



Healthy Families Subcommittee

Meeting Packet

Wednesday, March 5, 2014
1:00 PM – 3:00 PM
12 HOB

Will Weatherford
Speaker

Gayle B. Harrell
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Healthy Families Subcommittee

Start Date and Time: Wednesday, March 05, 2014 01:00 pm
End Date and Time: Wednesday, March 05, 2014 03:00 pm
Location: 12 HOB
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 303 Licensing of Facilities that Offer Health and Human Services by Berman

HB 515 Public Assistance Fraud by Smith

HB 535 Transactions in Fresh Produce Markets by Fullwood

Workshop on the following:

PCB HFS 14-02 -- Human Trafficking



Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members is 6:00 p.m., Tuesday, March 4, 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., Tuesday, March 4, 2014.

NOTICE FINALIZED on 03/03/2014 16:17 by Villar.Melissa

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 303 Licensing of Facilities that Offer Health and Human Services
SPONSOR(S): Berman
TIED BILLS: IDEN./SIM. BILLS: SB 394

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

SUMMARY ANALYSIS

Child care can be provided by family day care homes, child care facilities, and large family child care homes. These facilities and homes are subject to a number of regulations by the Department of Children and Families (DCF). The bill makes the following changes to the regulations of these facilities and homes:

- Amends the definitions of "child care" and "child care facility" to delete the requirement that a payment, fee, or grant be made for care in order to be considered child care or a child care facility;
- Amends the definition of "child care facility" to reduce the number of children that the facility must care for in order to be considered a child care facility from more than 5 children to more than 4 children unrelated to the operator;
- Clarifies that child care personnel of resorts providing child care services solely for the guests of their establishments must be screened according to the level 2 screening requirements of chapter 435;
- Eliminates the maximum fee that DCF can charge to child care facilities;
- Requires that child care facilities exempt from licensing requirements include the state or local agency license number or registration number of the facility when advertising;
- Defines advertisement;
- Requires licensed or registered family day care homes and large family child care homes to conspicuously display the license or registration in the common area of the home;
- Requires that the substitute for a registered family day care home meet the screening and training requirements of DCF; and
- Specifies that the background checks are required for the operator, each household member, and the designated substitute of a registered family day care home.

The bill also changes the Department of Children and Family Services to the Department of Children and Families, to conform to current law.

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

The bill has an indeterminate fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The definition of "child care" provides for a payment, fee or grant for the supervision of a child for less than 24 hours a day on a regular basis.¹ According to the Department of Children & Families (DCF), in fiscal year 2011-12, DCF issued licenses to approximately 4,671 child care facilities, 1,484 family day care homes and 315 large family child care homes in Florida.² In addition, DCF indicated that there are 1,132 registered child care homes.³ These facilities serve over 481,445 children.⁴

Child Care Facilities

"Child care facility" is defined as a child care center or child care arrangement providing child care for more than five children unrelated to the operator, wherever operated and whether or not operated for profit which receives a payment, fee or grant.⁵

Family Day Care Homes

A family day care home must be licensed if it is presently being licensed under an existing county licensing ordinance or if the board of county commissioners passes a resolution that family day care homes be licensed.⁶ If a family day care home is not subject to a license, it must register annually with the Department of Children and Families (DCF) and provide certain information, including proof of screening and background checks.⁷

Large Family Child Care Home

A large family child care home means an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation.⁸ A large family child care home must be licensed.⁹ The child care personnel subject to the applicable screening provisions of s. 402.305(2) and 402.3055, F.S., includes any member of a large family child care home operator's family 12 years of age or older, or any person 12 years of age or older residing with the operator in the large family care home. Members of the operator's family, or persons residing with the operator, who are between the ages of 12 years and 18 years, inclusive, shall not be required to be fingerprinted, but shall be screened for delinquency records.¹⁰

¹ S. 402.302, F.S.

² DCF quick facts, The Department of Children and Families, *accessible at*: http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&ved=0CCQQFjAA&url=http%3A%2F%2Fwww.dcf.state.fl.us%2Fnewsroom%2Fdocs%2Fquickfacts.pdf&ei=C-gVU5v_DcbLkQew5YGwCw&usg=AFQjCNEv_uff2t02o8RxRNIWaLzoCFIzJQ (last visited March 4, 2014).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Section 402.313, F.S.

⁷ *Id.*

⁸ *Supra* at note 2.

⁹ *Supra* at note 6.

¹⁰ *Id.*

Fees

DCF is required to collect a fee for any license it issues for a child care facility, family day care home, or large family child care home.¹¹ The fee for a licensed child care facility licensed is \$1 per child based on the licensed capacity of the facility with a minimum fee of \$25 per facility and a maximum fee of \$100 per facility.¹² The fee is \$25 for a registered family day care home and \$50 for a licensed family day care home.¹³ The fee is \$60 for a licensed large family child care home.¹⁴

Advertising

A person may not advertise a child care facility, a family day care home or a large family child care home without including the state or local agency license number or registration number of the facility. If a person advertises without a license or registration number, the violation is a misdemeanor of the first degree.¹⁵

Effect of Proposed Changes

Child Care Facilities

The bill amends the definitions of child care and child care facility to delete the requirement that a payment, fee, or grant be made for care in order to be considered care child care or a child care facility. The bill also changes the definition of child care facility to reduce the number of children that the facility must care for in order to be considered a child care facility from more than 5 children to more than 4 children unrelated to the operator.

The bill clarifies that child care personnel of resorts providing child care services solely for the guests of their establishments must be screened according to the level 2 screening requirements of chapter 435. Currently, the screening only applies to child care personnel of establishments which provide child care services for the guests of their establishments. The bill expands this to resorts as well.

Currently, child care facilities licensed under s. 402.305, F.S., are required to pay DCF a fee of \$1 per child, based on the licensed capacity of the facility. The minimum fee a facility can pay is \$25 per facility and the maximum fee is \$100 per facility. The bill eliminates the maximum fee, which may require a facility to pay more than \$100 per facility, based on license capacity.

Currently, a person may not advertise child care facilities, family day care homes, and large family day care homes without including the state or local agency license number or registration number of the facility or home. The bill adds child care facilities exempt from licensing requirements to these advertising restrictions. The bill also defines advertisement as including, but not limited to, the marketing of child care services to the public on vehicles, print materials, electronic media, including Internet sites, and radio and television announcements.

Family Day Care Homes

The bill requires licensed or registered family day care homes to conspicuously display the license or registration in the common area of the home.

Current law requires a registered family day care home to provide DCF with proof of a written plan to provide at least one other competent adult to be available as a substitute for the operator in an

¹¹ Section 402.315(3), F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Section 402.318, F.S.

emergency. The bill requires that the substitute identified in the written plan has met the screening and training requirements of DCF to serve as a designated substitute.

Currently, registered family day care homes are required to provide DCF proof of screening and background checks. The bill specifies that the background checks are required for the operator, each household member, and the designated substitute.

Large Family Child Care Homes

The bill requires a large family child care home to permanently post its licensed in a conspicuous location that is visible by all parents and guardians, as well as DCF.

The bill also changes the Department of Children and Family Services to the Department of Children and Families, to conform to current law.

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

B. SECTION DIRECTORY:

- Section 1:** Amends s. 402.302, F.S., relating to definitions.
- Section 2:** Amends s. 402.313, F.S., relating to family day care homes.
- Section 3:** Amends s. 402.3131, F.S., relating to large family child care homes.
- Section 4:** Amends s. 402.315, F.S., relating to funding and licensing fees.
- Section 5:** Amends s. 402.318, F.S., relating to advertisement.
- Section 6:** Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Increases in fees for larger child care facilities would increase revenue to DCF by about \$115,000 annually.¹⁶

2. Expenditures:

The existing definition for "child care" and "child care facility" requires that programs receive a payment, fee or grant for any of the children receiving care. This bill would expand the number of child care arrangements which require licensure or registration, thus requiring the inspection of any programs where children are in care, excluding schools, summer camps, bible schools or transient establishments. At this time, it is not possible to identify the number of such programs or the cost to conduct the required inspections. An increase in the number of regulated child care providers will produce an increase in the number of regulatory actions, and thus an increase in the workload for Department legal staff. If the increased regulatory activity is significant, or were concentrated in one part of the state, the Department may need additional licensing staff as well as legal staff to support administrative activities.¹⁷

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

¹⁶ DCF Analysis of HB 303, on file with Healthy Families Subcommittee Staff.

¹⁷ *Id.*

The five local licensing agencies (Broward, Hillsborough, Palm Beach, Pinellas and Sarasota) would see an increase in revenue from the removal of the \$100 cap from the licensing fee. Of the 2,140 total local licensing agencies child care facilities, 958 facilities have a capacity greater than 100, resulting in an additional \$72,725 in licensing fees annually.¹⁸

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The elimination of the maximum license fee of \$100 paid by child care facilities to the department would impact the facilities with a licensed capacity of more than 100 children (the current fee is \$1 per child based on the licensed capacity of the facility with a maximum of \$100); however, the total impact is unknown.

There is an increase in the licensing fee for child care facilities that have a capacity over 100 children. According to the Department of Children and Families, as of December 2, 2013, it regulated 4,648 facilities statewide. Of those 4,648 facilities, 1,674 have a capacity greater than 100 and would be subject to payment of higher fees. The fiscal impact to the 1,674 facilities with a capacity greater than 100 children would total about \$115,000 annually.¹⁹

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹⁸ *Id.*

¹⁹ *Id.*

A bill to be entitled

An act relating to the licensing of facilities that offer health and human services; amending s. 402.302, F.S.; redefining the term "child care" to include a person or facility that does not receive compensation; redefining the term "child care facility" to include a child care center or child care arrangement that does not receive compensation and provides child care for more than four, rather than five, children unrelated to the operator; conforming terminology; amending s. 402.313, F.S.; requiring a family day care home to conspicuously display its license or registration in the common area of the home, to provide proof of a written plan that identifies a designated substitute for the operator, and to provide proof of screening and background checks for certain individuals; amending s. 402.3131, F.S.; requiring a large family child care home to permanently post its license in a conspicuous location that is visible by all parents and guardians and the Department of Children and Families; amending s. 402.315, F.S.; revising the licensing fee for a child care facility that has certain licensed capacity; amending s. 402.318, F.S.; prohibiting the advertising of a child care facility, family day care home, or large family child care home unless it is licensed or registered; defining the term

27 "advertisement"; providing an effective date.

28

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

30

31 Section 1. Subsections (1), (2), and (5) of section

32 402.302, Florida Statutes, are amended to read:

33 402.302 Definitions.—As used in this chapter, the term:

34 (1) "Child care" means the care, protection, and
 35 supervision of a child, for ~~a period of~~ less than 24 hours a day
 36 on a regular basis, which supplements parental care, enrichment,
 37 and health supervision for the child, in accordance with his or
 38 her individual needs, ~~and for which a payment, fee, or grant is~~
 39 ~~made for care.~~

40 (2) "Child care facility" means a ~~includes any~~ child care
 41 center or child care arrangement that ~~which~~ provides child care
 42 for more than four ~~five~~ children unrelated to the operator ~~and~~
 43 ~~which receives a payment, fee, or grant for any of the children~~
 44 ~~receiving care,~~ wherever operated, and whether or not operated
 45 for profit. The following are not included:

46 (a) Public schools and nonpublic schools and their
 47 integral programs, except as provided in s. 402.3025;

48 (b) Summer camps having children in full-time residence;

49 (c) Summer day camps;

50 (d) Bible schools normally conducted during vacation
 51 periods; and

52 (e) Operators of transient establishments, as defined in

53 chapter 509~~7~~, which provide child care services solely for the
 54 guests of their establishment or resort, if ~~provided that~~ all
 55 child care personnel of the establishment or resort are screened
 56 according to the level 2 screening requirements of chapter 435.

57 (5) "Department" means the Department of Children and
 58 Families ~~Family Services~~.

59 Section 2. Subsection (1) of section 402.313, Florida
 60 Statutes, is amended to read:

61 402.313 Family day care homes.—

62 (1) A family day care home must ~~homes shall~~ be licensed
 63 under this section ~~act~~ if it is ~~they are~~ presently being
 64 licensed under an existing county licensing ordinance or if the
 65 board of county commissioners passes a resolution that family
 66 day care homes be licensed. Each licensed or registered family
 67 day care home must conspicuously display its license or
 68 registration in the common area of the home.

69 (a) If not subject to license, a family day care home must
 70 ~~homes shall~~ register annually with the department and provide~~7~~
 71 ~~providing~~ the following information:

- 72 1. The name and address of the home.
- 73 2. The name of the operator.
- 74 3. The number of children served.
- 75 4. Proof of a written plan to identify a ~~provide at least~~
 76 ~~one other~~ competent adult who has met the screening and training
 77 requirements of the department to serve as a designated
 78 substitute to be available to substitute for the operator in an

79 emergency. This plan must ~~shall~~ include the name, address, and
 80 telephone number of the designated substitute.

81 5. Proof of screening and background checks for the
 82 operator, each household member, and the designated substitute.

83 6. Proof of successful completion of the 30-hour training
 84 course, as evidenced by passage of a competency examination,
 85 which must ~~shall~~ include:

86 a. State and local rules and regulations that govern child
 87 care.

88 b. Health, safety, and nutrition.

89 c. Identifying and reporting child abuse and neglect.

90 d. Child development, including typical and atypical
 91 language development; and cognitive, motor, social, and self-
 92 help skills development.

93 e. Observation of developmental behaviors, including using
 94 a checklist or other similar observation tools and techniques to
 95 determine a child's developmental level.

96 f. Specialized areas, including early literacy and
 97 language development of children from birth to 5 years of age,
 98 as determined by the department, for owner-operators of family
 99 day care homes.

100 7. Proof that immunization records are kept current.

101 8. Proof of completion of the required continuing
 102 education units or clock hours.

103 (b) A family day care home may volunteer to be licensed
 104 ~~under this act.~~

105 (c) The department may provide technical assistance to
 106 counties and family day care home providers to enable counties
 107 and family day care providers to achieve compliance with family
 108 day care homes standards.

109 Section 3. Subsection (1) of section 402.3131, Florida
 110 Statutes, is amended to read:

111 402.3131 Large family child care homes.—

112 (1) A large family child care home must ~~homes shall~~ be
 113 licensed under this section and permanently post its license in
 114 a conspicuous location that is visible by all parents and
 115 guardians and the department.

116 (a) A licensed family day care home must first have
 117 operated for a minimum of 2 consecutive years, with an operator
 118 who has had a child development associate credential or its
 119 equivalent for 1 year, before seeking licensure as a large
 120 family child care home.

121 (b) The department may provide technical assistance to
 122 counties and family day care home providers to enable the
 123 counties and providers to achieve compliance with minimum
 124 standards for large family child care homes.

125 Section 4. Subsection (3) of section 402.315, Florida
 126 Statutes, is amended to read:

127 402.315 Funding; license fees.—

128 (3) The department shall collect a fee for a ~~any~~ license
 129 it issues for a child care facility, family day care home, or
 130 large family child care home under ~~pursuant to~~ ss. 402.305,

131 402.313, and 402.3131.

132 (a) For a child care facility licensed under ~~pursuant to~~
 133 s. 402.305, the such fee is shall be \$1 per child, based on the
 134 licensed capacity of the facility. However, if a facility has a
 135 licensed capacity of 25 children or fewer, except that the
 136 minimum fee is shall be \$25 per facility and ~~the maximum fee~~
 137 ~~shall be~~ \$100 per facility.

138 (b) For a family day care home registered under ~~pursuant~~
 139 ~~to~~ s. 402.313, the such fee is shall be \$25.

140 (c) For a family day care home licensed under ~~pursuant to~~
 141 s. 402.313, the such fee is shall be \$50.

142 (d) For a large family child care home licensed under
 143 ~~pursuant to~~ s. 402.3131, the such fee is shall be \$60.

144 Section 5. Section 402.318, Florida Statutes, is amended
 145 to read:

146 402.318 Advertisement.—A person, as defined in s. 1.01 ~~s.~~
 147 ~~1.01(3)~~, may not advertise a child care facility as defined in
 148 s. 402.302, a child care facility that is exempt from licensing
 149 requirements pursuant to s. 402.316, a family day care home as
 150 defined in s. 402.302, or a large family child care home as
 151 defined in s. 402.302 without including within such
 152 advertisement the state or local agency license number,
 153 exemption number, or registration number of the such facility or
 154 home. As used in this section, the term "advertisement"
 155 includes, but is not limited to, the marketing of child care
 156 services to the public on vehicles; print materials; electronic

HB 303

2014

157 | media, including Internet sites; and radio and television
158 | announcements. A person who violates ~~Violation of~~ this section
159 | commits ~~is~~ a misdemeanor of the first degree, punishable as
160 | provided in s. 775.082 or s. 775.083.

161 | 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 Berman offered the following:

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

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsections (1), (2), (5), and (8) of section
 8 402.302, Florida Statutes, are amended to read:

9 402.302 Definitions.—As used in this chapter, the term:

10 (1) "Advertise" means to market child care services
 11 through any means, including but not limited to online message
 12 boards, vehicle signs, newspaper advertisements, roadside signs,
 13 flyers or posters, and radio and television announcements.

14 (2) "Child care" means the care, protection, and supervision
 15 of a child, for ~~a period of~~ less than 24 hours a day on a
 16 regular basis, which supplements parental care, enrichment, and
 17 health supervision for the child, in accordance with his or her



Amendment No.

18 individual needs, and for which a payment, fee, or grant is made
19 for care.

20 (23) "Child care facility" means a ~~includes any~~ child care
21 center or child care arrangement that ~~which~~ provides child care
22 for more than four ~~five~~ children unrelated to the operator and
23 which receives a payment, fee, or grant for any of the children
24 receiving care, wherever operated, and whether or not operated
25 for profit. The following are not included:

26 (a) Public schools and nonpublic schools and their
27 integral programs, except as provided in s. 402.3025;

28 (b) Summer camps having children in full-time residence;

29 (c) Summer day camps;

30 (d) Bible schools normally conducted during vacation
31 periods; and

32 (e) Operators of transient establishments, as defined in
33 chapter 509, which provide child care services solely for the
34 guests of their establishment or resort, if ~~provided that~~ all
35 child care personnel of the establishment or resort are screened
36 according to the level 2 screening requirements of chapter 435.

37 (56) "Department" means the Department of Children and
38 Families ~~Family Services~~.

39 (8) "Family day care home" means an occupied residence in
40 which child care is regularly provided for children from at
41 least two unrelated families and ~~which~~ either receives a
42 payment, fee, or grant for any of the children receiving care,
43 whether or not operated for profit, or advertises the



Amendment No.

44 availability of its services, whether or not it receives a
45 payment, fee, or grant for any of the children receiving care,
46 and whether or not operated for profit. Household children
47 under 13 years of age, when on the premises of the family day
48 care home or on a field trip with children enrolled in child
49 care, shall be included in the overall capacity of the licensed
50 home. A family day care home shall be allowed to provide care
51 for one of the following groups of children, which shall include
52 household children under 13 years of age:

53 (a) A maximum of four children from birth to 12 months of
54 age.

55 (b) A maximum of three children from birth to 12 months of
56 age, and other children, for a maximum total of six children.

57 (c) A maximum of six preschool children if all are older
58 than 12 months of age.

59 (d) A maximum of 10 children if no more than 5 are
60 preschool age and, of those 5, no more than 2 are under 12
61 months of age.

62

63 Section 2. Subsections (1) of section 402.313, Florida
64 Statutes, is amended to read:

65 402.313 Family day care homes.—

66 (1) A family day care home must ~~homes shall~~ be licensed
67 under this section act ~~if it is they are~~ presently being
68 licensed under an existing county licensing ordinance or if the
69 board of county commissioners passes a resolution that family



Amendment No.

70 | day care homes be licensed. Each licensed or registered family
71 | day care home must conspicuously display its license or
72 | registration in the common area of the home.

73 | (a) If not subject to license, a family day care home must
74 | ~~homes shall~~ register annually with the department and provide,
75 | ~~providing~~ the following information:

76 | 1. The name and address of the home.

77 | 2. The name of the operator.

78 | 3. The number of children served.

79 | 4. Proof of a written plan to identify a provide at least
80 | ~~one other~~ competent adult who has met the screening and training
81 | requirements of the department to serve as a designated
82 | substitute to be available to substitute for the operator in an
83 | emergency. This plan must shall include the name, address, and
84 | telephone number of the designated substitute.

85 | 5. Proof of screening and background checks for the
86 | operator, each household member, and the designated substitute.

87 | 6. Proof of successful completion of the 30-hour training
88 | course, as evidenced by passage of a competency examination,
89 | which must shall include:

90 | a. State and local rules and regulations that govern child
91 | care.

92 | b. Health, safety, and nutrition.

93 | c. Identifying and reporting child abuse and neglect.



Amendment No.

94 d. Child development, including typical and atypical
95 language development; and cognitive, motor, social, and self-
96 help skills development.

97 e. Observation of developmental behaviors, including using
98 a checklist or other similar observation tools and techniques to
99 determine a child's developmental level.

100 f. Specialized areas, including early literacy and
101 language development of children from birth to 5 years of age,
102 as determined by the department, for owner-operators of family
103 day care homes.

104 7. Proof that immunization records are kept current.

105 8. Proof of completion of the required continuing
106 education units or clock hours.

107 (b) A family day care home may volunteer to be licensed
108 ~~under this act.~~

109 (c) The department may provide technical assistance to
110 counties and family day care home providers to enable counties
111 and family day care providers to achieve compliance with family
112 day care homes standards.

113 Section 3. Subsection (1) of section 402.3131, Florida
114 Statutes, is amended to read:

115 402.3131 Large family child care homes.—

116 (1) A large family child care home must ~~homes shall~~ be
117 licensed under this section and permanently post its license in
118 a conspicuous location that is visible by all parents and
119 guardians and the department.



Amendment No.

120 (a) A licensed family day care home must first have
121 operated for a minimum of 2 consecutive years, with an operator
122 who has had a child development associate credential or its
123 equivalent for 1 year, before seeking licensure as a large
124 family child care home.

125 (b) The department may provide technical assistance to
126 counties and family day care home providers to enable the
127 counties and providers to achieve compliance with minimum
128 standards for large family child care homes.

129 Section 4. Subsection (3) of section 402.315, Florida
130 Statutes, is amended to read:

131 402.315 Funding; license fees.—

132 (3) The department shall collect a fee for a any license
133 it issues for a child care facility, family day care home, or
134 large family child care home under ~~pursuant to~~ ss. 402.305,
135 402.313, and 402.3131.

136 (a) For a child care facility licensed under ~~pursuant to~~
137 s. 402.305, the such fee is ~~shall be~~ \$1 per child, based on the
138 licensed capacity of the facility, except that the minimum fee
139 is ~~shall be~~ \$25 per facility and the maximum fee shall be \$100
140 per facility.

141 (b) For a family day care home registered under ~~pursuant~~
142 ~~to~~ s. 402.313, the such fee is ~~shall be~~ \$25.

143 (c) For a family day care home licensed under ~~pursuant to~~
144 s. 402.313, the such fee is ~~shall be~~ \$50.



Amendment No.

145 (d) For a large family child care home licensed under
146 ~~pursuant to s. 402.3131, the such fee is shall be~~ \$60.

147 Section 5. Section 402.318, Florida Statutes, is amended
148 to read:

149 402.318 Advertisement.—A person, as defined in s. 1.01 s-
150 ~~1.01(3)~~, may not advertise a child care facility as defined in
151 s. 402.302, a child care facility that is exempt from licensing
152 requirements pursuant to s. 402.316, a family day care home as
153 defined in s. 402.302, or a large family child care home as
154 defined in s. 402.302, without including within such
155 advertisement the state or local agency license number,
156 exemption number, or registration number of the such facility or
157 home. A person who violates Violation of this section commits is
158 a misdemeanor of the first degree, punishable as provided in s.
159 775.082 or s. 775.083.

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

161
162
163
164

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

165 Remove everything before the enacting clause and insert:
166 An act relating to the licensing of facilities that
167 offer health and human services; amending s. 402.302,
168 F.S.; redefining the term "child care"; redefining the
169 term "child care facility" to include a child care
170

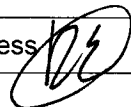
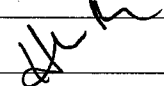


Amendment No.

171 center or child care arrangement that provides child
172 care for more than four, rather than five, children
173 unrelated to the operator, and redefining the term
174 "family day care home" to include an occupied
175 residence that regularly provides child care for at
176 least two unrelated families and advertises the
177 availability of its services, whether or not it
178 receives a payment, fee, or grant for any of the
179 children and whether or not operated for profit;
180 conforming terminology; amending s. 402.313, F.S.;
181 requiring a family day care home to conspicuously
182 display its license or registration in the common area
183 of the home, to provide proof of a written plan that
184 identifies a designated substitute for the operator,
185 and to provide proof of screening and background
186 checks for certain individuals; amending s. 402.3131,
187 F.S.; requiring a large family child care home to
188 permanently post its license in a conspicuous location
189 that is visible by all parents and guardians and the
190 Department of Children and Families; amending s.
191 402.315, F.S.; revising provisions related to license
192 fees; amending s. 402.318, F.S.; prohibiting the
193 advertising of a child care facility, family day care
194 home, or large family child care home unless it is
195 licensed or registered; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 515 Public Assistance Fraud
SPONSOR(S): Smith
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	11 Y, 0 N	Jones	Cunningham
2) Healthy Families Subcommittee		Entress 	Brazzell 
3) Appropriations Committee			
4) Judiciary Committee			

SUMMARY ANALYSIS

Section 414.39, F.S., establishes a variety of crimes involving public assistance fraud. Public assistance fraud includes fraud involving temporary cash assistance, food assistance, Medicaid, or optional state supplementation program. The criminal penalties that apply to these offenses are based on the value of the public assistance involved in the offense. For example, s. 414.39(5)(b), F.S., specifies that if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more, in any 12 consecutive months, such person commits a third degree felony.

The bill amends the aggregate value amount in s. 414.39(5)(b), F.S., to make it a third degree felony if the value of the public assistance fraud or identification is of an aggregate value of \$200 or more *but less than* \$20,000 in any 12 consecutive months. The bill also creates s. 414.39(5)(c) and (d), F.S., which:

- (c) Makes it a second degree felony if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$20,000 or more, but less than \$100,000 in any 12 consecutive months.
- (d) Makes it a first degree felony if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$100,000 or more in any 12 consecutive months.

The bill requires the Department of Children and Families (DCF), subject to available funding, to pay a reward to a person who reports original information relating to a violation of the state's public assistance fraud laws. The bill provides specifications that must be met before the reward money is paid.

The bill also amends s. 414.095(14), F.S., to add the following prohibitions and restrictions that apply to persons applying for or receiving Temporary Cash Assistance (TCA) benefits:

- Use of TCA benefits out-of-state is limited to 30 consecutive days. The TCA benefits of a recipient using his or her benefits out-of-state for more than 30 days shall be terminated.
- A parent or caretaker relative who has been disqualified due to fraud must have a protective payee designated to receive TCA benefits for an eligible child. An individual disqualified for fraud cannot be designated as a protective payee. In a two-parent household, if only one parent is disqualified, the other parent may be designated as the payee of the benefit.

The Criminal Justice Impact Conference has not yet met to determine the prison bed impact of the bill. However, the bill may have a negative prison bed impact on the Department of Corrections because the bill creates new first and second degree felony offenses relating to public assistance fraud. The bill may also have a fiscal impact on DCF and the Department of Financial Services (see fiscal section).

The bill is effective October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Public Assistance Fraud

"Public assistance" refers to benefits paid on the basis of the temporary cash assistance,¹ food assistance,² Medicaid,³ or optional state supplementation program.^{4,5} Section 414.39, F.S., establishes the following crimes involving public assistance fraud, which are investigated by the Division of Public Assistance Fraud within the Department of Financial Services (DFS)⁶:

Section 414.39(1), F.S., provides that a person commits a crime if he or she:

- Fails, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used in making a determination as to such person's qualification to receive public assistance under any state or federally funded assistance program;
- Fails to disclose a change in circumstances in order to obtain or continue to receive any such public assistance to which he or she is not entitled or in an amount larger than that to which he or she is entitled; or
- Aids and abets another person in the commission of any such act.

Section 414.39(2), F.S., provides that a person commits a crime if he or she:

- Uses, transfers, acquires, traffics, alters, forges, or possesses;
- Attempts to use, transfer, acquire, traffic, alter, forge, or possess; or
- Aids and abets another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of, a food assistance identification card, an authorization, including, but not limited to, an electronic authorization for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law.

Section 414.39(3), F.S., specifies that any person having duties in the administration of a state or federally funded public assistance program or in the distribution of public assistance, or authorizations or identifications to obtain public assistance, under a state or federally funded public assistance program commits a crime if he or she:

- Fraudulently misappropriates, attempts to misappropriate, or aids and abets in the misappropriation of food assistance, an authorization for food assistance, a food assistance identification card, a certificate of eligibility for prescribed medicine, a Medicaid identification card, or public assistance from any other state or federally funded program with which he or she has been entrusted or of which he or she has gained possession by virtue of his or her position, or if they knowingly fail to disclose any such fraudulent activity; or
- Knowingly misappropriates, attempts to misappropriate, or aids or abets in the misappropriation of, funds given in exchange for food assistance program benefits or for any form of food assistance benefits authorization.

Section 414.39(4), F.S., provides that a person commits a crime if he or she:

- Knowingly files, attempts to file, or aids and abets in the filing of, a claim for services to a recipient of public assistance under any state or federally funded public assistance program for services that were not rendered; knowingly files a false claim or a claim for nonauthorized items or services under such a program; or if they knowingly bill the recipient

¹ Temporary cash assistance provides cash assistance to families with children to help families become self-supporting.

² The Food Assistance Program helps people with low-income, buy healthy food.

³ Medicaid provides medical coverage to low-income individuals and families.

⁴ Optional State Supplementation provides monthly cash payments to indigent elderly or disabled individuals.

⁵ Section 414.0252(10), F.S.

⁶ Section 414.411, F.S.

of public assistance under such a program, or his or her family, for an amount in excess of that provided for by law or regulation;

- Knowingly fails to credit the state or its agent for payments received from social security, insurance, or other sources; or
- In any way knowingly receives, attempts to receive, or aids and abets in the receipt of, unauthorized payment or other unauthorized public assistance or authorization or identification to obtain public assistance as provided herein.

Section 414.39(5), F.S., establishes criminal penalties that apply to all of the above-described offenses. The criminal penalties are based on the value of the public assistance involved in the offense.

Currently, s. 414.39(5), F.S., provides:

- (a) If the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is less than an aggregate value of \$200 in any 12 consecutive months, such person commits a first degree misdemeanor;⁷ or
- (b) If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more in any 12 consecutive months, such person commits a third degree felony.⁸

In Fiscal Year 2012-2013, TCA served 209,142 people, food assistance served 4,879,342 people, and Medicaid served 3,744,588 people.⁹

Effect of the Bill

The bill amends the aggregate value amount in s. 414.39(5)(b), F.S., to make it a third degree felony if the value of the public assistance fraud or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more *but less than \$20,000* in any 12 consecutive months.

The bill creates s. 414.39(5)(c) and (d), F.S., which:

- (c) Makes it a second degree felony¹⁰ if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$20,000 or more, but less than \$100,000 in any 12 consecutive months.
- (d) Makes it a first degree felony¹¹ if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$100,000 or more in any 12 consecutive months.

The bill requires the Department of Children and Families (DCF) or the director of DCF's Office of Public Benefits Integrity to pay a reward to a person who furnishes and reports original information relating to a violation of the state's public assistance fraud laws, unless the person declines the reward. The information and report must:

- Be made to DCF, DFS, or the Florida Department of Law Enforcement;
- Relate to criminal fraud upon public assistance program funds or a criminal violation of public assistance fraud laws by another person; and
- Lead to the recovery of a fine, penalty, or forfeiture of property.

The reward requirement is subject to availability of funds and may not exceed 10 percent of the amount recovered or \$500,000, whichever is less, in a single case. The reward must be paid from the state share of the recovery in the Federal Grants Trust Fund from moneys collected pursuant to s. 414.41,

⁷ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

⁸ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

⁹ *DCF 2013 Annual Report*, Florida Department of Children and Families.

¹⁰ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

¹¹ A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

F.S.¹² The bill specifies that a person who receives a reward for providing information about Medicaid fraud is not eligible to receive funds pursuant to the Florida False Claims Act.¹³

Temporary Cash Assistance

“Temporary Case Assistance” (TCA) is defined as cash assistance provided under the state program certified under Title IV-A of the Social Security Act, as amended.¹⁴ TCA is a program under the Temporary Assistance for Needy Families block grant.¹⁵ DCF administers Florida’s TCA Program, which provides cash assistance to families with children under the age of 18 or under age 19 if full time high school students, that meet specified technical, income, and asset requirements. The program helps families become self-supporting while allowing children to remain in their own homes.¹⁶

Section 414.095, F.S., establishes the technical, income, and asset requirements that must be met before becoming eligible to receive TCA benefits,¹⁷ sets forth criteria for determining how much TCA a person is entitled to, and establishes how TCA may be calculated and paid. For example, the statute requires that an applicant register for work and engage in work activities, be a resident of Florida, and have a minor child. The statute also contains a multitude of prohibitions and restrictions, such as:

- A family without a minor child living in the home is not eligible to receive TCA. However, a pregnant woman is eligible for TCA in the ninth month of pregnancy if all eligibility requirements are otherwise satisfied;
- An individual is ineligible to receive TCA during any period when the individual is fleeing to avoid prosecution, custody, or confinement after committing a crime, attempting to commit a crime that is a felony under the laws of the place from which the individual flees or a high misdemeanor in the State of New Jersey, or violating a condition of probation or parole imposed under federal or state law; and
- The parent or other caretaker relative must report to the department within a specified period that a minor child will be absent from the home for 30 or more consecutive days. A parent or caretaker relative who fails to report this information to DCF shall be disqualified from receiving TCA for 30 days for the first occurrence, 60 days for the second occurrence, and 90 days for the third or subsequent occurrence.¹⁸

Currently, eligible recipients may use benefits out of state, but there are no regulations relating to determining the length of absence that is permissible.¹⁹

In the event that TCA is terminated due to noncompliance with work requirements, DCF will establish a protective payee to receive cash assistance or food assistance funds on behalf of any children in the home who are under the age of 18.²⁰ The protective payee shall be designated by DCF and may include:

- A relative or other individual who is interested in or concerned with the welfare of the child or children and agrees in writing to utilize the assistance in the best interest of the child or children.

¹² Section 414.41, F.S., requires DCF to take all necessary steps to recover overpayment whenever it becomes apparent that any person or provider has received any public assistance to which she or he is not entitled, through either simple mistake or fraud on the part of DCF or on the part of the recipient or participant.

¹³ Under Florida’s False Claims Act (ss. 68.081-68.092, F.S.), people who blow the whistle on Medicaid Fraud are entitled to share in any funds recovered by the state. <http://myfloridalegal.com/pages.nsf/Main/ebc480598bbf32d885256cc6005b54d1> (last visited on January 29, 2014). See s. 68.085(3), F.S.

¹⁴ S. 414.0252(12), F.S.

¹⁵ Title IV-A of the Social Security Act.

¹⁶ *Temporary Cash Assistance*, The Department of Children and Families, accessible at: <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/temporary-cash-assistance-tca> (last visited on February 23, 2014).

¹⁷ DCF determines if the families meet such requirements. Section 414.095(1), F.S.

¹⁸ Section 414.095(14), F.S.

¹⁹ DCF’s Bill Analysis of HB 515 (2014) (on file with the Healthy Families Subcommittee).

²⁰ Section 414.095(4), F.S.

- A member of the community affiliated with a religious, community, neighborhood, or charitable organization who agrees in writing to utilize the assistance in the best interest of the child or children.
- A volunteer or member of an organization who agrees in writing to fulfill the role of protective payee and utilize the assistance in the best interest of the child or children.²¹

Effect of the Bill

The bill amends s. 414.095(14), F.S., to add two additional prohibitions and restrictions. The first limits the out-of-state use of TCA benefits to 30 consecutive days and requires termination of the TCA benefits if used out-of-state for more than 30 days. The bill directs DCF to adopt rules providing for the determination of temporary absence and a recipient's intent to return to the state.

The second requires a parent or caretaker relative who has been disqualified due to fraud to have a protective payee designated to receive the TCA benefits for an eligible child. The requirements for designation of a protective payee are the same as provided in s. 414.065(2)(b), F.S.²² The bill specifies that an individual disqualified for fraud cannot be designated as a protective payee and in a two-parent household; if only one parent is disqualified, the other parent may be designated as the payee of the benefit.

B. SECTION DIRECTORY:

Section 1. Amends s. 414.39, F.S., relating to fraud.

Section 2. Amends s. 414.095, F.S., relating to determining eligibility for temporary cash assistance.

Section 3. Provides an effective date of October 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

- DCF reports that reducing annual TCA expenditures by terminating the benefits received by recipients no longer residing in the state of Florida may result in an estimated annual savings of \$1.8 million (based on repeated out of state use and averages).²³
- DFS and DCF report that possible increased revenues if the reward provisions result in increased numbers of fraud violations reported that may generate a repayment to the state. According to DFS, the state retains between 20% and 35% of recoveries.²⁴

2. Expenditures:

The Criminal Justice Impact Conference has not yet met to determine the prison bed impact of the bill. However, the bill may have a negative prison bed impact on the Department of Corrections

²¹ Section 414.065(2), F.S.

²² Section 414.065, F.S., requires all TCA applicants to register for work and engage in work activities in accordance with s. 445.024, F.S. Those who do not comply with the work requirements are subject to penalties. Upon the second or third occurrence of noncompliance, TCA for a child or children in a family who are under age 16 may be continued. However, any payments must be made through a protective payee. Protective payees must be designated by DCF and may include:

- A relative or other individual who is interested in or concerned with the welfare of the child or children and agrees in writing to utilize the assistance in the best interest of the child or children;
- A member of the community affiliated with a religious, community, neighborhood, or charitable organization who agrees in writing to utilize the assistance in the best interest of the child or children; or
- A volunteer or member of an organization who agrees in writing to fulfill the role of protective payee and to utilize the assistance in the best interest of the child or children.

²³ DCF's Bill Analysis of HB 515 (2014)(on file with the Healthy Families Subcommittee).

²⁴ DFS's Bill Analysis of HB 515 (2014)(on file with the Healthy Families Subcommittee).

because the bill creates new first and second degree felony offenses relating to public assistance fraud.

According to DCF:

- Funding for rewards will be taken from moneys collected pursuant to s. 414.41, F.S.,²⁵ in the Federal Grants Trust Fund, which is a significant source of funding for DCF's Public Benefit Integrity (PBI) program. Reduction of these funds may cause the need for additional funding sources for the PBI operation.
- Additional staff would be needed to receive and investigate the tips and complaints received through the reward program. The Florida Office of the Attorney General experienced a 286% increase in calls relating to Medicaid fraud in the first year of a new reward program. DCF's Office of Public Benefit Integrity currently receives an average of 26,400 online and telephonic fraud reports annually. Assuming a similar increase in reports, an additional 7 staff would be needed to process the increase in complaint volume, investigative leads, and oversee the administration of the program.

Current call/ complaint volume	26,400
Additional anticipated volume (286% increase)	75,504
Minutes to log and process each complaint	8
Hours of additional workload	10,067
Contract staff to handle workload (10,067 hrs / 2,000 hrs per yr)	5
Expected additional cost (\$16.10/hr * 2,000 hrs * 5 staff)	\$161,000

Additional DCF Staffing Need

- 1 FTE: Rewards Program Manager
- 1 OPS ACCESS Integrity Investigator

Salaries and Benefits	\$48,003
Other Personnel Services	\$35,601
Nonrecurring Expenses (furniture for FTE, Equipment for OPS & Contract Staff)	\$9,473
Recurring Expenses (Rent, Supplies, telephone, postage)	\$9,761
Technology (Software Programming)	\$85,000
Contracted Services (6 Financial Specialists)	\$161,000
DMS-Human Resources Services Surcharge	\$344
Total—FY 2014-15	\$349,182

- Notification to TCA recipients regarding out of state use will annually cost an estimated \$3,500 for mailings and communication costs.²⁶

According to DFS:

- Implementation of the cash reward process provided by this bill will likely generate a significant increase in the number of complaints received, based on the 286% increase in public complaints received when a similar reward system began by the Attorney General's Medicaid Fraud Unit.²⁷ Given current Division staffing and the lack of sufficient administrative support positions, additional personnel resources would be needed along with dedicated telephone lines.
- DFS estimates the need for additional funding of:

²⁵ S. 414.41 allows DCF, in conjunction with the Food and Nutrition Service and the Internal Revenue Service, to intercept federal income tax refunds when clients owe food assistance or temporary cash assistance debt to the state.

²⁶ DCF's Bill Analysis of HB 515 (2014)(on file with the Healthy Families Subcommittee).

²⁷ See DFS's Bill Analysis of HB 515 (2014)(on file with the Healthy Families Subcommittee).

- \$122,874 for five administrative support positions (five @ \$19,199/yr = \$95,995 + \$26,878/yr in benefit costs @ 28% of salary).
- \$1,140 for office space (80sqft @average of \$18sqft/ year = \$1,140).
- A non-recurring \$9,000 for office furniture and computer equipment for 5 OPS employees (5 @ \$1.8K).
- **Total—FY 2014-15 \$133,014**

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because:

- Portions of the bill are criminal law; and
- The bill does not appear to require counties or municipalities to take 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 limits the out-of-state use of TCA benefits to 30 consecutive days and requires termination of the TCA benefits if used out-of-state for more than 30 days. DCF is required to adopt rules providing for the determination of temporary absence and a recipient's intent to return to the state. Section 414.45, F.S., also gives DCF the authority to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement and enforce the provisions of ch. 414, F.S. Therefore, adequate rulemaking authority appears to exist to implement any rules necessitated by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to public assistance fraud; amending s. 414.39, F.S.; providing enhanced criminal penalties if the value of public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value exceeding specified amounts; providing for a reward for a report of original information relating to a violation of the state's public assistance fraud laws if the information and report meet specified requirements; amending s. 414.095, F.S.; limiting to a specified period the use of temporary cash assistance benefits out of state; requiring rulemaking; requiring that a parent or caretaker relative who has been disqualified due to fraud have a protective payee designated to receive temporary cash assistance benefits for eligible children; providing requirements for protective payees; providing an effective date.

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

Section 1. Subsections (1) through (5) of section 414.39, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

414.39 Fraud.—

(1) Any person who knowingly:

27 (a) Fails, by false statement, misrepresentation,
 28 impersonation, or other fraudulent means, to disclose a material
 29 fact used in making a determination as to such person's
 30 qualification to receive public assistance under any state or
 31 federally funded assistance program;

32 (b) Fails to disclose a change in circumstances in order
 33 to obtain or continue to receive any such public assistance to
 34 which he or she is not entitled or in an amount larger than that
 35 to which he or she is entitled; or

36 (c) Aids and abets another person in the commission of any
 37 such act,

38
 39 commits ~~is guilty of~~ a crime and shall be punished as provided
 40 in subsection (5).

41 (2) Any person who knowingly:

42 (a) Uses, transfers, acquires, traffics, alters, forges,
 43 or possesses; ; ~~or~~

44 (b) Attempts to use, transfer, acquire, traffic, alter,
 45 forge, or possess; ; or

46 (c) Aids and abets another person in the use, transfer,
 47 acquisition, traffic, alteration, forgery, or possession of,
 48
 49 a food assistance identification card, an authorization,
 50 including, but not limited to, an electronic authorization, for
 51 the expenditure of food assistance benefits, a certificate of
 52 eligibility for medical services, or a Medicaid identification

53 card in any manner not authorized by law commits a crime and
 54 shall be punished as provided in subsection (5).

55 (3) Any person having duties in the administration of a
 56 state or federally funded public assistance program or in the
 57 distribution of public assistance, or authorizations or
 58 identifications to obtain public assistance, under a state or
 59 federally funded public assistance program and who:

60 (a) Fraudulently misappropriates, attempts to
 61 misappropriate, or aids and abets in the misappropriation of,
 62 food assistance, an authorization for food assistance, a food
 63 assistance identification card, a certificate of eligibility for
 64 prescribed medicine, a Medicaid identification card, or public
 65 assistance from any other state or federally funded program with
 66 which he or she has been entrusted or of which he or she has
 67 gained possession by virtue of his or her position, or who
 68 knowingly fails to disclose any such fraudulent activity; or

69 (b) Knowingly misappropriates, attempts to misappropriate,
 70 or aids or abets in the misappropriation of, funds given in
 71 exchange for food assistance program benefits or for any form of
 72 food assistance benefits authorization,

73
 74 commits ~~is guilty of~~ a crime and shall be punished as provided
 75 in subsection (5).

76 (4) Any person who:

77 (a) Knowingly files, attempts to file, or aids and abets
 78 in the filing of, a claim for services to a recipient of public

79 assistance under any state or federally funded public assistance
 80 program for services that were not rendered; knowingly files a
 81 false claim or a claim for nonauthorized items or services under
 82 such a program; or knowingly bills the recipient of public
 83 assistance under such a program, or his or her family, for an
 84 amount in excess of that provided for by law or regulation;

85 (b) Knowingly fails to credit the state or its agent for
 86 payments received from social security, insurance, or other
 87 sources; or

88 (c) In any way knowingly receives, attempts to receive, or
 89 aids and abets in the receipt of, unauthorized payment or other
 90 unauthorized public assistance or authorization or
 91 identification to obtain public assistance as provided herein,
 92
 93 commits ~~is guilty of~~ a crime and shall be punished as provided
 94 in subsection (5).

95 (5)(a) If the value of the public assistance or
 96 identification wrongfully received, retained, misappropriated,
 97 sought, or used is less than an aggregate value of \$200 in any
 98 12 consecutive months, such person commits a misdemeanor of the
 99 first degree, punishable as provided in s. 775.082 or s.
 100 775.083.

101 (b) If the value of the public assistance or
 102 identification wrongfully received, retained, misappropriated,
 103 sought, or used is of an aggregate value of \$200 or more, but
 104 less than \$20,000 in any 12 consecutive months, such person

105 commits a felony of the third degree, punishable as provided in
 106 s. 775.082, s. 775.083, or s. 775.084.

107 (c) If the value of the public assistance or
 108 identification wrongfully received, retained, misappropriated,
 109 sought, or used is of an aggregate value of \$20,000 or more, but
 110 less than \$100,000 in any 12 consecutive months, such person
 111 commits a felony of the second degree, punishable as provided in
 112 s. 775.082, s. 775.083, or s. 775.084.

113 (d) If the value of the public assistance or
 114 identification wrongfully received, retained, misappropriated,
 115 sought, or used is of an aggregate value of \$100,000 or more in
 116 any 12 consecutive months, such person commits a felony of the
 117 first degree, punishable as provided in s. 775.082, s. 775.083,
 118 or s. 775.084.

119 (e)(e) As used in this subsection, the value of a food
 120 assistance authorization benefit is the cash or exchange value
 121 unlawfully obtained by the fraudulent act committed in violation
 122 of this section.

123 (f)(d) As used in this section, "fraud" includes the
 124 introduction of fraudulent records into a computer system, the
 125 unauthorized use of computer facilities, the intentional or
 126 deliberate alteration or destruction of computerized information
 127 or files, and the stealing of financial instruments, data, and
 128 other assets.

129 (11)(a) Subject to availability of funds, the department
 130 or the director of the Office of Public Benefits Integrity

131 shall, unless the person declines the reward, pay a reward to a
 132 person who furnishes and reports original information relating
 133 to a violation of the state's public assistance fraud laws if
 134 the information and report:

135 1. Are made to the department, the Department of Financial
 136 Services, or the Department of Law Enforcement.

137 2. Relate to criminal fraud upon public assistance program
 138 funds or a criminal violation of public assistance fraud laws by
 139 another person.

140 3. Lead to the recovery of a fine, penalty, or forfeiture
 141 of property.

142 (b) The reward may not exceed 10 percent of the amount
 143 recovered or \$500,000, whichever is less, in a single case.

144 (c) The reward shall be paid from the state share of the
 145 recovery in the Federal Grants Trust Fund from moneys collected
 146 pursuant to s. 414.41.

147 (d) A person who receives a reward pursuant to this
 148 subsection is not eligible to receive funds pursuant to the
 149 Florida False Claims Act for Medicaid fraud for which the reward
 150 was received.

151 Section 2. Paragraphs (k) and (l) are added to subsection
 152 (14) of section 414.095, Florida Statutes, to read:

153 414.095 Determining eligibility for temporary cash
 154 assistance.—

155 (14) PROHIBITIONS AND RESTRICTIONS.—

156 (k) Use of temporary cash assistance benefits out of state

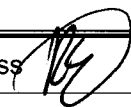

157 is limited to 30 consecutive days. The temporary cash assistance
 158 benefits of a recipient using his or her benefits out-of-state
 159 for more than 30 days shall be terminated. The department shall
 160 adopt rules providing for the determination of temporary absence
 161 and a recipient's intent to return to the state.

162 (1) A parent or caretaker relative who has been
 163 disqualified due to fraud must have a protective payee
 164 designated to receive temporary cash assistance benefits for an
 165 eligible child. The requirements for designation of a protective
 166 payee shall be the same as the requirements for designation of a
 167 protective payee for work sanctions in s. 414.065(2)(b). An
 168 individual disqualified for fraud cannot be designated as a
 169 protective payee. In a two-parent household, if only one parent
 170 is disqualified, the other parent may be designated as the payee
 171 of the benefit.

172 Section 3. This act shall take effect October 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 535 Transactions in Fresh Produce Markets
SPONSOR(S): Fullwood
TIED BILLS: IDEN./SIM. **BILLS:** SB 552

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthy Families Subcommittee		Entress 	Brazzell 
2) Health & Human Services Committee			

SUMMARY ANALYSIS

The Supplemental Nutrition Assistance Program (SNAP) is a federal program which offers nutrition assistance to low-income individuals and families. Individuals and families who meet eligibility standards receive an Electronic Benefits Transfer (EBT) card. Money is deposited on the EBT card for families and individuals to purchase certain types of food each month. To accept SNAP benefits from an EBT card, businesses selling food must have an EBT system and be licensed by the United States Department of Agriculture (USDA). The USDA licenses farmer's markets and allows farmer's markets to operate EBT systems, but not all farmer's markets accept SNAP benefits.

The bill allows the owner or operator of a market selling fresh produce, such as a farmer's market, that does not have an Electronic Benefits Transfer (EBT) system to allow certain specified groups to implement and operate an EBT system in the market on behalf of the sellers. The bill clarifies that this applies when the market owner or operator is not an authorized Supplemental Nutrition Assistance Program (SNAP) retailer.

The bill has no fiscal impact.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

History of the Food Stamp Program

The food stamp program began in 1939, providing a discount for surplus food to people on relief. From 1939-1943, those who qualified were able to purchase stamps redeemable for the purchase of food, and were given additional stamps redeemable only towards purchasing surplus food.¹ In 1961 the Pilot Food Stamp Program was created by President Kennedy. The pilot program used the original food stamp program, but did not limit the use of additional stamps toward surplus food; those stamps could be used for perishables as well.²

The Food Stamp Act of 1964 made the program permanent and expanded the use of food stamps to "all items eligible for consumption, with the exception of alcohol and imported foods."³ Since then a number of changes and reforms to the program have taken place including changing the name of the program to the Supplemental Nutrition Assistance Program (SNAP), changing eligibility determinations and introducing of the use of an Electronic Benefits Transaction card (EBT).⁴

Supplemental Nutrition Assistance Program-SNAP (Federal Program)

Today, SNAP is a federal program that is administered by the individual states. SNAP aims to "provide children and low-income people access to food, a healthful diet and nutrition education in a way that supports American agriculture and inspires public confidence."⁵ The Food and Nutrition Act of 2008 defines "eligible food" as "any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods and hot food products prepared for immediate consumption."⁶ Eligible food also includes seeds and plants to grow foods for personal consumption, as well as some additional exceptions to allow for hot food products ready for consumption in certain circumstances.⁷

Retailers Accepting Food Stamps

Retailers accepting SNAP benefits as a form of payment must be licensed by the United States Department of Agriculture (USDA).⁸ The Food and Nutrition Service (FNS) is responsible for licensing and monitoring of retail food stores participating in SNAP.⁹ A separate SNAP license is required for

¹ A Short History of SNAP, USDA Food and Nutrition Service, available at: <http://www.fns.usda.gov/snap/rules/Legislation/about.htm>. (last visited 3/2/14).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ About FNS, USDA Food and Nutrition Service, available at: <http://www.fns.usda.gov/about-fns> (last visited 3/2/14).

⁶ 7 C.F.R. s. 271.2.

⁷ P.L. 110-246, provides that certain individuals because of age, disability or living arrangement may purchase hot foods with their SNAP EBT card.

⁸ Supplemental Nutrition Assistance Program-Retailers, USDA Food and Nutrition Service, *accessible at*: <http://www.fns.usda.gov/snap/retailers/merchants.htm>. (last visited 3/2/14).

⁹ Supplemental Nutrition Assistance Program-Retailers, USDA Food and Nutrition Service, *accessible at*: <http://www.fns.usda.gov/snap/retailers/merchants.htm>. (last visited 3/2/14).

each store location and a SNAP permit is no longer valid if a store is closed, moved, or sold.¹⁰ Licensed stores are fully reviewed for eligibility at least once every five years.¹¹

To apply as a SNAP provider, retailers must meet basic eligibility requirements. For basic eligibility, the store must sell food for home preparation and consumption and must also meet ONE of the following conditions:

- Offer at least three varieties of qualifying foods in each of the following four stable food groups on a continuous basis¹²:
 - Meat, poultry, or fish;
 - Bread or cereal;
 - Vegetables or fruits; and
 - Dairy products.
- More than 50% of the total dollar amount of all retail sales sold in the store must be from the sale of eligible staple foods.¹³

Qualified retailers can then apply to be a SNAP provider, either online or with the use of a paper application.¹⁴

Once a retailer is licensed, the store will receive a seven digit FNS number, which is used to identify both the store and the owner.¹⁵

Florida Food Assistance Program

The Florida Department of Children and Families (DCF) administers and operates the state's food assistance program (SNAP), including the eligibility process for recipients.¹⁶ The federal government pays 100 percent of the SNAP benefits, and the federal and state governments share the administrative costs.¹⁷ The USDA determines the amount of food assistance benefits an individual or family receives, based on the individual's or family's income and resources.¹⁸ Food assistance benefits are a supplement to a family's food budget. Households may need to spend some of their own cash, along with their food assistance benefits, to buy enough food for a month.¹⁹ State law provides that DCF shall establish procedures in compliance with federal law for notifying the appropriate federal and state agencies of any violation of law regarding the food assistance program and the department must also notify the Department of Financial Services.²⁰

¹⁰ Supplemental Nutrition Assistance Program-Retailers, USDA Food and Nutrition Service, *accessible at*: <http://www.fns.usda.gov/snap/retailers/merchants.htm>. (last visited 3/2/14).

¹¹ Supplemental Nutrition Assistance Program-Retailers, USDA Food and Nutrition Service, *accessible at*: <http://www.fns.usda.gov/snap/retailers/merchants.htm>. (last visited 3/2/14).

¹² The store must offer perishable goods in a least two of the categories.

¹³ Supplemental Nutrition Assistance Program, USDA Food and Nutrition Service, *accessible at*: <http://www.fns.usda.gov/snap/retailers/store-eligibility.htm>. (last visited 3/2/14).

¹⁴ Supplemental Nutrition Assistance Program, USDA "Operating a CSA and SNAP Participation," *accessible at*: <http://www.fns.usda.gov/snap/ebt/fm.htm>. (last visited 3/2/14).

¹⁵ Supplemental Nutrition Assistance Program-Retailers, USDA Food and Nutrition Service, *accessible at*: <http://www.fns.usda.gov/snap/retailers/merchants.htm>. (last visited 3/2/14).

¹⁶ S. 414.31, F.S.

¹⁷ SNAP/Food Stamps, Food Research and Action Center, *accessible at*: <http://frac.org/federal-foodnutrition-programs/snapfood-stamps/>. (last visited 3/2/14).

¹⁸ DCF Food Assistance Program Fact Sheet, www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf. (last visited 3/2/14).

¹⁹ DCF Food Assistance Program Fact Sheet, www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf. (last visited 3/2/14).

²⁰ S. 414.33, F.S.

Use of the Electronic Benefits Card

Food assistance monies are placed on an Electronic Benefits Transaction (EBT) card. Once an individual applies for cash assistance or food assistance with DCF, they will receive an EBT card in the mail.²¹

Stores must have an EBT system to accept payment from SNAP benefits.²² Shortly after receiving approval to offer SNAP benefits, Florida's EBT contractor will contact the retailer regarding an EBT system.²³ There are three ways to accept EBT: point of sale (POS); a machine that collects EBT, credit, and debit; and a manual paper voucher process.

- The POS system is electronic and free for retailers selling over \$100 in SNAP benefits monthly. Retailers using POS systems usually receive payment within two banking days.
- To use a machine that processes credit, debit, and EBT transactions, the retailer must arrange to have commercial equipment provided to you by a third-party processor. Commercial equipment is provided at a cost that the retailer negotiates with the third-party processor. Commercial equipment is often integrated, meaning that the POS terminal, cash register, and scanning device are all connected together in order to speed transactions and minimize errors.
- The manual paper voucher process is a free way for retailers to accept EBT. The retailer must fill out a voucher and have the customer sign the form. Prior to completing the transaction, the retailer must call customer service to confirm that the customer has enough money in their SNAP account to purchase the items. At that point the transaction is complete. To collect money from the transaction, the retailer must electronically clear the voucher within 15 days or send the voucher to the state by the set expiration date.²⁴

Farmer's Markets

Farmer's markets are sometimes eligible to collect SNAP benefits as a form of payment for the sale of food. The USDA defines a farmer's market as "a multi-stall market at which farmer-producers sell agricultural products directly to the general public at a central or fixed location, particularly fresh fruit and vegetables (but also meat products, dairy products, and/or grains)."²⁵ Like traditional retailers, the USDA requires farmer's markets to obtain a license in order to accept SNAP benefits as a form of payment.²⁶

Individual farmers may apply for and receive a license to accept SNAP benefits, but when individual farmers do not have a license to accept SNAP benefits, the farmer's market, rather than the individual farmers, must hold an FNS license in order to accept SNAP.²⁷ In these cases, the farmers market can use a scrip system for payment and use a centralized POS device to process transactions.²⁸

²¹ EBT Card Issuance, Department of Children and Families Access Program. <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/ebt-card-issuance>. (last visited 3/2/14).

²² SNAP Training guide for Retailers, USDA Food and Nutrition Service, *accessible at*: <http://www.fns.usda.gov/snap/retailers/store-training.htm>.

²³ SNAP Training guide for Retailers, USDA Food and Nutrition Service, *accessible at*: <http://www.fns.usda.gov/snap/retailers/store-training.htm>. (last accessed 3/2/14).

²⁴ *Id.*

²⁵ What is a Farmer's Market, Supplemental Nutrition Assistance Program, USDA *accessible at*: http://www.fns.usda.gov/snap/ebt/fm-scrip-what_is_fm.htm. (last accessed 3/2/14).

²⁶ Market Responsibilities, Supplemental Nutrition Assistance Program, USDA *accessible at*: http://www.fns.usda.gov/snap/ebt/fm-scrip-market_responsibilities.htm. (last accessed 3/2/14).

²⁷ Scrip System, Supplemental Nutrition Assistance Program, USDA *accessible at*: http://www.fns.usda.gov/snap/ebt/fm-scrip-what_is_scrip.htm. (last accessed 3/2/14).

²⁸ *Id.*

There are two basic scrip systems: a paper scrip (or token system) and a receipt system.²⁹

- The paper scrip system requires the farmer's market to design and purchase tokens or print paper script.³⁰ With the paper scrip system, customers swipe their EBT card at a centrally located POS device and the market staff give the customers paper scrip, or tokens in exchange for the amount debited from the EBT card.³¹ Customers can then use the paper scrip or tokens to purchase eligible food at booths throughout the market.³²
- With the receipt system, customers shop for eligible food and individual vendors hold this food aside for the customer.³³ The vendor makes a list of the food and the customer takes the list to a centralized POS to pay with their EBT card.³⁴ After paying, the customer receives a receipt, which they take to the vendor in exchange for the food which has been held aside.³⁵

The farmer's market also must train farmers in scrip redemption rules and procedures, since the market's ability to accept SNAP benefits could be jeopardized if the farmer commits a SNAP violation while operating under the market's license.³⁶ In addition, the farmer's market must develop an accounting system and method for reimbursing vendors.³⁷

Farmer's Markets Which Accept EBT

Only a small percentage of farmers' markets and produce markets participate in SNAP EBT.³⁸ Currently, farmers' markets choose whether or not to participate. For farmers' markets that choose to be a SNAP retailer, DCF provides them with an EBT system. The EBT POS devices are installed and the retailer receives EBT services via the vendor under contract to DCF, as required by federal regulation.

In order to encourage greater EBT participation within the markets, USDA provided grant money to expand the use of the EBT wireless POS devices within farmers' markets. The funding has been offered to markets which were not already authorized SNAP retailers on or before November 18, 2011, the date on which Public Law 112-55 was enacted.³⁹

On July 27, 2012, the State of Florida announced the funding opportunity and engaged in a marketing campaign to encourage more farmers' markets to participate in EBT. Promotional letters, flyers, social media engagement, and emails have been sent out to inform farmers markets throughout the state about this opportunity. Fourteen Florida farmers markets' are currently participating in EBT with one more market in the implementation phase.⁴⁰

²⁹ Scrip System, Supplemental Nutrition Assistance Program, USDA *accessible at*: http://www.fns.usda.gov/snap/ebt/fm-scrip-what_is_scrip.htm. (last accessed 3/2/14).

³⁰ Market Responsibilities, Supplemental Nutrition Assistance Program, USDA *accessible at*: http://www.fns.usda.gov/snap/ebt/fm-scrip-market_responsibilities.htm. (last accessed 3/2/14).

³¹ Scrip System, Supplemental Nutrition Assistance Program, USDA *accessible at*: http://www.fns.usda.gov/snap/ebt/fm-scrip-what_is_scrip.htm. (last accessed 3/2/14).

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Market Responsibilities, Supplemental Nutrition Assistance Program, USDA *accessible at*: http://www.fns.usda.gov/snap/ebt/fm-scrip-market_responsibilities.htm. (last accessed 3/2/14).

³⁷ *Id.*

³⁸ Feasibility of Implementing Electronic Benefit Transfer Systems in Farmer's Markets, Supplemental Nutrition Assistance Program, Report to Congress, US Department of Agriculture, Food and Nutrition Service, 2010, *accessible at*: <http://www.fns.usda.gov/ebt/learn-about-snap-benefits-farmers-markets>. (last accessed 3/2/14)³⁹ Department of Children and Families analysis of HB 535, January 23, 2014.

³⁹ Department of Children and Families analysis of HB 535, January 23, 2014.

⁴⁰ *Id.*

Effect of Proposed Changes

The bill creates an unnumbered section of law relating to the use of SNAP benefits in fresh produce markets.

The bill authorizes the owner or operator of a market selling fresh produce, but does not have an EBT system, to allow certain groups, instead of the owner or operator, to implement and operate an EBT system in the market on behalf of the produce sellers. The bill lists groups authorized to set up the EBT operations and specifies that these groups must also be authorized by the Food and Nutrition Service. The groups specified in the bill includes a food nutrition service group, association of produce sellers active in the market or a food nutrition service third party organization.

If an outside group establishes the EBT system, the bill requires that the market owner or operator must reasonably accommodate the group in the implementation and operation of the EBT system for accepting SNAP benefits.

This bill states that the EBT system requirement does not apply to a market selling fresh produce whose owner or operator has an EBT system for accepting SNAP benefits in the market. The requirement also does not prohibit an authorized food and nutrition service produce seller in a market selling fresh produce from operating his or her own EBT system as part of his or her customer transaction options. The bill also does not require a market owner or operator to create, operate, or maintain an EBT system on behalf of his produces sellers.

B. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of law, relating to the Fresh Produce Markets

Section 2: 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:

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

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A bill to be entitled
An act relating to transactions in fresh produce
markets; providing definitions; requiring certain
owners and operators of farmers' markets, community
farmers' markets, flea markets, and other open-air
markets selling fresh produce to allow authorized Food
and Nutrition Service groups, associations, and third-
party organizations to operate electronic benefits
transfer systems in such markets; providing for
applicability; providing an effective date.

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

Section 1. (1) As used in this section, the term:

(a) "Market" means a farmers' market, community farmers' market, flea market, or other open-air market.

(b) "SNAP" means the federal Supplemental Nutrition Assistance Program established under 7 U.S.C. ss. 2011 et seq.

(2) (a) The owner or operator of a market selling fresh produce who is not an authorized SNAP retailer may allow an authorized Food and Nutrition Service group or association of produce sellers that is actively participating in produce sales in the market, or an authorized Food and Nutrition Service third-party organization, to implement and operate an electronic benefits transfer system for purposes of accepting SNAP benefits in the market on behalf of the produce sellers to the extent and

27 manner allowed by federal law and regulation.

28 (b) The authorized Food and Nutrition Service group,
 29 association, or third-party organization responsible for
 30 implementation and operation of the electronic benefits transfer
 31 system may not be another market that competes with the market
 32 being served.

33 (c) The market owner or operator shall reasonably
 34 accommodate the authorized Food and Nutrition Service group,
 35 association, or third-party organization in the implementation
 36 and operation of an electronic benefits transfer system for
 37 purposes of accepting SNAP benefits.

38 (3) This section does not:

39 (a) Apply to a market selling fresh produce whose owner or
 40 operator has an electronic benefits transfer system for
 41 accepting SNAP benefits in the market.

42 (b) Prohibit an authorized Food and Nutrition Service
 43 produce seller in a market selling fresh produce from operating
 44 his or her own electronic benefits transfer system as part of
 45 his or her customer transaction options.

46 (c) Require a market owner or operator to create, operate,
 47 or maintain an electronic benefits transfer system on behalf of
 48 its produce sellers.

49 Section 2. This act shall take effect July 1, 2014.

HOUSE HEALTHY FAMILIES SUBCOMMITTEE
PCB HFS 14-02
DRAFT HUMAN TRAFFICKING PCB PROVISIONS
MARCH 5, 2014

Goal: To provide direction, structure, and accountability for public investment while facilitating enhanced coordination with and continued innovation and growth in provider and community efforts as new approaches are tested and best practices emerge.

#	Lines	Issue
1		Foster the wider implementation of key administrative practices to better identify and serve sexually exploited children.
1.1	66-69	Include community children as well as dependent children in the definition of sexually exploited children to allow them to be served in safe houses and safe foster homes.
1.2	235-268	Require DJJ, DCF, and CBC's to use statewide one or more initial screening and assessment instruments for identifying sexually exploited children and determining their service needs. <ul style="list-style-type: none"> • Must work with other entities interested in human trafficking in the development/adoption of any instruments. • DCF shall validate the instruments if possible. • Provides criteria for placement in safe houses and safe foster homes.
1.3	269-281	Require DCF and the CBC's to have specially trained child protective investigators and case managers, respectively, for children alleged, suspected, or known to be victims of sexual exploitation.
1.4	282-290	Require multidisciplinary staffings for children who are involved in multiple systems. <ul style="list-style-type: none"> • These include at a minimum the child's guardian ad litem, juvenile justice system staff, the school district staff, service providers, and victim advocates.
1.5	291-312	Require DCF and CBC's to have coordinated plans for developing capacity to serve sexually exploited children as well as specific protocols for responding to the needs of individual victims.
1.6	328-336	Require DCF, DJJ, and the CBC's to participate on any local human trafficking task forces to the extent possible. <ul style="list-style-type: none"> • DCF is directed to seek to develop them in circuits where none are active.
2		Clarify and strengthen current policies to increase the availability of services of consistent, acceptable levels of quality.
2.1	76-77; 142-151	Require DCF to certify safe houses and safe foster homes. <ul style="list-style-type: none"> • Requires inspection and renewal, and provides for revocation if necessary.

HOUSE HEALTHY FAMILIES SUBCOMMITTEE
PCB HFS 14-02
DRAFT HUMAN TRAFFICKING PCB PROVISIONS
MARCH 5, 2014

2.2	84-128	<p>More clearly define the requirements for safe houses.</p> <ul style="list-style-type: none"> • Must be licensed residential child-caring facilities. • Require to serve human trafficking victims separately from any other children, in age appropriate, single-sex groups. • Mandate trauma-informed/strength-based care. • Require appropriate security features that must allow children to exit if they choose. • Amends list of services safe houses are required to provide if needed by children they serve.
2.3	129-141	<p>Establish “safe foster homes” and provide requirements.</p> <ul style="list-style-type: none"> • Similar to requirements for safe houses but do not require 24 hour awake staff. • Must be licensed foster homes. • Requires intensive training for foster parents.
2.4	77-83	<p>Clarify that only safe houses and safe foster homes certified by DCF can receive public money specifically allocated to serve sexually exploited children.</p>
2.5	512-516	<p>Provide that a sexually exploited child may be placed in a setting other than a safe house or safe foster home if the other setting is more appropriate to his or her needs and his or her behaviors can be managed in that setting so that they do not endanger other children being served in that setting.</p>
2.6	N/A	<p>Remove references to “short-term safe houses”.</p>

3		<p>Take steps to develop, test, and evaluate new service delivery models to determine their viability and effectiveness.</p>
3.1	152-213	<p>Authorize DCF to test a secure safe house on a pilot basis.</p> <ul style="list-style-type: none"> • Only dependent children could be placed in the facility. • Judicial determination and oversight required. • Limited to those with the most intensive needs. • Maximum of 15 beds. • Envisioned to be short term (generally up to 60 days) but permits placement up to 10 months. • Security must require locked doors with facility staff assistance for any entrance into or exit from building. • DCF must approve all placements in consultation with the CBC’s. • Requires treatment and discharge plans. • Provides for a formal evaluation of the facility’s effectiveness in meeting the treatment and security needs of sexually exploited children and its cost-effectiveness, and requires recommendations regarding continued operation and any changes or enhancements.

HOUSE HEALTHY FAMILIES SUBCOMMITTEE
PCB HFS 14-02
DRAFT HUMAN TRAFFICKING PCB PROVISIONS
MARCH 5, 2014

3.2	339-427; 430-491	Provide for a placement process for the secure safe house. <ul style="list-style-type: none">• Criteria include repeatedly running away, having a strong bond with exploiter, and recruiting other children to commercial sex trade.• Child cannot be placed if a less restrictive environment will meet needs.• Child must have a guardian ad litem.• Department can place for assessment by psychiatrist, psychologist, licensed mental health counselor, or licensed clinical social worker.• If placement determined to meet child's needs, DCF can petition court for extended placement (child remains in secure safe house pending decision).• Safe house must report on child's progress, and courts must regularly review.
3.3	541-558	Require an OPPAGA study of the extent of child sexual exploitation and effectiveness of safe houses in Florida.

1 A bill to be entitled
 2 An act relating to human trafficking; amending s.
 3 409.1678; providing definitions; authorizing the
 4 Department of Children and Families to certify safe
 5 houses and safe foster homes; providing requirements
 6 for certification as safe houses and safe foster
 7 homes; allowing the department to certify a secure
 8 safe house to operate as a pilot program; providing
 9 requirements for the secure safe house pilot program;
 10 creating s. 409.174; requiring the department to
 11 develop or adopt initial screening and assessment
 12 instruments; specifying the process for the department
 13 to develop or adopt initial screening and assessment
 14 instruments; providing criteria for placement in safe
 15 houses or safe foster homes; allowing entities to use
 16 additional initial screening and assessment
 17 instruments; requiring the department, community-based
 18 care lead agencies, and staff administering the
 19 detention risk assessment instrument to receive
 20 specified training; requiring the department and lead
 21 agencies to hold multidisciplinary staffings under
 22 certain conditions; requiring the department and lead
 23 agencies to develop specific plans and protocols;
 24 directing the department, the Department of Juvenile
 25 Justice, and lead agencies to participate in

26 coalitions, task forces, or similar organizations to
 27 coordinate local responses to human trafficking;
 28 requiring the department to attempt to initiate a task
 29 force if none is active in a local area; creating s.
 30 39.4072; providing for placement for evaluation in a
 31 secure safe house if a child is believed to meet
 32 certain criteria; specifying the process for
 33 evaluating whether a child meets criteria for extended
 34 placement in a secure safe house; creating s. 39.4074;
 35 authorizing the department to file a petition for
 36 placement in a secure safe house if the child is
 37 evaluated to meet criteria; providing for court
 38 determination; requiring reporting on a child's
 39 treatment progress in a secure safe house; providing
 40 for court review; amending s. 39.524; providing for
 41 review of appropriateness of safe harbor placement in
 42 both safe houses and safe foster homes; amending
 43 criteria for placement; authorizing placement in
 44 settings other than safe houses and safe foster homes
 45 under certain conditions; requiring the Office of
 46 Program Policy Analysis and Government Accountability
 47 to conduct a study on commercial exploitation of
 48 children in Florida and related topics; providing an
 49 effective date.
 50

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

52

53 Section 1. Section 409.1678, Florida Statutes, is amended
54 to read:

55 (Substantial rewording of section. See s. 409.1678, F.S.,
56 for present text).

57 409.1678 Specialized residential options for children who
58 are victims of sexual exploitation.--

59 (1) DEFINITIONS.--As used in this section, the term:

60 (a) "Safe foster home" means a foster home certified by the
61 department under this section to care for sexually exploited
62 children.

63 (b) "Safe house" means a group residential placement
64 certified by the department under this section to care for
65 sexually exploited children.

66 (c) "Sexually exploited child" means a child who has
67 suffered sexual exploitation as defined in s. 39.01(67)(g) and
68 is ineligible for relief and benefits under the federal
69 Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

70 (2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.--

71 (a) Safe houses and safe foster homes shall provide a safe,
72 separate, and therapeutic environment tailored to the needs of
73 sexually exploited children who have endured significant trauma.
74 Safe houses and safe foster homes shall use a model of treatment
75 that includes strength-based and trauma-informed approaches.

76 (b) The department shall certify safe houses and safe
 77 foster homes. A residential facility accepting state funds
 78 appropriated to provide services to sexually exploited children
 79 or child victims of sex trafficking must be certified by the
 80 department as a safe house or a safe foster home. No entity may
 81 use the designation "safe house" or "safe foster home" and hold
 82 themselves out as serving sexually exploited children unless the
 83 entity is certified under this section.

84 (c) To be certified, a safe house must:

85 1. Hold a license as a residential child-caring agency as
 86 pursuant to s. 409.175.

87 2. Use trauma-informed and strength based approaches to
 88 care, to the extent possible and appropriate.

89 3. Serve exclusively one sex.

90 4. Group sexually exploited children by age or maturity
 91 level.

92 5. Care for sexually exploited children in a manner that
 93 separates these children from children with other needs. Safe
 94 houses may care for other populations, if the children who have
 95 not experienced sexual exploitation do not interact with
 96 children who have experienced sexual exploitation.

97 6. Have awake staff members on duty 24 hours a day.

98 7. Provide appropriate security through facility design,
 99 hardware, technology, staffing, and siting, including but not
 100 limited to external video monitoring or alarmed doors, having a

101 high staff-to-client ratio, or being situated in a remote
 102 location isolated from major transportation centers and common
 103 trafficking areas. However, such security must allow sexually
 104 exploited children to exit the safe house if they choose.

105 8. Meet other criteria established by the department in
 106 rule, which may include but are not limited to, personnel
 107 qualifications, staffing ratios, and services content.

108 (d) Safe houses shall provide services tailored to the
 109 needs of sexually exploited children and shall conduct a
 110 comprehensive assessment of the service needs of each resident.
 111 In addition to the services required under s. 409.175, safe
 112 houses must provide, arrange for or coordinate, at a minimum,
 113 the following services:

- 114 a. Victim-witness counseling;
- 115 b. Family counseling;
- 116 c. Behavioral health care;
- 117 d. Treatment and intervention for sexual assault;
- 118 e. Education tailored to the child's individual needs,
 119 including remedial education if necessary;
- 120 f. Life skills training;
- 121 g. Mentoring by a survivor of sexual exploitation, if
 122 available and appropriate for the child;
- 123 h. Substance abuse screening, and where necessary, access
 124 to treatment;
- 125 i. Planning services for the successful transition of each

126 child back to the community; and
 127 j. Activities, in a manner that provides them with a full
 128 schedule.
 129 (e) Certified safe foster homes must be licensed family
 130 foster homes pursuant to s. 409.175, and must meet the
 131 requirements of subparagraphs (c)2.-4. The department shall
 132 direct lead agencies to ensure that foster parents of safe
 133 foster homes complete intensive training regarding the needs of
 134 sexually exploited children, the effects of trauma and sexual
 135 exploitation, and how to address those needs using strength-
 136 based and trauma-informed approaches. The department shall
 137 specify this training by rule and may develop or contract for a
 138 standard curriculum. The department may establish in rule
 139 additional criteria for the certification of safe foster homes.
 140 Criteria shall address the security, therapeutic, social,
 141 health, and educational needs of sexually exploited children.
 142 (f) The department shall inspect safe houses and safe
 143 foster homes prior to certification and annually to ensure
 144 compliance with requirements of this section. The department may
 145 place a moratorium on referrals and may revoke the certification
 146 of a safe house or safe foster home which fails at any time to
 147 meet the requirements of this section or rules adopted pursuant
 148 to this section.
 149 (g) The certification period for safe houses and safe
 150 foster homes shall run concurrently with the terms of the

151 license.

152 (3) SECURE SAFE HOUSE PILOT PROGRAM.--

153 (a) The department may certify one secure safe house on a
 154 pilot basis to evaluate the therapeutic benefits of including a
 155 secure residential setting within the broader array of
 156 residential and community-based services available to meet the
 157 needs of sexually exploited children. The secure safe house is
 158 intended for those sexually exploited dependent children with
 159 the greatest needs for whom no less restrictive placement has
 160 been or will be effective in addressing the effects of severe
 161 abuse, violence, trauma, or exploiter control endured by the
 162 sexually exploited dependent child. The setting is not available
 163 to sexually exploited children who have not been adjudicated
 164 dependent or to sexually exploited dependent children whose
 165 needs can be met in less restrictive placements.

166 (b) The secure safe house must be certified as a safe
 167 house, and may have no more than 15 beds. The department shall
 168 select the region where the secure safe house shall be sited.
 169 The department shall collaborate with the local community-based
 170 care lead agency to design the pilot project, including, but not
 171 limited to, selection of the location, selection of the
 172 provider, the facility's security features, referral processes,
 173 and services provided within the secure safe house.

174 (c) Sexually exploited dependent children from any region
 175 of the state may be placed in the secure safe house pursuant to

176 ss. 39.4072 and 39.4074. The department, in consultation with
 177 the community-based care lead agency serving the sexually
 178 exploited dependent child, shall approve all placements of
 179 sexually exploited children in the facility. In addition to the
 180 criteria in s. 409.1754(1) and any other criteria determined by
 181 the department pursuant to that subsection, the following
 182 criteria at a minimum shall also be used to determine whether a
 183 sexually exploited dependent child qualifies for placement in
 184 the secure safe house:

185 1. Lack of willingness to participate in less intensive
 186 programs; and

187 2. Lack of treatment progress in less restrictive
 188 placements, if the sexually exploited dependent child has been
 189 placed elsewhere.

190 (d) The secure safe house shall include features which
 191 prevent any entry into or exit from the facility or its grounds
 192 without the involvement of facility staff, including, but not
 193 limited to, walls, fencing, gates, or locking doors.

194 (e) A sexually exploited dependent child may be placed in
 195 the secure safe house for a minimum of 5 days and a maximum of
 196 10 months. Pursuant to s. 39.4074(4), the secure safe house
 197 shall regularly review and report on the sexually exploited
 198 dependent child's progress, and during judicial reviews the
 199 court shall determine whether continued placement in the secure
 200 safe house is appropriate. The department shall place the child

201 in another setting when continued placement in the secure safe
 202 house is no longer appropriate.

203 (f) The department shall contract for an evaluation of the
 204 effectiveness of the secure safe house in facilitating the
 205 rehabilitation of sexually exploited children. The evaluation
 206 report shall be provided to the Governor, the President of the
 207 Senate, and the Speaker of the House of Representatives by
 208 February 1, 2018. The evaluation shall, at a minimum, describe
 209 the program model and facility design, assess the effectiveness
 210 of the facility in meeting the treatment and security needs of
 211 sexually exploited children, analyze its cost-effectiveness, and
 212 provide recommendations regarding the continued operation of the
 213 pilot program and any changes or enhancements.

214 (4)a. This section does not prohibit any provider of
 215 services for sexually exploited children from appropriately
 216 billing Medicaid for services rendered, from contracting with a
 217 local school district for educational services, or from
 218 obtaining federal or local funding for services provided, as
 219 long as two or more funding sources do not pay for the same
 220 specific service that has been provided to a child.

221 b. The lead agency shall ensure that all children residing
 222 in safe houses or safe foster homes have a case manager and a
 223 case plan, whether or not the child is a dependent child.

224 (5) The services specified in this section may, to the
 225 extent possible provided by law and with funding authorized, be

226 available to all sexually exploited children whether they are
227 accessed voluntarily, as a condition of probation, through a
228 diversion program, through a proceeding under chapter 39, or
229 through a referral from a local community-based care or social
230 service agency.

231 Section 2. Section 409.174, Florida Statutes, is created
232 to read:

233 409.1754 Sexually Exploited Children; Screening and
234 Assessment.--

235 (1) SCREENING AND ASSESSMENT.--

236 (a) The department shall develop or adopt one or more
237 initial screening and assessment instruments to identify,
238 determine the needs of, plan services for, and identify
239 appropriate placement for sexually exploited children. The
240 department shall consult state and local agencies,
241 organizations, and individuals involved in the identification
242 and care of sexual exploited children in developing or adopting
243 the initial screening and assessment instruments. The initial
244 screening and assessment instruments shall include assessment of
245 appropriate placement, including whether placement in a safe
246 house or safe foster home is appropriate, and shall consider, at
247 a minimum, the following factors:

- 248 1. Risk of the sexually exploited child running away.
249 2. Risk of the sexually exploited child recruiting other
250 children into the commercial sex trade.

251 3. Level of the sexually exploited child's attachment to
 252 his or her exploiter.

253 4. Level and type of trauma that the sexually exploited
 254 child has endured.

255 5. Nature of interactions with law enforcement.

256 6. Length of time that the child was sexually exploited.

257 (b) The initial screening and assessment instruments shall
 258 be validated if possible and must be used by the department,
 259 juvenile assessment centers as provided in s. 985.135, and lead
 260 agencies.

261 (c) The department shall establish rules specifying the
 262 initial screening and assessment instruments to be used, the
 263 requirements for their use, and the reporting of data collected
 264 through them.

265 (d) The department, the Department of Juvenile Justice, and
 266 lead agencies are not precluded from using additional assessment
 267 instruments in the course of serving sexually exploited
 268 children.

269 (2) TRAINING; CASE MANAGEMENT; TASK FORCES.-

270 (a) 1. Cases in which a child is alleged, suspected, or
 271 known to have been sexually exploited shall be assigned to child
 272 protective investigators and case managers who have specialized
 273 intensive training in handling cases involving a sexually
 274 exploited child. The department and lead agencies shall ensure
 275 that child protective investigators and case managers,

276 respectively, receive this training prior to accepting any case
 277 involving sexually exploited children.

278 2. Department of Juvenile Justice juvenile probation staff
 279 or contractors administering the detention risk assessment
 280 instrument must receive specialized intensive training in
 281 identifying and serving sexually exploited children.

282 (b) The department and lead agencies shall conduct regular
 283 multidisciplinary staffings for sexually exploited children to
 284 ensure that all relevant information is known to all parties and
 285 that services are coordinated across systems. The department or
 286 lead agency, as appropriate, shall coordinate these staffings
 287 and invite individuals involved in the child's care. This may
 288 include, but is not limited to, the child's guardian ad litem,
 289 juvenile justice system staff, school district staff, service
 290 providers, and victim advocates.

291 (c)1. Each region of the department and each community
 292 based care lead agency shall jointly assess service capacity to
 293 meet the specialized service needs of sexually exploited
 294 children and establish a plan to develop that capacity. Each
 295 plan shall be developed in consultation with local law
 296 enforcement officials, local school officials, runaway and
 297 homeless youth program providers, local probation departments,
 298 local community-based care and social services, local guardians
 299 ad litem, public defenders, state attorney's offices, safe
 300 houses, and child advocates and services providers who work

301 directly with sexually exploited youth.

302 2. Each region of the department and community based care
 303 lead agency shall establish local protocols and procedures for
 304 working with sexually exploited children which are responsive to
 305 the individual circumstances of each child. The protocols and
 306 procedures shall take into account the varying types and levels
 307 of trauma endured, whether the sexual exploitation is actively
 308 occurring, occurred in the past, or inactive but likely to
 309 reoccur, and the differing community resources and degrees of
 310 familial support that may be available. Child protective
 311 investigators and case managers must use the protocols and
 312 procedures when working with a sexually exploited child.

313 (3) (a) The local circuit administrator may, to the extent
 314 that funds are available, provide training to local law
 315 enforcement officials who are likely to encounter sexually
 316 exploited children in the course of their law enforcement
 317 duties. Training shall address the provisions of this section
 318 and how to identify and obtain appropriate services for sexually
 319 exploited children. The local circuit administrator may contract
 320 with a not-for-profit agency having experience working with
 321 sexually exploited children to provide the training. Circuits
 322 may work cooperatively to provide training, which may be
 323 provided on a regional basis. The department shall assist
 324 circuits to obtain any available funds for the purposes of
 325 conducting law enforcement training from the Office of Juvenile

326 Justice and Delinquency Prevention of the United States
 327 Department of Justice.

328 (b) Circuit administrators or their designees, chief
 329 probation officers of the Department of Juvenile Justice or
 330 their designees, and the chief operating officers of community
 331 based care lead agencies or their designees shall participate in
 332 any task force, committee, council, advisory group, coalition,
 333 or other entity active in their service area for coordinating
 334 responses to address human trafficking or sexual exploitation of
 335 children. If no such entity exists, the circuit administrator
 336 for the department shall work to initiate one.

337 Section 3. Section 39.4072, Florida Statutes, is created
 338 to read:

339 39.4072 Evaluation for secure safe house placement of a
 340 dependent sexually exploited child.—

341 (1) CRITERIA.—A dependent child may be taken to a secure
 342 safe house for evaluation of the appropriateness of extended
 343 placement in a secure safe house if there is probable cause that
 344 the child has been sexually exploited as defined in s.
 345 39.01(67)(g) and:

346 (a) The child meets the criteria in s. 409.1678(3) for safe
 347 house placement; and

348 (b) The child recently been engaged in behaviors that
 349 subject the child to victimization, violence, emotional harm,
 350 serious bodily harm, or health risks that endanger the child,

351 posing a real and present threat of substantial harm to the
 352 child's well-being. Such behaviors include, but are not limited
 353 to, repeatedly running away from home or residential placement
 354 to an unsafe situation, engaging in commercial sexual activity
 355 as defined in s. 787.06(2)(b), and seeking to maintain a
 356 relationship with the child's trafficker despite others'
 357 attempts to separate the child from the trafficker; or

358 (c) There is a substantial likelihood that without care or
 359 treatment the child will endanger or cause serious bodily harm
 360 to others, as evidenced by previous behavior including, but not
 361 limited to, recruiting other children into the commercial sex
 362 trade or using coercion such as violence, illegal substances, or
 363 other means to compel their participation in such trade; and

364 (c) Less restrictive placement alternatives are unlikely to
 365 be effective in keeping the child from engaging in behaviors
 366 provided in paragraphs (b) and (c).

367 (2) EVALUATION.-

368 (a) An official of the department may initiate an
 369 evaluation of a dependent child if the criteria in subsection
 370 (1) are met. The child protective investigator, a law
 371 enforcement officer, case manager, or other qualified individual
 372 may transport the child to the secure safe house, which shall
 373 admit the child for assessment and stabilization pending the
 374 filing and adjudication of a petition by the department as
 375 provided in s. 39.522(1) alleging a need for a change in

376 placement. The secure safe house shall provide notice regarding
 377 the child's admittance for assessment for secure safe house
 378 placement, including but not limited to the child's parent or
 379 guardian, foster parent, case manager, and guardian ad litem. If
 380 the child does not have a guardian ad litem, the court shall
 381 appoint one. However, a petition need not be filed if the
 382 child's parent consents to such placement.

383 (b) A psychiatrist, clinical psychologist, licensed mental
 384 health counselor, or licensed clinical social worker at the
 385 secure safe house shall conduct an initial evaluation of the
 386 child as soon as it is appropriate to do so given the child's
 387 emotional, mental, and physical condition. Facility staff shall
 388 continue to evaluate the child throughout his or her placement
 389 for evaluation in the secure safe house. The child may be
 390 provided medical screening and treatment pursuant to s. 39.407.
 391 The secure safe house may initiate appropriate therapeutic
 392 services to stabilize and treat the child.

393 (c) Within five days after the arrival of the child at the
 394 secure safe house, the psychiatrist, clinical psychologist,
 395 licensed mental health counselor, or licensed clinical social
 396 worker shall evaluate the child. The individual evaluating the
 397 child may access the child's case file and other relevant
 398 records and request information from other individuals involved
 399 in the child's life. The child's parent or guardian, foster
 400 parent, case manager, and guardian ad litem may also provide any

401 | information they believe relevant to the evaluation. The
 402 | evaluation of the child shall be based on whether there is a
 403 | substantial likelihood that the child meets the criteria
 404 | established under s. 409.1678(3) for admission to the secure
 405 | safe house, and the criteria in paragraphs (1)(a) and (b).

406 | (d) Based on the evaluation, the psychiatrist, clinical
 407 | psychologist, licensed mental health counselor, or licensed
 408 | clinical social worker shall determine whether the secure safe
 409 | house would best meet the child's needs, or whether additional
 410 | evaluation is required before a conclusion can be reached.

411 | 1. If the secure safe house would not best meet the
 412 | child's needs, the department shall place the child in the least
 413 | restrictive setting which is appropriate for the child's needs.

414 | 2. If extended secure safe house placement will best meet
 415 | the child's needs, the department shall petition the court under
 416 | s. 39.4074 and the secure safe house shall admit the child for
 417 | placement pending a judicial determination.

418 | 3. If additional evaluation is required before a
 419 | conclusion may be made about the child's need for extended
 420 | secure safe house placement, the department shall petition the
 421 | court to extend the placement of the child for evaluation
 422 | purposes up to 30 days or until a determination may be made
 423 | regarding the need for extended secure safe house placement,
 424 | whichever comes first. The child shall remain in the secure safe
 425 | house pending the court order.

426 (f) The department shall provide all evaluations to the
 427 child's parent or guardian, case manager, and guardian ad litem.

428 Section 4. Section 39.4074, Florida Statutes, is created
 429 to read:

430 39.4074 Placement in a secure safe house of a dependent
 431 sexually exploited child.--

432 (1) PETITION FOR PLACEMENT.--If an evaluation made pursuant
 433 to s. 39.4072(2)(c) results in a determination that placement in
 434 a secure safe house would best meet the child's needs, the
 435 department shall file a petition for placement in dependency
 436 court. The department shall provide notice to the child's
 437 parents as required under s. 39.502(1). If the child's parents
 438 consent to such placement, the court shall enter an order
 439 placing the child in the secure safe house for up to 45 days,
 440 pending review by the court as provided herein. If the child's
 441 parents refuse or are unable to consent, the court shall hear
 442 all parties in person or by counsel, or both. If the court
 443 concludes that the child meets the criteria for placement in the
 444 secure safe house in s. 39.4072(1), it shall order that the
 445 child be placed in the secure safe house for a period of up to
 446 45 days, pending review by the court.

447 (4) TREATMENT PLAN AND JUDICIAL REVIEW.

448 (a) Within 10 days after the admission of a child to a
 449 secure safe house, the safe house must prepare an individualized
 450 treatment plan treatment which addresses both preliminary

451 residential treatment and comprehensive discharge, identifying
 452 aftercare upon completion of residential treatment. The plan
 453 must be approved by the department. The child must be involved
 454 in the preparation of the plan to the maximum feasible extent
 455 consistent with the child's ability to do so, and the guardian
 456 ad litem and the child's parents, guardian, or foster parents
 457 must be involved to the maximum extent consistent with the
 458 child's treatment needs. Other individuals, including but not
 459 limited to case management agency staff and personnel from the
 460 child's home school district, may also participate in plan
 461 development. A copy of the plan must be provided and explained
 462 to the child, the child's parent or guardian, the guardian ad
 463 litem, the case manager, and the court. Progress towards the
 464 plan goals must be reviewed regularly by the safe house and at
 465 each judicial review.

466 (b) At 30-day intervals, the secure safe house must review
 467 the appropriateness of the child's placement in the secure safe
 468 house and submit a report. The secure safe house must determine
 469 whether the child is progressing toward the treatment goals and
 470 whether the child could be treated in a less restrictive
 471 treatment program. The secure safe house shall submit a report
 472 of its findings to the guardian ad litem, case manager, the
 473 department and the court. The department may not reimburse a
 474 secure safe house until the secure safe house has submitted
 475 every written report that is due.

476 (c) The court shall review the status of the child's
 477 treatment plan no later than 45 days after the child's admission
 478 to the secure safe house. For any child in a secure safe house
 479 at the time a judicial review is held pursuant to s. 39.701, the
 480 child's continued placement in a secure safe house must be a
 481 subject of the judicial review. If, at any time, the court
 482 determines that the child has not been sexually exploited child
 483 or that the child has been sexually exploited but is not
 484 appropriate for placement in a secure safe house, the court
 485 shall order the department to place the child in the least
 486 restrictive setting that is best suited to meet the child's
 487 needs.

488 (d) After the initial 45 day review, the court must review
 489 the child's treatment plan every 60 days until the child no
 490 longer requires placement in the secure safe house, or until the
 491 child has resided in the secure safe house for 10 months.

492 Section 5. Section 39.524, Florida Statutes, is amended to
 493 read:

494 39.524 Safe-harbor placement.—

495 (1) Except as provided in s. 39.407 or s. 985.801, a
 496 dependent child 6 years of age or older who has been found to be
 497 a victim of sexual exploitation as defined in s. 39.01(67)(g)
 498 must be assessed for placement in a safe house or safe foster
 499 home as provided in s. 409.1678 using the initial screening and
 500 assessment instruments provided in s. 409.1754(1). The

501 ~~assessment shall be conducted by the department or its agent and~~
 502 ~~shall incorporate and address current and historical information~~
 503 ~~from any law enforcement reports; psychological testing or~~
 504 ~~evaluation that has occurred; current and historical information~~
 505 ~~from the guardian ad litem, if one has been assigned; current~~
 506 ~~and historical information from any current therapist, teacher,~~
 507 ~~or other professional who has knowledge of the child and has~~
 508 ~~worked with the child; and any other information concerning the~~
 509 ~~availability and suitability of safe-house placement. If such~~
 510 ~~placement is determined to be appropriate for the child as a~~
 511 ~~result of this assessment, the child may be placed in a safe~~
 512 ~~house or safe foster home, if one is available. However, the~~
 513 ~~child may be placed in another setting if it is more appropriate~~
 514 ~~to his or her needs and his or her behaviors can be managed in~~
 515 ~~those settings so that they do not endanger other children being~~
 516 ~~served in those settings. As used in this section, the term~~
 517 ~~"available" as it relates to a placement means a placement that~~
 518 ~~is located within the circuit or otherwise reasonably~~
 519 ~~accessible.~~

520 (2) The results of the assessment described in s.
 521 409.1754(1) subsection (1) and the actions taken as a result of
 522 the assessment must be included in the next judicial review of
 523 the child. At each subsequent judicial review, the court must be
 524 advised in writing of the status of the child's placement, with
 525 special reference regarding the stability of the placement and

PCB HFS 14-02

ORIGINAL

2014

526 the permanency planning for the child.

527 (3) (a) By December 1 of each year, the department shall
 528 report to the Legislature on the placement of children in safe
 529 houses and safe foster homes during the year, including the
 530 criteria used to determine the placement of children, the number
 531 of children who were evaluated for placement, the number of
 532 children who were placed based upon the evaluation, and the
 533 number of children who were not placed.

534 (b) The department shall maintain data specifying the
 535 number of children who were referred to a safe house or safe
 536 foster home for whom placement was unavailable and the counties
 537 in which such placement was unavailable. The department shall
 538 include this data in its report under this subsection so that
 539 the Legislature may consider this information in developing the
 540 General Appropriations Act.

541 Section 6. The Office of Program Policy Analysis and
 542 Government Accountability (OPPAGA) shall conduct a study on
 543 commercial exploitation of children in Florida. The study shall
 544 assess the extent of commercial sexual exploitation of children,
 545 including but not limited to its prevalence in various regions
 546 of the state. The study shall also identify specialized
 547 services needed by sexually exploited children and any gaps in
 548 the availability of such services by region, including but not
 549 limited to residential services and specialized therapies. The
 550 study shall analyze the effectiveness of safe houses, safe

PCB HFS 14-02

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

PCB HFS 14-02

ORIGINAL

2014

551 foster homes, and other residential options for serving sexually
552 exploited children in addressing their safety, therapeutic,
553 health, educational, and emotional needs, including but not
554 limited to the nature and appropriateness of subsequent
555 placements, extent of sexual exploitation post-placement, and
556 educational attainment. By July 1, 2016, OPPAGA shall report its
557 findings to the Governor, the President of the Senate, and the
558 Speaker of the House of Representatives.

559 Section 7. This act shall take effect July 1, 2014.

DRAFT

2013-14 State Fiscal Year Nonrecurring Safe House Allocation by DCF Region and Circuit

DCF only received a specific human trafficking appropriation for the 2013-2014 Fiscal Year. The \$1.5 million received was split and distributed to 4 Lead Agencies based on victim rates in those areas. The allocation was:

2013-14 State Fiscal Year Nonrecurring Safe House Allocation by FDCF Region and Circuit			
Region	Circuit	2013-14 SFY Nonrecurring Amount Received	Safe House Bed Goal
Central	Circuit 09	\$234,977	8
Southeast	Circuit 17	\$352,464	12
Southern	Circuit 11	\$528,696	12
SunCoast	Circuit 13	\$352,464	18
Statewide Total		\$1,468,601	50

Southern Region CBC: utilized their funds to create the CHANCES program in partnership with Citrus Mental Health Services. This is a specialized therapeutic foster care program that currently has 5 children in care and is expanding to 15 beds. The program places one child in a CSEC trained therapeutic foster home and wraps the home with therapeutic and support services. In addition, they have a similar "wrap" program in which the same comprehensive CSEC services are applied to victims in their community homes/placements. The CHANCES program is full at their current capacity and have a wait list. The program is not gender specific as the one child per home provides flexibility. These beds stretch across Miami-Dade.

Southeast Region CBC: identified 6 beds through Hope Place, a CSEC group home in Palm Beach County. Hope Place was a result of the Safe Harbor Act. In addition, they utilize Chrysalis' Lilac House, which is a home for victims of sexual exploitation, but not solely CSEC victims. There are 8 bed and this placement existed prior to Safe Harbor act. Both of these placements are female only residents. Hope Place is located in a rural area. Lilac House is more urban.

Central Region CBC: chose to utilize existing beds within the Central Region. These placements included beds at OASIS, the Center for Drug Free Living, which is a group placement serving DCF, DJJ, and Community Children. In addition, they are providing services to community CSEC victims who are placed by caregivers outside the dependency system for the whole state. OASIS has CSEC specific treatment and a separate program for these victims. They take boys and girls. CBCCFL is also utilizing Chrysalis Group home in Orlando that provides services to female victims of sexual exploitation, not solely CSEC victims. This is a 5 bed residence. Chrysalis has a CSEC treatment protocol, based on the Georgetown model. Also available in the Central Region is Images of Glory, a group home with mixed dependency population, but has experience treating CSEC victims before formalized response plans

2013-14 State Fiscal Year Nonrecurring Safe House Allocation by DCF Region and Circuit

came into place. They also have a strong empowerment program that they provide within the Orlando community. Finally Devereux's Viera Campus is a SIPP Program in addition to having a CSEC track for their unsecured clients. CBCCFL has all of these options to choose from in identifying the specific needs of their children. Devereux has the ability to take both genders as well. All of these placements existed prior to the Safe Harbor Act. Center for Drug Free Livings' Oasis program was funded through a specific legislative line item and that contract is managed through Substance Abuse Mental Health and not the CBC.

Suncoast Region CBC: Has contracted with Redefining Refuge. They CBC pays for 3 beds to be specific for children from their area but the facility has the ability to serve 6 girls. They self-regulate and cap at 4, because this is what the staff feels is manageable based on the specific needs of their clients. Because Eckerd pays for the 3 beds at Redefining Refuge, whether a child is currently in the bed or not, provides the financial structure for Redefining Refuge to maintain stable staff and ensures that their children have beds available within their communities. If the girls run, having beds held means there are placements available for them in an appropriate treatment environment when they return or are recovered. In addition they have worked closely with Florida Children's Baptist Home, who have obtained a property and should have 7 beds ready by May. This will be a CSEC specific home for female victims. Both of these placements resulted from the Safe Harbor Act.

