



Appropriations Committee

Wednesday, February 14, 2024
2:00 PM – 6:00 PM
Webster Hall (212 KB)

MEETING PACKET

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Appropriations Committee

Start Date and Time: Wednesday, February 14, 2024 02:00 pm

End Date and Time: Wednesday, February 14, 2024 06:00 pm

Location: Webster Hall (212 Knott)

Duration: 4.00 hrs

Consideration of the following bill(s):

CS/HB 165 Sampling of Beach Waters and Public Bathing Spaces by Water Quality, Supply & Treatment Subcommittee, Gossett-Seidman, Cross

CS/HB 505 Tax Collectors by Local Administration, Federal Affairs & Special Districts Subcommittee, Truenow

CS/HB 639 Coverage of Out-of-network Ground Ambulance Emergency Services by Select Committee on Health Innovation, Yeager

CS/HB 773 Coverage for Diagnostic and Supplemental Breast Examinations by Select Committee on Health Innovation, Woodson

CS/HB 1001 Taxation by Ways & Means Committee, Stevenson

CS/HB 1083 Permanency for Children by Children, Families & Seniors Subcommittee, Trabulsy, Abbott

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at www.myfloridahouse.gov.

NOTICE FINALIZED on 02/12/2024 4:04PM by CTR

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 165 Sampling of Beach Waters and Public Bathing Spaces

SPONSOR(S): Water Quality, Supply & Treatment Subcommittee, Gossett-Seidman, Cross and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 338

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Water Quality, Supply & Treatment Subcommittee	17 Y, 0 N, As CS	Curtin	Curtin
2) Appropriations Committee		Aderibigbe	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Water-based activities are healthy ways to be physically active. However, if an individual comes into contact with certain bacteria, or swallows, has contact with, or breathes in mists or aerosols from water contaminated with germs, or comes into contact with chemicals that are in the water or that evaporate from the water and turn into gas in the air she or he may become ill. The regulation of beaches and bathing places is important to prevent disease and sanitary nuisances which may threaten or impair the health or safety of individuals.

The bill requires, rather than allows, the Department of Health (DOH) to:

- Adopt and enforce rules to protect the health, safety, and welfare of persons using the beach waters and public bathing places of this state.
- Within 24 hours or the next business day, whichever occurs first, issue health advisories if the quality of beach waters or a public bathing place fails to meet standards established by DOH and must require closure of beach waters and public bathing places that fail to meet DOH's standards if it deems closure is necessary to protect the health, safety, and welfare of the public.

The bill preempts to the state the issuance of health advisories related to the results of bacteriological sampling of public bathing places.

The bill requires:

- Municipalities and counties to, within 24 hours or the next business day, whichever occurs first, notify DOH of any incident that negatively impacts the quality of beach waters or public bathing places within their respective jurisdictions.
- Municipalities and counties to post and maintain health advisory signs around affected beach waters and public bathing places that they own.
- Public boat docks, marinas, and piers to, within 24 hours or the next business day, whichever occurs first, notify the jurisdictional municipality or county of any incident that negatively impacts the quality of beach waters in which the dock, marina, or pier is located.
- The Department of Environmental Protection (DEP) to post and maintain health advisory signs around affected beach waters and public bathing places owned by the state.
- DOH to coordinate with DEP and the Fish and Wildlife Conservation Commission as necessary to implement the signage requirements of the bill, and requires that such signage be posted and maintained in compliance with this subsection until the health advisory is no longer in effect

The bill may have an indeterminate, negative fiscal impact on DOH and on local governments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Water-based activities are healthy ways to be physically active.¹ However, if an individual comes into contact with certain bacteria, or swallows, has contact with, or breathes in mists or aerosols from water contaminated with germs, or comes into contact “with chemicals that are in the water or that evaporate from the water and turn into gas in the air” she or he may become ill.²

Bacteria

Water is full of bacteria, some of which are beneficial and others which are not.³ Fecal coliform are naturally occurring bacteria found in the digestive tracts of most animals and they are shed from the body with excrement.⁴ While infections from fecal coliform bacteria are typically not fatal, severe symptoms may lead to death.⁵ *Escherichia coli* (*E. coli*), a type of fecal coliform bacteria, are found in the environment, intestines of people and animals, and foods.⁶ Some strains of *E. coli* may cause illnesses such as intestinal and urinary tract infections, meningitis⁷, and septicemia^{8,9} Enterococci are bacteria that live in the intestinal tracts of humans and warm-blooded animals.¹⁰ These bacteria can sicken swimmers and “[o]ther potential health effects can include diseases of the skin, eyes, ears and respiratory tract.”¹¹

Sources of fecal indicator bacteria such as enterococci include wastewater treatment plant effluent, leaking septic systems, stormwater runoff, sewage discharged or dumped from recreational boats, domestic animal and wildlife waste, improper land application of manure or sewage, and runoff from manure storage areas, pastures, rangelands, and feedlots. There are also natural, non-fecal sources of fecal indicator bacteria, including plants, sand, soil and sediments, that contribute to a certain background level in ambient waters and vary based on local environmental and meteorological conditions.¹²

Beach Waters and Public Bathing Places

Beach waters are the salt waters and brackish waters along the coastal and intracoastal beaches.¹³ A public bathing place is a body of water, including artificial impoundments, waters along the coastal and

¹ Centers for Disease Control and Prevention (CDC), *Healthy Swimming* (last updated May 1, 2023), <https://www.cdc.gov/healthywater/swimming/index.html> (last visited Jan. 26, 2024).

² CDC, *Swimming-related Illnesses* (last updated July 8, 2022), <https://www.cdc.gov/healthywater/swimming/swimmers/rwi.html> (last visited Jan. 26, 2024).

³ United States Geological Survey (USGS), *Bacteria and E. Coli in Water*, <https://www.usgs.gov/special-topics/water-science-school/science/bacteria-and-e-coli-water> (last visited Jan. 26, 2024).

⁴ Jesse Minor, *Encyclopedia of Environment and Society - Fecal Coliform Bacteria*, https://www.researchgate.net/publication/285400656_Fecal_Coliform_Bacteria, p. 3 (2007).

⁵ *Id.*

⁶ USGS, *supra* note 3.

⁷ Some people with meningitis caused by bacteria “die and death can occur in as little as a few hours. However, most people recover from bacterial meningitis. Those who do recover can have permanent disabilities, such as brain damage, hearing loss, and learning disabilities.” CDC, *Bacterial Meningitis* (last updated July 15, 2021), <https://www.cdc.gov/meningitis/bacterial.html> (last visited Jan. 26, 2024).

⁸ “Septicemia is an infection that occurs when bacteria enter the bloodstream and spread. It can lead to sepsis, the body’s reaction to the infection, which can cause organ damage and even death.” Cleveland Clinic, *Septicemia* (last updated May 17, 2021), <https://my.clevelandclinic.org/health/diseases/21539-septicemia> (last visited Jan. 26, 2024).

⁹ USGS, *supra* note 3.

¹⁰ Environmental Protection Agency (EPA), *National Aquatic Resource Surveys, Indicators: Enterococci, What are enterococci?* (last updated June 9, 2023), <https://www.epa.gov/national-aquatic-resource-surveys/indicators-enterococci> (last visited Jan. 26, 2024).

¹¹ *Id.*

¹² *Id.*

¹³ S. 514.023(1), F.S.

intracoastal beaches and shores of the state, lakes, streams, and rivers that are used by the public for swimming and recreational bathing.¹⁴

The Department of Health (DOH) may, but is not required to, adopt and enforce rules to protect the health, safety, and welfare of individuals using beach waters and public bathing places in Florida.¹⁵ If adopted, “[t]he rules must establish health standards and prescribe procedures and timeframes to conduct bacteriological sampling of beach waters and public bathing places.”¹⁶ While the issuance of health advisories related to such sampling is preempted to the state, DOH may, but is not required to, issue health advisories when beach waters or a public bathing place fail to meet health standards.¹⁷

DOH Regulation of Beach Waters and Public Bathing Places

The regulation of bathing places is important to prevent disease and sanitary nuisances which may threaten or impair the health or safety of individuals.¹⁸ DOH has adopted and enforces rules requiring the owners or managers of public bathing places to monitor for water quality, report the results to DOH and the relevant county health department, and provide notice to DOH and the public whenever there are water quality violations of the adopted bacteriological standards for fecal coliform, *E. coli*, or enterococci.¹⁹ The owner or manager of a public bathing place is required to collect and test bacteriological samples each month.²⁰

If test results exceed standards established by DOH, then the owner or manager must, within 24 hours of receipt of the results, notify the relevant county health department and re-sample the water.²¹ The county health department must also inspect the waters upon receipt of the test results.²² If the 24-hour samples confirm an exceedance of standards, the owner or manager must immediately post a no swimming advisory²³; if the owner or manager does not post the advisory, DOH is required to post it.²⁴ Once re-sampling confirms that the bathing water again meets the standards, the owner or manager may rescind the posted no-swimming advisory.²⁵

When DOH issues a health advisory against swimming in beach waters or a public bathing place because elevated levels of fecal coliform, *E. coli*, or enterococci bacteria have been detected in a water sample, it must “concurrently notify the municipality or county in which the affected beach waters are located, whichever has jurisdiction, and the local office of the Department of Environmental Protection (DEP), of the advisory.”²⁶ The local DEP office is required to “promptly investigate” all wastewater treatment facilities located within 1 mile of the affected area(s) to determine whether a facility may have contributed to the contamination.²⁷ The local DEP office is also required to provide the results of its investigation to the local government with jurisdiction over the affected area.²⁸

Florida Healthy Beaches Program

The Florida Healthy Beaches Program was created to monitor salt and brackish water beaches²⁹ for enterococci bacteria and to more accurately determine whether beaches are safe for recreational

¹⁴ S. 514.011(4), F.S.

¹⁵ S. 514.023(2), F.S.

¹⁶ *Id.*

¹⁷ S. 514.023(3), F.S.

¹⁸ R. 64E-9.001(1), F.A.C.

¹⁹ R. 64E-9.013(1)-(3), F.A.C.

²⁰ R. 64E-9.013(2)(a), F.A.C.

²¹ R. 64E-9.013(2)(a)1., F.A.C.

²² R. 64E-9.013(2)(b), F.A.C.

²³ Form DH 4158, Bathing Place Public Health Advisory Sign – Poor Water Quality, 02/13, is incorporated in rule 64E-0.013(a)2., F.A.C. by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06899>.

²⁴ R. 64E-9.013(2)(a)2., F.A.C.

²⁵ *Id.*

²⁶ S. 514.023(4), F.S.

²⁷ *Id.*

²⁸ *Id.*

²⁹ DOH Lee County, *Healthy Beaches* (last updated Feb. 4, 2016), <https://lee.floridahealth.gov/programs-and-services/environmental-health/healthy-beaches/index.html> (last visited Jan. 26, 2024).

uses.³⁰ In 1998, a grant-funded pilot program allowed 5 of Florida's coastal counties to monitor for enterococci bacteria.³¹ In 2000, the program was expanded to 30 counties and also provided for sampling of fecal coliform.³² In 2002, the Environmental Protection Agency (EPA) provided funding which enabled sampling on a weekly basis; however, in 2011 funding levels decreased, which resulted in a return to bi-weekly sampling.³³ "The goal of the Healthy Beaches Program is to prevent waterborne illness by advising Florida residents and visitors against recreating in waters potentially contaminated with human pathogens."³⁴

Effect of the Bill

The bill requires, rather than allows, DOH to:

- Adopt and enforce rules to protect the health, safety, and welfare of persons using the beach waters and public bathing places of this state.
- Within 24 hours or the next business day, whichever occurs first, issue health advisories if the quality of beach waters or a public bathing place fails to meet standards established by DOH and must require closure of beach waters and public bathing places that fail to meet DOH's standards if it deems closure is necessary to protect the health, safety, and welfare of the public. Closures must remain in effect until the quality of the beach waters or public bathing place is restored in accordance with DOH's standards and until DOH has removed any related health advisories that it issued.

The bill requires DOH to:

- When it issues a health advisory against swimming in beach waters or a public bathing place on the basis of finding elevated levels of fecal coliform, *E. coli*, or enterococci bacteria in a water sample, within 24 hours or the next business day, whichever occurs first, concurrently notify the municipality or county in which the affected public bathing place is located, whichever has jurisdiction, and the local affiliates of national television networks in the affected area of the advisory.
- Adopt by rule a sign that must be used when it issues a health advisory against swimming in affected beach waters or public bathing places due to elevated levels of fecal coliform, *E. coli*, or enterococci bacteria in the water; require that each sign be no less than 20 inches by 20 inches in diameter; and require that health advisory signs be displayed at beach access points and in conspicuous areas around affected beach waters and public bathing places until subsequent testing of the water demonstrates that the bacteria levels meet the standards established by DOH.

The bill preempts to the state the issuance of health advisories related to the results of bacteriological sampling of public bathing places.

The bill requires municipalities and counties to:

- Within 24 hours or the next business day, whichever occurs first, notify DOH of any incident that negatively impacts the quality of beach waters or public bathing places within their respective jurisdictions.
- Post and maintain health advisory signs around affected beach waters and public bathing places that they own.

The bill requires public boat docks, marinas, and piers to, within 24 hours or the next business day, whichever occurs first, notify the jurisdictional municipality or county of any incident that negatively impacts the quality of beach waters in which the dock, marina, or pier is located.

³⁰ Coastal & Heartland National Estuary Partnership (CHNEP), *Learn More: Healthy Beaches*, https://chnep.wateratlas.usf.edu/library/learn-more/learnmore.aspx?toolsection=lm_healthybeach (last visited Jan. 26, 2024).

³¹ DOH, *Florida Healthy Beaches Program* (last updated Feb. 1, 2022), <https://www.floridahealth.gov/environmental-health/beach-water-quality/index.html> (last visited Jan. 26, 2024).

³² CHNEP, *supra* note 30.

³³ *Id.*

³⁴ DOH, *supra* note 31.

The bill requires DEP to post and maintain health advisory signs around affected beach waters and public bathing places owned by the state.

The bill requires DOH to coordinate with DEP and the Fish and Wildlife Conservation Commission as necessary to implement the signage requirements of the bill, and requires that such signage be posted and maintained in compliance with this subsection until the health advisory is no longer in effect.

B. SECTION DIRECTORY:

Section 1. Amends s. 514.023, F.S., relating to sampling of beach waters; and public bathing places; health advisories.

Section 2. Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate negative impact on the state because the bill requires DEP to post and maintain health advisory signs around affected beach waters and public bathing places owned by the state. The bill may also have an indeterminate negative impact on the state because the bill requires DOH to coordinate with DEP and the Fish and Wildlife Conservation Commission as necessary to implement the signage requirements of the bill, and requires that such signage be posted and maintained in compliance with this subsection until the health advisory is no longer in effect.

There may be an increased workload for DOH to issue health advisories and close beach waters and public bathing places necessary to protect the health, safety, and welfare of the public. There are currently 729 vacant, non-medical positions greater than 180 days within the County Health Departments. Many of these vacancies are in coastal counties around the state. Additionally, there are currently 75 vacant Environmental Specialist positions greater than 180 days. Based on these vacancies, it is estimated that DOH can absorb the additional workload within existing resources.

Implementation of the program statewide will likely occur over the course of the first year. Once consistent workload can be determined, the DOH can request resources through the Legislative Budget Request process.

Specific Appropriation 505 in the FY 2023-24 General Appropriations Act (GAA) and Specific Appropriation 499 in the FY 2024-25 proposed GAA includes 50 County Health Department positions for DOH to access should workload dictate they are needed.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate negative impact on municipalities and counties associated with requiring local governments to post and maintain health advisory signs around affected beach waters and public bathing places that they own.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill requires DOH to adopt and enforce rules to protect the health, safety, and welfare of persons using the beach waters and public bathing places of this state, which may require DOH to expend funds to promulgate rules. The bill also requires DOH to adopt by rule a sign that must be used when it issues a health advisory against swimming in affected beach waters or public bathing places due to elevated levels of fecal coliform, *E. coli*, or enterococci bacteria in the water, which may require DOH to expend funds to promulgate rules.

The impact to DOH is anticipated to be insignificant and can be absorbed within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires counties and municipalities to post and maintain DOH-required health advisory signs at affected beach waters and public bathing places they own. However, an exemption may apply because the fiscal impact to counties and municipalities is indeterminate and may be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DOH to adopt rules to protect the health, safety, and welfare of persons using the beach waters and public bathing places of this state.

The bill also requires DOH to adopt by rule a sign that must be used when it issues a health advisory against swimming in affected beach waters or public bathing places due to elevated levels of fecal coliform, *E. coli*, or enterococci bacteria in the water.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 29, 2024, the Water Quality, Supply and Treatment Subcommittee adopted a Proposed Committee Substitute (PCS) and reported the bill favorably as a committee substitute. The PCS:

- Removes a mandated review of DOH's bacteriological sampling of beach waters and public bathing places.
- Removes a requirement that DOH and DEP submit recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the transfer of bacteriological sampling of beach waters and public bathing places from DOH to DEP.
- Removes a requirement that DOH, by December 31, 2025, effectuate a type two transfer of everything associated with bacteriological sampling of beach waters and public bathing places to DEP.
- Removes revisions to s. 514.021, F.S., which would confer upon DEP the authority to adopt and enforce rules related to the bacteriological sampling of beach waters and public bathing places.

- Removes revisions to s. 514.023, F.S., requiring DEP to monitor certain beach waters and public bathing places to ensure compliance with certain signage requirements, and removes the requirement that DEP establish a public statewide interagency database for the reporting of fecal indicator bacteria data for beach waters and public bathing places.
- Removes revisions to s. 514.0231, F.S., transferring responsibility for a rulemaking technical advisory committee from DOH to DEP.

This analysis is drafted to the committee substitute as approved by the Water Quality, Supply and Treatment Subcommittee.

26 of Environmental Protection and the Fish and Wildlife
 27 Conservation Commission to implement signage
 28 requirements; providing an effective date.

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

32 Section 1. Section 514.023, Florida Statutes, is amended
 33 to read:

34 514.023 Sampling of beach waters~~;~~ and public bathing
 35 places; health advisories; signage.-

36 (1) As used in this section, the term "beach waters" means
 37 the waters along the coastal and intracoastal beaches and shores
 38 of this ~~the~~ state~~,~~ and includes salt water and brackish water.

39 (2) The department shall ~~may~~ adopt and enforce rules to
 40 protect the health, safety, and welfare of persons using the
 41 beach waters and public bathing places of this ~~the~~ state. The
 42 rules must establish health standards and prescribe procedures
 43 and timeframes for bacteriological sampling of beach waters and
 44 public bathing places. At a minimum, the rules must require
 45 owners of beach waters and public bathing places to both notify
 46 the department and resample the water within 24 hours after a
 47 test result indicates that a sample of the beach waters or
 48 public bathing place fails to meet standards established by the
 49 department.

50 (3) The department shall, within 24 hours or the next

51 business day, whichever occurs first, may issue health
52 advisories if the quality of beach waters or a public bathing
53 place fails to meet standards established by the department and
54 shall require closure of beach waters and public bathing places
55 that fail to meet the department's standards if it deems closure
56 is necessary to protect the health, safety, and welfare of the
57 public. Closures must remain in effect until the quality of the
58 beach waters or public bathing place is restored in accordance
59 with the department's standards and until the department has
60 removed any related health advisories that it issued. The
61 issuance of health advisories related to the results of
62 bacteriological sampling of beach waters and public bathing
63 places is preempted to the state.

64 (4)(a) When the department issues a health advisory
65 against swimming in beach waters or a public bathing place on
66 the basis of finding elevated levels of fecal coliform,
67 *Escherichia coli*, or enterococci bacteria in a water sample, the
68 department shall, within 24 hours or the next business day,
69 whichever occurs first, concurrently notify the municipality or
70 county in which the affected beach waters or public bathing
71 place is ~~are~~ located, whichever has jurisdiction, ~~and~~ the local
72 office of the Department of Environmental Protection, and the
73 local affiliates of national television networks in the affected
74 area of the advisory.

75 (b) Municipalities and counties shall, within 24 hours or

76 the next business day, whichever occurs first, notify the
77 department of any incident that negatively impacts the quality
78 of beach waters or public bathing places within their respective
79 jurisdictions. Owners of public boat docks, marinas, and piers
80 shall, within 24 hours or the next business day, whichever
81 occurs first, notify the jurisdictional municipality or county
82 of any incident that negatively impacts the quality of beach
83 waters in which the dock, marina, or pier is located.

84 (c) The local office of the Department of Environmental
85 Protection shall promptly investigate wastewater treatment
86 facilities within 1 mile of the affected beach waters or public
87 bathing place to determine if a facility experienced an incident
88 that may have contributed to the contamination and provide the
89 results of the investigation in writing or by electronic means
90 to the municipality or county, as applicable.

91 (d) The department shall adopt by rule a sign that must be
92 used when it issues a health advisory against swimming in
93 affected beach waters or public bathing places due to elevated
94 levels of fecal coliform, *Escherichia coli*, or enterococci
95 bacteria in the water. The department shall require that the
96 health advisory sign be no less than 20 inches by 20 inches in
97 diameter and posted at beach access points and in conspicuous
98 areas around affected beach waters and public bathing places
99 until subsequent testing of the water demonstrates that the
100 bacteria levels meet the standards established by the

101 department.

102 (e) Municipalities and counties are responsible for
 103 posting and maintaining health advisory signs as described in
 104 paragraph (d) around affected beach waters and public bathing
 105 places owned by them. The Department of Environmental Protection
 106 is responsible for posting and maintaining health advisory signs
 107 around affected beach waters and public bathing places owned by
 108 the state. The department shall coordinate with the Department
 109 of Environmental Protection and the Fish and Wildlife
 110 Conservation Commission as necessary to implement the signage
 111 requirements of this subsection. Such signage must be posted and
 112 maintained in compliance with this subsection until the health
 113 advisory is no longer in effect.

114 Section 2. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 505 Tax Collectors

SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee, Truenow

TIED BILLS: **IDEN./SIM. BILLS:** SB 958

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	14 Y, 0 N, As CS	Ray	Darden
2) Health & Human Services Committee	18 Y, 0 N	DesRochers	Calamas
3) Appropriations Committee		Trexler	Pridgeon
4) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution requires the powers, duties, compensation, and method of payment of state and county officers to be determined by general law. Current law provides a uniform salary schedule to ensure a fair and equitable payment of officers performing equal duties for the state across different counties. The final salary of county constitutional officers is calculated using a formula that includes a base salary, population adjustment, and variables based on wage growth over time.

Current law prohibits the payment of extra compensation to any public employee in the state for services that have been previously rendered. This provision has been interpreted to include the payment of a bonus to existing employees for services for which they have already performed and been compensated, in the absence of a preexisting employment contract making such bonuses a part of their salary.

Qualifying state employees, veterans, servicemembers, and law enforcement officers are eligible to receive a lump-sum monetary benefit for adopting a child within the child welfare system. This benefit provides a payment of \$10,000 for adopting a child classified as difficult to place and \$5,000 for other children. Adoption benefits are awarded on a first-come, first-served basis and are subject to appropriation.

CS/HB 505 makes the following revisions to current law concerning tax collectors:

- Increases the base salary used in the formula for calculating tax collector salaries by \$5,000;
- Allows tax collector employees to be eligible for a lump-sum monetary benefit for adopting a child on the same terms as qualifying state employees, veterans, and servicemembers;
- Allows tax collectors to budget for and pay a hiring or retention bonus to employees, if the expenditure is approved of by the Department of Revenue or the board of county commissioners; and
- Allows district school boards to contract with the county tax collector to authorize a tax collector employee to administer road tests on school grounds.

The bill has no fiscal impact to state government and may have an insignificant negative fiscal impact on local governments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Compensation of County Officials

The Florida Constitution requires the powers, duties, compensation and method of payment of state and county officers to be determined by general law.¹

Current law provides a uniform salary schedule to ensure a fair and equitable payment of officers performing equal duties for the state across different counties.² The statutory salary schedule applies to all designated officers in all counties, except those officials whose salaries are set by a county charter or officials in a chartered consolidated form of government.³

The salary schedule classifies counties in six groups based on population.⁴ These groups range from population group I, consisting of counties with fewer than 50,000 residents, to population group VI, consisting of counties with 1,000,000 or more residents.⁵ The salary rate of the official is calculated by adding the base salary for the county's population group to the product of the county's group rate and the number of residents in excess of the minimum for the population group.⁶ The current rates for all county officers, except sheriffs and county commissioners, are:

Population Group #	County Population Range		Current Law Base Salary
	Minimum	Maximum	
I	-0-	49,999	\$21,250
II	50,000	99,999	\$24,400
III	100,000	199,999	\$27,550
IV	200,000	399,999	\$30,175
V	400,000	999,999	\$33,325
VI	1,000,000	N/A	\$36,475

The salary paid to each county constitutional officer is determined by the product of the salary rate calculated from the relevant section of ch. 145, F.S., the annual factor,⁷ the cumulative annual factor,⁸ and the initial factor.⁹ The annual factor and the cumulative annual factor are certified each year by the Department of Management Services.¹⁰ Each constitutional officer is eligible for an additional \$2,000 per year if that officer meets the certification requirement applicable to the office.¹¹

¹ See art. II, s. 5(c), Fla. Const. (requiring compensation of county officers to be fixed by law), art. III, s. 11(a)(21), Fla. Const. (prohibiting special acts and general laws of local application on any subject when prohibited by a general law passed by a three-fifths vote of the membership of each house), and s. 145.16, F.S. (prohibiting special laws and general laws of local application for county commissioners, county constitutional officers, school superintendents, and school board members).

² S. 145.011(2), F.S.

³ S. 145.012, F.S.

⁴ See ss. 145.011 and 145.11, F.S.

⁵ See s. 145.11(1), F.S.

⁶ See *id.*

⁷ S. 145.19(1)(a), F.S. The "annual factor" is 1 plus the lesser of the average percentage increase in the salaries of state career service employees for the current fiscal year or seven percent.

⁸ S. 145.19(1)(b), F.S. The "cumulative annual factor" of the product of all annual factors prior to the current fiscal year.

⁹ S. 145.19(1)(c), F.S. The "initial factor" is 1.292.

¹⁰ S. 145.19(2), F.S.

¹¹ See s. 145.11(2), F.S. (certification requirements for tax collector established by Dept. of Revenue).

In 2023, the Office of Economic and Demographic Research provided the following sample computation for the Alachua County Clerk of Circuit Court, Property Appraiser, Supervisor of Elections, and Tax Collector:¹²

Sample Computation of Salary	
2022 Countywide Population Estimate	287,872
Group Number (IV) Minimum	200,000
Corresponding Base Salary (i.e., Group IV)	\$30,175
Corresponding Group Rate (i.e., Group IV)	0.01575
Initial Factor	1.29200
Certified Annual Factor	1.05770
Certified Cumulative Annual Factor	3.90810

$$\text{Salary} = [\$30,175 + [(287,872 - 200,000) \times 0.01575]] \times 1.292 \times 1.0577 \times 3.9081 = \$168,544$$

Public Employee Bonuses

Current law generally prohibits the payment of extra compensation to any public employee in the state for services that have been previously rendered.¹³ Numerous Florida Attorney General opinions have been issued interpreting this prohibition, including one that found a bonus to existing employees for services for which they have already performed and been compensated, in the absence of a preexisting employment contract making such bonuses a part of their salary, violated the prohibition.¹⁴

Adoption Benefits

A qualifying state employee,¹⁵ veteran,¹⁶ or servicemember¹⁷ who adopts a child within the child welfare system is eligible to receive a lump-sum monetary benefit per child: \$10,000 for a child who is classified as difficult-to-place¹⁸ and \$5,000 for other children. Law enforcement officers are also eligible for this benefit, except the lump-sums received are \$25,000 and \$10,000, respectively.¹⁹

The adoption monetary benefit is limited to one award per adopted child within the child welfare system.²⁰ Benefits are awarded on a first-come, first-served basis and subject to appropriation.²¹ The chart below documents the total number of adoption monetary benefits requested and received:²²

¹² Office of Economic and Demographic Research, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2023-24*, at 3, at <http://edr.state.fl.us/Content/local-government/reports/finsal23.pdf> (last visited Jan. 20, 2024).

¹³ See s. 215.425(1), F.S. (prohibiting extra compensation and providing a list of exceptions).

¹⁴ Op. Att’y Gen. Fla. 91-51(1991).

¹⁵ Qualifying adoptive employee means a full-time or part-time employee of a state agency, a charter school, or the Florida Virtual School who adopts a child within the child welfare system on or after July 1, 2015. Independent contractors do not meet this definition. S. 409.1664(1)(c), F.S.

¹⁶ Veteran means a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. Ss. 1.01(14), 409.1664(1)(f), F.S.

¹⁷ Servicemember means any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces. Ss. 250.01(19), 409.1664(1)(d), F.S.

¹⁸ A difficult-to-place child means a child 1) who DCF or a licensed child-placing agency has permanent custody of, 2) who established a significant emotional ties with his or her foster parents or is not likely to be adopted because he or she is eight years of age or older, developmentally disabled, physical or emotionally handicapped, is a member of a racial group that is disproportionately represented among children in the permanent custody of DCF of a licensed child-placing agency, or is a member of a sibling group, and 3) for whom a reasonable but unsuccessful effort was made to place the child without providing a maintenance subsidy (except when the child is adopted by the child’s foster parents or relative caregiver). S. 409.166(2)(d), F.S.

¹⁹ S. 409.1664(2), F.S.

²⁰ S. 409.1664(2)(b), F.S.

²¹ S. 409.1664(2)(c) and (3), F.S.

²² Emails from the Florida Department of Children and Families on file with the Health & Human Services Committee (Feb. 6-7, 2024).

Child Welfare System Adoption Benefits 2019-2023					
Fiscal Year	Child Welfare Adoptions	Number of Awards	Awards as a Percent of Child Welfare Adoptions	Appropriations ²³	Expenditures
2019-20	4,548	275	6%	\$2,750,000	\$2,732,000
2020-21	3,904	263	7%	\$2,750,000	\$2,674,370
2021-22	3,888	323	8%	\$3,233,700	\$3,225,000
2022-23	3,602	412	11%	\$8,377,470	\$4,345,000

The Florida Department of Children and Families (DCF) holds an annual open enrollment period to receive applications for the adoption monetary benefit between the first business day in January and the last business day of March. For multiple adoptions, the applicant must submit a separate application for each child. DCF must review all timely applications and determine who is eligible to receive the benefit. Applications²⁴ must be processed in the order they were received during the open enrollment period.²⁵

Applicants must include in their application packets a certified copy of the final order of adoption naming the applicant as the adoptive parent. While the Chief Financial Officer of DCF transfers the funds to award recipients, not every applicant can apply for the adoption monetary benefit directly to DCF. Current law requires veterans and servicemembers to apply directly to DCF to receive the benefit; however, state employees must apply to their own agency head, employees at a charter school²⁶ or the Florida Virtual School²⁷ must apply to their respective school director, and a law enforcement officer must apply to the Florida Department of Law Enforcement.²⁸

When the demand for the adoption benefit exceeds the supply of appropriated funds, denied applicants do not have to submit a new application during the next open enrollment period. Instead, DCF will automatically consider this pool of eligible applicants for future appropriations.²⁹

Instruction in Motor Vehicle Operation

Each school district is responsible for providing a course of study and instruction in the safe and lawful operation of a motor vehicle that is available to students in secondary schools.³⁰ The course may use instructional personnel employed by the school district or contract with a commercial driving school or instructor certified under ch. 488, F.S.³¹ The courses are financed by a \$0.50 annual fee charged to each driver as part of the driver license fee.³²

Effect of Proposed Changes

Compensation of County Officials and Public Employee Bonuses

²³ The appropriation was increased in FY 2022-23 to accommodate a law change making law enforcement officers eligible for an award. Funds not spent by the end of each fiscal year revert to the General Revenue Fund. Email from the Florida Department of Children and Families on file with the Health & Human Services Committee (Feb. 7, 2024). See s. 3, ch. 2022-23, Laws of Fla.

²⁴ Florida Department of Children and Families, *CF-FSP 5327 Adoption Benefits For State Employees And Other Eligible Applicants*, (Oct. 21, 2022) <https://www.flrules.org/Gateway/reference.asp?No=Ref-14887> (last visited Feb. 7, 2024).

²⁵ R. 65C-16.021; see s. 409.1664(6), F.S.

²⁶ All charter schools in Florida are public schools and part of the state's program of public education. s. 1002.33(1), F.S.

²⁷ The Florida Virtual School provides online and distance learning education. The school is governed by a board of trustees appointed by the Governor, and the board of trustees is a public agency. Current law advises that all employees except temporary, seasonal, and student employees may be classified as state employees for purposes of Florida Retirement System benefits. S. 1002.37, F.S.

²⁸ Ss. 409.1664(3), (7), F.S.

²⁹ R. 65C-16.021; see s. 409.1664(6), F.S.

³⁰ S. 1003.48(1), F.S.

³¹ S. 1003.48(2), F.S.

³² S. 1003.48(4), F.S.

CS/HB 505 increases the base salary for tax collectors in each population group by \$5,000. If this base salary had been in effect during the 2023-24 fiscal year, the total salary of each county tax collector would have increased by approximately \$26,703 relative to current law. The bill authorizes tax collectors, notwithstanding any other law to the contrary, to budget for and pay a hiring or retention bonus to employees if the expenditure is approved of by the Department of Revenue in the respective tax collector's budget or by the board of county commissioners after the budget is submitted to the Department of Revenue.

Adoption Benefits

The bill adds tax collector employees to the list of individuals who may qualify for a lump-sum monetary benefit of \$10,000 for adopting a difficult to place child in the welfare system, or \$5,000 for other children. The tax collector employee must be domiciled in the state and may only receive the benefit if they adopt the child on or after July 1, 2024. A tax collector employee must apply to the Department of Children and Families to receive the benefit.

Instruction in Motor Vehicle Operation

Lastly, the bill allows district school boards to contract with the county tax collector to authorize a tax collector employee to administer road tests on school grounds at one or more secondary schools in the district.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 145.11, F.S., relating to tax collector salaries.
- Section 2:** Amends s. 409.1664, F.S., relating to adoption benefits.
- Section 3:** Creates s. 445.09, F.S., relating to bonuses for tax collector employees.
- Section 4:** Amends s. 1003.48, F.S., relating to instruction in operation of motor vehicles.
- Section 5:** Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.
- 2. Expenditures:
Specific Appropriation 326 of HB 5001 (House General Appropriations Act for Fiscal Year 2024-25) includes an appropriation of \$18.2 million for adoption incentives. While it is unknown how many tax collector employees will adopt children from the child welfare system or apply for the adoption benefit, all benefits are awarded on a first-come, first-served basis and are subject to appropriation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
None.
- 2. Expenditures:

The bill may have an indeterminate negative fiscal impact on counties due to an increase in the base salary rate for tax collectors and the extent to which each county provides bonuses for tax collector employees.

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 county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill increases the salary of tax collectors. However, an exception may apply, as laws having an insignificant fiscal impact are exempt from the requirements of Art. VII, s. 18 of the Florida Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Local Administration, Federal Affairs & Special Districts Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The bill removed a provision that would have increased the base salary for school superintendents.

This analysis is drafted to the committee substitute as passed by the Local Administration, Federal Affairs & Special Districts Subcommittee.

26 (1) Each tax collector shall receive as salary the amount
 27 indicated, based on the population of his or her county. In
 28 addition, a compensation shall be made for population increments
 29 over the minimum for each population group, which shall be
 30 determined by multiplying the population in excess of the
 31 minimum for the group times the group rate.

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I	-0-	49,999	<u>\$26,250</u> \$21,250	\$0.07875
II	50,000	99,999	<u>29,400</u> 24,400	0.06300
III	100,000	199,999	<u>32,550</u> 27,550	0.02625
IV	200,000	399,999	<u>35,175</u> 30,175	0.01575
V	400,000	999,999	<u>38,325</u>	0.00525

~~33,325~~

39

VI

41,475

1,000,000

~~36,475~~

0.00400

40

41 Section 2. Paragraph (f) of subsection (1) of section
 42 409.1664, Florida Statutes, is redesignated as paragraph (g),
 43 subsections (2), (3), (4), and (6) are amended, and a new
 44 paragraph (f) is added to subsection (1) of that section, to
 45 read:

46 409.1664 Adoption benefits for qualifying adoptive
 47 employees of state agencies, veterans, servicemembers, ~~and~~ law
 48 enforcement officers, and tax collector employees.-

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

50 (f) "Tax collector employee" means an employee or a deputy
 51 tax collector, provided in s. 197.103, of an office of a county
 52 tax collector.

53 (2) A qualifying adoptive employee, veteran, ~~or~~
 54 servicemember, or tax collector employee who adopts a child
 55 within the child welfare system who is difficult to place as
 56 described in s. 409.166(2)(d)2. is eligible to receive a lump-
 57 sum monetary benefit in the amount of \$10,000 per such child,
 58 subject to applicable taxes. A law enforcement officer who
 59 adopts a child within the child welfare system who is difficult
 60 to place as described in s. 409.166(2)(d)2. is eligible to

61 receive a lump-sum monetary benefit in the amount of \$25,000 per
62 such child, subject to applicable taxes. A qualifying adoptive
63 employee, veteran, ~~or~~ servicemember, or tax collector employee
64 who adopts a child within the child welfare system who is not
65 difficult to place as described in s. 409.166(2)(d)2. is
66 eligible to receive a lump-sum monetary benefit in the amount of
67 \$5,000 per such child, subject to applicable taxes. A law
68 enforcement officer who adopts a child within the child welfare
69 system who is not difficult to place as described in s.
70 409.166(2)(d)2. is eligible to receive a lump-sum monetary
71 benefit in the amount of \$10,000 per each such child, subject to
72 applicable taxes. A qualifying adoptive employee of a charter
73 school or the Florida Virtual School may retroactively apply for
74 the monetary benefit provided in this subsection if such
75 employee was employed by a charter school or the Florida Virtual
76 School when he or she adopted a child within the child welfare
77 system pursuant to chapter 63 on or after July 1, 2015. A
78 veteran, ~~or~~ servicemember, or tax collector employee may apply
79 for the monetary benefit provided in this subsection if he or
80 she is domiciled in this state and adopts a child within the
81 child welfare system pursuant to chapter 63 on or after July 1,
82 2020. A law enforcement officer may apply for the monetary
83 benefit provided in this subsection if he or she is domiciled in
84 this state and adopts a child within the child welfare system
85 pursuant to chapter 63 on or after July 1, 2022. A tax collector

86 employee may apply for the monetary benefit provided in this
87 subsection if he or she is domiciled in this state and adopts a
88 child within the child welfare system under chapter 63 on or
89 after July 1, 2024.

90 (a) Benefits paid to a qualifying adoptive employee who is
91 a part-time employee must be prorated based on the qualifying
92 adoptive employee's full-time equivalency at the time of
93 applying for the benefits.

94 (b) Monetary benefits awarded under this subsection are
95 limited to one award per adopted child within the child welfare
96 system.

97 (c) The payment of a lump-sum monetary benefit for
98 adopting a child within the child welfare system under this
99 section is subject to a specific appropriation to the department
100 for such purpose.

101 (3) A qualifying adoptive employee must apply to his or
102 her agency head, or to his or her school director in the case of
103 a qualifying adoptive employee of a charter school or the
104 Florida Virtual School, to obtain the monetary benefit provided
105 in subsection (2). A veteran, ~~or~~ servicemember, or tax collector
106 employee must apply to the department to obtain the benefit. A
107 law enforcement officer must apply to the Department of Law
108 Enforcement to obtain the benefit. Applications must be on forms
109 approved by the department and must include a certified copy of
110 the final order of adoption naming the applicant as the adoptive

111 parent. Monetary benefits shall be approved on a first-come,
112 first-served basis based upon the date that each fully completed
113 application is received by the department.

114 (4) This section does not preclude a qualifying adoptive
115 employee, veteran, servicemember, tax collector employee, or law
116 enforcement officer from receiving adoption assistance for which
117 he or she may qualify under s. 409.166 or any other statute that
118 provides financial incentives for the adoption of children.

119 (6) The department may adopt rules to administer this
120 section. The rules may provide for an application process such
121 as, but not limited to, an open enrollment period during which
122 qualifying adoptive employees, veterans, servicemembers, tax
123 collector employees, or law enforcement officers may apply for
124 monetary benefits under this section.

125 Section 3. Section 445.09, Florida Statutes, is created to
126 read:

127 445.09 Bonuses for tax collector employees.—Notwithstanding
128 any other law to the contrary, a county tax collector may budget
129 for and pay a hiring or retention bonus to an employee if the
130 expenditure is approved by the Department of Revenue in the
131 respective tax collector's budget or approved by the respective
132 board of county commissioners after the budget is submitted to
133 the Department of Revenue as set forth in s. 195.087(2).

134 Section 4. Subsection (6) is added to section 1003.48,
135 Florida Statutes, to read:

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136 1003.48 Instruction in operation of motor vehicles.—
137 (6) The district school board may contract with the county
138 tax collector to authorize a tax collector employee, as defined
139 in s. 409.1664(1), to administer road tests on school grounds at
140 one or more secondary schools within the district.

141 Section 5. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 639 Coverage of Out-of-network Ground Ambulance Emergency Services

SPONSOR(S): Select Committee on Health Innovation, Yeager

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 568

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Select Committee on Health Innovation	11 Y, 0 N, As CS	Lloyd	Calamas
2) Appropriations Committee		Helpling	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Congress adopted the federal *No Surprises Act* in 2021 to address balance billing in health care, except in the area of ground transportation, emergency and non-emergency. Emergency transportation companies do not get a choice in their patients and must answer every 911 call received for a medical emergency. Whether or not a patient has insurance, what insurance, or ability to pay is not a consideration at the time a ground ambulance responds to the emergency call. In the same manner, patients in need of an emergency transport are not able to shop around for services or to research which ambulance to call.

The vast majority of ground ambulance emergency services are owned or operated by a county or local municipality such as fire departments (37 percent) or other government entities (25 percent) with the remainder being held by private businesses (30 percent) and hospital owned ambulances. When there is a choice of ambulance providers in an area, the 911 operator typically picks the provider based on its proximity to the scene and the patient's injury severity.

Florida established its own balance billing law in 2016. The law prohibits nonparticipating providers, including hospitals, ambulatory surgical centers, and urgent care centers, from balance billing members of a preferred provider organization (PPO) or exclusive provider organization (EPO) for emergency services or for nonemergency services when the nonemergency services are provided in a network hospital and the patient had no ability and opportunity to choose a network provider.

The bill addresses the gap left by the two laws through the establishment of a set of options for payment of out-of-network claims by group health plans and individual health plan policies to be the lesser of:

- The rate set or approved, whether it is established in a contract or local government ordinance, in the jurisdiction in which the covered services occurred.
- 350 percent of the current published rate by federal CMS for ambulance services under Title XVIII of the Social Security Act for the same geographic area; or the ambulance's billed charges, whichever is less.
- The contracted rate at which the health care provider would reimburse an in-network ambulance provider for providing the covered service.

The bill also establishes that payment from the insurer is considered payment in full. Cost sharing from the patient may not exceed the in-network amounts that would have been charged for the same service.

The bill may have an insignificant, negative fiscal impact on state government. See Fiscal Analysis and Economic Impact Statement.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Emergency Ground Transportation

Ground emergency medical transportation is a life-saving service that may affect anyone, including the uninsured, privately insured, and those covered by governmental health care programs. In 2020, 37 percent¹ of emergency ground ambulance rides were provided through local fire departments,² 25 percent through other government agencies, 30 percent through private companies, and 8 percent through hospitals.³ Federal laws and current Florida laws do not provide balance billing protections for insured consumers that use a non-participating or out-of-network emergency ground ambulance service.

About 51 percent of all ground ambulance calls require Advanced Life Support (ALS)⁴ services compared to Basic Life Support (BLS) services.^{5,6} Emergency ambulance fees usually include two components: a base fee and a mileage fee. According to FAIR Health report, the average charge for ALS emergency ground ambulance services has increased from \$1,042 in 2017 to \$1,277 in 2020, which represents a 22.6 percent increase. In Medicare, the average increase for these same services was \$441 to \$463, a five percent increase.⁷ The average charge for BLS emergency ground ambulance services increased 17.5 percent from \$800 in 2017 to \$940 in 2020. The average Medicare amount for these services increased 4.8 percent from \$372 to \$390.⁸ The second component of the billing rate, mileage fees can vary greatly as well from \$20 per mile to \$90 per mile.⁹ And, depending on where a patient lives in relation to the closest emergency facility, the cost per mile can quickly add up. In urban Florida, the hospital ride may be less than 10 miles, but in more rural areas of Florida, it could be 50 or more miles to the closest or most appropriate hospital for the patient. In 2019, Florida has one of the lowest averages for mileage for ground ambulance emergency transportation at 7.2 miles compared to the highest state of Wyoming at 29.2 miles.¹⁰

One study found that 71 percent of all ambulance rides had the potential to incur surprise medical bills.¹¹ While this study occurred in 2000, prior to the implementation of the federal legislation addressing most types of balance billing, it still speaks to the percentage of ambulance rides that end up as balance billing cases, whether ground or air, and the costs involved for such transportation. The

¹ *Ground ambulance rides and potential for surprise billing* - Peterson-KFF Health System Tracker (June 24, 2021), available at [Ground ambulance rides and potential for surprise billing - Peterson-KFF Health System Tracker](#) (last visited January 31, 2024).

² *What are the differences between public and private ambulance services?* (ems1.com) (Oct. 23, 2017), available at [What are the differences between public and private ambulance services? \(ems1.com\)](#) (last visited January 31, 2024).

³ *Protecting Consumers from Surprise Ambulance Bills* | Commonwealth Fund (Nov. 15, 2021), available at <https://www.commonwealthfund.org/blog/2021/protecting-consumers-surprise-ambulance-bills> (last visited January 31, 2024).

⁴ Advanced Life Support Services (ALS) includes basic life support but must have a paramedic on board. The technicians on an ALS ambulance have a higher level of training. Typically, to treat a patient during an ALS ambulance service, an invasive procedure is done, for example, with needles or other devices that make cuts in the skin. An ALS provider can give injections, do very limited surgical procedures (e.g., a tracheotomy) and administer medicine. ALS ambulances are typically outfitted with airway equipment, cardiac life support, cardiac monitors and glucose testing devices.

⁵ Also called "first step treatment," these services can be provided by either a paramedic or an emergency medical technician (EMT). They typically include fractures or injuries, psychiatric patients or medical and surgical patients who do not need cardiac monitoring or respiratory interventions.

⁶ *Ground Ambulance Services in the United States (2022)*, FAIR HEALTH, available at: [Ground Ambulance Services in the United States - A FAIR Health White Paper.pdf](#) (last visited January 30, 2024).

⁷ Id.

⁸ Id.

⁹ PBS News Hour, *The No Surprises Act left out ground ambulances. Here is what is happening now*, (August 17, 2023), available at [The No Surprises Act left out ground ambulances. Here's what's happening now | PBS NewsHour](#) (last visited January 29, 2024).

¹⁰ *Supra*, note 6.

¹¹ Karan R. Chhabra, Keegan McGuire, et al., "Most Patients Undergoing Ground and Air Ambulance Transportation Receive Sizeable Out-Of-Network Bills," HEALTH AFFAIRS (April 15, 2020), available at: [Most Patients Undergoing Ground And Air Ambulance Transportation Receive Sizable Out-Of-Network Bills | Health Affairs](#)

study found the median range in 2020 for surprise ground emergency transportation bill to be \$450.¹² In balance billing for emergency ground transportation, which was not included in either the state or national balance billing laws, the Florida ambulance providers are reimbursed, on average, for 56 percent of their billed charges.

An ambulance may also arrive to a call, treat the patient, and not transport the patient to a facility. Nationally, from 2017 to 2019, the percentage has dropped for the number of cases from one percent of all calls to 0.7 percent, and then bounced back to one percent of all calls for emergency ground transportation.¹³ For the four-year period of 2017-2020, the top five reasons for emergency ground transportation calls, but no transport to a facility have remained the same, if out of order. For 2020, the number one reason for a call was for general, non-specific reasons, followed by circulatory and respiratory issues, injury to the body, endocrine and metabolic issues, and signs and symptoms related to cognition.¹⁴

Balance Billing

Balance billing occurs when an insured patient accesses out of network services at an emergency facility or while receiving non-emergency services at in-network hospital or facility for covered services.¹⁵ With balance billing, a provider bills a patient for the difference between the amounts the provider charges and the amount that the patient's insurance company pays. This does not include cost-sharing requirements such as copayments that are typically paid by a patient. As a result, a consumer may incur an average balance billing or out of pocket cost of \$450.¹⁶ In some states, the average is more than \$1,000.¹⁷

Statewide Provider and Health Plan Claim Dispute Resolution Program

The Statewide Provider and Health Plan Claim Dispute Resolution Program was established by the 2000 Florida Legislature to assist contracted and non-contracted providers and managed care organizations reach a resolution of claim disputes that were not resolved by the provider and the managed care organization without litigation. Statute requires the Agency for Health Care Administration (AHCA) to contract with a resolution organization to timely review and consider claim disputes and submit recommendations to AHCA.

As of June 30, 2023, no provider and health plan claim disputes are being reviewed as the contract with the resolution organization ended at the end of the fiscal year. The AHCA is soliciting a new third-party vendor, but until then, claims are not being resolved. According to figures from AHCA, 563 claims were received last year and 443 claims were reviewed. The difference between the claims accepted and those reviewed may be attributed to several factors, including lack of follow up for additional information, or failure to submit a complete application.

Emergency Medical Treatment and Active Labor Act (EMTALA)

In 1986, Congress enacted EMTALA¹⁸ to ensure public access to emergency services regardless of ability to pay. The EMTALA imposes specific obligations on hospitals participating in the Medicare program, which offer emergency services. Any patient who comes to the emergency department must be provided with a medical screening examination within the hospital's capabilities to determine if the

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ *Supra*, note 1.

¹⁶ *Role of States in Exclusion of Ground Ambulances from NSA*, Medicalbillersandcoders.com, available at: [Role of States in Exclusion of Ground Ambulances from NSA \(medicalbillersandcoders.com\)](https://www.medicalbillersandcoders.com/role-of-states-in-exclusion-of-ground-ambulances-from-nsa/) (July 22, 2022) (last visited January 29, 2024).

¹⁷ *EMERGENCY: The high cost of ambulance surprise bills* (pirg.org) (Oct. 26, 2023), available at *EMERGENCY: The high cost of ambulance surprise bills* (pirg.org) (last visited January 29, 2024).

¹⁸ 42 U.S.C. 1395dd; Section 1867 of the Social Security Act.

patient has an emergency medical condition. If an emergency medical condition exists, the hospital must provide treatment within its service capability to stabilize the patient.¹⁹

If a hospital is unable to stabilize a patient or, if the patient requests, the hospital must transfer the patient to another appropriate facility.²⁰ A hospital that violates EMTALA is subject to civil monetary penalty²¹ or civil suit by a patient who suffers personal harm.²²

Florida law imposes a similar duty.²³ The law requires AHCA to maintain an inventory of the service capability of all licensed hospitals that provide emergency care in order to assist emergency medical services (EMS or ambulance) providers and the public in locating appropriate medical care. Hospitals must provide all listed services when requested, whether by a patient, an emergency medical services provider, or another hospital, regardless of the patient's ability to pay. If the hospital is at capacity or does not provide the requested emergency service, the hospital may transfer the patient to the nearest facility with appropriate available services. Each hospital must ensure the services listed can be provided at all times either directly or through another hospital. A hospital is prohibited from basing emergency treatment and care on a patient's insurance status, economic status, or ability to pay.

Florida No Surprises Act

In 2016, the Florida Legislature passed and Governor Scott signed CS\CS\CS\HB 221²⁴ which, among other provisions, prohibited out of network providers for preferred provider organizations (PPOs)²⁵ and exclusive provider organizations (EPOs)²⁶ from balance billing its enrollees for emergency services or for nonemergency services when the nonemergency services are provided in a network hospital and the patient had no ability and opportunity to choose a network provider. Effective July 1, 2016, the legislation sets standards for determining reimbursement to the providers and authorized providers and insurers to settle disputed claims under the statewide provider and health plan claim dispute resolution program.²⁷

A health maintenance organization (HMO) is an organization that provides a wide range of health care services, including emergency care, inpatient hospital care, physician care, ambulatory diagnostic treatment and preventive health care pursuant to contractual arrangements with preferred providers in a designated service area. The network is made up of providers who have agreed to supply services to members at pre-negotiated rates. Traditionally, an HMO member must use the HMO's network of health care providers in order for the HMO to make payment of benefits. The use of a health care provider outside the HMO's network generally results in the HMO limiting or denying the payment of benefits for out-of-network services rendered to the member. Current statutes governing HMOs already prohibit balance billing for covered emergency services at an out of network provider.

CS\CS\CS\HB 221 also required PPOs to publish a list of their network providers on their websites, and to update the list monthly. All PPOs must give their subscribers notice regarding the potential for

¹⁹ Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. §1395dd; see also CENTERS FOR MEDICARE & MEDICAID SERVICES, Emergency Medical Treatment & Labor Act (EMTALA), (last visited January 29, 2024).

²⁰ 42 U.S.C. 1395dd(b)(2).

²¹ 42 U.S.C. 1395dd(d)(1).

²² 42 U.S.C. 1395dd(d)(2).

²³ See s. 395.1041, F.S. A hospital that violates Florida's access to care statute is subject to administrative penalties; denial, revocation, or suspension of its license; or civil action by another hospital or physician suffering financial loss. In addition, hospital administrative or medical staff are subject to civil suit by a patient who suffers personal harm and may be found guilty of a second-degree misdemeanor for a knowing or intentional violation. Physicians who violate the statute are also subject to disciplinary action against their license or civil action by another hospital or physician suffering financial loss.

²⁴ ch. 2016-222, L.O.F.

²⁵ A PPO is a health plan that contracts with providers, such as hospitals and doctors, to create a network of providers who participate for an alternative or reduced rate of payment. A PPO is an insurance product. PPO plan members generally see specialists without prior referral or authorization from the insurer. Generally, the member is only responsible for the policy co-payment, deductible, or coinsurance amounts if covered services are obtained from network providers. However, if a member chooses to obtain services from an out-of-network provider, those out-of-pocket costs likely will be higher. See *generally* s. 627.6471, F.S.

²⁶ In an EPO arrangement, an insurance company contracts with hospitals, physicians, and other medical facilities. Insured members must use the participating hospitals or providers to receive covered benefits, subject to limited exceptions. See generally s. 627.6472, F.S.

²⁷ S. 627.64194, F.S.

balance billing when using out-of-network providers. Disciplinary action for violations may be assessed on certain facilities and licensed health care practitioners for violations on balance billing.

Florida's *No Surprises Act* further requires hospitals publish information on their websites regarding their contracts with plans and providers of hospital-based services to keep consumers informed proactively of which hospitals participate with which PPOs and EPOs.

Florida Health Insurance Advisory Board

Repeating from its 2022 and 2023 list of Legislative Recommendations, the Florida Health Insurance Advisory Board (FHIAB) lists a prohibition against balance billing for ground emergency medical transportation as Proposal five out of eight proposals.²⁸ When the proposal was discussed and added to the FHIAB's list of recommendations in 2022, the proposal was adopted by the board unanimously.²⁹ The proposal was re-adopted and placed on the 2023 Legislative Recommendations list without discussion during FHIAB's 2022 November meeting.³⁰

Federal No Surprises Act

The federal *No Surprises Act of 2022*³¹ (Act) eliminated the practice of health care practitioners balance billing for most provider types with the exception of ground ambulance services beginning in 2022. Because of the complications involved with how ground ambulance services, emergency and non-emergency, are currently delivered with most delivered by municipalities and other local governments, and concerned about how national actions may impact those existing relationships and contracts, Congress deferred action and created an advisory committee.

The Act established an advisory committee (Committee) to continue discussions on how to address surprise billings and balance billings with ground ambulance and emergency ground ambulance services.³² The Charter for the Advisory Committee on Ground Ambulance and Patient Billing (GAPB) was signed by the Health and Human Services Secretary on November 16, 2021. The Committee held three public meetings between May 2, and November 1, 2023.³³

Recommendations by the Committee were released following the November 2023 meeting, including the renewal of the Committee's Charter. The Committee's 15 recommendations ranged from inclusion of standard definitions relating to ground ambulance services to reimbursement policies and fell into the general categories relating to:

- Adopt standard definitions relating to ground emergency services.
- Protect patients from patient billing.
- Limit copays for ground ambulance rides.
- Make ambulance bills more transparent and easier for patients to understand.
- Guarantee payment to the ambulance crews.
- Avoid the independent dispute resolution process.
- Recommend the incorporation of Ground Ambulance Emergency Medical Services in the definition of emergency services under the essential health benefits requirements.³⁴

²⁸ Florida Health Insurance Advisory Board, *2024 Legislative Recommendations*, available at [fhiablegrecommendations2024.pdf](https://www.fhiab.org/legislative-recommendations-2024) (floir.com) (last visited January 29, 2024).

²⁹ Florida Health Insurance Advisory Board, *2023 Legislative Recommendations*, available at [board-minutes-\(approved-9-28-23\).pdf](https://www.fhiab.org/board-minutes-(approved-9-28-23).pdf) (floir.com) (last visited January 29, 2024).

³⁰ Florida Health Insurance Advisory Board, Board Meeting Minutes, November 17, 2023, available at [board-minutes-\(approved-9-28-23\).pdf](https://www.fhiab.org/board-minutes-(approved-9-28-23).pdf) (floir.com) (last visited January 29, 2024).

³¹ 42 U.S.C. 1395dd; Section 1867 of the Social Security Act.

³² Advisory Committee on Ground Ambulance and Patient Billing Advisory Committee, Title I (No Surprises Act) and Title II (Transparency) of Division BB of the Consolidated Appropriations Act, 2021 (CAA), [Advisory Committee on Ground Ambulance and Patient Billing \(GAPB\) | CMS](https://www.cms.gov/medicare/regulations-guidance/advisory-committees/advisory-committee-ground-ambulance-and-patient-billing-gapb) (last visited January 31, 2024).

³³ Centers for Medicare and Medicaid Services, *Advisory Committee on Ground Ambulance and Patient Billing*, available at: <https://www.cms.gov/medicare/regulations-guidance/advisory-committees/advisory-committee-ground-ambulance-and-patient-billing-gapb> (last visited January 31, 2024).

³⁴ Centers for Medicare and Medicaid Services, *Advisory Committee on Ground Ambulance and Patient Billing*, Meeting Materials for October 31, and November 1, 2023 meeting, available at <https://www.cms.gov/medicare/regulations-guidance/advisory-committees/advisory-committee-ground-ambulance-and-patient-billing-gapb> (last visited January 30, 2024).

All of the Committee's recommendations will be forwarded to Congress with a report which will notate which recommendations received a majority vote of the Committee.³⁵ The Secretary of the Department of Health and Human Services has acted on one of the recommendations and renewed the Committee's charter on November 16, 2023.³⁶

Regulation of Insurers and Health Maintenance Organizations

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, HMOs, and other risk bearing entities in Florida.³⁷ AHCA regulates the quality of care by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from AHCA.³⁸

All persons who transact insurance in this state must comply with the ch. 624, F.S.³⁹ OIR has the authority to collect, propose, publish, and disseminate any information relating to the subject matter of ch. 624, F.S.,⁴⁰ and may investigate any matter relating to insurance.⁴¹

Patient Protection and Affordable Care Act

Under the Patient Protection and Affordable Care Act (PPACA),⁴² all non-grandfathered health plans in the non-group and small group private health insurance markets must offer a core package of health care services known as the essential health benefits (EHBs). While not specifying the benefits within PPACA, 10 general categories of benefits and services are identified that must be covered. The details of those benefits were left to the Secretary of the Department of Health and Human Services to define through regulatory guidance.⁴³

The 10 EHB categories are:

- Ambulatory patient services.
- Emergency services.
- Hospitalization.
- Maternity and newborn care.
- Mental health and substance use disorder services, including behavioral health treatment.
- Prescription drugs.
- Rehabilitation and habilitation services.
- Laboratory services.
- Preventive and wellness services and chronic disease management.
- Pediatric services, including oral and vision care.

PPACA requires each state to select its own reference benchmark plan as its EHB benchmark plan which all other health plans in the state use as a model. Florida selected its EHB plan before 2012 and has not modified that selection.⁴⁴

³⁵ Laura Santhanam, PBS News Hour, *New recommendations outline how Congress could lower ground ambulance costs*, available at: <https://www.pbs.org/newshour/health/new-recommendations-outline-how-congress-could-lower-ground-ambulance-costs> (last visited January 30, 2024).

³⁶ Centers for Medicare and Medicaid Services, Advisory Committee on Ground Ambulance and Patient Billing Advisory Committee, *Charter Renewal (November 16, 2023)*, available at: <https://www.cms.gov/files/document/gapb-charter-renewal-november-16-2023.pdf> (last visited January 31, 2024).

³⁷ S. 20.121(3)(a), F.S.

³⁸ S. 641.21(1)(1), F.S.

³⁹ S. 624.11, F.S.

⁴⁰ S. 624.307(4), F.S.

⁴¹ S. 624.307(3), F.S.

⁴² Affordable Care Act (March 23, 2010), P.L. 111-141, as amended.

⁴³ 45 CFR 156.100 et. seq.

⁴⁴ Centers for Medicare and Medicaid Services, *State Essential Health Benchmark Plans – Florida*, <https://www.cms.gov/ccio/resources/data-resources/downloads/updated-florida-benchmark-summary.pdf> (last visited January 31, 2024).

State Health Insurance Mandates

A health insurance mandate is a legal requirement that an insurance company or health plan cover specific benefits, or services by particular health care providers, or specific patient groups. A contingent coverage mandate requires coverage of a service, condition, or provider's care *only if* coverage is provided for a certain other service, condition, or provider's care. In general, coverage mandates increase the cost of health coverage in varying amounts depending on the cost of the mandated care and the amount of patient utilization of that care.

Current Florida law requires every person or organization seeking consideration of a legislative proposal which would mandate a health coverage or the offering of a health coverage by an insurer, to submit to AHCA and the legislative committees having jurisdiction, a report that assesses the social and financial impacts of the proposed coverage.⁴⁵ To the extent information is available, the report should address:

- The extent to which the treatment or service is generally used by a significant portion of the population.
- The extent to which insurance coverage is generally available; or, if not generally available, results in persons avoiding necessary health care treatment.
- The extent to which lack of coverage results in unreasonable financial hardship.
- The level of public demand for the treatment or service.
- The level of public demand for insurance coverage of the treatment or service.
- The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts.
- The extent to which coverage will increase or decrease the cost of the treatment or service.
- The extent to which coverage will increase the appropriate uses of the treatment or service.
- The extent to which the treatment or service will be a substitute for a more expensive treatment or service.
- The extent to which the coverage will increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders.
- The impact of this coverage on the total cost of health care.

The House Select Committee on Health Innovation has not received a report for this bill.

Effect of Proposed Changes:

The bill creates two new section of law to require health insurers and health maintenance organizations under chs. 627 and 641, F.S., respectively, to reimburse for claims incurred for out-of-network ambulance services using a specific formula. Currently, Florida law does not specify how claims for out of network ground ambulance services are to be reimbursed. Coverage issues and coverage benefits decisions are usually left up to the two parties involved in contracting for health care services, the employer, for example, and the insurer or insurer's representative, as part of the contract negotiation process, made determinations about what is or is not covered, and at what cost.

If there is not an agreement between the provider and the out of network of emergency ground ambulance provider, then a reimbursement rate established by the bill would apply. Under the bill, the rate would be the lesser amount of the following:

- The rate set or approved, whether it is established in a contract or local government ordinance, in the jurisdiction in which the covered services occurred; or
- 350 percent of the current published rate by federal CMS for ambulance services under Title XVIII of the Social Security Act for the same geographic area; or the ambulance's billed charges whichever is less; or
- The contracted rate at which the health care provider would reimburse an in-network ambulance provider for providing the covered service.

⁴⁵ S. 624.215, F.S.

Definitions are created for the new section for “ambulance services provider,” “clean claim,” “covered services,” and “out of network” to ensure terms used in these newly created sections of law are understood uniformly and have the specific meaning intended when referencing these provisions.

Under both new sections, the payments would be considered payment in full for the services rendered, except for any copayment, coinsurance, deductible, or other cost sharing responsibilities of the insured. The ambulance service is prohibited from balance billing the patient for any unpaid amounts. Out of network ambulance providers would not be allowed to seek out any additional payments from patients through balance billing for any differences between what may have been the provider’s initial billed charged compared to final payments under this provision. The out of network ambulance provider may accept the insurer’s payment for the services as payment in full

Payments from the insurers are due within 30 days after receipt of a clean claim to the ground ambulance service. Insurers are prohibited from sending any payment to the insured. If the ground transportation was requested by a first responder⁴⁶ or a health care practitioner as defined in s. 456.001,⁴⁷ a health insurer is required to pay for the transportation of those patients.

If the claim is considered to not be a clean claim, within 30 days of receipt of the claim the health insurer must send a written notice that acknowledges the date of claim receipt and informs the ambulance services provider one of the following:

- Insurer is declining to pay all or part of this claim and the specific reason for the denial.
- Additional information is necessary to determine if all or part of the claim is payable, and the specific information that is required.

The bill does not mandate a new coverage, as emergency services and emergency ground transportation are already covered benefits as essential health benefits when provided by a covered provider; however, the bill does establish a requirement on health plans and individual health insurance policies, to reimburse a specific group of providers who do not contract with a patient’s provider by a statutorily established formula. Currently, ground ambulance emergency rates are set mainly by local municipalities which run the vast majority of the emergency ambulance services in the state. The provisions of the bill would still allow for local governments to establish rates within certain guardrails which may or may not be lower than the rates currently charged. Additionally, the bill would end the ability of the emergency ground transportation services to seek additional payments from the patient after receipt of the payment from the insurer. Any out of pocket costs owed by the patient could not exceed the amounts the patient would have paid for an in-network service provider.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Creates s. 627.42398, F.S., relating to coverage for out-of-network ground ambulance emergency services.

Section 2: Creates s. 641.31078, F.S.; relating to coverage for out-of-network ground ambulance emergency services.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

⁴⁶ The term “first responder” is defined at s. 112.1815, F.S., and refers to law enforcement officer as defined in s. [943.10](#), a firefighter as defined in s. [633.102](#), or an emergency medical technician or paramedic as defined in s. [401.23](#) employed by state or local government. A volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is also considered a first responder of the state or local government for purposes of this section.

⁴⁷ A health care practitioner under s. 456.001(4), F.S. includes practitioners licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part I, part II, or part III of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491.

1. Revenues:

None.

2. Expenditures:

If it is determined that mandating payment options for the coverage of non-network ground ambulance emergency services is considered an expansion of benefits that generates an increase in premiums, then the state would be required to pay for the impact on all affected health insurance premiums for that benefit changes. The amount, if any, of that impact is indeterminate; however, the amount is not expected to be significant as both the Medicaid program and the State Group Health Insurance program have indicated no fiscal impact.

The Agency for Health Care Administration reports no impact on the Florida Medicaid program.⁴⁸

The Department of Management Services for the Division of State Group Insurance reported no fiscal impact to the State Group Insurance Program.⁴⁹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The total impact on local government revenue cannot be determined as it may vary from municipality to municipality, however it is likely an insignificant impact.

2. Expenditures:

The total impact on local government expenditures cannot be determined as it may vary from municipality to municipality, however it is likely an insignificant impact.

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 county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires those local governments which operate their own emergency ground ambulance services to provide such services in amount based on the rate options established by the bill. These rate options may or may not be less than the amount being charged by local municipalities for these services. The bill still permits the counties and local governments to negotiate for rates with insurers, but establishes guardrails should the two parties fail to reach an agreement to ensure that patients are not caught with a surprise emergency ground transportation bill. Because the bill provides rate options, including the continued negotiations between the parties to reach a mutually agreeable amount, the bill may not trigger the mandate provision.

⁴⁸ Agency for Health Care Administration, Letter from P. Steele, Legislative Affairs Director (January 11, 2024)(on file with Select Committee on Health Innovation).

⁴⁹ Department of Management Services, email from J. Holmgreen, Deputy Legislative Affairs Director (January 30, 2024)(on file with Select Committee on Health Innovation).

Based on responses from the DMS and Medicaid indicating that the changes proposed would have no fiscal impact on their program, any premium impact to health insurance coverage provided by local governments to their employees is likely to be insignificant. In addition, counties and municipalities can expect to be made whole by the state for any increased expenditures under the bill, based on application of current federal law requiring states to defray the costs of additional health insurance coverage mandates should other information suggest this interpretation is incorrect.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The OIR and AHCA have sufficient rulemaking authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Most health insurer contracts and policies begin on January 1 and the bill provides an effective date of July 1, 2024. To align this change in contract terms with providers and with policyholders, consideration should be given to including language making any provisions requiring changes in health insurance contract terms or policies to be effective for policies issued or renewed on or after January 1, 2025.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 2, 2024, the Select Committee on Health Innovation adopted an amendment and reported the bill favorably as a committee substitute. The amendment makes the makes the payment rate required by the bill the lesser of several options, rather than the greater of those options.

The analysis is drafted to the committee substitute as passed by the Select Committee on Health Innovation.

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

27 (a) "Ambulance service provider" means a ground ambulance
28 service licensed pursuant to s. 401.25.

29 (b) "Clean claim" means a claim that has no defect of
30 impropriety, including lack of required substantiating
31 documentation or particular circumstances requiring special
32 treatment which prevent timely payment from being made on the
33 claim.

34 (c) "Covered services" means those emergency ambulance
35 services that an enrollee is entitled to receive under the terms
36 of a health insurance policy. The term does not include air
37 ambulance services.

38 (d) "Out-of-network" means a provider that does not
39 contract with the health insurer of the enrollee receiving the
40 covered health care services.

41 (2) A health insurance policy must require a health
42 insurer to reimburse an out-of-network ambulance service
43 provider for providing covered services at a rate that is the
44 lesser of:

45 (a) The rate set or approved, whether in contract, in
46 ordinance, or otherwise, by a local governmental entity in the
47 jurisdiction in which the covered services originated;

48 (b) Three hundred and fifty percent of the current
49 published rate for ambulance services as established by the
50 federal Centers for Medicare and Medicaid Services under Title

51 XVIII of the Social Security Act for the same service provided
 52 in the same geographic area; or the ambulance service provider's
 53 billed charges, whichever is less; or

54 (c) The contracted rate at which the health insurer would
 55 reimburse an in-network ambulance provider for providing such
 56 covered services.

57 (3) Payment made in compliance with this section is
 58 payment in full for the covered services provided, except for
 59 any copayment, coinsurance, deductible, or other cost-sharing
 60 responsibilities required to be paid by the enrollee. An
 61 ambulance service provider may not bill the enrollee any
 62 additional amount for such paid covered services.

63 (4) Copayment, coinsurance, deductible, and other cost-
 64 sharing responsibilities paid for an out-of-network ambulance
 65 service provider's covered service may not exceed the in-network
 66 copayment, coinsurance, deductible, and other cost-sharing
 67 responsibilities for covered services received by the enrollee.

68 (5) A health insurer shall, within 30 days after receipt
 69 of a clean claim for covered services, promptly remit payment
 70 for covered services directly to the ambulance service provider
 71 and may not send payment to an enrollee. A health insurer must
 72 remit payment for the transportation of any patient by ambulance
 73 as a medically necessary service if the transportation was
 74 requested by a first responder or a health care practitioner as
 75 defined in s. 456.001.

76 (6) If the claim is not a clean claim, the health insurer
 77 must, within 30 days after receipt of the claim, send a written
 78 notice acknowledging the date of receipt of the claim and
 79 informing the ambulance service provider of one of the
 80 following:

81 (a) That the insurer is declining to pay all or part of
 82 the claim, and the specific reason or reasons for the denial.

83 (b) That additional information is necessary to determine
 84 if all or part of the claim is payable, and the specific
 85 additional information that is required.

86 Section 2. Section 641.31078, Florida Statutes, is created
 87 to read:

88 641.31078 Coverage for out-of-network ground ambulance
 89 emergency services.—

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

91 (a) "Ambulance service provider" means a ground ambulance
 92 service licensed pursuant to s. 401.25.

93 (b) "Clean claim" means a claim that has no defect of
 94 impropriety, including lack of required substantiating
 95 documentation or particular circumstances requiring special
 96 treatment which prevent timely payment from being made on the
 97 claim.

98 (c) "Covered services" means those emergency ambulance
 99 services that a subscriber is entitled to receive under the
 100 terms of a health maintenance contract. The term does not

101 include air ambulance services.

102 (d) "Out-of-network" means a provider that is not a
103 provider under contract with the health maintenance organization
104 of the subscriber receiving the covered health care services.

105 (2) A health maintenance contract must require a health
106 maintenance organization to reimburse an out-of-network
107 ambulance service provider for providing covered services at a
108 rate that is the greater of the following:

109 (a) The rates set or approved, whether in contract, in
110 ordinance, or otherwise, by a local governmental entity in the
111 jurisdiction in which the covered services originated.

112 (b) Three hundred and fifty percent of the current
113 published rate for ambulance services as established by the
114 federal Centers for Medicare and Medicaid Services under Title
115 XVIII of the Social Security Act for the same service provided
116 in the same geographic area; or the ambulance service provider's
117 billed charges, whichever is less.

118 (c) The contracted rate at which the health maintenance
119 organization would reimburse an in-network ambulance provider
120 for providing such covered services.

121 (3) Payment made in compliance with this section is
122 payment in full for the covered services provided, except for
123 any copayment, coinsurance, deductible, or other cost-sharing
124 responsibilities required to be paid by the subscriber. An
125 ambulance service provider may not bill the subscriber any

126 additional amount for such paid covered services.

127 (4) Copayment, coinsurance, deductible, and other cost-
128 sharing responsibilities paid for an out-of-network ambulance
129 service provider's covered services may not exceed the in-
130 network copayment, coinsurance, deductible, and other cost-
131 sharing responsibilities for covered services received by the
132 subscriber.

133 (5) A health maintenance organization shall, within 30
134 days after receipt of a clean claim for covered services,
135 promptly remit payment for covered services directly to the
136 ambulance service provider and may not send payment to a
137 subscriber. A health maintenance organization must remit payment
138 for the transportation of any patient by ambulance as a
139 medically necessary service if the transportation was requested
140 by a first responder or a health care practitioner as defined in
141 s. 456.001.

142 (6) If the claim is not a clean claim, the health
143 maintenance organization must, within 30 days after receipt of
144 the claim, send a written notice acknowledging the date of
145 receipt of the claim and informing the ambulance service
146 provider of one of the following:

147 (a) That the health maintenance organization is declining
148 to pay all or part of the claim, and the specific reason or
149 reasons for the denial.

150 (b) That additional information is necessary to determine

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151 | if all or part of the claim is payable, and the specific
152 | additional information that is required.

153 | Section 3. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 773 Coverage for Diagnostic and Supplemental Breast Examinations

SPONSOR(S): Select Committee on Health Innovation, Woodson and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Select Committee on Health Innovation	11 Y, 0 N, As CS	Lloyd	Calamas
2) Appropriations Committee		Helpling	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Breast cancer is the second most common form of cancer diagnosed in women and it is estimated that one in eight women will be diagnosed with breast cancer in her lifetime. It accounts for 30 percent of all new cancers in the United States each year. The median age at which a woman is diagnosed is 62 with a very small percentage of women who are diagnosed under the age of 45. Survival rates have been increasing steadily since 1989, which many believe is tied to increases in awareness as well as advances in treatment options. For Florida, over 3,200 Floridians died of breast cancer in 2022, for a five-year impact adding up to 15,666 deaths. The number of new breast cancer diagnoses far outpaces that of any other cancer.

Biennial breast cancer screenings are included in mandatory coverage requirements under federal law; insured women within the recommended age range are currently eligible to receive a preventive screening every other year without any out of pocket costs. Should more detailed testing or diagnostic mammograms be necessary, however, those services are not federally mandated and, depending on the patient's health care coverage plan, would likely be subject to out of pocket costs similar to any other kind of diagnostic testing.

The state employee group health plan, administered by the Department of Management Services, provides health coverage for state employees, retirees, and their dependents. Currently, enrollees have no out of pocket cost for diagnostic and preventive imaging performed by an in-network provider. However, out of pocket costs for supplemental or diagnostic imaging may vary by contractor.

The bill prohibits copayments and other cost sharing for supplemental or diagnostic breast imaging within the state employee group health plan, for plans that cover such services. The prohibition is effective January 1, 2025, consistent with the start of the new health plan year.

The bill has a significant negative fiscal impact on state government. See Fiscal Analysis & Economic Impact Statement.

The bill has an effective date of January 1, 2025.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

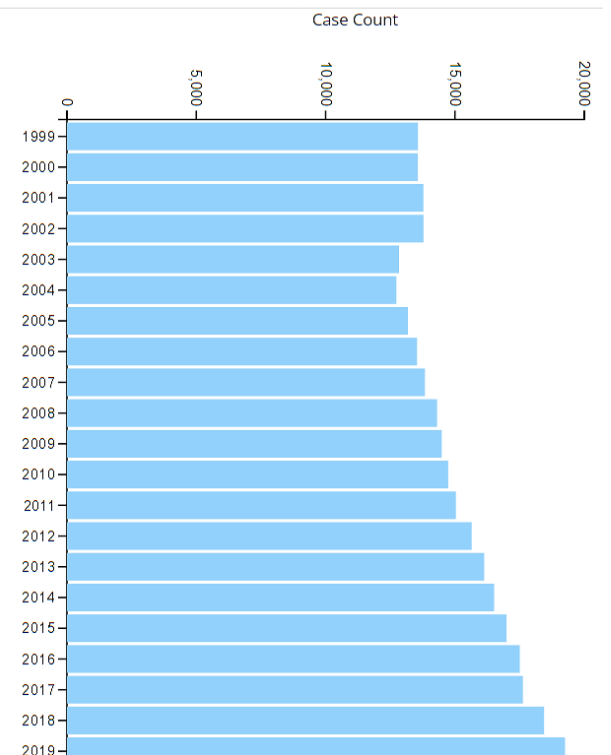
Background

Breast Cancer

Breast cancer is the second most common form of cancer diagnosed in women and it is estimated that one in eight women will be diagnosed with breast cancer in her lifetime. ¹ It accounts for 30 percent of all new cancers in the United States each year. ² The median age at which a woman is diagnosed is 62 with a very small percentage of women who are diagnosed under the age of 45. ³ In its 2016 review of the screening guidelines, the United States Preventive Services Task Force (USPSTF) noted that the national mean age at diagnosis has remained virtually unchanged at 64 years since the late 1970s and the median age at time of death is 68 years during the same time as technology and screening percentages have increased significantly. ⁴

The number of new diagnoses from 2022 data far outpaces the rate of any other types of new cancer cases. Female breast cancer cases were diagnosed at a rate of 114.9 per 100,000 women in Florida. The next closest diagnosis rate was for lung and bronchus cancer at 44 cases per 100,000 women. ⁵ The chart below shows the number of new female breast cancer diagnoses annually for the most recent 10-year period in which data is available. ⁶

Annual Number of New Breast Cancers, Female, all Races and Ethnicities – Florida 1999-2020



¹ American Cancer Society, *Key Statistics for Breast Cancer*, [Breast Cancer Statistics | How Common Is Breast Cancer? | American Cancer Society](#) (last visited January 27, 2024).

² *Id.*

³ *Id.*

⁴ Albert L. Siu, M.D. MSPH, on behalf of the U.S. Preventive Services Task Force, *Screening for Breast Cancer: U.S. Preventive Services Task Force Recommendation Statement, ANNALS OF INTERNAL MED.*, (February 16, 2016, *Clinical Guideline*) available at [Recommendation: Breast Cancer: Screening | United States Preventive Services Taskforce \(uspreventiveservicestaskforce.org\)](#) (last visited January 28, 2024).

⁵ *Supra*, note 1.

⁶ Centers for Disease Control and Prevention, *U.S. Cancer Statistics Data Visualizations Tool*, (1999-2020 data), U.S. Department of Health and Human Services, Centers for Disease Control and Prevention and National Cancer Institute (released in November 2023); available at [USCS Data Visualizations - CDC](#)<https://gis.cdc.gov/Cancer/USCS/> - /Trends/ (last visited January 27, 2024).

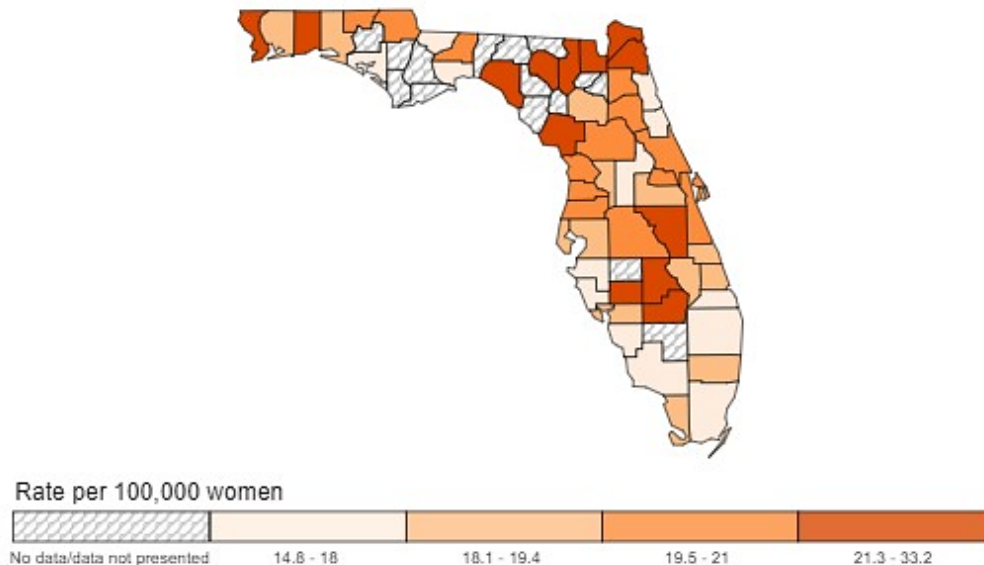
The survival rate for female breast cancer is high. At five years, the relative survival rate for all races and ethnicities is 90 percent.⁷ When broken down by race and ethnicity, the five-year survival rate shows an almost 10-point difference between Black, non-Hispanic women and several other race and ethnicity groups, as shown below.

5-Year Relative Survival: Female Breast Cancer By Race and Ethnicity – National Rates	
Race, Ethnicity	5-Year Survival %
White, Non-Hispanic	91.5
Black, Non-Hispanic	82.9
American Indian and Alaska Native, Non-Hispanic	88.4
Asian and Pacific Islander, Non-Hispanic	91.7
Hispanic	88.8
All Races, All Ethnicities	90.3

Over 3,200 Floridians died of breast cancer in 2022, for a five-year impact adding up to 15,666 deaths.⁸ For 2020, the rate of cancer deaths, all races and ethnicities for Florida, was 17.8 per 100,000 women. Higher rates of breast cancer deaths appear in small clusters in many rural areas of the Panhandle having insufficient numbers to provide a range for reporting purposes. For 2020, the statewide rate of breast cancer deaths was 17.8 per 100,000 women.⁹

Rate of Cancer Deaths in Florida

Female Breast, All Ages, All Races and Ethnicities, Female, 2016-2020



⁷ *Id.*

⁸ Florida Department of Health, *FLHealthCharts, Deaths Counts Query* (query run January 28, 2024) available at: https://www.flhealthcharts.gov/FLQUERY_New/Death/Count (last visited January 28, 2024).

⁹ *Supra*, note 5.

Risks and Risk Factors

There are no absolute ways to prevent breast cancer as there might be with other forms of cancer; however, there are some risk factors that may increase a woman's chances of receiving a diagnosis. Some risk factors that are out of an individual's control are:

- Being born female;
- Aging beyond 55;
- Inheriting certain gene changes;
- Having a family or personal history of breast cancer;
- Being of certain race or ethnicity;
- Being taller;
- Having dense breast tissue;
- Having certain benign breast conditions;
- Starting menstrual periods early, usually before age 12;
- Having radiation to the chest; and
- Being exposed to the drug, diethylstilbestrol (DES).¹⁰

For many of the factors above, it is unclear why these particular characteristics make an individual more susceptible to a cancer diagnosis other than perhaps being female. Other risk factors can be related to personal behaviors such as drinking alcohol excessively, being overweight or obese, not having children, or being less physically active.¹¹

However, men can and do receive breast cancer diagnoses, just in very small numbers. About one in every 100 breast cancers diagnosed in the United States is found in a man.¹² For men, unique risk factors from those listed above may include genetic mutations, liver disease, conditions which affect the testicles, and the genetic condition known as Klinefelter syndrome.¹³

The USPSTF has called out advancing age as the most important risk factor for breast cancer in most women.¹⁴ Age is also key in the factors cited by the USPSTF for when the net benefit of a regular biennial or annual mammogram screening for a person at regular risk may no longer be positive. For a woman age 70-74, the risks begin to outweigh the benefit, especially if the woman has other co-existing health conditions.¹⁵ For those aged 75 and older, the USPSTF found insufficient evidence to be able to assess whether screening mammograms offered a net benefit. While a screening mammogram's risks as a procedure is considered to be low risk, the principal harms identified were concerns of both over-diagnosis and under-diagnosis coupled with the anxiety caused by the follow-up procedures and false positives.

Beyond age, the next greatest risk factors are tied to hereditary and familial factors. About 5 to 10 percent of women who develop breast cancer have a mother or sister who also has breast cancer.¹⁶ Additionally, while white women have had historically higher incident rates of cancer than African-American women, significantly more African American women die annually.

¹⁰ American Cancer Society, Breast Cancer Risk Factors You Cannot Change, available at Breast Cancer Risk Factors You Can't Change | American Cancer Society (last visited January 28, 2024).

¹¹ American Cancer Society, Lifestyle -related Breast Cancer Risk Factors, available at Lifestyle-related Breast Cancer Risk Factors | American Cancer Society (last visited January 28, 2024).

¹² Centers for Disease Control and Prevention, Breast Cancer in Men, available at <https://www.cdc.gov/cancer/breast/men/> (last visited January 27, 2024).

¹³ *Id.*

¹⁴ *Supra*, note 4.

¹⁵ *Id.*

¹⁶ *Supra*, note 4.

Prevention and Screenings

Having regular screenings for breast cancer is as important as screenings aid in finding cancer early. Early detection with breast cancer gives an individual the best chance at successful treatment and higher incidences of survival.

A mammogram is an x-ray picture of the breast which may be able to detect breast cancer up to three years before it can be felt.¹⁷ A screening mammography can often find evidence before there is any other evidence or symptoms of cancer.

In October 2015, the American Cancer Society (ACS) modified its screening guidelines for women at average risk to start annual screenings at age 45, instead of age 40. Under the revised guidelines, it was recommended that a woman could still begin getting mammograms yearly from age 40 to 44 if she chose that screening pattern. The ACS guideline further recommended that beginning at age 55, a woman at average risk could transition to biennial screening. The change in the guideline was based on the ACS' finding that the evidence showed that the risk of cancer for a woman age 40-44 was lower than the risk of harm associated with unnecessary biopsies.¹⁸

The accuracy of mammography is not 100 percent; however, detection through mammography does improve with a woman's age and has an overall accuracy rate of 85 percent.¹⁹ A woman should also be prepared by her health care practitioner of the chances of a callback back for a supplemental test. Approximately 10 percent of women are recalled for further testing or evaluation with an additional mammography, an ultrasound, or sometimes a biopsy.²⁰

Biennial breast cancer screenings are included on the USPSTF list of recommended preventive services as part of the Essential Health Benefits coverages for women ages 50 to 74 years old with a "B" score.²¹ With inclusion in the EHB package, preventive breast cancer screenings for insured women within the recommended age range qualify for the service from a network provider at no cost sharing. Should more detailed testing or diagnostic mammograms be necessary; however, those services are generally no longer considered to be preventive. Depending on the insured's insurance coverage plan, the additional diagnostic services, if covered, would incur the insured's regular out of pocket costs for diagnostic testing and be subject potentially to the insured's co-insurance or deductible requirements.

A health care provider may order additional tests like these below to make a further evaluation of a screening mammogram or to make additional treatment decisions:²²

- **A breast ultrasound** uses machine-generated sound waves, called sonograms, to make pictures of areas inside the breast.
- **Diagnostic mammogram** may be used if a problem such as a lump, or an abnormal area has been located on a screening mammogram. The diagnostic mammogram is more a detailed x-ray of the breast.
- **Breast magnetic resonance imaging (MRI)** scans the body with a magnet linked to a computer. The MRI can make detailed pictures of areas inside the breast.
- **Biopsy** is a test that removes tissue or fluid from the breast to looked at under a microscope and to perform more testing. A biopsy can be done as a fine-needle, aspiration, core biopsy, or an open biopsy.

¹⁷ Centers for Disease Control and Prevention, *What is a Mammogram?* available at: [What Is a Mammogram? | CDC](#) What Is a Mammogram? | CDC, (last visited January 28, 2024).

¹⁸ American Cancer Society, *Frequently Asked Questions About the American Cancer Society's Breast Cancer Screening Guidelines*, available at [What Is a Mammogram? | CDC](#) (last visited January 28, 2024).

¹⁹ *Id.*

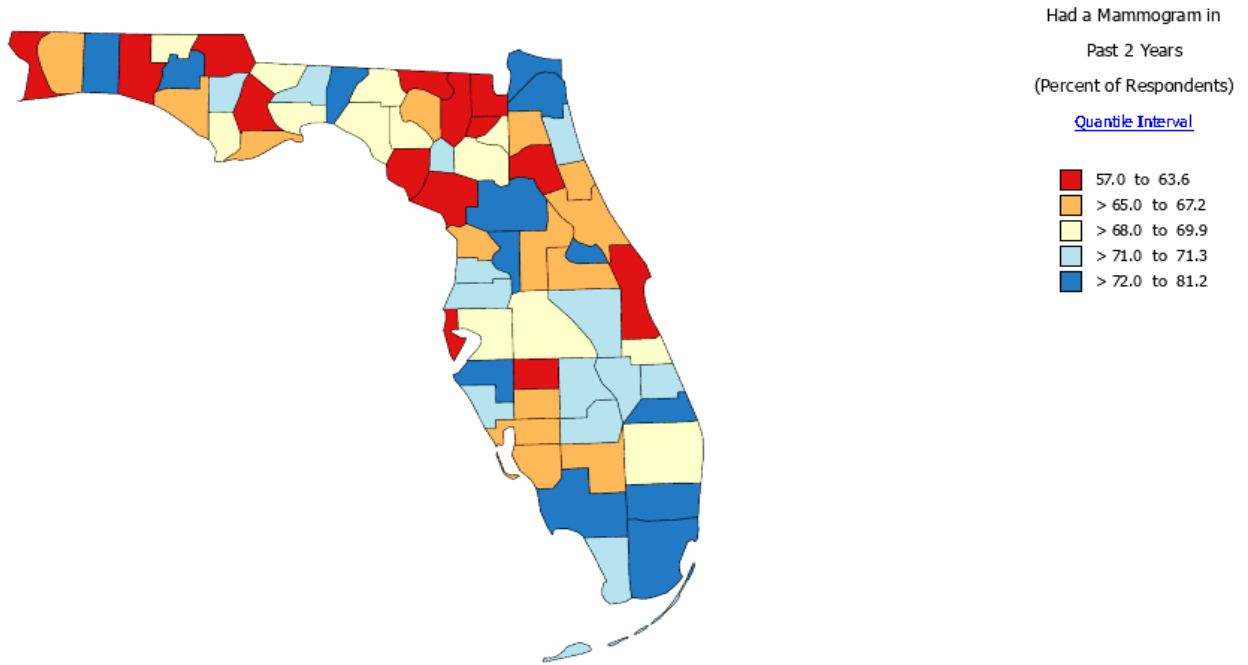
²⁰ *Id.*

²¹ Under the Affordable Care Act, benefits identified by the United States Preventive Services Task Force as having an "A" or "B" effectiveness rating must be covered as an essential health benefit with no cost sharing to an individual insured under a qualified health plan with in-network providers.

²² Centers for Disease Control and Prevention, *How is Breast Cancer Diagnosed?* Available at [How Is Breast Cancer Diagnosed? | CDC](#) (last visited January 27, 2024).

The percentage of Florida women over the age of 50 who undergo breast cancer screenings has steadily increased. However, women in certain Florida communities and women who are uninsured or underinsured face challenges in accessing breast cancer screenings. Florida’s overall screening rate for women over the age of 40 is 73.27 percent, which is slightly higher than the national average of 71.5 percent.²³

**Screening and Risk Factors for Florida by County
(2017-2019 County Level Modeled Estimates Combining BRFSS & NHIS)
Had a Mammogram in Past 2 Years
All Races (includes Hispanic), Female, Ages 40+**



State Employee Health Plan

The State of Florida offers its eligible employees, retirees, and their dependents a rich benefits package which includes comprehensive health insurance coverage. The Division of State Group Insurance (DSGI) within the Department of Management Services (DMS) administers the state group health insurance program (Program) under ch. 110, F.S. The Program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.²⁴ To administer the program, DSGI contracts with third party administrators for self-insured plans and fully insured health maintenance organizations (HMOs) to offer both standard and high deductible policies. For the 2024 Plan Year, which began January 1, 2024, the HMO plans under contract with DSGI are Aetna, Capital Health Plan, and United Healthcare, and the preferred provider organization (PPO) plan is Florida Blue.²⁵

Breast Cancer Screening Coverage

Currently, the Program covers 100 percent of the costs of screening, preventive mammograms, (consistent with federal requirements related to essential health benefits coverage). Out of pocket costs, such as copayments, may vary for supplemental and diagnostic imaging based on the enrollee’s plan and the provider selected.

²³ National Cancer Institute, *State Cancer Profiles – Florida* (map and data generated on January 28, 2024) available at [State Cancer Profiles > Screening and Risk Factors Table](#) (last visited January 28, 2024).

²⁴ A section 125 cafeteria plan is a type of employer offered, flexible health insurance plan that provides employees a menu of pre-tax and taxable qualified benefits to choose from, but employees must be offered at least one taxable benefit such as cash, and one qualified benefit, such as a Health Savings Account.

²⁵ Department of Management Services, Division of State Group Insurance, *2024 Open Enrollment Brochure for Active State Employee Participants*, available at: (last visited January 28, 2024).

Effects of Proposed Changes

The bill requires state group health insurance products which provide coverage for diagnostic and supplemental breast examinations to provide the coverage without imposing any cost sharing liability on the insured, such as a deductible, copayment, coinsurance, or any other cost-sharing. While current plans provide diagnostic breast examinations without cost sharing, cost sharing for supplemental examinations among the current plans vary. The bill provides parameters for what constitutes supplemental breast examinations, prohibiting cost sharing for examinations that are:

- Medically necessary and appropriate examinations which may include magnetic resonance imaging and ultrasounds and other types of examinations;
- Used when no abnormality is seen or suspected; and
- Based on family medical history or other increased risk factors.

Under the bill, the state group plan will be responsible for the entire payment to the diagnostic and supplemental breast examination provider.

The effective date of the bill is January 1, 2025.

B. SECTION DIRECTORY:

Section 1: Amends s. 110.123, F.S., relating to state group insurance program.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This benefit change has the potential to generate a higher insurance premium for the state group health plan. Historically, the state has covered premium inflation in the Program with General Revenue, rather than pass on premium increases to employees.

The DSGI estimated the fiscal impact would be \$4.1 million annually based on reductions in out of pocket costs paid by the insured.²⁶ DSGI did not estimate the cost of increased utilization.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill's prohibition on cost sharing may increase business revenue for diagnostic imaging providers, if state group health plan enrollees increase their utilization of breast exams as a result of the bill.

²⁶ Department of Management Services, 2023 Legislative Bill Analysis – SB 460 (February 8, 2023) (on file with the Select Committee on Health Innovation).

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:

The DSGI has sufficient rule-making authority under current law to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to coverage for diagnostic and
 3 supplemental breast examinations; amending s. 110.123,
 4 F.S.; providing definitions; amending s. 110.12303,
 5 F.S.; prohibiting the state group insurance program
 6 from imposing on an enrollee any cost-sharing
 7 requirement with respect to coverage for diagnostic
 8 breast examinations and supplemental breast
 9 examinations; providing applicability; providing an
 10 effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Paragraph (a), paragraphs (b) through (p), and
 15 paragraphs (q) and (r) of subsection (2) of section 110.123,
 16 Florida Statutes, are redesignated as paragraph (b), paragraphs
 17 (d) through (r), and paragraphs (t) and (u), respectively,
 18 paragraphs (c) and (d) of subsection (14) are amended, and new
 19 paragraphs (a), (c), and (s) are added to subsection (2) of that
 20 section, to read:

21 110.123 State group insurance program.—

22 (2) DEFINITIONS.—As used in ss. 110.123-110.1239, the
 23 term:

24 (a) "Cost-sharing requirement" means an insured's
 25 deductible, coinsurance, copayment, or similar out-of-pocket

26 expense.

27 (c) "Diagnostic breast examination" means a medically
 28 necessary and appropriate examination of the breast, including,
 29 but not limited to, an examination using diagnostic mammography,
 30 breast magnetic resonance imaging, or breast ultrasound, which
 31 is used to evaluate an abnormality that is seen or suspected
 32 from a screening examination for breast cancer.

33 (s) "Supplemental breast examination" means a medically
 34 necessary and appropriate examination of the breast, including,
 35 but not limited to, an examination using breast magnetic
 36 resonance imaging or breast ultrasound, which is:

37 1. Used to screen for breast cancer when there is no
 38 abnormality seen or suspected; and

39 2. Based on personal or family medical history or
 40 additional factors that may increase the person's risk of breast
 41 cancer.

42 (14) OTHER-PERSONAL-SERVICES EMPLOYEES (OPS).-

43 (c) The initial measurement period used to determine
 44 whether an employee hired before April 1, 2013, and paid from
 45 OPS funds is a full-time employee described in subparagraph
 46 (2)(g)1. ~~(2)(e)1.~~ is the 6-month period from April 1, 2013,
 47 through September 30, 2013.

48 (d) All other measurement periods used to determine
 49 whether an employee paid from OPS funds is a full-time employee
 50 described in paragraph (2)(g) ~~(2)(e)~~ must be for 12 consecutive

51 months.

52 Section 2. Subsection (5) is added to section 110.12303,
53 Florida Statutes, to read:

54 110.12303 State group insurance program; additional
55 benefits; price transparency program; reporting.—

56 (5) In any contract or plan for state employee health
57 benefits which provides coverages for diagnostic breast
58 examinations or supplemental breast examinations, the state
59 group insurance program may not impose on an enrollee any cost-
60 sharing requirement. If, under federal law, the application of
61 this subsection would result in health savings account
62 ineligibility under s. 223 of the Internal Revenue Code, the
63 prohibition under this subsection applies only to health savings
64 account qualified high-deductible health plans with respect to
65 the deductible of such a plan after the person has satisfied the
66 minimum deductible under s. 223 of the Internal Revenue Code,
67 except with respect to items or services that are preventive
68 care pursuant to s. 223(c)(2)(C) of the Internal Revenue Code,
69 in which case the requirements of s. 223(c)(2)(A) of the
70 Internal Revenue Code apply regardless of whether the minimum
71 deductible under s. 223 of the Internal Revenue Code has been
72 satisfied.

73 Section 3. This act shall take effect January 1, 2025.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1001 Taxation
SPONSOR(S): Ways & Means Committee, Stevenson
TIED BILLS: IDEN./SIM. **BILLS:** SB 1030

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	23 Y, 0 N, As CS	Rexford	Aldridge
2) Appropriations Committee		Trexler	Pridgeon

SUMMARY ANALYSIS

The bill makes the following changes:

Sales Tax

- Removes the requirement that nonresident purchasers attest to having read statutory provisions and instead requires nonresident purchasers complete an affidavit that acknowledges compliance with the pertinent provisions of the statute.
- Clarifies that a boat and a boat trailer sold to the same purchaser at the same time and with both items located on the same invoice, are considered a single item for discretionary sales surtax purposes. Also, the sale of the boat and the trailer is deemed to occur in the county where the purchaser resides.

Other Taxes

- For the pollutant tax, obsolete language is removed for a \$30 registration fee repealed in 2017.
- For corporate tax, the tentative tax return underpayment amount increases from more than the greater of \$2,000 or 30% of the tax shown on the return when filed to more than \$6,000 or 30% of the tax shown on the return when filed.

Administrative Updates

- Allows the Department of Revenue to reopen a final assessment or refund denial for purposes of settling or compromising a liability if the failure to initiate a timely challenge was the result of a specified qualifying event beyond the control of the taxpayer.
- Authorizes the Department of Revenue to include all additional daily accrued interests, costs, and fees authorized by law to be included in garnishment levy and allows the Department to deliver its notices of levy by electronic means.

The Revenue Estimating Conference (REC) adopted discrete estimated impacts on state and local government revenues for different sections of the bill. See Fiscal Comments section for details.

The effective date of this bill is July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Affidavit for Non-Resident Purchaser of Boat/Aircraft

Current Situation

Under current law, nonresident purchasers of boats and aircrafts qualify for a sales tax exemption, provided that certain application requirements are met.¹ One of the requirements is that nonresident purchasers of boats and aircrafts must provide the Department an original signed affidavit attesting that he or she read the provisions of s. 212.05, F.S. That statute provides for the exemption and includes the process to document the purchaser's qualification for the exemption. The statutory affidavit requirement does not require that the purchaser understand the exemption or documentation requirements, or that they attest they will comply with the provisions.

Effect of Proposed Change

The bill removes the requirement that nonresident purchasers attest to having read statutory provisions and replaces it with the requirement that nonresident purchasers complete an affidavit that affirms that the nonresident purchaser qualifies for the exemption from sales tax pursuant to s. 212.05(1)(a)2., F.S., and attests that the nonresident purchaser will provide the documentation necessary to substantiate the qualification for the exemption.

Boat and Boat Trailer Sales

Current Situation

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property, admissions,² transient rentals,³ rental of commercial real estate,⁴ and a limited number of services. Chapter 212, F.S., authorizes the levy and collection of Florida's sales and use tax, and provides exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the sales price of the taxable good or service and is collected from the purchaser at the time of sale.⁵

Discretionary Sales Surtax

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose nine local option sales surtaxes. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered.⁷ Discretionary sales surtax rates currently levied vary by county in a range from 0.5 to 2 percent.⁸

¹ S. 212.05, F.S.

² S. 212.04, F.S.

³ S. 212.03, F.S.

⁴ S. 212.031, F.S.

⁵ S. 212.07(2), F.S., and s. 212.06(3)(a), F.S.

⁶ S. 212.054, F.S.

⁷ S. 212.054(2), F.S.

⁸ Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 2023 Local Discretionary Sales Surtax Rates in Florida's Counties, 235-236, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited Jan. 11, 2024).

Sales above \$5,000 on one item are not subject to the discretionary sales surtax.⁹ However, two or more items of tangible personal property will be considered a single item for the purposes of the \$5,000 threshold if the items are sold to the same purchaser at the same time and are sold together under a generally accepted business practice, sold in bulk, or the items sold together make a working unit when assembled.¹⁰

Effect of Proposed Change

The bill amends s. 212.054(1)(b)1., F.S., to clarify that a boat and a corresponding boat trailer sold to the same purchaser at the same time and with both items located on the same invoice, are considered a single item for discretionary sales surtax purposes. The bill also amends s. 212.054(3)(a), F.S., to clarify that the sale of the boat and boat trailer is deemed to occur in the county where the purchaser resides, as shown on the title or registration documents, for discretionary sales surtax purposes.

Pollutant Tax Registration Fee

Current Situation

Under current law, any person producing in, importing into, or causing to be imported into this state taxable pollutants for sale, use, or otherwise and who is not registered or licensed is required to register and become licensed. Such person must register as either a producer or importer of pollutants and is subject to all applicable registration and licensing provisions of ch. 206, F.S. Registrations must be made prior to the first production or importation of pollutants for businesses created after July 1, 1986. Failure to timely register is a misdemeanor of the first degree. A registration fee of \$30 was repealed in 2017.¹¹

Effect of Proposed Change

The bill amends s. 206.9931(1), F.S., to remove obsolete language for the pollutant tax registration fee repealed in 2017.

Corporate Income Tax Returns

Current Situation

Florida levies a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.¹² A corporate income taxpayer is required to file a Florida income tax return in every year that it is liable for Florida corporate income tax or is required to file a federal income tax return.¹³ The due dates to file several tax returns related to corporate income tax are tied to the federal law. Most corporate taxpayers¹⁴ follow a calendar-year taxable year¹⁵ and must file income tax returns on or before the first day of the 5th month following the close of the tax year. When a Florida corporation is granted an extension of time to file its federal return, the taxpayer may file an extension of time to file its Florida return. If granted, the extended Florida due date will be the 15th day after the expiration of the 6-month federal extension.¹⁶

⁹ S. 212.054(2)(b)1., F.S.

¹⁰ *Id.*

¹¹ S. 206.9931(1), F.S.

¹² S. 220.11(2), F.S.

¹³ S. 220.22, F.S.

¹⁴ 89.01% of corporate tax filers follow the calendar-year taxable year. Email from Matthew Cutillo, Chief Economist at Florida Department of Revenue, dated January 10, 2024 (on file with the staff of the Ways & Means Committee).

¹⁵ Some corporate taxpayers have a taxable year that ends on June 30th, they must file returns on or before the 1st day of the 4th month after the close of the table year. S. 220.222(1)(b), F.S.

¹⁶ For corporate taxpayers with a taxable year ending on June 30th, the extension is 15 days 7 months from the original due date. S. 220.222(2)(d), F.S.

If a taxpayer extends the time to file its Florida return, Florida law requires the taxpayer to file and pay a tentative tax return, which is due on or before the federal due date.¹⁷ A taxpayer fails to satisfy the tentative tax return requirement if it underpays the required payment by more than the greater of \$2,000 or 30% of the tax shown on the return when filed. Underpayment results in a loss of the extension and the taxpayer must pay penalties and the interest due on the unpaid tax due.¹⁸

Effect of Proposed Change

The bill amends s. 220.222, F.S., to increase the tentative tax return underpayment amount from more than the greater of \$2,000 or 30% of the tax shown on the return when filed to more than the greater of \$6,000 or 30% of the tax shown on the return when filed.

Qualified Event Impacting Timely Challenge

Current Situation

The Department does not have the authority to reopen a final assessment or refund denial following the expiration of all taxpayer appeal rights under the law for purposes of adjusting or compromising the liability of a taxpayer.

Effect of Proposed Change

The bill creates s. 213.21(11), F.S., to allow the Department to reopen a final assessment or refund denial for purposes of settling or compromising a liability if the failure to initiate a timely challenge was the result of a specified qualifying event which were beyond the control of the taxpayer. The bill requires that a request to reopen an assessment or refund denial for a qualifying event occur no later than 180 days after the time for filing a contest has expired. The bill also clarifies that any decision by the Department regarding a taxpayer's request to compromise or settle a liability is not a final order subject to review under ch. 120, F.S.

A qualifying event includes:

- The death or life-threatening injury or illness of:
 - The taxpayer;
 - An immediate family member of the taxpayer; or
 - An individual with substantial responsibility for the management or control of the taxpayer;
- An act of war or terrorism; or
- A natural disaster, fire, or other catastrophic loss.

Garnishment Notice

Current Situation

Section 213.67, F.S., provides the statutory framework for the Department's garnishment authority. This includes the authority to issue a levy upon credits, other personal property, or debts belonging to a delinquent taxpayer for any taxes, penalties, and interest owed. Under current law, the levy does not include additional daily interest accrued after the date of the levy, or the authority to issue notice to levy notices by electronic means.

Effect of Proposed Change

¹⁷ S. 220.222(2), F.S.

¹⁸ S. 220.32(3), F.S.

The bill amends s. 213.67, F.S., to authorize the Department to include all additional daily accrued interests, costs, and fees authorized by law to be included in garnishment levy. The bill allows the Department to deliver its notices of levy by electronic means.

B. SECTION DIRECTORY:

- Section 1: Amends s. 206.9931, F.S., removing obsolete language for a \$30 pollutant tax registration fee repealed in 2017.
- Section 2: Amends s. 212.05, F.S., removing the requirement that nonresident purchasers attest to having read statutory provisions and instead requires nonresident purchasers complete an affidavit that acknowledges compliance with the pertinent provisions of the statute.
- Section 3: Amends s. 212.054, F.S., clarifying that a boat and a boat trailer sold to the same purchaser at the same time and with both items located on the same invoice, are considered a single item for discretionary sales surtax purposes and clarifying that the sale of the boat and the trailer is deemed to occur in the county where the purchaser resides.
- Section 4: Amends s. 213.21, F.S., allowing the Department of Revenue to reopen a final assessment or refund denial for purposes of settling or compromising a liability if the failure to initiate a timely challenge was the result of a specified qualifying event beyond the control of the taxpayer.
- Section 5: Amends s. 213.67, F.S., authorizing the Department of Revenue to include all additional daily accrued interests, costs, and fees authorized by law in garnishment levy and allowing the Department to deliver its notices of levy by electronic means.
- Section 6: Amends s. 220.222, F.S., increasing the tentative tax return underpayment amount to more than the greater of \$6,000 or 30% of the tax shown on the return when filed.
- Section 7: Authorizes the Department of Revenue to adopt emergency rules for the purpose of implementing the act. Clarifies that adopted emergency rules are effective for 6 months after adoption and may be renewed during procedures to adopt permanent rules addressing the subject of the emergency rules.
- Section 8: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

The Department of Revenue indicated that it would incur nonrecurring expenses of \$1,889 in FY 2023-24 and \$35,048 in FY 2024-25 to implement the provisions of the bill.¹⁹ These costs can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

¹⁹ Department of Revenue, 2024 Agency Legislative Bill Analysis of HB 1001 (on file with the Ways & Means Committee).

See FISCAL COMMENTS section.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Revenue Estimating Conference (REC) adopted discrete estimated impacts on state and local government revenues for different sections of the bill.

The estimated impacts on state government revenues are as follows:

- Allowing the Department of Revenue to reopen a final assessment or refund denial if the failure to initiate a timely challenge was the result of a specified qualifying event beyond the control of the taxpayer will have a negative, indeterminate impact on state tax revenue.
- Authorizing the Department of Revenue to include all additional daily accrued interests, costs, and fees authorized by law in garnishment levy and to deliver notices of levy for electronic means will have a positive, indeterminate impact on state tax revenue.
- Increasing the tentative tax return underpayment amount to more than the greater of \$6,000 or 30% of the tax shown on the return when filed will have a negative, indeterminate impact on state tax revenue.

The estimated impacts on local government revenues are as follows:

- Clarifying that a boat and a boat trailer sold together under certain circumstances are considered a single item for discretionary sales surtax purposes will have a negative, indeterminate impact on local government tax revenue.
- Allowing the Department of Revenue to reopen a final assessment or refund denial if the failure to initiate a timely challenge was the result of a specified qualifying event beyond the control of the taxpayer will have a negative, indeterminate impact on local tax revenue.
- Authorizing the Department of Revenue to include all additional daily accrued interests, costs, and fees authorized by law in garnishment levy and to deliver notices of levy for electronic means will have a positive, indeterminate impact on local tax revenue.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Revenue to adopt emergency rules for the purpose of implementing the act. Adopted emergency rules are effective for 6 months after adoption and may be renewed during procedures to adopt permanent rules addressing the subject of the emergency rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 31, 2024, the Ways & Means Committee considered a Proposed Committee Substitute (PCS) and reported the bill favorably as a committee substitute. The PCS:

- Removed a provision related to local option sales taxes on the rental of commercial property.
- Revised a provision related to circumstances under which the Department of Revenue may consider a request to settle or compromise any tax, penalty, or other liability.
- Removed provisions that would allow a notice of levy to be delivered by certified mail, or allow a notice of delinquency for garnishment purposes to be delivered by regular or certified mail.

This analysis is drafted to the committee substitute as approved by the Ways & Means Committee.

26 Statutes, is amended to read:

27 206.9931 Administrative provisions.—

28 (1) Any person producing in, importing into, or causing to
 29 be imported into this state taxable pollutants for sale, use, or
 30 otherwise and who is not registered or licensed pursuant to
 31 other parts of this chapter is hereby required to register and
 32 become licensed for the purposes of this part. Such person shall
 33 register as either a producer or importer of pollutants and
 34 shall be subject to all applicable registration and licensing
 35 provisions of this chapter, as if fully set out in this part and
 36 made expressly applicable to the taxes imposed herein,
 37 including, but not limited to, ss. 206.02-206.025, 206.03,
 38 206.04, and 206.05. For the purposes of this section,
 39 registrations required exclusively for this part shall be made
 40 within 90 days of July 1, 1986, for existing businesses, or
 41 before ~~prior to~~ the first production or importation of
 42 pollutants for businesses created after July 1, 1986. ~~The fee~~
 43 ~~for registration shall be \$30.~~ Failure to timely register is a
 44 misdemeanor of the first degree, punishable as provided in s.
 45 775.082 or s. 775.083.

46 Section 2. Paragraph (a) of subsection (1) of section
 47 212.05, Florida Statutes, is amended to read:

48 212.05 Sales, storage, use tax.—It is hereby declared to
 49 be the legislative intent that every person is exercising a
 50 taxable privilege who engages in the business of selling

51 | tangible personal property at retail in this state, including
52 | the business of making or facilitating remote sales; who rents
53 | or furnishes any of the things or services taxable under this
54 | chapter; or who stores for use or consumption in this state any
55 | item or article of tangible personal property as defined herein
56 | and who leases or rents such property within the state.

57 | (1) For the exercise of such privilege, a tax is levied on
58 | each taxable transaction or incident, which tax is due and
59 | payable as follows:

60 | (a)1.a. At the rate of 6 percent of the sales price of
61 | each item or article of tangible personal property when sold at
62 | retail in this state, computed on each taxable sale for the
63 | purpose of remitting the amount of tax due the state, and
64 | including each and every retail sale.

65 | b. Each occasional or isolated sale of an aircraft, boat,
66 | mobile home, or motor vehicle of a class or type which is
67 | required to be registered, licensed, titled, or documented in
68 | this state or by the United States Government shall be subject
69 | to tax at the rate provided in this paragraph. The department
70 | shall by rule adopt any nationally recognized publication for
71 | valuation of used motor vehicles as the reference price list for
72 | any used motor vehicle which is required to be licensed pursuant
73 | to s. 320.08 (1), (2), (3) (a), (b), (c), or (e), or (9). If any
74 | party to an occasional or isolated sale of such a vehicle
75 | reports to the tax collector a sales price which is less than 80

76 | percent of the average loan price for the specified model and
 77 | year of such vehicle as listed in the most recent reference
 78 | price list, the tax levied under this paragraph shall be
 79 | computed by the department on such average loan price unless the
 80 | parties to the sale have provided to the tax collector an
 81 | affidavit signed by each party, or other substantial proof,
 82 | stating the actual sales price. Any party to such sale who
 83 | reports a sales price less than the actual sales price is guilty
 84 | of a misdemeanor of the first degree, punishable as provided in
 85 | s. 775.082 or s. 775.083. The department shall collect or
 86 | attempt to collect from such party any delinquent sales taxes.
 87 | In addition, such party shall pay any tax due and any penalty
 88 | and interest assessed plus a penalty equal to twice the amount
 89 | of the additional tax owed. Notwithstanding any other provision
 90 | of law, the Department of Revenue may waive or compromise any
 91 | penalty imposed pursuant to this subparagraph.

92 | 2. This paragraph does not apply to the sale of a boat or
 93 | aircraft by or through a registered dealer under this chapter to
 94 | a purchaser who, at the time of taking delivery, is a
 95 | nonresident of this state, does not make his or her permanent
 96 | place of abode in this state, and is not engaged in carrying on
 97 | in this state any employment, trade, business, or profession in
 98 | which the boat or aircraft will be used in this state, or is a
 99 | corporation none of the officers or directors of which is a
 100 | resident of, or makes his or her permanent place of abode in,

101 this state, or is a noncorporate entity that has no individual
102 vested with authority to participate in the management,
103 direction, or control of the entity's affairs who is a resident
104 of, or makes his or her permanent abode in, this state. For
105 purposes of this exemption, either a registered dealer acting on
106 his or her own behalf as seller, a registered dealer acting as
107 broker on behalf of a seller, or a registered dealer acting as
108 broker on behalf of the nonresident purchaser may be deemed to
109 be the selling dealer. This exemption is ~~shall~~ not ~~be~~ allowed
110 unless:

111 a. The nonresident purchaser removes a qualifying boat, as
112 described in sub-subparagraph f., from this ~~the~~ state within 90
113 days after the date of purchase or extension, or the nonresident
114 purchaser removes a nonqualifying boat or an aircraft from this
115 state within 10 days after the date of purchase or, when the
116 boat or aircraft is repaired or altered, within 20 days after
117 completion of the repairs or alterations; or if the aircraft
118 will be registered in a foreign jurisdiction and:

119 (I) Application for the aircraft's registration is
120 properly filed with a civil airworthiness authority of a foreign
121 jurisdiction within 10 days after the date of purchase;

122 (II) The nonresident purchaser removes the aircraft from
123 this ~~the~~ state to a foreign jurisdiction within 10 days after
124 the date the aircraft is registered by the applicable foreign
125 airworthiness authority; and

126 (III) The aircraft is operated in this ~~the~~ state solely to
127 remove it from this ~~the~~ state to a foreign jurisdiction.

128
129 For purposes of this sub-subparagraph, the term "foreign
130 jurisdiction" means any jurisdiction outside of the United
131 States or any of its territories;

132 b. The nonresident purchaser, within 90 days after ~~from~~
133 the date of departure, provides the department with written
134 proof that the nonresident purchaser licensed, registered,
135 titled, or documented the boat or aircraft outside this ~~the~~
136 state. If such written proof is unavailable, within 90 days the
137 nonresident purchaser must ~~shall~~ provide proof that the
138 nonresident purchaser applied for such license, title,
139 registration, or documentation. The nonresident purchaser shall
140 forward to the department proof of title, license, registration,
141 or documentation upon receipt;

142 c. The nonresident purchaser, within 30 days after
143 removing the boat or aircraft from this state ~~Florida~~, furnishes
144 the department with proof of removal in the form of receipts for
145 fuel, dockage, slippage, tie-down, or hangaring from outside of
146 Florida. The information so provided must clearly and
147 specifically identify the boat or aircraft;

148 d. The selling dealer, within 30 days after the date of
149 sale, provides to the department a copy of the sales invoice,
150 closing statement, bills of sale, and the original affidavit

151 signed by the nonresident purchaser affirming ~~attesting~~ that the
152 nonresident purchaser qualifies for exemption from sales tax
153 pursuant to this subparagraph and attesting that the nonresident
154 purchaser will provide the documentation required to
155 substantiate the exemption claimed under ~~he or she has read the~~
156 ~~provisions of this subparagraph section;~~

157 e. The seller makes a copy of the affidavit a part of his
158 or her record for as long as required by s. 213.35; and

159 f. Unless the nonresident purchaser of a boat of 5 net
160 tons of admeasurement or larger intends to remove the boat from
161 this state within 10 days after the date of purchase or when the
162 boat is repaired or altered, within 20 days after completion of
163 the repairs or alterations, the nonresident purchaser applies to
164 the selling dealer for a decal which authorizes 90 days after
165 the date of purchase for removal of the boat. The nonresident
166 purchaser of a qualifying boat may apply to the selling dealer
167 within 60 days after the date of purchase for an extension decal
168 that authorizes the boat to remain in this state for an
169 additional 90 days, but not more than a total of 180 days,
170 before the nonresident purchaser is required to pay the tax
171 imposed by this chapter. The department is authorized to issue
172 decals in advance to dealers. The number of decals issued in
173 advance to a dealer shall be consistent with the volume of the
174 dealer's past sales of boats which qualify under this sub-
175 subparagraph. The selling dealer or his or her agent shall mark

176 and affix the decals to qualifying boats in the manner
 177 prescribed by the department, before delivery of the boat.

178 (I) The department is hereby authorized to charge dealers
 179 a fee sufficient to recover the costs of decals issued, except
 180 the extension decal shall cost \$425.

181 (II) The proceeds from the sale of decals will be
 182 deposited into the administrative trust fund.

183 (III) Decals shall display information to identify the
 184 boat as a qualifying boat under this sub-subparagraph,
 185 including, but not limited to, the decal's date of expiration.

186 (IV) The department is authorized to require dealers who
 187 purchase decals to file reports with the department and may
 188 prescribe all necessary records by rule. All such records are
 189 subject to inspection by the department.

190 (V) Any dealer or his or her agent who issues a decal
 191 falsely, fails to affix a decal, mismarks the expiration date of
 192 a decal, or fails to properly account for decals will be
 193 considered prima facie to have committed a fraudulent act to
 194 evade the tax and will be liable for payment of the tax plus a
 195 mandatory penalty of 200 percent of the tax, and shall be liable
 196 for fine and punishment as provided by law for a conviction of a
 197 misdemeanor of the first degree, as provided in s. 775.082 or s.
 198 775.083.

199 (VI) Any nonresident purchaser of a boat who removes a
 200 decal before permanently removing the boat from this ~~the~~ state,

201 or defaces, changes, modifies, or alters a decal in a manner
 202 affecting its expiration date before its expiration, or who
 203 causes or allows the same to be done by another, will be
 204 considered prima facie to have committed a fraudulent act to
 205 evade the tax and will be liable for payment of the tax plus a
 206 mandatory penalty of 200 percent of the tax, and shall be liable
 207 for fine and punishment as provided by law for a conviction of a
 208 misdemeanor of the first degree, as provided in s. 775.082 or s.
 209 775.083.

210 (VII) The department is authorized to adopt rules
 211 necessary to administer and enforce this subparagraph and to
 212 publish the necessary forms and instructions.

213 (VIII) The department is hereby authorized to adopt
 214 emergency rules pursuant to s. 120.54(4) to administer and
 215 enforce the provisions of this subparagraph.

216
 217 If the nonresident purchaser fails to remove the qualifying boat
 218 from this state within the maximum 180 days after purchase or a
 219 nonqualifying boat or an aircraft from this state within 10 days
 220 after purchase or, when the boat or aircraft is repaired or
 221 altered, within 20 days after completion of such repairs or
 222 alterations, or permits the boat or aircraft to return to this
 223 state within 6 months after ~~from~~ the date of departure, except
 224 as provided in s. 212.08(7)(fff), or if the nonresident
 225 purchaser fails to furnish the department with any of the

226 | documentation required by this subparagraph within the
 227 | prescribed time period, the nonresident purchaser is ~~shall be~~
 228 | liable for use tax on the cost price of the boat or aircraft
 229 | and, in addition thereto, payment of a penalty to the Department
 230 | of Revenue equal to the tax payable. This penalty shall be in
 231 | lieu of the penalty imposed by s. 212.12(2). The maximum 180-day
 232 | period following the sale of a qualifying boat tax-exempt to a
 233 | nonresident may not be tolled for any reason.

234 | Section 3. Paragraph (b) of subsection (2) and paragraph
 235 | (a) of subsection (3) of section 212.054, Florida Statutes, are
 236 | amended to read:

237 | 212.054 Discretionary sales surtax; limitations,
 238 | administration, and collection.—

239 | (2)

240 | (b) However:

241 | 1. The sales amount above \$5,000 on any item of tangible
 242 | personal property shall not be subject to the surtax. However,
 243 | charges for prepaid calling arrangements, as defined in s.
 244 | 212.05(1)(e)1.a., shall be subject to the surtax. For purposes
 245 | of administering the \$5,000 limitation on an item of tangible
 246 | personal property:7

247 | a. If two or more taxable items of tangible personal
 248 | property are sold to the same purchaser at the same time and,
 249 | under generally accepted business practice or industry standards
 250 | or usage, are normally sold in bulk or are items that, when

251 assembled, comprise a working unit or part of a working unit,
252 such items must be considered a single item for purposes of the
253 \$5,000 limitation when supported by a charge ticket, sales slip,
254 invoice, or other tangible evidence of a single sale or rental.

255 b. The sale of a boat and the corresponding boat trailer,
256 which is identified as a motor vehicle as defined in s.
257 320.01(1), shall be taxed as a single item when sold to the same
258 purchaser, at the same time, and located on the same invoice.

259 2. In the case of utility services billed on or after the
260 effective date of any such surtax, the entire amount of the
261 charge for utility services shall be subject to the surtax. In
262 the case of utility services billed after the last day the
263 surtax is in effect, the entire amount of the charge on said
264 items shall not be subject to the surtax. "Utility service," as
265 used in this section, does not include any communications
266 services as defined in chapter 202.

267 3. In the case of written contracts which are signed prior
268 to the effective date of any such surtax for the construction of
269 improvements to real property or for remodeling of existing
270 structures, the surtax shall be paid by the contractor
271 responsible for the performance of the contract. However, the
272 contractor may apply for one refund of any such surtax paid on
273 materials necessary for the completion of the contract. Any
274 application for refund shall be made no later than 15 months
275 following initial imposition of the surtax in that county. The

276 application for refund shall be in the manner prescribed by the
 277 department by rule. A complete application shall include proof
 278 of the written contract and of payment of the surtax. The
 279 application shall contain a sworn statement, signed by the
 280 applicant or its representative, attesting to the validity of
 281 the application. The department shall, within 30 days after
 282 approval of a complete application, certify to the county
 283 information necessary for issuance of a refund to the applicant.
 284 Counties are hereby authorized to issue refunds for this purpose
 285 and shall set aside from the proceeds of the surtax a sum
 286 sufficient to pay any refund lawfully due. Any person who
 287 fraudulently obtains or attempts to obtain a refund pursuant to
 288 this subparagraph, in addition to being liable for repayment of
 289 any refund fraudulently obtained plus a mandatory penalty of 100
 290 percent of the refund, is guilty of a felony of the third
 291 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 292 775.084.

293 4. In the case of any vessel, railroad, or motor vehicle
 294 common carrier entitled to partial exemption from tax imposed
 295 under this chapter pursuant to s. 212.08(4), (8), or (9), the
 296 basis for imposition of surtax shall be the same as provided in
 297 s. 212.08 and the ratio shall be applied each month to total
 298 purchases in this state of property qualified for proration
 299 which is delivered or sold in the taxing county to establish the
 300 portion used and consumed in intracounty movement and subject to

301 surtax.

302 (3) For the purpose of this section, a transaction shall
 303 be deemed to have occurred in a county imposing the surtax when:

304 (a)1. The sale includes an item of tangible personal
 305 property, a service, or tangible personal property representing
 306 a service, and the item of tangible personal property, the
 307 service, or the tangible personal property representing the
 308 service is delivered within the county. If there is no
 309 reasonable evidence of delivery of a service, the sale of a
 310 service is deemed to occur in the county in which the purchaser
 311 accepts the bill of sale.

312 2. The sale of any motor vehicle or mobile home of a class
 313 or type which is required to be registered in this state or in
 314 any other state shall be deemed to have occurred only in the
 315 county identified as the residence address of the purchaser on
 316 the registration or title document for such property.

317 3. The sale of property under sub-subparagraph (2) (b)1.b.
 318 shall be deemed to occur in the county where the purchaser
 319 resides, as identified on the registration or title documents
 320 for such property.

321 Section 4. Subsection (11) is added to section 213.21,
 322 Florida Statutes, to read:

323 213.21 Informal conferences; compromises.—

324 (11) (a) The department may consider a request to settle or
 325 compromise any tax, interest, penalty, or other liability under

326 this section after the time to challenge an assessment or a
 327 denial of a refund under s. 72.011 has expired if the taxpayer
 328 demonstrates that the failure to initiate a timely challenge was
 329 due to:

330 1. The death or life-threatening injury or illness of:
 331 a. The taxpayer;
 332 b. An immediate family member of the taxpayer; or
 333 c. An individual with substantial responsibility for the
 334 management or control of the taxpayer;

335 2. An act of war or terrorism; or
 336 3. A natural disaster, fire, or other catastrophic loss.

337 (b) The department may not consider a request received
 338 more than 180 days after the time for filing a contest under s.
 339 72.011 has expired.

340 (c) Any decision by the department regarding a taxpayer's
 341 request to compromise or settle a liability under this
 342 subsection is not subject to review under chapter 120.

343 Section 5. Subsections (1), (3), and (6) of section
 344 213.67, Florida Statutes, are amended to read:

345 213.67 Garnishment.—

346 (1) If a person is delinquent in the payment of any taxes,
 347 penalties, ~~and~~ interest, costs, surcharges, and fees owed to the
 348 department, the executive director or his or her designee may
 349 give notice of the amount of such delinquency by registered
 350 mail, by personal service, or by electronic means, including,

351 but not limited to, facsimile transmissions, electronic data
352 interchange, or use of the Internet, to all persons having in
353 their possession or under their control any credits or personal
354 property, exclusive of wages, belonging to the delinquent
355 taxpayer, or owing any debts to such delinquent taxpayer at the
356 time of receipt by them of such notice. Thereafter, any person
357 ~~who has been~~ notified may not transfer or make any other
358 disposition of such credits, other personal property, or debts
359 until the executive director or his or her designee consents to
360 a transfer or disposition or until 60 days after the receipt of
361 such notice. However, the credits, other personal property, or
362 debts that exceed the delinquent amount stipulated in the notice
363 are not subject to this section, wherever held, if the taxpayer
364 does not have a prior history of tax delinquencies. If during
365 the effective period of the notice to withhold, any person so
366 notified makes any transfer or disposition of the property or
367 debts required to be withheld under this section, he or she is
368 liable to the state for any indebtedness owed to the department
369 by the person with respect to whose obligation the notice was
370 given to the extent of the value of the property or the amount
371 of the debts thus transferred or paid if, solely by reason of
372 such transfer or disposition, the state is unable to recover the
373 indebtedness of the person with respect to whose obligation the
374 notice was given. If the delinquent taxpayer contests the
375 intended levy in circuit court or under chapter 120, the notice

376 | under this section remains effective until that final resolution
 377 | of the contest. Any financial institution receiving such notice
 378 | maintains ~~will maintain~~ a right of setoff for any transaction
 379 | involving a debit card occurring on or before the date of
 380 | receipt of such notice.

381 | (3) During the last 30 days of the 60-day period set forth
 382 | in subsection (1), the executive director or his or her designee
 383 | may levy upon such credits, other personal property, or debts.
 384 | The levy must be accomplished by delivery of a notice of levy by
 385 | registered mail, by personal service, or by electronic means,
 386 | including, but not limited to, facsimile transmission or an
 387 | electronic data exchange process using a web interface. Upon
 388 | receipt of the notice of levy, ~~which~~ the person possessing the
 389 | credits, other personal property, or debts shall transfer them
 390 | to the department or pay to the department the amount owed to
 391 | the delinquent taxpayer.

392 | (6) (a) Levy may be made under subsection (3) upon credits,
 393 | other personal property, or debt of any person with respect to
 394 | any unpaid tax, penalties, ~~and~~ interest, costs, surcharges, and
 395 | fees authorized by law only after the executive director or his
 396 | or her designee has notified such person in writing of the
 397 | intention to make such levy.

398 | (b) No less than 30 days before the day of the levy, the
 399 | notice of intent to levy required under paragraph (a) must ~~shall~~
 400 | be given in person or sent by certified or registered mail to

401 the person's last known address.

402 (c) The notice required in paragraph (a) must include a
 403 brief statement that sets forth in simple and nontechnical
 404 terms:

405 1. The provisions of this section relating to levy and
 406 sale of property;

407 2. The procedures applicable to the levy under this
 408 section;

409 3. The administrative and judicial appeals available to
 410 the taxpayer with respect to such levy and sale, and the
 411 procedures relating to such appeals; and

412 4. Any ~~The alternatives, if any,~~ available to taxpayers
 413 which could prevent levy on the property.

414 Section 6. Paragraph (c) of subsection (2) of section
 415 220.222, Florida Statutes, is amended to read:

416 220.222 Returns; time and place for filing.—

417 (2)

418 (c)1. For purposes of this subsection, a taxpayer is not
 419 in compliance with s. 220.32 if the taxpayer underpays the
 420 required payment by more than the greater of \$6,000 ~~\$2,000~~ or 30
 421 percent of the tax shown on the return when filed.

422 2. For the purpose of determining compliance with s.
 423 220.32 as referenced in subparagraph 1., the tax shown on the
 424 return when filed must include the amount of the allowable
 425 credits taken on the return pursuant to s. 220.1875, s.

426 220.1876, s. 220.1877, or s. 220.1878.

427 Section 7. (1) The Department of Revenue is authorized,
428 and all conditions are deemed met, to adopt emergency rules
429 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
430 implementing this act. Notwithstanding any other provision of
431 law, emergency rules adopted pursuant to this subsection are
432 effective for 6 months after adoption and may be renewed during
433 the pendency of procedures to adopt permanent rules addressing
434 the subject of the emergency rules.

435 (2) This section takes effect upon becoming a law and
436 expires July 1, 2025.

437 Section 8. Except as otherwise provided in this act, and
438 except for this section, which shall take effect upon this act
439 becoming a law, this act shall take effect July 1, 2024.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Appropriations Committee
2 Representative Stevenson offered the following:

3
4 **Amendment (with title amendment)**

5 Between lines 426 and 427, insert:

6 Section 7. The amendments made by this act to section 220.222,
7 Florida Statutes, apply to taxable years ending on or after
8 December 31, 2024.

9
10 -----
11 **T I T L E A M E N D M E N T**

12 Between lines 18 and 19, insert:
13 providing applicability;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1083 Permanency for Children

SPONSOR(S): Children, Families & Seniors Subcommittee, Trabulsy and Abbott

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1486

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	16 Y, 0 N, As CS	DesRochers	Brazzell
2) Appropriations Committee		Fontaine	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

When child welfare necessitates that the Florida Department of Children and Families (DCF) remove a child from the home, a series of dependency court proceedings must occur to adjudicate the child dependent, place that child in out-of-home care, and achieve a permanency outcome for the child in the form of reunification, a permanent guardian, adoption, or another permanent living arrangement. For young adults who have aged out of foster care, extended foster care is available for a period of time or independent living programs are available to help the young adult transition into adulthood.

CS/HB 1083 makes the adoption process more efficient and less costly while reducing barriers to permanency. Additionally, the bill enhances protections for children from potentially unsafe placements and expands financial assistance options for children who are adopted or placed in permanent guardianships as younger teens. The bill addresses the following topics:

Permanency: Makes several changes to streamline permanency by creating a legal process for orphaned children, requiring that a child knows the successor guardian, provides flexibility for service of process in termination of parental rights advisory hearings, ensures safe and appropriate placements, and restricts access to the statewide adoption exchange.

Adoption Proceedings: Shifts judicial review of DCF's decision on an adoption application from a separate administrative process to the dependency court.

Criminal History Checks for Child Placements: Defines the scope of individuals subject to a fingerprint-based background records check for child placements, which will bring the state into compliance with Federal regulations and maintain DCF's expedited access to the Federal Bureau of Intelligence (FBI)'s criminal history records database.

Independent Living Expansion: Expands the criteria for Post-Secondary Education and Support (PESS), Aftercare, and Extended Guardianship and Adoption Assistance Programs, to make it easier for young adults aged 18 to 23 who have been in foster care system to receive benefits as they transition to independence.

The bill has a significant negative fiscal impact on state government and no fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. The Florida Legislature has declared four main purposes of the dependency system:¹

- to provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development;
- to ensure secure and safe custody;
- to promote the health and well-being of all children under the state's care; and
- to prevent the occurrence of child abuse, neglect, and abandonment.

Florida's dependency system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) works with those families to address the problems endangering children, if possible. DCF's practice model is based on the safety of the child within the home by using in-home services, such as parenting coaching and counseling, to maintain and strengthen that child's natural supports in his or her environment. If the problems are not addressed, the child welfare system finds safe out-of-home placements for these children.

DCF contracts with community-based care lead agencies (CBCs) for case management, out-of-home services, and related services. The outsourced provision of child welfare services is intended to increase local community ownership of service delivery and design. CBCs in turn contract with a number of subcontractors for case management and direct care services to children and their families. DCF remains responsible for a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.² Ultimately, DCF is responsible for program oversight and the overall performance of the child welfare system.³

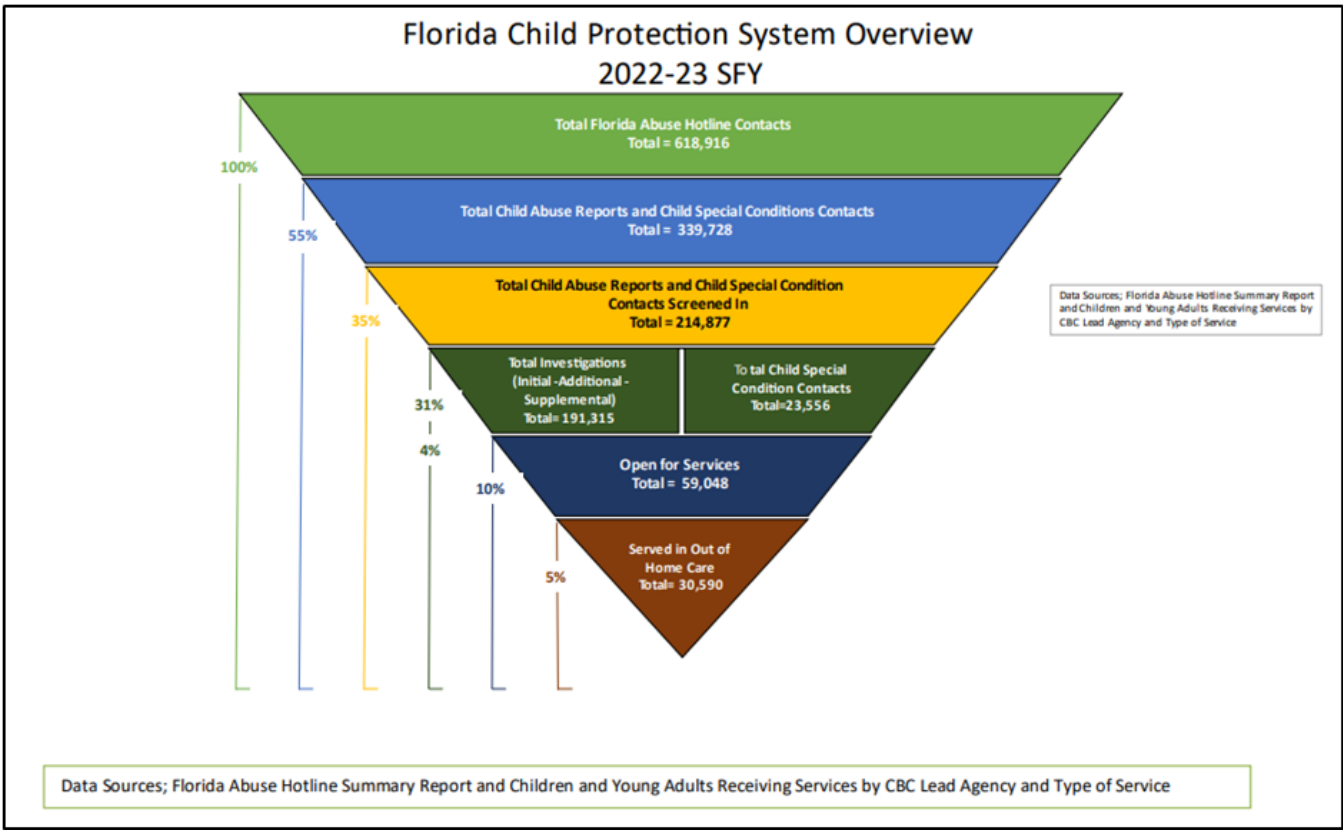
During state fiscal year (SFY) 2022-23, there were a total of 339,728 child abuse reports and child special conditions contacts for potential child abuse and neglect, and 63% percent of those contacts were screened in because they met criteria to trigger an investigation or assessment.⁴

¹ S. 39.001(1)(a), F.S.

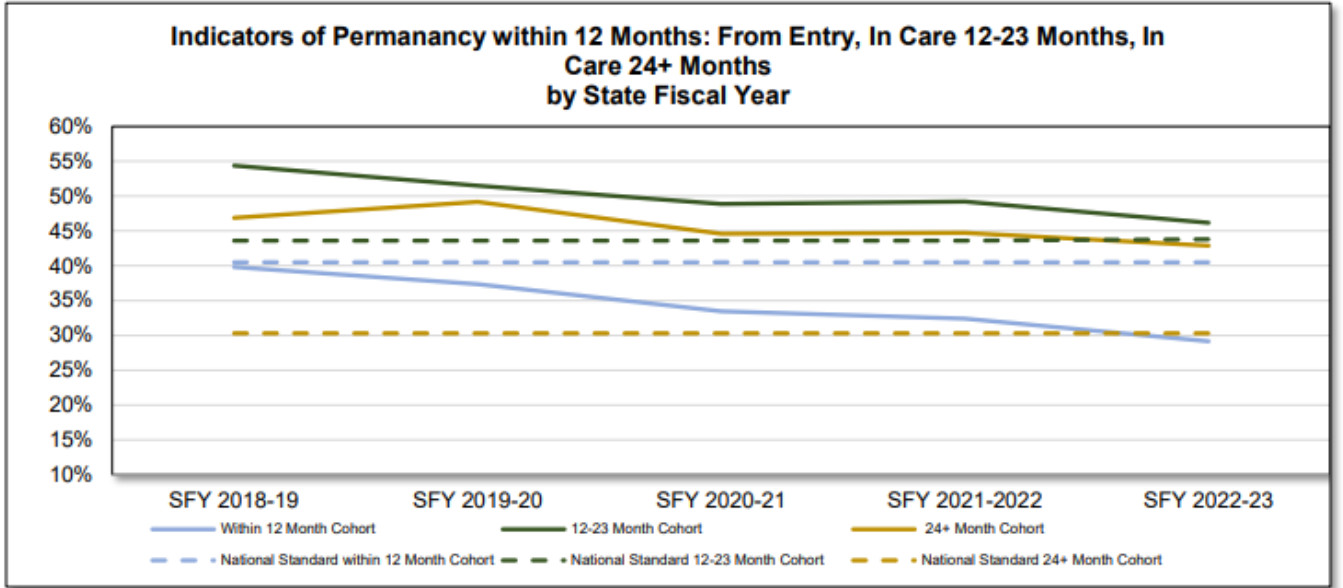
² OPPAGA, report 06-50.

³ *Id.*

⁴ Florida Department of Children and Families, *Child Welfare Key Indicators Monthly Report October 2023: A Results-Oriented Accountability Report*, Office of Child Welfare, p. 9 (Oct. 2023), https://www.myflfamilies.com/sites/default/files/2023-11/KI_Monthly_Report_Oct2023.pdf (last visited Dec. 1, 2023).



Also for SFY 2022-23, DCF’s permanency report describes Florida’s performance for three cohorts of children who entered care (children in care less than 12 months; children in care 12-23 months; and children in care 24 months or longer).⁵ As the chart below illustrates, Florida’s performance for each cohort generally declined over the past several years, with state’s performance in achieving permanency for children in care less than 12 months declining over 25%.⁶



Dependency Case Process

⁵ Florida Department of Children and Families, *Results-Oriented Accountability 2023 Annual Performance Report*, Office of Quality and Innovation, p. 26, (Nov. 21, 2023), <https://www.myflfamilies.com/sites/default/files/2023-11/ROA%20Annual%20Performance%20Report%202022-23.pdf> (last visited Dec. 1, 2023).

⁶ *Id.*
 STORAGE NAME: h1083a.APC
 DATE: 2/13/2024

When child welfare necessitates that DCF remove a child from the home, a series of dependency court proceedings must occur to adjudicate the child dependent and place that child in out-of-home care. Steps in the dependency process may include:

- A report to the central abuse hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in their child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption after termination of parental rights.⁷

The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines the child's home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition hearing	The court may change temporary placement at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.

⁷ The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. S. 63.022, F.S.

Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.
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The Florida Supreme Court’s *Florida Rules of Juvenile Procedure* control procedural matters for Chapter 39 dependency proceedings unless otherwise provided by law.⁸ DCF personally serves the parent(s) with a physical copy of the petition of dependency. Service of process gives the opposing party notice of the proceedings so that they may be given the opportunity to offer a defense.⁹ Without proper service of process, the court lacks personal jurisdiction over the opposing party.¹⁰

However, under s. 39.502(2), F.S., a personal appearance by any person in a dependency hearing before the court, such as an arraignment, excuses DCF from having to serve process on that person.¹¹ Effective October 1, 2022, the Florida Supreme Court amended the Florida Rules of Juvenile Procedure to authorize personal appearances via audio-video communication technology in dependency hearings.¹² Therefore, in dependency proceedings, a personal appearance, whether in-person or remote, waives the formal service of process.

However, these court amendments preserved the personal service requirement in hearings for the termination of parental rights (TPR),¹³ and s. 39.801(3), F.S., still requires personal service upon a parent in a TPR advisory hearing.¹⁴ Thus, even if a parent attends the TPR advisory hearing, the court cannot conduct the hearing until DCF personally serves that parent. Previously, when TPR advisory hearings were routinely held in person, this was resolved when DCF personally served the physically-present parent with a physical copy of the petition in the courtroom. However, TPR advisory are now routinely conducted remotely by audio-video communication technology. As a result, DCF staff are not physically present with the parent to serve him or her, and DCF must request continuances from the court until it can complete service by a formal process service—even if the parent is simultaneously attending that TPR hearing remotely.

Permanency Placements

Approximately 59,000 children statewide receive child welfare services. Of those children, roughly 48 percent are in in-home care and 52 percent are in out-of-home care.¹⁵ While these children receive in-home or out-of-home care, which are both temporary solutions by design, DCF develops a permanency plan for each child. Current law specifies the following permanency goals, listed in order of preference:

- Reunification with the child’s family;
- Adoption, if a petition for termination of parental rights has been or will be filed;
- Permanent guardianship under s. 39.6221, F.S.;
- Permanent placement with a fit and willing relative under s. 39.6231, F.S.; or
- Placement in another planned permanent living arrangement under s. 39.6241, F.S.¹⁶

During SFY 2022-2023, 10,686 children exited out-of-home care. The table below shows the number placement type.

Permanency Placements SFY 2022-2023¹⁷

⁸ S. 39.013(1), F.S.; Fla. R. Juv. P. 8.000.

⁹ *M.J.W. v. Fla. Dep’t of Children and Families*, 825 So.2d 1038, 1041 (Fla. 1st DCA 2002).

¹⁰ *Id.*

¹¹ S. 39.502(2), F.S.; Fla. R. Juv. P. 8.225(a)(3)(C).

¹² *In re Amendments to Florida Rules of Juvenile Procedure, Florida Family Law Rules of Procedure, and Florida Supreme Court Approved Family Law Forms*, 356 So.3d 685, 686 (Fla. 2022).

¹³ *Id.* at Appendix, Rule 8.505. Process and Service.

¹⁴ S. 39.801(3)(b), F.S.

¹⁵ *Supra*, FN 4.

¹⁶ S. 39.621(3), F.S.

Reunification	Adoption	Permanent Guardianship	Permanent Placement with a fit and willing relative or in another planned permanent living arrangement
4,645	3,521	1,926	594

Some children living in DCF licensed care do not receive a permanent placement and age out of the system. For a child living in DCF licensed care who reaches age 18 without achieving permanency, the current law gives these young adults the option to remain in DCF licensed care under judicial supervision. If these young adults decide not to continue receiving Extended Foster Care services, then these young adults must actively participate in any one of four self-sufficiency activities:

1. Completing secondary education or a program leading to an equivalent credential;
2. Being enrolled in an institution that provides postsecondary or vocational education;
3. Participating in a program or activity designed to promote or eliminate barriers to employment; or
4. Being employed for at least 80 hours per month.

However, the young adult may be excused from the self-sufficiency activities if the young adult documents a physical, intellectual, emotional, or a psychiatric condition that limits the young adult's full-time participation.¹⁸

The young adult loses eligibility to remain in DCF licensed care on the young adult's 21st birthday (or 22nd for those with disabilities), leave care to live in a permanent home consistent with the young adult's permanency plan, or knowingly and voluntarily withdraws consent to participate in extended care.¹⁹

Background Checks Prior to Child Placement

DCF may not place a child with a person, other than a parent, if the criminal history records check reveals that the person has certain felony convictions.²⁰ Additionally, DCF considers the criminal history of other individuals present in that person's home.

To determine whether any of these individuals have a disqualifying criminal history, DCF conducts a records check. The nature of the review and the standards for placement depend on the age of the individual and the nature of their presence in the home and whether they provide care to the child. These requirements are codified in statute and in rule.

When DCF scrutinizes a proposed placement of a child, under s. 39.0138(1), DCF must conduct a records check of household members.²¹ DCF rule defines a "household member" as "any person who resides in a household, including the caregiver, other family members residing in the home, and adult visitors to the home who provide care of the child outside the parent's sight and/or sound supervision."²²

At a minimum, DCF must conduct records checks for all household members 12 years of age and older through the State Automated Child Welfare Information System (SACWIS), a local law enforcement

¹⁷ Office of Child Welfare Performance and Quality Improvement, *Child Welfare Key Indicators Monthly Report, October 2023*, Florida Department of Children and Families, (Oct. 2023) https://www.myffamilies.com/sites/default/files/2023-11/KI_Monthly_Report_Oct2023.pdf (last visited Jan. 16, 2024). DCF did not breakdown the numbers for permanent placement with a fit and willing relative or placement in another planned permanent living arrangement.

¹⁸ S. 39.6251(1)-(4), F.S.

¹⁹ S. 39.6251(5), F.S.

²⁰ Child abuse, abandonment, neglect, domestic violence, child pornography or other felony in which a child was a victim of the offense, homicide, or sexual battery. Violent felonies are also automatically disqualifying offenses unless the violent felony was felony assault of an adult, felony battery of an adult, or resisting arrest with violence. For these violent felony exceptions, DCF may not place a child with that person, other than a parent, if the felony conviction was within the previous 5 years. Also, a drug-related felony conviction within the previous 5 years subjects the person convicted, other than a parent, to a moratorium on placement approvals.

²¹ S. 39.0138(1), F.S.

²² 65C-30.001(59), F.A.C.

agency, and a statewide law enforcement agency.²³ For all household members age 18 or older, a name check through the National Crime Information Center must be performed when there are exigent circumstances which demand an emergency placement within 72 hours.²⁴ In addition, an out-of-state criminal history records check is mandatory for all household members 18 years of age and older who resided in another state.²⁵ At DCF's discretion, a criminal history records check may include a Level 2 screening and a local criminal records check through local law enforcement agencies of other visitors to the home of the proposed placement.²⁶

DCF must complete the records check with 14 business days after receiving a person's criminal history results, unless additional information is required to complete the processing.²⁷ Applicants must also disclose to DCF any prior or pending local, state, or national criminal proceeding in they are or were involved.²⁸

Florida statute authorizes DCF to place a child in a home that otherwise meets placement requirements if a name check of state and local criminal history records systems does not disqualify the applicant.²⁹ But first, DCF must submit fingerprints to FDLE for FBI review and must be awaiting the results of the state and national criminal history records check.³⁰

The FBI's Criminal Justice Information Law Unit (CJILU) previously authorized access for DCF to conduct fingerprint-based background checks for child placements. In 2020, CJILU deemed s. 39.0138, F.S. inadequate because it found the term "visitor" in the definition of "household member" in DCF rule to be overly broad and the timeframes governing fingerprint-based background checks were not explicitly stated. While DCF retains temporary access to FBI criminal history record information because of a grace period, s. 39.0138, F.S., must be brought into compliance by January 1, 2025, or DCF risks losing access to FBI criminal history record information that is necessary to conduct these background checks.³¹

Emergency Postdisposition Modification of Placement

After the court adjudicates a child dependent, the court determines the most appropriate protections, services, and placement for the child in dependency cases at the disposition hearing.³² However, these decisions may be changed at any time before the child begins residing at the approved permanent placement if DCF or another interested person petitions the court. If the motion made in the petition alleges a need for a change in the conditions of protective supervision or the placement, and if the interim caregiver denies the need for a change, then the court will hold a postdisposition hearing. If the court grants the postdisposition motion, the court will change the placement, modify the conditions of protective supervision, or continue the conditions of protective supervision.³³ In FY 2022-23, the court granted a postdisposition change in custody for 6,672 children.³⁴

However, emergency circumstances may require a child's removal more quickly than the petition process allows, and current law does not include an expedited emergency postdisposition process to modify a child's placement. When DCF assesses that the child is in danger of or has been subject to is abuse, abandonment, or neglect in the current placement, DCF takes physical custody of the child. Without an emergency postdisposition process in current law, DCF can only petition the court for a

²³ S. 39.0138(1), F.S.

²⁴ 65C-28.011(1)(e), F.A.C.

²⁵ *Id.* The foreign state's jurisdiction may or may not allow the release of such records.

²⁶ *Id.*

²⁷ *Id.*

²⁸ S. 39.1038(6), F.S.

²⁹ S. 39.0138(5), F.S.

³⁰ *Id.*

³¹ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 3 (Dec. 15, 2023).

³² *See* S. 39.01(24), F.S.

³³ S. 39.522(2), F.S. To evaluate arguments at a postdisposition hearing, the court uses the best interest of the child standard factors in s. 39.01375, F.S.

³⁴ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 6 (Dec. 15, 2023).

shelter hearing, which is the initial stage of dependency and thus inappropriate given that the child is in the later stage of dependency proceedings, having already been sheltered and in DCF custody.³⁵

Permanent Guardianship

Permanent guardianships promote the child's best interests when the child needs a nurturing, stable environment outside the home of their parents. An alternative to adoption, permanent guardianships preserve the legal parent-child relationship while physical custody rights to the child transfer from DCF to a legal caregiver. This permanency option maintains the child's inheritance rights, the parents' right to consent to a child's adoption, and the parents' responsibilities to provide financial, medical, and other support to the child.³⁶

Guardianship Assistance Program

DCF operates the Guardianship Assistance Program to provide guardianship assistance payments to the child's permanent guardian. DCF establishes a permanent guardian's eligibility for guardianship assistance payments once all of the following requirements are met:

- The court approved the child's placement with the permanent guardian.
- The court granted legal custody to the permanent guardian.
- The permanent guardian is licensed to care for the child as a foster parent.
- The child retained eligibility for foster care room and board payments for at least 6 consecutive months while the child resided in the home of the permanent guardian so long as the permanent guardian is licensed to care for the child as a foster parent.³⁷

Once the permanent guardian formalizes a guardianship agreement with DCF for a child adjudicated dependent, the permanent guardian may also receive guardianship assistance payments for that child's sibling(s). The sibling(s) adjudicated dependent because of child abuse, neglect, or abandonment are covered so long as the sibling(s) are also placed with the permanent guardian.³⁸

Generally, DCF remits guardianship assistance payments in the default amount of \$4,000 annually, paid on a monthly basis. However, the permanent guardian and DCF may set a different amount memorialized in their Guardianship Assistance Agreement and adjust that amount from time to time based on changes in the needs of the child or the circumstances of the permanent guardian.³⁹

Current law extends guardianship assistance payments beyond the child's 18th birthday in certain situations. First, the child's permanent guardian needs to create an initial Guardianship Assistance Agreement with DCF during the period between the child's 16th birthday and 18th birthday. Second, the child must actively perform any one of four self-sufficiency activities until the child's 21st birthday. These four self-sufficiency activities are as follows:

1. Completing secondary education or a program leading to an equivalent credential;
2. Being enrolled in an institution that provides postsecondary or vocational education;
3. Participating in a program or activity designed to promote or eliminate barriers to employment;
or
4. Being employed for at least 80 hours per month.

However, the child may be excused from the self-sufficiency activities if the child has a documented physical, intellectual, emotional, or a psychiatric condition that limits the child's full-time participation.⁴⁰

³⁵ *Id.*

³⁶ S. 39.6221(6), F.S.

³⁷ S. 39.6225(2), F.S.

³⁸ S. 39.6225(3), F.S.

³⁹ S. 39.6225(5)(d), F.S.

⁴⁰ S. 39.6225(9), F.S.

Finally, a child or young adult receiving benefits through the guardianship assistance program is not eligible to simultaneously receive relative caregiver benefits under s. 39.5085, F.S., postsecondary education services and supports under s. 409.1451, F.S., or child-only cash assistance under Chapter 414.⁴¹

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Successor Guardians

If a permanent guardian named a DCF-approved successor guardian on the child's guardianship assistance agreement, current law states a court must let a 6-month interim period elapse before the child can be permanently placed with a successor guardian.⁴⁴

Subject to DCF approval, a permanent guardian may formally nominate a successor guardian to assume care and responsibility for the child if the permanent guardian can no longer do so.⁴⁵ The permanent guardian nominates a successor guardian on the written Guardianship Assistance Agreement with DCF.⁴⁶ As a prerequisite of nomination and approval, the successor guardian must successfully complete a number of criminal, delinquency, and abuse/neglect history checks.⁴⁷ Should events occur that activate the successor guardian, the successor guardian must have a home study completed and approved before the child's placement with the successor guardian.⁴⁸

The successor guardian is not required to be a relative, fictive kin, or licensed caregiver.⁴⁹

Adoption of Children from the Child Welfare System

DCF, a CBC lead agency, or the CBC's subcontracted agency may field an initial inquiry from a prospective adoptive parent who seeks to learn about the adoption of children adjudicated dependent. Upon initial inquiry, an agency must respond to the prospective adoptive parent within 7 business days with information about the adoption process and the requirements for adopting a child adjudicated dependent.⁵⁰

When the prospective adoptive parent articulates an interest in adopting a child adjudicated dependent, one of the agencies must refer the prospective adoptive parent to a DCF-approved adoptive parent training program.⁵¹ To adopt, the prospective adoptive parent must complete the training program,⁵² a DCF adoption application, and a home study.⁵³ The home study component is two parts: the preliminary home study and the final home investigation. A favorable preliminary home study allows

⁴¹ S. 39.6225(5)(a), F.S.

⁴² S. 39.6225(9), F.S.

⁴³ S. 39.6225(5)(a), F.S.

⁴⁴ S. 39.6221(1), F.S.

⁴⁵ R. 65C-44.001(6), 65C-44.0045, F.A.C.

⁴⁶ R. 65C-44.004, F.A.C.

⁴⁷ R. 65C-44.0045, F.A.C.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ S. 63.093(1), F.S.

⁵¹ S. 63.093(2), F.S.

⁵² The following prospective adoptive parents are not required to complete the training program: a licensed foster parent or an eligible caregiver. An eligible caregiver attended a training program within the past 5 years, had the child for at least 6 months, and can demonstrate a determination to understand the challenges and parenting skills needed to successfully parent the child who is available for adoption.

⁵³ Ss. 63.093(2)-(4), F.S.

the child adjudicated dependent to be placed in the intended adoptive home – pending the trial court’s entry of the judgment of adoption.⁵⁴ A preliminary home study must include at a minimum an interview, a records checks, a physical home environment assessment, a financial security determination, and other required documentation.⁵⁵ The final home investigation must be conducted before the adoption becomes final.⁵⁶ The final home investigation determines the suitability of the adoptive placement with two scheduled visits and vets the applicant’s social and medical history.⁵⁷

Afterwards, one of the agencies must evaluate the applications through a preparation process prescribed by rule⁵⁸ and must decide the applicant’s appropriateness to adopt.⁵⁹ This decision must reflect the final recommendation included in the adoptive home study and must be rendered within 14 business days after receipt of the final recommendation.⁶⁰

The average length of time from a child being sheltered to the termination of parental rights (TPR) is 18 months. The average length of time from TPR to finalizing an adoption is 12 months. Thus, a child adjudicated dependent spends an average of 2.5 years in the dependency court before exiting through adoption. In June 2023, approximately 4,700 children adjudicated dependent were available for adoption. By December 2023, 3,300 of those children were matched and/or placed with caregivers who wanted to adopt.⁶¹

The Statewide Adoption Exchange

The federal Social Security Act Title IV-E conditions federal payments for foster care, prevention, and permanency upon DCF demonstrating proof that they are meeting a variety of requirements. Regarding the permanency goal of adoption, DCF must document how it is attempting to find an adoptive family for a child. At a minimum, such documentation must include child specific recruitment efforts through an electronic state, regional, or national adoption exchange that facilitates orderly and timely in-State and interstate placements.⁶²

The federal Child Abuse Prevention and Treatment and Adoption Reform Act (CAPTA) also reflects a focused effort, in part, to eliminate barriers to adoptions across jurisdictional boundaries. The HHS Secretary must award CAPTA grants to states that carry out initiatives to this end. These CAPTA grants supplement, and do not supplant, efforts to expand the capacity of all adoption exchanges to serve increasing numbers of children.⁶³

In Florida, current law directs DCF to establish, directly or through purchase, a statewide adoption exchange. All DCF-licensed child placing agencies must receive access to the statewide adoption exchange as a means to recruit adoptive families for children legally freed for adoption and who have

Adoption of Orphaned Children

A child adjudicated dependent under Chapter 39 can be a child who was abandoned because they lack a parent or legal custodian capable of providing supervision and care.⁶⁴ When orphaned children are adjudicated dependent, there is no statutory mechanism to permanently commit the child to DCF for the purposes of adoption because an orphaned child’s parent(s) did not abandon them.⁶⁵ As Chapter 39 defines abandonment, abandonment means the parent made “no significant contribution to the

⁵⁴ S. 63.092(3), F.S.

⁵⁵ *Id.* A preliminary home study must document the counseling and education of the applicant(s) on adoptive parenting, that an agency provided the applicant(s) with information about the adoption process and community support services, and signed copies acknowledging receipt of required agency disclosures.

⁵⁶ S. 63.125(1), F.S.

⁵⁷ S. 63.125(5), F.S.

⁵⁸ R. 65C-16.005, F.A.C.

⁵⁹ S. 63.093(5), F.S.

⁶⁰ S. 63.093(5), F.S.

⁶¹ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 11 (Dec. 15, 2023).

⁶² 42 U.S.C. § 675(1)(E)

⁶³ 42 U.S.C. § 5113(e)

⁶⁴ S. 39.01(14)(e), F.S.

⁶⁵ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 4 (Dec. 15, 2023); see s. 39.01(1), F.S.

child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both."⁶⁶

Instead, dependency court judges rely on their inherent authority to enter any order in the child's best interest to permanently commit the child for adoption.⁶⁷

A judgment of adoption relieves the birth parents of all parental rights and responsibilities, terminates all legal relationships between the adopted person and their birth parents and relatives, and creates a familial and legal relationship between the adopted person, the adoptive parent, and the adoptive parent's relatives.⁶⁸ Notably, the adopted person lacks intestate⁶⁹ inheritance rights to the petitioner's estate.⁷⁰ Meanwhile, the Florida Probate Code may preserve the adopted person's intestate inheritance rights to their birth parents' estate.⁷¹

For orphaned children, a judgment of adoption may produce a different outcome. For example, if an orphaned child is adopted by a close relative, the child's right of inheritance from or through the deceased parents is unaffected by the close relative adoption.⁷² However, in all other cases, current law requires a court order granting the termination of parental rights (TPR) as a requirement to non-close relative adoptions because the orphaned child is considered dependent for Chapter 39 purposes.⁷³ Complicating matters, a TPR court order generally requires a judicial finding of harmful parental behavior towards the child.⁷⁴ Also, while living parents may voluntarily surrender their parental rights over a child by written consent,⁷⁵ deceased parents cannot consent. Furthermore, current law authorizes a court to waive the consent of certain individuals to an adoption, but none of those individuals include deceased parents.⁷⁶

This current technical shortcoming in Florida statute means DCF lacks statutory authorization to secure legal custody of orphaned children for purposes of a permanent placement through a court order.⁷⁷

Legal Challenges to Denied Adoption Petitions

When DCF receives the custodial rights of a child adjudicated dependent, DCF may seek an adoption placement for the child through its contracted CBCs if the court establishes adoption as the child's permanency goal. When there are two or more families with approved home studies, DCF's rules route these competing applications through a CBC's adoption applicant review committee (AARC) for a non-binding recommendation.⁷⁸ When a CBC's AARC offers the adoption recommendation to DCF, DCF reviews and issues its consent to one applicant while communicating its denial to the other applicant(s) through certified letter.⁷⁹

Unsuccessful applicants get an opportunity to challenge DCF's decision under Florida's Administrative Procedure Act (APA).⁸⁰ If an unsuccessful applicant only contests DCF's reasoning, the unsuccessful applicant may request an informal hearing with a designated hearing officer at the agency.⁸¹ A final

⁶⁶ S. 39.01(1), F.S.

⁶⁷ *G.S. v. T.B.*, 985 So.2d 978, 982 (Fla. 2008).

⁶⁸ S. 63.172(1), F.S.

⁶⁹ When a person dies intestate, that person died without a valid will. When this happens, the state's intestate law predetermines how the deceased person's estate will be distributed. See Bryan Gardner, *Intestate Law*, Black's Law Dictionary (11th ed. 2019) (Accessed Westlaw Dec. 22, 2023).

⁷⁰ S. 63.172(1)(c), F.S.

⁷¹ S. 63.172(1)(b), F.S.

⁷² S. 63.172(2), F.S.

⁷³ See s. 39.621(3)(b), F.S.

⁷⁴ S. 39.806(1), F.S.

⁷⁵ S. 39.806(1)(a), F.S.

⁷⁶ S. 63.064, F.S.

⁷⁷ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 4 (Dec. 15, 2023).

⁷⁸ R. 65C-16.005(9), F.A.C.

⁷⁹ These certified letters represent final agency action for purposes of Florida's Administrative Procedure Act.

⁸⁰ *Fla. Dep't of Children and Family Services v. I.B. and D.B.*, 891 So.2d 1168, 1170 (Fla. 1st DCA 2005) (The Administrative Procedure Act confers an unsuccessful adoption applicant with the right to a hearing wherein they have an opportunity to change the agency's mind).

⁸¹ S. 120.57(2), F.S.

order is due within 90 days after the conclusion of an informal hearing.⁸² If an unsuccessful applicant contests a material fact underlying DCF’s decision, the unsuccessful applicant may petition for a formal hearing before an administrative law judge (ALJ) assigned by the Division of Administrative Hearings (DOAH).⁸³ The DOAH ALJ submits to DCF and all parties a non-binding, recommended order – complete with an established factual record, conclusions of law, and the suggested outcome.⁸⁴ Then, DCF may adopt the ALJ’s recommended order as the final order or advance its own final order within 90 days.⁸⁵

From 2021 through 2022, the average length of time between the receipt of a hearing request and entry of a final order was 161 days.⁸⁶ The chart below surveys administrative challenges to denied adoption petitions:⁸⁷

Year	DCF Decisions Made After APA Review	CBC AARC Decisions Overturned by these DCF Decisions	DCA Appeals	DCF Decisions After APA Review Overturned through DCA Appeals
2019	58	0	2	0
2020	46	0	4	0
2021	42	1	2	0
2022	41	1	1	0
2023	41	1	1	0

As the chart suggests, a party who is adversely affected by final agency action is entitled to judicial review.⁸⁸ Generally, the unsuccessful applicant must appeal DCF’s adoption decision to the First District Court of Appeals (the appellate district where DCF maintains its headquarters) or the appellate district of the party’s residence.⁸⁹ From 2021 through 2022, the average additional delay created when an unsuccessful applicant appeals a DCF adoption decision to the appellate court was 323 days.⁹⁰

Meanwhile, the original dependency trial court retains jurisdiction over a child adjudicated dependent until the child is adopted. This means the trial court can review the status of the child and the progress towards an adoption placement. In addition, for good cause shown by the guardian ad litem for the child, the trial court may review the appropriateness of a proposed adoptive placement for the child.⁹¹

Current law empowers a denied adoption applicant to file a petition with the court to argue DCF unreasonably withheld agency consent for the applicant to adopt the child. Along with the petition, the denied adoption applicant must also file a favorable preliminary adoptive home study. If the trial court agrees with the petitioner that DCF unreasonably withheld agency consent for the applicant to adopt the child, then the court waives DCF consent.⁹² Fundamentally, DCF’s consent to an adoption is not a prerequisite to the trial court’s authority to finalize an adoption.⁹³ Rather, the court’s orders must advance the best interests of the child and the legislative goal of expeditiously providing a stable and permanent home for the child.⁹⁴

State Adoption Subsidies

⁸² S. 120.56(2)(l), F.S.

⁸³ S. 120.57(1)(a), F.S.

⁸⁴ S. 120.57(1)(k), F.S.

⁸⁵ Ss. 120.56(2)(l), 120.57(1)(l), F.S.

⁸⁶ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 10 (Dec. 15, 2023).

⁸⁷ *Id.*

⁸⁸ S. 120.68(1)(a), F.S.

⁸⁹ S. 120.68(2)(a), F.S.

⁹⁰ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 1083, p. 10 (Dec. 15, 2023).

⁹¹ S. 39.812(4), F.S.

⁹² S. 63.062(7), F.S.

⁹³ *B.Y. v. Fla. Dep’t of Children and Families*, 887 So.2d 1253, 1257 (Fla. 2004).

⁹⁴ *Id.*

The Maintenance Adoption Subsidy

Current law makes adoption assistance available to prospective adoptive parents to enable them to adopt difficult-to-place children.⁹⁵ A difficult-to-place child is a child:

1. adjudicated dependent remaining in the permanent custody of DCF of a licensed child-placing agency;
2. adjudicated dependent who established significant emotional ties with the foster parents or is unlikely to be adopted for certain reasons;⁹⁶ or
3. for whom a reasonable but unsuccessful effort was made to place that child without providing a maintenance subsidy.⁹⁷

Adoption assistance may include a maintenance subsidy, medical assistance, Medicaid assistance, reimbursement of nonrecurring expenses associated with adoption, and a tuition exemption at a postsecondary education institution.⁹⁸ As to the maintenance subsidy, DCF grants this monthly payment when all other resources available to a child were thoroughly explored, and it can be clearly established that the maintenance subsidy is the most acceptable plan for securing a permanent placement for the child.⁹⁹

As a condition of receiving adoption assistance, the adoptive parents must have an approved adoption home study and an adoption assistance agreement with DCF before the adoption is finalized.¹⁰⁰ Generally, the default maintenance subsidy is \$5,000/year, paid on a monthly basis, for the support and maintenance of a child until the child's 18th birthday. However, the adoptive parents and DCF may set a different amount memorialized in their Adoption Assistance Agreement and adjust that amount from time to time based on changes in the needs of the child or the circumstances of the adoptive parents.¹⁰¹

Current law extends maintenance subsidy payments beyond the child's 18th birthday in certain situations. First, the child's adoptive parents need to create an initial Adoption Assistance Agreement with DCF during the period between the child's 16th birthday and 18th birthday. Second, the child must actively be involved in any one of four self-sufficiency activities until the child's 21st birthday. These four self-sufficiency activities include:

1. Completing secondary education or a program leading to an equivalent credential;
2. Being enrolled in an institution that provides postsecondary or vocational education;
3. Participating in a program or activity designed to promote or eliminate barriers to employment;
or
4. Being employed for at least 80 hours per month.

However, the child may be excused from the self-sufficiency activities if the child has a documented physical, intellectual, emotional, or a psychiatric condition that limits the child's full-time participation.¹⁰²

Finally, a child or young adult receiving benefits through the adoption assistance program is not eligible to simultaneously receive relative caregiver benefits under s. 39.5085, F.S. or postsecondary education services and supports under s. 409.1451, F.S.

⁹⁵ S. 409.166(1), F.S.

⁹⁶ These reasons could be that child is 8 years of age or older, developmentally disabled, physically or emotionally handicapped, a member of a racial group that is disproportionately represented among children adjudicated dependent, and/or a member of a sibling group of any age if two or more members of a sibling group remain together for purposes of adoption.

⁹⁷ S. 409.166(2)(d), F.S.

⁹⁸ S. 409.166(2)(a), F.S.

⁹⁹ S. 409.166(4)(b), F.S.

¹⁰⁰ S. 409.166(5)(a), F.S.

¹⁰¹ S. 409.166(4)(c), F.S.

¹⁰² S. 409.166(4)(d), F.S.

Transition to Adulthood

Young adults who age out of the foster care system more frequently have challenges achieving self-sufficiency compared to young adults who never came to the attention of the foster care system. Young adults who age out of the foster care system are less likely to earn a high school diploma or GED and more likely to have lower rates of college attendance.¹⁰³ They have more mental health problems, have a higher rate of involvement with the criminal justice system, and are more likely to have difficulty achieving financial independence.¹⁰⁴ These young adults also have a higher need for public assistance and are more likely to experience housing instability and homelessness.¹⁰⁵

In federal fiscal year 2021, the federal Children’s Bureau within the U.S. Department of Health & Human Services reported 46,694 teens and young adults entered foster care in the United States,¹⁰⁶ with 2,167 teens and young adults entering Florida’s foster care system.¹⁰⁷ The Children’s Bureau also collects information and outcomes on youth and young adults currently or formerly in foster care who received independent living services supported by federal funds.¹⁰⁸ To this end, the Children’s Bureau’s National Youth in Transition Database (NYTD) representation tracks the independent living services each state provides to foster youth in care and assesses each state’s performance in providing independent living and transition services.

DCF will establish its fifth NYTD report (Oct. 2022 – Sept. 2023) that surveys youth in Florida’s foster care system beginning on their 17th birthday.¹⁰⁹ In the interim, the most recent Florida NYTD available on DCF’s website is the 2018 report.¹¹⁰ In the chart below, the 2018 Florida NYTD documented outcomes related to education, employment, housing, finances and transportation, health and well-being, and connections:¹¹¹

Outcomes of Young Adults who Aged Out of Care	
Area	Outcome
Education	<ul style="list-style-type: none">74% were enrolled in and attending high school, GED classes, post-high school vocational training, or college.12% experienced barriers that prevented them from continuing education. The top three reported barriers included the need to work full-time, not having transportation, and having academic difficulties.
Employment	<ul style="list-style-type: none">15% were employed full-time (35 hours per week or more).26% were employed part-time.78% had a paid job over the last year.22% completed an apprenticeship, internship, or other on-the-job training, either paid or unpaid.

¹⁰³ Gypen, L., Vanderfaillie, J., et al., “Outcomes of Children Who Grew Up in Foster Care: Systematic-Review”, *Children and Youth Services Review*, vol. 76, pp. 74-83, <http://dx.doi.org/10.1016/j.childyouth.2017.02.035> (last visited November 30, 2023).

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ Children’s Bureau, *The Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2021 data*, U.S. Department of Health and Human Services, p. 2, June 28, 2022, <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-report-29.pdf> (last accessed Dec. 3, 2023).

¹⁰⁷ Children’s Bureau, *The Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2021 data: Florida*, U.S. Department of Health and Human Services, p. 1, June 28, 2022, <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-tar-fl-2021.pdf> (last accessed Dec. 3, 2023).

¹⁰⁸ Children’s Bureau, *Data and Statistics: National Youth in Transition Database*, U.S. Department of Health & Human Services, https://www.acf.hhs.gov/cb/data-research/data-and-statistics-nytd#FL_26606 (last visited Dec. 3, 2023).

¹⁰⁹ Florida Department of Children and Families, *Independent Living Services Annual Report*, Office of Child Welfare, Feb. 2023, p. 15 https://www.myflfamilies.com/sites/default/files/2023-07/Independent_Living_Services_Report_2022.pdf (last visited Dec. 4, 2023).

¹¹⁰ Florida Department of Children and Families, *Annual Reports for Independent Living*, Child and Family Services, <https://www.myflfamilies.com/services/child-family/independent-living/annual-reports-for-independent-living> (last visited Dec. 4, 2023).

¹¹¹ Florida Department of Children and Families, *Florida National Youth in Transition Database, 2018 Survey Data Report*, <https://www.myflfamilies.com/sites/default/files/2023-06/2018%20Florida%20NYTD%20Statewide%20Report%20Final.pdf> (last visited Dec. 4, 2023).

<p>Housing</p>	<ul style="list-style-type: none"> • The top three current living situations included living in their own apartment, house, or trailer; living with friends or a roommate; and living in a group care setting (including a group home or residential care facility). • 41% had to couch surf or move from house to house because they did not have a permanent place to stay. • 27% experienced some type of homelessness in the past year.¹¹²
<p>Financial & Transportation</p>	<ul style="list-style-type: none"> • 46% received public food assistance. • 10% received social security payments (Supplemental Security Income, Social Security Disability Insurance, or dependents' payments). • 83% had a reliable means of transportation to school/work. • 76% had an open bank account.
<p>Health & Well-Being</p>	<ul style="list-style-type: none"> • 85% were on Medicaid. • 18% had children. • 34% had not received medical care for a physical health problem, treatment for a mental health problem, or dental care in the past two years for some health problem needing to be addressed. • 24% were confined in a jail, prison, correctional facility, or juvenile detention facility within the past two years.
<p>Connections</p>	<ul style="list-style-type: none"> • 85% had at least one adult in their life, other than their case manager, to go to for advice or emotional support. • 67% had a close relationship with biological family members.

Florida's Road-to-Independence Program

Current law offers financial assistance to eligible young adults who desire the acquisition of skills, education, and necessary support to become self-sufficient and exit foster care. Eligible young adults access financial assistance through postsecondary education services and support (PESS) or aftercare services.¹¹³

PESS

The PESS stipend helps eligible young adults seek higher education and self-sufficiency. A young adult becomes PESS eligible once eight criteria are met:

1. A former foster youth who is in one of three situations:
 - a. Turned 18 years of age while in the legal custody of DCF,
 - b. Adopted from foster care after the age of 16 after spending at least 6 months in licensed care within the 12 months immediately preceding the adoption, or
 - c. Placed with a court-approved permanent guardian after the age of 16 after spending at least 6 months in licensed care within the 12 months immediately preceding the permanent guardianship.
2. Spent at least 6 months in licensed care before reaching their 18th birthday.
3. Earned a standard high school diploma or its equivalent.
4. Admitted for enrollment as a full-time student¹¹⁴ at an eligible Florida Bright Futures postsecondary educational institution.
5. Reached the age of 18 but is not yet 23 years of age.
6. Applied for other grants and scholarships that the eligible young adult qualifies for.

¹¹² *Id.*

¹¹³ S. 409.1451(1)(c), F.S.

¹¹⁴ Students may enroll part-time if they have a recognized disability or if they secure approval from their academic advisor relating to a challenge or circumstance preventing full-time enrollment. Otherwise, full-time enrollment requires 9 credit hours or the vocational school equivalent.

7. Submitted a complete and error-proof Free Application for Federal Student Aid.
8. Signed an agreement to allow DCF and the CBC lead agency access to school records.¹¹⁵

After establishing eligibility, DCF determines the PESS stipend amount. Generally, the PESS stipend amount is \$1,720/month. However, if the young adult remains in foster care while attending a postsecondary school and resides in a licensed foster home, the monthly PESS stipend amount is the established room and board rate for foster parents. If the young adult remains in foster care while attending a postsecondary school and resides in a licensed group home, the monthly PESS stipend amount is negotiated between the CBC lead agency and the licensed group home provider.¹¹⁶

Before an eligible young adult receives the PESS stipend, DCF or its contracted agency must assess the young adult's financial literacy and existing competencies necessary for successful independent living and the completion of postsecondary education.¹¹⁷ Eligible young adults receive financial assistance during the months when they are enrolled in a postsecondary education institution.¹¹⁸

¹¹⁵ S. 409.1451(2)(a), F.S.

¹¹⁶ S. 409.1451(2)(b), F.S.

¹¹⁷ S. 409.1451(2)(d), F.S.

¹¹⁸ S. 409.1451(2)(b), F.S.

Aftercare Services

Aftercare services are intended to bridge gaps in an eligible young adult's progress towards self-sufficiency. A young adult establishes eligibility for aftercare services if the young adult meets three criteria:

1. Reached the age of 18 while in licensed foster care, but is not yet 23 years of age.
2. Is not in Extended Foster Care pursuant to s. 39.6251, F.S.
3. Temporarily not receiving a PESS stipend.¹¹⁹

Aftercare services include, but are not limited to, the following:

1. Mentoring and tutoring.
2. Mental health services and substance abuse counseling.
3. Life skills classes, including credit management and preventive health activities.
4. Parenting classes.
5. Job and career skills training.
6. Counselor consultations.
7. Temporary financial assistance for necessities.
8. Temporary financial assistance for emergencies like automobile repairs or large medical expenses.
9. Financial literacy skills training.¹²⁰

DCF or a CBC lead agency determines the specific aftercare services provided to eligible young adults after an assessment.¹²¹ The resulting aftercare services plan is reassessed every 90 days.¹²² Subject to available funding, aftercare services are available to PESS stipend grantees who experience an emergency situation and whose resources are insufficient to meet the emergency situation.¹²³

DCF reports that Florida experienced a 13% increase in the total number of young adults receiving independent living services for state fiscal year (SFY) 2022-2023 compared to SFY 2021-2022. The table below itemizes the number of young adults served in each Independent Living program by each CBC Lead Agency during the past two state fiscal years (SFYs):

¹¹⁹ S. 409.1451(3)(a), F.S.; R. 65C-42.003(1), F.A.C.

¹²⁰ S. 409.1451(3)(b), F.S.

¹²¹ S. 409.1451(3)(b), F.S.

¹²² R. 65C-42.003(8), F.A.C.

¹²³ S. 409.1451(3)(a), F.S.

Lead Agency	2021-2022			2022-2023		
	Aftercare	EFC	PESS	Aftercare	EFC	PESS
Brevard Family Partnership	28	33	14	27	104	11
ChildNet Inc	22	166	112	24	166	112
ChildNet Palm Beach	14	126	68	11	118	62
Children's Network of SW Florida	8	41	58	8	65	34
Citrus Health Network	39	229	198	48	269	186
Communities Connected for Kids	16	28	25	11	28	26
Community Partnership for Children	8	49	37	16	76	47
Family Support Services Suncoast	42	104	62	49	105	55
Children's Network Hillsborough	57	87	40	57	146	60
Embrace Families	32	117	58	38	145	57
Families First Network	12	98	28	11	100	19
St Johns County Commission	5	12	8	0	12	8
Family Support Services	36	97	33	23	107	31
Heartland for Children	32	79	23	37	91	29
Kids Central Inc	39	28	27	54	54	39
Kids First of Florida Inc	0	16	10	0	27	13
NWF Health Network-East	16	55	35	19	67	27
Partnership for Strong Families	10	16	12	6	16	5
Safe Children Coalition	17	37	16	29	37	16
Statewide	433	1,418	864	467	1,733	857

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Effect of the Bill

Records Check Process

To preserve DCF's access to the FBI's criminal history records database, Florida must bring DCF's record checks process into federal compliance. PCS for HB 1083 requires the following:

- *Household Members:*
 - For emergency out-of-home care placements to benefit sheltered children, DCF to conduct a name-based criminal history records check of all adult members of a household.
 - Once DCF determines no household member is disqualified after the records check, the bill authorizes DCF to place the child in that household.
 - Unless an exemption applies, the bill requires all adult household members to subsequently submit a full set of fingerprints which the Florida Department of Law Enforcement (FDLE) must receive within 7 calendar days after the records check.
 - Then, the bill requires FDLE to forward the fingerprints to the Federal Bureau of Investigation for national processing within 15 calendar days after the records check.
 - Should an adult household member fail to submit their fingerprints within 15 calendar day after the records check, the bill requires DCF to seek a court order to immediately remove the child from the emergency out-of-home care placement.
- *Visitors to the Household:*

¹²⁴ Department of Children and Families, *Department of Children and Families Response to the Independent Living Services Advisory Council 2023 Annual Report*, p. 6 (Dec. 31, 2023) <https://www.myflfamilies.com/services/child-family/lmr> (last visited Jan. 4, 2023). EFC is the acronym for Extended Foster Care and is beyond the scope of this bill.

- The bill adds a chapter-wide definition of visitor in s. 39.01, F.S. For Chapter 39 purposes, the bill defines a “visitor” as a person who provides care or supervision to a child the home or is person 12 years of age or older who will be in the child’s home at least five consecutive days or a minimum of seven days total for any one-month period.
- With this new definition in mind, the bill requires DCF to conduct a name-based check of criminal history records of all visitors to the home.
- As a matter of discretion, the bill authorizes DCF to require a local criminal record check of all visitors to the home who are at least 18 years of age as an optional add-on component of the department’s records check process.

The bill modernizes the name of DCF’s record checks system to the Comprehensive Child Welfare Information System.

Orphaned Children Adjudication Process

The bill creates a formal process to adjudicate orphaned children dependent tailored to their situation.

- The bill authorizes an attorney for DCF, or any other person with factual or sourced knowledge of the allegations and who believes those allegations, to commence a Chapter 39 dependency proceeding if both parents of a child are deceased or the last known living parent of a child is deceased and the child did not receive an appointed legal custodian.
- In the event a child previously adjudicated dependent later becomes an orphan, the bill allows an interested party to file a petition for permanent commitment as a petition for adjudication is not necessary.
- The bill requires a petition for adjudication or permanent commitment of an orphaned child to include the following details in writing:
 - Identity of the allegedly deceased parents.
 - A factual basis that both parents are deceased or the last known living parent is deceased.
 - A factual basis that the child has not receive an appointed legal custodian.
- The bill requires the petitioner to sign a petition under oath affirming the petition was filed in good faith.
- The bill prescribes the procedural process for scheduling hearings, noticing required parties, conducting hearings, ruling on evidence, finalizing court orders, and developing case plans.

Emergency Process for Modifying a Child’s Permanent Placement

The bill establishes a process to make emergency changes of placement for children whom the dependency court initially transferred the physical custody rights to the child from DCF to the permanent placement.

Specifically, the bill establishes the following procedural process:

- The bill allows a child’s case manager, an authorized agent of DCF, and law enforcement officers to remove a child from a court-ordered placement at any time after the child’s authorized caregiver requests the child’s immediate removal from the placement.
- Separately, the bill authorizes DCF and law enforcement officers to remove a child from a placement if they have probable cause:
 - That a placed child was abused, neglected, or abandoned, or
 - That a placed child currently suffers from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment.

- The bill prescribes the procedural process for the court to render the appropriate court order based on the facts and circumstances of the case for the purpose of finding a new placement for the child.

Changes a Placement with a Permanent Guardian

The bill cuts the minimum duration of the interim period before a child can be permanently placed with a successor guardian from 6 months to 3 months. The bill also requires the successor guardian to be known to the child.

Age Eligibility Threshold Programs for Formerly Dependent Young Adults

The bill amends the age eligibility threshold for the extended guardianship assistance payment (EGAP), the extended maintenance adoption subsidy (EMAS), and the PESS programs by lowering the child's minimum eligibility age from 16 to 14. In addition, the bill allows young adults who qualify for, but do not participate in, the EGAP or EMAS programs to access aftercare services instead.

As illustrated by the table below, DCF projects participation in EGAP, EMAS, PESS, and aftercare services will increase as follows.

Program	Increased Eligible Population	Estimated Increase in Participation
EGAP	782	235
EMAS	550	165
PESS	351	71
Aftercare Services	1,835	275
Totals	3,518	746

Service of Process Waiver in TPR Proceedings

In advisory proceedings for the termination of parental rights, the bill authorizes the court to waive the service of process on any person if that person personally appears in court. The bill will enable the trial court to commence the TPR advisory proceeding without need for a continuance if the person on whom process is required makes a personal appearance, whether that person is physically present in the courtroom or remotely present in the courtroom by audio-video communication technology.

Adoption Appeal Process

The bill streamlines the process to resolve competing claims of prospective adoptive parents who were denied petitions to adopt. Specifically, the bill:

- grants the dependency trial court exclusive discretion to review DCF's denial of a petitioner's application to adopt a child.
- expressly eliminates the petitioner's access to administrative review under Chapter 120.
- prescribes the procedural process for the court to review a denied application to adopt.
 - While DCF must file a written notification of the denied application with the court and provide copies to all parties within 10 business days after DCF's decision, the court does not hold a hearing about the denial until the unsuccessful applicant files a motion to review.
 - If the court denies the unsuccessful applicant's motion to review, the bill authorizes DCF to remove the child from the unsuccessful applicant's home.
- requires the petition of adoption to include two items:
 - a favorable preliminary adoptive home study, and
 - an attached copy of DCF's consent to adopt unless the court waives the attached copy requirement upon a finding that DCF unreasonably withheld their consent to adopt.

DCF estimates these particular reforms will shave an average of 116 days of delay in the current permanency process.

Statewide Adoption Exchange Platform

The bill restricts public access to the online profiles of children available for adoption. It allows only prospective adoptive parents who completed or are completing an adoptive home study to access these online profiles, and no other members of the public are afforded access.

Any child who is 12 years of age or older may request that a specific photo be used for that child's photo listing and must be consulted during the development of the child's description.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amending s. 39.01, F.S., relating to definitions.

Section 2: Amending s. 39.0138, F.S., relating to criminal history and other records checks; limit on placement of a child.

Section 3: Creating s. 39.5035, F.S., relating to deceased parents; special procedures.

Section 4: Amending s. 39.522, F.S., relating to postdisposition change of custody.

Section 5: Amending s. 39.6221, F.S., relating to permanent guardianship of a dependent child.

Section 6: Amending s. 39.6225, F.S., relating to the guardianship assistance program.

Section 7: Amending s. 39.801, F.S., relating to procedures and jurisdiction; notice; service of process.

Section 8: Amending s. 39.812, F.S., relating to postdisposition relief; petition for adoption.

Section 9: Amending s. 63.062, F.S., relating to persons required to consent to adoption; affidavit of nonpaternity; waiver of venue.

Section 10: Amending s. 63.093, F.S., relating to adoption of children from the child welfare system.

Section 11: Amending s. 409.1451, F.S., relating to the road-to-independence program.

Section 12: Amending s. 409.166, F.S., relating to children within the child welfare system; adoption assistance program.

Section 13: Amending s. 409.167, F.S., relating to statewide adoption exchange; establishment; responsibilities; registration requirements; rules.

Section 14: Providing an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill amends the eligibility criteria for the three Independent Living programs by lowering the age of eligibility from age 16 to age 14 for both the EMAS/EGAP and the PESS program. It also expands the population that is eligible for Aftercare services. The department expects these changes to result in additional youth being served and to require an additional \$8,110,140 for all three Independent Living programs (EMAS/EGAP - \$3,216,000; PESS - \$1,465,440; Aftercare - \$3,428,700).

The House proposed General Appropriations Act for FY 2024-25 (GAA) includes an additional \$8,110,140 to DCF for the increased costs anticipated with the expanded eligibility of the Independent Living programs. The funding in the GAA is contingent upon HB 1083, or substantially similar legislation, becoming a law.

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:

DCF has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to permanency for children; amending
3 s. 39.01, F.S.; defining the term "visitor"; amending
4 s. 39.0138, F.S.; renaming the "State Automated Child
5 Welfare Information System" as the "Comprehensive
6 Child Welfare Information System"; requiring the
7 Department of Children and Families to conduct a
8 criminal history records check of certain visitors to
9 a home in which a child is placed; requiring the
10 department to conduct a name-based check of criminal
11 history records of certain persons in specified
12 circumstances; requiring certain persons to submit
13 their fingerprints to the department or other
14 specified entities; requiring the department or such
15 entities to submit such fingerprints to the Department
16 of Law Enforcement for state processing within a
17 specified timeframe; requiring the Department of Law
18 Enforcement to forward such fingerprints to the
19 Federal Bureau of Investigation within a specified
20 timeframe; requiring a child to be immediately removed
21 from a home if certain persons fail to provide their
22 fingerprints and are not exempt from a criminal
23 history records check; creating s. 39.5035, F.S.;
24 providing procedures and requirements relating to
25 deceased parents of a dependent child; amending s.

26 | 39.522, F.S.; authorizing certain persons to remove a
27 | child from a court-ordered placement under certain
28 | circumstances; requiring the Department of Children
29 | and Families to file a specified motion, and the court
30 | to set a hearing, within specified timeframes under
31 | certain circumstances; requiring a certain
32 | determination by the court to support immediate
33 | removal of a child; authorizing the court to base its
34 | determination on certain evidence; requiring the court
35 | to enter certain orders and conduct certain hearings
36 | under certain circumstances; amending s. 39.6221,
37 | F.S.; revising a requisite condition for placing a
38 | child in a permanent guardianship; amending s.
39 | 39.6225, F.S.; revising eligibility for payments under
40 | the Guardianship Assistance Program; amending s.
41 | 39.801, F.S.; providing that service of process is not
42 | necessary under certain circumstances; amending s.
43 | 39.812, F.S.; authorizing the court to review the
44 | Department of Children and Families' denial of an
45 | application to adopt a child; requiring the department
46 | to file written notification of its denial with the
47 | court and provide copies to certain persons within a
48 | specified timeframe; authorizing a denied applicant to
49 | file a motion to review such denial within a specified
50 | timeframe; requiring the court to hold a hearing

51 within a specified timeframe; providing standing to
52 certain persons; authorizing certain persons to
53 participate in the hearing under certain
54 circumstances; requiring the court to enter an order
55 within a specified timeframe; providing an exception
56 to authorize the department to remove a child from his
57 or her foster home or custodian; amending s. 63.062,
58 F.S.; conforming provisions to changes made by the
59 act; amending s. 63.093, F.S.; requiring an adoptive
60 home study to be updated every 12 months after the
61 date on which the first study was approved; requiring
62 the department to adopt certain rules; amending s.
63 409.1451, F.S.; revising the age requirements for
64 receiving postsecondary education services and
65 support; revising the requirements for receiving
66 aftercare services; amending s. 409.166, F.S.;
67 revising the age requirements for receiving adoption
68 assistance; amending s. 409.167, F.S.; providing
69 requirements for the statewide adoption exchange and
70 its photo listing component and description of
71 children placed on such exchange; authorizing only
72 certain persons to access the statewide adoption
73 exchange; authorizing certain children to make certain
74 requests and requiring them to be consulted on certain
75 decisions; conforming provisions to changes made by

76 | the act; providing an effective date.

77 |

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

79 |

80 | Section 1. Subsection (88) is added to section 39.01,
81 | Florida Statutes, to read:

82 | 39.01 Definitions.—When used in this chapter, unless the
83 | context otherwise requires:

84 | (88) "Visitor" means a person who:

85 | (a) Provides care or supervision to a child in the home;

86 | or

87 | (b) Is 12 years of age or older, other than a child in
88 | care, and who will be in the child's home at least:

89 | 1. Five consecutive days; or

90 | 2. Seven days or more in 1 month.

91 | Section 2. Subsections (1) and (5) of section 39.0138,
92 | Florida Statutes, are amended to read:

93 | 39.0138 Criminal history and other records checks; limit
94 | on placement of a child.—

95 | (1) The department shall conduct a records check through
96 | the Comprehensive State Automated Child Welfare Information
97 | System ~~(SACWIS)~~ and a local and statewide criminal history
98 | records check on all persons, including parents, being
99 | considered by the department for placement of a child under this
100 | chapter, including all nonrelative placement decisions, and all

101 members of the household, 12 years of age and older, of the
102 person being considered. For purposes of this section, a
103 criminal history records check may include, but is not limited
104 to, submission of fingerprints to the Department of Law
105 Enforcement for processing and forwarding to the Federal Bureau
106 of Investigation for state and national criminal history
107 information, and local criminal records checks through local law
108 enforcement agencies of all household members 18 years of age
109 and older and other visitors 18 years of age and older to the
110 home. An out-of-state criminal history records check must be
111 initiated for any person 18 years of age or older who resided in
112 another state if that state allows the release of such records.
113 The department must complete the records check within 14
114 business days after receiving a person's criminal history
115 results, unless additional information is required to complete
116 the processing. The department shall establish by rule standards
117 for evaluating any information contained in the automated system
118 relating to a person who must be screened for purposes of making
119 a placement decision.

120 (5)(a) If a child has been sheltered pursuant to s. 39.402
121 and must be placed in out-of-home care due to an emergency, the
122 department must conduct a name-based check of criminal history
123 records to ascertain if the person with whom placement of the
124 child is being considered and any other adult household members
125 of such person are disqualified.

126 (b) The department may place a child in the a home if the
127 person with whom placement of the child is being considered and
128 any other adult household members or visitors of the home are
129 not disqualified by the name-based check, but, unless exempt,
130 such persons must submit a full set of fingerprints to the
131 department or to a vendor, an entity, or an agency authorized
132 under s. 943.053(13). Unless exempt, within 7 calendar days
133 after the name-based check, the department, vendor, entity, or
134 agency must submit the fingerprints to the Department of Law
135 Enforcement for state processing. Within 15 calendar days after
136 the name-based check was conducted, the Department of Law
137 Enforcement must forward the fingerprints to the Federal Bureau
138 of Investigation for national processing ~~that otherwise meets~~
139 ~~placement requirements if a name check of state and local~~
140 ~~criminal history records systems does not disqualify the~~
141 ~~applicant and if the department submits fingerprints to the~~
142 ~~Department of Law Enforcement for forwarding to the Federal~~
143 ~~Bureau of Investigation and is awaiting the results of the state~~
144 ~~and national criminal history records check.~~

145 (c) The department shall seek a court order to immediately
146 remove the child from the home if the person with whom the child
147 was placed or any other adult household members or visitors of
148 the home fail to provide their fingerprints within 15 calendar
149 days after the name-based check is conducted and such persons
150 are not exempt from a criminal history records check.

151 Section 3. Section 39.5035, Florida Statutes, is created
 152 to read:

153 39.5035 Deceased parents; special procedures.-

154 (1)(a)1. If both parents of a child are deceased or the
 155 last known living parent of a child is deceased and a legal
 156 custodian has not been appointed for the child through a probate
 157 or guardianship proceeding, then an attorney for the department
 158 or any other person who has knowledge of the facts alleged or is
 159 informed of the alleged facts, and believes them to be true, may
 160 initiate a proceeding by filing a petition for adjudication and
 161 permanent commitment.

162 2. If a child has been placed in shelter status by order
 163 of the court but has not yet been adjudicated, a petition for
 164 adjudication and permanent commitment must be filed within 21
 165 days after the shelter hearing. In all other cases, the petition
 166 must be filed within a reasonable time after the date the
 167 petitioner first becomes aware of the facts that support the
 168 petition for adjudication and permanent commitment.

169 (b) If both parents die or the last known living parent
 170 dies after a child has already been adjudicated dependent, an
 171 attorney for the department or any other person who has
 172 knowledge of the facts alleged or is informed of the alleged
 173 facts, and believes them to be true, may file a petition for
 174 permanent commitment. The petition must be filed within a
 175 reasonable time after the petitioner first becomes aware of the

176 facts that support the petition for permanent commitment.

177 (2) The petition must be:

178 (a) In writing, identify the alleged deceased parents, and
179 provide facts that establish that both parents of the child are
180 deceased or the last known living parent is deceased and that a
181 legal custodian has not been appointed for the child through a
182 probate or guardianship proceeding.

183 (b) Signed by the petitioner under oath stating the
184 petitioner's good faith in filing the petition.

185 (3) When a petition for adjudication and permanent
186 commitment or a petition for permanent commitment has been
187 filed, the clerk of court must set the case before the court for
188 an adjudicatory hearing. The adjudicatory hearing must be held
189 as soon as practicable after the petition is filed, but no later
190 than 30 days after the filing date.

191 (4) Notice of the date, time, and place of the
192 adjudicatory hearing and a copy of the petition must be served
193 on the following persons:

194 (a) Any person who has physical custody of the child.

195 (b) A living relative of each parent of the child, unless
196 a living relative cannot be found after a diligent search or
197 inquiry.

198 (c) The guardian ad litem for the child or the
199 representative of the guardian ad litem program, if the program
200 has been appointed.

201 (5) The court shall conduct adjudicatory hearings without
202 a jury and apply the rules of evidence in use in civil cases,
203 adjourning the hearings as necessary. The court must determine
204 whether the petitioner has established by clear and convincing
205 evidence that both parents of the child are deceased, or that
206 the last known living parent is deceased and the other parent
207 cannot be found after a diligent search or inquiry, and that a
208 legal custodian has not been appointed for the child through a
209 probate or guardianship proceeding. A certified copy of the
210 death certificate for each parent is sufficient evidence of the
211 parents' deaths.

212 (6) Within 30 days after an adjudicatory hearing on a
213 petition for adjudication and permanent commitment:

214 (a) If the court finds that the petitioner has met the
215 clear and convincing standard, the court must enter a written
216 order adjudicating the child dependent and permanently
217 committing the child to the custody of the department for the
218 purpose of adoption. A disposition hearing must be scheduled no
219 later than 30 days after the entry of the order, in which the
220 department must provide a case plan that identifies the
221 permanency goal for the child to the court. Reasonable efforts
222 must be made to place the child in a timely manner in accordance
223 with the permanency plan and to complete all steps necessary to
224 finalize the permanent placement of the child. Thereafter, until
225 the adoption of the child is finalized or the child reaches the

226 age of 18 years, whichever occurs first, the court must hold
227 hearings every 6 months to review the progress being made toward
228 permanency for the child.

229 (b) If the court finds that clear and convincing evidence
230 does not establish that both parents of a child are deceased, or
231 that the last known living parent is deceased and the other
232 parent cannot be found after a diligent search or inquiry, and
233 that a legal custodian has not been appointed for the child
234 through a probate or guardianship proceeding, but that a
235 preponderance of the evidence establishes that the child does
236 not have a parent or legal custodian capable of providing
237 supervision or care, the court must enter a written order
238 adjudicating the child dependent. A disposition hearing must be
239 scheduled no later than 30 days after the entry of the order as
240 provided in s. 39.521.

241 (c) If the court finds that the petitioner has not met the
242 clear and convincing standard and that a preponderance of the
243 evidence does not establish that the child does not have a
244 parent or legal custodian capable of providing supervision or
245 care, the court must enter a written order so finding and
246 dismiss the petition.

247 (7) Within 30 days after an adjudicatory hearing on a
248 petition for permanent commitment:

249 (a) If the court finds that the petitioner has met the
250 clear and convincing standard, the court must enter a written

251 order permanently committing the child to the custody of the
252 department for purposes of adoption. A disposition hearing must
253 be scheduled no later than 30 days after the entry of the order,
254 in which the department must provide an amended case plan that
255 identifies the permanency goal for the child to the court.
256 Reasonable efforts must be made to place the child in a timely
257 manner in accordance with the permanency plan and to complete
258 all steps necessary to finalize the permanent placement of the
259 child. Thereafter, until the adoption of the child is finalized
260 or the child reaches the age of 18 years, whichever occurs
261 first, the court must hold hearings every 6 months to review the
262 progress being made toward permanency for the child.

263 (b) If the court finds that clear and convincing evidence
264 does not establish that both parents of a child are deceased or
265 that the last known living parent is deceased and the other
266 parent cannot be found after a diligent search or inquiry, the
267 court must enter a written order denying the petition. The order
268 has no effect on the child's prior adjudication. The order does
269 not bar the petitioner from filing a subsequent petition for
270 permanent commitment based on newly discovered evidence that
271 establishes that both parents of a child are deceased, or that
272 the last known living parent is deceased, and that a legal
273 custodian has not been appointed for the child through a probate
274 or guardianship proceeding.

275 Section 4. Subsection (7) is added to section 39.522,

276 Florida Statutes, to read:

277 39.522 Postdisposition change of custody.—

278 (7) Notwithstanding any other provision of this section, a
279 child's case manager, an authorized agent of the department, or
280 a law enforcement officer may, at any time, remove a child from
281 a court-ordered placement and take the child into custody if the
282 court-ordered caregiver of the child requests immediate removal
283 of the child from the home. Additionally, an authorized agent of
284 the department or a law enforcement officer may, at any time,
285 remove a child from a court-ordered placement and take the child
286 into custody if there is probable cause as required under s.
287 39.401(1)(b).

288 (a) If, at the time of the removal, the child was not
289 placed in licensed care in the department's custody, the
290 department must file a motion to modify placement within 1
291 business day after the child is taken into custody. The court
292 must then set a hearing within 24 hours after the motion is
293 filed unless all of the parties and the current caregiver agree
294 to the change of placement. At the hearing, the court must
295 determine if the department has established probable cause to
296 support the immediate removal of the child from his or her
297 current placement. The court may base its determination on a
298 sworn petition or affidavit or on testimony and may hear all
299 relevant and material evidence, including oral or written
300 reports, to the extent of their probative value, even if such

301 evidence would not be competent evidence at an adjudicatory
 302 hearing.

303 (b) If the court finds that the department did not
 304 establish probable cause to support the removal of the child
 305 from his or her current placement, the court must enter an order
 306 that the child be returned to such placement. An order by the
 307 court to return the child to his or her current placement does
 308 not preclude a party from filing a subsequent motion pursuant to
 309 subsection (2).

310 (c) If the current caregiver admits that a change of
 311 placement is needed or the department establishes probable cause
 312 to support removal of the child, the court must enter an order
 313 changing the placement of the child. The new placement for the
 314 child must meet the home study criteria in this chapter if the
 315 child is not placed in foster care.

316 (d) If the court finds probable cause and modifies the
 317 child's placement, the court must conduct a hearing pursuant to
 318 subsection (2) or subsection (3), unless such hearing is waived
 319 by all parties and the caregiver.

320 Section 5. Paragraph (a) of subsection (1) of section
 321 39.6221, Florida Statutes, is amended to read:

322 39.6221 Permanent guardianship of a dependent child.—

323 (1) If a court determines that reunification or adoption
 324 is not in the best interest of the child, the court may place
 325 the child in a permanent guardianship with a relative or other

326 adult approved by the court if all of the following conditions
 327 are met:

328 (a) The child has been in the placement for not less than
 329 the preceding 6 months, or the preceding 3 months if the
 330 caregiver is already known by the child and such caregiver has
 331 been named as the successor guardian on the child's guardianship
 332 assistance agreement.

333 Section 6. Subsection (9) of section 39.6225, Florida
 334 Statutes, is amended to read:

335 39.6225 Guardianship Assistance Program.—

336 (9) Guardianship assistance payments may not ~~shall only~~ be
 337 made for a young adult unless the young adult's ~~whose~~ permanent
 338 guardian entered into a guardianship assistance agreement after
 339 the child attained 14 ~~16~~ years of age but before the child
 340 attained 18 years of age and if the child is:

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

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

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

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

348 (e) Unable to participate in programs or activities listed
 349 in paragraphs (a)-(d) full time due to a physical, intellectual,
 350 emotional, or psychiatric condition that limits participation.

351 Any such barrier to participation must be supported by
 352 documentation in the child's case file or school or medical
 353 records of a physical, intellectual, emotional, or psychiatric
 354 condition that impairs the child's ability to perform one or
 355 more life activities.

356 Section 7. Paragraph (d) of subsection (3) of section
 357 39.801, Florida Statutes, is redesignated as paragraph (e), and
 358 a new paragraph (d) is added to that subsection to read:

359 39.801 Procedures and jurisdiction; notice; service of
 360 process.—

361 (3) Before the court may terminate parental rights, in
 362 addition to the other requirements set forth in this part, the
 363 following requirements must be met:

364 (d) Personal appearance of a person at the advisory
 365 hearing as provided in s. 39.013(13) obviates the necessity of
 366 serving process on that person and the court may proceed with
 367 the advisory hearing and any subsequently noticed hearing.

368 Section 8. Subsections (4), (5), and (6) of section
 369 39.812, Florida Statutes, are amended to read:

370 39.812 Postdisposition relief; petition for adoption.—

371 (4) The court shall retain jurisdiction over any child
 372 placed in the custody of the department until the child is
 373 adopted. After custody of a child for subsequent adoption has
 374 been given to the department, the court has jurisdiction for the
 375 purpose of reviewing the status of the child and the progress

376 being made toward permanent adoptive placement. As part of this
377 continuing jurisdiction, ~~for good cause shown by the guardian ad~~
378 ~~litem for the child,~~ the court may:

379 (a) Review the appropriateness of the adoptive placement
380 of the child if good cause is shown by the guardian ad litem for
381 the child.

382 (b) Review the department's denial of an application to
383 adopt a child. The department's decision to deny an application
384 to adopt a child is only reviewable under this section and is
385 not subject to chapter 120.

386 1. If the department denies an application to adopt a
387 child, the department must file written notification of the
388 denial with the court and provide copies to all parties within
389 10 business days after the department's decision.

390 2. A denied applicant may file a motion to have the court
391 review the department's denial within 30 business days after the
392 issuance of the department's written notification of its
393 decision to deny the application to adopt a child. The motion to
394 review must allege that the department unreasonably denied the
395 application to adopt and request that the court allow the denied
396 applicant to file a petition to adopt the child under chapter 63
397 without the department's consent.

398 3. A denied applicant only has standing under this chapter
399 to file a motion to review the department's denial and to
400 present evidence in support of such motion. Such standing is

401 terminated upon the entry of the court's order.

402 4. The court shall hold a hearing within 30 business days
403 after the denied applicant files the motion to review. The court
404 may only consider whether the department's denial of the
405 application is consistent with its policies and if the
406 department made such decision in an expeditious manner. The
407 standard of review is whether the department's denial of the
408 application is an abuse of discretion.

409 5. If the department selected a different applicant to
410 adopt the child, the selected applicant may participate in the
411 hearing as a participant, as defined in s. 39.01, and may be
412 granted leave by the court to be heard without the need to file
413 a motion to intervene.

414 6. Within 15 business days after the conclusion of the
415 hearing, the court must enter a written order denying the motion
416 to review or finding that the department unreasonably denied the
417 application to adopt and authorizing the denied applicant to
418 file a petition to adopt the child under chapter 63 without the
419 department's consent.

420 (5) When a licensed foster parent or court-ordered
421 custodian has applied to adopt a child who has resided with the
422 foster parent or custodian for at least 6 months and who has
423 previously been permanently committed to the legal custody of
424 the department and the department does not grant the application
425 to adopt, the department may not, in the absence of a prior

426 court order authorizing it to do so, remove the child from the
427 foster home or custodian, except when:

428 (a) There is probable cause to believe that the child is
429 at imminent risk of abuse or neglect;

430 (b) Thirty business days have expired following written
431 notice to the foster parent or custodian of the denial of the
432 application to adopt, within which period no formal challenge of
433 the department's decision has been filed;

434 (c) A motion to review the department's denial of an
435 application to adopt a child under paragraph (4) (b) has been
436 denied; or

437 (d)-(e) The foster parent or custodian agrees to the
438 child's removal.

439 (6)-(5) The petition for adoption must be filed in the
440 division of the circuit court which entered the judgment
441 terminating parental rights, unless a motion for change of venue
442 is granted pursuant to s. 47.122. A copy of the consent to
443 adoption executed by the department must be attached to the
444 petition, unless such consent is waived under ~~pursuant to~~ s.
445 63.062(7). The petition must be accompanied by a statement,
446 signed by the prospective adoptive parents, acknowledging
447 receipt of all information required to be disclosed under s.
448 63.085 and a form provided by the department which details the
449 social and medical history of the child and each parent and
450 includes the social security number and date of birth for each

451 parent, if such information is available or readily obtainable.
 452 The prospective adoptive parents may not file a petition for
 453 adoption until the judgment terminating parental rights becomes
 454 final. An adoption proceeding under this subsection is governed
 455 by chapter 63.

456 (7) (a) ~~(6) (a)~~ Once a child's adoption is finalized, the
 457 community-based care lead agency must make a reasonable effort
 458 to contact the adoptive family by telephone 1 year after the
 459 date of finalization of the adoption as a postadoption service.
 460 For purposes of this subsection, the term "reasonable effort"
 461 means the exercise of reasonable diligence and care by the
 462 community-based care lead agency to make contact with the
 463 adoptive family. At a minimum, the agency must document all of
 464 the following:

465 1. The number of attempts made by the community-based care
 466 lead agency to contact the adoptive family and whether those
 467 attempts were successful. ~~;~~

468 2. The types of postadoption services that were requested
 469 by the adoptive family and whether those services were provided
 470 by the community-based care lead agency. ~~;~~ ~~and~~

471 3. Any feedback received by the community-based care lead
 472 agency from the adoptive family relating to the quality or
 473 effectiveness of the services provided.

474 (b) The community-based care lead agency must report
 475 annually to the department on the outcomes achieved and

476 recommendations for improvement under this subsection.

477 Section 9. Subsection (7) of section 63.062, Florida
 478 Statutes, is amended to read:

479 63.062 Persons required to consent to adoption; affidavit
 480 of nonpaternity; waiver of venue.—

481 (7) If parental rights to the minor have previously been
 482 terminated, the adoption entity with which the minor has been
 483 placed for subsequent adoption may provide consent to the
 484 adoption. In such case, no other consent is required. If the
 485 minor has been permanently committed to the department for
 486 subsequent adoption, the department must consent to the adoption
 487 or the court order finding that the department unreasonably
 488 denied the application to adopt entered under s. 39.812(4) must
 489 be attached to the petition to adopt, and ~~The consent of the~~
 490 ~~department shall be waived upon a determination by the court~~
 491 ~~that such consent is being unreasonably withheld and if the~~
 492 petitioner must file ~~has filed~~ with the court a favorable
 493 preliminary adoptive home study as required under s. 63.092.

494 Section 10. Subsections (4) and (5) of section 63.093,
 495 Florida Statutes, are amended, and subsection (6) is added to
 496 that section, to read:

497 63.093 Adoption of children from the child welfare
 498 system.—

499 (4) Before a child is placed in an adoptive home, the
 500 community-based care lead agency or its subcontracted agency

501 must complete an adoptive home study of a prospective adoptive
502 parent that includes observation, screening, and evaluation of
503 the child and the prospective adoptive parent. An adoptive home
504 study must be updated every ~~is valid for~~ 12 months after the
505 date on which the first study was approved. If the child was
506 placed before the termination of parental rights, the updated
507 placement or licensing home study may serve as the adoption home
508 study. In addition, the community-based care lead agency or its
509 subcontracted agency must complete a preparation process, as
510 established by department rule, with the prospective adoptive
511 parent.

512 (5) At the conclusion of the adoptive home study and
513 preparation process, a decision must ~~shall~~ be made about the
514 prospective adoptive parent's appropriateness to adopt. This
515 decision must ~~shall~~ be reflected in the final recommendation
516 included in the adoptive home study. If the recommendation is
517 for approval, the adoptive parent application file must be
518 submitted to the community-based care lead agency or its
519 subcontracted agency for approval. The community-based care lead
520 agency or its subcontracted agency must approve or deny the home
521 study within 14 business days after receipt of the
522 recommendation.

523 (6) The department shall adopt rules to eliminate
524 duplicative practices and delays in the adoption home study
525 process for a member of a uniformed service on active duty

526 seeking to adopt in the state, including, but not limited to,
 527 providing a credit for adoption classes that have been taken in
 528 another state which substantially cover the preservice training
 529 required under s. 409.175(14)(b).

530
 531 Notwithstanding subsections (1) and (2), this section does not
 532 apply to a child adopted through the process provided in s.
 533 63.082(6).

534 Section 11. Paragraph (a) of subsection (2) and paragraph
 535 (a) of subsection (3) of section 409.1451, Florida Statutes, are
 536 amended to read:

537 409.1451 The Road-to-Independence Program.—

538 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

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

541 1. Was living in licensed care on his or her 18th birthday
 542 or is currently living in licensed care; or was at least 14 ~~16~~
 543 years of age and was adopted from foster care or placed with a
 544 court-approved dependency guardian after spending at least 6
 545 months in licensed care within the 12 months immediately
 546 preceding such placement or adoption;

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

549 3. Earned a standard high school diploma pursuant to s.
 550 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent

551 | pursuant to s. 1003.435;

552 | 4. Has been admitted for enrollment as a full-time student
 553 | or its equivalent in an eligible postsecondary educational
 554 | institution as provided in s. 1009.533. For purposes of this
 555 | section, the term "full-time" means 9 credit hours or the
 556 | vocational school equivalent. A student may enroll part-time if
 557 | he or she has a recognized disability or is faced with another
 558 | challenge or circumstance that would prevent full-time
 559 | attendance. A student needing to enroll part-time for any reason
 560 | other than having a recognized disability must get approval from
 561 | his or her academic advisor;

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

564 | 6. Has applied, with assistance from the young adult's
 565 | caregiver and the community-based lead agency, for any other
 566 | grants and scholarships for which he or she may qualify;

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

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

571 | (3) AFTERCARE SERVICES.—

572 | (a)1. Aftercare services are available to a young adult
 573 | who has reached 18 years of age but is not yet 23 years of age
 574 | and is:

575 | a. Not in foster care.

576 b. Temporarily not receiving financial assistance under
577 subsection (2) to pursue postsecondary education.

578 c. Eligible for the Extended Guardianship Assistance
579 Program under s. 39.6225(9) or the extended adoption assistance
580 program under s. 409.166(4), but is not participating in either
581 program.

582 2. Subject to available funding, aftercare services as
583 specified in subparagraph (b)8. are also available to a young
584 adult who is between the ages of 18 and 22, is receiving
585 financial assistance under subsection (2), is experiencing an
586 emergency situation, and whose resources are insufficient to
587 meet the emergency situation. Such assistance shall be in
588 addition to any amount specified in paragraph (2)(b).

589 Section 12. Paragraph (d) of subsection (4) of section
590 409.166, Florida Statutes, is amended to read:

591 409.166 Children within the child welfare system; adoption
592 assistance program.—

593 (4) ADOPTION ASSISTANCE.—

594 (d) Effective January 1, 2019, adoption assistance
595 payments may be made for a child whose adoptive parent entered
596 into an initial adoption assistance agreement after the child
597 reached 14 ~~16~~ years of age but before the child reached 18 years
598 of age. Such payments may be made until the child reaches age 21
599 if the child is:

600 1. Completing secondary education or a program leading to

601 an equivalent credential;

602 2. Enrolled in an institution that provides postsecondary
603 or vocational education;

604 3. Participating in a program or activity designed to
605 promote or eliminate barriers to employment;

606 4. Employed for at least 80 hours per month; or

607 5. Unable to participate in programs or activities listed
608 in subparagraphs 1.-4. full time due to a physical, an
609 intellectual, an emotional, or a psychiatric condition that
610 limits participation. Any such barrier to participation must be
611 supported by documentation in the child's case file or school or
612 medical records of a physical, an intellectual, an emotional, or
613 a psychiatric condition that impairs the child's ability to
614 perform one or more life activities.

615 Section 13. Subsections (1) through (4) of section
616 409.167, Florida Statutes, are amended to read:

617 409.167 Statewide adoption exchange; establishment;
618 responsibilities; registration requirements; rules.-

619 (1) The Department of Children and Families shall
620 establish, either directly or through purchase, a statewide
621 adoption exchange, with a photo listing component, which serves
622 ~~shall serve~~ all authorized licensed child-placing agencies in
623 the state as a means of recruiting adoptive families for
624 children who have been legally freed for adoption and who have
625 been permanently placed with the department or a licensed child-

626 placing agency. The statewide adoption exchange ~~must shall~~
627 provide, in accordance with rules adopted by the department, a
628 description and photo listing component of each child
629 ~~descriptions and photographs of such children,~~ as well as any
630 other information deemed useful in the recruitment of adoptive
631 families for each child. The photo listing component of the
632 statewide adoption exchange must be updated monthly and may not
633 be accessible to the public, except to persons who have
634 completed or are in the process of completing an adoption home
635 study.

636 (2) (a) Each district of the department shall refer each
637 child in its care who has been legally freed for adoption to the
638 statewide adoption exchange no later than 30 days after the date
639 of acceptance by the department for permanent placement. The
640 referral must be accompanied by a photo listing component
641 ~~photograph~~ and description of the child. Any child who is 12
642 years of age or older may request that a specific photo be used
643 for that child's photo listing component and such child must be
644 consulted during the development of his or her description.

645 (b) The department shall establish criteria by which a
646 district may determine that a child need not be registered with
647 the statewide adoption exchange. Within 30 days after the date
648 of acceptance by the department for permanent placement, the
649 name of the child accepted for permanent placement must be
650 forwarded to the statewide adoption exchange by the district

651 together with reference to the specific reason why the child
 652 should not be placed on the statewide adoption exchange. If the
 653 child has not been placed for adoption within 3 months after the
 654 date of acceptance by the department for permanent placement,
 655 the district must ~~shall~~ provide the statewide adoption exchange
 656 with the necessary photograph and information for registration
 657 of the child with the statewide adoption exchange and the child
 658 must ~~shall~~ be placed on the statewide adoption exchange. The
 659 department shall establish procedures for monitoring the status
 660 of children who are not placed on the statewide adoption
 661 exchange within 30 days after the date of acceptance by the
 662 department for permanent placement.

663 (3) In accordance with rules established by the
 664 department, the statewide adoption exchange may accept, from
 665 licensed child-placing agencies, information pertaining to
 666 children meeting the criteria of this section, and to
 667 prospective adoptive families, for registration with the
 668 statewide adoption exchange.

669 (4) For purposes of facilitating family-matching between
 670 children and prospective adoptive parents, the statewide
 671 adoption exchange must ~~shall~~ provide the photo listing component
 672 ~~service~~ to all licensed child-placing agencies and, in
 673 accordance with rules adopted ~~established~~ by the department, to
 674 all appropriate citizen groups and other organizations and
 675 associations interested in children's services. The photo

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676 | listing component of the statewide adoption exchange may not be
677 | accessible to the public, except to persons who have completed
678 | or are in the process of completing an adoption home study.

679 | Section 14. This act shall take effect July 1, 2024.

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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: Appropriations Committee
2 Representative Trabulsy offered the following:

3
4 **Amendment (with title amendment)**

5 Between lines 614 and 615, insert:

6 Section 13. Section 409.1664, Florida Statutes, is amended
7 to read:

8 409.1664 Adoption benefits for qualifying adoptive
9 employees of state agencies, veterans, servicemembers, and law
10 enforcement officers, health care practitioners, and tax
11 collector employees.—

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

13 (a) "Child within the child welfare system" has the same
14 meaning as provided in s. 409.166(2).

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15 (b) "Health care practitioner" means a person listed in s.
16 456.001(4) who holds an active license from the Department of
17 Health and whose gross income does not exceed \$150,000 per year.

18 (c) "Law enforcement officer" has the same meaning as
19 provided in s. 943.10(1).

20 (d)~~(e)~~ "Qualifying adoptive employee" means a full-time or
21 part-time employee of a state agency, a charter school
22 established under s. 1002.33, or the Florida Virtual School
23 established under s. 1002.37, who is not an independent
24 contractor and who adopts a child within the child welfare
25 system pursuant to chapter 63 on or after July 1, 2015. The term
26 includes instructional personnel, as defined in s. 1012.01, who
27 are employed by the Florida School for the Deaf and the Blind,
28 and includes other-personal-services employees who have been
29 continuously employed full time or part time by a state agency
30 for at least 1 year.

31 (e)~~(d)~~ "Servicemember" has the same meaning as in s.
32 250.01(19).

33 (f)~~(e)~~ "State agency" means a branch, department, or
34 agency of state government for which the Chief Financial Officer
35 processes payroll requisitions, a state university or Florida
36 College System institution as defined in s. 1000.21, a school
37 district unit as defined in s. 1001.30, or a water management
38 district as defined in s. 373.019.

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39 (g) "Tax collector employee" means an employee of an office
40 of county tax collector in this state.

41 ~~(h)(f)~~ "Veteran" has the same meaning as in s. 1.01(14).

42 (2) A qualifying adoptive employee, veteran, law
43 enforcement officer, health care practitioner, tax collector
44 employee, or servicemember who adopts a child within the child
45 welfare system who is difficult to place as described in s.
46 409.166(2)(d)2. is eligible to receive a lump-sum monetary
47 benefit in the amount of \$25,000 ~~\$10,000~~ per such child, subject
48 to applicable taxes. ~~A law enforcement officer who adopts a~~
49 ~~child within the child welfare system who is difficult to place~~
50 ~~as described in s. 409.166(2)(d)2. is eligible to receive a~~
51 ~~lump-sum monetary benefit in the amount of \$25,000 per such~~
52 ~~child, subject to applicable taxes.~~ A qualifying adoptive
53 employee, veteran, law enforcement officer, health care
54 practitioner, tax collector employee, or servicemember who
55 adopts a child within the child welfare system who is not
56 difficult to place as described in s. 409.166(2)(d)2. is
57 eligible to receive a lump-sum monetary benefit in the amount of
58 \$10,000 ~~\$5,000~~ per such child, subject to applicable taxes. ~~A~~
59 ~~law enforcement officer who adopts a child within the child~~
60 ~~welfare system who is not difficult to place as described in s.~~
61 ~~409.166(2)(d)2. is eligible to receive a lump-sum monetary~~
62 ~~benefit in the amount of \$10,000 per each such child, subject to~~
63 ~~applicable taxes.~~ A qualifying adoptive employee of a charter

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64 school or the Florida Virtual School may retroactively apply for
65 the monetary benefit provided in this subsection if such
66 employee was employed by a charter school or the Florida Virtual
67 School when he or she adopted a child within the child welfare
68 system pursuant to chapter 63 on or after July 1, 2015. A
69 veteran or servicemember may apply for the monetary benefit
70 provided in this subsection if he or she is domiciled in this
71 state and adopts a child within the child welfare system
72 pursuant to chapter 63 on or after July 1, 2020. A law
73 enforcement officer may apply for the monetary benefit provided
74 in this subsection if he or she is domiciled in this state and
75 adopts a child within the child welfare system pursuant to
76 chapter 63 on or after July 1, 2022. A health care practitioner
77 or tax collector employee may apply for the monetary benefit
78 provided in this subsection if he or she is domiciled in this
79 state and adopts a child within the child welfare system
80 pursuant to chapter 63 on or after July 1, 2024.

81 (a) Benefits paid to a qualifying adoptive employee who is
82 a part-time employee must be prorated based on the qualifying
83 adoptive employee's full-time equivalency at the time of
84 applying for the benefits.

85 (b) Monetary benefits awarded under this subsection are
86 limited to one award per adopted child within the child welfare
87 system.

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88 (c) The payment of a lump-sum monetary benefit for
89 adopting a child within the child welfare system under this
90 section is subject to a specific appropriation to the department
91 for such purpose.

92 (3) A qualifying adoptive employee must apply to his or
93 her agency head, or to his or her school director in the case of
94 a qualifying adoptive employee of a charter school or the
95 Florida Virtual School, to obtain the monetary benefit provided
96 in subsection (2). A veteran, ~~or~~ servicemember, or tax collector
97 employee must apply to the department to obtain the benefit. A
98 law enforcement officer must apply to the Department of Law
99 Enforcement to obtain the benefit. A health care practitioner
100 must apply to the Department of Health to obtain the benefit.
101 Applications must be on forms approved by the department and
102 must include a certified copy of the final order of adoption
103 naming the applicant as the adoptive parent. Monetary benefits
104 shall be approved on a first-come, first-served basis based upon
105 the date that each fully completed application is received by
106 the department.

107 (4) This section does not preclude a qualifying adoptive
108 employee, veteran, servicemember, health care practitioner, tax
109 collector employee, or law enforcement officer from receiving
110 adoption assistance for which he or she may qualify under s.
111 409.166 or any other statute that provides financial incentives
112 for the adoption of children.

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113 (5) Parental leave for a qualifying adoptive employee must
114 be provided in accordance with the personnel policies and
115 procedures of his or her employer.

116 (6) The department may adopt rules to administer this
117 section. The rules may provide for an application process such
118 as, but not limited to, an open enrollment period during which
119 qualifying adoptive employees, veterans, servicemembers, health
120 care practitioners, tax collector employees, or law enforcement
121 officers may apply for monetary benefits under this section.

122 (7) The Chief Financial Officer shall disburse a monetary
123 benefit to a qualifying adoptive employee upon the department's
124 submission of a payroll requisition. The Chief Financial Officer
125 shall transfer funds from the department to a state university,
126 a Florida College System institution, a school district unit, a
127 charter school, the Florida Virtual School, or a water
128 management district, as appropriate, to enable payment to the
129 qualifying adoptive employee through the payroll systems as long
130 as funds are available for such purpose.

131 (8) To receive an approved monetary benefit under this
132 section, a veteran or servicemember must be registered as a
133 vendor with the state.

134 (9) Each state agency shall develop a uniform procedure
135 for informing employees about this benefit and for assisting the
136 department in making eligibility determinations and processing
137 applications. Any procedure adopted by a state agency is valid

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138 and enforceable if the procedure does not conflict with the
139 express terms of this section.

140

141 -----

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

143 Remove line 68 and insert:

144 assistance; amending s. 409.1664, F.S.; providing definitions;
145 providing certain adoption benefits to health care practitioners
146 and tax collector employees; specifying methods for such persons
147 to apply for such benefits; increasing the amount of monetary
148 adoption benefits certain persons are eligible to receive;
149 amending s. 409.167, F.S., providing

150