant in compliance with s. 383.50, F.S., does not commit a crime.</li> </ul>
34	2721-2841	<ul style="list-style-type: none"> <li>• Creates the Florida Institute for Child Welfare and requires the institute to be housed in the Florida State University School of Social Work.</li> <li>• Requires DCF to contract with the institute and requires the institute to perform duties specified in the bill.</li> <li>• Requires the president of FSU to appoint a director of the institute who has specified credentials.</li> <li>• Requires the institute to:               <ul style="list-style-type: none"> <li>○ Work with DCF, sheriff's offices providing child protective services, community-based care lead agencies, provider organizations, the court system, the Department of Juvenile Justice, and others.</li> <li>○ Report on its activity and findings.</li> <li>○ Convene a task force to recommend improvements to the child welfare system, which has two workgroups on the following topics that may include additional members:                   <ul style="list-style-type: none"> <li>▪ Retention of case managers and paperwork.</li> <li>▪ Care of medically complex children within the child welfare system.</li> </ul> </li> </ul> </li> </ul>
35	2842-2856	Provides for a tuition and fee exemption for CPIs and CPI supervisors who are enrolled in a social work program or coursework and receive at least a "B" in the course.
36	2857	Provides an effective date of July 1, 2014.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB HFS 14-03 Child Protection and Child Welfare Services  
**SPONSOR(S):** Healthy Families Subcommittee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Healthy Families Subcommittee		Entress 	Brazzell 

### SUMMARY ANALYSIS

The bill makes a number of changes to improve the care of children in the child welfare system and to better protect children from abuse and neglect. The bill:

- Establishes an Assistant Secretary for Child Welfare.
- Amends community alliance duties and membership to provide for their oversight of the child welfare system.
- Directs DCF to conduct immediate investigations of deaths involving children that have been known to the child protection and child welfare system to identify root causes and to rapidly determine the need to change policies and practices related to child protection and child welfare.
- Expands the scope of child deaths to be reviewed by the statewide child death abuse review committee to all child deaths reported to DCF's abuse hotline.
- Requires DCF to report on its website basic facts relating to all deaths of children which occur in this state and which are reported to the DCF abuse hotline.
- Enhances the qualifications for child protective investigators, case managers, and their supervisors by requiring a degree in social work or in a human services related field with relevant coursework.
- Exempts certain employees from paying tuition and fees to a state university for education in social work and creates a loan forgiveness program.
- Defines the term "sibling" and requires that when siblings are removed from a home as the result of abuse, neglect, or abandonment, DCF must make every effort to keep the siblings together and, if separated, to keep them in communication with one another and reunited as quickly as feasible, unless doing so would not be in the best interest of the children.
- Defines "medical neglect" and describes the requirements for the investigation of medical neglect. It also requires Child Protection Teams involved in cases alleging abuse, neglect, or abandonment of a medically complex child to involve a physician with experience in treating that child's condition.
- Requires the DCF to work with the Department of Health and the Agency for Health Care Administration to provide care for medically complex children. It allows placement of such children in medical foster homes and requires placement be made in the least restrictive, most nurturing environment. The bill requires services to be offered in the child's home or in the home of relatives if such care can meet the needs of the child.
- Requires the court to evaluate whether the disabilities of nonage of a child in out-of-home care who turns 17 years of age should be removed for the purpose of signing a residential lease, obtaining utilities, or establishing a bank account, and to remove those disabilities if in the child's best interest.
- Creates a new part V of ch. 409, F.S., entitled "Community-Based Child Welfare", to reorganize current law, delete obsolete provisions, and clarify other provisions relating to community-based care. The bill specifies duties and accountability of both DCF and Community Based Care Lead Agencies (CBCs) and facilitates community control of community-based care lead agencies through increased local involvement on governing boards.
- Strengthens the accountability system by collecting, maintaining, and analyzing reliable data on critical outcomes and then using it to drive system change.
- Creates a criminal offense for abandoning a child and provides definitions and penalties for that offense.
- Creates a consortium of the state's public and private university social work programs named the Florida Institute for Child Welfare which conducts research and analysis to advise the state and improve the education and training of child protection and child welfare workers. The Institute is directed to convene a task force to recommend enhancements to the state's child welfare system, including two workgroups on reducing paperwork and retaining case managers, and caring for medically complex children within the child welfare system.

The bill will have an indeterminate negative fiscal impact on the child welfare program within DCF.

The bill provides for an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### Child Welfare and Department of Children and Families Structure

Child welfare is governed by ch. 39, F.S., and parts of ch. 383, ch. 409, and ch. 402, F.S. Currently, the Department of Children and Families (DCF) has three assistant secretaries: the Assistant Secretary for Administration, the Assistant Secretary for Programs, and the Assistant Secretary for Substance Abuse & Mental Health.<sup>1</sup> The assistant secretary for Substance Abuse and Mental Health is the only assistant secretary authorized in statute.<sup>2</sup> The assistant secretary for Substance Abuse and Mental Health is required to have expertise in both areas of responsibility.<sup>3</sup> While there is no assistant secretary who deals solely with child welfare, currently the assistant secretary for programs oversees child welfare. The assistant secretary for programs also oversees DCF's family and community services, domestic violence, adult protection, homelessness, and childcare services programs.<sup>4</sup>

##### *Community Based Care Organizations*

DCF contracts for foster care and related services with lead agencies, also known as community based care organizations (CBCs). The transition to outsourced provision of child welfare services was intended to increase local community ownership of service delivery and design.<sup>5</sup> The state completed the transition to community-based care during the latter part of Fiscal Year 2004-2005.<sup>6</sup>

Under this localized system, CBCs are responsible for providing foster care and related services. These services include, but are not limited to, family preservation, emergency shelter, and adoption.<sup>7</sup> CBCs contract with a number of subcontractors for case management and direct care services to children and their families.<sup>8</sup> There are 18 CBCs statewide, which together serve the state's 20 judicial circuits.<sup>9</sup> The law requires DCF to contract with CBCs through a competitive procurement process.<sup>10</sup>

Even in this outsourced system, DCF remains responsible for a number of child welfare functions. These functions include operating the abuse hotline, performing child protective investigations (which determine whether children need to be removed from their homes because of abuse or neglect), and providing child welfare legal services.<sup>11</sup> DCF is also ultimately responsible for program oversight and the overall performance of the child welfare system.<sup>12</sup>

---

<sup>1</sup> *Organizational Chart*, The Department of Children and Families, *accessible at*: [www.dcf.state.fl.us/admin/docs/orgchart.pdf](http://www.dcf.state.fl.us/admin/docs/orgchart.pdf) (last accessed March 12, 2014).

<sup>2</sup> S. 20.19(2)(c), F.S.

<sup>3</sup> S. 20.19(2)(c), F.S.

<sup>4</sup> *Organizational Chart*, The Department of Children and Families, *accessible at*: [www.dcf.state.fl.us/admin/docs/orgchart.pdf](http://www.dcf.state.fl.us/admin/docs/orgchart.pdf) (last accessed March 12, 2014).

<sup>5</sup> *Community-Based Care*, The Department of Children and Families, *accessible at*: <http://www.myflfamilies.com/service-programs/community-based-care> (last accessed March 12, 2014).

<sup>6</sup> OPPAGA, Report 06-50.

<sup>7</sup> OPPAGA, Report 06-50.

<sup>8</sup> OPPAGA, Report 06-50.

<sup>9</sup> *Community Based Care Lead Agency Map*, The Department of Children and Families, *accessible at*:

<http://www.myflfamilies.com/service-programs/community-based-care/cbc-map> (last accessed March 12, 2014).

<sup>10</sup> *Competitive Procurement*, The Department of Children and Families, *accessible at*: <http://www.myflfamilies.com/service-programs/community-based-care/competitive-procurement> (last accessed March 12, 2014).

<sup>11</sup> OPPAGA, Report 06-50.

<sup>12</sup> OPPAGA, Report 06-50.



Each month CBCs are graded by DCF according to their performance on a scorecard. The scorecard evaluates the CBCs on 12 key measures to determine how well the CBCs are meeting the most critical needs of these at-risk children and families. Scorecards are posted online monthly.<sup>13</sup>

### *Community Alliances*

Community alliances provide a focal point for community participation and governance of community-based services. Community alliances are located in local communities and consist of stakeholders, community leaders, client representatives, and funders of human services.<sup>14</sup> Community alliances have the following duties:

- Joint planning for resource utilization in the community, including resources appropriated to DCF and any funds that local funding sources choose to provide.
- Needs assessment and establishment of community priorities for service delivery.
- Determining community outcome goals to supplement state-required outcomes.
- Serving as a catalyst for community resource development.
- Providing for community education and advocacy on issues related to delivery of services.
- Promoting prevention and early intervention services.<sup>15</sup>

Initially, community alliances are required to contain membership from the following organizations:

- DCF;
- County government;
- The school district;
- County United Way;
- County sheriff's office
- Circuit court corresponding to the county; and
- County children's board, if one exists.

After the initial meeting of the community alliance, the alliance may increase membership to include the state attorney for the judicial circuit, the public defender, and other individuals who represent funding organizations, are community leaders, have knowledge of community-based service issues, or represent perspectives that will enable them to accomplish the duties of the community alliances.<sup>16</sup>

### Child Abuse and Neglect

Child abuse and neglect is a serious problem in the United States.<sup>17</sup> In Federal Fiscal Year (FFY) 2011, the most recent year for which national data is available, an estimated 3.4 million reports of abuse were received by child protection agencies nationwide.<sup>18</sup> After investigation, the number of unduplicated child victims nationally was estimated to be 681,000.<sup>19</sup> Florida reported 208,437 calls to the abuse hotline in FFY 2011.<sup>20</sup> The most serious result of child maltreatment is the death of the child. In FFY 2011, nationally 1,545 child fatalities resulting from child abuse or neglect were identified.<sup>21</sup> Florida reported 133 child fatalities resulting from child abuse or neglect in FFY 2011.<sup>22</sup>

---

<sup>13</sup> *CBC Scorecard*, The Department of Children and Families, *accessible at*: <http://www.myflfamilies.com/about-us/planning-performance-measures/cbc-scorecard> (last accessed March 12, 2014).

<sup>14</sup> S. 20.19(4), F.S.

<sup>15</sup> S. 20.19(4), F.S.

<sup>16</sup> S. 20.19(4), F.S.

<sup>17</sup> U.S. Department of Health and Human Services, *Child Maltreatment 2011*, p. 1.

<sup>18</sup> *Id.* at vii. The report adds that the rate of referrals have remained fairly constant for at least five years.

<sup>19</sup> *Id.* at 19.

<sup>20</sup> *Id.* at 11.

<sup>21</sup> U.S. Department of Health and Human Services, *ibid.* at 56.

<sup>22</sup> *Id.* at 63.

## *Abuse Investigations*

A child protective investigation begins with a report by any person to the Florida abuse hotline.<sup>23</sup> The state is required to maintain a 24 hour per day, 7 day per week capacity for receiving reports of maltreatments.<sup>24</sup> When allegations of abuse, abandonment, or neglect of a child are reported to DCF's child abuse hotline and the hotline employee believes that the report meets the statutory definition of the allegations, an investigation by a child protective investigator is triggered.<sup>25</sup> A child protective investigation must be commenced either immediately or within 24 hours after the report is received, depending on the nature of the allegation.<sup>26</sup>

The sheriff's office in Pasco, Manatee, Broward, and Pinellas Counties are required to provide all child protective investigations in these counties.<sup>27</sup> DCF is authorized to enter into grant agreements with sheriffs of other counties to perform child protection investigations in other counties, but they are not required to do so.<sup>28</sup> The child protective investigators (CPIs) employed by a sheriff's department must meet the same requirements as child protective investigators employed by DCF.<sup>29</sup>

## *DCF Custody*

A child must have a court hearing to be placed in a shelter<sup>30</sup>, unless:

- The child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;
- The parent or legal custodian of the child has materially violated a condition of placement imposed by the court; or
- The child has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.<sup>31</sup>

Once a child is taken into custody<sup>32</sup>, DCF reviews the facts supporting the removal of the child and determines if sufficient cause exist to file a shelter petition. If sufficient cause does not exist, the child must be returned to their parent or legal custodian.<sup>33</sup> If sufficient cause does exist, DCF is required to file a petition and schedule a hearing with the courts. DCF must request that a shelter hearing be held within 24 hours from the removal of the child from the home.<sup>34</sup>

At the adjudicatory hearing the court may make one the following rulings:<sup>35</sup>

- That the child is not a dependent child and dismiss the case.

---

<sup>23</sup> S. 39.201(4), F.S.

<sup>24</sup> S. 39.201(5), F.S.

<sup>25</sup> S. 39.201(2)(a), F.S.

<sup>26</sup> S. 39.201(5), F.S.

<sup>27</sup> S. 39.3065 (3)(a), F.S.

<sup>28</sup> S. 39.3065 (3)(b), F.S.

<sup>29</sup> S. 39.3065 (3)(b), F.S.

<sup>30</sup> The term "shelter" is defined in chapter 39 as "a placement with a relative or a nonrelative, or in a licensed home or facility, for the temporary care of a child who is alleged to be or who has been found to be dependent, pending court disposition before or after adjudication."

<sup>31</sup> S. 39.402 (1), F.S.

<sup>32</sup> The term "legal custody" means a legal status created by a court which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, nurture, guide, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

<sup>33</sup> S. 39.401(3)(a), F.S.

<sup>34</sup> S. 39.401(3)(b), F.S.

<sup>35</sup> S. 39.507, F.S.

- That the child is adjudicated dependent and may remain in the home, under supervision of the court, or be placed in out-of-home care.
- That the child may remain in the home, under the supervision of DCF; adjudication of dependency would be withheld assuming the family complies with the conditions of supervision.

DCF is required to seek permanency for children as quickly as possible, with a goal of permanency occurring within 12 months from removal from the child's home.<sup>36</sup> Permanency hearings are required to be held every 12 months for any child who continues to be supervised by DCF or awaits adoption. The permanency hearing aims to determine when the child will achieve the permanency goal or whether modifying the current goal is in the best interest of the child.<sup>37</sup> Permanency may consist of:

- Reunification with a parent;
- Adoption;
- Permanent guardianship with a relative or nonrelative;
- Permanent placement with a relative or nonrelative; or
- Placement in another planned permanent living arrangement.<sup>38</sup>

While reunification with the parent is the preferred permanency option, the best interest of the child is the primary consideration in determining the permanency goal for the child.<sup>39</sup> The court is required to base its decision concerning any motion by a parent for reunification on the effect of the decision on the safety, well-being, and physical or emotional health of the child.<sup>40</sup> The court must specifically consider:

- The compliance or noncompliance of the parent with the case plan;
- The circumstances which caused the child's dependency and whether those circumstances have been resolved;
- The stability and longevity of the child's placement;
- The preferences of the child, if the child is of sufficient age and understanding to express a preference;
- The recommendation of the current custodian; and
- The recommendation of the guardian ad litem, if one has been appointed.<sup>41</sup>

Current law includes legislative intent that when siblings are placed in out-of-home care, DCF makes every possible effort to place them together; if they are permanently placed, to place them in the same adoptive home, and if placement together is not possible, to keep them in contact with each other.<sup>42</sup> There is no provision at specific points in the child welfare system such as at removal or at judicial reviews to ensure that DCF is attending to issues relating to siblings.

### *Medical Neglect*

While there is no definition of the term "medical neglect" in ch. 39, F.S., neglect encompasses cases of medical neglect. Neglect is defined as when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired.<sup>43</sup>

<sup>36</sup> S. 39.621

<sup>37</sup> S. 39.621 (1), F.S.

<sup>38</sup> S. 39.621(2), F.S.

<sup>39</sup> S. 39.621, F.S.

<sup>40</sup> S. 39.621 (10), F.S.

<sup>41</sup> S. 39.621 (10), F.S.

<sup>42</sup> S. 39.001(1)(k), F.S.

<sup>43</sup> S. 39.01(44), F.S.

According to the Agency for Health Care Administration (AHCA), 220 children with complex medical problems currently reside in nursing homes.<sup>44</sup> Under current law, parents can be found to be neglectful of medically fragile children despite problems being attributable to insufficient services or a natural change in medical conditions.<sup>45</sup>

DCF does not treat investigations of abuse or neglect involving a medically fragile child differently from other investigations of abuse and neglect, unless the allegations of abuse or neglect are deemed high risk. CPIs and case managers are not specially trained on how to determine abuse and neglect involving medically fragile children.<sup>46</sup>

### *Child Protection Teams*

Children's Medical Services within the Department of Health (DOH) operate service teams of one or more multidisciplinary child protection teams (CPTs) in each DCF service district.<sup>47</sup> Teams can be composed of appropriate representatives of school districts and appropriate health, mental health, social service, legal service, and law enforcement agencies.<sup>48</sup> CPTs provide specialized diagnostic assessments, evaluations, coordination, consultations, and other support services including:

- Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of findings;
- Medical evaluation related to abuse, abandonment, or neglect;
- Psychological and psychiatric diagnosis and evaluation services;
- Expert medical, psychological, and related professional testimony in court cases;
- Case staffings to develop treatment plans for children whose cases have been referred to the team; and
- Child protection team assessments that include, as appropriate, medical evaluations, medical consultations, family psychosocial interviews, specialized clinical interviews, or forensic interviews.<sup>49</sup>

Some cases, including all cases involving medical neglect, are required to be referred to CPTs.<sup>50</sup> CPTs may lack experience or knowledge about specific rare conditions.<sup>51</sup>

### *State Child Abuse Death Review Committee*

The State Child Abuse Death Review Committee (SCADRC) reviews the facts and circumstances surrounding child abuse and neglect deaths in which there has been a verified case of abuse or neglect.<sup>52</sup> The SCADRC is housed within DOH and consists of a representatives from the DOH, DCF, Department of Legal Affairs, Department of Law Enforcement, Department of Education, Florida Prosecuting Attorneys Association, Inc., and Florida Medical Examiners Commission, whose

---

<sup>44</sup> Meeting materials from the Senate Children, Families, and Elder Affairs Committee meeting, February 11, 2014.

<sup>45</sup> Meeting materials from the Senate Children, Families, and Elder Affairs Committee meeting, February 11, 2014.

<sup>46</sup> E-mail correspondence with the Department of Children and Families, January 10, 2014, on file with Healthy Families Subcommittee Staff.

<sup>47</sup> S. 39.01(44), F.S.

<sup>48</sup> S. 39.01(44), F.S.

<sup>49</sup> S. 39.01(44), F.S.

<sup>50</sup> S. 39.01(44), F.S.

<sup>51</sup> Meeting materials from the Senate Children, Families, and Elder Affairs Committee meeting, February 11, 2014.

<sup>52</sup> 2013 Annual Report, Child Abuse Death Review Committee, accessible at:

[http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=4&cad=rja&uact=8&ved=0CDgQFjAD&url=http%3A%2F%2Fwww.floridahealth.gov%2Falternatesites%2Fflcadr%2Fattach%2F2013CADRrpt.pdf&ei=2-wgU\\_XOOpKP0gH0h4HgAQ&usq=AFQjCNG-qH-aoPrFZAZIVXHNUemu\\_fcAkw&sig2=Cqi9h99WtPI216G6s0CRdg](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=4&cad=rja&uact=8&ved=0CDgQFjAD&url=http%3A%2F%2Fwww.floridahealth.gov%2Falternatesites%2Fflcadr%2Fattach%2F2013CADRrpt.pdf&ei=2-wgU_XOOpKP0gH0h4HgAQ&usq=AFQjCNG-qH-aoPrFZAZIVXHNUemu_fcAkw&sig2=Cqi9h99WtPI216G6s0CRdg) (last accessed March 12, 2014).

representative must be a forensic pathologist.<sup>53</sup> In addition, the State Surgeon General must appoint following members to the SCADRC:

- A board-certified pediatrician.
- A public health nurse.
- A mental health professional who treats children or adolescents.
- An employee of the DCF who supervises family services counselors and who has at least 5 years of experience in child protective investigations.
- The medical director of a child protection team.
- A member of a child advocacy organization.
- A social worker who has experience in working with victims and perpetrators of child abuse.
- A person trained as a paraprofessional in patient resources who is employed in a child abuse prevention program.
- A law enforcement officer who has at least 5 years of experience in children's issues.
- A representative of the Florida Coalition Against Domestic Violence.
- A representative from a private provider of programs on preventing child abuse and neglect.<sup>54</sup>

### *Records of Children*

All records held by DCF concerning reports of child abandonment, abuse, or neglect are confidential and exempt from public records laws.<sup>55</sup> This includes all reports to the DCF abuse hotline.<sup>56</sup> This information may only be released to individuals specified in statute, which includes DCF, DOH, or the Agency for Persons with Disabilities (APD) employees with specific responsibilities; a grand jury; a state attorney; and any person when the child has died due to abuse, neglect, or abandonment.<sup>57</sup> However, DCF has the discretion to release certain information regarding a missing child.<sup>58</sup> In addition, any person or organization, including DCF, may petition the court for an order making public the records of the DCF which pertain to investigations of alleged abuse, abandonment, or neglect of a child.<sup>59</sup> The court determines whether good cause exists for public access to the records.<sup>60</sup> The court is required to balance the best interests of the child who is the focus of the investigation and the interest of that child's siblings, together with the privacy rights of other persons identified in the reports, against the public interest.<sup>61</sup>

### *Abandonment of a Child*

Beginning on September 9, 2013, Reuters News Service published a five-part series entitled "The Child Exchange," which exposed how American parents were using Internet message boards to find new families for children whom they regretted adopting, a practice that has been called "private re-homing."<sup>62</sup> Reuters spent 18 months investigating eight message boards where participants advertised unwanted children and examined two dozen cases in which adopted children were re-homed.<sup>63</sup> The investigative series found:

---

<sup>53</sup> S. 383.402(2)(a), F.S.

<sup>54</sup> S. 383.402(2)(b), F.S.

<sup>55</sup> S. 39.202(1), F.S.

<sup>56</sup> S. 39.202(1), F.S.

<sup>57</sup> S. 39.202(1), F.S.

<sup>58</sup> S. 39.202(4), F.S.

<sup>59</sup> S. 39.2021(1), F.S.

<sup>60</sup> S. 39.2021(1), F.S.

<sup>61</sup> S. 39.2021(1), F.S.

<sup>62</sup> Megan Twohey, *The Child Exchange*, REUTERS, (Sept. 9, 2013), available at <http://www.reuters.com/investigates/adoption/#article/part1> (last visited March 12, 2014).

<sup>63</sup> Megan Twohey, *The Child Exchange*, REUTERS, (Sept. 9, 2013), available at <http://www.reuters.com/investigates/adoption/#article/part1> (last visited March 12, 2014).

- On average, a child was advertised for re-homing at least once a week;
- The average range for children being advertised for re-homing is 6 to 14 years of age;
- Re-homing is accomplished through basic power of attorney documents which allow the new guardians of the child to enroll the child in school or secure government benefits;
- At least 70 percent of the children offered for re-homing on one message board were international adoptees;
- Only 29 states have laws that govern how children can be advertised for adoption; and
- The Interstate Compact for the Placement of Children, which is meant to be a safeguard against the improper placement of children across state lines, is often not enforced by law enforcement.<sup>64</sup>

### Child Protection Investigators

CPIs must have a bachelor's degree.<sup>65</sup> DCF prefers to hire CPIs with a bachelor's degree in human services-related fields.<sup>66</sup> CPI's must also earn certification within 12 months of hire. The third-party credentialing entity administering the certification process must:

- Establish professional requirements and standards that applicants must achieve in order to obtain a child welfare certification and to maintain such certification.
- Develop and apply core competencies and examination instruments according to nationally recognized certification and psychometric standards.
- Maintain a professional code of ethics and a disciplinary process that apply to all persons holding child welfare certification.
- Maintain a database, accessible to the public, of all persons holding child welfare certification, including any history of ethical violations.
- Require annual continuing education for persons holding child welfare certification.
- Administer a continuing education provider program to ensure that only qualified providers offer continuing education opportunities for certificateholders.<sup>67</sup>

### Tuition Exemption and Loan Repayment

Section 1004.61, F.S, directs DCF to form partnerships with the schools of social work of the state universities in order to encourage the development of graduates trained to work in child protection. In one such partnership, DCF provided 100 stipends per year for social work students at Florida International University working towards a bachelor's in social work (BSW) or a master's in social work (MSW) degree.<sup>68</sup> In return for accepting the stipend, the student was required to work for a CBC for at least a year.<sup>69</sup> The Legislature reduced the funding in FY 12-13 by \$455,020 (leaving a balance of \$739,980). For FY 13-14 the Legislature did not fund the program.<sup>70</sup>

DCF also has the authority to administer a general child welfare student loan forgiveness.<sup>71</sup> This program allows DCF to provide loan reimbursement.<sup>72</sup> To eligible, employees must hold child welfare positions that are critical to the DCF's mission and that are within the DCF, sheriff's offices, or

<sup>64</sup> Megan Twohey, The Child Exchange, REUTERS, (Sept. 9, 2013), available at <http://www.reuters.com/investigates/adoption/#article/part1> (last visited March 12, 2014).

<sup>65</sup> *Career Opportunities*, The Department of Children and Families, accessible at: <https://www.dcf.state.fl.us/initiatives/DCFJobs/> (last accessed March 12, 2014).

<sup>66</sup> *Career Opportunities*, The Department of Children and Families, accessible at: <https://www.dcf.state.fl.us/initiatives/DCFJobs/> (last accessed March 12, 2014).

<sup>67</sup> S. 402.40(3), F.S.

<sup>68</sup> E-mail correspondence with the Department of Children and Families, October 17, 2014, on file with committee staff.

<sup>69</sup> E-mail correspondence with the Department of Children and Families, October 17, 2014, on file with committee staff.

<sup>70</sup> E-mail correspondence with the Department of Children and Families, October 17, 2014, on file with committee staff.

<sup>71</sup> S. 402.401, F.S.

<sup>72</sup> S. 402.401, F.S.

contracted community-based care agencies.<sup>73</sup> In addition, the employee's outstanding student loans may not be in a default status to be eligible for loan reimbursement.<sup>74</sup> The Child Welfare Loan Forgiveness was terminated 6/30/2012, and it was last funded in FY 2012-13 for \$1,950,000.<sup>75</sup>

## **Effect of Proposed Changes**

### Department of Children and Families Structure

The bill creates a new part of ch. 409, F.S., and titles this "Community-Based Child Welfare."

The bill creates an assistant secretary for child welfare within DCF. The bill requires the secretary of DCF to appoint the assistant secretary to lead DCF in carrying out its duties and responsibilities for child protection and child welfare. The bill requires the assistant secretary to have at least 7 years of experience working in organizations delivering child protective or child welfare services and specifies that the assistant secretary serves at the pleasure of the secretary.

### *Community-Based Care Organizations*

The bill makes several structural changes to ch. 409, F.S., to improve the organization of provisions related to CBCs. The bill moves provisions from s. 409.1671, F.S., to create s. 409.986, F.S. The new section provides legislative findings, intent, goals, and definitions related to community based care. The legislative intent language in the bill was amended to reflect the intent that communities participate in assuring child safety, permanence, and well-being. The legislative intent language was also changed to express that when private entities assume responsibility for children in care, adequate oversight of these entities is essential and ultimately, appropriate care of children is the responsibility of the state. Similar but not identical language is currently found in s. 409.1671, F.S.

The bill states outcomes that DCF, in conjunction with the CBCs, CBC subcontractors, and the alliances, must aim to achieve relating to abuse, neglect, safety, stability, and services. The bill provides definitions for the terms "child," "dependent child," "care," "community-based care lead agency," "community-based care alliance", and "related services."

The bill also moves provisions from s. 409.1671, F.S., to create s. 409.987, F.S. The new section amends current language and clarifies the requirements for DCF to CBCs. The procurement must be conducted through a competitive process required by ch. 287 and describes the geographic size limitations for such procurements. It requires DCF to produce a schedule for procurements, to share that schedule with community alliances, and to post the schedule on DCF's website. The bill requires DCF to use five-year contracts (rather than three-year contracts) with CBCs and sets for the requirements for an entity to compete for the award of a contract as a CBC lead agency, including the requirements that the entity be organized as a Florida corporation or governmental entity governed by a local board of directors and demonstrate financial responsibility (through financial audits and posting of a performance bond). It requires that the procurement team include individuals from the community alliance and the procurement meetings to be held locally.

The bill moves provisions from s. 409.1671, F.S., and 409.1675, F.S., to create s. 409.988, F.S. The new section outlines the duties of the CBCs and authorizes subcontracting for the provision of child welfare services. The new section makes changes to the current requirements regarding the duties of a CBC. The bill authorizes a CBC to subcontract for services and specifies requirements for any subcontract. The bill provides DCF rulemaking authority, as well as specifies that the CBCs must serve dependent children through services that are supported by research, are best child welfare practices, or are innovative.

---

<sup>73</sup> S. 402.401, F.S.

<sup>74</sup> S. 402.401, F.S.

<sup>75</sup> E-mail correspondence with Appropriations Committee, October 15, 2013, on file with committee staff.

The bill moves provisions from s. 409.1671, F.S., and 409.16745, F.S., to create s. 409.990, F.S. The new section describes funding for lead agencies.

The bill moves provisions from s. 409.16713, F.S., to create s. 409.991, F.S. The new section describes the allocation of funds for CBCs. The bill also moves provisions from s. 409.1671, F.S., to create s. 409.992, F.S. The new section provides for lead agency expenditures. In addition to moving the current law, the bill requires DCF to develop financial guidelines in consultation with the Auditor General.

The bill moves provisions from s. 409.1671, F.S., to create s. 409.993, F.S., to describe lead agency and subcontractor liability. While the new section moves the majority of the provisions from s. 409.1671(1)(h)-(l), the new section does not include current statutory provisions requiring that conditional limitations on damages increase at a rate of 5% per year. The bill also transfers and renumbers s. 409.1675, F.S., to create s. 409.994, F.S., describing CBCs and receivership.

#### *CBC and DCF Responsibilities*

The bill specifies responsibilities of the CBCs and DCF. It changes requirements of the CBCs to:

- Define the population CBCs are required to serve;
- Require the CBCs to provide information to DCF for oversight;
- Require the CBCs to follow financial guidelines developed by DCF;
- Require the CBCs to provide independent audits;
- Require the CBCs to prepare reports for court hearings; and
- Require CBCs to ensure that individuals providing care meet employment standards established by DCF.

The bill creates s. 409.996, F.S., to describe the duties of DCF in contracting for community based child welfare services. In addition to what is required in CBC contracts under current law, the bill requires the contracts between DCF and the CBCs to specify that the contracts must provide for services required to accomplish duties established in statute, provide for graduated penalties for failure to comply with contract terms, and ensure that the CBCs provide accurate and current information in all cases. The bill also requires DCF to transmit federal and state funds received for the operation of the child welfare system to the CBCs as agreed. The bill specifies that DCF retains responsibility for the appropriate spending of these funds and requires DCF to monitor CBCs to assess compliance with financial guidelines and applicable state and federal laws.

The bill requires DCF to provide technical assistance and consultation to the CBCs in the provision of care to children in the child protection and child welfare system. The bill specifies that DCF:

- Retains the responsibility for the review, approval, and issuance of all foster home licenses;
- Must process all applications submitted by CBCs for the Interstate Compact for Placement of Children and the Interstate Compact for Adoption and Medical Assistance;
- Must develop a standardized competency-based curriculum for CPI certification;
- Must work with AHCA to provide certain Medicaid services;
- Must provide a mechanism to allow CBCs to request a waiver of certain DCF policies and procedures; and
- Must provide attorneys to prepare and present cases in dependency court and ensure that the court is provided with adequate information.

The bill requires DCF to assist CBCs in coordinating with other programs within DCF, federal programs (such as Social Security), and Medicaid. The bill also requires DCF to assist CBCs to develop an array of services and to monitor the provision of these services.



The bill requires DCF, with the assistance of the CBCs, to develop and implement interagency agreements as necessary to coordinate services for children in the child welfare system and working agreements between CBCs and substance abuse and mental health managing entities.

### *Accountability*

The bill moves the provisions of s. 409.1671, F.S., related to quality assurance of CBCs, to s. 409.996, F.S. The bill makes some changes to this language. The changes address the evaluations of the CBCs by DCF.

The bill creates s. 409.997, F.S., to establish a child welfare results-oriented accountability system. The bill requires that DCF maintain a comprehensive, results-oriented accountability system that monitors the use of resources, the quality and amount of services provided, and the child and family outcomes through data analysis, research review, evaluation, and quality improvement. The bill gives direction to DCF on establishing such a system and requires DCF to report the result of the accountability system at least quarterly on its website as well as annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

### *Community Alliances*

The bill amends the duties of community alliances, stating that they have the duty of providing independent, community-focused oversight of child protection and child welfare services and the local CBC system. The bill adds two members to those to be initially appointed to the alliances: an advocate for persons receiving child protection and child welfare services (chosen by the secretary), and a representative from the CBC lead agency, who serves as an ex-officio member. The bill also specifies that the representative from DCF and the representative from a county sheriff's office which is providing child protective services serve as ex officio-members. The bill specifies that the members initially appointed to the community alliance are appointed by the entities they represent.

The bill creates s. 409.998, F.S., to require that DCF establish community alliances in each service area of CBCs. It describes the duties, membership, and responsibilities of the alliances and their members and provides that meetings of the alliance are open to the public. The duties of the alliances include conducting needs assessments, reviewing the performance of DCF or the sheriff's department in providing child protective services, being involved in the procurement process, developing recommendations for the CBCs and DCF, and promoting community involvement in the community-based care system.

## Child Abuse and Neglect

### *Abuse Investigations*

The bill defines the terms "impending danger," "present danger," and "safety plan." The bill also redefines the term "diligent efforts by a parent" in ch. 39, F.S., to require a meaningful change in behavior.

The bill requires CPIs to implement a safety plan when present or impending danger is identified. The bill specifies requirements for developing and implementing the safety plan. The bill allows CPIs to modify the safety plan if additional impending danger threats are identified. The bill requires all safety assessments and safety plans involving the parent or legal custodian to be provided to the court during petitions for dependency, if DCF is the petitioner.

The bill changes the requirements in which services are required to be provided.<sup>76</sup> Current law requires services when there are high-risk factors that may impact the ability of the parents or legal custodians to exercise judgment. Under current law, the factors may include the parents' or legal custodians' history of substance abuse or domestic violence. The bill also adds mental illness to these factors. The bill also requires services to be provided if there is a high likelihood of lack of compliance with voluntary services and such noncompliance would result in the child being unsafe.

#### *DCF Custody*

The bill amends s. 39.001, F.S., to alter the purposes of ch. 39, F.S. The bill makes changes which stress the importance of:

- Safety of the child;
- Coordination between agencies;
- Sibling contact;
- Proper protective investigations;
- Access to support services for children in their homes; and
- Family engagement in the child's care.

The bill defines the term "sibling." The bill also amends s. 39.402, F.S., to require, at the time of a shelter hearing for a child removed from their home as the result of allegations of abuse, neglect, or abandonment, that DCF report to the court that it has made reasonable efforts to keep siblings together unless the placement together is not in their best interest. It also provides that if siblings removed from their home cannot be placed together, that DCF must provide the court with a recommendation for frequent visitation or other ongoing interaction between the siblings unless such interaction would be contrary to a sibling's safety or well-being. If visitation among siblings is ordered but will not commence within 72 hours of the shelter hearing, DCF must provide justification to the court for the delay.

The bill also amends s. 39.701, F.S., to require DCF to report to the court at every judicial review the frequency, kind, and duration of sibling contacts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interest of the child. It also requires that, at the time of the special judicial review hearing held for children who have become 17 years of age, the court consider whether granting emancipation for the purposes of obtaining housing, turning on utilities, and opening bank accounts is in the child's best interest.

The bill amends s. 39.802, F.S., to remove the requirement that petitions for termination of parental rights be signed by DCF employees.

#### *Medically Complex Children*

The bill makes explicit the requirement for DCF to preserve and strengthen families who are caring for medically complex children. The bill requires that among the protections provided to children in this state is access to sufficient home and community-based support for medically complex children to allow them to remain in the least restrictive and most nurturing environment, including sufficient home and community-based services in an amount and scope comparable to those the child would receive in an out-of-home care placement. The bill adds specificity to DCF's and the judiciary's rulemaking authority regarding taking a child into custody, petitioning the court, and administrative reviews.

The bill requires DCF to maintain a program of family-centered services and supports for medically complex children. Under the bill, the purpose of this program is to prevent abuse and neglect of medically complex children while enhancing the ability of families to provide for their children's needs. The bill specifies that program services must include outreach, early intervention, and provision of

---

<sup>76</sup> S. 39.301 (14), F.S.

home and community-based services such as care coordination, respite care, and direct home care. The bill requires DCF to work with the AHCA and DOH to provide needed services.

The bill also redefines the terms "assessment" to include the gathering of information for evaluation of the child's and caregiver's developmental delays or challenges, the term "preventive services" to require these services to promote the child's developmental needs, and the term "reunification services" to require these services to promote the child's need for developmental health. The bill also defines the term "medical neglect."

The bill creates s. 39.3068, F.S., which requires that reports of medical neglect must be investigated by staff with specialized training in medical neglect and medically complex children. It requires that the investigation identify any immediate medical needs of the child and use a family-centered approach to assess the capacity of the family to meet those needs. It describes the attributes of a family-centered approach and requires that any investigation of cases involving medically complex children include determination of Medicaid coverage for needed services and coordination with AHCA to secure such covered services.

The bill also amends s. 409.165, F.S., to clarify that funds appropriated for the alternative care of children may be used to meet the needs of children in their own homes or the homes of relatives if the children can be safely served in such settings and the expenditure of funds in such a manner is equal to or less than the cost of out-of-home placement. The bill requires DCF to cooperate with all child service institutions or agencies within the state which meet DCF standards in order to maintain a comprehensive, coordinated, and inclusive system for promoting and protecting the well-being of children set forth in s. 409.986, F.S.

The bill requires DCF to work with DOH in the development, utilization, and monitoring of medical foster homes for medically complex children, and to work with AHCA and APD to provide such home and community-based services as may be necessary to maintain medically complex children in the least restrictive and most nurturing environment. The bill adds medical foster homes to the list of placements available to DCF in placing medically complex children. The bill provides that placements of children in their own homes or in the homes or relatives may be made if the child can be safely served in such a placement and the cost of the placement is equal to or less than the cost of out-of-home placement.

The bill also requires Medicaid managed care plans serving children in DCF custody to maintain complete medical, dental, and behavioral health information, which AHCA and DCF must use to determine plan compliance with standards and whether children are receiving necessary services.

#### *Child Protection Teams*

The bill amends s. 39.303, F.S., to require that a Child Protection Team in DOH that is evaluating a report of medical neglect and assessing the health care needs of a medically complex child must involve a physician who has experience in treating children with the same condition.

The bill also amends s. 383.402, F.S., to require the SCADRC to review all deaths of children ages birth through 18 which occur in Florida and are reported to the abuse hotline. This increases the number of deaths reviewed by the SCADRC. The bill also changes the date the SCADRC must provide its annual report from December 31 to October 1.

#### *Critical Incident Rapid Response Team*

The bill creates s. 39.2015, F.S., which directs DCF to establish critical incident rapid response teams to conduct an immediate investigation of all deaths or other serious incidents involving children reported to the hotline where the family was the subject of a verified report of abuse or neglect in the previous 12 months. This investigation does not take the place of the child abuse investigation currently conducted by DCF or sheriff office. The investigation, rather than focusing on the cause of death, will focus on the

root cause and determine the need to change policies and practices related to child protection and child welfare.

The bill specifies the qualifications of the team, the time periods under which they must work, their compensation, and their required reporting. The bill also requires the DCF Secretary to appoint an advisory committee for the teams, with the responsibility for reviewing their reports and making recommendations to improve policies and practices related to child protection services and child welfare services. The bill specifies that the result of these investigations will be to identify operational changes within the child protection and child welfare system to prevent future child abuse deaths.

#### *Records of Children*

The bill creates s. 39.2022, F.S., to require public disclosure of all child deaths in Florida reported to the abuse hotline. The bill requires DCF to post the following information on the DCF website when a child death is reported to the abuse hotline:

- Age, race, and gender of the child;
- Date of the child's death;
- Allegations of the cause of death or the preliminary cause of death, until verified and once the cause of death is verified, the verified cause of death;
- County and placement of the child at the time of the incident leading to the child's death, if applicable;
- Name of the CBC, case management agency, or out-of-home licensing agency involved with the child, family, or licensed caregiver, if applicable; and
- Whether the child has been the subject of any prior verified reports to DCF's abuse hotline.

The bill specifies the public disclosure requirement does not limit the public access to records under other provisions of law.

#### *Abandonment of a Child*

The bill creates s. 827.10, F.S., to create the criminal offense of abandoning a child and provides definitions and penalties. The bill defines the terms "abandons," "care," "caregiver," "child," and "relative." The bill specifies that a caregiver who abandons a child under circumstances in which the caregiver knew or should have known that the abandonment exposes the child to unreasonable risk of harm commits a felony of the third degree. The bill specifies that abandonment of a child does not apply to a person who surrenders a newborn infant to a hospital, fire station, or emergency medical services station, in compliance with s. 383.50, F.S.

#### *Rilya Wilson Act*

The bill amends s. 39.604, F.S., to require that a child who is age birth to school entry (rather than age 3 to school age), under protective supervision or custody of DCF or a CBC, and enrolled in a licensed early learning education or child care program must attend 5 days a week. The bill requires the child attendance be a required action in the safety plan. The bill specifies that if the child does not attend for two consecutive days, the parent will be notified that this is a violation of the safety plan. This section applies to case plans under current law.

### Child Welfare and Child Protection Personnel

#### *Child Protective Investigator and Case Manager Education*

The bill raises professional standards for CPIs and CPI supervisors employed by DCF or a sheriff's office and case managers and case manager supervisors employed by a CBC or a CBC subcontractor.

It creates s. 402.402, F.S., to require that these professionals hired on or after July 1, 2014, must have one of the following:

- A bachelor's or master's degree in social work with at least 12 hours of relevant coursework;
- A bachelor's or master's degree in a human-services related field and at least 12 hours of relevant coursework; or
- A bachelor's or master's degree in a human-services related field, and 12 credit hours of relevant coursework completed within 3 years of hire.

The bill defines the term "human services related field" as "social work, psychology, sociology, counseling, special education, human development, child development, family development, marriage and family therapy, and nursing." The bill defines "relevant coursework" as "coursework that imparts knowledge and leads to the development of skills with direct application to the child protection and child welfare field from a college or university social work program accredited by the Council on Social Work Education." The bill specifies that the 12 credit hours may be designed to provide in-depth knowledge in serving a specific subpopulation or develop a particular skillset. The bill requires DCF to consult with the Institute created by the bill to identify courses available through the consortium of public and private universities offering degrees in social work that fulfills this requirement.

The bill also requires all CPIs and CPI supervisors to complete specialized training either focused in serving a specific population or in performing certain aspects of child protection processes. The bill specifies that the specialized training may focus on medically fragile children, sexually exploited children, children under the age of three, families with issues of domestic violence, mental illness or substance abuse, investigation techniques, and analysis of family dynamics. The bill states that the specialized training may be used to fulfill continuing education requirements. The bill requires CPIs and CPI supervisors hired before July 1, 2014, to complete the specialized training by June 30, 2016, and requires those hired on or after July 1, 2014, to complete the training within two years of hire. The bill authorizes DCF to approve certifications involving specializations in serving specific populations or skills relevant to child protection to be awarded by a third-party credentialing entity.

#### *Tuition Exemption and Loan Repayment*

The bill creates s. 402.403, F.S., to establish a child protective investigator and supervisor tuition exemption program and sets the qualifications for obtaining the exemption. The program is for high performing CPIs and CPI supervisors who do not have a social work degree but who are accepted in a social work program or who are completing required additional coursework. This program will allow current and future child welfare workers without a social work degree or who need additional coursework to improve their knowledge and skills.

The bill creates s. 402.404, F.S., to establish the Florida CPI and CPI supervisor student loan forgiveness program. The bill states that the program's purpose is to increase employment and retention of high-performing individuals who have a degree in social work and are employed as a CPI by making payments towards loans received for the support of study in social work programs. To be eligible, the bill states that the CPI or CPI supervisor must be employed by DCF or the sheriff's office for two years, have a high level of performance, and have graduated from an accredited social work program. The bill specifies that DCF may make loan payments up to \$3,000 per year for four years on behalf of eligible CPIs and CPI supervisors. The bill specifies additional qualifications and restrictions for the program. The bill also authorizes CBCs to provide loan forgiveness for case managers and their supervisors that they employ or who are employed by its subcontractors.

The bill amends s. 1009.25, F.S., to add CPIs and CPI supervisors to the list of persons exempted from payment of tuition and fees at a state college or state university. This change, along with other changes in the bill, will allow certain CPIs and CPI supervisors to obtain additional education in social work.

#### *Children's Legal Services*

The bill requires attorneys employed by DCF handling child welfare cases to receive the same pre-service training as CPIs and to shadow a CPI and a case manager for at least 8 hours each. These requirements only apply to attorneys hired on or after July 1, 2014.

### Institute For Child Welfare

The bill creates s. 1004.615, F.S., to establish the Florida Institute for Child Welfare and to set forth the purpose, duties, and responsibilities of the Institute. The Institute is defined as a consortium of the state's 14 public and private university schools of social work. The Institute is to advise the state on child welfare policy, improve the curriculum for social work degree programs, and develop on-the-job training for child protective investigators and child welfare case managers. It requires the Institute to provide a report annually by October 1st to the Governor, the President of the Senate, and the Speaker of the House of Representatives outlining its activities in the preceding fiscal year, significant research findings and results of other programs, and specific recommendations for improving child protection and child welfare services.

The bill requires the Institute or the Florida State University College of Social Work (until the Institute is operational) to convene a task force to make recommendations for improving the state's child welfare system. The bill specifies who will serve on the task force and requires the task force to establish workgroups on reducing paperwork and increasing retention of case managers and on the care of medically complex children within the child welfare system.

## B. SECTION DIRECTORY:

- Section 1:** Amends s. 20.19, F.S., related to the department of children and families;
- Section 2:** Amends s. 39.001, F.S., related to purposes and intent;
- Section 3:** Amends s. 39.01, F.S., related to definitions;
- Section 4:** Creates s. 39.2015, F.S., related to critical incident rapid response team;
- Section 5:** Creates s. 39.2022, F.S., related to public disclosure of child deaths reported to the abuse hotline;
- Section 6:** Amends s. 39.301, F.S., related to initiation of protective investigations;
- Section 7:** Amends s. 39.303, F.S., related to child protection teams;
- Section 8:** Creates s. 39.3068, F.S., related to reports of medical neglect;
- Section 9:** Amends s. 39.402, F.S., related to placement in a shelter;
- Section 10:** Amends s. 39.501, F.S., related to petition for dependency;
- Section 11:** Amends s. 39.604, F.S., related to Rilya Wilson Act;
- Section 12:** Amends s. 39.701, F.S., related to review hearings for children younger than 18 years of age;
- Section 13:** Amends s. 39.802, F.S., related to petition for termination of parental rights;
- Section 14:** Amends s. 383.402, F.S., related to child abuse death review;
- Section 15:** Amends s. 402.402, F.S., related to core competencies and specializations;
- Section 16:** Creates s. 402.402, F.S., related to child protective investigators;
- Section 17:** Creates s. 402.403, F.S., related to child protective investigators and supervisor tuition exemption;
- Section 18:** Creates s. 402.404, F.S., related to child protective investigator and supervisor loan forgiveness program;
- Section 19:** Amends s. 409.165, F.S., related to alternate care for children;
- Section 20:** Amends s. 409.967, F.S., related to managed care accountability;
- Section 21:** Creates an unnumbered section of law related to community-based child welfare;
- Section 22:** Creates s. 409.986, F.S., related to legislative findings;
- Section 23:** Creates s. 409.987, F.S., related to lead agency procurement;
- Section 24:** Creates s. 409.988, F.S., related to lead agency duties;
- Section 25:** Creates s. 409.990, F.S., related to funding for lead agencies;

- Section 26:** Creates s. 409.991, F.S., related to allocation of funds for community-based care lead agencies;
- Section 27:** Creates s. 409.992, F.S., related to lead agency expenditures;
- Section 28:** Creates s. 409.993, F.S., related to lead agencies and subcontractor liability;
- Section 29:** Amends s. 409.1675, F.S., related to community-based care lead agencies;
- Section 30:** Creates s. 409.996, F.S., related to duties of the department of children and families;
- Section 31:** Creates s. 409.997, F.S., related to child welfare results-oriented accountability system;
- Section 32:** Creates s. 409.998, F.S., related to community-based oversight by community alliances;
- Section 33:** Creates s. 827.10, F.S., related to unlawful abandonment of a child;
- Section 34:** Creates s. 409.986, F.S., related to Florida Institute for child welfare;
- Section 35:** Amends s. 1009.25, F.S., related to fee exemptions;
- Section 36:** Provides for an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an indeterminate negative fiscal impact on DCF.

### 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 increases qualifications required for CPIs, CPI supervisors, case managers and case manager supervisors. This may have a negative fiscal impact on DCF because it may require higher salaries and additional recruitment efforts to fill these positions. The bill requires CPIs and CPI supervisors to complete specialized training. This may have a negative fiscal impact on DCF if DCF has to create or contract for specialized training, and because of loss of CPI work time during training.

The bill requires DCF to post information regarding child deaths on the DCF website. Webpage creation and monitoring can be absorbed within existing resources.

The bill requires an assistant secretary for child welfare. This may require a new FTE.

The bill creates a loan forgiveness program for CPIs and CPI supervisors. The loan forgiveness program will have a negative fiscal impact on DCF for any CPI or CPI supervisor for whom DCF provides loan payments. The bill creates a tuition exemption program for CPIs and CPI supervisors. This may have a negative fiscal impact on universities because it requires universities to provide classes without compensation.

The bill creates critical incident rapid response teams. The creation of these teams may have a negative fiscal impact on DCF, since the bill authorizes DCF to compensate team members for mileage and per diem, as well as compensate team members' employers for salaries and benefits. The team members are also required to be trained, which will also have a fiscal impact on DCF.

The bill creates the Florida Institute for Child Welfare, which may have a negative fiscal impact on DCF and Florida State University.

The bill expands the scope of the SCADRC. This requires the SCARDC to review a greater number of cases, may result in longer or more frequent meetings. This may have a fiscal impact on DOH related to travel and per diem.

The bill creates a criminal offense for abandoning a child. The creation of a new criminal offense may result in a greater number of arrests, which may negatively impact the Department of Corrections.

### **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 adds specificity to DCF's and the judiciary's rulemaking authority regarding taking a child into custody, petitioning the court, and administrative reviews. The bill also provides DCF with rulemaking authority for licensure of CBCs, foster homes and other placement facilities operated by CBCs, substitute care providers contracted with CBCs, and for inspections for licensure.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



PCB HFS 14-03a

ORIGINAL

YEAR

1 A bill to be entitled  
2 An act relating to child protection and child welfare  
3 services; amending s. 20.19, F.S.; requiring the  
4 secretary of the department to appoint an Assistant  
5 Secretary for Child Welfare; providing requirements  
6 for such position; revising the duties, appointment,  
7 and membership of community alliances; amending s.  
8 39.001, F.S.; revising the purposes of ch. 39, F.S.;  
9 providing for the provision of services for medically  
10 complex children; conforming cross-references;  
11 amending s. 39.01, F.S.; defining the terms "impending  
12 danger", "medical neglect", "present danger", "safety  
13 plan", and "sibling"; revising the definition of  
14 "comprehensive assessment", "diligent efforts by a  
15 parent", "preventive services", and "reunification  
16 services"; deleting the term "district administrator";  
17 conforming cross-references; creating s. 39.2015,  
18 F.S.; requiring the Department of Children and  
19 Families to conduct specified investigations using  
20 critical incident rapid response teams; providing  
21 requirements for such investigations; providing  
22 requirements for the team; authorizing the team to  
23 access specified information; requiring the  
24 cooperation of specified agencies and organizations;  
25 providing for reimbursement of team members; requiring

PCB HFS 14-03a

ORIGINAL

YEAR

26 a report of the investigation; requiring the secretary  
27 to develop specified guidelines for investigations and  
28 provide training to team members; requiring the  
29 secretary to appoint an advisory committee; requiring  
30 a report from the advisory committee to the Secretary  
31 of Children and Families; requiring the secretary to  
32 submit such report to the Governor and the  
33 Legislature; amending s. 39.202, F.S.; authorizing  
34 access to specified records in the event of the death  
35 of a child which was reported to the department's  
36 child abuse hotline; creating s. 39.2022, F.S.;  
37 providing legislative intent; requiring the department  
38 to publish specified information on its website if the  
39 death of a child is reported to the child abuse  
40 hotline; prohibiting specified information from being  
41 released; providing requirements for the release of  
42 information in the child's records; prohibiting  
43 release of information that identifies the person who  
44 reports an incident to the child abuse hotline;  
45 amending 39.301, F.S.; authorizing the use of safety  
46 plans; providing requirements for use of safety plans;  
47 amending s. 39.303, F.S.; revising legislative intent;  
48 providing requirements for a child protection team  
49 that evaluates a report of medical neglect and  
50 assesses the health care needs of a medically complex

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

51 child; creating s. 39.3068, F.S.; providing  
 52 requirements for an investigation of medical neglect;  
 53 amending s. 39.402, F.S.; requiring the department to  
 54 make a reasonable effort to keep siblings together  
 55 when they are placed in out-of-home care under certain  
 56 circumstances; providing for sibling visitation under  
 57 certain circumstances; amending s. 39.501, F.S.;  
 58 requiring compliance with a safety plan to be  
 59 considered when deciding a petition for dependency;  
 60 amending s. 39.604, F.S.; requiring children age birth  
 61 to 3 to attend for five days a week a licensed early  
 62 education or child care program in which they are  
 63 enrolled; requiring the inclusion of attendance at a  
 64 licensed early education or child care program in a  
 65 child's safety plan; amending s. 39.701, F.S.;  
 66 requiring the court to consider contact among siblings  
 67 in judicial reviews; authorizing the court to remove  
 68 specified disabilities of nonage at judicial reviews;  
 69 amending s. 39.802, F.S.; requiring a petition for the  
 70 termination of parental rights to be signed under oath  
 71 stating the petitioner's good faith in filing the  
 72 petition; amending s. 383.402, F.S.; requiring the  
 73 review of all deaths of children which occur in the  
 74 state and are reported to the department's child abuse  
 75 hotline; revising the due date for a report; providing

PCB HFS 14-03a

ORIGINAL

YEAR

76 a directive to the Division of Law Revision and  
 77 Information; amending s. 402.40, F.S.; providing for a  
 78 specialization through the certification process;  
 79 creating s. 402.402, F.S.; providing definitions;  
 80 providing education requirements for child protection  
 81 and child welfare personnel; creating s. 402.403,  
 82 F.S.; establishing a tuition exemption program for  
 83 child protective investigators and supervisors;  
 84 providing eligibility requirements; creating s.  
 85 402.404, F.S.; establishing a student loan forgiveness  
 86 program for child protective investigators and  
 87 supervisors; providing eligibility requirements;  
 88 providing requirements for the program; authorizing  
 89 community-based care lead agencies to provide student  
 90 loan forgiveness to case managers employed a  
 91 community-based care lead agency or its subcontractor;  
 92 amending s. 409.165; enhancing provision of care to  
 93 medically complex children; amending s. 409.967;  
 94 revising standards for Medicaid managed care plan  
 95 accountability in regard to services for dependent  
 96 children; creating part V of ch. 409, F.S.; creating  
 97 s. 409.986, F.S.; providing legislative findings and  
 98 intent; providing child protection and child welfare  
 99 outcome goals; defining terms; creating s. 409.987,  
 100 F.S.; providing for the procurement of community-based

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

101 care lead agencies; providing requirements for  
 102 contracting as a lead agency; creating s. 409.988,  
 103 F.S.; providing the duties of a community-based care  
 104 lead agency; providing licensure requirements for a  
 105 lead agency; creating s. 409.998; providing for  
 106 community based care oversight by community alliances;  
 107 authorizing the establishment of direct-support  
 108 organizations; creating s. 409.990, F.S.; providing  
 109 general funding provisions; providing for a matching  
 110 grant program and the maximum amount of funds that may  
 111 be awarded; requiring the department to develop and  
 112 implement a community-based care risk pool initiative;  
 113 providing requirements for the risk pool;  
 114 transferring, renumbering, and amending s. 409.16713,  
 115 F.S.; transferring provisions relating to the  
 116 allocation of funds for community-based lead care  
 117 agencies; conforming a cross-reference; creating s.  
 118 409.992, F.S.; providing requirements for community-  
 119 based care lead agency expenditures; creating s.  
 120 409.993, F.S.; providing findings; providing for lead  
 121 agency and subcontractor liability; providing  
 122 limitations on damages; transferring, renumbering, and  
 123 amending s. 409.1675, F.S.; transferring provisions  
 124 relating to receivership from community-based  
 125 providers to lead agencies; conforming cross-

PCB HFS 14-03a

ORIGINAL

YEAR

126 references and terminology; creating s. 409.996, F.S.;

127 providing duties of the department relating to

128 community-based care and lead agencies; creating s.

129 409.997, F.S.; providing goals for the department and

130 specified entities; requiring the department to

131 maintain a comprehensive, results-oriented

132 accountability system; providing requirements;

133 requiring the department to establish a technical

134 advisory panel; providing requirements for the panel;

135 requiring the department to make the results of the

136 system public; requiring a report to the Governor and

137 the Legislature; creating s. 827.10, F.S.; defining

138 terms; establishing the criminal offense of unlawful

139 abandonment of a child; providing criminal penalties;

140 providing exceptions; creating s. 1004.615, F.S.;

141 establishing the Florida Institute for Child Welfare;

142 providing the purpose of the institute; requiring the

143 institute to contract and work with specified

144 entities; providing duties and responsibilities of the

145 institute; providing for the administration of the

146 institute; requiring a report to the Governor and the

147 Legislature by a specified date; providing for a task

148 force and report; requiring the task force to

149 establish workgroups on specified topics; amending s.

150 1009.25, F.S.; exempting tuition and fees for

PCB HFS 14-03a

ORIGINAL

YEAR

151 specified child protective investigators and child  
 152 protective investigation supervisors; amending s.  
 153 39.01, F.S.; conforming a cross-reference; providing  
 154 an effective date.

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

158 Section 1. Present subsections (3) through (5) of section  
 159 20.19, Florida Statutes, are redesignated as subsections (4)  
 160 through (6), respectively, a new subsection (3) is added to that  
 161 section, and subsections (2) and (4) of that section are  
 162 amended, to read:

163 20.19 Department of Children and Families.—There is  
 164 created a Department of Children and Families.

165 (2) SECRETARY OF CHILDREN AND FAMILIES; DEPUTY SECRETARY.—

166 (a) The head of the department is the Secretary of  
 167 Children and Families. The secretary is appointed by the  
 168 Governor, subject to confirmation by the Senate. The secretary  
 169 serves at the pleasure of the Governor.

170 (b) The secretary shall appoint a deputy secretary who  
 171 shall act in the absence of the secretary. The deputy secretary  
 172 is directly responsible to the secretary, performs such duties  
 173 as are assigned by the secretary, and serves at the pleasure of  
 174 the secretary.

175 (3) ASSISTANT SECRETARIES.—

PCB HFS 14-03a

ORIGINAL

YEAR

176           (a) Child Welfare.-  
 177           1. The secretary shall appoint an Assistant Secretary for  
 178 Child Welfare to lead the department in carrying out its duties  
 179 and responsibilities for child protection and child welfare. The  
 180 individual appointed to this position shall serve at the  
 181 pleasure of the secretary.

182           2. The assistant secretary must have at least 7 years of  
 183 experience working in organizations delivering child protective  
 184 or child welfare services.

185           (b) Substance Abuse and Mental Health.-

186           ~~(e)~~1. The secretary shall appoint an Assistant Secretary  
 187 for Substance Abuse and Mental Health. The assistant secretary  
 188 shall serve at the pleasure of the secretary and must have  
 189 expertise in both areas of responsibility.

190           2. The secretary shall appoint a Director for Substance  
 191 Abuse and Mental Health who has the requisite expertise and  
 192 experience to head the state's Substance Abuse and Mental Health  
 193 Program Office.

194           (5) ~~(4)~~ COMMUNITY ALLIANCES.-

195           (a) The department shall, in consultation with local  
 196 communities, establish a community alliance or similar group of  
 197 the stakeholders, community leaders, client representatives and  
 198 funders of human services in each county to provide a focal  
 199 point for community participation and governance of community-  
 200 based services. An alliance may cover more than one county when



PCB HFS 14-03a

ORIGINAL

YEAR

201 such arrangement is determined to provide for more effective  
 202 representation. The community alliance shall represent the  
 203 diversity of the community.

204 (b) The duties of the community alliance include, but are  
 205 not limited to:

206 1. Providing independent, community-focused, oversight of  
 207 child protection and child welfare services and the local system  
 208 of community-based care, as described in s. 409.998.

209 ~~2.1.~~ Joint planning for resource utilization in the  
 210 community, including resources appropriated to the department  
 211 and any funds that local funding sources choose to provide.

212 ~~3.2.~~ Needs assessment and establishment of community  
 213 priorities for service delivery.

214 ~~4.3.~~ Determining community outcome goals to supplement  
 215 state-required outcomes.

216 ~~5.4.~~ Serving as a catalyst for community resource  
 217 development.

218 ~~6.5.~~ Providing for community education and advocacy on  
 219 issues related to delivery of services.

220 ~~7.6.~~ Promoting prevention and early intervention services.

221 (c) The department shall ensure, to the greatest extent  
 222 possible, that the formation of each community alliance builds  
 223 on the strengths of the existing community human services  
 224 infrastructure.

225 (d) The initial membership of the community alliance in a

PCB HFS 14-03a

ORIGINAL

YEAR

226 county shall be composed of the following, who shall be  
 227 appointed by the entities they represent:

228 1. A representative from the department, who shall serve  
 229 as an ex officio-member.

230 ~~1.2.~~ A representative from county government.

231 ~~2.3.~~ A representative from the school district.

232 ~~3.4.~~ A representative from the county United Way.

233 ~~4.5.~~ A representative from the county sheriff's office,  
 234 unless the county sheriff's office is providing child protective  
 235 services, in which case the representative shall serve as an ex  
 236 officio member.

237 ~~5.6.~~ A representative from the circuit court corresponding  
 238 to the county.

239 ~~6.7.~~ A representative from the county children's board, if  
 240 one exists.

241 7. An advocate for persons receiving child protection and  
 242 child welfare services chosen by the secretary.

243 8. A representative from the community-based care lead  
 244 agency, who shall serve as an ex-officio member.

245 (e) At any time after the initial meeting of the community  
 246 alliance, the community alliance shall adopt bylaws and may  
 247 increase the membership of the alliance to include the state  
 248 attorney for the judicial circuit in which the community  
 249 alliance is located, or his or her designee, the public defender  
 250 for the judicial circuit in which the community alliance is

PCB HFS 14-03a

ORIGINAL

YEAR

251 located, or his or her designee, and other individuals and  
 252 organizations who represent funding organizations, are community  
 253 leaders, have knowledge of community-based service issues, or  
 254 otherwise represent perspectives that will enable them to  
 255 accomplish the duties listed in paragraph (b), if, in the  
 256 judgment of the alliance, such change is necessary to adequately  
 257 represent the diversity of the population within the community  
 258 alliance service circuits.

259 (f) A member of the community alliance, other than a  
 260 member specified in paragraph (d), may not receive payment for  
 261 contractual services from the department or a community-based  
 262 care lead agency.

263 (g) Members of the community alliances shall serve without  
 264 compensation, but are entitled to receive reimbursement for per  
 265 diem and travel expenses, as provided in s. 112.061. Payment may  
 266 also be authorized for preapproved child care expenses or lost  
 267 wages for members who are consumers of the department's services  
 268 and for preapproved child care expenses for other members who  
 269 demonstrate hardship.

270 (h) Members of a community alliance are subject to the  
 271 provisions of part III of chapter 112, the Code of Ethics for  
 272 Public Officers and Employees.

273 (i) Actions taken by a community alliance must be  
 274 consistent with department policy and state and federal laws,  
 275 rules, and regulations.

PCB HFS 14-03a

ORIGINAL

YEAR

276 (j) Alliance members shall annually submit a disclosure  
 277 statement of services interests to the department's inspector  
 278 general. Any member who has an interest in a matter under  
 279 consideration by the alliance must abstain from voting on that  
 280 matter.

281 (k) All alliance meetings are open to the public pursuant  
 282 to s. 286.011 and the public records provision of s. 119.07(1).

283 Section 2. Paragraphs (o) and (p) are added to subsection  
 284 (1) of section 39.001, Florida Statutes, and paragraphs (b),  
 285 (c), (g), and (k) of that subsection is amended, present  
 286 paragraphs (f) through (h) of subsection (3) of that section are  
 287 redesignated as paragraphs (g) through (i), respectively, and a  
 288 new paragraph (f) is added to that subsection, and present  
 289 subsections (4) through (11) of that section are redesignated as  
 290 subsections (5) through (12), respectively, a new subsection (4)  
 291 is added to that section, and paragraph (c) of present  
 292 subsection (8) and paragraph (b) of present subsection (10) of  
 293 that section are amended, to read:

294 39.001 Purposes and intent; personnel standards and  
 295 screening.-

296 (1) PURPOSES OF CHAPTER.-The purposes of this chapter are:

297 (b) To recognize that most families desire to be competent  
 298 caregivers and providers for their children and that children  
 299 achieve their greatest potential when families are able to  
 300 support and nurture the growth and development of their

PCB HFS 14-03a

ORIGINAL

YEAR

301 children. Therefore, the Legislature finds that policies and  
 302 procedures that provide for prevention and intervention through  
 303 the department's child protection system should be based on the  
 304 following principles:

305 1. The health and safety of the children served shall be  
 306 of paramount concern.

307 2. The prevention and intervention should engage families  
 308 in constructive, supportive, and nonadversarial relationships.

309 3. The prevention and intervention should intrude as  
 310 little as possible into the life of the family, be focused on  
 311 clearly defined objectives, and take the most parsimonious path  
 312 to remedy a family's problems, keeping the safety of the child  
 313 or children as the paramount concern.

314 4. The prevention and intervention should be based upon  
 315 outcome evaluation results that demonstrate success in  
 316 protecting children and supporting families.

317 (c) To provide a child protection system that reflects a  
 318 partnership between the department, other agencies, the courts,  
 319 law enforcement, service providers, and local communities.

320 (g) To ensure that the parent or legal custodian from  
 321 whose custody the child has been taken assists the department to  
 322 the fullest extent possible in locating relatives suitable to  
 323 serve as caregivers for the child and providing all medical and  
 324 educational information, or consent for access thereto, needed  
 325 to help the child.

PCB HFS 14-03a

ORIGINAL

YEAR

326 (k) To make every possible effort, ~~if when~~ two or more  
 327 children who are in the care or under the supervision of the  
 328 department are siblings, to place the siblings in the same home;  
 329 and in the event of permanent placement of the siblings, to  
 330 place them in the same adoptive home or, if the siblings are  
 331 separated while under the care or supervision of the department  
 332 or in a permanent placement, to keep them in contact with each  
 333 other.

334 (o) To preserve and strengthen families who are caring for  
 335 medically complex children.

336 (p) To provide protective investigations that are  
 337 conducted by trained persons in a complete and fair manner, are  
 338 promptly concluded, and consider the above purposes and general  
 339 protections provided in law.

340 (3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of  
 341 the Legislature that the children of this state be provided with  
 342 the following protections:

343 (f) Access to sufficient home and community-based support  
 344 for medically complex children to allow them to remain in the  
 345 least restrictive and most nurturing environment, which includes  
 346 sufficient home and community-based services in an amount and  
 347 scope comparable to those the child would receive in out-of-home  
 348 care placement.

349 (4) SERVICES FOR MEDICALLY COMPLEX CHILDREN.—The  
 350 department shall maintain a program of family-centered services

PCB HFS 14-03a

ORIGINAL

YEAR

351 and supports for medically complex children. The purpose of the  
 352 program is to prevent abuse and neglect of medically complex  
 353 children while enhancing the capacity of families to provide for  
 354 their children's needs. Program services must include outreach,  
 355 early intervention, and provision of home and community-based  
 356 services such as care coordination, respite care, and direct  
 357 home care. The department shall work with the Agency for Health  
 358 Care Administration and the Department of Health to provide  
 359 needed services.

360 (9)~~(8)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.—

361 (c) The office is authorized and directed to:

362 1. Oversee the preparation and implementation of the state  
 363 plan established under subsection (10)~~(9)~~ and revise and update  
 364 the state plan as necessary.

365 2. Provide for or make available continuing professional  
 366 education and training in the prevention of child abuse and  
 367 neglect.

368 3. Work to secure funding in the form of appropriations,  
 369 gifts, and grants from the state, the Federal Government, and  
 370 other public and private sources in order to ensure that  
 371 sufficient funds are available for the promotion of adoption,  
 372 support of adoptive families, and child abuse prevention  
 373 efforts.

374 4. Make recommendations pertaining to agreements or  
 375 contracts for the establishment and development of:

PCB HFS 14-03a

ORIGINAL

YEAR

376 a. Programs and services for the promotion of adoption,  
 377 support of adoptive families, and prevention of child abuse and  
 378 neglect.

379 b. Training programs for the prevention of child abuse and  
 380 neglect.

381 c. Multidisciplinary and discipline-specific training  
 382 programs for professionals with responsibilities affecting  
 383 children, young adults, and families.

384 d. Efforts to promote adoption.

385 e. Postadoptive services to support adoptive families.

386 5. Monitor, evaluate, and review the development and  
 387 quality of local and statewide services and programs for the  
 388 promotion of adoption, support of adoptive families, and  
 389 prevention of child abuse and neglect and shall publish and  
 390 distribute an annual report of its findings on or before January  
 391 1 of each year to the Governor, the Speaker of the House of  
 392 Representatives, the President of the Senate, the head of each  
 393 state agency affected by the report, and the appropriate  
 394 substantive committees of the Legislature. The report shall  
 395 include:

396 a. A summary of the activities of the office.

397 b. A summary of the adoption data collected and reported  
 398 to the federal Adoption and Foster Care Analysis and Reporting  
 399 System (AFCARS) and the federal Administration for Children and  
 400 Families.



PCB HFS 14-03a

ORIGINAL

YEAR

401 c. A summary of the child abuse prevention data collected  
 402 and reported to the National Child Abuse and Neglect Data System  
 403 (NCANDS) and the federal Administration for Children and  
 404 Families.

405 d. A summary detailing the timeliness of the adoption  
 406 process for children adopted from within the child welfare  
 407 system.

408 e. Recommendations, by state agency, for the further  
 409 development and improvement of services and programs for the  
 410 promotion of adoption, support of adoptive families, and  
 411 prevention of child abuse and neglect.

412 f. Budget requests, adoption promotion and support needs,  
 413 and child abuse prevention program needs by state agency.

414 6. Work with the direct-support organization established  
 415 under s. 39.0011 to receive financial assistance.

416 (11)~~(10)~~ FUNDING AND SUBSEQUENT PLANS.—

417 (b) The office and the other agencies and organizations  
 418 listed in paragraph (10) (a) ~~(9)~~~~(a)~~ shall readdress the state  
 419 plan and make necessary revisions every 5 years, at a minimum.  
 420 Such revisions shall be submitted to the Speaker of the House of  
 421 Representatives and the President of the Senate no later than  
 422 June 30 of each year divisible by 5. At least biennially, the  
 423 office shall review the state plan and make any necessary  
 424 revisions based on changing needs and program evaluation  
 425 results. An annual progress report shall be submitted to update

PCB HFS 14-03a

ORIGINAL

YEAR

426 the state plan in the years between the 5-year intervals. In  
 427 order to avoid duplication of effort, these required plans may  
 428 be made a part of or merged with other plans required by either  
 429 the state or Federal Government, so long as the portions of the  
 430 other state or Federal Government plan that constitute the state  
 431 plan for the promotion of adoption, support of adoptive  
 432 families, and prevention of child abuse, abandonment, and  
 433 neglect are clearly identified as such and are provided to the  
 434 Speaker of the House of Representatives and the President of the  
 435 Senate as required above.

436 Section 3. Present subsections (42) through (76) of section  
 437 39.01, Florida Statutes, are redesignated as subsections (43)  
 438 through (79), respectively, new subsections (33), (42), (67) and  
 439 (71) are added to that section, and subsections (10), (22), and  
 440 (33) are amended, to read:

441 39.01 Definitions.—When used in this chapter, unless the  
 442 context otherwise requires:

443 (10) "Caregiver" means the parent, legal custodian,  
 444 permanent guardian, adult household member, or other person  
 445 responsible for a child's welfare as defined in subsection (48)  
 446 ~~(47)~~.

447 (18) "Comprehensive assessment" or "assessment" means the  
 448 gathering of information for the evaluation of a child's and  
 449 caregiver's physical, psychiatric, psychological or mental  
 450 health, developmental delays or challenges, educational,

PCB HFS 14-03a

ORIGINAL

YEAR

451 vocational, and social condition and family environment as they  
 452 relate to the child's and caregiver's need for rehabilitative  
 453 and treatment services, including substance abuse treatment  
 454 services, mental health services, developmental services,  
 455 literacy services, medical services, family services, and other  
 456 specialized services, as appropriate.

457 (22) "Diligent efforts by a parent" means a course of  
 458 conduct which results in a meaningful change in the behavior of  
 459 a parent which a reduction reduces in risk to the child in the  
 460 child's home to the extent that ~~would allow~~ the child may ~~to~~ be  
 461 safely placed permanently back in the home as set forth in the  
 462 case plan.

463 ~~(27) "District administrator" means the chief operating~~  
 464 ~~officer of each service district of the department as defined in~~  
 465 ~~s. 20.19(5) and, where appropriate, includes any district~~  
 466 ~~administrator whose service district falls within the boundaries~~  
 467 ~~of a judicial circuit.~~

468 (33) "Impending danger" means a situation in which family  
 469 behaviors, attitudes, motives, emotions or situations pose a  
 470 threat which may not be currently active but can be anticipated  
 471 to become active and to have severe effects on a child at any  
 472 time.

473 (34)~~(33)~~ "Institutional child abuse or neglect" means  
 474 situations of known or suspected child abuse or neglect in which  
 475 the person allegedly perpetrating the child abuse or neglect is

PCB HFS 14-03a

ORIGINAL

YEAR

476 an employee of a private school, public or private day care  
 477 center, residential home, institution, facility, or agency or  
 478 any other person at such institution responsible for the child's  
 479 care as defined in subsection (48) ~~(47)~~.

480 (43) "Medical neglect" means the failure to provide or the  
 481 failure to allow needed care as recommended by a health care  
 482 practitioner for a physical injury, illness, medical condition,  
 483 or impairment, or the failure to seek timely and appropriate  
 484 medical care for a serious health problem that a reasonable  
 485 person would have recognized as requiring professional medical  
 486 attention. Medical neglect does not occur if the parent or legal  
 487 custodian of the child has made reasonable attempts to obtain  
 488 necessary health care services or the immediate health condition  
 489 giving rise to the allegation of neglect is a known and expected  
 490 complication of the child's diagnosis or treatment and:

491 (a) The recommended care offers limited net benefit to the  
 492 child and the morbidity or other side effects of the treatment  
 493 may be considered to be greater than the anticipated benefit; or

494 (b) The parent received conflicting medical recommendations  
 495 for treatment from multiple practitioners and did not follow all  
 496 recommendations.

497 (59) "Present danger" means a significant and clearly  
 498 observable family condition that is occurring at the current  
 499 moment and is already endangering or threatening to endanger the  
 500 child. Present danger threats are conspicuous and require an

PCB HFS 14-03a

ORIGINAL

YEAR

501 immediate protective action be taken to ensure the child's  
 502 safety.

503 (60)~~(59)~~ "Preventive services" means social services and  
 504 other supportive and rehabilitative services provided to the  
 505 parent or legal custodian of the child and to the child for the  
 506 purpose of averting the removal of the child from the home or  
 507 disruption of a family which will or could result in the  
 508 placement of a child in foster care. Social services and other  
 509 supportive and rehabilitative services shall promote the child's  
 510 developmental needs and need for physical, mental, and emotional  
 511 health and a safe, stable, living environment, shall promote  
 512 family autonomy, and shall strengthen family life, whenever  
 513 possible.

514 (66)~~(65)~~ "Reunification services" means social services  
 515 and other supportive and rehabilitative services provided to the  
 516 parent of the child, to the child, and, where appropriate, to  
 517 the relative placement, nonrelative placement, or foster parents  
 518 of the child, for the purpose of enabling a child who has been  
 519 placed in out-of-home care to safely return to his or her parent  
 520 at the earliest possible time. The health and safety of the  
 521 child shall be the paramount goal of social services and other  
 522 supportive and rehabilitative services. The services shall  
 523 promote the child's need for physical, developmental, mental,  
 524 and emotional health and a safe, stable, living environment,  
 525 shall promote family autonomy, and shall strengthen family life,

PCB HFS 14-03a

CODING: Words stricken are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

526 whenever possible.

527 (67) "Safety plan" means a plan created to control present  
 528 or impending danger using the least intrusive means appropriate  
 529 to protect a child when a parent, caregiver, or legal custodian  
 530 is unavailable, unwilling, or unable to do so.

531 (73) "Sibling" means:

532 (a) A child who shares a birth parent or legal parent with  
 533 one or more other children; or

534 (b) A child who has lived together in a family with one or  
 535 more other children whom he or she identifies as siblings.

536 Section 4. Section 39.2015, Florida Statutes, is created to  
 537 read:

538 39.2015 Critical incident rapid response team.—

539 (1) The department shall conduct an immediate  
 540 investigation of deaths or other serious incidents involving  
 541 children using critical incident rapid response teams as  
 542 provided in subsection (2). The purpose of such investigation is  
 543 to identify root causes and rapidly determine the need to change  
 544 policies and practices related to child protection and child  
 545 welfare.

546 (2) An immediate onsite investigation conducted by a  
 547 critical incident rapid response team is required for all child  
 548 deaths reported to the department if the child or another child  
 549 in his or her family was the subject of a verified report of  
 550 suspected abuse or neglect in the previous 12 months. The

PCB HFS 14-03a

ORIGINAL

YEAR

551 secretary may direct an immediate investigation for other cases  
 552 involving serious injury to a child.

553 (3) Each investigation shall be conducted by a team of at  
 554 least five professionals with expertise in child protection,  
 555 child welfare, and organizational management. The team may be  
 556 selected from employees of the department, community-based care  
 557 lead agencies, other provider organizations, faculty from the  
 558 institute consisting of public and private universities offering  
 559 degrees in social work established pursuant to s. 1004.615, or  
 560 any other persons with the required expertise. The majority of  
 561 the team must reside in judicial circuits outside the location  
 562 of the incident. The secretary shall appoint a team leader for  
 563 each group assigned to an investigation.

564 (4) An investigation shall be initiated as soon as  
 565 possible, but not later than 2 business days after the case is  
 566 reported to the department. A preliminary report on each case  
 567 shall be provided to the secretary no later than 30 days after  
 568 the investigation begins.

569 (5) Each member of the team is authorized to access all  
 570 information in the case file.

571 (6) All employees of the department or other state  
 572 agencies and all personnel from contracted provider  
 573 organizations are required to cooperate with the investigation  
 574 by participating in interviews and timely responding to any  
 575 requests for information.

PCB HFS 14-03a

ORIGINAL

YEAR

576 (7) The secretary shall develop cooperative agreements  
 577 with other entities and organizations as necessary to facilitate  
 578 the work of the team.

579 (8) The members of the team may be reimbursed by the  
 580 department for per diem, mileage, and other reasonable expenses  
 581 as provided in s. 112.061. The department may also reimburse the  
 582 team member's employer for the associated salary and benefits  
 583 during the time the team member is fulfilling the duties  
 584 required under this section.

585 (9) Upon completion of the investigation, a final report  
 586 shall be made available to community-based care lead agencies,  
 587 to other organizations involved in the child welfare system, and  
 588 to the public through the department's website.

589 (10) The secretary, in conjunction with the institute  
 590 established pursuant to s. 1004.615, shall develop guidelines  
 591 for investigations conducted by critical incident rapid response  
 592 teams and provide training to team members. Such guidelines must  
 593 direct the teams in the conduct of a root-cause analysis that  
 594 identifies, classifies, and attributes responsibility for both  
 595 direct and latent causes for the death or other incident,  
 596 including organizational factors, preconditions, and specific  
 597 acts or omissions resulting from either error or a violation of  
 598 procedures.

599 (11) The secretary shall appoint an advisory committee  
 600 made up of experts in child protection and child welfare to make



PCB HFS 14-03a

ORIGINAL

YEAR

601 an independent review of investigative reports from the critical  
 602 incident rapid response teams and make recommendations to  
 603 improve policies and practices related to child protection and  
 604 child welfare services. By October 1 of each year, the advisory  
 605 committee shall make an annual report to the secretary,  
 606 including findings and recommendations. The secretary shall  
 607 submit the report to the Governor, the President of the Senate,  
 608 and the Speaker of the House of Representatives.

609 Section 5. Section 39.2022, Florida Statutes, is created to  
 610 read:

611 39.2022 Public disclosure of child deaths reported to the  
 612 child abuse hotline.-

613 (1) It is the intent of the Legislature to provide prompt  
 614 disclosure of the basic facts of all deaths of children from  
 615 birth through 18 years of age which occur in this state and  
 616 which are reported to the department's child abuse hotline.  
 617 Disclosure shall be posted on the department's public website.  
 618 This section does not limit the public access to records under  
 619 any other provision of law.

620 (2) If a child death is reported to the child abuse  
 621 hotline, the department shall post on its website all of the  
 622 following:

623 (a) Age, race, and gender of the child.

624 (b) Date of the child's death.

625 (c) Allegations of the cause of death or the preliminary

PCB HFS 14-03a

ORIGINAL

YEAR

626 cause of death, until verified, at which time the verified cause  
 627 of death will also be posted.

628 (d) County and placement of the child at the time of the  
 629 incident leading to the child's death, if applicable.

630 (e) Name of the community-based care lead agency, case  
 631 management agency, or out-of-home licensing agency involved with  
 632 the child, family, or licensed caregiver, if applicable.

633 (f) Whether the child has been the subject of any prior  
 634 verified reports to the department's child abuse hotline.

635 Section 6. Paragraph (a) of subsection (9) of section  
 636 39.301, Florida Statutes, is amended to read:

637 39.301 Initiation of protective investigations.—

638 (9) (a) For each report received from the central abuse  
 639 hotline and accepted for investigation, the department or the  
 640 sheriff providing child protective investigative services under  
 641 s. 39.3065, shall perform the following child protective  
 642 investigation activities to determine child safety:

643 1. Conduct a review of all relevant, available information  
 644 specific to the child and family and alleged maltreatment;  
 645 family child welfare history; local, state, and federal criminal  
 646 records checks; and requests for law enforcement assistance  
 647 provided by the abuse hotline. Based on a review of available  
 648 information, including the allegations in the current report, a  
 649 determination shall be made as to whether immediate consultation  
 650 should occur with law enforcement, the child protection team, a

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

651 domestic violence shelter or advocate, or a substance abuse or  
 652 mental health professional. Such consultations should include  
 653 discussion as to whether a joint response is necessary and  
 654 feasible. A determination shall be made as to whether the person  
 655 making the report should be contacted before the face-to-face  
 656 interviews with the child and family members.

657 2. Conduct face-to-face interviews with the child; other  
 658 siblings, if any; and the parents, legal custodians, or  
 659 caregivers.

660 3. Assess the child's residence, including a determination  
 661 of the composition of the family and household, including the  
 662 name, address, date of birth, social security number, sex, and  
 663 race of each child named in the report; any siblings or other  
 664 children in the same household or in the care of the same  
 665 adults; the parents, legal custodians, or caregivers; and any  
 666 other adults in the same household.

667 4. Determine whether there is any indication that any  
 668 child in the family or household has been abused, abandoned, or  
 669 neglected; the nature and extent of present or prior injuries,  
 670 abuse, or neglect, and any evidence thereof; and a determination  
 671 as to the person or persons apparently responsible for the  
 672 abuse, abandonment, or neglect, including the name, address,  
 673 date of birth, social security number, sex, and race of each  
 674 such person.

675 5. Complete assessment of immediate child safety for each

PCB HFS 14-03a

ORIGINAL

YEAR

676 child based on available records, interviews, and observations  
 677 with all persons named in subparagraph 2. and appropriate  
 678 collateral contacts, which may include other professionals. The  
 679 department's child protection investigators are hereby  
 680 designated a criminal justice agency for the purpose of  
 681 accessing criminal justice information to be used for enforcing  
 682 this state's laws concerning the crimes of child abuse,  
 683 abandonment, and neglect. This information shall be used solely  
 684 for purposes supporting the detection, apprehension,  
 685 prosecution, pretrial release, posttrial release, or  
 686 rehabilitation of criminal offenders or persons accused of the  
 687 crimes of child abuse, abandonment, or neglect and may not be  
 688 further disseminated or used for any other purpose.

689 6. Document the present and impending dangers to each  
 690 child based on the identification of inadequate protective  
 691 capacity through utilization of a standardized safety assessment  
 692 instrument. If present or impending danger is identified, the  
 693 child protective investigator must implement a safety plan that  
 694 is specific, sufficient, feasible, and sustainable in response  
 695 to the realities of the present or impending danger. A safety  
 696 plan may be exclusively an in-home plan, an out of home plan, or  
 697 a combination of both. A safety plan may not rely on promissory  
 698 commitments by the parent, caregiver, or legal custodian who is  
 699 currently not able to protect the child or on services that will  
 700 not result in safety. A safety plan may not be implemented if

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

701 for any reason the parents, guardian, or legal custodian lacks  
 702 the capacity or ability to comply, or if a plan is not able to  
 703 be developed that is specific, sufficient, feasible, and  
 704 sustainable. The plan must include, at a minimum, the specific  
 705 tasks or services, their frequency and duration, the persons  
 706 responsible for each, and how implementation will be monitored,  
 707 as well as parental responsibility for financial support of the  
 708 child and for any services contained in the plan. The plan shall  
 709 provide that individuals from outside the home shall observe the  
 710 children for some period of time every day, which may be  
 711 fulfilled through methods including, but not limited to, daily  
 712 attendance at school or child care. A safety plan shall remain  
 713 in effect as long as a parent or the parents, guardian, or legal  
 714 custodian does not have the protective capacity necessary to  
 715 protect the child from identified danger threats. The plan must  
 716 be signed by all parties as an acknowledgement that they are in  
 717 agreement with the plan, though signing the plan does not  
 718 constitute an admission to any allegation of abuse, abandonment,  
 719 or neglect and does not constitute consent to a finding of  
 720 dependency or termination of parental rights. The child  
 721 protective investigator shall transfer the case to the community  
 722 based care lead agency for on-going safety management and on-  
 723 going services prior to closure of the investigation.  
 724 (a) If present danger is identified, the child protective  
 725 investigator shall create and implement the plan before leaving

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

726 the home or the location where there is present danger.

727 ~~(b) Upon completion of the immediate safety assessment, the~~  
 728 ~~department shall determine the additional activities necessary~~  
 729 ~~to assess impending dangers, if any, and close the~~  
 730 ~~investigation. If impending danger is identified, the child~~  
 731 ~~protective investigator shall create and implement a safety plan~~  
 732 ~~as soon as necessary to protect the safety of the child. He or~~  
 733 ~~she may modify the plan if he or she identifies additional~~  
 734 ~~impending danger.~~

735 (14) (a) If the department or its agent determines that a  
 736 child requires immediate or long-term protection through-  
 737 ~~1-~~ medical or other health care; or  
 738 ~~2-~~ homemaker care, day care, protective supervision, or  
 739 other services to stabilize the home environment, including  
 740 intensive family preservation services through the Intensive  
 741 Crisis Counseling Program,

742  
 743 such services shall first be offered for voluntary acceptance  
 744 unless:

745 1. There are high-risk factors that may impact the ability  
 746 of the parents or legal custodians to exercise judgment. Such  
 747 factors may include the parents' or legal custodians' young age  
 748 or history of substance abuse, mental illness, or domestic  
 749 violence; or

750 2. There is a high likelihood of lack of compliance with

PCB HFS 14-03a

ORIGINAL

YEAR

751 voluntary services, and such noncompliance would result in the  
 752 child being unsafe.

753 (b) The parents or legal custodians shall be informed of  
 754 the right to refuse services, as well as the responsibility of  
 755 the department to protect the child regardless of the acceptance  
 756 or refusal of services. If the services are refused, a  
 757 collateral contact shall include a relative, if the protective  
 758 investigator has knowledge of and the ability to contact a  
 759 relative. If the services are refused and the department deems  
 760 that the child's need for protection ~~se~~ requires services, the  
 761 department shall take the child into protective custody or  
 762 petition the court as provided in this chapter. At any time  
 763 after the commencement of a protective investigation, a relative  
 764 may submit in writing to the protective investigator or case  
 765 manager a request to receive notification of all proceedings and  
 766 hearings in accordance with s. 39.502. The request shall include  
 767 the relative's name, address, and phone number and the  
 768 relative's relationship to the child. The protective  
 769 investigator or case manager shall forward such request to the  
 770 attorney for the department. The failure to provide notice to  
 771 either a relative who requests it pursuant to this subsection or  
 772 to a relative who is providing out-of-home care for a child may  
 773 not result in any previous action of the court at any stage or  
 774 proceeding in dependency or termination of parental rights under  
 775 any part of this chapter being set aside, reversed, modified, or

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

776 in any way changed absent a finding by the court that a change  
777 is required in the child's best interests.

778 (c) The department, in consultation with the judiciary,  
779 shall adopt by rule:

780 1. Criteria that are factors requiring that the department  
781 take the child into custody, petition the court as provided in  
782 this chapter, or, if the child is not taken into custody or a  
783 petition is not filed with the court, conduct an administrative  
784 review. Such factors must include, but are not limited to,  
785 noncompliance with a safety plan or the case plan developed by  
786 the department, or its agent, and the family under this chapter,  
787 and prior abuse reports with findings that involve the child, a  
788 sibling, or caregiver.

789 2. Requirements that if after an administrative review the  
790 department determines not to take the child into custody or  
791 petition the court, the department shall document the reason for  
792 its decision in writing and include it in the investigative  
793 file. For all cases that were accepted by the local law  
794 enforcement agency for criminal investigation pursuant to  
795 subsection (2), the department must include in the file written  
796 documentation that the administrative review included input from  
797 law enforcement. In addition, for all cases that must be  
798 referred to child protection teams pursuant to s. 39.303(2) and  
799 (3), the file must include written documentation that the  
800 administrative review included the results of the team's



PCB HFS 14-03a

ORIGINAL

YEAR

801 ~~evaluation. Factors that must be included in the development of~~  
 802 ~~the rule include noncompliance with the case plan developed by~~  
 803 ~~the department, or its agent, and the family under this chapter~~  
 804 ~~and prior abuse reports with findings that involve the child or~~  
 805 ~~caregiver.~~

806 Section 7. Section 39.303, Florida Statutes, is amended to  
 807 read:

808 39.303 Child protection teams; services; eligible cases.—  
 809 The Children's Medical Services Program in the Department of  
 810 Health shall develop, maintain, and coordinate the services of  
 811 one or more multidisciplinary child protection teams in each of  
 812 the service districts of the Department of Children and Family  
 813 Services. Such teams may be composed of appropriate  
 814 representatives of school districts and appropriate health,  
 815 mental health, social service, legal service, and law  
 816 enforcement agencies. ~~The Legislature finds that optimal~~  
 817 ~~coordination of child protection teams and sexual abuse~~  
 818 ~~treatment programs requires collaboration between~~ The Department  
 819 of Health and the Department of Children and Families Family  
 820 ~~Services. The two departments~~ shall maintain an interagency  
 821 agreement that establishes protocols for oversight and  
 822 operations of child protection teams and sexual abuse treatment  
 823 programs. The State Surgeon General and the Deputy Secretary for  
 824 Children's Medical Services, in consultation with the Secretary  
 825 of Children and Family Services, shall maintain the

PCB HFS 14-03a

CODING: Words stricken are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

826 responsibility for the screening, employment, and, if necessary,  
 827 the termination of child protection team medical directors, at  
 828 headquarters and in the 15 districts. Child protection team  
 829 medical directors shall be responsible for oversight of the  
 830 teams in the districts.

831 (1) The Department of Health shall use ~~utilize~~ and convene  
 832 the teams to supplement the assessment and protective  
 833 supervision activities of the family safety and preservation  
 834 program of the Department of Children and Families ~~Family~~  
 835 ~~Services~~. ~~Nothing in This section does not shall be construed to~~  
 836 remove or reduce the duty and responsibility of any person to  
 837 report pursuant to this chapter all suspected or actual cases of  
 838 child abuse, abandonment, or neglect or sexual abuse of a child.  
 839 The role of the teams shall be to support activities of the  
 840 program and to provide services deemed by the teams to be  
 841 necessary and appropriate to abused, abandoned, and neglected  
 842 children upon referral. The specialized diagnostic assessment,  
 843 evaluation, coordination, consultation, and other supportive  
 844 services that a child protection team shall be capable of  
 845 providing include, but are not limited to, the following:

846 (a) Medical diagnosis and evaluation services, including  
 847 provision or interpretation of X rays and laboratory tests, and  
 848 related services, as needed, and documentation of related  
 849 findings ~~relative thereto~~.

850 (b) Telephone consultation services in emergencies and in

PCB HFS 14-03a

ORIGINAL

YEAR

851 other situations.

852 (c) Medical evaluation related to abuse, abandonment, or  
 853 neglect, as defined by policy or rule of the Department of  
 854 Health.

855 (d) Such psychological and psychiatric diagnosis and  
 856 evaluation services for the child or the child's parent or  
 857 parents, legal custodian or custodians, or other caregivers, or  
 858 any other individual involved in a child abuse, abandonment, or  
 859 neglect case, as the team may determine to be needed.

860 (e) Expert medical, psychological, and related  
 861 professional testimony in court cases.

862 (f) Case staffings to develop treatment plans for children  
 863 whose cases have been referred to the team. A child protection  
 864 team may provide consultation with respect to a child who is  
 865 alleged or is shown to be abused, abandoned, or neglected, which  
 866 consultation shall be provided at the request of a  
 867 representative of the family safety and preservation program or  
 868 at the request of any other professional involved with a child  
 869 or the child's parent or parents, legal custodian or custodians,  
 870 or other caregivers. In every such child protection team case  
 871 staffing, consultation, or staff activity involving a child, a  
 872 family safety and preservation program representative shall  
 873 attend and participate.

874 (g) Case service coordination and assistance, including  
 875 the location of services available from other public and private

PCB HFS 14-03a

ORIGINAL

YEAR

876 agencies in the community.

877 (h) Such training services for program and other employees  
 878 of the Department of Children and Families ~~Family Services~~,  
 879 employees of the Department of Health, and other medical  
 880 professionals as is deemed appropriate to enable them to develop  
 881 and maintain their professional skills and abilities in handling  
 882 child abuse, abandonment, and neglect cases.

883 (i) Educational and community awareness campaigns on child  
 884 abuse, abandonment, and neglect in an effort to enable citizens  
 885 more successfully to prevent, identify, and treat child abuse,  
 886 abandonment, and neglect in the community.

887 (j) Child protection team assessments that include, as  
 888 appropriate, medical evaluations, medical consultations, family  
 889 psychosocial interviews, specialized clinical interviews, or  
 890 forensic interviews.

891

892 All medical personnel participating on a child protection team  
 893 must successfully complete the required child protection team  
 894 training curriculum as set forth in protocols determined by the  
 895 Deputy Secretary for Children's Medical Services and the  
 896 Statewide Medical Director for Child Protection. A child  
 897 protection team that is evaluating a report of medical neglect  
 898 and assessing the health care needs of a medically complex child  
 899 shall involve a physician who has experience in treating  
 900 children with the same condition. Such physician may include

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

901 but not be limited to a child protection team participant, the  
 902 child's treating physician, a physician within the Children's  
 903 Medical Services network, or a specialist.

904 (2) The child abuse, abandonment, and neglect reports that  
 905 must be referred by the department to child protection teams of  
 906 the Department of Health for an assessment and other appropriate  
 907 available support services as set forth in subsection (1) must  
 908 include cases involving:

909 (a) Injuries to the head, bruises to the neck or head,  
 910 burns, or fractures in a child of any age.

911 (b) Bruises anywhere on a child 5 years of age or under.

912 (c) Any report alleging sexual abuse of a child.

913 (d) Any sexually transmitted disease in a prepubescent  
 914 child.

915 (e) Reported malnutrition of a child and failure of a  
 916 child to thrive.

917 (f) Reported medical neglect of a child.

918 (g) Any family in which one or more children have been  
 919 pronounced dead on arrival at a hospital or other health care  
 920 facility, or have been injured and later died, as a result of  
 921 suspected abuse, abandonment, or neglect, when any sibling or  
 922 other child remains in the home.

923 (h) Symptoms of serious emotional problems in a child when  
 924 emotional or other abuse, abandonment, or neglect is suspected.

925 (3) All abuse and neglect cases transmitted for

PCB HFS 14-03a

ORIGINAL

YEAR

926 investigation to a district by the hotline must be  
 927 simultaneously transmitted to the Department of Health child  
 928 protection team for review. For the purpose of determining  
 929 whether face-to-face medical evaluation by a child protection  
 930 team is necessary, all cases transmitted to the child protection  
 931 team which meet the criteria in subsection (2) must be timely  
 932 reviewed by:

933 (a) A physician licensed under chapter 458 or chapter 459  
 934 who holds board certification in pediatrics and is a member of a  
 935 child protection team;

936 (b) A physician licensed under chapter 458 or chapter 459  
 937 who holds board certification in a specialty other than  
 938 pediatrics, who may complete the review only when working under  
 939 the direction of a physician licensed under chapter 458 or  
 940 chapter 459 who holds board certification in pediatrics and is a  
 941 member of a child protection team;

942 (c) An advanced registered nurse practitioner licensed  
 943 under chapter 464 who has a specialty ~~speciality~~ in pediatrics  
 944 or family medicine and is a member of a child protection team;

945 (d) A physician assistant licensed under chapter 458 or  
 946 chapter 459, who may complete the review only when working under  
 947 the supervision of a physician licensed under chapter 458 or  
 948 chapter 459 who holds board certification in pediatrics and is a  
 949 member of a child protection team; or

950 (e) A registered nurse licensed under chapter 464, who may

PCB HFS 14-03a

ORIGINAL

YEAR

951 complete the review only when working under the direct  
 952 supervision of a physician licensed under chapter 458 or chapter  
 953 459 who holds certification in pediatrics and is a member of a  
 954 child protection team.

955 (4) A face-to-face medical evaluation by a child  
 956 protection team is not necessary when:

957 (a) The child was examined for the alleged abuse or  
 958 neglect by a physician who is not a member of the child  
 959 protection team, and a consultation between the child protection  
 960 team board-certified pediatrician, advanced registered nurse  
 961 practitioner, physician assistant working under the supervision  
 962 of a child protection team board-certified pediatrician, or  
 963 registered nurse working under the direct supervision of a child  
 964 protection team board-certified pediatrician, and the examining  
 965 physician concludes that a further medical evaluation is  
 966 unnecessary;

967 (b) The child protective investigator, with supervisory  
 968 approval, has determined, after conducting a child safety  
 969 assessment, that there are no indications of injuries as  
 970 described in paragraphs (2) (a) - (h) as reported; or

971 (c) The child protection team board-certified  
 972 pediatrician, as authorized in subsection (3), determines that a  
 973 medical evaluation is not required.

974

975 Notwithstanding paragraphs (a), (b), and (c), a child protection

PCB HFS 14-03a

ORIGINAL

YEAR

976 team pediatrician, as authorized in subsection (3), may  
 977 determine that a face-to-face medical evaluation is necessary.

978 (5) In all instances in which a child protection team is  
 979 providing certain services to abused, abandoned, or neglected  
 980 children, other offices and units of the Department of Health,  
 981 and offices and units of the Department of Children and Families  
 982 ~~Family Services~~, shall avoid duplicating the provision of those  
 983 services.

984 (6) The Department of Health child protection team quality  
 985 assurance program and the Department of Children and Families  
 986 ~~Family Services~~ Family Safety Program Office quality assurance  
 987 program shall collaborate to ensure referrals and responses to  
 988 child abuse, abandonment, and neglect reports are appropriate.  
 989 Each quality assurance program shall include a review of records  
 990 in which there are no findings of abuse, abandonment, or  
 991 neglect, and the findings of these reviews shall be included in  
 992 each department's quality assurance reports.

993 Section 8. Section 39.3068, Florida Statutes, is created to  
 994 read:

995 39.3068 Reports of Medical Neglect.-

996 (1) Upon receiving a report alleging medical neglect, the  
 997 department or sheriff's office shall assign the case to a child  
 998 protective investigator who has specialized training in  
 999 addressing medical neglect or working with medically complex  
 1000 children.



PCB HFS 14-03a

ORIGINAL

YEAR

1001       (2) The child protective investigator who has interacted  
 1002 with the child and the child's family shall promptly contact and  
 1003 provide information to the child protection team. The child  
 1004 protection team shall assist the child protective investigator  
 1005 in identifying immediate responses to address the medical needs  
 1006 of the child with the priority of maintaining the child in the  
 1007 home if the parents will be able to meet the needs of the child  
 1008 with additional services. The child protective investigator and  
 1009 the child protection team must use a family-centered approach to  
 1010 assess the capacity of the family to meet those needs. A  
 1011 family-centered approach is intended to increase independence on  
 1012 the part of the family, accessibility to programs and services  
 1013 within the community, and collaboration between families and  
 1014 their service providers. The ethnic, cultural, economic, racial,  
 1015 social, and religious diversity of families must be respected  
 1016 and considered in the development and provision of services.

1017       (3) The child shall be evaluated by the child protection  
 1018 team as soon as practicable. After receipt of the report from  
 1019 the child protection team, the department shall have a case  
 1020 staffing which shall be attended, at a minimum, by the child  
 1021 protective investigator, department legal staff, and  
 1022 representatives from the child protection team which evaluated  
 1023 the child, Children's Medical Services, the Agency for Health  
 1024 Care Administration, the community-based care lead agency, and  
 1025 any providers of services to the child. However, the Agency for

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

1026 Health Care Administration is not required to attend the  
 1027 staffing if the child is not Medicaid eligible. The staffing  
 1028 shall, at a minimum, consider which services are available given  
 1029 the family's eligibility for services, and effective in  
 1030 addressing issues leading to medical neglect allegations that  
 1031 would enable the child to safely remain at home. If such  
 1032 services are available and effective, they shall be provided.

1033 Section 9. Paragraph (h) of subsection (8) and subsection  
 1034 (9) of section 39.402, Florida Statutes, are amended to read:

1035 39.402 Placement in a shelter.-

1036 (8)

1037 (h) The order for placement of a child in shelter care  
 1038 must identify the parties present at the hearing and must  
 1039 contain written findings:

1040 1. That placement in shelter care is necessary based on  
 1041 the criteria in subsections (1) and (2).

1042 2. That placement in shelter care is in the best interest  
 1043 of the child.

1044 3. That continuation of the child in the home is contrary  
 1045 to the welfare of the child because the home situation presents  
 1046 a substantial and immediate danger to the child's physical,  
 1047 mental, or emotional health or safety which cannot be mitigated  
 1048 by the provision of preventive services.

1049 4. That based upon the allegations of the petition for  
 1050 placement in shelter care, there is probable cause to believe

PCB HFS 14-03a

ORIGINAL

YEAR

1051 that the child is dependent or that the court needs additional  
 1052 time, which may not exceed 72 hours, in which to obtain and  
 1053 review documents pertaining to the family in order to  
 1054 appropriately determine the risk to the child.

1055 5. That the department has made reasonable efforts to  
 1056 prevent or eliminate the need for removal of the child from the  
 1057 home. A finding of reasonable effort by the department to  
 1058 prevent or eliminate the need for removal may be made and the  
 1059 department is deemed to have made reasonable efforts to prevent  
 1060 or eliminate the need for removal if:

1061 a. The first contact of the department with the family  
 1062 occurs during an emergency;

1063 b. The appraisal of the home situation by the department  
 1064 indicates that the home situation presents a substantial and  
 1065 immediate danger to the child's physical, mental, or emotional  
 1066 health or safety which cannot be mitigated by the provision of  
 1067 preventive services;

1068 c. The child cannot safely remain at home, either because  
 1069 there are no preventive services that can ensure the health and  
 1070 safety of the child or because, even with appropriate and  
 1071 available services being provided, the health and safety of the  
 1072 child cannot be ensured; or

1073 d. The parent or legal custodian is alleged to have  
 1074 committed any of the acts listed as grounds for expedited  
 1075 termination of parental rights in s. 39.806(1)(f)-(i).

PCB HFS 14-03a

ORIGINAL

YEAR

1076        6. That the department has made reasonable efforts to keep  
 1077 siblings together if they are removed and placed in out-of-home  
 1078 care unless such a placement is not in the best interest of each  
 1079 child. The department shall report to the court its efforts to  
 1080 place siblings together unless the court finds that such  
 1081 placement is not in the best interest of a child or his or her  
 1082 sibling.

1083        ~~7.6.~~ That the court notified the parents, relatives that  
 1084 are providing out-of-home care for the child, or legal  
 1085 custodians of the time, date, and location of the next  
 1086 dependency hearing and of the importance of the active  
 1087 participation of the parents, relatives that are providing out-  
 1088 of-home care for the child, or legal custodians in all  
 1089 proceedings and hearings.

1090        ~~8.7.~~ That the court notified the parents or legal  
 1091 custodians of their right to counsel to represent them at the  
 1092 shelter hearing and at each subsequent hearing or proceeding,  
 1093 and the right of the parents to appointed counsel, pursuant to  
 1094 the procedures set forth in s. 39.013.

1095        ~~9.8.~~ That the court notified relatives who are providing  
 1096 out-of-home care for a child as a result of the shelter petition  
 1097 being granted that they have the right to attend all subsequent  
 1098 hearings, to submit reports to the court, and to speak to the  
 1099 court regarding the child, if they so desire.

1100        (9) (a) At any shelter hearing, the department shall

PCB HFS 14-03a

ORIGINAL

YEAR

1101 provide to the court a recommendation for scheduled contact  
 1102 between the child and parents, if appropriate. The court shall  
 1103 determine visitation rights absent a clear and convincing  
 1104 showing that visitation is not in the best interest of the  
 1105 child. Any order for visitation or other contact must conform to  
 1106 ~~the provisions of~~ s. 39.0139. If visitation is ordered but will  
 1107 not commence within 72 hours of the shelter hearing, the  
 1108 department shall provide justification to the court.

1109 (b) If siblings who are removed from the home cannot be  
 1110 placed together, the department shall provide to the court a  
 1111 recommendation for frequent visitation or other ongoing  
 1112 interaction between the siblings unless this interaction would  
 1113 be contrary to a sibling's safety or well-being. If visitation  
 1114 among siblings is ordered but will not commence within 72 hours  
 1115 of the shelter hearing, the department shall provide  
 1116 justification to the court for the delay.

1117 Section 10. Paragraph (d) of subsection (3) of section  
 1118 39.501, Florida Statutes, is amended to read:

1119 39.501 Petition for dependency.—

1120 (3)

1121 (d) The petitioner must state in the petition, if known,  
 1122 whether:

1123 1. A parent or legal custodian named in the petition has  
 1124 previously unsuccessfully participated in voluntary services  
 1125 offered by the department;

PCB HFS 14-03a

ORIGINAL

YEAR

1126           2. A parent or legal custodian named in the petition has  
 1127 participated in mediation and whether a mediation agreement  
 1128 exists;

1129           3. A parent or legal custodian has rejected the voluntary  
 1130 services offered by the department;

1131           4. A parent or legal custodian named in the petition has  
 1132 not fully complied with a safety plan; or

1133           5. ~~4.~~ The department has determined that voluntary services  
 1134 are not appropriate for the parent or legal custodian and the  
 1135 reasons for such determination.

1136  
 1137 If the petitioner is the department, it shall provide all safety  
 1138 assessments and safety plans involving the parent or legal  
 1139 custodian to the court.

1140           Section 11. Sections (3) and (4) of section 39.604,  
 1141 Florida Statutes, are amended to read:

1142           39.604 Rilya Wilson Act; short title; legislative intent;  
 1143 requirements; attendance and reporting responsibilities.-

1144           (1) SHORT TITLE.-This section may be cited as the "Rilya  
 1145 Wilson Act."

1146           (2) LEGISLATIVE INTENT.-The Legislature recognizes that  
 1147 children who are in the care of the state due to abuse, neglect,  
 1148 or abandonment are at increased risk of poor school performance  
 1149 and other behavioral and social problems. It is the intent of  
 1150 the Legislature that children who are currently in the care of

PCB HFS 14-03a

ORIGINAL

YEAR

1151 the state be provided with an age-appropriate education program  
 1152 to help ameliorate the negative consequences of abuse, neglect,  
 1153 or abandonment.

1154  
 1155

1156 (3) REQUIREMENTS.—A child who is age birth ~~3 years~~ to school  
 1157 entry, under court ordered protective supervision or in the  
 1158 custody of the Family Safety Program Office of the Department of  
 1159 Children and Families ~~Family Services~~ or a community-based lead  
 1160 agency, and enrolled in a licensed early education or child care  
 1161 program must attend ~~be enrolled to participate~~ in the program 5  
 1162 days a week. Notwithstanding ~~the requirements of s. 39.202~~, the  
 1163 Department of Children and Families ~~Family Services~~ must notify  
 1164 operators of the licensed early education or child care program,  
 1165 subject to the reporting requirements of this act, of the  
 1166 enrollment of any child age ~~3 years~~ birth to school entry, under  
 1167 court ordered protective supervision or in the custody of the  
 1168 Family Safety Program Office of the Department of Children and  
 1169 Families ~~Family Services~~ or a community-based lead agency. When  
 1170 a child is enrolled in an early education or child care program  
 1171 regulated by the department, the child's attendance in the  
 1172 program must be a required action in the safety plan or the case  
 1173 plan developed for the a child pursuant to this chapter ~~who is~~  
 1174 ~~enrolled in a licensed early education or child care program~~  
 1175 ~~must contain the participation in this program as a required~~

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

1176 ~~action~~. An exemption to participating in the licensed early  
 1177 education or child care program 5 days a week may be granted by  
 1178 the court.

1179 (4) ATTENDANCE AND REPORTING REQUIREMENTS.—

1180 (a) A child enrolled in a licensed early education or  
 1181 child care program who meets the requirements of subsection (3)  
 1182 may not be withdrawn from the program without the prior written  
 1183 approval of the Family Safety Program Office of the Department  
 1184 of Children and Family Services or the community-based lead  
 1185 agency.

1186 (b)1. If a child covered by this section is absent from  
 1187 the program on a day when he or she is supposed to be present,  
 1188 the person with whom the child resides must report the absence  
 1189 to the program by the end of the business day. If the person  
 1190 with whom the child resides, whether the parent or caregiver,  
 1191 fails to timely report the absence, the absence is considered to  
 1192 be unexcused. The program shall report any unexcused absence or  
 1193 seven consecutive excused absences of a child who is enrolled in  
 1194 the program and covered by this act to the local designated  
 1195 staff of the Family Safety Program Office of the Department of  
 1196 Children and Family Services or the community-based lead agency  
 1197 by the end of the business day following the unexcused absence  
 1198 or seventh consecutive excused absence.

1199 2. The department or community-based lead agency shall  
 1200 conduct a site visit to the residence of the child upon



PCB HFS 14-03a

ORIGINAL

YEAR

1201 receiving a report of two consecutive unexcused absences or  
 1202 seven consecutive excused absences.

1203 3. If the site visit results in a determination that the  
 1204 child is missing, the department or community-based lead agency  
 1205 shall report the child as missing to a law enforcement agency  
 1206 and proceed with the necessary actions to locate the child  
 1207 pursuant to procedures for locating missing children.

1208 4. If the site visit results in a determination that the  
 1209 child is not missing, the parent or caregiver shall be notified  
 1210 that failure to ensure that the child attends the licensed early  
 1211 education or child care program is a violation of the safety  
 1212 plan or case plan. If more than two site visits are conducted  
 1213 pursuant to this subsection, staff shall initiate action to  
 1214 notify the court of the parent or caregiver's noncompliance with  
 1215 the case plan.

1216 Section 12. Paragraph (c) of subsection (2) and  
 1217 paragraph (a) of subsection (3) of section 39.701, Florida  
 1218 Statutes, is amended to read:

1219 39.701 Judicial review.—

1220 (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF  
 1221 AGE.—

1222 (c) Review determinations.—The court and any citizen  
 1223 review panel shall take into consideration the information  
 1224 contained in the social services study and investigation and all  
 1225 medical, psychological, and educational records that support the

PCB HFS 14-03a

ORIGINAL

YEAR

1226 terms of the case plan; testimony by the social services agency,  
 1227 the parent, the foster parent or legal custodian, the guardian  
 1228 ad litem or surrogate parent for educational decisionmaking if  
 1229 one has been appointed for the child, and any other person  
 1230 deemed appropriate; and any relevant and material evidence  
 1231 submitted to the court, including written and oral reports to  
 1232 the extent of their probative value. These reports and evidence  
 1233 may be received by the court in its effort to determine the  
 1234 action to be taken with regard to the child and may be relied  
 1235 upon to the extent of their probative value, even though not  
 1236 competent in an adjudicatory hearing. In its deliberations, the  
 1237 court and any citizen review panel shall seek to determine:

1238 1. If the parent was advised of the right to receive  
 1239 assistance from any person or social service agency in the  
 1240 preparation of the case plan.

1241 2. If the parent has been advised of the right to have  
 1242 counsel present at the judicial review or citizen review  
 1243 hearings. If not so advised, the court or citizen review panel  
 1244 shall advise the parent of such right.

1245 3. If a guardian ad litem needs to be appointed for the  
 1246 child in a case in which a guardian ad litem has not previously  
 1247 been appointed or if there is a need to continue a guardian ad  
 1248 litem in a case in which a guardian ad litem has been appointed.

1249 4. Who holds the rights to make educational decisions for  
 1250 the child. If appropriate, the court may refer the child to the

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

1251 district school superintendent for appointment of a surrogate  
 1252 parent or may itself appoint a surrogate parent under the  
 1253 Individuals with Disabilities Education Act and s. 39.0016.

1254 5. The compliance or lack of compliance of all parties  
 1255 with applicable items of the case plan, including the parents'  
 1256 compliance with child support orders.

1257 6. The compliance or lack of compliance with a visitation  
 1258 contract between the parent and the social service agency for  
 1259 contact with the child, including the frequency, duration, and  
 1260 results of the parent-child visitation and the reason for any  
 1261 noncompliance.

1262 7. The frequency, kind, and duration of sibling contacts  
 1263 among siblings who have been separated during placement, as well  
 1264 as any efforts undertaken to reunite separated siblings if doing  
 1265 so is in the best interest of the child.

1266 8.7. The compliance or lack of compliance of the parent in  
 1267 meeting specified financial obligations pertaining to the care  
 1268 of the child, including the reason for failure to comply, if  
 1269 applicable such is the case.

1270 9.8. Whether the child is receiving safe and proper care  
 1271 according to s. 39.6012, including, but not limited to, the  
 1272 appropriateness of the child's current placement, including  
 1273 whether the child is in a setting that is as family-like and as  
 1274 close to the parent's home as possible, consistent with the  
 1275 child's best interests and special needs, and including

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

1276 maintaining stability in the child's educational placement, as  
 1277 documented by assurances from the community-based care provider  
 1278 that:

1279 a. The placement of the child takes into account the  
 1280 appropriateness of the current educational setting and the  
 1281 proximity to the school in which the child is enrolled at the  
 1282 time of placement.

1283 b. The community-based care agency has coordinated with  
 1284 appropriate local educational agencies to ensure that the child  
 1285 remains in the school in which the child is enrolled at the time  
 1286 of placement.

1287 9. A projected date likely for the child's return home or  
 1288 other permanent placement.

1289 ~~11.10.~~ When appropriate, the basis for the unwillingness  
 1290 or inability of the parent to become a party to a case plan. The  
 1291 court and the citizen review panel shall determine if the  
 1292 efforts of the social service agency to secure party  
 1293 participation in a case plan were sufficient.

1294 ~~12.11.~~ For a child who has reached 13 years of age but is  
 1295 not yet 18 years of age, the adequacy of the child's preparation  
 1296 for adulthood and independent living.

1297 ~~13.12.~~ If amendments to the case plan are required.  
 1298 Amendments to the case plan must be made under s. 39.6013.

1299 (3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—

1300 (a) In addition to the review and report required under

PCB HFS 14-03a

ORIGINAL

YEAR

1301 paragraphs (1)(a) and (2)(a), respectively, the court shall hold  
 1302 a judicial review hearing within 90 days after a child's 17th  
 1303 birthday. The court shall also issue an order, separate from the  
 1304 order on judicial review, that the disability of nonage of the  
 1305 child has been removed pursuant to ss. 743.044, 743.045, and  
 1306 743.046, and for any of these disabilities that the court finds  
 1307 is in the child's best interest to remove. The court ~~s. 743.045~~  
 1308 ~~and~~ shall continue to hold timely judicial review hearings. If  
 1309 necessary, the court may review the status of the child more  
 1310 frequently during the year before the child's 18th birthday. At  
 1311 each review hearing held under this subsection, in addition to  
 1312 any information or report provided to the court by the foster  
 1313 parent, legal custodian, or guardian ad litem, the child shall  
 1314 be given the opportunity to address the court with any  
 1315 information relevant to the child's best interest, particularly  
 1316 in relation to independent living transition services. The  
 1317 department shall include in the social study report for judicial  
 1318 review written verification that the child has:

1319 1. A current Medicaid card and all necessary information  
 1320 concerning the Medicaid program sufficient to prepare the child  
 1321 to apply for coverage upon reaching the age of 18, if such  
 1322 application is appropriate.

1323 2. A certified copy of the child's birth certificate and,  
 1324 if the child does not have a valid driver license, a Florida  
 1325 identification card issued under s. 322.051.

PCB HFS 14-03a

CODING: Words stricken are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

1326           3. A social security card and information relating to  
 1327 social security insurance benefits if the child is eligible for  
 1328 those benefits. If the child has received such benefits and they  
 1329 are being held in trust for the child, a full accounting of  
 1330 these funds must be provided and the child must be informed as  
 1331 to how to access those funds.

1332           4. All relevant information related to the Road-to-  
 1333 Independence Program, including, but not limited to, eligibility  
 1334 requirements, information on participation, and assistance in  
 1335 gaining admission to the program. If the child is eligible for  
 1336 the Road-to-Independence Program, he or she must be advised that  
 1337 he or she may continue to reside with the licensed family home  
 1338 or group care provider with whom the child was residing at the  
 1339 time the child attained his or her 18th birthday, in another  
 1340 licensed family home, or with a group care provider arranged by  
 1341 the department.

1342           5. An open bank account or the identification necessary to  
 1343 open a bank account and to acquire essential banking and  
 1344 budgeting skills.

1345           6. Information on public assistance and how to apply for  
 1346 public assistance.

1347           7. A clear understanding of where he or she will be living  
 1348 on his or her 18th birthday, how living expenses will be paid,  
 1349 and the educational program or school in which he or she will be  
 1350 enrolled.

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

1351 8. Information related to the ability of the child to  
 1352 remain in care until he or she reaches 21 years of age under s.  
 1353 39.013.

1354 9. A letter providing the dates that the child is under  
 1355 the jurisdiction of the court.

1356 10. A letter stating that the child is in compliance with  
 1357 financial aid documentation requirements.

1358 11. The child's educational records.

1359 12. The child's entire health and mental health records.

1360 13. The process for accessing his or her case file.

1361 14. A statement encouraging the child to attend all  
 1362 judicial review hearings occurring after the child's 17th  
 1363 birthday.

1364 Section 13. Subsection (2) of section 39.802, Florida  
 1365 Statutes, is amended to read:

1366 39.802 Petition for termination of parental rights;  
 1367 filing; elements.-

1368 (2) The form of the petition is governed by the Florida  
 1369 Rules of Juvenile Procedure. The petition must be in writing and  
 1370 signed by the petitioner ~~or, if the department is the~~  
 1371 ~~petitioner, by an employee of the department,~~ under oath stating  
 1372 the petitioner's good faith in filing the petition.

1373 Section 14. Subsection (1) and paragraph (c) of subsection  
 1374 (3) of section 383.402, Florida Statutes, are amended to read:

1375 383.402 Child abuse death review; State Child Abuse Death

PCB HFS 14-03a

ORIGINAL

YEAR

1376 Review Committee; local child abuse death review committees.-  
 1377 (1) It is the intent of the Legislature to establish a  
 1378 statewide multidisciplinary, multiagency child abuse death  
 1379 assessment and prevention system that consists of state and  
 1380 local review committees. The state and local review committees  
 1381 shall review the facts and circumstances of all deaths of  
 1382 children from birth through age 18 which occur in this state and  
 1383 are reported to the child abuse hotline of the Department of  
 1384 Children and Families ~~as the result of verified child abuse or~~  
 1385 ~~neglect~~. The purpose of the review shall be to:  
 1386 (a) Achieve a greater understanding of the causes and  
 1387 contributing factors of deaths resulting from child abuse.  
 1388 (b) Whenever possible, develop a communitywide approach to  
 1389 address such cases and contributing factors.  
 1390 (c) Identify any gaps, deficiencies, or problems in the  
 1391 delivery of services to children and their families by public  
 1392 and private agencies which may be related to deaths that are the  
 1393 result of child abuse.  
 1394 (d) Make and implement recommendations for changes in law,  
 1395 rules, and policies, as well as develop practice standards that  
 1396 support the safe and healthy development of children and reduce  
 1397 preventable child abuse deaths.  
 1398 (3) The State Child Abuse Death Review Committee shall:  
 1399 (c) Prepare an annual statistical report on the incidence  
 1400 and causes of death resulting from reported child abuse in the

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



PCB HFS 14-03a

ORIGINAL

YEAR

1401 state during the prior calendar year. The state committee shall  
 1402 submit a copy of the report by October 1 ~~December 31~~ of each  
 1403 year to the Governor, the President of the Senate, and the  
 1404 Speaker of the House of Representatives. The report must include  
 1405 recommendations for state and local action, including specific  
 1406 policy, procedural, regulatory, or statutory changes, and any  
 1407 other recommended preventive action.

1408 Section 15. Subsection (5) of section 402.40, Florida  
 1409 Statutes, is amended to read:

1410 402.40 Child welfare training and certification.—

1411 (5) CORE COMPETENCIES AND SPECIALIZATIONS.—

1412 (a) The Department of Children and Families ~~Family~~  
 1413 ~~Services~~ shall approve the core competencies and related  
 1414 preservice curricula that ensures that each person delivering  
 1415 child welfare services obtains the knowledge, skills, and  
 1416 abilities to competently carry out his or her work  
 1417 responsibilities.

1418 (b) The identification of these core competencies and  
 1419 development of preservice curricula shall be a collaborative  
 1420 effort that includes professionals who have expertise in child  
 1421 welfare services, department-approved third-party credentialing  
 1422 entities, and providers that will be affected by the curriculum,  
 1423 including, but not limited to, representatives from the  
 1424 community-based care lead agencies, sheriffs' offices conducting  
 1425 child protection investigations, and child welfare legal

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

1426 services providers.

1427 (c) Community-based care agencies, sheriffs' offices, and  
 1428 the department may contract for the delivery of preservice and  
 1429 any additional training for persons delivering child welfare  
 1430 services if the curriculum satisfies the department-approved  
 1431 core competencies.

1432 (d) The department may also approve certifications  
 1433 involving specializations in serving specific populations or in  
 1434 skills relevant to child protection to be awarded by a third-  
 1435 party credentialing entity approved pursuant to 2. 402.40(3).

1436 (e) (~~d~~) Department-approved credentialing entities shall,  
 1437 for a period of at least 12 months after implementation of the  
 1438 third-party child welfare certification programs, grant  
 1439 reciprocity and award a child welfare certification to  
 1440 individuals who hold current department-issued child welfare  
 1441 certification in good standing, at no cost to the department or  
 1442 the certificateholder.

1443 Section 16. Section 402.402, Florida Statutes, is created  
 1444 to read:

1445 402.402 Child protective investigators; child protection  
 1446 investigation supervisors; case managers; case manager  
 1447 supervisors; department attorneys handling child welfare cases.-

1448 (1) As used in this section, the term:

1449 (a) "Human services related field" means social work,  
 1450 psychology, sociology, counseling, special education, human

PCB HFS 14-03a

ORIGINAL

YEAR

1451 development, child development, family development, marriage and  
 1452 family therapy, and nursing.

1453 (b) "Relevant coursework" means coursework that imparts  
 1454 knowledge and leads to the development of skills with direct  
 1455 application to the child protection and child welfare field from  
 1456 a college or university social work program accredited by the  
 1457 Council on Social Work Education.

1458 (c) "Child protection and child welfare personnel" includes  
 1459 child protective investigators and child protective investigator  
 1460 supervisors employed by the department or a sheriff's office and  
 1461 case managers and case manager supervisors employed by a  
 1462 community-based care lead agency or a subcontractor of a  
 1463 community-based care lead agency.

1464 (2) CHILD PROTECTION AND CHILD WELFARE PERSONNEL  
 1465 REQUIREMENTS.—

1466 (a) Child protection and child welfare personnel hired on  
 1467 or after July 1, 2014, must have one of the following:

1468 1. A bachelor's or a master's degree in social work from a  
 1469 college or university social work program accredited by the  
 1470 Council on Social Work Education. The individual shall have had  
 1471 at least 12 credit hours of relevant coursework.

1472 2. A bachelor's degree or a master's degree in a human-  
 1473 services related field and at least 12 credit hours of relevant  
 1474 coursework.

1475 3. A bachelor's degree or a master's degree in a human-

PCB HFS 14-03a

ORIGINAL

YEAR

1476 services related field. Within three years of hire, such  
 1477 individuals shall complete 12 credit hours of relevant  
 1478 coursework. The sequence of courses may be designed to provide  
 1479 in-depth knowledge in serving a specific subpopulation or  
 1480 developing a specific set of skills relevant to child  
 1481 protection. The department shall consult with the institute  
 1482 authorized in s. 1004.615 to identify courses available through  
 1483 the consortium of public and private universities in the state  
 1484 offering degrees in social work that fulfills this requirement.  
 1485 (b) All child protective investigators and child  
 1486 protective investigation supervisors employed by the department  
 1487 or a sheriff's office shall complete specialized training either  
 1488 focused in serving a specific population, including but not  
 1489 limited to medically fragile children, sexually exploited  
 1490 children, children under the age of three, or families with  
 1491 issues of domestic violence, mental illness, or substance abuse,  
 1492 or in performing certain aspects of child protection practice,  
 1493 such as investigation techniques and analysis of family  
 1494 dynamics. The specialized training may be used to fulfill  
 1495 continuing education requirements pursuant to s. 402.40(2)(e).  
 1496 Individuals hired before July 1, 2014, shall complete the  
 1497 specialized training by June 30, 2016, and those hired on or  
 1498 after July 1, 2014, shall complete the specialized training  
 1499 within two years of hire. An individual may receive specialized  
 1500 training in multiple areas.

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

1501 (2) ATTORNEYS EMPLOYED BY THE DEPARTMENT HANDLING CHILD  
 1502 WELFARE CASES.—

1503 (a) Attorneys employed by the department handling child  
 1504 welfare cases hired on or after July 1, 2014, shall:

1505 1. Receive, at a minimum, the same core pre-service  
 1506 training provided to child protective investigators.

1507 2. Within 60 days of hiring, shadow an experienced child  
 1508 protective investigator and an experienced case manager for at  
 1509 least 8 hours each.

1510 Section 17. Section 402.403, Florida Statutes, is created  
 1511 to read:

1512 402.403 Child Protective Investigator and Supervisor  
 1513 Tuition Exemption Program.—

1514 (1) There is established within the department the Child  
 1515 Protective Investigator and Supervisor Tuition Exemption Program  
 1516 for the purpose of recruiting and retaining high-performing  
 1517 individuals who are employed as child protective investigators  
 1518 or child protective investigation supervisors with the  
 1519 department or a sheriff's office and who do not have a  
 1520 bachelor's degree or master's degree in social work. The  
 1521 department or sheriff's office may approve the exemption from  
 1522 tuition and fees for a state university for an employee who:

1523 (a) Has been employed as a child protective investigator  
 1524 or child protective investigation supervisor by the department  
 1525 or sheriff's office for at least two years and who is determined

PCB HFS 14-03a

ORIGINAL

YEAR

1526 by the department or sheriff's office to have a high level of  
 1527 performance; and

1528 (b) Is accepted in an upper-division undergraduate or  
 1529 graduate level college or university social work program  
 1530 accredited by the Council on Social Work Education which leads  
 1531 to either a bachelor's degree or a master's degree in social  
 1532 work, or is completing 12 credit hours of relevant coursework as  
 1533 required under s. 402.403(2)(a)3.

1534 Section 18. Section 402.404, Florida Statutes, is created  
 1535 to read:

1536 402.404 Child Protective Investigator and Supervisor  
 1537 Student Loan Forgiveness Program.—

1538 (1) There is established within the department the Florida  
 1539 Child Protective Investigator and Supervisor Student Loan  
 1540 Forgiveness Program. The purpose of the program is to increase  
 1541 employment and retention of high-performing individuals who have  
 1542 either a bachelor's degree or a master's degree in social work  
 1543 as child protective investigators or child protective  
 1544 investigation supervisors with the department or sheriff's  
 1545 office by making payments toward loans received by students from  
 1546 federal or state programs or commercial lending institutions for  
 1547 the support of prior postsecondary study in accredited social  
 1548 work programs.

1549 (2) In order to be eligible for the program, a candidate  
 1550 must be employed as a child protective investigator or child

PCB HFS 14-03a

ORIGINAL

YEAR

1551 protective investigation supervisor by the department or a  
 1552 sheriff's office for at least two years, must be determined by  
 1553 the department or sheriff's office to have a high level of  
 1554 performance, and must have graduated from an accredited social  
 1555 work program with either a bachelor's degree or a master's  
 1556 degree in social work.

1557 (3) Only loans to pay the costs of tuition, books, fees,  
 1558 and living expenses shall be covered.

1559 (4) The department may make loan payments of up to \$3,000  
 1560 each year for up to 4 years on behalf of selected graduates of  
 1561 an accredited social work program from the funds appropriated  
 1562 for this purpose. All payments are contingent upon continued  
 1563 proof of employment as a child protective investigator or a  
 1564 child protective investigation supervisor with the department or  
 1565 sheriff's office and made directly to the holder of the loan.

1566 (5) A student who receives a tuition exemption pursuant to  
 1567 s. 402.403 is not eligible to participate in the Child  
 1568 Protective Investigator Student Loan Forgiveness Program.

1569 (6) A community based-care lead agency may provide loan  
 1570 forgiveness for case managers and case manager supervisors that  
 1571 it employs or who are employed by its subcontractors.

1572 Section 19. Section 409.165, Florida Statutes, is amended  
 1573 to read:

1574 409.165 Alternate care for children.—

1575 (1) Within funds appropriated, the department shall

PCB HFS 14-03a

ORIGINAL

YEAR

1576 establish and supervise a program of emergency shelters, runaway  
 1577 shelters, foster homes, group homes, agency-operated group  
 1578 treatment homes, nonpsychiatric residential group care  
 1579 facilities, psychiatric residential treatment facilities, and  
 1580 other appropriate facilities to provide shelter and care for  
 1581 dependent children who must be placed away from their families.  
 1582 The department, in accordance with outcome ~~established~~ goals  
 1583 established in s. 409.986, shall contract for the provision of  
 1584 such shelter and care by counties, municipalities, nonprofit  
 1585 corporations, and other entities capable of providing needed  
 1586 services if:

1587 (a) The services so provided comply with all department  
 1588 standards, policies, and procedures ~~are available~~;

1589 (b) The services can be ~~so~~ provided at a reasonable cost  
 1590 ~~are more cost effective than those provided by the department~~;  
 1591 and

1592 (c) Unless otherwise provided by law, such providers of  
 1593 shelter and care are licensed by the department.

1594  
 1595 ~~It is the legislative intent that the~~

1596 (2) Funds appropriated for the alternate care of children  
 1597 as described in this section may be used to meet the needs of  
 1598 children in their own homes or those of relatives if the  
 1599 children can be safely served in such settings ~~their own homes,~~  
 1600 ~~or the homes of relatives~~, and the expenditure of funds in such

PCB HFS 14-03a

CODING: Words stricken are deletions; words underlined are additions.



PCB HFS 14-03a

ORIGINAL

YEAR

1601 manner is equal to or less than the cost of out-of-home  
 1602 placement calculated by the department to be an eventual cost  
 1603 savings over placement of children.

1604 (3)(2) The department shall ~~may~~ cooperate with all child  
 1605 service institutions or agencies within the state which meet the  
 1606 department's standards in order to maintain a comprehensive,  
 1607 coordinated, and inclusive system for promoting and protecting  
 1608 the well-being of children, consistent with the goals  
 1609 established in s. 409.986 rules for proper care and supervision  
 1610 prescribed by the department for the well-being of children.

1611 (a) The department shall work with the Department of  
 1612 Health in the development, utilization, and monitoring of  
 1613 medical foster homes for medically complex children.

1614 (b) The department shall work with the Agency for Health  
 1615 Care Administration and the Agency for Persons with Disabilities  
 1616 to provide such home and community-based services as may be  
 1617 necessary to maintain medically complex children in the least  
 1618 restrictive and most nurturing environment.

1619 (4)(3) With the written consent of parents, custodians, or  
 1620 guardians, or in accordance with those provisions in chapter 39  
 1621 that relate to dependent children, the department, under rules  
 1622 properly adopted, may place a child:

1623 (a) With a relative;

1624 (b) With an adult nonrelative approved by the court for  
 1625 long-term custody;

PCB HFS 14-03a

ORIGINAL

YEAR

1626 (c) With a person who is considering the adoption of a  
 1627 child in the manner provided for by law;  
 1628 (d) When limited, except as provided in paragraph (b), to  
 1629 temporary emergency situations, with a responsible adult  
 1630 approved by the court;  
 1631 (e) With a person or family approved by the department to  
 1632 serve as a medical foster home;  
 1633 (f)~~(e)~~ With a person or agency licensed by the department  
 1634 in accordance with s. 409.175; or  
 1635 (g)~~(f)~~ In a subsidized independent living situation,  
 1636 subject to the provisions of s. 409.1451(4)(c),  
 1637  
 1638 under such conditions as are determined to be for the best  
 1639 interests or the welfare of the child. Any child placed in an  
 1640 institution or in a family home by the department or its agency  
 1641 may be removed by the department or its agency, and such other  
 1642 disposition may be made as is for the best interest of the  
 1643 child, including transfer of the child to another institution,  
 1644 another home, or the home of the child. Expenditure of funds  
 1645 appropriated for out-of-home care can be used to meet the needs  
 1646 of a child in the child's own home or the home of a relative if  
 1647 the child can be safely served in the child's own home or that  
 1648 of a relative if placement can be avoided by the expenditure of  
 1649 such funds, and if the expenditure of such funds in this manner  
 1650 is equal to or less than the cost of out-of-home placement

PCB HFS 14-03a

ORIGINAL

YEAR

1651 ~~ealeculated by the department to be a potential cost savings.~~

1652 Section 20. Paragraph (c) of subsection (2) of section  
 1653 409.967, Florida Statutes, is amended to read:

1654 409.967 Managed care plan accountability.-

1655 (2) The agency shall establish such contract requirements  
 1656 as are necessary for the operation of the statewide managed care  
 1657 program. In addition to any other provisions the agency may deem  
 1658 necessary, the contract must require:

1659 (c) Access.-

1660 1. The agency shall establish specific standards for the  
 1661 number, type, and regional distribution of providers in managed  
 1662 care plan networks to ensure access to care for both adults and  
 1663 children. Each plan must maintain a regionwide network of  
 1664 providers in sufficient numbers to meet the access standards for  
 1665 specific medical services for all recipients enrolled in the  
 1666 plan. The exclusive use of mail-order pharmacies may not be  
 1667 sufficient to meet network access standards. Consistent with the  
 1668 standards established by the agency, provider networks may  
 1669 include providers located outside the region. A plan may  
 1670 contract with a new hospital facility before the date the  
 1671 hospital becomes operational if the hospital has commenced  
 1672 construction, will be licensed and operational by January 1,  
 1673 2013, and a final order has issued in any civil or  
 1674 administrative challenge. Each plan shall establish and maintain  
 1675 an accurate and complete electronic database of contracted

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

1676 providers, including information about licensure or  
 1677 registration, locations and hours of operation, specialty  
 1678 credentials and other certifications, specific performance  
 1679 indicators, and such other information as the agency deems  
 1680 necessary. The database must be available online to both the  
 1681 agency and the public and have the capability to compare the  
 1682 availability of providers to network adequacy standards and to  
 1683 accept and display feedback from each provider's patients. Each  
 1684 plan shall submit quarterly reports to the agency identifying  
 1685 the number of enrollees assigned to each primary care provider.

1686         2. Each managed care plan must publish any prescribed drug  
 1687 formulary or preferred drug list on the plan's website in a  
 1688 manner that is accessible to and searchable by enrollees and  
 1689 providers. The plan must update the list within 24 hours after  
 1690 making a change. Each plan must ensure that the prior  
 1691 authorization process for prescribed drugs is readily accessible  
 1692 to health care providers, including posting appropriate contact  
 1693 information on its website and providing timely responses to  
 1694 providers. For Medicaid recipients diagnosed with hemophilia who  
 1695 have been prescribed anti-hemophilic-factor replacement  
 1696 products, the agency shall provide for those products and  
 1697 hemophilia overlay services through the agency's hemophilia  
 1698 disease management program.

1699         3. Managed care plans, and their fiscal agents or  
 1700 intermediaries, must accept prior authorization requests for any

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

1701 service electronically.

1702 4. Managed care plans serving children in the care and  
 1703 custody of the Department of Children and Families must maintain  
 1704 complete medical, dental, and behavioral health information and  
 1705 provide such information to the department for inclusion in the  
 1706 state's child welfare data system. Using such documentation, the  
 1707 agency and the department shall determine the plan's compliance  
 1708 with standards for access to medical, dental, and behavioral  
 1709 health services, the use of psychotropic medications, and  
 1710 followup on all medically necessary services recommended as a  
 1711 result of early and periodic screening diagnosis and treatment.

1712 Section 21. The Division of Law Revision and Information is  
 1713 directed to create part V of chapter 409, Florida Statutes,  
 1714 consisting of ss. 409.986-409.998, Florida Statutes, to be  
 1715 titled "Community-Based Child Welfare."

1716 Section 22. Section 409.986, Florida Statutes, is created  
 1717 to read:

1718 409.986 Legislative findings, intent, and definitions.-

1719 (1) LEGISLATIVE FINDINGS AND INTENT.-

1720 (a) It is the intent of the Legislature that the  
 1721 Department of Children and Families provide child protection and  
 1722 child welfare services to children through contracting with  
 1723 community-based care lead agencies. It is further the  
 1724 Legislature's intent that communities and other stakeholders in  
 1725 the well-being of children participate in assuring safety,

PCB HFS 14-03a

ORIGINAL

YEAR

1726 permanence, and well-being for all children in the state.

1727 (b) The Legislature finds that, when private entities  
 1728 assume responsibility for the care of children in the child  
 1729 protection and child welfare system, adequate oversight of the  
 1730 programmatic, administrative, and fiscal operation of those  
 1731 entities is essential. The Legislature finds that, ultimately,  
 1732 the appropriate care of children is the responsibility of the  
 1733 state and outsourcing the provision of such care does not  
 1734 relieve the state of its responsibility to ensure that  
 1735 appropriate care is provided.

1736 (2) CHILD PROTECTION AND CHILD WELFARE OUTCOMES.—It is the  
 1737 goal of the department to achieve the following outcomes in  
 1738 conjunction with the community-based care lead agency,  
 1739 community-based subcontractors, and the community-based care  
 1740 alliance:

1741 (a) Children are first and foremost protected from abuse  
 1742 and neglect.

1743 (b) Children are safely maintained in their homes if  
 1744 possible and appropriate.

1745 (c) Services are provided to protect children and prevent  
 1746 removal from the home.

1747 (d) Children have permanency and stability in their living  
 1748 arrangements.

1749 (e) Family relationships and connections are preserved for  
 1750 children.

PCB HFS 14-03a

ORIGINAL

YEAR

1751 (f) Families have enhanced capacity to provide for their  
 1752 children's needs.

1753 (g) Children receive appropriate services to meet their  
 1754 educational needs.

1755 (h) Children receive adequate services to meet their  
 1756 physical and mental health needs.

1757 (i) Children develop capacity for independent living and  
 1758 competence as an adult.

1759 (3) DEFINITIONS.—As used in this part, except as otherwise  
 1760 specially provided, the term:

1761 (a) "Child" or "children" means has the same meaning as  
 1762 the term "child" as defined in s. 39.01.

1763 (b) "Dependent child" means a child who has been  
 1764 determined by the court to be in need of care due to allegations  
 1765 of abuse, neglect, or abandonment.

1766 (c) "Care" means services of any kind which are designed  
 1767 to facilitate a child remaining safely in his or her own home,  
 1768 returning safely to his or her own home if he or she is removed,  
 1769 or obtaining an alternative permanent home if he or she cannot  
 1770 remain home or be returned home.

1771 (d) "Community-based care lead agency" or "lead agency"  
 1772 means a single entity with which the department has a contract  
 1773 for the provision of care for children in the child protection  
 1774 and child welfare system in a community that is no smaller than  
 1775 a county and no larger than two contiguous judicial circuits.

PCB HFS 14-03a

ORIGINAL

YEAR

1776 The secretary of the department may authorize more than one  
 1777 eligible lead agency within a single county if doing so will  
 1778 result in more effective delivery of services to children.

1779 (e) "Community-based care alliance" or "alliance" means  
 1780 the group of stakeholders, community leaders, client  
 1781 representatives, and funders of human services established  
 1782 pursuant to s. 20.09(5) to provide a focal point for community  
 1783 participation and oversight of community-based services.

1784 (f) "Related services" includes, but is not limited to,  
 1785 family preservation, independent living, emergency shelter,  
 1786 residential group care, foster care, therapeutic foster care,  
 1787 intensive residential treatment, foster care supervision, case  
 1788 management, coordination of mental health services,  
 1789 postplacement supervision, permanent foster care, and family  
 1790 reunification.

1791 Section 23. Section 409.987, Florida Statutes, is created  
 1792 to read:

1793 409.987 Lead agency procurement.—

1794 (1) Community-based care lead agencies shall be procured  
 1795 by the department through a competitive process as required by  
 1796 chapter 287.

1797 (2) The department shall produce a schedule for the  
 1798 procurement of community-based care lead agencies and provide  
 1799 the schedule to the community-based care alliances established  
 1800 pursuant to s. 409.998 and post it on the department's website.



PCB HFS 14-03a

ORIGINAL

YEAR

1801 (3) Notwithstanding s. 287.057, the department shall use  
 1802 5-year contracts with lead agencies.

1803 (4) In order to serve as a lead agency, an entity must:

1804 (a) Be organized as a Florida corporation or a  
 1805 governmental entity.

1806 (b) Be governed by a board of directors. The membership  
 1807 of the board of directors must be described in the bylaws or  
 1808 articles of incorporation of each lead agency, which must  
 1809 provide that at least 75 percent of the membership of the board  
 1810 of directors must be composed of persons residing in this state,  
 1811 and at least 51 percent of the state residents on the board of  
 1812 directors must reside within the service area of the lead  
 1813 agency. However, for procurements of lead agency contracts  
 1814 initiated on or after July 1, 2014:

1815 1. At least 75 percent of the membership of the board of  
 1816 directors must be persons residing in this state, and at least  
 1817 51 percent of the membership of the board of directors must be  
 1818 persons residing within the service area of the lead agency.

1819 2. The board of directors' powers must include hiring the  
 1820 lead agency's executive director, approving the lead agency's  
 1821 budget, and setting the lead agency's operational policy and  
 1822 procedures.

1823 3. The membership of the board of directors must be  
 1824 described in the bylaws or articles of incorporation of each  
 1825 lead agency and require representation from throughout the

PCB HFS 14-03a

ORIGINAL

YEAR

1826 service area of the lead agency and, at a minimum, from local  
 1827 government, law enforcement, a school district, a children's  
 1828 services council if one operates in the service area, and the  
 1829 United Way or other local funding organization.

1830 (c) Demonstrate financial responsibility through an  
 1831 organized plan for regular fiscal audits and the posting of a  
 1832 performance bond.

1833 (5) The department's procurement team procuring any lead  
 1834 agencies' contracts must include individuals from the community  
 1835 alliance in the area to be served under the contract. All  
 1836 meetings at which vendors make presentations to or negotiate  
 1837 with the procurement team shall be held in the area to be served  
 1838 by the contract.

1839 Section 24. Section 409.988, Florida Statutes, is created  
 1840 to read:

1841 409.988 Lead agency duties; general provisions.-

1842 (1) DUTIES.-A lead agency:

1843 (a) Shall serve all children referred as a result of a  
 1844 report of abuse, neglect, or abandonment to the department's  
 1845 child abuse hotline regardless of the level of funding allocated  
 1846 to the lead agency by the state if all related funding is  
 1847 transferred.

1848 (b) Shall provide accurate and timely information  
 1849 necessary for oversight by the department pursuant to the child  
 1850 welfare results-oriented accountability system required by s.

PCB HFS 14-03a

ORIGINAL

YEAR

1851 409.997.  
 1852 (c) Shall follow the financial guidelines developed by the  
 1853 department and provide for a regular independent auditing of its  
 1854 financial activities. Such financial information shall be  
 1855 provided to the community-based care alliance established under  
 1856 s. 409.998.  
 1857 (d) Shall prepare all judicial reviews, case plans, and  
 1858 other reports necessary for court hearings for dependent  
 1859 children, except those related to the investigation of a  
 1860 referral from the department's child abuse hotline, and shall  
 1861 provide testimony as required for dependency court proceedings.  
 1862 This duty does not include the preparation of legal pleadings or  
 1863 other legal documents, which remain the responsibility of the  
 1864 department.  
 1865 (e) Shall ensure that all individuals providing care for  
 1866 dependent children receive appropriate training and meet the  
 1867 minimum employment standards established by the department.  
 1868 (f) Shall maintain eligibility to receive all available  
 1869 federal child welfare funds.  
 1870 (g) Shall maintain written agreements with Healthy  
 1871 Families Florida lead entities in its service area pursuant to  
 1872 s. 409.153 to promote cooperative planning for the provision of  
 1873 prevention and intervention services.  
 1874 (h) Shall comply with federal and state statutory  
 1875 requirements and agency rules in the provision of contractual

PCB HFS 14-03a

ORIGINAL

YEAR

1876 services.  
 1877 (i) May subcontract for the provision of services required  
 1878 by the contract with the lead agency and the department;  
 1879 however, the subcontracts must specify how the provider will  
 1880 contribute to the lead agency meeting the performance standards  
 1881 established pursuant to the child welfare results-oriented  
 1882 accountability system required by s. 409.997.  
 1883 (2) LICENSURE.-  
 1884 (a) A lead agency must be licensed as a child-caring or  
 1885 child-placing agency by the department under this chapter.  
 1886 (b) Each foster home, therapeutic foster home, emergency  
 1887 shelter, or other placement facility operated by the lead agency  
 1888 must be licensed by the department under chapter 402 or this  
 1889 chapter.  
 1890 (c) Substitute care providers who are licensed under s.  
 1891 409.175 and who have contracted with a lead agency are also  
 1892 authorized to provide registered or licensed family day care  
 1893 under s. 402.313 if such care is consistent with federal law and  
 1894 if the home has met the requirements of s. 402.313.  
 1895 (d) In order to eliminate or reduce the number of  
 1896 duplicate inspections by various program offices, the department  
 1897 shall coordinate inspections required for licensure of agencies  
 1898 under this subsection.  
 1899 (e) The department may adopt rules to administer this  
 1900 subsection.

PCB HFS 14-03a

ORIGINAL

YEAR

1901        (3) SERVICES.—A lead agency must serve dependent children  
 1902 through services that are supported by research or are best  
 1903 child welfare practices. The agency may also provide innovative  
 1904 services including but not limited to family-centered,  
 1905 cognitive-behavioral, trauma informed interventions designed to  
 1906 mitigate out-of-home placements.

1907        (4) LEAD AGENCY ACTING AS GUARDIAN.—

1908        (a) If a lead agency or other provider has accepted case  
 1909 management responsibilities for a child who is sheltered or  
 1910 found to be dependent and who is assigned to the care of the  
 1911 lead agency or other provider, the agency or provider may act as  
 1912 the child's guardian for the purpose of registering the child in  
 1913 school if a parent or guardian of the child is unavailable and  
 1914 his or her whereabouts cannot reasonably be ascertained.

1915        (b) The lead agency or other provider may also seek  
 1916 emergency medical attention for the child, but only if a parent  
 1917 or guardian of the child is unavailable, the parent's  
 1918 whereabouts cannot reasonably be ascertained, and a court order  
 1919 for such emergency medical services cannot be obtained because  
 1920 of the severity of the emergency or because it is after normal  
 1921 working hours.

1922        (c) A lead agency or other provider may not consent to  
 1923 sterilization, abortion, or termination of life support.

1924        (d) If a child's parents' rights have been terminated, the  
 1925 lead agency shall act as guardian of the child in all

PCB HFS 14-03a

ORIGINAL

YEAR

1926 circumstances.

1927 Section 25. Section 409.990, Florida Statutes, is created

1928 to read:

1929 409.990 Funding for lead agencies.—A contract established

1930 between the department and a lead agency must be funded by a

1931 grant of general revenue, other applicable state funds, or

1932 applicable federal funding sources.

1933 (1) The method of payment for a fixed-price contract with

1934 a lead agency must provide for a 2-month advance payment at the

1935 beginning of each fiscal year and equal monthly payments

1936 thereafter.

1937 (2) Notwithstanding s. 215.425, all documented federal

1938 funds earned for the current fiscal year by the department and

1939 lead agencies which exceed the amount appropriated by the

1940 Legislature shall be distributed to all entities that

1941 contributed to the excess earnings based on a schedule and

1942 methodology developed by the department and approved by the

1943 Executive Office of the Governor.

1944 (a) Distribution shall be pro rata based on total earnings

1945 and shall be made only to those entities that contributed to

1946 excess earnings.

1947 (b) Excess earnings of lead agencies shall be used only in

1948 the service district in which they were earned.

1949 (c) Additional state funds appropriated by the Legislature

1950 for lead agencies or made available pursuant to the budgetary

PCB HFS 14-03a

ORIGINAL

YEAR

1951 amendment process described in s. 216.177 shall be transferred  
 1952 to the lead agencies.

1953 (d) The department shall amend a lead agency's contract to  
 1954 permit expenditure of the funds.

1955 (3) Notwithstanding other provisions in this section, the  
 1956 amount of the annual contract for a lead agency may be increased  
 1957 by excess federal funds earned in accordance with s.  
 1958 216.181(11).

1959 (4) Each contract with a lead agency shall provide for the  
 1960 payment by the department to the lead agency of a reasonable  
 1961 administrative cost in addition to funding for the provision of  
 1962 services.

1963 (5) A lead agency may carry forward documented unexpended  
 1964 state funds from one fiscal year to the next; however, the  
 1965 cumulative amount carried forward may not exceed 8 percent of  
 1966 the total contract. Any unexpended state funds in excess of that  
 1967 percentage must be returned to the department.

1968 (a) The funds carried forward may not be used in any way  
 1969 that would create increased recurring future obligations, and  
 1970 such funds may not be used for any type of program or service  
 1971 that is not currently authorized by the existing contract with  
 1972 the department.

1973 (b) Expenditures of funds carried forward must be  
 1974 separately reported to the department.

1975 (c) Any unexpended funds that remain at the end of the

PCB HFS 14-03a

ORIGINAL

YEAR

1976 contract period shall be returned to the department.

1977 (d) Funds carried forward may be retained through any

1978 contract renewals and any new procurements as long as the same

1979 lead agency is retained by the department.

1980 (6) It is the intent of the Legislature to improve

1981 services and local participation in community-based care

1982 initiatives by fostering community support and providing

1983 enhanced prevention and in-home services, thereby reducing the

1984 risk otherwise faced by lead agencies. There is established a

1985 community partnership matching grant program to be operated by

1986 the department for the purpose of encouraging local

1987 participation in community-based care for child welfare. A

1988 community-based care alliance direct-support organization, a

1989 children's services council, or another local entity that makes

1990 a financial commitment to a community-based care lead agency may

1991 be eligible for a matching grant. The total amount of the local

1992 contribution may be matched on a one-to-one basis up to a

1993 maximum annual amount of \$500,000 per lead agency. Awarded

1994 matching grant funds may be used for any prevention or in-home

1995 services that can be reasonably expected to reduce the number of

1996 children entering the child welfare system. Funding available

1997 for the matching grant program is subject to legislative

1998 appropriation of nonrecurring funds provided for this purpose.

1999 (7) (a) The department, in consultation with the Florida

2000 Coalition for Children, Inc., shall develop and implement a



PCB HFS 14-03a

ORIGINAL

YEAR

2001 community-based care risk pool initiative to mitigate the  
 2002 financial risk to eligible lead agencies. This initiative must  
 2003 include:

2004 1. A risk pool application and protocol developed by the  
 2005 department which outlines submission criteria, including, but  
 2006 not limited to, financial and program management, descriptive  
 2007 data requirements, and timeframes for submission of  
 2008 applications. Requests for funding from risk pool applicants  
 2009 shall be based on relevant and verifiable service trends and  
 2010 changes that have occurred during the current fiscal year. The  
 2011 application shall confirm that expenditure of approved risk pool  
 2012 funds by the lead agency shall be completed within the current  
 2013 fiscal year.

2014 2. A risk pool peer review committee, appointed by the  
 2015 secretary and consisting of department staff and representatives  
 2016 from at least three nonapplicant lead agencies, which reviews  
 2017 and assesses all risk pool applications. Upon completion of each  
 2018 application review, the peer review committee shall report its  
 2019 findings and recommendations to the secretary providing, at a  
 2020 minimum, the following information:

2021 a. Justification for the specific funding amount required  
 2022 by the risk pool applicant based on current year service trend  
 2023 data, including validation that the applicant's financial need  
 2024 was caused by circumstances beyond the control of the lead  
 2025 agency management;

PCB HFS 14-03a

ORIGINAL

YEAR

2026 b. Verification that the proposed use of risk pool funds  
 2027 meets at least one of the criteria in paragraph (c); and

2028 c. Evidence of technical assistance provided in an effort  
 2029 to avoid the need to access the risk pool and recommendations  
 2030 for technical assistance to the lead agency to ensure that risk  
 2031 pool funds are expended effectively and that the agency's need  
 2032 for future risk pool funding is diminished.

2033 (b) Upon approval by the secretary of a risk pool  
 2034 application, the department may request funds from the risk pool  
 2035 in accordance with s. 216.181(6) (a).

2036 (c) The purposes for which the community-based care risk  
 2037 pool shall be used include:

2038 1. Significant changes in the number or composition of  
 2039 clients eligible to receive services.

2040 2. Significant changes in the services that are eligible  
 2041 for reimbursement.

2042 3. Continuity of care in the event of failure,  
 2043 discontinuance of service, or financial misconduct by a lead  
 2044 agency.

2045 4. Significant changes in the mix of available funds.

2046 (d) The department may also request in its annual  
 2047 legislative budget request, and the Governor may recommend, that  
 2048 the funding necessary to carry out paragraph (c) be appropriated  
 2049 to the department. In addition, the department may request the  
 2050 allocation of funds from the community-based care risk pool in

PCB HFS 14-03a

ORIGINAL

YEAR

2051 accordance with s. 216.181(6) (a). Funds from the pool may be  
 2052 used to match available federal dollars.

2053 1. Such funds shall constitute partial security for  
 2054 contract performance by lead agencies and shall be used to  
 2055 offset the need for a performance bond.

2056 2. The department may separately require a bond to  
 2057 mitigate the financial consequences of potential acts of  
 2058 malfeasance or misfeasance or criminal violations by the  
 2059 provider.

2060 Section 26. Section 409.16713, Florida Statutes, is  
 2061 transferred, renumbered as section 409.991, Florida Statutes,  
 2062 and paragraph (a) of subsection (1) of that section is amended,  
 2063 to read:

2064 409.991 ~~409.16713~~ Allocation of funds for community-based  
 2065 care lead agencies.—

2066 (1) As used in this section, the term:

2067 (a) "Core services funding" means all funds allocated to  
 2068 community-based care lead agencies operating under contract with  
 2069 the department pursuant to s. 409.987 ~~s. 409.1671~~, with the  
 2070 following exceptions:

- 2071 1. Funds appropriated for independent living;
- 2072 2. Funds appropriated for maintenance adoption subsidies;
- 2073 3. Funds allocated by the department for protective
- 2074 investigations training;
- 2075 4. Nonrecurring funds;

PCB HFS 14-03a

ORIGINAL

YEAR

2076 5. Designated mental health wrap-around services funds;  
2077 and

2078 6. Funds for special projects for a designated community-  
2079 based care lead agency.

2080 Section 27. Section 409.992, Florida Statutes, is created  
2081 to read:

2082 409.992 Lead agency expenditures.—

2083 (1) The procurement of commodities or contractual services  
2084 by lead agencies shall be governed by the financial guidelines  
2085 developed by the department which comply with applicable state  
2086 and federal law and follow good business practices. Pursuant to  
2087 s. 11.45, the Auditor General may provide technical advice in  
2088 the development of the financial guidelines.

2089 (2) Notwithstanding any other provision of law, a  
2090 community-based care lead agency may make expenditures for staff  
2091 cellular telephone allowances, contracts requiring deferred  
2092 payments and maintenance agreements, security deposits for  
2093 office leases, related agency professional membership dues other  
2094 than personal professional membership dues, promotional  
2095 materials, and grant writing services. Expenditures for food and  
2096 refreshments, other than those provided to clients in the care  
2097 of the agency or to foster parents, adoptive parents, and  
2098 caseworkers during training sessions, are not allowable.

2099 (3) A lead community-based care agency and its  
2100 subcontractors are exempt from state travel policies as provided

PCB HFS 14-03a

ORIGINAL

YEAR

2101 in s. 112.061(3)(a) for their travel expenses incurred in order  
 2102 to comply with the requirements of this section.

2103 Section 28. Section 409.993, Florida Statutes, is created  
 2104 to read:

2105 409.993 Lead agencies and subcontractor liability.-

2106 (1) FINDINGS.-

2107 (a) The Legislature finds that the state has traditionally  
 2108 provided foster care services to children who have been the  
 2109 responsibility of the state. As such, foster children have not  
 2110 had the right to recover for injuries beyond the limitations  
 2111 specified in s. 768.28. The Legislature has determined that  
 2112 foster care and related services need to be outsourced pursuant  
 2113 to this section and that the provision of such services is of  
 2114 paramount importance to the state. The purpose for such  
 2115 outsourcing is to increase the level of safety, security, and  
 2116 stability of children who are or become the responsibility of  
 2117 the state. One of the components necessary to secure a safe and  
 2118 stable environment for such children is that private providers  
 2119 maintain liability insurance. As such, insurance needs to be  
 2120 available and remain available to nongovernmental foster care  
 2121 and related services providers without the resources of such  
 2122 providers being significantly reduced by the cost of maintaining  
 2123 such insurance.

2124 (b) The Legislature further finds that, by requiring the  
 2125 following minimum levels of insurance, children in outsourced

PCB HFS 14-03a

ORIGINAL

YEAR

2126 foster care and related services will gain increased protection  
 2127 and rights of recovery in the event of injury than provided for  
 2128 in s. 768.28.

2129 (2) LEAD AGENCY LIABILITY.-

2130 (a) Other than an entity to which s. 768.28 applies, an  
 2131 eligible community-based care lead agency, or its employees or  
 2132 officers, except as otherwise provided in paragraph (b), must,  
 2133 as a part of its contract, obtain a minimum of \$1 million per  
 2134 claim/\$3 million per incident in general liability insurance  
 2135 coverage. The eligible community-based care lead agency must  
 2136 also require that staff who transport client children and  
 2137 families in their personal automobiles in order to carry out  
 2138 their job responsibilities obtain minimum bodily injury  
 2139 liability insurance in the amount of \$100,000 per claim,  
 2140 \$300,000 per incident, on their personal automobiles. In lieu of  
 2141 personal motor vehicle insurance, the lead agency's casualty,  
 2142 liability, or motor vehicle insurance carrier may provide  
 2143 nonowned automobile liability coverage. Such insurance provides  
 2144 liability insurance for automobiles that the provider uses in  
 2145 connection with the agency's business but does not own, lease,  
 2146 rent, or borrow. Such coverage includes automobiles owned by the  
 2147 employees of the lead agency or a member of the employee's  
 2148 household but only while the automobiles are used in connection  
 2149 with the agency's business. The nonowned automobile coverage for  
 2150 the lead agency applies as excess coverage over any other

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

2151 collectible insurance. The personal automobile policy for the  
 2152 employee of the lead agency must be primary insurance, and the  
 2153 nonowned automobile coverage of the agency acts as excess  
 2154 insurance to the primary insurance. The lead agency shall  
 2155 provide a minimum limit of \$1 million in nonowned automobile  
 2156 coverage. In a tort action brought against such an eligible  
 2157 community-based care lead agency or employee, net economic  
 2158 damages shall be limited to \$1 million per liability claim and  
 2159 \$100,000 per automobile claim, including, but not limited to,  
 2160 past and future medical expenses, wage loss, and loss of earning  
 2161 capacity, offset by any collateral source payment paid or  
 2162 payable. In any tort action brought against such an eligible  
 2163 community-based care lead agency, noneconomic damages shall be  
 2164 limited to \$200,000 per claim. A claims bill may be brought on  
 2165 behalf of a claimant pursuant to s. 768.28 for any amount  
 2166 exceeding the limits specified in this paragraph. Any offset of  
 2167 collateral source payments made as of the date of the settlement  
 2168 or judgment shall be in accordance with s. 768.76. The  
 2169 community-based care lead agency is not liable in tort for the  
 2170 acts or omissions of its subcontractors or the officers, agents,  
 2171 or employees of its subcontractors.

2172 (b) The liability of an eligible community-based care lead  
 2173 agency described in this section shall be exclusive and in place  
 2174 of all other liability of such lead agency. The same immunities  
 2175 from liability enjoyed by such lead agencies shall extend as

PCB HFS 14-03a

ORIGINAL

YEAR

2176 well to each employee of the lead agency when such employee is  
 2177 acting in furtherance of the agency's business, including the  
 2178 transportation of clients served, as described in this  
 2179 subsection, in privately owned vehicles. Such immunities are not  
 2180 applicable to a lead agency or an employee who acts in a  
 2181 culpably negligent manner or with willful and wanton disregard  
 2182 or unprovoked physical aggression if such acts result in injury  
 2183 or death or such acts proximately cause such injury or death.  
 2184 Such immunities are not applicable to employees of the same lead  
 2185 agency when each is operating in the furtherance of the agency's  
 2186 business, but they are assigned primarily to unrelated work  
 2187 within private or public employment. The same immunity  
 2188 provisions enjoyed by a lead agency also apply to any sole  
 2189 proprietor, partner, corporate officer or director, supervisor,  
 2190 or other person who in the course and scope of his or her duties  
 2191 acts in a managerial or policymaking capacity and the conduct  
 2192 that caused the alleged injury arose within the course and scope  
 2193 of those managerial or policymaking duties. As used in this  
 2194 subsection and subsection (3), the term "culpable negligence"  
 2195 means reckless indifference or grossly careless disregard of  
 2196 human life.

2197 (3) SUBCONTRACTOR LIABILITY.—

2198 (a) A subcontractor of an eligible community-based care  
 2199 lead agency which is a direct provider of foster care and  
 2200 related services to children and families, and its employees or



PCB HFS 14-03a

ORIGINAL

YEAR

2201 officers, except as otherwise provided in paragraph (b), must,  
 2202 as a part of its contract, obtain a minimum of \$1 million per  
 2203 claim/\$3 million per incident in general liability insurance  
 2204 coverage. The subcontractor of an eligible community-based care  
 2205 lead agency must also require that staff who transport client  
 2206 children and families in their personal automobiles in order to  
 2207 carry out their job responsibilities obtain minimum bodily  
 2208 injury liability insurance in the amount of \$100,000 per claim,  
 2209 \$300,000 per incident, on their personal automobiles. In lieu of  
 2210 personal motor vehicle insurance, the subcontractor's casualty,  
 2211 liability, or motor vehicle insurance carrier may provide  
 2212 nonowned automobile liability coverage. Such insurance provides  
 2213 liability insurance for automobiles that the subcontractor uses  
 2214 in connection with the subcontractor's business but does not  
 2215 own, lease, rent, or borrow. Such coverage includes automobiles  
 2216 owned by the employees of the subcontractor or a member of the  
 2217 employee's household but only while the automobiles are used in  
 2218 connection with the subcontractor's business. The nonowned  
 2219 automobile coverage for the subcontractor applies as excess  
 2220 coverage over any other collectible insurance. The personal  
 2221 automobile policy for the employee of the subcontractor shall be  
 2222 primary insurance, and the nonowned automobile coverage of the  
 2223 subcontractor acts as excess insurance to the primary insurance.  
 2224 The subcontractor shall provide a minimum limit of \$1 million in  
 2225 nonowned automobile coverage. In a tort action brought against

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

2226 such subcontractor or employee, net economic damages shall be  
 2227 limited to \$1 million per liability claim and \$100,000 per  
 2228 automobile claim, including, but not limited to, past and future  
 2229 medical expenses, wage loss, and loss of earning capacity,  
 2230 offset by any collateral source payment paid or payable. In a  
 2231 tort action brought against such subcontractor, noneconomic  
 2232 damages shall be limited to \$200,000 per claim. A claims bill  
 2233 may be brought on behalf of a claimant pursuant to s. 768.28 for  
 2234 any amount exceeding the limits specified in this paragraph. Any  
 2235 offset of collateral source payments made as of the date of the  
 2236 settlement or judgment shall be in accordance with s. 768.76.

2237 (b) The liability of a subcontractor of an eligible  
 2238 community-based care lead agency that is a direct provider of  
 2239 foster care and related services as described in this section  
 2240 shall be exclusive and in place of all other liability of such  
 2241 provider. The same immunities from liability enjoyed by such  
 2242 subcontractor provider shall extend as well to each employee of  
 2243 the subcontractor when such employee is acting in furtherance of  
 2244 the subcontractor's business, including the transportation of  
 2245 clients served, as described in this subsection, in privately  
 2246 owned vehicles. Such immunities are not applicable to a  
 2247 subcontractor or an employee who acts in a culpably negligent  
 2248 manner or with willful and wanton disregard or unprovoked  
 2249 physical aggression when such acts result in injury or death or  
 2250 such acts proximately cause such injury or death. Such

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

PCB HFS 14-03a

ORIGINAL

YEAR

2251 immunities are not applicable to employees of the same  
 2252 subcontractor when each is operating in the furtherance of the  
 2253 subcontractor's business, but they are assigned primarily to  
 2254 unrelated works within private or public employment. The same  
 2255 immunity provisions enjoyed by a subcontractor also apply to any  
 2256 sole proprietor, partner, corporate officer or director,  
 2257 supervisor, or other person who in the course and scope of his  
 2258 or her duties acts in a managerial or policymaking capacity and  
 2259 the conduct that caused the alleged injury arose within the  
 2260 course and scope of those managerial or policymaking duties.

2261 Section 29. Section 409.1675, Florida Statutes, is  
 2262 transferred and renumbered as section 409.994, Florida Statutes,  
 2263 and amended to read:

2264 409.994 ~~409.1675~~ Lead Community-based care lead agencies  
 2265 providers; receivership.-

2266 (1) The Department of Children and Families Family  
 2267 ~~Services~~ may petition a court of competent jurisdiction for the  
 2268 appointment of a receiver for a ~~lead~~ community-based care lead  
 2269 agency provider established pursuant to s. 409.987 if ~~s.~~  
 2270 ~~409.1671~~ ~~when~~ any of the following conditions exist:

2271 (a) The lead agency ~~community-based~~ ~~provider~~ is operating  
 2272 without a license as a child-placing agency.

2273 (b) The lead agency ~~community-based~~ ~~provider~~ has given  
 2274 less than 120 days' notice of its intent to cease operations,  
 2275 and arrangements have not been made for another lead agency

PCB HFS 14-03a

ORIGINAL

YEAR

2276 ~~community-based provider~~ or for the department to continue the  
 2277 uninterrupted provision of services.

2278 (c) The department determines that conditions exist in the  
 2279 lead agency ~~community-based provider~~ which present an imminent  
 2280 danger to the health, safety, or welfare of the dependent  
 2281 children under that agency's ~~provider's~~ care or supervision.  
 2282 Whenever possible, the department shall make a reasonable effort  
 2283 to facilitate the continued operation of the program.

2284 (d) The lead agency ~~community-based provider~~ cannot meet  
 2285 its current financial obligations to its employees, contractors,  
 2286 or foster parents. Issuance of bad checks or the existence of  
 2287 delinquent obligations for payment of salaries, utilities, or  
 2288 invoices for essential services or commodities shall constitute  
 2289 prima facie evidence that the lead agency ~~community-based~~  
 2290 ~~provider~~ lacks the financial ability to meet its financial  
 2291 obligations.

2292 (2) (a) The petition for receivership shall take precedence  
 2293 over other court business unless the court determines that some  
 2294 other pending proceeding, having statutory precedence, has  
 2295 priority.

2296 (b) A hearing shall be conducted within 5 days after the  
 2297 filing of the petition, at which time interested parties shall  
 2298 have the opportunity to present evidence as to whether a  
 2299 receiver should be appointed. The department shall give  
 2300 reasonable notice of the hearing on the petition to the lead

PCB HFS 14-03a

ORIGINAL

YEAR

2301 agency ~~community-based provider~~.

2302 (c) The court shall grant the petition upon finding that  
 2303 one or more of the conditions in subsection (1) exists and the  
 2304 continued existence of the condition or conditions jeopardizes  
 2305 the health, safety, or welfare of dependent children. A receiver  
 2306 may be appointed ex parte when the court determines that one or  
 2307 more of the conditions in subsection (1) exists. After such  
 2308 finding, the court may appoint any person, including an employee  
 2309 of the department who is qualified by education, training, or  
 2310 experience to carry out the duties of the receiver pursuant to  
 2311 this section, except that the court may ~~shall~~ not appoint any  
 2312 member of the governing board or any officer of the lead agency  
 2313 ~~community-based provider~~. The receiver may be selected from a  
 2314 list of persons qualified to act as receivers which is developed  
 2315 by the department and presented to the court with each petition  
 2316 of receivership.

2317 (d) A receiver may be appointed for up to 90 days, and the  
 2318 department may petition the court for additional 30-day  
 2319 extensions. Sixty days after appointment of a receiver and every  
 2320 30 days thereafter until the receivership is terminated, the  
 2321 department shall submit to the court an assessment of the lead  
 2322 agency's ~~community-based provider's~~ ability to ensure the  
 2323 health, safety, and welfare of the dependent children under its  
 2324 supervision.

2325 (3) The receiver shall take such steps as are reasonably

PCB HFS 14-03a

ORIGINAL

YEAR

2326 necessary to ensure the continued health, safety, and welfare of  
 2327 the dependent children under the supervision of the lead agency  
 2328 ~~community-based provider~~ and shall exercise those powers and  
 2329 perform those duties set out by the court, including, but not  
 2330 limited to:

2331 (a) Taking such action as is reasonably necessary to  
 2332 protect or conserve the assets or property of the lead agency  
 2333 ~~community-based provider~~. The receiver may use the assets and  
 2334 property and any proceeds from any transfer thereof only in the  
 2335 performance of the powers and duties provided ~~set forth~~ in this  
 2336 section and by order of the court.

2337 (b) Using the assets of the lead agency ~~community-based~~  
 2338 ~~provider~~ in the provision of care and services to dependent  
 2339 children.

2340 (c) Entering into contracts and hiring agents and  
 2341 employees to carry out the powers and duties of the receiver  
 2342 under this section.

2343 (d) Having full power to direct, manage, hire, and  
 2344 discharge employees of the lead agency ~~community-based provider~~.  
 2345 The receiver shall hire and pay new employees at the rate of  
 2346 compensation, including benefits, approved by the court.

2347 (e) Honoring all leases, mortgages, and contractual  
 2348 obligations of the lead agency ~~community-based provider~~, but  
 2349 only to the extent of payments that become due during the period  
 2350 of the receivership.

PCB HFS 14-03a

ORIGINAL

YEAR

2351 (4) (a) The receiver shall deposit funds received in a  
 2352 separate account and shall use this account for all  
 2353 disbursements.

2354 (b) A payment to the receiver of any sum owing to the lead  
 2355 agency ~~community-based provider~~ shall discharge any obligation  
 2356 to the provider to the extent of the payment.

2357 (5) A receiver may petition the court for temporary relief  
 2358 from obligations entered into by the lead agency ~~community-based~~  
 2359 ~~provider~~ if the rent, price, or rate of interest required to be  
 2360 paid under the agreement was substantially in excess of a  
 2361 reasonable rent, price, or rate of interest at the time the  
 2362 contract was entered into, or if any material provision of the  
 2363 agreement was unreasonable when compared to contracts negotiated  
 2364 under similar conditions. Any relief in this form provided by  
 2365 the court shall be limited to the life of the receivership,  
 2366 unless otherwise determined by the court.

2367 (6) The court shall set the compensation of the receiver,  
 2368 which shall be considered a necessary expense of a receivership  
 2369 and may grant to the receiver such other authority necessary to  
 2370 ensure the health, safety, and welfare of the children served.

2371 (7) A receiver may be held liable in a personal capacity  
 2372 only for the receiver's own gross negligence, intentional acts,  
 2373 or breaches of fiduciary duty. This section may ~~shall~~ not be  
 2374 interpreted to be a waiver of sovereign immunity should the  
 2375 department be appointed receiver.

PCB HFS 14-03a

ORIGINAL

YEAR

2376 (8) If the receiver is not the department, the court may  
 2377 require a receiver to post a bond to ensure the faithful  
 2378 performance of these duties.

2379 (9) The court may terminate a receivership when:

2380 (a) The court determines that the receivership is no  
 2381 longer necessary because the conditions that gave rise to the  
 2382 receivership no longer exist; or

2383 (b) The department has entered into a contract with a new  
 2384 lead agency ~~community-based provider~~ pursuant to s. 409.987 ~~s.~~  
 2385 ~~409.1671~~, and that contractor is ready and able to assume the  
 2386 duties of the previous lead agency ~~provider~~.

2387 (10) Within 30 days after the termination, unless this  
 2388 time period is extended by the court, the receiver shall give  
 2389 the court a complete accounting of all property of which the  
 2390 receiver has taken possession, of all funds collected and  
 2391 disbursed, and of the expenses of the receivership.

2392 (11) ~~Nothing in This section does not shall be construed~~  
 2393 ~~to~~ relieve any employee of the lead agency ~~community-based~~  
 2394 ~~provider~~ placed in receivership of any civil or criminal  
 2395 liability incurred, or any duty imposed by law, by reason of  
 2396 acts or omissions of the employee before ~~prior to~~ the  
 2397 appointment of a receiver, and; ~~nor shall anything contained in~~  
 2398 this section does not ~~be construed to~~ suspend during the  
 2399 receivership any obligation of the employee for payment of taxes  
 2400 or other operating or maintenance expenses of the lead agency



PCB HFS 14-03a

ORIGINAL

YEAR

2401 ~~community-based provider~~ or for the payment of mortgages or  
 2402 liens. The lead agency ~~community-based provider~~ shall retain the  
 2403 right to sell or mortgage any facility under receivership,  
 2404 subject to the prior approval of the court that ordered the  
 2405 receivership.

2406 Section 30. Section 409.996, Florida Statutes, is created  
 2407 to read:

2408 409.996 Duties of the Department of Children and  
 2409 Families.—The department shall contract for the delivery,  
 2410 administration, or management of care for children in the child  
 2411 protection and child welfare system. In doing so, the department  
 2412 retains responsibility for the quality of contracted services  
 2413 and programs and shall ensure that services are delivered in  
 2414 accordance with applicable federal and state statutes and  
 2415 regulations.

2416 (1) The department shall enter into contracts with lead  
 2417 agencies to perform the duties of a lead agency pursuant to s.  
 2418 409.988. At a minimum, the contracts must:

2419 (a) Provide for the services needed to accomplish the  
 2420 duties established in s. 409.988 and provide information to the  
 2421 department which is necessary to meet the requirements for a  
 2422 quality assurance program pursuant to subsection (18) and the  
 2423 child welfare results-oriented accountability system pursuant to  
 2424 s. 409.997.

2425 (b) Provide for graduated penalties for failure to comply

PCB HFS 14-03a

ORIGINAL

YEAR

2426 with contract terms. Such penalties may include financial  
 2427 penalties, enhanced monitoring and reporting, corrective action  
 2428 plans, and early termination of contracts or other appropriate  
 2429 action to ensure contract compliance.

2430 (c) Ensure that the lead agency shall furnish current and  
 2431 accurate information on its activities in all cases in client  
 2432 case records in the state's statewide automated child welfare  
 2433 information system.

2434 (d) Specify the procedures to be used by the parties to  
 2435 resolve differences in interpreting the contract or to resolve  
 2436 disputes as to the adequacy of the parties' compliance with  
 2437 their respective obligations under the contract.

2438 (2) The department must adopt written policies and  
 2439 procedures for monitoring the contract for delivery of services  
 2440 by lead agencies which must be posted on the department's  
 2441 website. These policies and procedures must, at a minimum,  
 2442 address the evaluation of fiscal accountability and program  
 2443 operations, including provider achievement of performance  
 2444 standards, provider monitoring of subcontractors, and timely  
 2445 follow up of corrective actions for significant monitoring  
 2446 findings related to providers and subcontractors. These policies  
 2447 and procedures must also include provisions for reducing the  
 2448 duplication of the department's program monitoring activities  
 2449 both internally and with other agencies, to the extent possible.  
 2450 The department's written procedures must ensure that the written

PCB HFS 14-03a

ORIGINAL

YEAR

2451 findings, conclusions, and recommendations from monitoring the  
 2452 contract for services of lead agencies are communicated to the  
 2453 director of the provider agency and the community-based care  
 2454 alliance as expeditiously as possible.

2455 (3) The department shall receive federal and state funds  
 2456 as appropriated for the operation of the child welfare system  
 2457 and shall transmit these funds to the lead agencies as agreed.  
 2458 The department retains responsibility for the appropriate  
 2459 spending of these funds. The department shall monitor lead  
 2460 agencies to assess compliance with the financial guidelines  
 2461 established pursuant to s. 409.992 and other applicable state  
 2462 and federal laws.

2463 (4) The department shall provide technical assistance and  
 2464 consultation to lead agencies in the provision of care to  
 2465 children in the child protection and child welfare system.

2466 (5) The department retains the responsibility for the  
 2467 review, approval or denial, and issuances of all foster home  
 2468 licenses.

2469 (6) The department shall process all applications  
 2470 submitted by lead agencies for the Interstate Compact for  
 2471 Placement of Children and the Interstate Compact for Adoption  
 2472 and Medical Assistance.

2473 (7) The department shall assist lead agencies with access  
 2474 to and coordination with other service programs within the  
 2475 department.

PCB HFS 14-03a

ORIGINAL

YEAR

2476       (8) The department shall determine Medicaid eligibility  
 2477 for all referred children and will coordinate services with the  
 2478 Agency for Health Care Administration.

2479       (9) The department shall develop, in cooperation with the  
 2480 lead agencies, a standardized competency-based curriculum for  
 2481 certification training for child protection staff.

2482       (10) The department shall maintain the statewide adoptions  
 2483 website and provide information and training to the lead  
 2484 agencies relating to the website.

2485       (11) The department shall provide training and assistance  
 2486 to lead agencies regarding the responsibility of lead agencies  
 2487 relating to children receiving supplemental security income,  
 2488 social security, railroad retirement, or veterans' benefits.

2489       (12) With the assistance of a lead agency, the department  
 2490 shall develop and implement statewide and local interagency  
 2491 agreements needed to coordinate services for children and  
 2492 parents involved in the child welfare system who are also  
 2493 involved with the Agency for Persons with Disabilities, the  
 2494 Department of Juvenile Justice, the Department of Education, the  
 2495 Department of Health, and other governmental organizations that  
 2496 share responsibilities for children or parents in the child  
 2497 welfare system.

2498       (13) With the assistance of a lead agency, the department  
 2499 shall develop and implement a working agreement between the lead  
 2500 agency and the substance abuse and mental health managing entity

PCB HFS 14-03a

ORIGINAL

YEAR

2501 to integrate services and supports for children and parents  
 2502 serviced in the child welfare system.

2503 (14) The department shall work with the Agency for Health  
 2504 Care Administration to provide each child Medicaid early and  
 2505 periodic screening, diagnosis, and treatment, including 72-hour  
 2506 screening, periodic child health checkups, and prescribed follow  
 2507 up for ordered services, including but not limited to medical,  
 2508 dental, and vision care.

2509 (15) The department shall assist lead agencies in  
 2510 developing an array of services in compliance with the Title IV-  
 2511 E Waiver and shall monitor the provision of those services.

2512 (16) The department shall provide a mechanism to allow  
 2513 lead agencies to request a waiver of department policies and  
 2514 procedures that create inefficiencies or inhibit the performance  
 2515 of the lead agency duties.

2516 (17) The department shall directly or through contract  
 2517 provide attorneys to prepare and present cases in dependency  
 2518 court and shall ensure that the court is provided with adequate  
 2519 information for informed decisionmaking in dependency cases,  
 2520 including a fact sheet for each case which lists the names and  
 2521 contact information for any child protective investigator, child  
 2522 protective investigation supervisor, case manager, case manager  
 2523 supervisor, and the regional department official responsible for  
 2524 the lead agency contract. For the Sixth Judicial Circuit, the  
 2525 department shall contract with the state attorney for the

PCB HFS 14-03a

ORIGINAL

YEAR

2526 provision of these services.

2527 (18) The department, in consultation with lead agencies,  
 2528 shall establish a quality assurance program for contracted  
 2529 services to dependent children. The quality assurance program  
 2530 shall be based on standards established by federal and state law  
 2531 and national accrediting organizations.

2532 (a) The department must evaluate each lead agency under  
 2533 contract at least annually. These evaluations shall cover the  
 2534 programmatic, operational, and fiscal operations of the lead  
 2535 agency and be consistent with the child welfare results-oriented  
 2536 accountability system pursuant to s. 409.997. The department  
 2537 must consult with the chief judge on the performance of the lead  
 2538 agency.

2539 (b) The department shall, to the extent possible, use  
 2540 independent financial audits provided by the lead agency to  
 2541 eliminate or reduce the ongoing contract and administrative  
 2542 reviews conducted by the department. If the department  
 2543 determines that such independent financial audits are  
 2544 inadequate, other audits, as necessary, may be conducted by the  
 2545 department. This paragraph does not abrogate the requirements of  
 2546 s. 215.97.

2547 (c) The department may suggest additional items to be  
 2548 included in such independent financial audits to meet the  
 2549 department's needs.

2550 (d) The department may outsource programmatic,

PCB HFS 14-03a

ORIGINAL

YEAR

2551 administrative, or fiscal monitoring oversight of lead agencies.

2552 (e) A lead agency must assure that all subcontractors are  
 2553 subject to the same quality assurance activities as the lead  
 2554 agency.

2555 Section 31. Section 409.997, Florida Statutes, is created  
 2556 to read:

2557 409.997 Child welfare results-oriented accountability  
 2558 system.—

2559 (1) The department and its contract providers, including  
 2560 lead agencies, community-based care providers, and other  
 2561 community partners participating in the state's child protection  
 2562 and child welfare system, share the responsibility for achieving  
 2563 the outcome goals specified in s. 409.986(2).

2564 (2) In order to assess the achievement of the goals  
 2565 specified in s. 409.986(2), the department shall maintain a  
 2566 comprehensive, results-oriented accountability system that  
 2567 monitors the use of resources, the quality and amount of  
 2568 services provided, and child and family outcomes through data  
 2569 analysis, research review, evaluation, and quality improvement.

2570 The system shall provide information about individual entities'  
 2571 performance as well as the performance of groups of entities  
 2572 working together as an integrated system of care on a local,  
 2573 regional, and statewide basis. In maintaining the  
 2574 accountability system, the department shall:

2575 (a) Identify valid and reliable outcome measures for each

PCB HFS 14-03a

ORIGINAL

YEAR

2576 of the goals specified in this subsection. The outcome data set  
 2577 must consist of a limited number of understandable measures  
 2578 using available data to quantify outcomes as children move  
 2579 through the system of care. Such measures may aggregate multiple  
 2580 variables that affect the overall achievement of the outcome  
 2581 goal. Valid and reliable measures must be based on adequate  
 2582 sample sizes, be gathered over suitable time periods, reflect  
 2583 authentic rather than spurious results, and may not be  
 2584 susceptible to manipulation.

2585 (b) Implement a monitoring system to track the identified  
 2586 outcome measures on a statewide, regional, and provider-specific  
 2587 basis. The monitoring system must identify trends and chart  
 2588 progress toward achievement of the goals specified in this  
 2589 section. The requirements of the monitoring system may be  
 2590 incorporated into the quality assurance system required under s.  
 2591 409.996(18).

2592 (c) Develop and maintain an analytical system that builds  
 2593 on the outcomes monitoring system to assess the statistical  
 2594 validity of observed associations between child welfare  
 2595 interventions and the measured outcomes. The analysis must use  
 2596 quantitative methods to adjust for variations in demographic or  
 2597 other conditions. The analysis must include longitudinal studies  
 2598 to evaluate longer term outcomes such as continued safety,  
 2599 family permanence, and transition to self-sufficiency. The  
 2600 analysis may also include qualitative research methods to

PCB HFS 14-03a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



PCB HFS 14-03a

ORIGINAL

YEAR

2601 provide insight into statistical patterns.

2602 (d) Develop and maintain a program of research review to  
 2603 identify interventions that are supported by evidence as  
 2604 causally linked to improved outcomes.

2605 (e) Support an ongoing process of evaluation to determine  
 2606 the efficacy and effectiveness of various interventions.  
 2607 Efficacy evaluation is intended to determine the validity of a  
 2608 causal relationship between an intervention and an outcome.  
 2609 Effectiveness evaluation is intended to determine the extent to  
 2610 which the results can be generalized.

2611 (f) Develop and maintain an inclusive, interactive, and  
 2612 evidence-supported program of quality improvement which promotes  
 2613 individual skill building as well as organizational learning.

2614 (g) Develop and implement a method for making the results  
 2615 of the accountability system transparent for all parties  
 2616 involved in the child welfare system as well as policymakers and  
 2617 the public. The presentation shall provide a comprehensible,  
 2618 visual report card for the state and each community-based care  
 2619 region, indicating the current status relative to each goal and  
 2620 trends in that status over time. The presentation shall  
 2621 identify and report outcome measures which assess the  
 2622 performance of the department, community-based care lead agency,  
 2623 and its subcontractors working together as an integrated system  
 2624 of care.

2625 (3) The department shall establish a technical advisory

PCB HFS 14-03a

ORIGINAL

YEAR

2626 panel consisting of representatives from the Florida Institute  
 2627 for Child Welfare established pursuant to s. 1004.615, lead  
 2628 agencies, community-based care providers, other contract  
 2629 providers, community-based care alliances, and family  
 2630 representatives. The President of the Senate and the Speaker of  
 2631 the House of Representatives shall each appoint a member to  
 2632 serve as a legislative liaison to the panel. The technical  
 2633 advisory panel shall advise the department on meeting the  
 2634 requirements of this section.

2635 (4) The accountability system may not rank or compare  
 2636 performance among community-based care regions unless adequate  
 2637 and specific adjustments are adopted which account for the  
 2638 diversity in regions' demographics, resources, and other  
 2639 relevant characteristics.

2640 (5) The results of the accountability system must provide  
 2641 the basis for performance incentives if funds for such payments  
 2642 are made available through the General Appropriations Act.

2643 (6) At least quarterly, the department shall make the  
 2644 results of the accountability system available to the public  
 2645 through publication on its website. The website must allow for  
 2646 custom searches of the performance data.

2647 (7) The department shall report by October 1 of each year  
 2648 the statewide and individual community-based care lead agency  
 2649 results for child protection and child welfare systems. The  
 2650 department shall use the accountability system and consult with

PCB HFS 14-03a

ORIGINAL

YEAR

2651 the community-based care alliance and the chief judge or judges  
 2652 in the community-based care service area to prepare the report  
 2653 to the Governor, the President of the Senate, and the Speaker of  
 2654 the House of Representatives.

2655 Section 32. Section 409.998, Florida Statutes, is created  
 2656 to read:

2657 409.998 Community-based care oversight by community  
 2658 alliances.-

2659 (1) To provide independent, community-focused oversight of  
 2660 child protection and child welfare services and the local system  
 2661 of community-based care, community alliances created in s.  
 2662 20.19(5), shall, with the assistance of the department, perform  
 2663 the following duties:

2664 (a) Conduct a needs assessment and establishment of  
 2665 community priorities for child protection and child welfare  
 2666 services.

2667 (b) Review the performance of the department, sheriff's  
 2668 office if the office provides child protective services, and  
 2669 lead agency individually and as an integrated system of care,  
 2670 and advise the department, sheriff's office if applicable, and  
 2671 lead agency regarding concerns and suggested areas of  
 2672 improvement.

2673 (c) Recommend a competitive procurement for the lead  
 2674 agency if programmatic or financial performance is poor. The  
 2675 community alliance shall make recommendations on the development

PCB HFS 14-03a

ORIGINAL

YEAR

2676 of the procurement document for such competitive procurement and  
 2677 may suggest specific requirements relating to local needs and  
 2678 services.

2679 (d) Recommend a contract extension for the lead agency if  
 2680 programmatic or financial performance is superior.

2681 (e) In partnership with the Florida Institute for Child  
 2682 Welfare established under s. 1004.615, develop recommendations  
 2683 to the department and the community-based care lead agency to  
 2684 improve child protection and child welfare policies and  
 2685 practices.

2686 (f) Promote greater community involvement in community-  
 2687 based care through participation in community-based care lead  
 2688 agency services and activities, ~~solicitation of local financial~~  
 2689 ~~and in kind resources,~~ recruitment and retention of community  
 2690 volunteers, and public awareness efforts.

2691 Section 33. Section 827.10, Florida Statutes, is created to  
 2692 read:

2693 827.10 Unlawful abandonment of a child.-

2694 (1) As used in this section, the term:

2695 (a) "Abandons" or "abandonment" means to leave a child in  
 2696 a place or with a person other than a relative with the intent  
 2697 not to return to the child and with the intent not to provide  
 2698 for the care of the child.

2699 (b) "Care" means support and services necessary to  
 2700 maintain the child's physical and mental health, including, but

PCB HFS 14-03a

ORIGINAL

YEAR

2701 not limited to, food, nutrition, clothing, shelter, supervision,  
 2702 medicine, and medical services that a prudent person would  
 2703 consider essential for the well-being of the child.

2704 (c) "Caregiver" has the same meaning as provided in s.  
 2705 39.01(10).

2706 (d) "Child" means a child for whose care the caregiver is  
 2707 legally responsible.

2708 (e) "Relative" has the same meaning as provided in s.  
 2709 39.01(64).

2710 (2) A caregiver who abandons a child under circumstances  
 2711 in which the caregiver knew or should have known that the  
 2712 abandonment exposes the child to unreasonable risk of harm  
 2713 commits a felony of the third degree, punishable as provided in  
 2714 s. 775.082, s. 775.083, or s. 775.084.

2715 (3) This section does not apply to a person who surrenders  
 2716 a newborn infant in compliance with s. 383.50.

2717 (4) This section does not preclude prosecution for a  
 2718 criminal act under any other law, including, but not limited to,  
 2719 prosecution of child abuse or neglect of a child under s.  
 2720 827.03.

2721 Section 34. Section 1004.615, Florida Statutes, is created  
 2722 to read:

2723 1004.615 Florida Institute for Child Welfare.-

2724 (1) There is established the Florida Institute for Child  
 2725 Safety within the Florida State University College of Social

PCB HFS 14-03a

ORIGINAL

YEAR

2726 Work. The purpose of the institute is to advance the well-being  
 2727 of children and families by improving the performance of child  
 2728 protection and child welfare services through research, policy  
 2729 analysis, evaluation, and leadership development. The institute  
 2730 shall consist of a consortium of public and private universities  
 2731 offering degrees in social work and shall be housed within the  
 2732 College of Social Work of the Florida State University.

2733 (2) Using such resources as authorized in the General  
 2734 Appropriations Act, the Department of Children and Families  
 2735 shall contract with the institute for performance of the duties  
 2736 described in subsection (4).

2737 (3) The institute shall work with the department, sheriffs  
 2738 providing child protective investigative services, community-  
 2739 based care lead agencies, community-based care provider  
 2740 organizations, the court system, the Department of Juvenile  
 2741 Justice, domestic violence advocates, and other partners who  
 2742 contribute to and participate in providing child protection and  
 2743 child welfare services.

2744 (4) The duties and responsibilities of the institute  
 2745 include the following:

2746 (a) Maintain a program of research that contributes to  
 2747 scientific knowledge and informs both policy and practice  
 2748 related to child safety, permanency, and child and family well-  
 2749 being.

2750 (b) Advise the department and other organizations

PCB HFS 14-03a

ORIGINAL

YEAR

2751 participating in the child protection and child welfare system  
 2752 regarding scientific evidence on policy and practice related to  
 2753 child safety, permanency, and child and family well-being.

2754 (c) Advising about the management practices and  
 2755 administrative processes used by the department and other  
 2756 organizations participating in the child protection and child  
 2757 welfare system and recommend improvements that reduce  
 2758 burdensome, ineffective requirements for frontline staff and  
 2759 their supervisors while enhancing their ability to effectively  
 2760 investigate, analyze, problem-solve, and supervise.

2761 (d) Assess the performance of child protection and child  
 2762 welfare services based on specific outcome measures.

2763 (e) Evaluate the scope and effectiveness of preservice and  
 2764 inservice training for child protection and child welfare  
 2765 workers and advise and assist the department in efforts to  
 2766 improve these trainings.

2767 (f) Assess the readiness of social work graduates to  
 2768 assume job responsibilities in the child protection and child  
 2769 welfare system and identify gaps in education that can be  
 2770 addressed through the modification of curricula or the  
 2771 establishment of industry certifications.

2772 (g) Develop and maintain a program of professional support  
 2773 including training courses and consulting services that assist  
 2774 both individuals and organizations in implementing adaptive and  
 2775 resilient responses to workplace stress.

PCB HFS 14-03a

ORIGINAL

YEAR

2776 (h) Participate in the department's critical incident  
 2777 response team, assist in the preparation of reports about such  
 2778 incidents, and support the committee review of reports and  
 2779 development of recommendations.

2780 (i) Identify effective policies and promising practices,  
 2781 including but not limited to innovations in coordination between  
 2782 entities participating in the child protection and child welfare  
 2783 system, data analytics, working with the local community, and  
 2784 management of human service organizations and communicate these  
 2785 findings to the department and other organizations participating  
 2786 in the child protection and child welfare system.

2787 (5) The President of the Florida State University shall  
 2788 appoint a director to the institute. The director must be a  
 2789 child welfare professional with a doctoral degree in social work  
 2790 and hold a faculty appointment in the Florida State University  
 2791 College of Social Work. The institute shall be administered by  
 2792 the director, and the director's office shall be located at the  
 2793 Florida State University. The director is responsible for  
 2794 overall management of the institute and for developing and  
 2795 executing the work of the institute consistent with the  
 2796 responsibilities in subsection (4). The director shall engage  
 2797 individuals in other state universities with accredited colleges  
 2798 of social work to participate in the institute. Individuals from  
 2799 other university programs relevant to the institute's work,  
 2800 including but not limited to economics, management, law,



PCB HFS 14-03a

ORIGINAL

YEAR

2801 medicine, and education, may also be invited by the director to  
 2802 contribute to the institute. The universities involved in the  
 2803 institute shall provide facilities, staff, and other resources  
 2804 to the institute to establish statewide access to institute  
 2805 programs and services.

2806 (6) By October 1 of each year, the institute shall provide  
 2807 a written report to the Governor, the President of the Senate,  
 2808 and the Speaker of the House of Representatives which outlines  
 2809 its activities in the preceding year, reports significant  
 2810 research findings as well as results of other programs, and  
 2811 provides specific recommendations for improving child protection  
 2812 and child welfare services.

2813 (7) (a) The institute, or the Florida State University  
 2814 College of Social Work until the institute is operational, shall  
 2815 convene a task force to make recommendations for improving the  
 2816 state's child welfare system. The task force shall include but  
 2817 not be limited to representatives of the department, the  
 2818 Department of Juvenile Justice, community-based care lead  
 2819 agencies, the Florida Coalition for Children, child welfare  
 2820 services providers, including case management providers, the  
 2821 court system, the federally recognized statewide association for  
 2822 Florida's certified domestic violence centers, and advocates.  
 2823 The task force shall include individuals working directly with  
 2824 children and families, administrators, and experts. Individual  
 2825 members of the task force shall be responsible for their own

PCB HFS 14-03a

ORIGINAL

YEAR

2826 travel expenses. The task force may meet in person,  
 2827 telephonically, through web-based technology, or any combination  
 2828 thereof.

2829 (b) The task force shall establish individual workgroups on  
 2830 the following topics which may include additional members with  
 2831 directly relevant experience and expertise to make specific  
 2832 recommendations:

2833 1. Reducing paperwork and increasing the retention of case  
 2834 managers, and

2835 2. Care of medically complex children within the child  
 2836 welfare system.

2837 (c) The institute or university shall submit interim  
 2838 reports from the task force and workgroups by February 1, 2015,  
 2839 and final reports by November 1, 2015, to the Governor, the  
 2840 President of the Senate, and the Speaker of the House of  
 2841 Representatives.

2842 Section 35. Paragraph (h) is added to subsection (1) of  
 2843 section 1009.25, Florida Statutes, to read:

2844 1009.25 Fee exemptions.—

2845 (1) The following students are exempt from the payment of  
 2846 tuition and fees, including lab fees, at a school district that  
 2847 provides workforce education programs, Florida College System  
 2848 institution, or state university:

2849 (h) Pursuant to s. 402.403, a child protective  
 2850 investigator or a child protective investigation supervisor

PCB HFS 14-03a

ORIGINAL

YEAR

2851 employed by the Department of Children and Families or a  
 2852 sheriff's office who is enrolled in an accredited bachelor's  
 2853 degree or master's degree in social work program or completing  
 2854 coursework required pursuant to s. 402.402(2)(a)2., provided  
 2855 that the student attains at least a grade of "B" in all courses  
 2856 for which tuition and fees are exempted.

2857 Section 36. This act shall take effect July 1, 2014.

