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# Appropriations Committee

**Thursday, February 8, 2024  
10:30 AM – 1:30 PM  
Webster Hall (212 KB)**

**MEETING PACKET**

**Paul Renner  
Speaker**

**Thomas Leek  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Appropriations Committee

**Start Date and Time:** Thursday, February 08, 2024 10:30 am

**End Date and Time:** Thursday, February 08, 2024 01:30 pm

**Location:** Webster Hall (212 Knott)

**Duration:** 3.00 hrs

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

CS/HB 185 Dependent Children by Children, Families & Seniors Subcommittee, Trabulsy

CS/HB 217 College Campus Facilities in Areas of Critical State Concern by Postsecondary Education & Workforce Subcommittee, Mooney

CS/HB 241 Coverage for Skin Cancer Screenings by Select Committee on Health Innovation, Massullo, Payne

CS/HB 537 Student Achievement by Education Quality Subcommittee, Valdés

CS/HB 707 State University Unexpended Funds by Higher Education Appropriations Subcommittee, Silvers

HB 765 Leave of Absence to Officials and Employees by Daley

HB 843 Naturopathic Medicine by Smith

CS/HB 885 Coverage for Biomarker Testing by Select Committee on Health Innovation, Gonzalez Pittman

HB 1007 Nicotine Products by Overdorf

HB 1013 State Board of Administration by Stevenson

HB 1109 Security for Jewish Day Schools and Preschools by Fine

CS/HB 1267 Economic Self-sufficiency by Children, Families & Seniors Subcommittee, Anderson

CS/HB 1329 Veterans by Local Administration, Federal Affairs & Special Districts Subcommittee, Redondo, Alvarez

CS/HB 1473 School Safety by Judiciary Committee, Trabulsy

CS/HB 1645 Energy Resources by Energy, Communications & Cybersecurity Subcommittee, Payne

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](http://www.myfloridahouse.gov).

**NOTICE FINALIZED on 02/06/2024 4:12PM by CTR**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 185 Dependent Children

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

**TIED BILLS:**           **IDEN./SIM. BILLS:** SC/SB 1224

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	13 Y, 4 N, As CS	DesRochers	Brazzell
2) Appropriations Committee		Smith	Pridgeon
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

When a child lives in an unsafe home as a victim of abuse, neglect, or abandonment, state officials temporarily transfer the rights of physical custody to that child from the primary caregiver(s) to the Florida Department of Children and Families. This event initiates the dependency court process. Early in the dependency court process, the presiding judge evaluates whether the allegations of wrongdoing are well-founded and decides whether guardian ad litem and attorney ad litem appointments are necessary.

The guardian ad litem serves as the child's fiduciary representative in court to speak for the child's best interests. The "guardian ad litem" is typically a multidisciplinary team involving a lay volunteer, a staff attorney, and a case manager. The court may appoint an attorney ad litem to serve as the child's independent legal representative in court to speak for the child's express wishes.

CS/HB 185 repeals the statutory right of court-appointed, independent legal representation of certain children and the court's discretion to appoint attorneys to certain other children in dependency court. Instead, the bill requires children to meet a competency standard and have a need for court-appointed, independent legal representation to be appointed such representation. CS/HB 185 gives the Statewide Guardian ad Litem (GAL) Office responsibility for oversight and technical assistance of attorneys providing independent legal representation as attorneys ad litem.

The bill makes guardian ad litem appointment to a child mandatory. The bill expands the Statewide GAL Office's scope of duties. CS/HB 185 also establishes the Pathway to Prosperity grant program to help youth transition from foster care to independent adult living and requires increased GAL involvement in, and court attention to, ensuring a youth aging out of care has a permanent connection to a caring adult.

The bill has a significant, yet indeterminate fiscal impact on state government and no fiscal impact on local governments. See Fiscal Comments.

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:<sup>1</sup>

- 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.<sup>2</sup> Ultimately, DCF is responsible for program oversight and the overall performance of the child welfare system.<sup>3</sup>

During state fiscal year (SFY) 2022-23, there were a total of 618,916 Florida Abuse Hotline contacts for potential child abuse and neglect, and 35 percent of those contacts were screened in because they met criteria to trigger an investigation or assessment.<sup>4</sup> Ultimately, 10 percent of children who were investigated or assessed were found to be victims of maltreatment.<sup>5</sup>

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.<sup>6</sup>

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

<sup>2</sup> OPPAGA, report 06-50.

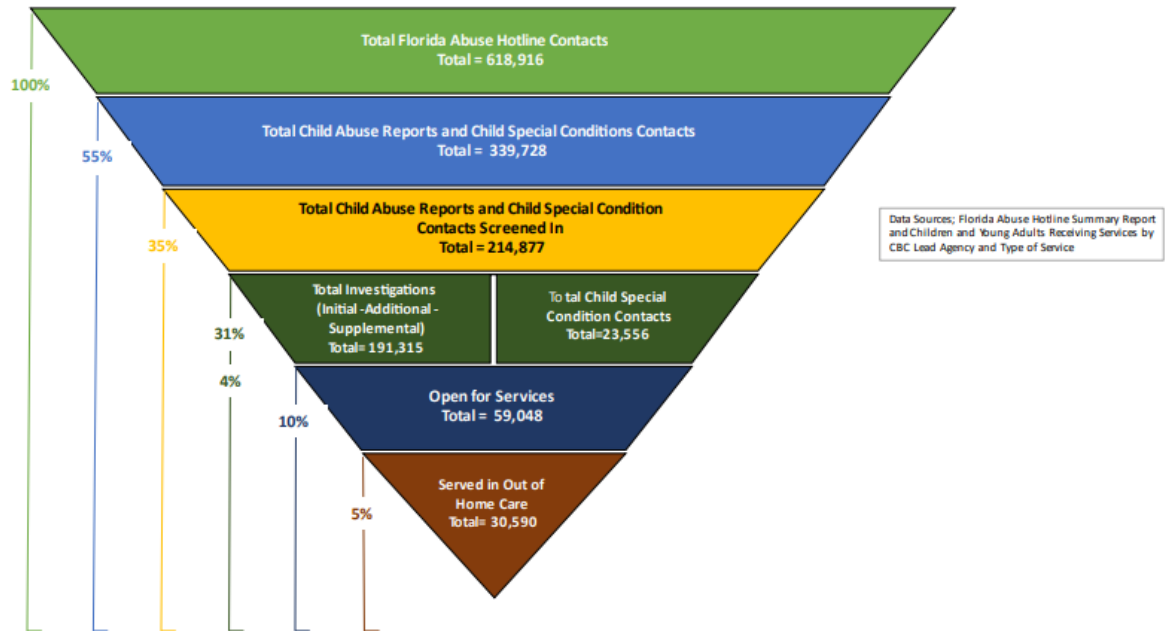
<sup>3</sup> *Id.*

<sup>4</sup> 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](https://www.myflfamilies.com/sites/default/files/2023-11/KI_Monthly_Report_Oct2023.pdf) (last visited Feb. 6, 2024).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

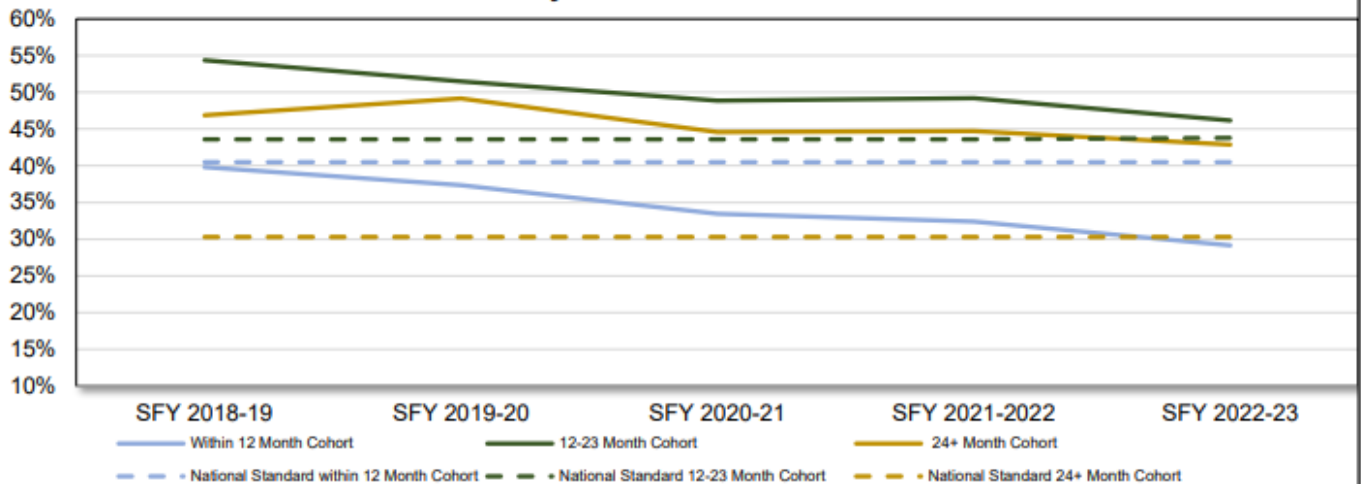
## Florida Child Protection System Overview 2022-23 SFY



Data Sources; Florida Abuse Hotline Summary Report and Children and Young Adults Receiving Services by CBC Lead Agency and Type of Service

Also for SFY 2022-23, DCF’s permanency report describes Florida’s performance for three cohorts of children entering care (children in care within 12 months; children in care 12-23 months; and children in care 24 months of longer).<sup>7</sup> As the below chart illustrates, Florida’s performance for each cohort generally declined over the past several years, with the children within the 12 months cohort declining most notably and falling below national standards.<sup>8</sup>

### Indicators of Permanency within 12 Months: From Entry, In Care 12-23 Months, In Care 24+ Months by State Fiscal Year



### Dependency Case Process

<sup>7</sup> 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 Feb. 6, 2024).

<sup>8</sup> *Id.*

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 Florida 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.<sup>9</sup>

### The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
<b>Removal</b>	A child protective investigation determines the child's home is unsafe, and the child is removed.	s. 39.401, F.S.
<b>Shelter Hearing</b>	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.
<b>Petition for Dependency</b>	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.
<b>Arraignment Hearing and Shelter Review</b>	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.
<b>Adjudicatory Trial</b>	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.
<b>Disposition Hearing</b>	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.
<b>Postdisposition hearing</b>	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.
<b>Judicial Review Hearings</b>	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
<b>Petition for Termination of Parental Rights</b>	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.
<b>Advisory Hearing</b>	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.
<b>Adjudicatory Hearing</b>	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.

The Florida Supreme Court's *Florida Rules of Juvenile Procedure* control procedural matters for ch. 39 dependency proceedings unless otherwise provided by law.<sup>10</sup>

<sup>9</sup> 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.

<sup>10</sup> s. 39.013(1), F.S.; Fla. R. Juv. P. 8.000.

## Parties to Dependency Cases

The Florida Constitution requires that the courts “be open to every person for redress of any injury, and justice shall be administered without sale, denial, or delay.”<sup>11</sup> Generally, persons with an interest in the outcome of legal action, and who are necessary or proper to a complete resolution of the case, are parties to the legal action.<sup>12</sup>

In ch. 39 court cases, the terms “party” and “parties” include the petitioner, the child who is the subject of the dependency case, the child’s parent(s), DCF, the guardian ad litem, or the representative of the guardian ad litem program (when appointed).<sup>13</sup> Any party to a ch. 39 proceeding who is affected by a court order may appeal to the appropriate appellate court.<sup>14</sup>

## Multidisciplinary Teams

The use of a multidisciplinary team (MDT) in child welfare settings is a concept that has been an established practice for over 60 years with hospital-based child protection teams<sup>15</sup> and, more recently, child advocacy centers.<sup>16</sup> Because of the complex nature of child abuse and neglect investigations and family assessments and interventions, MDTs are used to enhance and improve child protective investigations and responses necessary for children and families to recover and succeed. MDT’s are becoming more widely used to involve a variety of individuals, both professional and non-professional, that interact and coordinate their efforts to plan for children and families receiving child welfare services.

Using an MDT approach builds upon existing family-centered approaches to care. The use of a strengths-based, family-centered multidisciplinary process is important in engaging children, youth and families in the development and implementation of their individual case or treatment plans or other related services designed to meet their needs.<sup>17</sup> By sharing decision-making and working together, it is more likely that positive and lasting outcomes will be achieved.<sup>18</sup>

MDTs can help eliminate, or at least reduce, many barriers to effective action, including a lack of understanding by the members of one profession of the objectives, standards, conceptual bases, and ethics of the others; lack of effective communication; confusion over roles and responsibilities; interagency competition; mutual distrust; and institutional relationships that limit interprofessional contact.<sup>19</sup> As a result, a number of states<sup>20</sup> are using a MDT team model, also known as a “Child and Family Team”. This model is premised on the notion that children and families have the capacity to resolve their problems if given sufficient support and resources to help them do so.<sup>21</sup>

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<sup>11</sup> Art. I, s. 21, Fla. Const.

<sup>12</sup> See Fla. R. Civ. P. 1.210(a).

<sup>13</sup> S. 39.01(58), F.S.; Fla. R. Juv. P. 8.210(a).

<sup>14</sup> S. 39.510(1), F.S.; S. 39.815(1), F.S.

<sup>15</sup> The Kempe Foundation, *Child Protection Team Celebrates 60 Years*, <http://www.kempe.org/child-protection-team-celebrates-60-years> (last visited Feb. 6, 2024).

<sup>16</sup> The National Children’s Alliance, *History of NCA*, <https://www.nationalchildrensalliance.org/history-of-nca/#:~:text=The%20history%20of%20National%20Children's,system%20to%20help%20abused%20children> (last visited Feb. 6, 2024).

<sup>17</sup> The Kinship Center, *The Importance of the Child and Family Team*, <http://www.kinshipcenter.org/about-kinship-center/news-and-events/breaking-news/the-importance-of-the-child-and-family-team-cft.html> (last visited Feb. 6, 2024).

<sup>18</sup> *Id.*

<sup>19</sup> National Center on Child Abuse and Neglect, U.S. Children’s Bureau, Administration for Children, Youth and Families, Office of Human Development Services, U.S. Department of Health, Education, and Welfare, *Multidisciplinary Teams In Child Abuse And Neglect Programs*, 1978, <https://www.ojp.gov/pdffiles1/Digitization/51625NCJRS.pdf> (last visited Feb. 6, 2024).

State of Tennessee Department of Children’s Services, *Administrative Policies and Procedures: 31.7*, <https://files.dcs.tn.gov/policies/chap31/31.7.pdf> (last visited Feb. 6, 2024).

<sup>21</sup> California Department of Social Services, *About Child and Family Teams*, <https://www.cdss.ca.gov/inforesources/foster-care/child-and-family-teams/about> (last visited Feb. 6, 2024).



Currently, Florida law and DCF rules provide for the use of MDT's in a number of circumstances, such as:

- Child Protection Teams under s. 39.303, F.S.;
- Child advocacy center multidisciplinary case review teams under s. 39.3035, F.S.;
- Initial placement decisions for a child who is placed in out-of-home care, changes in physical custody after the child is placed in out-of-home care, changes in a child's educational placement, and any other important, complex decisions in the child's life for which an MDT would be necessary, under s. 39.4022, F.S.; and
- When a child is suspected of being a victim of human trafficking under ss. 39.524 and 409.1754, F.S.

The multidisciplinary team (MDT) approach to representing children is increasingly popular and widely considered a good practice, dramatically improving case outcomes and a child's experience in foster care. Research shows that MDTs led to quicker case resolution and preserved family connections more often.<sup>22</sup> Children served by an MDT had fewer removals after intervention, fewer adjudications of jurisdiction, and fewer petitions to terminate parental rights.<sup>23</sup> When children were removed from the home, and an MDT was assigned to the cases, they were more likely to be placed with relatives and less likely to be placed in foster care.<sup>24</sup>

## Well-being of Children in Florida's Child Welfare System

### *Significant Relationships*

The Legislature recognizes the need to focus on creating and preserving family relationships so that young adults have a permanent, lifelong connection with at least one committed adult who provides a safe and stable parenting relationship.<sup>25</sup> Studies indicate children who do well despite serious hardship have had at least one stable and committed relationship with a supportive adult.<sup>26</sup> These relationships buffer children from developmental disruption and help them develop "resilience," or the set of skills needed to respond to adversity and thrive.

While there are no standardized definitions or measures for well-being, there is general consensus in the literature and among stakeholders regarding common elements, including financial security, obtaining education, securing housing, finding and maintaining stable employment, independence from public assistance, permanent connections and social supports.<sup>27</sup>

### *Florida Child Welfare System Performance Serving Children*

The DCF infographic below scores the health of Florida's child welfare system at the circuit level.<sup>28</sup> DCF identifies areas with the most significant systemic impact on improving permanency and well-being<sup>29</sup> and evaluates progress toward achieving permanency, safety, and well-being for children in the welfare system. The overall score for each of the 20 circuits aggregates individual circuit performance scores on permanency, safety, and well-being. For fiscal year (FY) 2021-22, the overall median score

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<sup>22</sup> Duquette, et al., Children's Justice: How to Improve Legal Representation for Children in the Child Welfare System [NACC E-version, 2021], secs. 12.5 and 13.8, available at [Children's Justice: How to Improve Legal Representation of Children in the Child Welfare System \(umich.edu\)](https://childrensjustice.umich.edu) (last visited Feb. 6, 2024).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> S. 409.1451, F.S.

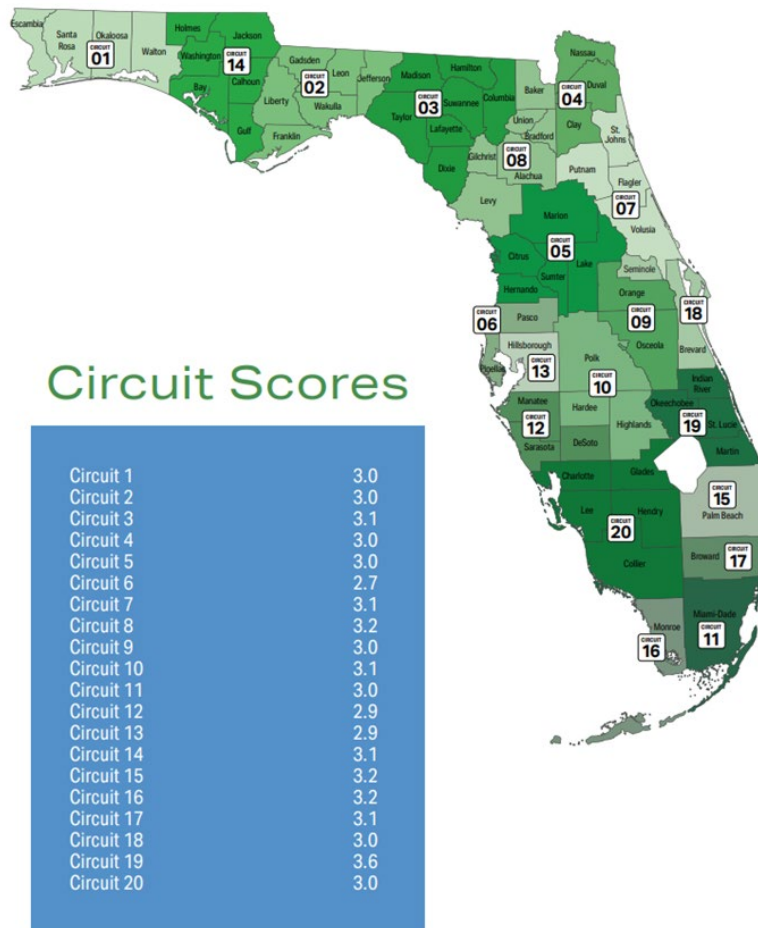
<sup>26</sup> National Scientific Council on the Developing Child (2015). Supportive Relationships and Active Skill-Building Strengthen the Foundations of Resilience: Working Paper No. 13. <https://harvardcenter.wpenginpowered.com/wp-content/uploads/2015/05/The-Science-of-Resilience2.pdf>, (last visited Feb. 6, 2024).

<sup>27</sup> Office of Program Policy Analysis and Government Accountability (OPPAGA), Independent Living Services-Presentation to the Senate Committee on Children, Families, and Elder Affairs, January 24, 2023, available at [https://oppaga.fl.gov/Documents/Presentations/OPPAGA%20ILS%20Senate%20Presentation\\_final.pdf](https://oppaga.fl.gov/Documents/Presentations/OPPAGA%20ILS%20Senate%20Presentation_final.pdf) (last visited Feb. 6, 2024).

<sup>28</sup> Florida Department of Children and Families, *Annual Accountability Report on the Health of Florida's Child Welfare System: Fiscal Year 2021-2022*, p. 6 (Dec. 12, 2022) [https://www.myflfamilies.com/sites/default/files/2022-12/Accountability\\_System\\_Report\\_2022-revision12DEC22.pdf](https://www.myflfamilies.com/sites/default/files/2022-12/Accountability_System_Report_2022-revision12DEC22.pdf) (last visited Feb. 6, 2024).

<sup>29</sup> *Id.* at p. 3.

is 3.1 out of a possible 5, and 85% of circuits earned a 3.0 or higher.<sup>30</sup> A score over 3.50 indicates the circuit's performance exceeds established standards.<sup>31</sup> A score between 3.00-3.349 indicates the circuit's performance meets established standards.<sup>32</sup> A score of 2.00-2.99 indicated the circuit's performance does not meet established standards.<sup>33</sup> In FY 2021-22, DCF gave 17 of 20 circuits a score of 3.0 or higher, indicating that the circuit's performance exceeds established standards.



<sup>30</sup> *Id.* at p. 2.

<sup>31</sup> *Id.* at p. 7.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at pg. 6.

## 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.<sup>35</sup> 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.<sup>36</sup> These young adults also have a higher need for public assistance and are more likely to experience housing instability and homelessness.<sup>37</sup>

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,<sup>38</sup> with 2,167 teens and young adults entering Florida's foster care system.<sup>39</sup> 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.<sup>40</sup> 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 17<sup>th</sup> birthday.<sup>41</sup> In the interim, the most recent Florida NYTD available on DCF's website is the 2018 report.<sup>42</sup> In the chart below, the 2018 Florida NYTD documented outcomes related to education, employment, housing, finances and transportation, health and well-being, and connections:<sup>43</sup>

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<sup>35</sup> Gypen, L., Vanderfaeillie, 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 Feb. 6, 2024).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> 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 visited Feb. 6, 2024).

<sup>39</sup> 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 visited Feb. 6, 2024).

<sup>40</sup> 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](https://www.acf.hhs.gov/cb/data-research/data-and-statistics-nytd#FL_26606) (last visited Feb. 6, 2024).

<sup>41</sup> 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](https://www.myflfamilies.com/sites/default/files/2023-07/Independent_Living_Services_Report_2022.pdf) (last visited Feb. 6, 2024).

<sup>42</sup> 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 Feb. 6, 2024).

<sup>43</sup> 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 Feb. 6, 2024).

Outcomes of Young Adults who Aged Out of Care	
Area	Outcome
<b>Education</b>	<ul style="list-style-type: none"> <li>• 74% were enrolled in and attending high school, GED classes, post-high school vocational training, or college.</li> <li>• 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.</li> </ul>
<b>Employment</b>	<ul style="list-style-type: none"> <li>• 15% were employed full-time (35 hours per week or more).</li> <li>• 26% were employed part-time.</li> <li>• 78% had a paid job over the last year.</li> <li>• 22% completed an apprenticeship, internship, or other on-the-job training, either paid or unpaid.</li> </ul>
<b>Housing</b>	<ul style="list-style-type: none"> <li>• 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).</li> <li>• 41% had to couch surf or move from house to house because they did not have a permanent place to stay.</li> <li>• 27% experienced some type of homelessness in the past year.<sup>44</sup></li> </ul>
<b>Financial &amp; Transportation</b>	<ul style="list-style-type: none"> <li>• 46% received public food assistance.</li> <li>• 10% received social security payments (Supplemental Security Income, Social Security Disability Insurance, or dependents' payments).</li> <li>• 83% had a reliable means of transportation to school/work.</li> <li>• 76% had an open bank account.</li> </ul>
<b>Health &amp; Well-Being</b>	<ul style="list-style-type: none"> <li>• 85% were on Medicaid.</li> <li>• 18% had children.</li> <li>• 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.</li> <li>• 24% were confined in a jail, prison, correctional facility, or juvenile detention facility within the past two years.</li> </ul>
<b>Connections</b>	<ul style="list-style-type: none"> <li>• 85% had at least one adult in their life, other than their case manager, to go to for advice or emotional support.</li> <li>• 67% had a close relationship with biological family members.</li> </ul>

### Office of Continuing Care

The Office of Continuing Care at DCF helps individuals who have aged out of the child welfare system, until age 26. The office provides ongoing support and care coordination needed for young adults to achieve self-sufficiency. Duties of the office include, but are not limited to:

- Informing young adults who age out of the foster care system of the purpose of the office, the types of support the office provides, and how to contact the office.
- Serving as a direct contact to the young adult in order to provide information on how to access services to support the young adult's self-sufficiency, including but not limited to, food assistance, behavioral health services, housing, Medicaid, and educational services.
- Assisting in accessing services and supports for the young adult to attain self-sufficiency, including, but not limited to, completing documentation required to apply for services.
- Collaborating with CBC's to identify local resources that can provide support to young adults served by the office.
- Developing and administering the Step into Success Workforce Education and Internship Pilot Program for foster youth and former foster youth, as required under s. 409.1455, F.S.<sup>45</sup>

<sup>44</sup> *Id.*

<sup>45</sup> S. 414.56, F.S.

## Disability of Non-age and Legal Counsel for Minors

The principal disability of nonage relates to the power of a minor to contract.<sup>46</sup> At common law, unemancipated children generally lack the legal capacity to enter into binding contractual agreements.<sup>47</sup> A minor's agreements generally are voidable rather than void.<sup>48</sup> When the minor attains the age of majority and ratifies a contract made while a minor, the contract will be treated as valid from inception, and the optional right to disaffirm abandoned.<sup>49</sup>

The disability of non-age is expressly recognized in the Florida Constitution and in statute.<sup>50</sup> Due to the disability of non-age, "an adult person of reasonable judgment and integrity" must conduct any litigation for the minor in judicial proceedings."<sup>51</sup> It follows that unemancipated minors cannot engage legal counsel on their own unless there is a constitutional right or legislative act allowing such engagement.<sup>52</sup>

The U.S. Supreme Court has only found a constitutional right to counsel for minors in delinquency proceedings.<sup>53</sup> The Supreme Court held in *In re Gault* that juveniles need counsel in delinquency proceedings because such actions may result in a loss of liberty, which is comparable in seriousness to a felony prosecution for adults.<sup>54</sup>

However, in addition to those proceedings governed by the *In re Gault* decision, Florida law authorizes the appointment of legal counsel for minors in certain other situations:

- If the disability of non-age has been removed under ch. 743, F.S.,<sup>55</sup>
- At the discretion of the judge in domestic relations cases, under s. 61.401, F.S.,
- At the discretion of the judge in a dependency proceeding, under s. 39.4085, F.S.,
- When the child's change of placement from a foster parent is being contested under s. 39.522(3), F.S., or
- If the child is within one of the five categories requiring mandatory appointment in dependency proceedings (discussed further below).<sup>56</sup>

In all other circumstances, "an adult person of reasonable judgment and integrity should conduct the litigation for the minor in judicial proceedings."<sup>57</sup>

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<sup>46</sup> Fla. Jur. 2d Family Law § 252 (Dec. 2023 Update) (Accessed Westlaw Nov. 30, 2023).

<sup>47</sup> *Id.* at § 495.

<sup>48</sup> *Lee v. Thompson*, 124 Fla. 494, 499 (Fla. 1936).

<sup>49</sup> *Id.*

<sup>50</sup> Fla. Const. Art. III, § 11(a)(17); s. 743.01, 07, F.S.

<sup>51</sup> *Garner v. I. E. Schilling Co.*, 174 So. 837, 839 (Fla. 1937).

<sup>52</sup> *Buckner v. Family Services of Central Florida, Inc.*, 876 So.2d 1285 (Fla. 5<sup>th</sup> DCA 2004).

<sup>53</sup> *In re Gault*, 387 U.S. 1, 41 (1967).

<sup>54</sup> *Id.* at p. 36.

<sup>55</sup> A circuit court has jurisdiction to remove the disabilities of nonage of a minor age 16 or older residing in Florida. To do so, the minor's natural guardian, legal guardian, or guardian ad litem must file a petition to remove the child's disability of nonage. S. 743.015, F.S.

<sup>56</sup> S. 39.01305, F.S., requires an attorney to be appointed for a dependent child who:

- Resides in a skilled nursing facility or is being considered for placement in a skilled nursing home;
- Is prescribed a psychotropic medication but declines assent to the psychotropic medication;
- Has a diagnosis of a developmental disability as defined in s. 393.063, F.S.;
- Is being placed in a residential treatment center or being considered for placement in a residential treatment center; or
- Is a victim of human trafficking as defined in s. 787.06(2)(d), F.S.

<sup>57</sup> *Garner v. I. E. Schilling Co.*, 174 So. 837, 839 (Fla. 1937).

## Best Interest Considerations in the Child Welfare System

In Florida, the state government collectively pursues a best interest standard in a ch. 39 dependency proceeding to determine what course of action is in the child's best interest.<sup>58</sup> The term "best interests of a child" generally refers to deliberations undertaken by courts in making decisions about the services, actions, and orders that will best serve a child and who is best suited to care for that child.<sup>59</sup>

The best interest standard contemplates many nuanced factors of each child's physical, mental, emotional, and social well-being to determine each child's best permanency outcome. Possible permanency outcomes include family reunification, out-of-home foster care, permanent guardianship, or adoption. The best interest standard prioritizes a safe and sustainable environment for the child's upbringing and development. Variables of consideration include sibling connections, school continuity, extracurricular activities of importance to the child, and consistent access to necessary health care services. If the child is of a sufficient age and capacity to express a preference, then the child's preference will be considered.<sup>60</sup>

## Representation of Children in the Child Welfare System

The two primary models of child representation in the child welfare system are best interest and expressed wishes.

There are two types of best interest representation: Attorney or Professional<sup>61</sup> and Lay Volunteer.<sup>62</sup>

Expressed wishes or client-directed<sup>63</sup> representation occurs when an attorney is appointed to represent a child's expressed wishes.

Due to the variety of models of representation used nationally, differing structures of child welfare systems among states, designs of studies, and multiplicity of factors impacting the outcomes of children in the child welfare system, research is inconclusive regarding whether one approach is overall more beneficial.<sup>64</sup>

Florida's child representation system authorizes both types of representation. Current law requires best interest representation through guardians ad litem (GALs), who are to be appointed at the earliest possible time in any abuse and neglect proceedings, though not all children in Florida's dependency

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<sup>58</sup> See Ss. 39.01375, F.S., 39.820(1), F.S.

<sup>59</sup> Office of Program Policy Analysis and Government Accountability (OPPAGA) Research Memorandum, *OPPAGA Review of Florida's Guardian ad Litem Program* (December 2020), <https://www-media.floridabar.org/uploads/2021/03/OPPAGA-Guardian-Ad-Litem-Program.pdf> (last visited Feb. 6, 2024).

<sup>60</sup> S. 39.01375, F.S.

<sup>61</sup> Children in states with this representation model always receive a GAL who is required to be either an attorney or a professional (e.g., professional GAL or mental health counselor). These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances. See, Office of Program Policy Analysis and Government Accountability (OPPAGA) Research Memorandum, *OPPAGA Review of Florida's Guardian ad Litem Program*, Exhibit 3, (December 2020), [OPPAGA Review of Florida's Guardian ad Litem Program \(floridabar.org\)](https://www-media.floridabar.org/uploads/2021/03/OPPAGA-Guardian-Ad-Litem-Program.pdf) (last visited Feb. 6, 2024).

<sup>62</sup> Children in states with this representation model always receive a GAL, who is not required to be an attorney. These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.

<sup>63</sup> Office of Program Policy Analysis and Government Accountability (OPPAGA) Research Memorandum, *OPPAGA Review of Florida's Guardian ad Litem Program* (December 2020), <https://www-media.floridabar.org/uploads/2021/03/OPPAGA-Guardian-Ad-Litem-Program.pdf> (last visited Feb. 6, 2024).

<sup>64</sup> See generally research cited in OPPAGA research memorandum, *id.*, and OPPAGA report 21-07, *Literature Review of Studies on the Effectiveness of Advocacy Models for Children in Dependency*, December 2021, <https://oppaga.fl.gov/Documents/Reports/21-07.pdf> (last visited Feb. 6, 2024). For example, in at least one state, only attorneys are Guardians ad Litem; in other state systems, children may be assigned representation because of their more challenged situation, which makes a study design involving comparisons to children without representation inappropriate. However, OPPAGA reported, "A consistent theme in studies and documents regardless of the advocacy model deployed is the benefits of having strong advocates with in-depth knowledge of social and legal systems." p. ii, *Literature Review*.

system have GALs.<sup>65</sup> As described previously, certain children in Florida's child welfare system are required to have attorneys, or may be appointed one at the discretion of the court.<sup>66</sup>

## Guardians ad Litem

In such actions which involve an allegation of child abuse, abandonment, or neglect as defined in section 39.01, F.S., which allegation is verified and determined by the court to be well-founded, the court must appoint a guardian ad litem for the child, unless the court determines representation to be unnecessary.<sup>67</sup> The guardian ad litem is a party to any judicial proceeding from the date of the appointment until the date of discharge. The guardian ad litem appointment is for the limited purpose of a particular child welfare case. While the guardian ad litem generally does not represent the child in any other legal matters, they are not precluded from choosing to represent the child in other matters. Once appointed, the guardian ad litem serves as the child's fiduciary<sup>68</sup> representative in court to speak for the child's best interest.

During their appointment, the guardian ad litem must fulfill three primary responsibilities:<sup>69</sup>

- To investigate the case and file a written report with the court that summarizes the GAL's findings, a statement of child's wishes, and the GAL's recommendations;
- To be present at all court hearings unless excused by the court; and
- To represent the interests of the child until the jurisdiction of the court over the child terminates, or until excused by the court.

Florida law outlines requirements to serve as a GAL.<sup>70</sup> A person appointed as GAL must be:

- certified by the GAL Program pursuant to s. 39.821, F.S.;
- certified by a not-for-profit legal aid organization as defined in s. 68.096, F.S.; or
- an attorney who is a member in good standing of The Florida Bar.

### *Florida's Statewide GAL Office*

The Statewide GAL Office manages a network of volunteer advocates and professional staff representing the best interest of abused, abandoned, and neglected children. The Statewide GAL Office within the Justice Administrative Commission (JAC) has oversight responsibilities for and provides technical assistance to all guardian ad litem programs located within the judicial circuits.<sup>71</sup>

In Florida, when the court appoints the Statewide GAL Office to represent the best interests of the child, the Office assigns the child a guardian ad litem multidisciplinary team. With this team, the child typically receives the services of a lay volunteer, a staff advocate (case manager), and a staff attorney. This model has evolved over the years from what used to be a volunteer-only approach.<sup>72</sup>

The Statewide GAL Office employs more than 180 staff attorneys and relies on more than 200 pro bono attorneys volunteering their services.<sup>73</sup> In 2021, the GAL served more than 37,000 kids and had more than 13,000 volunteers.<sup>74</sup> Typically, a GAL volunteer represents 1 or 2 children.<sup>75</sup>

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<sup>65</sup> S. 39.822(1), F.S.

<sup>66</sup> S. 39.01305, F.S.

<sup>67</sup> S. 39.402(8)(c)1., F.S.

<sup>68</sup> Fiduciary representation contemplates a legally cognizable relationship of trust where an intermediary figure advances the interests of a principal for the primary and direct benefit of the principal's designated beneficiary.

<sup>69</sup> Fla. R. Juv. P. 8.215(c)(1-3).

<sup>70</sup> S. 61.402, F.S.

<sup>71</sup> S. 39.8296(2)(b), F.S.

<sup>72</sup> *Supra* note 51.

<sup>73</sup> Florida Statewide Guardian ad Litem Office, About Us, available at <https://guardianadlitem.org/about/> (last visited Feb. 6, 2024).

<sup>74</sup> *Id.*

<sup>75</sup> Florida Statewide Guardian Ad Litem Office, Agency Analysis of SB 1920 (2020), p. 4 (Mar. 14, 2021).

Federal and Florida law provide that a GAL must be appointed to represent the child in every case.<sup>76</sup> The Child Abuse Prevention and Treatment Act (CAPTA) makes the approval of CAPTA grants contingent on an eligible state plan, which must include provisions and procedures to appoint a GAL in every case.<sup>77</sup> The GAL must be appointed to:

- Obtain first-hand knowledge of the child’s situation and needs; and
- Make recommendations to the court regarding the best interest of the child.<sup>78</sup>

Under Florida law, a court must appoint a GAL at the earliest possible time to represent the child in a dependency proceeding.<sup>79</sup> The FY 23-24 Long Range Program Plan for the GAL details the following statistics regarding FY 2021-22:

- The program represented on average:
  - 24,993 children per month, and 36,948 total children during that fiscal year.<sup>80</sup>
  - 85.2% of children in the dependency system each month.<sup>81</sup>
- 1,671 new volunteers were certified, with a total of 9,342 volunteers active each month on average.<sup>82</sup>

Additionally, the Statewide GAL Program reported representing 93.4% of children at the beginning of FY 2023-24.<sup>83</sup>

In some cases, the GAL may discharge from a case when a child’s permanency goal has been established and the child is in a stable placement.<sup>84</sup>

Chapter 39, F.S., defines “guardian ad litem” as the Statewide Guardian Ad Litem Office, which includes circuit guardian ad litem programs, a duly certified volunteer, a staff member, a staff attorney, a contract attorney, pro bono attorney working on behalf of a GAL; court-appointed attorney; or responsible adult who is appointed by the court to represent the best interest of a child<sup>85</sup> in a proceeding as provided by law, including ch. 39, F.S., until discharged by the court.<sup>86</sup> The Florida Supreme Court has recognized that a GAL is appointed to serve as the child’s representative in court to present what is in the child’s best interest.<sup>87</sup> Chapter 39 provisions describe the role of the guardian ad litem as either representing the child, or representing the child’s best interest, depending on the specific section.

### *GAL Program Leadership*

A Governor-appointed executive director helms the Statewide GAL Office.<sup>88</sup> The executive director must have knowledge of dependency law and social service delivery systems available to meet the

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<sup>76</sup> 42 U.S.C. 67 §5106a.(b)(2)(xiii); S. 39.822(1), F.S.

<sup>77</sup> 42 U.S.C. 67 §5106a.(b)(2)(xiii).

<sup>78</sup> *Id.*

<sup>79</sup> S. 39.822(1), F.S.

<sup>80</sup> Statewide Guardian ad Litem Office, *Long Range Program Plan*, Fiscal Years 2023-24 through 2027-28; Sept. 30, 2022, pg. 14 <http://floridafiscalportal.state.fl.us/Document.aspx?ID=24413&DocType=PDF> (last visited Feb. 6, 2024).

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> Justice Administration Commission, *Long-Range Program Plan*, FY 2024-25, p. 16

<http://floridafiscalportal.state.fl.us/Document.aspx?ID=26899&DocType=PDF> (last visited Feb. 6, 2024).

<sup>84</sup> OPPAGA Memo at p. 15

<sup>85</sup> *Supra* note 51 at 3.

<sup>86</sup> S. 39.820(1), F.S.

<sup>87</sup> *D.H. v. Adept Cmty. Servs.*, 271 So. 3d 870, 879 (Fla. 2018) (citing *C.M. v Dep’t of Children & Family Servs.*, 854 So.2d 777, 779 (Fla. 4th DCA 2003)).

<sup>88</sup> S. 39.8296(2)(a), F.S.



needs of children who are abused, neglected, or abandoned.<sup>89</sup> As a full-time official appointed to a three-year term, the director has the following eight duties:<sup>90</sup>

- Collect, track, and report reliable and consistent case data.
- Compare and contrast Florida’s GAL program with other states.
- Develop statewide performance measures and standards, with local GAL office input.
- Develop head trauma and brain injury recognition and response training for the guardian ad litem program.
- Maximize funding sources and evaluate the services offered in each judicial circuit.
- Exercise awareness and innovation to preserve civil and constitutional rights.
- Promote normalcy and trust between children and the court-appointed volunteer guardian ad litem by allowing the court-appointed volunteer guardian ad litem to transport a child.
- Submit annual reports to the Governor, Senate President, Speaker of the House of Representatives, and Chief Justice of the Supreme Court.

Since the executive director reports to the Governor, the Governor may remove him or her for cause.<sup>91</sup> Any person appointed to serve as the executive director may be permitted to serve more than one term.<sup>92</sup> The Governor appoints an executive director from a shortlist of at least three eligible applicants submitted by the Guardian Ad Litem Qualifications Committee.<sup>93</sup> This five-person committee solicits applications for the executive director position by statewide advertisement.<sup>94</sup> The Governor may appoint an executive director from the shortlist or may reject nominations and request new nominees.<sup>95</sup>

### *GAL Program Appropriations*

For FY 2023-24, the Statewide GAL Office received \$58.2 million in general revenue funding plus \$5.0 million in trust funds (grants and donations).<sup>96</sup> For FY 2022-23, the Statewide GAL Office represented an average of 24,202 children per month and 35,918 total children for the fiscal year.<sup>97</sup> They certified 1,442 new volunteers and retained an average of 8,857 active volunteers each month.<sup>98</sup>

### *GAL Program Direct Support Organization*

Pursuant to authority in s. 39.8298, F.S., the Statewide GAL Office maintains a direct-support organization (DSO) known as the Florida Guardian ad Litem Foundation.<sup>99</sup> The DSO is a Florida nonprofit corporation and operates to fundraise, manage a portfolio of investments in securities, funds, and assets, and spend for the direct or indirect benefit of the Statewide GAL Office.<sup>100</sup> Established by contract, the DSO must operate consistently with the goals and purposes of the Statewide GAL Office.<sup>101</sup> The DSO’s board of directors are appointed by, and serve at the pleasure of, the Statewide GAL Office executive director,<sup>102</sup> who also approves the DSO’s articles of incorporation, bylaws, and annual budget.<sup>103</sup> If a DSO ceases to exist or if the contract is terminated by the executive director, all moneys and property held in trust revert to the Statewide GAL Office.<sup>104</sup>

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<sup>89</sup> *Id.*

<sup>90</sup> *Id.*; S. 39.8296(2)(b), F.S.

<sup>91</sup> S. 39.8296(2)(a), F.S.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> Ch. 2023-239, Laws of Fla., Specific Appropriations 785-793 “Statewide GAL Office.”

<sup>97</sup> Florida Justice Administration Commission, *Agency Long Range Program Plan for Fiscal Year 2024-2025*, Florida Fiscal Portal, p. 15 (Sept. 29, 2023).

<sup>98</sup> *Id.* at 16.

<sup>99</sup> S. 39.8298(1), F.S.; see s. 39.8296(2)(b)5.-6., F.S.; Dennis Moore, *RE: Report of Guardian ad Litem Direct-Support Organization, Florida Statewide Guardian ad Litem Office*, August 15, 2023, <https://guardianadlitem.org/wp-content/uploads/2023/10/DSO-Report-2023.pdf> (last visited Feb. 6, 2024).

<sup>100</sup> S. 39.8298(1)(a)-(b), F.S.

<sup>101</sup> Ss. 39.8298(1)(c) and 39.8298(2), F.S.

<sup>102</sup> S. 39.8298(3), F.S.

<sup>103</sup> S. 39.8298(2)(a)-(c), F.S.

<sup>104</sup> S. 39.8298(2)(c), F.S.

## Attorneys ad Litem

An attorney ad litem (AAL) is an attorney appointed to provide legal services to a person such as a parent, a child, or an incapacitated person. The AAL has an attorney-client relationship with the person whom the AAL is appointed to represent and owes that person the duties of her undivided loyalty, confidentiality, and competent representation. The AAL is an advocate for the person whom the AAL is appointed to represent and will express the person's wishes to the court or jury. Like other attorneys, including attorneys employed by the GAL program, AAL's practice is subject to regulation.

## **The Practice of Law in Florida**

The Florida Constitution vests the Florida Supreme Court with exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted.<sup>105</sup> The Court performs those official functions through two separate arms: the Florida Board of Bar Examiners, which screens, tests, and certifies candidates for admission to the practice, and The Florida Bar, the investigative and prosecutorial authority in the lawyer regulatory practice.<sup>106</sup>

The Supreme Court exercises inherent supervisory power to prohibit the unauthorized practice of law.<sup>107</sup> The unauthorized practice of law covers both lawyers not licensed by the Supreme Court and non-lawyers who lack court authorization to practice law.<sup>108</sup> An example of non-lawyers who obtain court authorization to practice law is qualified law students authorized to represent clients in legal intern programs.<sup>109</sup> Ultimately, the purpose of regulating the practice of law to protect the public "from incompetent, unethical, or irresponsible representation."<sup>110</sup>

Attorneys are officers of the court.<sup>111</sup> To this end, the Supreme Court – through The Florida Bar – governs the attorney-client relationship by the *Florida Rules of Professional Conduct*.<sup>112</sup>

The client must receive the following services from their attorney:

- *Client-Directed Representation* – the client's attorney must abide by a client's decisions concerning the objectives of representation and to reasonably consult with the client as to the means by which they are to be pursued.<sup>113</sup>
- *Competent Representation* – legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.<sup>114</sup>
- *Confidentiality* – the client's attorney must preserve confidentiality unless the client gives informed consent or a specifically listed mandatory or discretionary exception applies.<sup>115</sup>
- *Diligent Representation* – the client's attorney must act with reasonable diligence and promptness. This rule expects the attorney to keep a controlled workload, to prioritize faithful advocacy, and to carry through to conclusion all matters undertaken for a client.<sup>116</sup>
- *Independence* – the client's attorney cannot permit the person who recommends, employs, or pays the attorney to render legal services for the client to direct or regulate the lawyer's professional judgment in rendering such legal services.<sup>117</sup>

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<sup>105</sup> Art. V, s. 15, Fla. Const.

<sup>106</sup> The Florida Bar, "Frequently Asked Questions." <https://www.floridabar.org/about/faq/> (last visited Feb. 6, 2024).

<sup>107</sup> *The Florida Bar v. Moses*, 380 So.2d 412, 417 (Fla. 1989).

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> *The Florida Bar v. Moses*, 380 So.2d 412, 417 (Fla. 1989).

<sup>111</sup> *Petition of Florida State Bar Ass'n*, 40 So.2d 902, 907 (Fla. 1949).

<sup>112</sup> The Florida Supreme Court, "Rules Regulating the Florida Bar: Chapter 4 – Rules of Professional Conduct." [https://www-media.floridabar.org/uploads/2024/01/2024\\_07-JAN-Chapter-4-RRTFB-1-8-2023.pdf](https://www-media.floridabar.org/uploads/2024/01/2024_07-JAN-Chapter-4-RRTFB-1-8-2023.pdf) (last visited Feb. 6, 2024).

<sup>113</sup> *Id.* at Rule 4-1.2(a) Objectives and Scope of Representation – Lawyer to Abide by Client's Decisions.

<sup>114</sup> *Id.* at Rule 4-1.1 Competence.

<sup>115</sup> *Id.* at Rule 4-1.6 Confidentiality of Information.

<sup>116</sup> *Id.* at Rule 4-1.3 Diligence, Comments.

<sup>117</sup> *Id.* at Rule 4-5.4 Professional Independence of a Lawyer.

- *Prevent or Overcome Conflicts* – An attorney presumptively cannot represent a new client if there is a substantial risk that representing the new client would materially limit the attorney’s responsibilities to a current client.<sup>118</sup> But, even when a conflict of interest exists, it is possible for the attorney overcome this presumption. To do so, four criteria must be met:<sup>119</sup>
  1. The attorney reasonably believes that they can provide competent and diligent representation to each affected client;
  2. The representation is not prohibited by law;
  3. The representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal; and
  4. Each affected client gives informed consent, confirmed in writing or clearly stated on the record at a hearing.

Additionally, the Supreme Court specifically addresses those attorney-client relationships where the client is an organization,<sup>120</sup> when the client is not represented by counsel,<sup>121</sup> and when the client suffers diminished capacity.<sup>122</sup> When a client’s capacity to make adequately considered decisions in connection with legal representation is diminished because of minority, the attorney must maintain a normal attorney-client relationship with the client as much as possible.<sup>123</sup> For example, comments to the Florida Bar rule suggest children as young as five or six years of age are regarded as having opinions that are entitled to weight in legal proceedings concerning their custody. The comments to the rule also state that if a legal representative has already been appointed for an incapacitated or minor client, the lawyer should ordinarily look to any appointed legal representative for decisions on behalf of the client.<sup>124</sup>

### **Appointment of Attorneys in the Child Welfare System**

Section 39.01305, F.S., requires the court to appoint attorneys for children subject to ch. 39 proceedings who have one or more statutorily-defined “special needs”. To qualify as a special-needs child, the child must:<sup>125</sup>

- Reside in a skilled nursing facility or be considered for placement in a skilled nursing home;
- Be prescribed a psychotropic medication but decline assent to the psychotropic medication;
- Have a diagnosis of a developmental disability as defined in s. 393.063, F.S.;
- Be placed in, or being considered for placement in, a residential treatment center; or
- Be a victim of human trafficking.

The Legislature appropriates funds for appointments for dependent children with certain special needs. The FY 2023-24 GAA appropriated \$2.1 million in general revenue for attorney representation for children with special needs, plus \$1.2 million in trust funds.<sup>126</sup> Operationally, the JAC manages these funds, contracting with appointed attorneys, whose fees are limited to \$1,450 per child per year, subject to appropriations and to review by the JAC for reasonableness.<sup>127</sup> However, s. 39.01305, F.S., requires the court to ask the Statewide Guardian Ad Litem Office for a recommendation for an attorney willing to work without additional compensation, or pro bono, prior to the court appointing an attorney on a compensated basis. The pro bono attorney must be available for services within 15 days after the court’s request. If, however, the Statewide Guardian Ad Litem Office does not make a recommendation within 15 days after the court’s request, the court may appoint a compensated attorney.

<sup>118</sup> The Florida Supreme Court, “Rules Regulating the Florida Bar: Chapter 4- Rules of Professional Conduct, Rule 4-1.7(a)(2) Conflicts of Interests. [https://www-media.floridabar.org/uploads/2024/01/2024\\_07-JAN-Chapter-4-RRTFB-1-8-2023.pdf](https://www-media.floridabar.org/uploads/2024/01/2024_07-JAN-Chapter-4-RRTFB-1-8-2023.pdf) (last visited Feb. 6, 2024).

<sup>119</sup> *Id.* at Rule 4-1.7(b)(1)-(4).

<sup>120</sup> *Id.* at Rule 4-1.13(a) Organization as Client – Representation of Organization.

<sup>121</sup> *Id.* at Rule 4-4.3 Dealing with Unrepresented Persons.

<sup>122</sup> *Id.* at Rule 4-1.14 Client with Diminished Capacity.

<sup>123</sup> *Id.*

<sup>124</sup> *Id.* at Comments.

<sup>125</sup> S. 39.01305(3)(a)-(e), F.S.

<sup>126</sup> Ch. 2023-239, Laws of Fla., Specific Appropriation 769 “Legal Representation for Dependent Children with Special Needs.”

<sup>127</sup> *Id.*

The attorney representing the child under s. 39.01305, F.S., provides the complete range of legal services from removal from the home or initial appointment through all appellate proceedings. With court permission, the attorney is authorized to arrange for supplemental or separate counsel to handle appellate matters.

The court has discretionary authority to appoint attorneys for other dependent children who do not qualify as having special needs.<sup>128</sup>

## **Effect of the Bill**

### **Attorneys ad Litem Appointment for Children in the Child Welfare System**

The bill changes all references to “attorneys” for children in the dependency system to “attorneys ad litem”, which under the bill are lawyers with an attorney-client relationship with the child. The bill also makes all attorney ad litem appointments optional, rather than requiring such appointments under certain circumstances.

The bill creates a competency standard for the court to apply when determining whether a child is appointed an attorney ad litem. This competency standard limits the court’s ability to appoint an attorney ad litem. The bill allows the court to appoint an attorney ad litem for a child if:

- The court believes the child is in need of such representation; and
- Determines that the child has a rational and factual understanding of the proceedings and sufficient present ability to consult with an attorney with a reasonable degree of rational understanding.

The bill removes the current mandatory attorney ad litem appointments, reflecting a shift to a case-by-case need and competency determination, rather than per se eligibility based on certain events or types of residency status. The bill removes mandatory attorney ad litem appointments for children:

- Residing in a skilled nursing facility or being considered for placement in a skilled nursing home;
- Prescribed a psychotropic medication when they decline assent to the psychotropic medication;
- Diagnosed with a developmental disability as defined in s. 393.063, F.S.;
- Placed in a residential treatment center or being considered for placement in a residential treatment center;
- Victims of human trafficking as defined in s. 787.06(2)(d), F.S.;
- Subject to a proceeding under s. 39.522(3)(c)4.b., F.S., regarding their removal from a foster home under certain conditions.

Additionally, the court may appoint attorneys ad litem on a discretionary basis to children in the child welfare system without “special needs” only if they meet the competency standard in the bill. The changes to the court’s attorney ad litem appointment power affect any appointments made after June 30, 2024.

The court must discharge an attorney ad litem when the need for attorney ad litem representation is resolved.

If an attorney ad litem is appointed, the attorney ad litem may represent the child in other judicial proceedings to secure the services and benefits that provide for the care, safety, and protection of the child.

The bill requires the Statewide GAL Office to provide oversight and technical assistance to AALs. The Statewide GAL Office’s responsibilities include, but are not limited to:

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<sup>128</sup> S. 39.01305(8), F.S.; Fla. R. Juv. P. 8.217(b).

- Developing an attorney ad litem training program in collaboration with dependency judges, representatives from legal aid providing attorney ad litem representation, and an attorney ad litem appointed from a registry maintained by the chief judge.
- Offering consultation and technical assistance to chief judges in maintaining attorney registries for the selection of attorneys ad litem.
- Assisting as needed with recruitment and mentoring of AALs.

### **Guardian ad Litem Role**

The bill makes the guardian ad litem appointment mandatory rather than optional for the court. This means courts will have no discretion regarding appointing a guardian ad litem for a child, and will increase the number of children in the child welfare system who have a GAL by approximately 7%.

The bill conforms references to a GAL's role in ch. 39, F.S., to specify that the GAL represents the *child*, rather than the child's *best interest*. This representation is to use a best interest standard.

The bill authorizes a child's GAL to represent a child in other judicial proceedings to secure the services and benefits that provide for the care, safety, and protection of the child. It authorizes the school district to involve the GAL of a child who has, or is suspected to have, a disability in any transition planning for that child.

The bill requires multidisciplinary teams led by DCF or a CBC to include the GAL.

### **Statewide GAL Office**

The bill changes references from the "GAL Program" to the "Statewide GAL Office".

#### Executive Director

The bill allows the Statewide GAL Office executive director to serve more than one term without convening the Guardian ad Litem Qualification Committee.

#### Multidisciplinary Teams (MDT)

The bill requires the Statewide GAL Office to assign an attorney to each case. As available resources allow, the Statewide GAL Office is to assign a MDT to represent the child. The bill includes mentors, pro bono attorneys, social workers, and volunteers as part of the MDT.

#### Training

The bill:

- Gives the Statewide GAL Office unilateral authority to regularly update the GAL training program by eliminating the existing curriculum committee.
- Requires GAL to complete specialized training in the dynamics of child sexual abuse when serving children who have been sexually abused and are subject to proceedings regarding establishing visitation with the child's abuser under s. 39.0139, F.S.

#### Direct Support Organizations

The bill designates the direct support organization (DSO) that the Statewide GAL Office is authorized to establish under current law as a state DSO, and additionally authorizes the GAL executive director to create or designate local direct-support organizations. The bill makes the executive director responsible for the local DSOs, with the local DSO's board members serving at the pleasure of the executive director. The bill gives the executive director permission to devote the personal services of employees

to the DSOs. For purposes of this bill, personal services means full-time personnel and part-time personnel, as well as payroll processing.

## **Transition-Age Youth**

### Case planning

The bill mandates that any case plan tailored for a transition to independent living must include a written description of age-appropriate activities for the child's development of relationships, coping skills, and emotional well-being.

### Mentors for older foster youth

For youths aged 16 and up who are transitioning out of foster care into independent living, the bill requires the Statewide GAL Office to help those children establish a mentorship with at least one supportive adult. And if the child cannot identify a supportive adult, the bill compels the Statewide GAL Office to work with DCF OCC to find at least one supportive adult. The bill requires documented evidence of a formal agreement in the child's court file.

### Pathway to Prosperity grants

The bill establishes the Pathway to Prosperity program to administer grants to youth and young adults aging out of foster care for:

- Financial literacy instruction using a curriculum developed by the Department of Financial Services.
- SAT/ACT preparation, including one-on-one support and fee waivers for the examinations.
- Pursuing trade careers or paid apprenticeships.

Even if a youth later reunifies with the youth's parents, the grants remain available for the youth for up to six months.

## **Other Provisions**

The bill also makes numerous conforming changes to give effect to the substantive provisions of the bill.

The bill requests the Division of Law Revision to prepare a reviser's bill for the 2025 Regular Session to substitute the term "Statewide Guardian ad Litem Office" for the term "Guardian Ad Litem Program" or "Statewide Guardian Ad Litem Program" throughout the Florida Statutes.

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

## **B. SECTION DIRECTORY:**

**Section 1:** Amending s. 39.001, F.S., relating to purposes and intent; personnel standards and screening.

**Section 2:** Amending s. 39.00145, F.S., relating to records concerning children.

**Section 3:** Amending s. 39.00146, F.S., relating to case record face sheet.

**Section 4:** Amending s. 39.0016, F.S., relating to education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.

**Section 5:** Amending s. 39.01, F.S., relating to definitions.

**Section 6:** Amending s. 39.013, F.S., relating to procedures and jurisdiction; right to counsel; guardian ad litem and attorney ad litem.

**Section 7:** Amending s. 39.01305, F.S., relating to appointment of an attorney for a dependent child.

**Section 8:** Creates an unnumbered section of law.

**Section 9:** Amending s. 39.0132, F.S., relating to oaths, records, and confidential information.

- Section 10:** Amending s. 39.0136, F.S., relating to time limitations; continuances.
- Section 11:** Amending s. 39.01375, F.S., relating to best interest determination for placement.
- Section 12:** Amending s. 39.0139, F.S., relating to visitation or other contact; restrictions.
- Section 13:** Amending s. 39.202, F.S., relating to confidentiality of reports and records in cases of child abuse or neglect; exception.
- Section 14:** Amending s. 39.402, F.S., relating to placement in a shelter.
- Section 15:** Amending s. 39.4022, F.S., relating to multidisciplinary teams; staffings; assessments; report.
- Section 16:** Amending s. 39.4023, F.S., relating to placement and education transitions; transition plans.
- Section 17:** Amending, s. 39.407, F.S., relating to medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.
- Section 18:** Amending s. 39.4085, F.S., relating to goals for dependent children; responsibilities; education; Office of the Children's Ombudsman.
- Section 19:** Amending s. 39.502, F.S., relating to notice, process, and service.
- Section 20:** Amending s. 39.522, F.S., relating to postdisposition change of custody.
- Section 21:** Amending s. 39.6012, F.S., relating to case plan tasks; services.
- Section 22:** Creates s. 39.6036, F.S., relating to supportive adults for children transitioning out of foster care.
- Section 23:** Amending s. 39.621, F.S., relating to permanency determination by the court.
- Section 24:** Amending s. 39.6241, F.S., relating to another planned permanent living arrangement.
- Section 25:** Amending s. 39.701, F.S., relating to judicial review.
- Section 26:** Amending s. 39.801, F.S., relating to procedures and jurisdiction; notice; service of process.
- Section 27:** Amending s. 39.807, F.S., relating to right to counsel; guardian ad litem.
- Section 28:** Amending s. 39.808, F.S., relating to advisory hearing; pretrial status conference.
- Section 29:** Amending s. 39.815, F.S., relating to appeals.
- Section 30:** Repealing s. 39.820, F.S., relating to definitions.
- Section 31:** Amending s. 39.821, F.S., relating to qualifications of guardians ad litem.
- Section 32:** Amending s. 39.822, F.S., relating to appointment of guardian ad litem for abused, abandoned, or neglected child.
- Section 33:** Amending s. 39.827, F.S., relating to hearing for appointment of a guardian advocate.
- Section 34:** Amending s. 39.8296, F.S., relating to Statewide Guardian Ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.
- Section 35:** Amending s. 39.8297, F.S., relating to county funding for guardian ad litem employees.
- Section 36:** Amending s. 39.8298, F.S., relating to guardian ad litem direct-support organizations.
- Section 37:** Amending s. 414.56, F.S., relating to the Office of Continuing Care of the Department of Children and Families.
- Section 38:** Amending s. 1009.898, F.S., relating to Pathway to Prosperity grants.
- Section 39:** Amending s. 29.008, F.S., relating to county funding of court-related functions.
- Section 40:** Amending s. 39.6011, F.S., relating to case plan development.
- Section 41:** Amending s. 40.24, F.S., relating to compensation and reimbursement policy.
- Section 42:** Amending s. 43.16, F.S., relating to Justice Administrative Commission; membership, powers, and duties.
- Section 43:** Amending s. 61.402, F.S., relating to qualifications of guardians ad litem.
- Section 44:** Amending s. 110.205, F.S., relating to career service; exemptions.
- Section 45:** Amending s. 320.08058, F.S., relating to specialty license plates.
- Section 46:** Amending s. 943.053, F.S., relating to dissemination of criminal justice information; fees.
- Section 47:** Amending s. 985.43, F.S., relating to predisposition reports; other evaluations.
- Section 48:** Amending s. 985.441, F.S., relating to commitment.
- Section 49:** Amending s. 985.455, F.S., relating to other dispositional issues.
- Section 50:** Amending s. 985.461, F.S., relating to transition to adulthood.
- Section 51:** Amending s. 985.48, F.S., relating to juvenile sexual offender commitment programs; sexual abuse intervention networks.
- Section 52:** Amending s. 39.302, F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect.

- Section 53:** Amending s. 39.521, F.S., relating to disposition of hearings; powers of disposition.
- Section 54:** Amending s. 61.13, F.S., relating to support of children; parenting and time-sharing; powers of court.
- Section 55:** Amending s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.
- Section 56:** Amending s. 322.09, F.S., relating to application of minors; responsibility for negligence or misconduct of minor.
- Section 57:** Amending s. 394.495, F.S., relating to child and adolescent mental health system of care; programs and services.
- Section 58:** Amending s. 627.746, F.S., relating to coverage for minors who have a learner's driver license; additional premium prohibited.
- Section 59:** Amending s. 934.255, F.S., relating to subpoenas in investigations of sexual offenses.
- Section 60:** Amending s. 960.065, F.S., relating to eligibility for awards.
- Section 61:** Creating an unnumbered section of law.
- Section 62:** Creating an unnumbered section of law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
None.
2. Expenditures:  
See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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

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

Some children currently represented by attorneys ad litem will no longer receive independent legal representation through an AAL appointment (such as toddlers, or older children with significant intellectual disabilities). However, other children who have capacity may begin to be assessed by the court to need attorneys ad litem. Thus, the bill's impact on employment and wages of attorneys ad litem and revenues and expenditures of organizations providing attorney ad litem services is indeterminate.

### D. FISCAL COMMENTS:

The bill may have a significant, yet indeterminate impact on expenditures of the JAC. Provisions of the bill relating to the appointment of Attorneys ad Litem for certain dependency proceedings could lead to increased due process and workload costs. Based on demographics data from DCF as of October 31, 2023, approximately 7,500 children and young adults could be eligible for appointment of an Attorney ad Litem under provisions in the bill. Based on the current rate of \$1,450<sup>129</sup> for attorney fees in a dependency proceeding, this could equate to a potential impact of approximately \$10.9 million.<sup>130</sup>

<sup>129</sup> Ch. 2023-239, Laws of Fla., Specific Appropriation 769.

<sup>130</sup> Justice Administrative Commission, Agency Analysis of 2024 House Bill 185, p. 6 (Dec. 14, 2024).



Any impacts on the Statewide Guardian ad Litem program regarding the increase in GAL appointments and Pathways to Prosperity grant program can be absorbed within existing resources. Additionally, the Statewide Guardian ad Litem Office anticipates the potential for increased revenues due to eligibility for federal Title IV-E matching funds upon the approval of the DCF cost allocation plan by the federal government.<sup>131</sup>

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

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

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

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On December 6, 2023, the Children, Families, and Seniors Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- creates a conforming change to s. 414.56, F.S., DCF Office of Continuing Care, in accordance with the bill's creation of s. 39.6036, F.S., supportive adults for children transitioning out of foster care.
- creates a reciprocal responsibility for the Office of Continuing Care to work with the Statewide GAL Office to help children aging out of foster care make a lasting connection with a supportive adult.

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<sup>131</sup> *Supra* note 84, at 39.



26 appointment of an attorney for certain children;  
27 authorizing the court to appoint an attorney ad litem  
28 after making certain determinations; providing  
29 requirements for the appointment and discharge of an  
30 attorney ad litem; authorizing an attorney ad litem to  
31 represent a child in other proceedings to secure  
32 certain services and benefits; conforming provisions  
33 to changes made by the act; providing applicability;  
34 amending s. 39.0132, F.S.; authorizing a child's  
35 attorney ad litem to inspect certain records; amending  
36 s. 39.0136, F.S.; revising the parties who may request  
37 a continuance in a proceeding; amending s. 39.01375,  
38 F.S.; conforming provisions to changes made by the  
39 act; amending s. 39.0139, F.S.; conforming provisions  
40 to changes made by the act; amending s. 39.202, F.S.;  
41 requiring that certain confidential records be  
42 released to the guardian ad litem and attorney ad  
43 litem; conforming a cross-reference; amending s.  
44 39.402, F.S.; requiring parents to consent to provide  
45 certain information to the guardian ad litem and  
46 attorney ad litem; conforming provisions to changes  
47 made by the act; amending s. 39.4022, F.S.; revising  
48 the participants who must be invited to a  
49 multidisciplinary team staffing; amending s. 39.4023,  
50 F.S.; requiring notice of a multidisciplinary team

51 staffing be provided to a child's guardian ad litem  
52 and attorney ad litem; conforming provisions to  
53 changes made by the act; amending s. 39.407, F.S.;  
54 conforming provisions to changes made by the act;  
55 amending s. 39.4085, F.S.; providing a goal of  
56 permanency; conforming provisions to changes made by  
57 the act; amending ss. 39.502 and 39.522, F.S.;  
58 conforming provisions to changes made by the act;  
59 amending s. 39.6012, F.S.; requiring a case plan to  
60 include written descriptions of certain activities;  
61 conforming a cross-reference; creating s. 39.6036,  
62 F.S.; providing legislative findings and intent;  
63 requiring the Statewide Guardian ad Litem Office to  
64 work with certain children to identify a supportive  
65 adult to enter into a specified agreement; requiring  
66 such agreement be documented in the child's court  
67 file; requiring the office to coordinate with the  
68 Office of Continuing Care for a specified purpose;  
69 amending s. 39.621, F.S.; conforming provisions to  
70 changes made by the act; amending s. 39.6241, F.S.;  
71 requiring a guardian ad litem to advise the court  
72 regarding certain information and to ensure a certain  
73 agreement has been documented in the child's court  
74 file; amending s. 39.701, F.S.; requiring certain  
75 notice be given to an attorney ad litem; requiring a

76 | court to give a guardian ad litem an opportunity to  
77 | address the court in certain proceedings; requiring  
78 | the court to inquire and determine if a child has a  
79 | certain agreement documented in his or her court file  
80 | at a specified hearing; conforming provisions to  
81 | changes made by the act; amending s. 39.801, F.S.;  
82 | conforming provisions to changes made by the act;  
83 | amending s. 39.807, F.S.; requiring a court to appoint  
84 | a guardian ad litem to represent a child; revising a  
85 | guardian ad litem's responsibilities and authorities;  
86 | deleting provisions relating to bonds and service of  
87 | pleadings or papers; amending s. 39.808, F.S.;  
88 | conforming provisions to changes made by the act;  
89 | amending s. 39.815, F.S.; conforming provisions to  
90 | changes made by the act; repealing s. 39.820, F.S.,  
91 | relating to definitions of the terms "guardian ad  
92 | litem" and "guardian advocate"; amending s. 39.821,  
93 | F.S.; conforming provisions to changes made by the  
94 | act; amending s. 39.822, F.S.; providing that a  
95 | guardian ad litem is a fiduciary and must provide  
96 | independent representation to a child; revising  
97 | responsibilities of a guardian ad litem; requiring  
98 | that guardians ad litem have certain access to the  
99 | children the guardians ad litem represent; providing  
100 | actions that a guardian ad litem does or does not have

101 to fulfill; amending s. 39.827, F.S.; authorizing a  
102 child's guardian ad litem and attorney ad litem to  
103 inspect certain records; amending s. 39.8296, F.S.;  
104 revising the duties and appointment of the executive  
105 director of the Statewide Guardian ad Litem Office;  
106 requiring the training program for guardians ad litem  
107 to be updated regularly; requiring the office to  
108 provide oversight and technical assistance to  
109 attorneys ad litem; specifying certain requirements of  
110 the office; amending s. 39.8297, F.S.; conforming  
111 provisions to changes made by the act; amending s.  
112 39.8298, F.S.; authorizing the executive director of  
113 the Statewide Guardian ad Litem Office to create or  
114 designate local direct-support organizations;  
115 providing responsibilities for the executive director  
116 of the office; requiring that certain moneys be held  
117 in a separate depository account; conforming  
118 provisions to changes made by the act; amending s.  
119 414.56, F.S.; requiring the Office of Continuing Care  
120 to work in coordination with the Statewide Guardian ad  
121 Litem Office for a specified purpose; creating s.  
122 1009.898, F.S.; authorizing the Pathway to Prosperity  
123 program to provide certain grants to youth and young  
124 adults who are aging out of foster care; requiring  
125 grants to extend for a certain period of time after a

126 recipient is reunited with his or her parents;  
 127 amending ss. 29.008, 39.6011, 40.24, 43.16, 61.402,  
 128 110.205, 320.08058, 943.053, 985.43, 985.441, 985.455,  
 129 985.461, and 985.48, F.S.; conforming provisions to  
 130 changes made by the act; amending ss. 39.302, 39.521,  
 131 61.13, 119.071, 322.09, 394.495, 627.746, 934.255, and  
 132 960.065, F.S.; conforming cross-references; providing  
 133 a directive to the Division of Law Revision; providing  
 134 an effective date;

135

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

137

138 Section 1. Paragraph (j) of subsection (1), paragraph (j)  
 139 of subsection (3), and paragraph (a) of subsection (10) of  
 140 section 39.001, Florida Statutes, are amended to read:

141 39.001 Purposes and intent; personnel standards and  
 142 screening.—

143 (1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

144 (j) To ensure that, when reunification or adoption is not  
 145 possible, the child will be prepared for alternative permanency  
 146 goals or placements, to include, but not be limited to, long-  
 147 term foster care, independent living, custody to a relative on a  
 148 permanent basis with or without legal guardianship, or custody  
 149 to a foster parent or legal custodian on a permanent basis with  
 150 or without legal guardianship. Permanency for a child who is

151 transitioning from foster care to independent living includes  
 152 naturally occurring, lifelong, kin-like connections between the  
 153 child and a supportive adult.

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

157 (j) The ability to contact their guardian ad litem and ~~or~~  
 158 attorney ad litem, if one is appointed, by having that  
 159 individual's name entered on all orders of the court.

160 (10) PLAN FOR COMPREHENSIVE APPROACH.—

161 (a) The office shall develop a state plan for the  
 162 promotion of adoption, support of adoptive families, and  
 163 prevention of abuse, abandonment, and neglect of children. The  
 164 Department of Children and Families, the Department of  
 165 Corrections, the Department of Education, the Department of  
 166 Health, the Department of Juvenile Justice, the Department of  
 167 Law Enforcement, the Statewide Guardian ad Litem Office, and the  
 168 Agency for Persons with Disabilities shall participate and fully  
 169 cooperate in the development of the state plan at both the state  
 170 and local levels. Furthermore, appropriate local agencies and  
 171 organizations shall be provided an opportunity to participate in  
 172 the development of the state plan at the local level.  
 173 Appropriate local groups and organizations shall include, but  
 174 not be limited to, community mental health centers; circuit  
 175 guardian ad litem offices ~~programs for children under the~~



176 ~~circuit court~~; the school boards of the local school districts;  
 177 the Florida local advocacy councils; community-based care lead  
 178 agencies; private or public organizations or programs with  
 179 recognized expertise in working with child abuse prevention  
 180 programs for children and families; private or public  
 181 organizations or programs with recognized expertise in working  
 182 with children who are sexually abused, physically abused,  
 183 emotionally abused, abandoned, or neglected and with expertise  
 184 in working with the families of such children; private or public  
 185 programs or organizations with expertise in maternal and infant  
 186 health care; multidisciplinary Child Protection Teams; child day  
 187 care centers; law enforcement agencies; and the circuit courts,  
 188 ~~when guardian ad litem programs are not available in the local~~  
 189 ~~area~~. The state plan to be provided to the Legislature and the  
 190 Governor shall include, as a minimum, the information required  
 191 of the various groups in paragraph (b).

192 Section 2. Subsection (2) of section 39.00145, Florida  
 193 Statutes, is amended to read:

194 39.00145 Records concerning children.—

195 (2) Notwithstanding any other provision of this chapter,  
 196 all records in a child's case record must be made available for  
 197 inspection, upon request, to the child who is the subject of the  
 198 case record and to the child's caregiver, guardian ad litem, or  
 199 attorney ad litem, if one is appointed.

200 (a) A complete and accurate copy of any record in a

201 child's case record must be provided, upon request and at no  
202 cost, to the child who is the subject of the case record and to  
203 the child's caregiver, guardian ad litem, or attorney ad litem,  
204 if one is appointed.

205 (b) The department shall release the information in a  
206 manner and setting that are appropriate to the age and maturity  
207 of the child and the nature of the information being released,  
208 which may include the release of information in a therapeutic  
209 setting, if appropriate. This paragraph does not deny the child  
210 access to his or her records.

211 (c) If a child or the child's caregiver, guardian ad  
212 litem, or attorney ad litem, if one is appointed, requests  
213 access to the child's case record, any person or entity that  
214 fails to provide any record in the case record under assertion  
215 of a claim of exemption from the public records requirements of  
216 chapter 119, or fails to provide access within a reasonable  
217 time, is subject to sanctions and penalties under s. 119.10.

218 (d) For the purposes of this subsection, the term  
219 "caregiver" is limited to parents, legal custodians, permanent  
220 guardians, or foster parents; employees of a residential home,  
221 institution, facility, or agency at which the child resides; and  
222 other individuals legally responsible for a child's welfare in a  
223 residential setting.

224 Section 3. Paragraph (a) of subsection (2) of section  
225 39.00146, Florida Statutes, is amended to read:

226 39.00146 Case record face sheet.—

227 (2) The case record of every child under the supervision  
 228 or in the custody of the department or the department's  
 229 authorized agents, including community-based care lead agencies  
 230 and their subcontracted providers, must include a face sheet  
 231 containing relevant information about the child and his or her  
 232 case, including at least all of the following:

233 (a) General case information, including, but not limited  
 234 to, all of the following:

235 1. The child's name and date of birth.†

236 2. The current county of residence and the county of  
 237 residence at the time of the referral.†

238 3. The reason for the referral and any family safety  
 239 concerns.†

240 4. The personal identifying information of the parents or  
 241 legal custodians who had custody of the child at the time of the  
 242 referral, including name, date of birth, and county of  
 243 residence.†

244 5. The date of removal from the home.† ~~and~~

245 6. The name and contact information of the attorney or  
 246 attorneys assigned to the case in all capacities, including the  
 247 attorney or attorneys that represent the department and the  
 248 parents, and the guardian ad litem, ~~if one has been appointed.~~

249 Section 4. Paragraph (b) of subsection (2) and paragraph  
 250 (b) of subsection (3) of section 39.0016, Florida Statutes, are

251 amended to read:

252 39.0016 Education of abused, neglected, and abandoned  
 253 children; agency agreements; children having or suspected of  
 254 having a disability.—

255 (2) AGENCY AGREEMENTS.—

256 (b) The department shall enter into agreements with  
 257 district school boards or other local educational entities  
 258 regarding education and related services for children known to  
 259 the department who are of school age and children known to the  
 260 department who are younger than school age but who would  
 261 otherwise qualify for services from the district school board.  
 262 Such agreements must ~~shall~~ include, but are not limited to:

263 1. A requirement that the department shall:

264 a. Ensure that children known to the department are  
 265 enrolled in school or in the best educational setting that meets  
 266 the needs of the child. The agreement must ~~shall~~ provide for  
 267 continuing the enrollment of a child known to the department at  
 268 the school of origin when possible if it is in the best interest  
 269 of the child, with the goal of minimal disruption of education.

270 b. Notify the school and school district in which a child  
 271 known to the department is enrolled of the name and phone number  
 272 of the child known to the department caregiver and caseworker  
 273 for child safety purposes.

274 c. Establish a protocol for the department to share  
 275 information about a child known to the department with the

276 school district, consistent with the Family Educational Rights  
 277 and Privacy Act, since the sharing of information will assist  
 278 each agency in obtaining education and related services for the  
 279 benefit of the child. The protocol must require the district  
 280 school boards or other local educational entities to access the  
 281 department's Florida Safe Families Network to obtain information  
 282 about children known to the department, consistent with the  
 283 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.  
 284 1232g.

285 d. Notify the school district of the department's case  
 286 planning for a child known to the department, both at the time  
 287 of plan development and plan review. Within the plan development  
 288 or review process, the school district may provide information  
 289 regarding the child known to the department if the school  
 290 district deems it desirable and appropriate.

291 e. Show no prejudice against a caregiver who desires to  
 292 educate at home a child placed in his or her home through the  
 293 child welfare system.

294 2. A requirement that the district school board shall:

295 a. Provide the department with a general listing of the  
 296 services and information available from the district school  
 297 board to facilitate educational access for a child known to the  
 298 department.

299 b. Identify all educational and other services provided by  
 300 the school and school district which the school district

301 believes are reasonably necessary to meet the educational needs  
 302 of a child known to the department.

303 c. Determine whether transportation is available for a  
 304 child known to the department when such transportation will  
 305 avoid a change in school assignment due to a change in  
 306 residential placement. Recognizing that continued enrollment in  
 307 the same school throughout the time the child known to the  
 308 department is in out-of-home care is preferable unless  
 309 enrollment in the same school would be unsafe or otherwise  
 310 impractical, the department, the district school board, and the  
 311 Department of Education shall assess the availability of  
 312 federal, charitable, or grant funding for such transportation.

313 d. Provide individualized student intervention or an  
 314 individual educational plan when a determination has been made  
 315 through legally appropriate criteria that intervention services  
 316 are required. The intervention or individual educational plan  
 317 must include strategies to enable the child known to the  
 318 department to maximize the attainment of educational goals.

319 3. A requirement that the department and the district  
 320 school board shall cooperate in accessing the services and  
 321 supports needed for a child known to the department who has or  
 322 is suspected of having a disability to receive an appropriate  
 323 education consistent with the Individuals with Disabilities  
 324 Education Act and state implementing laws, rules, and  
 325 assurances. Coordination of services for a child known to the

326 department who has or is suspected of having a disability may  
 327 include:

328 a. Referral for screening.

329 b. Sharing of evaluations between the school district and  
 330 the department where appropriate.

331 c. Provision of education and related services appropriate  
 332 for the needs and abilities of the child known to the  
 333 department.

334 d. Coordination of services and plans between the school  
 335 and the residential setting to avoid duplication or conflicting  
 336 service plans.

337 e. Appointment of a surrogate parent, consistent with the  
 338 Individuals with Disabilities Education Act and pursuant to  
 339 subsection (3), for educational purposes for a child known to  
 340 the department who qualifies.

341 f. For each child known to the department 14 years of age  
 342 and older, transition planning by the department and all  
 343 providers, including the department's independent living program  
 344 staff and the guardian ad litem of the child, to meet the  
 345 requirements of the local school district for educational  
 346 purposes.

347 (3) CHILDREN HAVING OR SUSPECTED OF HAVING A DISABILITY.—

348 (b)1. Each district school superintendent or dependency  
 349 court must appoint a surrogate parent for a child known to the  
 350 department who has or is suspected of having a disability, as

351 defined in s. 1003.01(9), when:

352 a. After reasonable efforts, no parent can be located; or

353 b. A court of competent jurisdiction over a child under  
354 this chapter has determined that no person has the authority  
355 under the Individuals with Disabilities Education Act, including  
356 the parent or parents subject to the dependency action, or that  
357 no person has the authority, willingness, or ability to serve as  
358 the educational decisionmaker for the child without judicial  
359 action.

360 2. A surrogate parent appointed by the district school  
361 superintendent or the court must be at least 18 years old and  
362 have no personal or professional interest that conflicts with  
363 the interests of the student to be represented. Neither the  
364 district school superintendent nor the court may appoint an  
365 employee of the Department of Education, the local school  
366 district, a community-based care provider, the Department of  
367 Children and Families, or any other public or private agency  
368 involved in the education or care of the child as appointment of  
369 those persons is prohibited by federal law. This prohibition  
370 includes group home staff and therapeutic foster parents.  
371 However, a person who acts in a parental role to a child, such  
372 as a foster parent or relative caregiver, is not prohibited from  
373 serving as a surrogate parent if he or she is employed by such  
374 agency, willing to serve, and knowledgeable about the child and  
375 the exceptional student education process. The surrogate parent



376 | may be a court-appointed guardian ad litem or a relative or  
377 | nonrelative adult who is involved in the child's life regardless  
378 | of whether that person has physical custody of the child. Each  
379 | person appointed as a surrogate parent must have the knowledge  
380 | and skills acquired by successfully completing training using  
381 | materials developed and approved by the Department of Education  
382 | to ensure adequate representation of the child.

383 |       3. ~~If a guardian ad litem has been appointed for a child,~~  
384 | The district school superintendent must first consider the  
385 | child's guardian ad litem when appointing a surrogate parent.  
386 | The district school superintendent must accept the appointment  
387 | of the court if he or she has not previously appointed a  
388 | surrogate parent. Similarly, the court must accept a surrogate  
389 | parent duly appointed by a district school superintendent.

390 |       4. A surrogate parent appointed by the district school  
391 | superintendent or the court must be accepted by any subsequent  
392 | school or school district without regard to where the child is  
393 | receiving residential care so that a single surrogate parent can  
394 | follow the education of the child during his or her entire time  
395 | in state custody. Nothing in this paragraph or in rule shall  
396 | limit or prohibit the continuance of a surrogate parent  
397 | appointment when the responsibility for the student's  
398 | educational placement moves among and between public and private  
399 | agencies.

400 |       5. For a child known to the department, the responsibility

401 to appoint a surrogate parent resides with both the district  
402 school superintendent and the court with jurisdiction over the  
403 child. If the court elects to appoint a surrogate parent, notice  
404 shall be provided as soon as practicable to the child's school.  
405 At any time the court determines that it is in the best  
406 interests of a child to remove a surrogate parent, the court may  
407 appoint a new surrogate parent for educational decisionmaking  
408 purposes for that child.

409 6. The surrogate parent shall continue in the appointed  
410 role until one of the following occurs:

411 a. The child is determined to no longer be eligible or in  
412 need of special programs, except when termination of special  
413 programs is being contested.

414 b. The child achieves permanency through adoption or legal  
415 guardianship and is no longer in the custody of the department.

416 c. The parent who was previously unknown becomes known,  
417 whose whereabouts were unknown is located, or who was  
418 unavailable is determined by the court to be available.

419 d. The appointed surrogate no longer wishes to represent  
420 the child or is unable to represent the child.

421 e. The superintendent of the school district in which the  
422 child is attending school, the Department of Education contract  
423 designee, or the court that appointed the surrogate determines  
424 that the appointed surrogate parent no longer adequately  
425 represents the child.

426           f. The child moves to a geographic location that is not  
427 reasonably accessible to the appointed surrogate.

428           7. The appointment and termination of appointment of a  
429 surrogate under this paragraph shall be entered as an order of  
430 the court with a copy of the order provided to the child's  
431 school as soon as practicable.

432           8. The person appointed as a surrogate parent under this  
433 paragraph must:

434           a. Be acquainted with the child and become knowledgeable  
435 about his or her disability and educational needs.

436           b. Represent the child in all matters relating to  
437 identification, evaluation, and educational placement and the  
438 provision of a free and appropriate education to the child.

439           c. Represent the interests and safeguard the rights of the  
440 child in educational decisions that affect the child.

441           9. The responsibilities of the person appointed as a  
442 surrogate parent shall not extend to the care, maintenance,  
443 custody, residential placement, or any other area not  
444 specifically related to the education of the child, unless the  
445 same person is appointed by the court for such other purposes.

446           10. A person appointed as a surrogate parent shall enjoy  
447 all of the procedural safeguards afforded a parent with respect  
448 to the identification, evaluation, and educational placement of  
449 a student with a disability or a student who is suspected of  
450 having a disability.

451 11. A person appointed as a surrogate parent shall not be  
 452 held liable for actions taken in good faith on behalf of the  
 453 student in protecting the special education rights of the child.

454 Section 5. Subsections (8) through (30) and (31) through  
 455 (87) of section 39.01, Florida Statutes, are renumbered as  
 456 subsections (9) through (31) and (34) through (90),  
 457 respectively, present subsections (9), (36), and (58) are  
 458 amended, and new subsections (8), (32), and (33) are added to  
 459 that section, to read:

460 39.01 Definitions.—When used in this chapter, unless the  
 461 context otherwise requires:

462 (8) "Attorney ad litem" means an attorney appointed by the  
 463 court to represent a child in a dependency case who has an  
 464 attorney-client relationship with the child under the rules  
 465 regulating The Florida Bar.

466 ~~(10)(9)~~ "Caregiver" means the parent, legal custodian,  
 467 permanent guardian, adult household member, or other person  
 468 responsible for a child's welfare as defined in subsection  
 469 ~~(57)(54)~~.

470 (32) "Guardian ad litem" means a person or an entity that  
 471 is a fiduciary appointed by the court to represent a child in  
 472 any civil, criminal, or administrative proceeding to which the  
 473 child is a party, including, but not limited to, under this  
 474 chapter, which uses a best interest standard for decisionmaking  
 475 and advocacy. For purposes of this chapter, the term includes,

476 but is not limited to, the Statewide Guardian ad Litem Office,  
 477 which includes all circuit guardian ad litem offices and the  
 478 duly certified volunteers, staff, and attorneys assigned by the  
 479 Statewide Guardian ad Litem Office to represent children; a  
 480 court-appointed attorney; or a responsible adult who is  
 481 appointed by the court. A guardian ad litem is a party to the  
 482 judicial proceeding as a representative of the child and serves  
 483 until the jurisdiction of the court over the child terminates or  
 484 until excused by the court.

485 (33) "Guardian advocate" means a person appointed by the  
 486 court to act on behalf of a drug-dependent newborn under part XI  
 487 of this chapter.

488 (39)~~(36)~~ "Institutional child abuse or neglect" means  
 489 situations of known or suspected child abuse or neglect in which  
 490 the person allegedly perpetrating the child abuse or neglect is  
 491 an employee of a public or private school, public or private day  
 492 care center, residential home, institution, facility, or agency  
 493 or any other person at such institution responsible for the  
 494 child's welfare as defined in subsection (57)~~(54)~~.

495 (61)~~(58)~~ "Party" means the parent or parents of the child,  
 496 the petitioner, the department, the guardian ad litem ~~or the~~  
 497 ~~representative of the guardian ad litem program when the program~~  
 498 ~~has been appointed,~~ and the child. The presence of the child may  
 499 be excused by order of the court when presence would not be in  
 500 the child's best interest. Notice to the child may be excused by

501 order of the court when the age, capacity, or other condition of  
502 the child is such that the notice would be meaningless or  
503 detrimental to the child.

504 Section 6. Subsection (11) of section 39.013, Florida  
505 Statutes, is amended and subsection (14) is added to that  
506 section, to read:

507 39.013 Procedures and jurisdiction; right to counsel;  
508 guardian ad litem and attorney ad litem.—

509 (11) The court shall appoint a guardian ad litem at the  
510 earliest possible time to represent a child throughout the  
511 proceedings, including any appeals. The guardian ad litem may  
512 represent the child in proceedings outside of the dependency  
513 case to secure the services and benefits that provide for the  
514 care, safety, and protection of the child ~~encourage the~~  
515 ~~Statewide Guardian Ad Litem Office to provide greater~~  
516 ~~representation to those children who are within 1 year of~~  
517 ~~transferring out of foster care.~~

518 (14) The court may appoint an attorney ad litem for a  
519 child if the court believes the child is in need of such  
520 representation and determines that the child has a rational and  
521 factual understanding of the proceedings and sufficient present  
522 ability to consult with an attorney with a reasonable degree of  
523 rational understanding. The attorney ad litem may represent the  
524 child in proceedings outside of the dependency case to secure  
525 services and benefits that provide for the care, safety, and

526 protection of the child.

527 Section 7. Section 39.01305, Florida Statutes, is amended  
528 to read:

529 39.01305 Appointment of an attorney ad litem for a  
530 dependent child ~~with certain special needs.~~

531 (1) ~~(a)~~ The Legislature finds that:

532 ~~1.~~ all children in proceedings under this chapter have  
533 important interests at stake, such as health, safety, and well-  
534 being and the need to obtain permanency. While such children are  
535 represented by the Statewide Guardian ad Litem Office using a  
536 best interest standard of decisionmaking and advocacy, some  
537 children may also need representation by an attorney ad litem in  
538 proceedings under this chapter.

539 (2) The court may appoint an attorney ad litem for a child  
540 if the court believes the child is in need of such  
541 representation and determines that the child has a rational and  
542 factual understanding of the proceedings and sufficient present  
543 ability to consult with an attorney with a reasonable degree of  
544 rational understanding.

545 ~~2. A dependent child who has certain special needs has a~~  
546 ~~particular need for an attorney to represent the dependent child~~  
547 ~~in proceedings under this chapter, as well as in fair hearings~~  
548 ~~and appellate proceedings, so that the attorney may address the~~  
549 ~~child's medical and related needs and the services and supports~~  
550 ~~necessary for the child to live successfully in the community.~~

551 ~~(b) The Legislature recognizes the existence of~~  
552 ~~organizations that provide attorney representation to children~~  
553 ~~in certain jurisdictions throughout the state. Further, the~~  
554 ~~statewide Guardian Ad Litem Program provides best interest~~  
555 ~~representation for dependent children in every jurisdiction in~~  
556 ~~accordance with state and federal law. The Legislature,~~  
557 ~~therefore, does not intend that funding provided for~~  
558 ~~representation under this section supplant proven and existing~~  
559 ~~organizations representing children. Instead, the Legislature~~  
560 ~~intends that funding provided for representation under this~~  
561 ~~section be an additional resource for the representation of more~~  
562 ~~children in these jurisdictions, to the extent necessary to meet~~  
563 ~~the requirements of this chapter, with the cooperation of~~  
564 ~~existing local organizations or through the expansion of those~~  
565 ~~organizations. The Legislature encourages the expansion of pro~~  
566 ~~bono representation for children. This section is not intended~~  
567 ~~to limit the ability of a pro bono attorney to appear on behalf~~  
568 ~~of a child.~~

569 ~~(2) As used in this section, the term "dependent child"~~  
570 ~~means a child who is subject to any proceeding under this~~  
571 ~~chapter. The term does not require that a child be adjudicated~~  
572 ~~dependent for purposes of this section.~~

573 ~~(3) An attorney shall be appointed for a dependent child~~  
574 ~~who:~~

575 ~~(a) Resides in a skilled nursing facility or is being~~



576 ~~considered for placement in a skilled nursing home;~~  
577 ~~(b) Is prescribed a psychotropic medication but declines~~  
578 ~~assent to the psychotropic medication;~~  
579 ~~(c) Has a diagnosis of a developmental disability as~~  
580 ~~defined in s. 393.063;~~  
581 ~~(d) Is being placed in a residential treatment center or~~  
582 ~~being considered for placement in a residential treatment~~  
583 ~~center; or~~  
584 ~~(e) Is a victim of human trafficking as defined in s.~~  
585 ~~787.06(2)(d).~~  
586 (3)(a)-(4)(a) Before a court may appoint an attorney ad  
587 litem, who may be compensated pursuant to this section, the  
588 court must request a recommendation from the Statewide Guardian  
589 ad Litem Office for an attorney who is willing to represent a  
590 child without additional compensation. If such an attorney is  
591 available within 15 days after the court's request, the court  
592 must appoint that attorney. However, the court may appoint a  
593 compensated attorney within the 15-day period if the Statewide  
594 Guardian ad Litem Office informs the court that the office is  
595 unable ~~it will not be able~~ to recommend an attorney within that  
596 time period.  
597 (b) A court order appointing ~~After~~ an attorney ad litem  
598 must be in writing. ~~is appointed, the appointment continues in~~  
599 ~~effect until the attorney is allowed to withdraw or is~~  
600 ~~discharged by~~ The court must discharge ~~or until the case is~~

601 ~~dismissed.~~ an attorney ad litem who is appointed under this  
 602 section if the need for such representation is resolved. The  
 603 attorney ad litem may represent the child in proceedings outside  
 604 of the dependency case to secure services and benefits that  
 605 provide for the care, safety, and protection of the child ~~to~~  
 606 ~~represent the child shall provide the complete range of legal~~  
 607 ~~services, from the removal from home or from the initial~~  
 608 ~~appointment through all available appellate proceedings.~~ With  
 609 the permission of the court, the attorney ad litem ~~for the~~  
 610 ~~dependent child~~ may arrange for supplemental or separate counsel  
 611 to represent the child in appellate proceedings. ~~A court order~~  
 612 ~~appointing an attorney under this section must be in writing.~~

613 ~~(4)-(5)~~ Unless the attorney ad litem has agreed to provide  
 614 pro bono services, an appointed attorney ad litem or  
 615 organization must be adequately compensated. All appointed  
 616 attorneys ad litem and organizations, including pro bono  
 617 attorneys, must be provided with access to funding for expert  
 618 witnesses, depositions, and other due process costs of  
 619 litigation. Payment of attorney fees and case-related due  
 620 process costs are subject to appropriations and review by the  
 621 Justice Administrative Commission for reasonableness. The  
 622 Justice Administrative Commission shall contract with attorneys  
 623 ad litem appointed by the court. Attorney fees may not exceed  
 624 \$1,000 per child per year.

625 ~~(6) The department shall develop procedures to identify a~~

626 ~~dependent child who has a special need specified under~~  
 627 ~~subsection (3) and to request that a court appoint an attorney~~  
 628 ~~for the child.~~

629 ~~(7) The department may adopt rules to administer this~~  
 630 ~~section.~~

631 ~~(8) This section does not limit the authority of the court~~  
 632 ~~to appoint an attorney for a dependent child in a proceeding~~  
 633 ~~under this chapter.~~

634 (5)~~(9)~~ Implementation of this section is subject to  
 635 appropriations expressly made for that purpose.

636 Section 8. The amendments made by this act to s. 39.01305,  
 637 Florida Statutes, apply only to attorney ad litem appointments  
 638 made on or after July 1, 2024.

639 Section 9. Subsection (3) of section 39.0132, Florida  
 640 Statutes, is amended to read:

641 39.0132 Oaths, records, and confidential information.—

642 (3) The clerk shall keep all court records required by  
 643 this chapter separate from other records of the circuit court.  
 644 All court records required by this chapter may ~~shall~~ not be open  
 645 to inspection by the public. All records may ~~shall~~ be inspected  
 646 only upon order of the court by persons deemed by the court to  
 647 have a proper interest therein, except that, subject to ~~the~~  
 648 ~~provisions of s. 63.162, a child,~~ and the parents of the child  
 649 and their attorneys, the guardian ad litem, criminal conflict  
 650 and civil regional counsels, law enforcement agencies, ~~and~~ the

651 department and its designees, and the attorney ad litem, if one  
 652 is appointed, ~~shall~~ always have the right to inspect and copy  
 653 any official record pertaining to the child. The Justice  
 654 Administrative Commission may inspect court dockets required by  
 655 this chapter as necessary to audit compensation of court-  
 656 appointed attorneys ad litem. If the docket is insufficient for  
 657 purposes of the audit, the commission may petition the court for  
 658 additional documentation as necessary and appropriate. The court  
 659 may permit authorized representatives of recognized  
 660 organizations compiling statistics for proper purposes to  
 661 inspect and make abstracts from official records, under whatever  
 662 conditions upon their use and disposition the court may deem  
 663 proper, and may punish by contempt proceedings any violation of  
 664 those conditions.

665 Section 10. Paragraph (a) of subsection (3) of section  
 666 39.0136, Florida Statutes, is amended to read:

667 39.0136 Time limitations; continuances.—

668 (3) The time limitations in this chapter do not include:

669 (a) Periods of delay resulting from a continuance granted  
 670 at the request of the child's counsel, or the child's guardian  
 671 ad litem, or attorney ad litem, if one is appointed, ~~if the~~  
 672 ~~child is of sufficient capacity to express reasonable consent,~~  
 673 ~~at the request or with the consent of the child.~~ The court must  
 674 consider the best interests of the child when determining  
 675 periods of delay under this section.

676 Section 11. Subsection (7) of section 39.01375, Florida  
 677 Statutes, is amended to read:

678 39.01375 Best interest determination for placement.—The  
 679 department, community-based care lead agency, or court shall  
 680 consider all of the following factors when determining whether a  
 681 proposed placement under this chapter is in the child's best  
 682 interest:

683 (7) The recommendation of the child's guardian ad litem,  
 684 ~~if one has been appointed.~~

685 Section 12. Paragraphs (a) and (b) of subsection (4) of  
 686 section 39.0139, Florida Statutes, are amended to read:

687 39.0139 Visitation or other contact; restrictions.—

688 (4) HEARINGS.—A person who meets any of the criteria set  
 689 forth in paragraph (3) (a) who seeks to begin or resume contact  
 690 with the child victim shall have the right to an evidentiary  
 691 hearing to determine whether contact is appropriate.

692 (a) Before ~~Prior to~~ the hearing, the court shall appoint  
 693 ~~an attorney ad litem or~~ a guardian ad litem for the child if one  
 694 has not already been appointed. The guardian ad litem and Any  
 695 attorney ad litem, if one is or guardian ad litem appointed,  
 696 must shall have special training in the dynamics of child sexual  
 697 abuse.

698 (b) At the hearing, the court may receive and rely upon  
 699 any relevant and material evidence submitted to the extent of  
 700 its probative value, including written and oral reports or

701 recommendations from the Child Protection Team, the child's  
 702 therapist, the child's guardian ad litem, or the child's  
 703 attorney ad litem, if one is appointed, even if these reports,  
 704 recommendations, and evidence may not be admissible under the  
 705 rules of evidence.

706 Section 13. Paragraphs (d) and (t) of subsection (2) of  
 707 section 39.202, Florida Statutes, are amended to read:

708 39.202 Confidentiality of reports and records in cases of  
 709 child abuse or neglect; exception.—

710 (2) Except as provided in subsection (4), access to such  
 711 records, excluding the name of, or other identifying information  
 712 with respect to, the reporter which may only ~~shall~~ be released  
 713 ~~only~~ as provided in subsection (5), may only ~~shall~~ be granted  
 714 ~~only~~ to the following persons, officials, and agencies:

715 (d) The parent or legal custodian of any child who is  
 716 alleged to have been abused, abandoned, or neglected; the child;  
 717 the child's guardian ad litem; the child's attorney ad litem, if  
 718 one is appointed; or, ~~and the child, and their attorneys,~~  
 719 ~~including~~ any attorney representing a child in civil or criminal  
 720 proceedings. This access must ~~shall~~ be made available no later  
 721 than 60 days after the department receives the initial report of  
 722 abuse, neglect, or abandonment. However, any information  
 723 otherwise made confidential or exempt by law may ~~shall~~ not be  
 724 released pursuant to this paragraph.

725 (t) Persons with whom the department is seeking to place

726 the child or to whom placement has been granted, including  
727 foster parents for whom an approved home study has been  
728 conducted, the designee of a licensed child-caring agency as  
729 defined in s. 39.01 ~~s. 39.01(41)~~, an approved relative or  
730 nonrelative with whom a child is placed pursuant to s. 39.402,  
731 preadoptive parents for whom a favorable preliminary adoptive  
732 home study has been conducted, adoptive parents, or an adoption  
733 entity acting on behalf of preadoptive or adoptive parents.

734 Section 14. Paragraph (c) of subsection (8), paragraphs  
735 (b) and (c) of subsection (11), and paragraph (a) of subsection  
736 (14) of section 39.402, Florida Statutes, are amended to read:

737 39.402 Placement in a shelter.—

738 (8)

739 (c) At the shelter hearing, the court shall:

740 1. Appoint a guardian ad litem to represent the best  
741 interest of the child, ~~unless the court finds that such~~  
742 ~~representation is unnecessary;~~

743 2. Inform the parents or legal custodians of their right  
744 to counsel to represent them at the shelter hearing and at each  
745 subsequent hearing or proceeding, and the right of the parents  
746 to appointed counsel, pursuant to the procedures set forth in s.  
747 39.013;

748 3. Give the parents or legal custodians an opportunity to  
749 be heard and to present evidence; and

750 4. Inquire of those present at the shelter hearing as to

751 the identity and location of the legal father. In determining  
752 who the legal father of the child may be, the court shall  
753 inquire under oath of those present at the shelter hearing  
754 whether they have any of the following information:

755 a. Whether the mother of the child was married at the  
756 probable time of conception of the child or at the time of birth  
757 of the child.

758 b. Whether the mother was cohabiting with a male at the  
759 probable time of conception of the child.

760 c. Whether the mother has received payments or promises of  
761 support with respect to the child or because of her pregnancy  
762 from a man who claims to be the father.

763 d. Whether the mother has named any man as the father on  
764 the birth certificate of the child or in connection with  
765 applying for or receiving public assistance.

766 e. Whether any man has acknowledged or claimed paternity  
767 of the child in a jurisdiction in which the mother resided at  
768 the time of or since conception of the child or in which the  
769 child has resided or resides.

770 f. Whether a man is named on the birth certificate of the  
771 child pursuant to s. 382.013(2).

772 g. Whether a man has been determined by a court order to  
773 be the father of the child.

774 h. Whether a man has been determined to be the father of  
775 the child by the Department of Revenue as provided in s.



776 409.256.

777 (11)

778 (b) The court shall request that the parents consent to  
 779 provide access to the child's medical records and provide  
 780 information to the court, the department or its contract  
 781 agencies, and the any guardian ad litem and ~~or~~ attorney ad  
 782 litem, if one is appointed, for the child. If a parent is  
 783 unavailable or unable to consent or withholds consent and the  
 784 court determines access to the records and information is  
 785 necessary to provide services to the child, the court shall  
 786 issue an order granting access. The court may also order the  
 787 parents to provide all known medical information to the  
 788 department and to any others granted access under this  
 789 subsection.

790 (c) The court shall request that the parents consent to  
 791 provide access to the child's child care records, early  
 792 education program records, or other educational records and  
 793 provide information to the court, the department or its contract  
 794 agencies, and the any guardian ad litem and ~~or~~ attorney ad  
 795 litem, if one is appointed, for the child. If a parent is  
 796 unavailable or unable to consent or withholds consent and the  
 797 court determines access to the records and information is  
 798 necessary to provide services to the child, the court shall  
 799 issue an order granting access.

800 (14) The time limitations in this section do not include:

801 (a) Periods of delay resulting from a continuance granted  
 802 at the request or with the consent of the child's ~~counsel or the~~  
 803 ~~child's~~ guardian ad litem or attorney ad litem, if one ~~is~~ has  
 804 ~~been~~ appointed by the court, ~~or, if the child is of sufficient~~  
 805 ~~capacity to express reasonable consent, at the request or with~~  
 806 ~~the consent of the child's attorney or the child's guardian ad~~  
 807 ~~litem, if one has been appointed by the court, and the child.~~

808 Section 15. Paragraphs (a) and (b) of subsection (4) of  
 809 section 39.4022, Florida Statutes, are amended to read:

810 39.4022 Multidisciplinary teams; staffings; assessments;  
 811 report.—

812 (4) PARTICIPANTS.—

813 (a) Collaboration among diverse individuals who are part  
 814 of the child's network is necessary to make the most informed  
 815 decisions possible for the child. A diverse team is preferable  
 816 to ensure that the necessary combination of technical skills,  
 817 cultural knowledge, community resources, and personal  
 818 relationships is developed and maintained for the child and  
 819 family. The participants necessary to achieve an appropriately  
 820 diverse team for a child may vary by child and may include  
 821 extended family, friends, neighbors, coaches, clergy, coworkers,  
 822 or others the family identifies as potential sources of support.

823 1. Each multidisciplinary team staffing must invite the  
 824 following members:

825 a. The child, unless he or she is not of an age or

826 capacity to participate in the team, and the child's guardian ad  
827 litem;

828 b. The child's family members and other individuals  
829 identified by the family as being important to the child,  
830 provided that a parent who has a no contact order or injunction,  
831 is alleged to have sexually abused the child, or is subject to a  
832 termination of parental rights may not participate;

833 c. The current caregiver, provided the caregiver is not a  
834 parent who meets the criteria of one of the exceptions under  
835 sub-subparagraph b.;

836 d. A representative from the department other than the  
837 Children's Legal Services attorney, when the department is  
838 directly involved in the goal identified by the staffing;

839 e. A representative from the community-based care lead  
840 agency, when the lead agency is directly involved in the goal  
841 identified by the staffing;

842 f. The case manager for the child, or his or her case  
843 manager supervisor; and

844 g. A representative from the Department of Juvenile  
845 Justice, if the child is dually involved with both the  
846 department and the Department of Juvenile Justice.

847 2. The multidisciplinary team must make reasonable efforts  
848 to have all mandatory invitees attend. However, the  
849 multidisciplinary team staffing may not be delayed if the  
850 invitees in subparagraph 1. fail to attend after being provided

851 reasonable opportunities.

852 (b) Based on the particular goal the multidisciplinary  
 853 team staffing identifies as the purpose of convening the  
 854 staffing as provided under subsection (5), the department or  
 855 lead agency may also invite to the meeting other professionals,  
 856 including, but not limited to:

857 1. A representative from Children's Medical Services;

858 ~~2. A guardian ad litem, if one is appointed;~~

859 2.3. A school personnel representative who has direct  
 860 contact with the child;

861 3.4. A therapist or other behavioral health professional,  
 862 if applicable;

863 4.5. A mental health professional with expertise in  
 864 sibling bonding, if the department or lead agency deems such  
 865 expert is necessary; or

866 5.6. Other community providers of services to the child or  
 867 stakeholders, when applicable.

868 Section 16. Paragraph (d) of subsection (3) and paragraph  
 869 (c) of subsection (4) of section 39.4023, Florida Statutes, are  
 870 amended to read:

871 39.4023 Placement and education transitions; transition  
 872 plans.—

873 (3) PLACEMENT TRANSITIONS.—

874 (d) Transition planning.—

875 1. If the supportive services provided pursuant to

876 paragraph (c) have not been successful to make the maintenance  
877 of the placement suitable or if there are other circumstances  
878 that require the child to be moved, the department or the  
879 community-based care lead agency must convene a  
880 multidisciplinary team staffing as required under s. 39.4022  
881 before the child's placement is changed, or within 72 hours of  
882 moving the child in an emergency situation, for the purpose of  
883 developing an appropriate transition plan.

884 2. A placement change may occur immediately in an  
885 emergency situation without convening a multidisciplinary team  
886 staffing. However, a multidisciplinary team staffing must be  
887 held within 72 hours after the emergency situation arises.

888 3. The department or the community-based care lead agency  
889 must provide written notice of the planned move at least 14 days  
890 before the move or within 72 hours after an emergency situation,  
891 to the greatest extent possible and consistent with the child's  
892 needs and preferences. The notice must include the reason a  
893 placement change is necessary. A copy of the notice must be  
894 filed with the court and be provided to all of the following:

895 a. The child, unless he or she, due to age or capacity, is  
896 unable to comprehend the written notice, which will necessitate  
897 the department or lead agency to provide notice in an age-  
898 appropriate and capacity-appropriate alternative manner.†

899 b. The child's parents, unless prohibited by court order.†

900 c. The child's out-of-home caregiver.†

901           d. The guardian ad litem, ~~if one is appointed;~~  
 902           e. The attorney ad litem for the child, if one is  
 903 appointed, ~~and~~  
 904           f. The attorney for the department.  
 905           4. The transition plan must be developed through  
 906 cooperation among the persons included in subparagraph 3., and  
 907 such persons must share any relevant information necessary for  
 908 its development. Subject to the child's needs and preferences,  
 909 the transition plan must meet the requirements of s.  
 910 409.1415(2)(b)8. and exclude any placement changes that occur  
 911 between 7 p.m. and 8 a.m.  
 912           5. The department or the community-based care lead agency  
 913 shall file the transition plan with the court within 48 hours  
 914 after the creation of such plan and provide a copy of the plan  
 915 to the persons included in subparagraph 3.  
 916           (4) EDUCATION TRANSITIONS.—  
 917           (c) Minimizing school changes.—  
 918           1. Every effort must be made to keep a child in the school  
 919 of origin if it is in the child's best interest. Any placement  
 920 decision must include thoughtful consideration of which school a  
 921 child will attend if a school change is necessary.  
 922           2. Members of a multidisciplinary team staffing convened  
 923 for a purpose other than a school change must determine the  
 924 child's best interest regarding remaining in the school or  
 925 program of origin if the child's educational options are

926 affected by any other decision being made by the  
927 multidisciplinary team.

928 3. The determination of whether it is in the child's best  
929 interest to remain in the school of origin, and if not, of which  
930 school the child will attend in the future, must be made in  
931 consultation with the following individuals, including, but not  
932 limited to, the child; the parents; the caregiver; the child  
933 welfare professional; the guardian ad litem, ~~if appointed~~; the  
934 educational surrogate, if appointed; child care and educational  
935 staff, including teachers and guidance counselors; and the  
936 school district representative or foster care liaison. A  
937 multidisciplinary team member may contact any of these  
938 individuals in advance of a multidisciplinary team staffing to  
939 obtain his or her recommendation. An individual may remotely  
940 attend the multidisciplinary team staffing if one of the  
941 identified goals is related to determining an educational  
942 placement. The multidisciplinary team may rely on a report from  
943 the child's current school or program district and, if  
944 applicable, any other school district being considered for the  
945 educational placement if the required school personnel are not  
946 available to attend the multidisciplinary team staffing in  
947 person or remotely.

948 4. The multidisciplinary team and the individuals listed  
949 in subparagraph 3. must consider, at a minimum, all of the  
950 following factors when determining whether remaining in the

951 school or program of origin is in the child's best interest or,  
 952 if not, when selecting a new school or program:

953 a. The child's desire to remain in the school or program  
 954 of origin.

955 b. The preference of the child's parents or legal  
 956 guardians.

957 c. Whether the child has siblings, close friends, or  
 958 mentors at the school or program of origin.

959 d. The child's cultural and community connections in the  
 960 school or program of origin.

961 e. Whether the child is suspected of having a disability  
 962 under the Individuals with Disabilities Education Act (IDEA) or  
 963 s. 504 of the Rehabilitation Act of 1973, or has begun receiving  
 964 interventions under this state's multitiered system of supports.

965 f. Whether the child has an evaluation pending for special  
 966 education and related services under IDEA or s. 504 of the  
 967 Rehabilitation Act of 1973.

968 g. Whether the child is a student with a disability under  
 969 IDEA who is receiving special education and related services or  
 970 a student with a disability under s. 504 of the Rehabilitation  
 971 Act of 1973 who is receiving accommodations and services and, if  
 972 so, whether those required services are available in a school or  
 973 program other than the school or program of origin.

974 h. Whether the child is an English Language Learner  
 975 student and is receiving language services and, if so, whether



976 | those required services are available in a school or program  
 977 | other than the school or program of origin.

978 |       i. The impact a change to the school or program of origin  
 979 | would have on academic credits and progress toward promotion.

980 |       j. The availability of extracurricular activities  
 981 | important to the child.

982 |       k. The child's known individualized educational plan or  
 983 | other medical and behavioral health needs and whether such plan  
 984 | or needs are able to be met at a school or program other than  
 985 | the school or program of origin.

986 |       l. The child's permanency goal and timeframe for achieving  
 987 | permanency.

988 |       m. The child's history of school transfers and how such  
 989 | transfers have impacted the child academically, emotionally, and  
 990 | behaviorally.

991 |       n. The length of the commute to the school or program from  
 992 | the child's home or placement and how such commute would impact  
 993 | the child.

994 |       o. The length of time the child has attended the school or  
 995 | program of origin.

996 |       5. The cost of transportation cannot be a factor in making  
 997 | a best interest determination.

998 |       Section 17. Paragraph (f) of subsection (3) of section  
 999 | 39.407, Florida Statutes, is amended to read:

1000 |       39.407 Medical, psychiatric, and psychological examination

1001 and treatment of child; physical, mental, or substance abuse  
 1002 examination of person with or requesting child custody.—

1003 (3)

1004 (f)1. The department shall fully inform the court of the  
 1005 child's medical and behavioral status as part of the social  
 1006 services report prepared for each judicial review hearing held  
 1007 for a child for whom psychotropic medication has been prescribed  
 1008 or provided under this subsection. As a part of the information  
 1009 provided to the court, the department shall furnish copies of  
 1010 all pertinent medical records concerning the child which have  
 1011 been generated since the previous hearing. On its own motion or  
 1012 on good cause shown by any party, including the ~~any~~ guardian ad  
 1013 litem, ~~attorney,~~ or attorney ad litem, if one is ~~who has been~~  
 1014 appointed ~~to represent the child or the child's interests,~~ the  
 1015 court may review the status more frequently than required in  
 1016 this subsection.

1017 2. The court may, in the best interests of the child,  
 1018 order the department to obtain a medical opinion addressing  
 1019 whether the continued use of the medication under the  
 1020 circumstances is safe and medically appropriate.

1021 Section 18. Paragraphs (m), (t), and (u) of subsection (1)  
 1022 of section 39.4085, Florida Statutes, are amended to read:

1023 39.4085 Goals for dependent children; responsibilities;  
 1024 education; Office of the Children's Ombudsman.—

1025 (1) The Legislature finds that the design and delivery of

1026 child welfare services should be directed by the principle that  
1027 the health and safety of children, including the freedom from  
1028 abuse, abandonment, or neglect, is of paramount concern and,  
1029 therefore, establishes the following goals for children in  
1030 shelter or foster care:

1031 (m) To receive meaningful case management and planning  
1032 that will quickly return the child to his or her family or move  
1033 the child on to other forms of permanency. For a child who is  
1034 transitioning from foster care to independent living, permanency  
1035 includes establishing naturally occurring, lifelong, kin-like  
1036 connections between the child and a supportive adult.

1037 (t) To have a guardian ad litem appointed ~~to represent,~~  
1038 ~~within reason, their best interests~~ and, if appropriate, an  
1039 attorney ad litem ~~appointed to represent their legal interests;~~  
1040 the guardian ad litem and attorney ad litem, if one is  
1041 appointed, ~~shall~~ have immediate and unlimited access to the  
1042 children they represent.

1043 (u) To have all their records available for review by  
1044 their guardian ad litem and attorney ad litem, if one is  
1045 appointed, if they deem such review necessary.

1046  
1047 This subsection establishes goals and not rights. This  
1048 subsection does not require the delivery of any particular  
1049 service or level of service in excess of existing  
1050 appropriations. A person does not have a cause of action against

1051 the state or any of its subdivisions, agencies, contractors,  
 1052 subcontractors, or agents, based upon the adoption of or failure  
 1053 to provide adequate funding for the achievement of these goals  
 1054 by the Legislature. This subsection does not require the  
 1055 expenditure of funds to meet the goals established in this  
 1056 subsection except those funds specifically appropriated for such  
 1057 purpose.

1058 Section 19. Subsection (8) of section 39.502, Florida  
 1059 Statutes, is amended to read:

1060 39.502 Notice, process, and service.—

1061 (8) It is not necessary to the validity of a proceeding  
 1062 covered by this part that the parents be present if their  
 1063 identity or residence is unknown after a diligent search has  
 1064 been made; however, ~~but in this event~~ the petitioner must ~~shall~~  
 1065 file an affidavit of diligent search prepared by the person who  
 1066 made the search and inquiry, and the court must ~~may~~ appoint a  
 1067 guardian ad litem for the child if a guardian ad litem has not  
 1068 previously been appointed.

1069 Section 20. Paragraph (c) of subsection (3) of section  
 1070 39.522, Florida Statutes, is amended to read:

1071 39.522 Postdisposition change of custody.—

1072 (3)

1073 (c)1. The department or community-based care lead agency  
 1074 must notify a current caregiver who has been in the physical  
 1075 custody placement for at least 9 consecutive months and who

1076 meets all the established criteria in paragraph (b) of an intent  
1077 to change the physical custody of the child, and a  
1078 multidisciplinary team staffing must be held in accordance with  
1079 ss. 39.4022 and 39.4023 at least 21 days before the intended  
1080 date for the child's change in physical custody, unless there is  
1081 an emergency situation as defined in s. 39.4022(2)(b). If there  
1082 is not a unanimous consensus decision reached by the  
1083 multidisciplinary team, the department's official position must  
1084 be provided to the parties within the designated time period as  
1085 provided for in s. 39.4022.

1086         2. A caregiver who objects to the department's official  
1087 position on the change in physical custody must notify the court  
1088 and the department or community-based care lead agency of his or  
1089 her objection and the intent to request an evidentiary hearing  
1090 in writing in accordance with this section within 5 days after  
1091 receiving notice of the department's official position provided  
1092 under subparagraph 1. The transition of the child to the new  
1093 caregiver may not begin before the expiration of the 5-day  
1094 period within which the current caregiver may object.

1095         3. Upon the department or community-based care lead agency  
1096 receiving written notice of the caregiver's objection, the  
1097 change to the child's physical custody must be placed in  
1098 abeyance and the child may not be transitioned to a new physical  
1099 placement without a court order, unless there is an emergency  
1100 situation as defined in s. 39.4022(2)(b).

1101 4. Within 7 days after receiving written notice from the  
 1102 caregiver, the court must conduct an initial case status  
 1103 hearing, at which time the court must do all of the following:

1104 a. Grant party status to the current caregiver who is  
 1105 seeking permanent custody and has maintained physical custody of  
 1106 that child for at least 9 continuous months for the limited  
 1107 purpose of filing a motion for a hearing on the objection and  
 1108 presenting evidence pursuant to this subsection. †

1109 ~~b. Appoint an attorney for the child who is the subject of~~  
 1110 ~~the permanent custody proceeding, in addition to the guardian ad~~  
 1111 ~~litem, if one is appointed;~~

1112 ~~b.e.~~ Advise the caregiver of his or her right to retain  
 1113 counsel for purposes of the evidentiary hearing. † ~~and~~

1114 ~~c.d.~~ Appoint a court-selected neutral and independent  
 1115 licensed professional with expertise in the science and research  
 1116 of child-parent bonding.

1117 Section 21. Paragraph (c) of subsection (1) and paragraph  
 1118 (c) of subsection (3) of section 39.6012, Florida Statutes, are  
 1119 amended to read:

1120 39.6012 Case plan tasks; services.—

1121 (1) The services to be provided to the parent and the  
 1122 tasks that must be completed are subject to the following:

1123 (c) If there is evidence of harm as defined in s.  
 1124 39.01(37)(g) ~~s. 39.01(34)(g)~~, the case plan must include as a  
 1125 required task for the parent whose actions caused the harm that

1126 | the parent submit to a substance abuse disorder assessment or  
 1127 | evaluation and participate and comply with treatment and  
 1128 | services identified in the assessment or evaluation as being  
 1129 | necessary.

1130 |         (3) In addition to any other requirement, if the child is  
 1131 | in an out-of-home placement, the case plan must include:

1132 |             (c) When appropriate, for a child who is 13 years of age  
 1133 | or older, a written description of the programs and services  
 1134 | that will help the child prepare for the transition from foster  
 1135 | care to independent living. The written description must include  
 1136 | age-appropriate activities for the child's development of  
 1137 | relationships, coping skills, and emotional well-being.

1138 |         Section 22. Section 39.6036, Florida Statutes, is created  
 1139 | to read:

1140 |             39.6036 Supportive adults for children transitioning out  
 1141 | of foster care.-

1142 |             (1) The Legislature finds that a committed, caring adult  
 1143 | provides a lifeline for a child transitioning out of foster care  
 1144 | to live independently. Accordingly, it is the intent of the  
 1145 | Legislature that the Statewide Guardian ad Litem Office help  
 1146 | children connect with supportive adults with the hope of  
 1147 | creating an ongoing relationship that lasts into adulthood.

1148 |             (2) The Statewide Guardian ad Litem Office shall work with  
 1149 | a child who is transitioning out of foster care to identify at  
 1150 | least one supportive adult with whom the child can enter into a

1151 formal agreement for an ongoing relationship and document such  
1152 agreement in the child's court file. If the child cannot  
1153 identify a supportive adult, the Statewide Guardian ad Litem  
1154 Office shall work in coordination with the Office of Continuing  
1155 Care to identify at least one supportive adult with whom the  
1156 child can enter into a formal agreement for an ongoing  
1157 relationship and document such agreement in the child's court  
1158 file.

1159 Section 23. Paragraph (c) of subsection (10) of section  
1160 39.621, Florida Statutes, is amended to read:

1161 39.621 Permanency determination by the court.—

1162 (10) The permanency placement is intended to continue  
1163 until the child reaches the age of majority and may not be  
1164 disturbed absent a finding by the court that the circumstances  
1165 of the permanency placement are no longer in the best interest  
1166 of the child.

1167 (c) The court shall base its decision concerning any  
1168 motion by a parent for reunification or increased contact with a  
1169 child on the effect of the decision on the safety, well-being,  
1170 and physical and emotional health of the child. Factors that  
1171 must be considered and addressed in the findings of fact of the  
1172 order on the motion must include:

1173 1. The compliance or noncompliance of the parent with the  
1174 case plan;

1175 2. The circumstances which caused the child's dependency



1176 and whether those circumstances have been resolved;  
 1177 3. The stability and longevity of the child's placement;  
 1178 4. The preferences of the child, if the child is of  
 1179 sufficient age and understanding to express a preference;  
 1180 5. The recommendation of the current custodian; and  
 1181 6. Any ~~The~~ recommendation of the guardian ad litem, ~~if one~~  
 1182 ~~has been appointed.~~

1183 Section 24. Subsection (2) of section 39.6241, Florida  
 1184 Statutes, is amended to read:

1185 39.6241 Another planned permanent living arrangement.—

1186 (2) The department and the guardian ad litem must provide  
 1187 the court with a recommended list and description of services  
 1188 needed by the child, such as independent living services and  
 1189 medical, dental, educational, or psychological referrals, and a  
 1190 recommended list and description of services needed by his or  
 1191 her caregiver. The guardian ad litem must also advise the court  
 1192 whether the child has been connected with a supportive adult  
 1193 and, if the child has been connected with a supportive adult,  
 1194 whether the child has entered into a formal agreement with the  
 1195 adult. If the child has entered into a formal agreement pursuant  
 1196 to s. 39.6036, the guardian ad litem must ensure that the  
 1197 agreement is documented in the child's court file.

1198 Section 25. Paragraphs (b) and (f) of subsection (1),  
 1199 paragraph (c) of subsection (2), subsection (3), and paragraph  
 1200 (e) of subsection (4) of section 39.701, Florida Statutes, are

1201 amended to read:

1202 39.701 Judicial review.—

1203 (1) GENERAL PROVISIONS.—

1204 (b)1. The court shall retain jurisdiction over a child  
 1205 returned to his or her parents for a minimum period of 6 months  
 1206 after ~~following~~ the reunification, but, at that time, based on a  
 1207 report of the social service agency and the guardian ad litem,  
 1208 ~~if one has been appointed,~~ and any other relevant factors, the  
 1209 court shall make a determination as to whether supervision by  
 1210 the department and the court's jurisdiction shall continue or be  
 1211 terminated.

1212 2. Notwithstanding subparagraph 1., the court must retain  
 1213 jurisdiction over a child if the child is placed in the home  
 1214 with a parent or caregiver with an in-home safety plan and such  
 1215 safety plan remains necessary for the child to reside safely in  
 1216 the home.

1217 (f) Notice of a judicial review hearing or a citizen  
 1218 review panel hearing, and a copy of the motion for judicial  
 1219 review, if any, must be served by the clerk of the court upon  
 1220 all of the following persons, if available to be served,  
 1221 regardless of whether the person was present at the previous  
 1222 hearing at which the date, time, and location of the hearing was  
 1223 announced:

1224 1. The social service agency charged with the supervision  
 1225 of care, custody, or guardianship of the child, if that agency

1226 is not the movant.

1227       2. The foster parent or legal custodian in whose home the

1228 child resides.

1229       3. The parents.

1230       4. The guardian ad litem for the child, ~~or the~~

1231 ~~representative of the guardian ad litem program if the program~~

1232 ~~has been appointed.~~

1233       5. The attorney ad litem for the child, if one is

1234 appointed.

1235       6. The child, if the child is 13 years of age or older.

1236       7. Any preadoptive parent.

1237       8. Such other persons as the court may direct.

1238       (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF

1239 AGE.—

1240       (c) Review determinations.—The court and any citizen

1241 review panel shall take into consideration the information

1242 contained in the social services study and investigation and all

1243 medical, psychological, and educational records that support the

1244 terms of the case plan; testimony by the social services agency,

1245 the parent, the foster parent or caregiver, the guardian ad

1246 litem, the ~~or~~ surrogate parent for educational decisionmaking if

1247 one has been appointed for the child, and any other person

1248 deemed appropriate; and any relevant and material evidence

1249 submitted to the court, including written and oral reports to

1250 the extent of their probative value. These reports and evidence

1251 may be received by the court in its effort to determine the  
 1252 action to be taken with regard to the child and may be relied  
 1253 upon to the extent of their probative value, even though not  
 1254 competent in an adjudicatory hearing. In its deliberations, the  
 1255 court and any citizen review panel shall seek to determine:

1256 1. If the parent was advised of the right to receive  
 1257 assistance from any person or social service agency in the  
 1258 preparation of the case plan.

1259 2. If the parent has been advised of the right to have  
 1260 counsel present at the judicial review or citizen review  
 1261 hearings. If not so advised, the court or citizen review panel  
 1262 shall advise the parent of such right.

1263 3. If a guardian ad litem needs to be appointed for the  
 1264 child in a case in which a guardian ad litem has not previously  
 1265 been appointed ~~or if there is a need to continue a guardian ad~~  
 1266 ~~litem in a case in which a guardian ad litem has been appointed.~~

1267 4. Who holds the rights to make educational decisions for  
 1268 the child. If appropriate, the court may refer the child to the  
 1269 district school superintendent for appointment of a surrogate  
 1270 parent or may itself appoint a surrogate parent under the  
 1271 Individuals with Disabilities Education Act and s. 39.0016.

1272 5. The compliance or lack of compliance of all parties  
 1273 with applicable items of the case plan, including the parents'  
 1274 compliance with child support orders.

1275 6. The compliance or lack of compliance with a visitation

1276 contract between the parent and the social service agency for  
 1277 contact with the child, including the frequency, duration, and  
 1278 results of the parent-child visitation and the reason for any  
 1279 noncompliance.

1280 7. The frequency, kind, and duration of contacts among  
 1281 siblings who have been separated during placement, as well as  
 1282 any efforts undertaken to reunite separated siblings if doing so  
 1283 is in the best interests of the child.

1284 8. The compliance or lack of compliance of the parent in  
 1285 meeting specified financial obligations pertaining to the care  
 1286 of the child, including the reason for failure to comply, if  
 1287 applicable.

1288 9. Whether the child is receiving safe and proper care  
 1289 according to s. 39.6012, including, but not limited to, the  
 1290 appropriateness of the child's current placement, including  
 1291 whether the child is in a setting that is as family-like and as  
 1292 close to the parent's home as possible, consistent with the  
 1293 child's best interests and special needs, and including  
 1294 maintaining stability in the child's educational placement, as  
 1295 documented by assurances from the community-based care lead  
 1296 agency that:

1297 a. The placement of the child takes into account the  
 1298 appropriateness of the current educational setting and the  
 1299 proximity to the school in which the child is enrolled at the  
 1300 time of placement.

1301           b. The community-based care lead agency has coordinated  
1302 with appropriate local educational agencies to ensure that the  
1303 child remains in the school in which the child is enrolled at  
1304 the time of placement.

1305           10. A projected date likely for the child's return home or  
1306 other permanent placement.

1307           11. When appropriate, the basis for the unwillingness or  
1308 inability of the parent to become a party to a case plan. The  
1309 court and the citizen review panel shall determine if the  
1310 efforts of the social service agency to secure party  
1311 participation in a case plan were sufficient.

1312           12. For a child who has reached 13 years of age but is not  
1313 yet 18 years of age, the adequacy of the child's preparation for  
1314 adulthood and independent living. For a child who is 15 years of  
1315 age or older, the court shall determine if appropriate steps are  
1316 being taken for the child to obtain a driver license or  
1317 learner's driver license.

1318           13. If amendments to the case plan are required.  
1319 Amendments to the case plan must be made under s. 39.6013.

1320           14. If the parents and caregivers have developed a  
1321 productive relationship that includes meaningful communication  
1322 and mutual support.

1323           (3) REVIEW HEARINGS FOR CHILDREN 16 AND 17 YEARS OF AGE.—  
1324 At each review hearing held under this subsection, the court  
1325 shall give the child and the guardian ad litem the opportunity

1326 to address the court and provide any information relevant to the  
1327 child's best interest, particularly in relation to independent  
1328 living transition services. The foster parent or legal  
1329 custodian, ~~or guardian ad litem~~ may also provide any information  
1330 relevant to the child's best interest to the court. In addition  
1331 to the review and report required under paragraphs (1)(a) and  
1332 (2)(a), respectively, and the review and report required under  
1333 s. 39.822(2)(a)2., the court shall:

1334 (a) Inquire about the life skills the child has acquired  
1335 and whether those services are age appropriate, at the first  
1336 judicial review hearing held subsequent to the child's 16th  
1337 birthday. At the judicial review hearing, the department shall  
1338 provide the court with a report that includes specific  
1339 information related to the life skills that the child has  
1340 acquired since the child's 13th birthday or since the date the  
1341 child came into foster care, whichever came later. For any child  
1342 who may meet the requirements for appointment of a guardian  
1343 advocate under s. 393.12 or a guardian under chapter 744, the  
1344 updated case plan must be developed in a face-to-face conference  
1345 with the child, if appropriate; the child's attorney ad litem,  
1346 if one is appointed; the child's; any court-appointed guardian  
1347 ad litem; the temporary custodian of the child; and the parent  
1348 of the child, if the parent's rights have not been terminated.

1349 (b) The court shall hold a judicial review hearing within  
1350 90 days after a child's 17th birthday. The court shall issue an

1351 order, separate from the order on judicial review, that the  
1352 disability of nonage of the child has been removed under ss.  
1353 743.044-743.047 for any disability that the court finds is in  
1354 the child's best interest to remove. The department shall  
1355 include in the social study report for the first judicial review  
1356 that occurs after the child's 17th birthday written verification  
1357 that the child has:

1358 1. A current Medicaid card and all necessary information  
1359 concerning the Medicaid program sufficient to prepare the child  
1360 to apply for coverage upon reaching the age of 18, if such  
1361 application is appropriate.

1362 2. A certified copy of the child's birth certificate and,  
1363 if the child does not have a valid driver license, a Florida  
1364 identification card issued under s. 322.051.

1365 3. A social security card and information relating to  
1366 social security insurance benefits if the child is eligible for  
1367 those benefits. If the child has received such benefits and they  
1368 are being held in trust for the child, a full accounting of  
1369 these funds must be provided and the child must be informed as  
1370 to how to access those funds.

1371 4. All relevant information related to the Road-to-  
1372 Independence Program under s. 409.1451, including, but not  
1373 limited to, eligibility requirements, information on  
1374 participation, and assistance in gaining admission to the  
1375 program. If the child is eligible for the Road-to-Independence



1376 Program, he or she must be advised that he or she may continue  
 1377 to reside with the licensed family home or group care provider  
 1378 with whom the child was residing at the time the child attained  
 1379 his or her 18th birthday, in another licensed family home, or  
 1380 with a group care provider arranged by the department.

1381 5. An open bank account or the identification necessary to  
 1382 open a bank account and to acquire essential banking and  
 1383 budgeting skills.

1384 6. Information on public assistance and how to apply for  
 1385 public assistance.

1386 7. A clear understanding of where he or she will be living  
 1387 on his or her 18th birthday, how living expenses will be paid,  
 1388 and the educational program or school in which he or she will be  
 1389 enrolled.

1390 8. Information related to the ability of the child to  
 1391 remain in care until he or she reaches 21 years of age under s.  
 1392 39.013.

1393 9. A letter providing the dates that the child is under  
 1394 the jurisdiction of the court.

1395 10. A letter stating that the child is in compliance with  
 1396 financial aid documentation requirements.

1397 11. The child's educational records.

1398 12. The child's entire health and mental health records.

1399 13. The process for accessing the child's case file.

1400 14. A statement encouraging the child to attend all

1401 judicial review hearings.

1402 15. Information on how to obtain a driver license or  
1403 learner's driver license.

1404 (c) At the first judicial review hearing held subsequent  
1405 to the child's 17th birthday, if the court determines pursuant  
1406 to chapter 744 that there is a good faith basis to believe that  
1407 the child qualifies for appointment of a guardian advocate,  
1408 limited guardian, or plenary guardian for the child and that no  
1409 less restrictive decisionmaking assistance will meet the child's  
1410 needs:

1411 1. The department shall complete a multidisciplinary  
1412 report which must include, but is not limited to, a psychosocial  
1413 evaluation and educational report if such a report has not been  
1414 completed within the previous 2 years.

1415 2. The department shall identify one or more individuals  
1416 who are willing to serve as the guardian advocate under s.  
1417 393.12 or as the plenary or limited guardian under chapter 744.  
1418 Any other interested parties or participants may make efforts to  
1419 identify such a guardian advocate, limited guardian, or plenary  
1420 guardian. The child's biological or adoptive family members,  
1421 including the child's parents if the parents' rights have not  
1422 been terminated, may not be considered for service as the  
1423 plenary or limited guardian unless the court enters a written  
1424 order finding that such an appointment is in the child's best  
1425 interests.

1426           3. Proceedings may be initiated within 180 days after the  
1427 child's 17th birthday for the appointment of a guardian  
1428 advocate, plenary guardian, or limited guardian for the child in  
1429 a separate proceeding in the court division with jurisdiction  
1430 over guardianship matters and pursuant to chapter 744. The  
1431 Legislature encourages the use of pro bono representation to  
1432 initiate proceedings under this section.

1433           4. In the event another interested party or participant  
1434 initiates proceedings for the appointment of a guardian  
1435 advocate, plenary guardian, or limited guardian for the child,  
1436 the department shall provide all necessary documentation and  
1437 information to the petitioner to complete a petition under s.  
1438 393.12 or chapter 744 within 45 days after the first judicial  
1439 review hearing after the child's 17th birthday.

1440           5. Any proceedings seeking appointment of a guardian  
1441 advocate or a determination of incapacity and the appointment of  
1442 a guardian must be conducted in a separate proceeding in the  
1443 court division with jurisdiction over guardianship matters and  
1444 pursuant to chapter 744.

1445           (d) If the court finds at the judicial review hearing  
1446 after the child's 17th birthday that the department has not met  
1447 its obligations to the child as stated in this part, in the  
1448 written case plan, or in the provision of independent living  
1449 services, the court may issue an order directing the department  
1450 to show cause as to why it has not done so. If the department

1451 cannot justify its noncompliance, the court may give the  
1452 department 30 days within which to comply. If the department  
1453 fails to comply within 30 days, the court may hold the  
1454 department in contempt.

1455 (e) If necessary, the court may review the status of the  
1456 child more frequently during the year before the child's 18th  
1457 birthday. At the last review hearing before the child reaches 18  
1458 years of age, and in addition to the requirements of subsection  
1459 (2), the court shall:

1460 1. Address whether the child plans to remain in foster  
1461 care, and, if so, ensure that the child's transition plan  
1462 includes a plan for meeting one or more of the criteria  
1463 specified in s. 39.6251 and determine if the child has entered  
1464 into a formal agreement for an ongoing relationship with a  
1465 supportive adult.

1466 2. Ensure that the transition plan includes a supervised  
1467 living arrangement under s. 39.6251.

1468 3. Ensure the child has been informed of:

1469 a. The right to continued support and services from the  
1470 department and the community-based care lead agency.

1471 b. The right to request termination of dependency  
1472 jurisdiction and be discharged from foster care.

1473 c. The opportunity to reenter foster care under s.  
1474 39.6251.

1475 4. Ensure that the child, if he or she requests

1476 termination of dependency jurisdiction and discharge from foster  
1477 care, has been informed of:

1478 a. Services or benefits for which the child may be  
1479 eligible based on his or her former placement in foster care,  
1480 including, but not limited to, the assistance of the Office of  
1481 Continuing Care under s. 414.56.

1482 b. Services or benefits that may be lost through  
1483 termination of dependency jurisdiction.

1484 c. Other federal, state, local, or community-based  
1485 services or supports available to him or her.

1486 (4) REVIEW HEARINGS FOR YOUNG ADULTS IN FOSTER CARE.—  
1487 During each period of time that a young adult remains in foster  
1488 care, the court shall review the status of the young adult at  
1489 least every 6 months and must hold a permanency review hearing  
1490 at least annually.

1491 (e)1. Notwithstanding the provisions of this subsection,  
1492 if a young adult has chosen to remain in extended foster care  
1493 after he or she has reached 18 years of age, the department may  
1494 not close a case and the court may not terminate jurisdiction  
1495 until the court finds, following a hearing, that the following  
1496 criteria have been met:

1497 a.1. Attendance of the young adult at the hearing; or

1498 b.2. Findings by the court that:

1499 (I)a. The young adult has been informed by the department  
1500 of his or her right to attend the hearing and has provided

1501 written consent to waive this right; and

1502 (II)~~b.~~ The young adult has been informed of the potential  
 1503 negative effects of early termination of care, the option to  
 1504 reenter care before reaching 21 years of age, the procedure for,  
 1505 and limitations on, reentering care, and the availability of  
 1506 alternative services, and has signed a document attesting that  
 1507 he or she has been so informed and understands these provisions;  
 1508 or

1509 (III)~~e.~~ The young adult has voluntarily left the program,  
 1510 has not signed the document in sub-subparagraph b., and is  
 1511 unwilling to participate in any further court proceeding.

1512 2.3. In all permanency hearings or hearings regarding the  
 1513 transition of the young adult from care to independent living,  
 1514 the court shall consult with the young adult regarding the  
 1515 proposed permanency plan, case plan, and individual education  
 1516 plan for the young adult and ensure that he or she has  
 1517 understood the conversation. The court shall also inquire of the  
 1518 young adult regarding his or her relationship with the  
 1519 supportive adult with whom the young adult has entered into a  
 1520 formal agreement for an ongoing relationship, if such agreement  
 1521 exists.

1522 Section 26. Paragraph (a) of subsection (3) of section  
 1523 39.801, Florida Statutes, is amended to read:

1524 39.801 Procedures and jurisdiction; notice; service of  
 1525 process.—

1526 (3) Before the court may terminate parental rights, in  
 1527 addition to the other requirements set forth in this part, the  
 1528 following requirements must be met:

1529 (a) Notice of the date, time, and place of the advisory  
 1530 hearing for the petition to terminate parental rights; if  
 1531 applicable, instructions for appearance through audio-video  
 1532 communication technology; and a copy of the petition must be  
 1533 personally served upon the following persons, specifically  
 1534 notifying them that a petition has been filed:

- 1535 1. The parents of the child.
- 1536 2. The legal custodians of the child.
- 1537 3. If the parents who would be entitled to notice are dead  
 1538 or unknown, a living relative of the child, unless upon diligent  
 1539 search and inquiry no such relative can be found.
- 1540 4. Any person who has physical custody of the child.
- 1541 5. Any grandparent entitled to priority for adoption under  
 1542 s. 63.0425.
- 1543 6. Any prospective parent who has been identified under s.  
 1544 39.503 or s. 39.803, unless a court order has been entered  
 1545 pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which  
 1546 indicates no further notice is required. Except as otherwise  
 1547 provided in this section, if there is not a legal father, notice  
 1548 of the petition for termination of parental rights must be  
 1549 provided to any known prospective father who is identified under  
 1550 oath before the court or who is identified by a diligent search

1551 of the Florida Putative Father Registry. Service of the notice  
 1552 of the petition for termination of parental rights is not  
 1553 required if the prospective father executes an affidavit of  
 1554 nonpaternity or a consent to termination of his parental rights  
 1555 which is accepted by the court after notice and opportunity to  
 1556 be heard by all parties to address the best interests of the  
 1557 child in accepting such affidavit.

1558 7. The guardian ad litem for the child ~~or the~~  
 1559 ~~representative of the guardian ad litem program, if the program~~  
 1560 ~~has been appointed.~~

1561  
 1562 A party may consent to service or notice by e-mail by providing  
 1563 a primary e-mail address to the clerk of the court. The document  
 1564 containing the notice to respond or appear must contain, in type  
 1565 at least as large as the type in the balance of the document,  
 1566 the following or substantially similar language: "FAILURE TO  
 1567 APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE  
 1568 TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN). IF  
 1569 YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE  
 1570 ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN  
 1571 THE PETITION ATTACHED TO THIS NOTICE."

1572 Section 27. Subsection (2) of section 39.807, Florida  
 1573 Statutes, is amended to read:

1574 39.807 Right to counsel; guardian ad litem.—

1575 (2) (a) The court shall appoint a guardian ad litem to



1576 represent the ~~best interest of the~~ child in any termination of  
 1577 parental rights proceedings and shall ascertain at each stage of  
 1578 the proceedings whether a guardian ad litem has been appointed.

1579 (b) The guardian ad litem has the ~~following~~  
 1580 responsibilities and authorities listed in s. 39.822.÷

1581 ~~1. To investigate the allegations of the petition and any~~  
 1582 ~~subsequent matters arising in the case and,~~

1583 (c) Unless excused by the court, the guardian ad litem  
 1584 must ~~to~~ file a written report. This report must include a  
 1585 statement of the wishes of the child and the recommendations of  
 1586 the guardian ad litem and must be provided to all parties and  
 1587 the court at least 72 hours before the disposition hearing.

1588 ~~2. To be present at all court hearings unless excused by~~  
 1589 ~~the court.~~

1590 ~~3. To represent the best interests of the child until the~~  
 1591 ~~jurisdiction of the court over the child terminates or until~~  
 1592 ~~excused by the court.~~

1593 ~~(c) A guardian ad litem is not required to post bond but~~  
 1594 ~~shall file an acceptance of the office.~~

1595 ~~(d) A guardian ad litem is entitled to receive service of~~  
 1596 ~~pleadings and papers as provided by the Florida Rules of~~  
 1597 ~~Juvenile Procedure.~~

1598 (d)(e) This subsection does not apply to any voluntary  
 1599 relinquishment of parental rights proceeding.

1600 Section 28. Subsection (2) of section 39.808, Florida

1601 Statutes, is amended to read:

1602 39.808 Advisory hearing; pretrial status conference.—

1603 (2) At the hearing the court shall inform the parties of  
 1604 their rights under s. 39.807, ~~shall~~ appoint counsel for the  
 1605 parties in accordance with legal requirements, and ~~shall~~ appoint  
 1606 a guardian ad litem to represent the ~~interests of the~~ child if  
 1607 one has not already been appointed.

1608 Section 29. Subsection (2) of section 39.815, Florida  
 1609 Statutes, is amended to read:

1610 39.815 Appeal.—

1611 (2) An attorney for the department shall represent the  
 1612 state upon appeal. When a notice of appeal is filed in the  
 1613 circuit court, the clerk shall notify the attorney for the  
 1614 department, ~~together with~~ the attorney for the parent, the  
 1615 guardian ad litem, and the any attorney ad litem for the child,  
 1616 if one is appointed.

1617 Section 30. Section 39.820, Florida Statutes, is repealed.

1618 Section 31. Subsections (1) and (3) of section 39.821,  
 1619 Florida Statutes, are amended to read:

1620 39.821 Qualifications of guardians ad litem.—

1621 (1) Because of the special trust or responsibility placed  
 1622 in a guardian ad litem, the Statewide Guardian ad Litem Office  
 1623 ~~Program~~ may use any private funds collected by the office  
 1624 ~~program~~, or any state funds so designated, to conduct a security  
 1625 background investigation before certifying a volunteer to serve.

1626 A security background investigation must include, but need not  
1627 be limited to, employment history checks, checks of references,  
1628 local criminal history records checks through local law  
1629 enforcement agencies, and statewide criminal history records  
1630 checks through the Department of Law Enforcement. Upon request,  
1631 an employer shall furnish a copy of the personnel record for the  
1632 employee or former employee who is the subject of a security  
1633 background investigation conducted under this section. The  
1634 information contained in the personnel record may include, but  
1635 need not be limited to, disciplinary matters and the reason why  
1636 the employee was terminated from employment. An employer who  
1637 releases a personnel record for purposes of a security  
1638 background investigation is presumed to have acted in good faith  
1639 and is not liable for information contained in the record  
1640 without a showing that the employer maliciously falsified the  
1641 record. A security background investigation conducted under this  
1642 section must ensure that a person is not certified as a guardian  
1643 ad litem if the person has an arrest awaiting final disposition  
1644 for, been convicted of, regardless of adjudication, entered a  
1645 plea of nolo contendere or guilty to, or been adjudicated  
1646 delinquent and the record has not been sealed or expunged for,  
1647 any offense prohibited under the provisions listed in s. 435.04.  
1648 All applicants must undergo a level 2 background screening  
1649 pursuant to chapter 435 before being certified to serve as a  
1650 guardian ad litem. In analyzing and evaluating the information

1651 obtained in the security background investigation, the office  
1652 ~~program~~ must give particular emphasis to past activities  
1653 involving children, including, but not limited to, child-related  
1654 criminal offenses or child abuse. The office ~~program~~ has sole  
1655 discretion in determining whether to certify a person based on  
1656 his or her security background investigation. The information  
1657 collected pursuant to the security background investigation is  
1658 confidential and exempt from s. 119.07(1).

1659 (3) It is a misdemeanor of the first degree, punishable as  
1660 provided in s. 775.082 or s. 775.083, for any person to  
1661 willfully, knowingly, or intentionally fail, by false statement,  
1662 misrepresentation, impersonation, or other fraudulent means, to  
1663 disclose in any application for a volunteer position or for paid  
1664 employment with the Statewide Guardian ad Litem Office ~~Program~~,  
1665 any material fact used in making a determination as to the  
1666 applicant's qualifications for such position.

1667 Section 32. Section 39.822, Florida Statutes, is amended  
1668 to read:

1669 39.822 Appointment of guardian ad litem for abused,  
1670 abandoned, or neglected child.—

1671 (1) A guardian ad litem shall be appointed by the court at  
1672 the earliest possible time to represent the child in any child  
1673 abuse, abandonment, or neglect judicial proceeding, whether  
1674 civil or criminal. A guardian ad litem is a fiduciary and must  
1675 provide independent representation of the child using a best

- 1676 interest standard of decisionmaking and advocacy.
- 1677 (2)(a) A guardian ad litem must:
- 1678 1. Be present at all court hearings unless excused by the  
1679 court.
- 1680 2. Investigate issues related to the best interest of the  
1681 child who is the subject of the appointment, review all  
1682 disposition recommendations and changes in placement, and,  
1683 unless excused by the court, file written reports and  
1684 recommendations in accordance with general law.
- 1685 3. Represent the child until the court's jurisdiction over  
1686 the child terminates or until excused by the court.
- 1687 4. Advocate for the child's participation in the  
1688 proceedings and to report the child's preferences to the court,  
1689 to the extent the child has the ability and desire to express  
1690 his or her preferences.
- 1691 5. Perform other duties that are consistent with the scope  
1692 of the appointment.
- 1693 (b) A guardian ad litem shall have immediate and unlimited  
1694 access to the children he or she represents.
- 1695 (c) A guardian ad litem is not required to post bond but  
1696 must file an acceptance of the appointment.
- 1697 (d) A guardian ad litem is entitled to receive service of  
1698 pleadings and papers as provided by the Florida Rules of  
1699 Juvenile Procedure.
- 1700 (3) Any person participating in a civil or criminal

1701 judicial proceeding resulting from such appointment shall be  
 1702 presumed prima facie to be acting in good faith and in so doing  
 1703 shall be immune from any liability, civil or criminal, that  
 1704 otherwise might be incurred or imposed.

1705 (4)~~(2)~~ In those cases in which the parents are financially  
 1706 able, the parent or parents of the child shall reimburse the  
 1707 court, in part or in whole, for the cost of provision of  
 1708 guardian ad litem representation ~~services~~. Reimbursement to the  
 1709 individual providing guardian ad litem representation is not  
 1710 ~~services shall not be~~ contingent upon successful collection by  
 1711 the court from the parent or parents.

1712 (5)~~(3)~~ Upon presentation by a guardian ad litem of a court  
 1713 order appointing the guardian ad litem:

1714 (a) An agency, as defined in chapter 119, shall allow the  
 1715 guardian ad litem to inspect and copy records related to the  
 1716 best interests of the child who is the subject of the  
 1717 appointment, including, but not limited to, records made  
 1718 confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of  
 1719 the State Constitution. The guardian ad litem shall maintain the  
 1720 confidential or exempt status of any records shared by an agency  
 1721 under this paragraph.

1722 (b) A person or an organization, other than an agency  
 1723 under paragraph (a), shall allow the guardian ad litem to  
 1724 inspect and copy any records related to the best interests of  
 1725 the child who is the subject of the appointment, including, but

1726 | not limited to, confidential records.

1727 |

1728 | For the purposes of this subsection, the term "records related  
 1729 | to the best interests of the child" includes, but is not limited  
 1730 | to, medical, mental health, substance abuse, child care,  
 1731 | education, law enforcement, court, social services, and  
 1732 | financial records.

1733 |       ~~(4) The guardian ad litem or the program representative~~  
 1734 | ~~shall review all disposition recommendations and changes in~~  
 1735 | ~~placements, and must be present at all critical stages of the~~  
 1736 | ~~dependency proceeding or submit a written report of~~  
 1737 | ~~recommendations to the court. Written reports must be filed with~~  
 1738 | ~~the court and served on all parties whose whereabouts are known~~  
 1739 | ~~at least 72 hours prior to the hearing.~~

1740 |       Section 33. Subsection (4) of section 39.827, Florida  
 1741 | Statutes, is amended to read:

1742 |       39.827 Hearing for appointment of a guardian advocate.—

1743 |       (4) The hearing under this section must ~~shall~~ remain  
 1744 | confidential and closed to the public. The clerk shall keep all  
 1745 | court records required by this part separate from other records  
 1746 | of the circuit court. All court records required by this part  
 1747 | are ~~shall be~~ confidential and exempt from ~~the provisions of s.~~  
 1748 | 119.07(1). ~~All~~ Records may only ~~shall~~ be inspected ~~only~~ upon  
 1749 | order of the court by persons deemed by the court to have a  
 1750 | proper interest therein, except that a child and the parents or

1751 | custodians of the child and their attorneys, the guardian ad  
1752 | litem, and the department and its designees, and the attorney ad  
1753 | litem, if one is appointed, shall always have the right to  
1754 | inspect and copy any official record pertaining to the child.  
1755 | The court may permit authorized representatives of recognized  
1756 | organizations compiling statistics for proper purposes to  
1757 | inspect and make abstracts from official records, under whatever  
1758 | conditions upon their use and disposition the court may deem  
1759 | proper, and may punish by contempt proceedings any violation of  
1760 | those conditions. All information obtained pursuant to this part  
1761 | in the discharge of official duty by any judge, employee of the  
1762 | court, or authorized agent of the department is ~~shall be~~  
1763 | confidential and exempt from ~~the provisions of~~ s. 119.07(1) and  
1764 | may ~~shall~~ not be disclosed to anyone other than the authorized  
1765 | personnel of the court or the department and its designees,  
1766 | except upon order of the court.

1767 |       Section 34. Paragraphs (a), (b), and (d) of subsection (1)  
1768 | and subsection (2) of section 39.8296, Florida Statutes, are  
1769 | amended to read:

1770 |       39.8296 Statewide Guardian ad Litem Office; legislative  
1771 | findings and intent; creation; appointment of executive  
1772 | director; duties of office.—

1773 |       (1) LEGISLATIVE FINDINGS AND INTENT.—

1774 |       (a) The Legislature finds that for the past 20 years, the  
1775 | Statewide Guardian Ad Litem Office ~~Program~~ has been the only



1776 mechanism for best interest representation for children in  
1777 Florida who are involved in dependency proceedings.

1778 (b) The Legislature also finds that while the Statewide  
1779 Guardian Ad Litem Office ~~Program~~ has been supervised by court  
1780 administration within the circuit courts since the office's  
1781 ~~program's~~ inception, there is a perceived conflict of interest  
1782 created by the supervision of program staff by the judges before  
1783 whom they appear.

1784 (d) It is therefore the intent of the Legislature to place  
1785 the Statewide Guardian Ad Litem Office ~~Program~~ in an appropriate  
1786 place and provide a statewide infrastructure to increase  
1787 functioning and standardization among the local offices ~~programs~~  
1788 currently operating in the 20 judicial circuits.

1789 (2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a  
1790 Statewide Guardian ad Litem Office within the Justice  
1791 Administrative Commission. The Justice Administrative Commission  
1792 shall provide administrative support and service to the office  
1793 to the extent requested by the executive director within the  
1794 available resources of the commission. The Statewide Guardian ad  
1795 Litem Office is not subject to control, supervision, or  
1796 direction by the Justice Administrative Commission in the  
1797 performance of its duties, but the employees of the office are  
1798 governed by the classification plan and salary and benefits plan  
1799 approved by the Justice Administrative Commission.

1800 (a) The head of the Statewide Guardian ad Litem Office is

1801 the executive director, who shall be appointed by the Governor  
1802 from a list of a minimum of three eligible applicants submitted  
1803 by a Guardian ad Litem Qualifications Committee. The Guardian ad  
1804 Litem Qualifications Committee shall be composed of five  
1805 persons, two persons appointed by the Governor, two persons  
1806 appointed by the Chief Justice of the Supreme Court, and one  
1807 person appointed by the Statewide Guardian ad Litem Office  
1808 ~~Association~~. The committee shall provide for statewide  
1809 advertisement and the receiving of applications for the position  
1810 of executive director. The Governor shall appoint an executive  
1811 director from among the recommendations, or the Governor may  
1812 reject the nominations and request the submission of new  
1813 nominees. The executive director must have knowledge in  
1814 dependency law and knowledge of social service delivery systems  
1815 available to meet the needs of children who are abused,  
1816 neglected, or abandoned. The executive director shall serve on a  
1817 full-time basis and shall personally, or through representatives  
1818 of the office, carry out the purposes and functions of the  
1819 Statewide Guardian ad Litem Office in accordance with state and  
1820 federal law and the state's long-established policy of  
1821 prioritizing children's best interests. The executive director  
1822 shall report to the Governor. The executive director shall serve  
1823 a 3-year term, subject to removal for cause by the Governor. Any  
1824 person appointed to serve as the executive director may be  
1825 permitted to serve more than one term without the necessity of

1826 convening the Guardian ad Litem Qualifications Committee.

1827 (b) The Statewide Guardian ad Litem Office shall, within  
1828 available resources, have oversight responsibilities for and  
1829 provide technical assistance to all guardian ad litem and  
1830 attorney ad litem offices ~~programs~~ located within the judicial  
1831 circuits.

1832 1. The office shall identify the resources required to  
1833 implement methods of collecting, reporting, and tracking  
1834 reliable and consistent case data.

1835 2. The office shall review the current guardian ad litem  
1836 offices ~~programs~~ in Florida and other states.

1837 3. The office, in consultation with local guardian ad  
1838 litem offices, shall develop statewide performance measures and  
1839 standards.

1840 4. The office shall develop and maintain a guardian ad  
1841 litem training program, which must be updated regularly, ~~which~~  
1842 ~~shall include, but is not limited to, training on the~~  
1843 ~~recognition of and responses to head trauma and brain injury in~~  
1844 ~~a child under 6 years of age. The office shall establish a~~  
1845 ~~curriculum committee to develop the training program specified~~  
1846 ~~in this subparagraph. The curriculum committee shall include,~~  
1847 ~~but not be limited to, dependency judges, directors of circuit~~  
1848 ~~guardian ad litem programs, active certified guardians ad litem,~~  
1849 ~~a mental health professional who specializes in the treatment of~~  
1850 ~~children, a member of a child advocacy group, a representative~~

1851 ~~of a domestic violence advocacy group, an individual with a~~  
1852 ~~degree in social work, and a social worker experienced in~~  
1853 ~~working with victims and perpetrators of child abuse.~~

1854 5. The office shall review the various methods of funding  
1855 guardian ad litem offices ~~programs~~, maximize the use of those  
1856 funding sources to the extent possible, and review the kinds of  
1857 services being provided by circuit guardian ad litem offices  
1858 ~~programs~~.

1859 6. The office shall determine the feasibility or  
1860 desirability of new concepts of organization, administration,  
1861 financing, or service delivery designed to preserve the civil  
1862 and constitutional rights and fulfill other needs of dependent  
1863 children.

1864 7. The office shall ensure that each child has an attorney  
1865 assigned to his or her case and, within available resources, is  
1866 represented using multidisciplinary teams that may include  
1867 volunteers, pro bono attorneys, social workers, and mentors.

1868 8. The office shall provide oversight and technical  
1869 assistance to attorneys ad litem, including, but not limited to,  
1870 all of the following:

1871 a. Develop an attorney ad litem training program in  
1872 collaboration with dependency court stakeholders, including, but  
1873 not limited to, dependency judges, representatives from legal  
1874 aid providing attorney ad litem representation, and an attorney  
1875 ad litem appointed from a registry maintained by the chief

1876 judge. The training program must be updated regularly with or  
 1877 without convening the stakeholders group.

1878 b. Offer consultation and technical assistance to chief  
 1879 judges in maintaining attorney registries for the selection of  
 1880 attorneys ad litem.

1881 c. Assist with recruitment, training, and mentoring of  
 1882 attorneys ad litem as needed.

1883 9.7. In an effort to promote normalcy and establish trust  
 1884 between a ~~court-appointed volunteer~~ guardian ad litem and a  
 1885 child alleged to be abused, abandoned, or neglected under this  
 1886 chapter, a guardian ad litem may transport a child. However, a  
 1887 guardian ad litem ~~volunteer~~ may not be required by a guardian ad  
 1888 litem circuit office or ordered by ~~or directed by the program or~~  
 1889 a court to transport a child.

1890 10.8. The office shall submit to the Governor, the  
 1891 President of the Senate, the Speaker of the House of  
 1892 Representatives, and the Chief Justice of the Supreme Court an  
 1893 interim report describing the progress of the office in meeting  
 1894 the goals as described in this section. The office shall submit  
 1895 to the Governor, the President of the Senate, the Speaker of the  
 1896 House of Representatives, and the Chief Justice of the Supreme  
 1897 Court a proposed plan including alternatives for meeting the  
 1898 state's guardian ad litem and attorney ad litem needs. This plan  
 1899 may include recommendations for less than the entire state, may  
 1900 include a phase-in system, and shall include estimates of the

1901 cost of each of the alternatives. Each year the office shall  
 1902 provide a status report and provide further recommendations to  
 1903 address the need for guardian ad litem representation services  
 1904 and related issues.

1905 Section 35. Section 39.8297, Florida Statutes, is amended  
 1906 to read:

1907 39.8297 County funding for guardian ad litem employees.—

1908 (1) A county and the executive director of the Statewide  
 1909 Guardian ad Litem Office may enter into an agreement by which  
 1910 the county agrees to provide funds to the local guardian ad  
 1911 litem office in order to employ persons who will assist in the  
 1912 operation of the guardian ad litem office ~~program~~ in the county.

1913 (2) The agreement, at a minimum, must provide that:

1914 (a) Funding for the persons who are employed will be  
 1915 provided on at least a fiscal-year basis.

1916 (b) The persons who are employed will be hired,  
 1917 supervised, managed, and terminated by the executive director of  
 1918 the Statewide Guardian ad Litem Office. The statewide office is  
 1919 responsible for compliance with all requirements of federal and  
 1920 state employment laws, and shall fully indemnify the county from  
 1921 any liability under such laws, as authorized by s. 768.28(19),  
 1922 to the extent such liability is the result of the acts or  
 1923 omissions of the Statewide Guardian ad Litem Office or its  
 1924 agents or employees.

1925 (c) The county is the employer for purposes of s. 440.10

1926 and chapter 443.

1927 (d) Employees funded by the county under this section and  
 1928 other county employees may be aggregated for purposes of a  
 1929 flexible benefits plan pursuant to s. 125 of the Internal  
 1930 Revenue Code of 1986.

1931 (e) Persons employed under this section may be terminated  
 1932 after a substantial breach of the agreement or because funding  
 1933 to the guardian ad litem office ~~program~~ has expired.

1934 (3) Persons employed under this section may not be counted  
 1935 in a formula or similar process used by the Statewide Guardian  
 1936 ad Litem Office to measure personnel needs of a judicial  
 1937 circuit's guardian ad litem office ~~program~~.

1938 (4) Agreements created pursuant to this section do not  
 1939 obligate the state to allocate funds to a county to employ  
 1940 persons in the guardian ad litem office ~~program~~.

1941 Section 36. Section 39.8298, Florida Statutes, is amended  
 1942 to read:

1943 39.8298 Guardian ad Litem direct-support organizations  
 1944 ~~organization~~.—

1945 (1) AUTHORITY.—The Statewide Guardian ad Litem Office  
 1946 created under s. 39.8296 is authorized to create a state direct-  
 1947 support organization and to create or designate local direct-  
 1948 support organizations. The executive director of the Statewide  
 1949 Guardian ad Litem Office is responsible for designating local  
 1950 direct-support organizations under this subsection.

1951           (a) The state direct-support organization and the local  
 1952 direct-support organizations must be a Florida corporations  
 1953 ~~corporation~~ not for profit, incorporated under ~~the provisions of~~  
 1954 chapter 617. The state direct-support organization and the local  
 1955 direct-support organizations ~~are~~ shall be exempt from paying  
 1956 fees under s. 617.0122.

1957           (b) The state direct-support organization and each local  
 1958 direct-support organization ~~shall~~ be organized and operated  
 1959 to conduct programs and activities; raise funds; request and  
 1960 receive grants, gifts, and bequests of moneys; acquire, receive,  
 1961 hold, invest, and administer, in its own name, securities,  
 1962 funds, objects of value, or other property, real or personal;  
 1963 and make expenditures to or for the direct or indirect benefit  
 1964 of the Statewide Guardian ad Litem Office, including the local  
 1965 guardian ad litem offices.

1966           (c) If the executive director of the Statewide Guardian ad  
 1967 Litem Office determines that the state direct-support  
 1968 organization or a local direct-support organization is operating  
 1969 in a manner that is inconsistent with the goals and purposes of  
 1970 the Statewide Guardian ad Litem Office or not acting in the best  
 1971 interest of the state, the executive director may terminate the  
 1972 organization's contract and thereafter the organization may not  
 1973 use the name of the Statewide Guardian ad Litem Office.

1974           (2) CONTRACTS ~~CONTRACT~~.—The state direct-support  
 1975 organization and the local direct-support organizations shall



1976 operate under a written contract with the Statewide Guardian Ad  
 1977 Litem Office. The written contract must, at a minimum, provide  
 1978 for:

1979 (a) Approval of the articles of incorporation and bylaws  
 1980 of the direct-support organization by the executive director of  
 1981 the Statewide Guardian ad Litem Office.

1982 (b) Submission of an annual budget for the approval by the  
 1983 executive director of the Statewide Guardian ad Litem Office.

1984 (c) The reversion without penalty to the Statewide  
 1985 Guardian ad Litem Office, or to the state if the Statewide  
 1986 Guardian ad Litem Office ceases to exist, of all moneys and  
 1987 property held in trust by the state direct-support organization  
 1988 for the Statewide Guardian Ad Litem Office if the direct-support  
 1989 organization ceases to exist or if the contract is terminated.

1990 (d) The fiscal year of the state direct-support  
 1991 organization and the local direct-support organizations, which  
 1992 must begin July 1 of each year and end June 30 of the following  
 1993 year.

1994 (e) The disclosure of material provisions of the contract  
 1995 and the distinction between the Statewide Guardian ad Litem  
 1996 Office and the state direct-support organization or the local  
 1997 direct-support organization to donors of gifts, contributions,  
 1998 or bequests, as well as on all promotional and fundraising  
 1999 publications.

2000 (3) BOARD OF DIRECTORS.—The executive director of the

2001 Statewide Guardian ad Litem Office shall appoint a board of  
 2002 directors for the state direct-support organization. The  
 2003 executive director may designate employees of the Statewide  
 2004 Guardian ad Litem Office to serve on the board of directors of  
 2005 the state direct-support organization or a local direct-support  
 2006 organization. Members of the board of the state direct-support  
 2007 organization or a local direct-support organization shall serve  
 2008 at the pleasure of the executive director.

2009 (4) USE OF PROPERTY AND SERVICES.—The executive director  
 2010 of the Statewide Guardian ad Litem Office:

2011 (a) May authorize the use of facilities and property other  
 2012 than money that are owned by the Statewide Guardian ad Litem  
 2013 Office to be used by the state direct-support organization or a  
 2014 local direct-support organization.

2015 (b) May authorize the use of personal services provided by  
 2016 employees of the Statewide Guardian ad Litem Office to be used  
 2017 by the state direct-support organization or a local direct-  
 2018 support organization. For the purposes of this section, the term  
 2019 "personal services" includes full-time personnel and part-time  
 2020 personnel as well as payroll processing.

2021 (c) May prescribe the conditions by which the state  
 2022 direct-support organization or a local direct-support  
 2023 organization may use property, facilities, or personal services  
 2024 of the office or the state direct-support organization.

2025 (d) May ~~shall~~ not authorize the use of property,

2026 facilities, or personal services by the state ~~of the~~ direct-  
 2027 support organization or a local direct-support organization if  
 2028 the organization does not provide equal employment opportunities  
 2029 to all persons, regardless of race, color, religion, sex, age,  
 2030 or national origin.

2031 (5) MONEYS.—Moneys of the state direct-support  
 2032 organization or a local direct-support organization ~~must~~ may be  
 2033 held in a separate depository account in the name of the direct-  
 2034 support organization and subject to the provisions of the  
 2035 contract with the Statewide Guardian ad Litem Office.

2036 (6) ANNUAL AUDIT.—The state direct-support organization  
 2037 and a local direct-support organization ~~must~~ shall provide for  
 2038 an annual financial audit in accordance with s. 215.981.

2039 (7) LIMITS ON DIRECT-SUPPORT ORGANIZATIONS ~~ORGANIZATION~~.—  
 2040 The state direct-support organization and a local direct-support  
 2041 organization ~~may~~ shall not exercise any power under s.  
 2042 617.0302(12) or (16). A ~~No~~ state employee may not ~~shall~~ receive  
 2043 compensation from the state direct-support organization or a  
 2044 local direct-support organization for service on the board of  
 2045 directors or for services rendered to the direct-support  
 2046 organization.

2047 Section 37. Subsection (6) is added to section 414.56,  
 2048 Florida Statutes, to read:

2049 414.56 Office of Continuing Care.—The department shall  
 2050 establish an Office of Continuing Care to ensure young adults

2051 who age out of the foster care system between 18 and 21 years of  
 2052 age, or 22 years of age with a documented disability, have a  
 2053 point of contact until the young adult reaches the age of 26 in  
 2054 order to receive ongoing support and care coordination needed to  
 2055 achieve self-sufficiency. Duties of the office include, but are  
 2056 not limited to:

2057 (6) Working in coordination with the Statewide Guardian ad  
 2058 Litem Office to identify supportive adults for children  
 2059 transitioning out of foster care to live independently, in  
 2060 accordance with s. 39.6036.

2061 Section 38. Section 1009.898, Florida Statutes, is created  
 2062 to read:

2063 1009.898 Pathway to Prosperity grants.—

2064 (1) The Pathway to Prosperity program shall administer the  
 2065 following grants to youth and young adults aging out of foster  
 2066 care:

2067 (a) Grants to provide financial literacy instruction using  
 2068 a curriculum developed by the Department of Financial Services.

2069 (b) Grants to provide SAT and ACT preparation, including  
 2070 one-on-one support and fee waivers for the examinations.

2071 (c) Grants to youth and young adults planning to pursue  
 2072 trade careers or paid apprenticeships.

2073 (2) If a youth who is aging out of foster care is reunited  
 2074 with his or her parents, the grants remain available for the  
 2075 youth for up to 6 months after reunification.

2076 Section 39. Subsection (1) of section 29.008, Florida  
 2077 Statutes, is amended to read:  
 2078 29.008 County funding of court-related functions.—  
 2079 (1) Counties are required by s. 14, Art. V of the State  
 2080 Constitution to fund the cost of communications services,  
 2081 existing radio systems, existing multiagency criminal justice  
 2082 information systems, and the cost of construction or lease,  
 2083 maintenance, utilities, and security of facilities for the  
 2084 circuit and county courts, public defenders' offices, state  
 2085 attorneys' offices, guardian ad litem offices, and the offices  
 2086 of the clerks of the circuit and county courts performing court-  
 2087 related functions. For purposes of this section, the term  
 2088 "circuit and county courts" includes the offices and staffing of  
 2089 the guardian ad litem offices ~~programs~~, and the term "public  
 2090 defenders' offices" includes the offices of criminal conflict  
 2091 and civil regional counsel. The county designated under s.  
 2092 35.05(1) as the headquarters for each appellate district shall  
 2093 fund these costs for the appellate division of the public  
 2094 defender's office in that county. For purposes of implementing  
 2095 these requirements, the term:  
 2096 (a) "Facility" means reasonable and necessary buildings  
 2097 and office space and appurtenant equipment and furnishings,  
 2098 structures, real estate, easements, and related interests in  
 2099 real estate, including, but not limited to, those for the  
 2100 purpose of housing legal materials for use by the general public

2101 and personnel, equipment, or functions of the circuit or county  
2102 courts, public defenders' offices, state attorneys' offices, and  
2103 court-related functions of the office of the clerks of the  
2104 circuit and county courts and all storage. The term "facility"  
2105 includes all wiring necessary for court reporting services. The  
2106 term also includes access to parking for such facilities in  
2107 connection with such court-related functions that may be  
2108 available free or from a private provider or a local government  
2109 for a fee. The office space provided by a county may not be less  
2110 than the standards for space allotment adopted by the Department  
2111 of Management Services, except this requirement applies only to  
2112 facilities that are leased, or on which construction commences,  
2113 after June 30, 2003. County funding must include physical  
2114 modifications and improvements to all facilities as are required  
2115 for compliance with the Americans with Disabilities Act. Upon  
2116 mutual agreement of a county and the affected entity in this  
2117 paragraph, the office space provided by the county may vary from  
2118 the standards for space allotment adopted by the Department of  
2119 Management Services.

2120 1. As of July 1, 2005, equipment and furnishings shall be  
2121 limited to that appropriate and customary for courtrooms,  
2122 hearing rooms, jury facilities, and other public areas in  
2123 courthouses and any other facility occupied by the courts, state  
2124 attorneys, public defenders, guardians ad litem, and criminal  
2125 conflict and civil regional counsel. Court reporting equipment

2126 | in these areas or facilities is not a responsibility of the  
 2127 | county.

2128 |         2. Equipment and furnishings under this paragraph in  
 2129 | existence and owned by counties on July 1, 2005, except for that  
 2130 | in the possession of the clerks, for areas other than  
 2131 | courtrooms, hearing rooms, jury facilities, and other public  
 2132 | areas in courthouses and any other facility occupied by the  
 2133 | courts, state attorneys, and public defenders, shall be  
 2134 | transferred to the state at no charge. This provision does not  
 2135 | apply to any communications services as defined in paragraph  
 2136 | (f).

2137 |         (b) "Construction or lease" includes, but is not limited  
 2138 | to, all reasonable and necessary costs of the acquisition or  
 2139 | lease of facilities for all judicial officers, staff, jurors,  
 2140 | volunteers of a tenant agency, and the public for the circuit  
 2141 | and county courts, the public defenders' offices, state  
 2142 | attorneys' offices, and for performing the court-related  
 2143 | functions of the offices of the clerks of the circuit and county  
 2144 | courts. This includes expenses related to financing such  
 2145 | facilities and the existing and future cost and bonded  
 2146 | indebtedness associated with placing the facilities in use.

2147 |         (c) "Maintenance" includes, but is not limited to, all  
 2148 | reasonable and necessary costs of custodial and groundskeeping  
 2149 | services and renovation and reconstruction as needed to  
 2150 | accommodate functions for the circuit and county courts, the

2151 public defenders' offices, and state attorneys' offices and for  
2152 performing the court-related functions of the offices of the  
2153 clerks of the circuit and county court and for maintaining the  
2154 facilities in a condition appropriate and safe for the use  
2155 intended.

2156 (d) "Utilities" means all electricity services for light,  
2157 heat, and power; natural or manufactured gas services for light,  
2158 heat, and power; water and wastewater services and systems,  
2159 stormwater or runoff services and systems, sewer services and  
2160 systems, all costs or fees associated with these services and  
2161 systems, and any costs or fees associated with the mitigation of  
2162 environmental impacts directly related to the facility.

2163 (e) "Security" includes but is not limited to, all  
2164 reasonable and necessary costs of services of law enforcement  
2165 officers or licensed security guards and all electronic,  
2166 cellular, or digital monitoring and screening devices necessary  
2167 to ensure the safety and security of all persons visiting or  
2168 working in a facility; to provide for security of the facility,  
2169 including protection of property owned by the county or the  
2170 state; and for security of prisoners brought to any facility.  
2171 This includes bailiffs while providing courtroom and other  
2172 security for each judge and other quasi-judicial officers.

2173 (f) "Communications services" are defined as any  
2174 reasonable and necessary transmission, emission, and reception  
2175 of signs, signals, writings, images, and sounds of intelligence



2176 of any nature by wire, radio, optical, audio equipment, or other  
 2177 electromagnetic systems and includes all facilities and  
 2178 equipment owned, leased, or used by judges, clerks, public  
 2179 defenders, state attorneys, guardians ad litem, criminal  
 2180 conflict and civil regional counsel, and all staff of the state  
 2181 courts system, state attorneys' offices, public defenders'  
 2182 offices, and clerks of the circuit and county courts performing  
 2183 court-related functions. Such system or services shall include,  
 2184 but not be limited to:

2185 1. Telephone system infrastructure, including computer  
 2186 lines, telephone switching equipment, and maintenance, and  
 2187 facsimile equipment, wireless communications, cellular  
 2188 telephones, pagers, and video teleconferencing equipment and  
 2189 line charges. Each county shall continue to provide access to a  
 2190 local carrier for local and long distance service and shall pay  
 2191 toll charges for local and long distance service.

2192 2. All computer networks, systems and equipment, including  
 2193 computer hardware and software, modems, printers, wiring,  
 2194 network connections, maintenance, support staff or services  
 2195 including any county-funded support staff located in the offices  
 2196 of the circuit court, county courts, state attorneys, public  
 2197 defenders, guardians ad litem, and criminal conflict and civil  
 2198 regional counsel; training, supplies, and line charges necessary  
 2199 for an integrated computer system to support the operations and  
 2200 management of the state courts system, the offices of the public

2201 defenders, the offices of the state attorneys, the guardian ad  
 2202 litem offices, the offices of criminal conflict and civil  
 2203 regional counsel, and the offices of the clerks of the circuit  
 2204 and county courts; and the capability to connect those entities  
 2205 and reporting data to the state as required for the transmission  
 2206 of revenue, performance accountability, case management, data  
 2207 collection, budgeting, and auditing purposes. The integrated  
 2208 computer system shall be operational by July 1, 2006, and, at a  
 2209 minimum, permit the exchange of financial, performance  
 2210 accountability, case management, case disposition, and other  
 2211 data across multiple state and county information systems  
 2212 involving multiple users at both the state level and within each  
 2213 judicial circuit and be able to electronically exchange judicial  
 2214 case background data, sentencing scoresheets, and video evidence  
 2215 information stored in integrated case management systems over  
 2216 secure networks. Once the integrated system becomes operational,  
 2217 counties may reject requests to purchase communications services  
 2218 included in this subparagraph not in compliance with standards,  
 2219 protocols, or processes adopted by the board established  
 2220 pursuant to former s. 29.0086.

- 2221 3. Courier messenger and subpoena services.
- 2222 4. Auxiliary aids and services for qualified individuals
- 2223 with a disability which are necessary to ensure access to the
- 2224 courts. Such auxiliary aids and services include, but are not
- 2225 limited to, sign language interpretation services required under

2226 the federal Americans with Disabilities Act other than services  
2227 required to satisfy due-process requirements and identified as a  
2228 state funding responsibility pursuant to ss. 29.004-29.007,  
2229 real-time transcription services for individuals who are hearing  
2230 impaired, and assistive listening devices and the equipment  
2231 necessary to implement such accommodations.

2232 (g) "Existing radio systems" includes, but is not limited  
2233 to, law enforcement radio systems that are used by the circuit  
2234 and county courts, the offices of the public defenders, the  
2235 offices of the state attorneys, and for court-related functions  
2236 of the offices of the clerks of the circuit and county courts.  
2237 This includes radio systems that were operational or under  
2238 contract at the time Revision No. 7, 1998, to Art. V of the  
2239 State Constitution was adopted and any enhancements made  
2240 thereafter, the maintenance of those systems, and the personnel  
2241 and supplies necessary for operation.

2242 (h) "Existing multiagency criminal justice information  
2243 systems" includes, but is not limited to, those components of  
2244 the multiagency criminal justice information system as defined  
2245 in s. 943.045, supporting the offices of the circuit or county  
2246 courts, the public defenders' offices, the state attorneys'  
2247 offices, or those portions of the offices of the clerks of the  
2248 circuit and county courts performing court-related functions  
2249 that are used to carry out the court-related activities of those  
2250 entities. This includes upgrades and maintenance of the current

2251 equipment, maintenance and upgrades of supporting technology  
 2252 infrastructure and associated staff, and services and expenses  
 2253 to assure continued information sharing and reporting of  
 2254 information to the state. The counties shall also provide  
 2255 additional information technology services, hardware, and  
 2256 software as needed for new judges and staff of the state courts  
 2257 system, state attorneys' offices, public defenders' offices,  
 2258 guardian ad litem offices, and the offices of the clerks of the  
 2259 circuit and county courts performing court-related functions.

2260 Section 40. Paragraph (a) of subsection (1) of section  
 2261 39.6011, Florida Statutes, is amended to read:

2262 39.6011 Case plan development.—

2263 (1) The department shall prepare a draft of the case plan  
 2264 for each child receiving services under this chapter. A parent  
 2265 of a child may not be threatened or coerced with the loss of  
 2266 custody or parental rights for failing to admit in the case plan  
 2267 of abusing, neglecting, or abandoning a child. Participating in  
 2268 the development of a case plan is not an admission to any  
 2269 allegation of abuse, abandonment, or neglect, and it is not a  
 2270 consent to a finding of dependency or termination of parental  
 2271 rights. The case plan shall be developed subject to the  
 2272 following requirements:

2273 (a) The case plan must be developed in a face-to-face  
 2274 conference with the parent of the child, the ~~any~~ court-appointed  
 2275 guardian ad litem, and, if appropriate, the child and the

2276 temporary custodian of the child.

2277 Section 41. Subsection (8) of section 40.24, Florida  
2278 Statutes, is amended to read:

2279 40.24 Compensation and reimbursement policy.—

2280 (8) In circuits that elect to allow jurors to donate their  
2281 jury service fee upon conclusion of juror service, each juror  
2282 may irrevocably donate all of the juror's compensation to the 26  
2283 U.S.C. s. 501(c)(3) organization specified by the Statewide  
2284 Guardian ad Litem Office ~~program~~ or to a domestic violence  
2285 shelter as specified annually on a rotating basis by the clerk  
2286 of court in the circuit for the juror's county of residence. The  
2287 funds collected may not reduce or offset the amount of  
2288 compensation that the Statewide Guardian ad Litem Office ~~program~~  
2289 or domestic violence shelter would otherwise receive from the  
2290 state. The clerk of court shall ensure that all jurors are given  
2291 written notice at the conclusion of their service that they have  
2292 the option to so donate their compensation, and that the  
2293 applicable program specified by the Statewide Guardian ad Litem  
2294 Office ~~program~~ or a domestic violence shelter receives all funds  
2295 donated by the jurors. Any circuit guardian ad litem office  
2296 ~~program~~ receiving donations of juror compensation must expend  
2297 such moneys on services for children for whom guardians ad litem  
2298 have been appointed.

2299 Section 42. Subsections (5), (6), and (7) of section  
2300 43.16, Florida Statutes, are amended to read:

2301 43.16 Justice Administrative Commission; membership,  
 2302 powers and duties.—

2303 (5) The duties of the commission shall include, but not be  
 2304 limited to, the following:

2305 (a) The maintenance of a central state office for  
 2306 administrative services and assistance when possible to and on  
 2307 behalf of the state attorneys and public defenders of Florida,  
 2308 the capital collateral regional counsel of Florida, the criminal  
 2309 conflict and civil regional counsel, and the Statewide Guardian  
 2310 Ad Litem Office ~~Program~~.

2311 (b) Each state attorney, public defender, and criminal  
 2312 conflict and civil regional counsel and the Statewide Guardian  
 2313 Ad Litem Office ~~Program~~ shall continue to prepare necessary  
 2314 budgets, vouchers that represent valid claims for reimbursement  
 2315 by the state for authorized expenses, and other things  
 2316 incidental to the proper administrative operation of the office,  
 2317 such as revenue transmittals to the Chief Financial Officer and  
 2318 automated systems plans, but will forward such items to the  
 2319 commission for recording and submission to the proper state  
 2320 officer. However, when requested by a state attorney, a public  
 2321 defender, a criminal conflict and civil regional counsel, or the  
 2322 Statewide Guardian Ad Litem Office ~~Program~~, the commission will  
 2323 either assist in the preparation of budget requests, voucher  
 2324 schedules, and other forms and reports or accomplish the entire  
 2325 project involved.

2326 (6) The commission, each state attorney, each public  
 2327 defender, the criminal conflict and civil regional counsel, the  
 2328 capital collateral regional counsel, and the Statewide Guardian  
 2329 Ad Litem Office Program shall establish and maintain internal  
 2330 controls designed to:

2331 (a) Prevent and detect fraud, waste, and abuse as defined  
 2332 in s. 11.45(1).

2333 (b) Promote and encourage compliance with applicable laws,  
 2334 rules, contracts, grant agreements, and best practices.

2335 (c) Support economical and efficient operations.

2336 (d) Ensure reliability of financial records and reports.

2337 (e) Safeguard assets.

2338 (7) ~~The provisions contained in~~ This section is ~~shall be~~  
 2339 supplemental to ~~those of~~ chapter 27, relating to state  
 2340 attorneys, public defenders, criminal conflict and civil  
 2341 regional counsel, and capital collateral regional counsel; to  
 2342 ~~those of~~ chapter 39, relating to the Statewide Guardian Ad Litem  
 2343 Office Program; or to other laws pertaining hereto.

2344 Section 43. Paragraph (a) of subsection (1) and subsection  
 2345 (4) of section 61.402, Florida Statutes, are amended to read:

2346 61.402 Qualifications of guardians ad litem.—

2347 (1) A person appointed as a guardian ad litem pursuant to  
 2348 s. 61.401 must be:

2349 (a) Certified by the Statewide Guardian Ad Litem Office  
 2350 ~~Program~~ pursuant to s. 39.821;

2351 (4) Nothing in this section requires the Statewide  
 2352 Guardian Ad Litem Office ~~Program~~ or a not-for-profit legal aid  
 2353 organization to train or certify guardians ad litem appointed  
 2354 under this chapter.

2355 Section 44. Paragraph (x) of subsection (2) of section  
 2356 110.205, Florida Statutes, is amended to read:

2357 110.205 Career service; exemptions.—

2358 (2) EXEMPT POSITIONS.—The exempt positions that are not  
 2359 covered by this part include the following:

2360 (x) All officers and employees of the Justice  
 2361 Administrative Commission, Office of the State Attorney, Office  
 2362 of the Public Defender, regional offices of capital collateral  
 2363 counsel, offices of criminal conflict and civil regional  
 2364 counsel, and Statewide Guardian Ad Litem Office, including the  
 2365 circuit guardian ad litem offices ~~programs~~.

2366 Section 45. Paragraph (b) of subsection (96) of section  
 2367 320.08058, Florida Statutes, is amended to read:

2368 320.08058 Specialty license plates.—

2369 (96) GUARDIAN AD LITEM LICENSE PLATES.—

2370 (b) The annual use fees from the sale of the plate shall  
 2371 be distributed to the Florida Guardian Ad Litem Foundation,  
 2372 Inc., a direct-support organization and a nonprofit corporation  
 2373 under s. 501(c)(3) of the Internal Revenue Code. Up to 10  
 2374 percent of the proceeds may be used for administrative costs and  
 2375 the marketing of the plate. The remainder of the proceeds must



2376 | be used in this state to support the mission and efforts of the  
2377 | Statewide Guardian Ad Litem Office ~~Program~~ to represent abused,  
2378 | abandoned, and neglected children and advocate for their best  
2379 | interests; recruit and retain volunteer child advocates; and  
2380 | meet the unique needs of the dependent children the program  
2381 | serves.

2382 |       Section 46. Paragraph (e) of subsection (3) of section  
2383 | 943.053, Florida Statutes, is amended to read:

2384 |       943.053 Dissemination of criminal justice information;  
2385 | fees.—

2386 |       (3)

2387 |       (e) The fee per record for criminal history information  
2388 | provided pursuant to this subsection and s. 943.0542 is \$24 per  
2389 | name submitted, except that the fee for the Statewide Guardian  
2390 | Ad Litem Office ~~program~~ and vendors of the Department of  
2391 | Children and Families, the Department of Juvenile Justice, the  
2392 | Agency for Persons with Disabilities, and the Department of  
2393 | Elderly Affairs is \$8 for each name submitted; the fee for a  
2394 | state criminal history provided for application processing as  
2395 | required by law to be performed by the Department of Agriculture  
2396 | and Consumer Services is \$15 for each name submitted; and the  
2397 | fee for requests under s. 943.0542, which implements the  
2398 | National Child Protection Act, is \$18 for each volunteer name  
2399 | submitted. An office of the public defender or an office of  
2400 | criminal conflict and civil regional counsel may not be assessed

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2401 a fee for Florida criminal history information or wanted person  
2402 information.

2403 Section 47. Subsection (2) of section 985.43, Florida  
2404 Statutes, is amended to read:

2405 985.43 Predisposition reports; other evaluations.—

2406 (2) The court shall consider the child's entire assessment  
2407 and predisposition report and shall review the records of  
2408 earlier judicial proceedings before making a final disposition  
2409 of the case. If the child is under the jurisdiction of a  
2410 dependency court, the court may receive and consider any  
2411 information provided by the Statewide Guardian Ad Litem Office  
2412 ~~Program~~ and the child's attorney ad litem, if one is appointed.  
2413 The court may, by order, require additional evaluations and  
2414 studies to be performed by the department; the county school  
2415 system; or any social, psychological, or psychiatric agency of  
2416 the state. The court shall order the educational needs  
2417 assessment completed under s. 985.18(2) to be included in the  
2418 assessment and predisposition report.

2419 Section 48. Subsection (4) of section 985.441, Florida  
2420 Statutes, is amended to read:

2421 985.441 Commitment.—

2422 (4) The department may transfer a child, when necessary to  
2423 appropriately administer the child's commitment, from one  
2424 facility or program to another facility or program operated,  
2425 contracted, subcontracted, or designated by the department,

2426 including a postcommitment nonresidential conditional release  
 2427 program, except that the department may not transfer any child  
 2428 adjudicated solely for a misdemeanor to a residential program  
 2429 except as provided in subsection (2). The department shall  
 2430 notify the court that committed the child to the department and  
 2431 any attorney of record for the child, in writing, of its intent  
 2432 to transfer the child from a commitment facility or program to  
 2433 another facility or program of a higher or lower restrictiveness  
 2434 level. If the child is under the jurisdiction of a dependency  
 2435 court, the department shall also provide notice to the  
 2436 dependency court, ~~and~~ the Department of Children and Families,  
 2437 ~~and, if appointed,~~ the Statewide Guardian Ad Litem Office,  
 2438 ~~Program~~ and the child's attorney ad litem, if one is appointed.  
 2439 The court that committed the child may agree to the transfer or  
 2440 may set a hearing to review the transfer. If the court does not  
 2441 respond within 10 days after receipt of the notice, the transfer  
 2442 of the child shall be deemed granted.

2443 Section 49. Subsection (3) of section 985.455, Florida  
 2444 Statutes, is amended to read:

2445 985.455 Other dispositional issues.—

2446 (3) Any commitment of a delinquent child to the department  
 2447 must be for an indeterminate period of time, which may include  
 2448 periods of temporary release; however, the period of time may  
 2449 not exceed the maximum term of imprisonment that an adult may  
 2450 serve for the same offense, except that the duration of a

2451 minimum-risk nonresidential commitment for an offense that is a  
2452 misdemeanor of the second degree, or is equivalent to a  
2453 misdemeanor of the second degree, may be for a period not to  
2454 exceed 6 months. The duration of the child's placement in a  
2455 commitment program of any restrictiveness level shall be based  
2456 on objective performance-based treatment planning. The child's  
2457 treatment plan progress and adjustment-related issues shall be  
2458 reported to the court quarterly, unless the court requests  
2459 monthly reports. If the child is under the jurisdiction of a  
2460 dependency court, the court may receive and consider any  
2461 information provided by the Statewide Guardian Ad Litem Office  
2462 ~~Program~~ or the child's attorney ad litem, if one is appointed.  
2463 The child's length of stay in a commitment program may be  
2464 extended if the child fails to comply with or participate in  
2465 treatment activities. The child's length of stay in the program  
2466 shall not be extended for purposes of sanction or punishment.  
2467 Any temporary release from such program must be approved by the  
2468 court. Any child so committed may be discharged from  
2469 institutional confinement or a program upon the direction of the  
2470 department with the concurrence of the court. The child's  
2471 treatment plan progress and adjustment-related issues must be  
2472 communicated to the court at the time the department requests  
2473 the court to consider releasing the child from the commitment  
2474 program. The department shall give the court that committed the  
2475 child to the department reasonable notice, in writing, of its

2476 | desire to discharge the child from a commitment facility. The  
 2477 | court that committed the child may thereafter accept or reject  
 2478 | the request. If the court does not respond within 10 days after  
 2479 | receipt of the notice, the request of the department shall be  
 2480 | deemed granted. This section does not limit the department's  
 2481 | authority to revoke a child's temporary release status and  
 2482 | return the child to a commitment facility for any violation of  
 2483 | the terms and conditions of the temporary release.

2484 |       Section 50. Paragraph (b) of subsection (4) of section  
 2485 | 985.461, Florida Statutes, is amended to read:

2486 |       985.461 Transition to adulthood.—

2487 |       (4) As part of the child's treatment plan, the department  
 2488 | may provide transition-to-adulthood services to children  
 2489 | released from residential commitment. To support participation  
 2490 | in transition-to-adulthood services and subject to  
 2491 | appropriation, the department may:

2492 |       (b) Use community reentry teams to assist in the  
 2493 | development of a list of age-appropriate activities and  
 2494 | responsibilities to be incorporated in the child's written case  
 2495 | plan for any youth who is under the custody or supervision of  
 2496 | the department. Community reentry teams may include  
 2497 | representatives from school districts, law enforcement,  
 2498 | workforce development services, community-based service  
 2499 | providers, the Statewide Guardian Ad Litem Office ~~Program~~, and  
 2500 | the youth's family. Such community reentry teams must be created

2501 within existing resources provided to the department. Activities  
 2502 may include, but are not limited to, life skills training,  
 2503 including training to develop banking and budgeting skills,  
 2504 interviewing and career planning skills, parenting skills,  
 2505 personal health management, and time management or  
 2506 organizational skills; educational support; employment training;  
 2507 and counseling.

2508 Section 51. Paragraph (h) of subsection (11) of section  
 2509 985.48, Florida Statutes, is amended to read:

2510 985.48 Juvenile sexual offender commitment programs;  
 2511 sexual abuse intervention networks.—

2512 (11) Membership of a sexual abuse intervention network  
 2513 shall include, but is not limited to, representatives from:

2514 (h) The Statewide Guardian Ad Litem Office ~~program~~;

2515 Section 52. Subsection (1) of section 39.302, Florida  
 2516 Statutes, is amended to read:

2517 39.302 Protective investigations of institutional child  
 2518 abuse, abandonment, or neglect.—

2519 (1) The department shall conduct a child protective  
 2520 investigation of each report of institutional child abuse,  
 2521 abandonment, or neglect. Upon receipt of a report that alleges  
 2522 that an employee or agent of the department, or any other entity  
 2523 or person covered by s. 39.01(39) or (57) ~~s. 39.01(36) or (54)~~,  
 2524 acting in an official capacity, has committed an act of child  
 2525 abuse, abandonment, or neglect, the department shall initiate a

2526 child protective investigation within the timeframe established  
2527 under s. 39.101(2) and notify the appropriate state attorney,  
2528 law enforcement agency, and licensing agency, which shall  
2529 immediately conduct a joint investigation, unless independent  
2530 investigations are more feasible. When conducting investigations  
2531 or having face-to-face interviews with the child, investigation  
2532 visits shall be unannounced unless it is determined by the  
2533 department or its agent that unannounced visits threaten the  
2534 safety of the child. If a facility is exempt from licensing, the  
2535 department shall inform the owner or operator of the facility of  
2536 the report. Each agency conducting a joint investigation is  
2537 entitled to full access to the information gathered by the  
2538 department in the course of the investigation. A protective  
2539 investigation must include an interview with the child's parent  
2540 or legal guardian. The department shall make a full written  
2541 report to the state attorney within 3 business days after making  
2542 the oral report. A criminal investigation shall be coordinated,  
2543 whenever possible, with the child protective investigation of  
2544 the department. Any interested person who has information  
2545 regarding the offenses described in this subsection may forward  
2546 a statement to the state attorney as to whether prosecution is  
2547 warranted and appropriate. Within 15 days after the completion  
2548 of the investigation, the state attorney shall report the  
2549 findings to the department and shall include in the report a  
2550 determination of whether or not prosecution is justified and

2551 appropriate in view of the circumstances of the specific case.

2552 Section 53. Paragraph (c) of subsection (1) of section  
2553 39.521, Florida Statutes, is amended to read:

2554 39.521 Disposition hearings; powers of disposition.—

2555 (1) A disposition hearing shall be conducted by the court,  
2556 if the court finds that the facts alleged in the petition for  
2557 dependency were proven in the adjudicatory hearing, or if the  
2558 parents or legal custodians have consented to the finding of  
2559 dependency or admitted the allegations in the petition, have  
2560 failed to appear for the arraignment hearing after proper  
2561 notice, or have not been located despite a diligent search  
2562 having been conducted.

2563 (c) When any child is adjudicated by a court to be  
2564 dependent, the court having jurisdiction of the child has the  
2565 power by order to:

2566 1. Require the parent and, when appropriate, the legal  
2567 guardian or the child to participate in treatment and services  
2568 identified as necessary. The court may require the person who  
2569 has custody or who is requesting custody of the child to submit  
2570 to a mental health or substance abuse disorder assessment or  
2571 evaluation. The order may be made only upon good cause shown and  
2572 pursuant to notice and procedural requirements provided under  
2573 the Florida Rules of Juvenile Procedure. The mental health  
2574 assessment or evaluation must be administered by a qualified  
2575 professional as defined in s. 39.01, and the substance abuse



2576 assessment or evaluation must be administered by a qualified  
2577 professional as defined in s. 397.311. The court may also  
2578 require such person to participate in and comply with treatment  
2579 and services identified as necessary, including, when  
2580 appropriate and available, participation in and compliance with  
2581 a mental health court program established under chapter 394 or a  
2582 treatment-based drug court program established under s. 397.334.  
2583 Adjudication of a child as dependent based upon evidence of harm  
2584 as defined in s. 39.01(37)(g) ~~s. 39.01(34)(g)~~ demonstrates good  
2585 cause, and the court shall require the parent whose actions  
2586 caused the harm to submit to a substance abuse disorder  
2587 assessment or evaluation and to participate and comply with  
2588 treatment and services identified in the assessment or  
2589 evaluation as being necessary. In addition to supervision by the  
2590 department, the court, including the mental health court program  
2591 or the treatment-based drug court program, may oversee the  
2592 progress and compliance with treatment by a person who has  
2593 custody or is requesting custody of the child. The court may  
2594 impose appropriate available sanctions for noncompliance upon a  
2595 person who has custody or is requesting custody of the child or  
2596 make a finding of noncompliance for consideration in determining  
2597 whether an alternative placement of the child is in the child's  
2598 best interests. Any order entered under this subparagraph may be  
2599 made only upon good cause shown. This subparagraph does not  
2600 authorize placement of a child with a person seeking custody of

2601 the child, other than the child's parent or legal custodian, who  
 2602 requires mental health or substance abuse disorder treatment.

2603 2. Require, if the court deems necessary, the parties to  
 2604 participate in dependency mediation.

2605 3. Require placement of the child either under the  
 2606 protective supervision of an authorized agent of the department  
 2607 in the home of one or both of the child's parents or in the home  
 2608 of a relative of the child or another adult approved by the  
 2609 court, or in the custody of the department. Protective  
 2610 supervision continues until the court terminates it or until the  
 2611 child reaches the age of 18, whichever date is first. Protective  
 2612 supervision shall be terminated by the court whenever the court  
 2613 determines that permanency has been achieved for the child,  
 2614 whether with a parent, another relative, or a legal custodian,  
 2615 and that protective supervision is no longer needed. The  
 2616 termination of supervision may be with or without retaining  
 2617 jurisdiction, at the court's discretion, and shall in either  
 2618 case be considered a permanency option for the child. The order  
 2619 terminating supervision by the department must set forth the  
 2620 powers of the custodian of the child and include the powers  
 2621 ordinarily granted to a guardian of the person of a minor unless  
 2622 otherwise specified. Upon the court's termination of supervision  
 2623 by the department, further judicial reviews are not required if  
 2624 permanency has been established for the child.

2625 4. Determine whether the child has a strong attachment to

2626 | the prospective permanent guardian and whether such guardian has  
 2627 | a strong commitment to permanently caring for the child.

2628 |         Section 54. Paragraph (c) of subsection (2) of section  
 2629 | 61.13, Florida Statutes, is amended to read:

2630 |             61.13 Support of children; parenting and time-sharing;  
 2631 | powers of court.—

2632 |             (2)

2633 |             (c) The court shall determine all matters relating to  
 2634 | parenting and time-sharing of each minor child of the parties in  
 2635 | accordance with the best interests of the child and in  
 2636 | accordance with the Uniform Child Custody Jurisdiction and  
 2637 | Enforcement Act, except that modification of a parenting plan  
 2638 | and time-sharing schedule requires a showing of a substantial  
 2639 | and material change of circumstances.

2640 |             1. It is the public policy of this state that each minor  
 2641 | child has frequent and continuing contact with both parents  
 2642 | after the parents separate or the marriage of the parties is  
 2643 | dissolved and to encourage parents to share the rights and  
 2644 | responsibilities, and joys, of childrearing. Unless otherwise  
 2645 | provided in this section or agreed to by the parties, there is a  
 2646 | rebuttable presumption that equal time-sharing of a minor child  
 2647 | is in the best interests of the minor child. To rebut this  
 2648 | presumption, a party must prove by a preponderance of the  
 2649 | evidence that equal time-sharing is not in the best interests of  
 2650 | the minor child. Except when a time-sharing schedule is agreed

2651 to by the parties and approved by the court, the court must  
 2652 evaluate all of the factors set forth in subsection (3) and make  
 2653 specific written findings of fact when creating or modifying a  
 2654 time-sharing schedule.

2655 2. The court shall order that the parental responsibility  
 2656 for a minor child be shared by both parents unless the court  
 2657 finds that shared parental responsibility would be detrimental  
 2658 to the child. In determining detriment to the child, the court  
 2659 shall consider:

2660 a. Evidence of domestic violence, as defined in s. 741.28;

2661 b. Whether either parent has or has had reasonable cause  
 2662 to believe that he or she or his or her minor child or children  
 2663 are or have been in imminent danger of becoming victims of an  
 2664 act of domestic violence as defined in s. 741.28 or sexual  
 2665 violence as defined in s. 784.046(1)(c) by the other parent  
 2666 against the parent or against the child or children whom the  
 2667 parents share in common regardless of whether a cause of action  
 2668 has been brought or is currently pending in the court;

2669 c. Whether either parent has or has had reasonable cause  
 2670 to believe that his or her minor child or children are or have  
 2671 been in imminent danger of becoming victims of an act of abuse  
 2672 ~~as defined in s. 39.01(2), abandonment as defined in s.~~  
 2673 ~~39.01(1),~~ or neglect, as those terms are defined in s. 39.01, ~~s.~~  
 2674 ~~39.01(50)~~ by the other parent against the child or children whom  
 2675 the parents share in common regardless of whether a cause of

2676 | action has been brought or is currently pending in the court;  
 2677 | and  
 2678 |       d. Any other relevant factors.  
 2679 |       3. The following evidence creates a rebuttable presumption  
 2680 | that shared parental responsibility is detrimental to the child:  
 2681 |       a. A parent has been convicted of a misdemeanor of the  
 2682 | first degree or higher involving domestic violence, as defined  
 2683 | in s. 741.28 and chapter 775;  
 2684 |       b. A parent meets the criteria of s. 39.806(1)(d); or  
 2685 |       c. A parent has been convicted of or had adjudication  
 2686 | withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and  
 2687 | at the time of the offense:  
 2688 |           (I) The parent was 18 years of age or older.  
 2689 |           (II) The victim was under 18 years of age or the parent  
 2690 | believed the victim to be under 18 years of age.  
 2691 |  
 2692 | If the presumption is not rebutted after the convicted parent is  
 2693 | advised by the court that the presumption exists, shared  
 2694 | parental responsibility, including time-sharing with the child,  
 2695 | and decisions made regarding the child, may not be granted to  
 2696 | the convicted parent. However, the convicted parent is not  
 2697 | relieved of any obligation to provide financial support. If the  
 2698 | court determines that shared parental responsibility would be  
 2699 | detrimental to the child, it may order sole parental  
 2700 | responsibility and make such arrangements for time-sharing as

2701 specified in the parenting plan as will best protect the child  
2702 or abused spouse from further harm. Whether or not there is a  
2703 conviction of any offense of domestic violence or child abuse or  
2704 the existence of an injunction for protection against domestic  
2705 violence, the court shall consider evidence of domestic violence  
2706 or child abuse as evidence of detriment to the child.

2707 4. In ordering shared parental responsibility, the court  
2708 may consider the expressed desires of the parents and may grant  
2709 to one party the ultimate responsibility over specific aspects  
2710 of the child's welfare or may divide those responsibilities  
2711 between the parties based on the best interests of the child.  
2712 Areas of responsibility may include education, health care, and  
2713 any other responsibilities that the court finds unique to a  
2714 particular family.

2715 5. The court shall order sole parental responsibility for  
2716 a minor child to one parent, with or without time-sharing with  
2717 the other parent if it is in the best interests of the minor  
2718 child.

2719 6. There is a rebuttable presumption against granting  
2720 time-sharing with a minor child if a parent has been convicted  
2721 of or had adjudication withheld for an offense enumerated in s.  
2722 943.0435(1)(h)1.a., and at the time of the offense:

2723 a. The parent was 18 years of age or older.

2724 b. The victim was under 18 years of age or the parent  
2725 believed the victim to be under 18 years of age.

2726  
 2727 A parent may rebut the presumption upon a specific finding in  
 2728 writing by the court that the parent poses no significant risk  
 2729 of harm to the child and that time-sharing is in the best  
 2730 interests of the minor child. If the presumption is rebutted,  
 2731 the court must consider all time-sharing factors in subsection  
 2732 (3) when developing a time-sharing schedule.

2733 7. Access to records and information pertaining to a minor  
 2734 child, including, but not limited to, medical, dental, and  
 2735 school records, may not be denied to either parent. Full rights  
 2736 under this subparagraph apply to either parent unless a court  
 2737 order specifically revokes these rights, including any  
 2738 restrictions on these rights as provided in a domestic violence  
 2739 injunction. A parent having rights under this subparagraph has  
 2740 the same rights upon request as to form, substance, and manner  
 2741 of access as are available to the other parent of a child,  
 2742 including, without limitation, the right to in-person  
 2743 communication with medical, dental, and education providers.

2744 Section 55. Paragraph (d) of subsection (4) of section  
 2745 119.071, Florida Statutes, is amended to read:

2746 119.071 General exemptions from inspection or copying of  
 2747 public records.—

2748 (4) AGENCY PERSONNEL INFORMATION.—

2749 (d)1. For purposes of this paragraph, the term:

2750 a. "Home addresses" means the dwelling location at which

2751 an individual resides and includes the physical address, mailing  
 2752 address, street address, parcel identification number, plot  
 2753 identification number, legal property description, neighborhood  
 2754 name and lot number, GPS coordinates, and any other descriptive  
 2755 property information that may reveal the home address.

2756 b. "Judicial assistant" means a court employee assigned to  
 2757 the following class codes: 8140, 8150, 8310, and 8320.

2758 c. "Telephone numbers" includes home telephone numbers,  
 2759 personal cellular telephone numbers, personal pager telephone  
 2760 numbers, and telephone numbers associated with personal  
 2761 communications devices.

2762 2.a. The home addresses, telephone numbers, dates of  
 2763 birth, and photographs of active or former sworn law enforcement  
 2764 personnel or of active or former civilian personnel employed by  
 2765 a law enforcement agency, including correctional and  
 2766 correctional probation officers, personnel of the Department of  
 2767 Children and Families whose duties include the investigation of  
 2768 abuse, neglect, exploitation, fraud, theft, or other criminal  
 2769 activities, personnel of the Department of Health whose duties  
 2770 are to support the investigation of child abuse or neglect, and  
 2771 personnel of the Department of Revenue or local governments  
 2772 whose responsibilities include revenue collection and  
 2773 enforcement or child support enforcement; the names, home  
 2774 addresses, telephone numbers, photographs, dates of birth, and  
 2775 places of employment of the spouses and children of such



2776 personnel; and the names and locations of schools and day care  
2777 facilities attended by the children of such personnel are exempt  
2778 from s. 119.07(1) and s. 24(a), Art. I of the State  
2779 Constitution.

2780       b. The home addresses, telephone numbers, dates of birth,  
2781 and photographs of current or former nonsworn investigative  
2782 personnel of the Department of Financial Services whose duties  
2783 include the investigation of fraud, theft, workers' compensation  
2784 coverage requirements and compliance, other related criminal  
2785 activities, or state regulatory requirement violations; the  
2786 names, home addresses, telephone numbers, dates of birth, and  
2787 places of employment of the spouses and children of such  
2788 personnel; and the names and locations of schools and day care  
2789 facilities attended by the children of such personnel are exempt  
2790 from s. 119.07(1) and s. 24(a), Art. I of the State  
2791 Constitution.

2792       c. The home addresses, telephone numbers, dates of birth,  
2793 and photographs of current or former nonsworn investigative  
2794 personnel of the Office of Financial Regulation's Bureau of  
2795 Financial Investigations whose duties include the investigation  
2796 of fraud, theft, other related criminal activities, or state  
2797 regulatory requirement violations; the names, home addresses,  
2798 telephone numbers, dates of birth, and places of employment of  
2799 the spouses and children of such personnel; and the names and  
2800 locations of schools and day care facilities attended by the

2801 children of such personnel are exempt from s. 119.07(1) and s.  
2802 24(a), Art. I of the State Constitution.

2803 d. The home addresses, telephone numbers, dates of birth,  
2804 and photographs of current or former firefighters certified in  
2805 compliance with s. 633.408; the names, home addresses, telephone  
2806 numbers, photographs, dates of birth, and places of employment  
2807 of the spouses and children of such firefighters; and the names  
2808 and locations of schools and day care facilities attended by the  
2809 children of such firefighters are exempt from s. 119.07(1) and  
2810 s. 24(a), Art. I of the State Constitution.

2811 e. The home addresses, dates of birth, and telephone  
2812 numbers of current or former justices of the Supreme Court,  
2813 district court of appeal judges, circuit court judges, and  
2814 county court judges, ~~and of~~ current judicial assistants; the  
2815 names, home addresses, telephone numbers, dates of birth, and  
2816 places of employment of the spouses and children of current or  
2817 former justices and judges and ~~of~~ current judicial assistants;  
2818 and the names and locations of schools and day care facilities  
2819 attended by the children of current or former justices and  
2820 judges and of current judicial assistants are exempt from s.  
2821 119.07(1) and s. 24(a), Art. I of the State Constitution. This  
2822 sub-subparagraph is subject to the Open Government Sunset Review  
2823 Act in accordance with s. 119.15 and shall stand repealed on  
2824 October 2, 2028, unless reviewed and saved from repeal through  
2825 reenactment by the Legislature.

2826 f. The home addresses, telephone numbers, dates of birth,  
2827 and photographs of current or former state attorneys, assistant  
2828 state attorneys, statewide prosecutors, or assistant statewide  
2829 prosecutors; the names, home addresses, telephone numbers,  
2830 photographs, dates of birth, and places of employment of the  
2831 spouses and children of current or former state attorneys,  
2832 assistant state attorneys, statewide prosecutors, or assistant  
2833 statewide prosecutors; and the names and locations of schools  
2834 and day care facilities attended by the children of current or  
2835 former state attorneys, assistant state attorneys, statewide  
2836 prosecutors, or assistant statewide prosecutors are exempt from  
2837 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2838 g. The home addresses, dates of birth, and telephone  
2839 numbers of general magistrates, special magistrates, judges of  
2840 compensation claims, administrative law judges of the Division  
2841 of Administrative Hearings, and child support enforcement  
2842 hearing officers; the names, home addresses, telephone numbers,  
2843 dates of birth, and places of employment of the spouses and  
2844 children of general magistrates, special magistrates, judges of  
2845 compensation claims, administrative law judges of the Division  
2846 of Administrative Hearings, and child support enforcement  
2847 hearing officers; and the names and locations of schools and day  
2848 care facilities attended by the children of general magistrates,  
2849 special magistrates, judges of compensation claims,  
2850 administrative law judges of the Division of Administrative

2851 Hearings, and child support enforcement hearing officers are  
2852 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
2853 Constitution.

2854 h. The home addresses, telephone numbers, dates of birth,  
2855 and photographs of current or former human resource, labor  
2856 relations, or employee relations directors, assistant directors,  
2857 managers, or assistant managers of any local government agency  
2858 or water management district whose duties include hiring and  
2859 firing employees, labor contract negotiation, administration, or  
2860 other personnel-related duties; the names, home addresses,  
2861 telephone numbers, dates of birth, and places of employment of  
2862 the spouses and children of such personnel; and the names and  
2863 locations of schools and day care facilities attended by the  
2864 children of such personnel are exempt from s. 119.07(1) and s.  
2865 24(a), Art. I of the State Constitution.

2866 i. The home addresses, telephone numbers, dates of birth,  
2867 and photographs of current or former code enforcement officers;  
2868 the names, home addresses, telephone numbers, dates of birth,  
2869 and places of employment of the spouses and children of such  
2870 personnel; and the names and locations of schools and day care  
2871 facilities attended by the children of such personnel are exempt  
2872 from s. 119.07(1) and s. 24(a), Art. I of the State  
2873 Constitution.

2874 j. The home addresses, telephone numbers, places of  
2875 employment, dates of birth, and photographs of current or former

2876 guardians ad litem, as defined in s. 39.01 ~~s. 39.820~~; the names,  
2877 home addresses, telephone numbers, dates of birth, and places of  
2878 employment of the spouses and children of such persons; and the  
2879 names and locations of schools and day care facilities attended  
2880 by the children of such persons are exempt from s. 119.07(1) and  
2881 s. 24(a), Art. I of the State Constitution.

2882 k. The home addresses, telephone numbers, dates of birth,  
2883 and photographs of current or former juvenile probation  
2884 officers, juvenile probation supervisors, detention  
2885 superintendents, assistant detention superintendents, juvenile  
2886 justice detention officers I and II, juvenile justice detention  
2887 officer supervisors, juvenile justice residential officers,  
2888 juvenile justice residential officer supervisors I and II,  
2889 juvenile justice counselors, juvenile justice counselor  
2890 supervisors, human services counselor administrators, senior  
2891 human services counselor administrators, rehabilitation  
2892 therapists, and social services counselors of the Department of  
2893 Juvenile Justice; the names, home addresses, telephone numbers,  
2894 dates of birth, and places of employment of spouses and children  
2895 of such personnel; and the names and locations of schools and  
2896 day care facilities attended by the children of such personnel  
2897 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
2898 Constitution.

2899 l. The home addresses, telephone numbers, dates of birth,  
2900 and photographs of current or former public defenders, assistant

2901 public defenders, criminal conflict and civil regional counsel,  
 2902 and assistant criminal conflict and civil regional counsel; the  
 2903 names, home addresses, telephone numbers, dates of birth, and  
 2904 places of employment of the spouses and children of current or  
 2905 former public defenders, assistant public defenders, criminal  
 2906 conflict and civil regional counsel, and assistant criminal  
 2907 conflict and civil regional counsel; and the names and locations  
 2908 of schools and day care facilities attended by the children of  
 2909 current or former public defenders, assistant public defenders,  
 2910 criminal conflict and civil regional counsel, and assistant  
 2911 criminal conflict and civil regional counsel are exempt from s.  
 2912 119.07(1) and s. 24(a), Art. I of the State Constitution.

2913 m. The home addresses, telephone numbers, dates of birth,  
 2914 and photographs of current or former investigators or inspectors  
 2915 of the Department of Business and Professional Regulation; the  
 2916 names, home addresses, telephone numbers, dates of birth, and  
 2917 places of employment of the spouses and children of such current  
 2918 or former investigators and inspectors; and the names and  
 2919 locations of schools and day care facilities attended by the  
 2920 children of such current or former investigators and inspectors  
 2921 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 2922 Constitution.

2923 n. The home addresses, telephone numbers, and dates of  
 2924 birth of county tax collectors; the names, home addresses,  
 2925 telephone numbers, dates of birth, and places of employment of

2926 | the spouses and children of such tax collectors; and the names  
 2927 | and locations of schools and day care facilities attended by the  
 2928 | children of such tax collectors are exempt from s. 119.07(1) and  
 2929 | s. 24(a), Art. I of the State Constitution.

2930 |       o. The home addresses, telephone numbers, dates of birth,  
 2931 | and photographs of current or former personnel of the Department  
 2932 | of Health whose duties include, or result in, the determination  
 2933 | or adjudication of eligibility for social security disability  
 2934 | benefits, the investigation or prosecution of complaints filed  
 2935 | against health care practitioners, or the inspection of health  
 2936 | care practitioners or health care facilities licensed by the  
 2937 | Department of Health; the names, home addresses, telephone  
 2938 | numbers, dates of birth, and places of employment of the spouses  
 2939 | and children of such personnel; and the names and locations of  
 2940 | schools and day care facilities attended by the children of such  
 2941 | personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of  
 2942 | the State Constitution.

2943 |       p. The home addresses, telephone numbers, dates of birth,  
 2944 | and photographs of current or former impaired practitioner  
 2945 | consultants who are retained by an agency or current or former  
 2946 | employees of an impaired practitioner consultant whose duties  
 2947 | result in a determination of a person's skill and safety to  
 2948 | practice a licensed profession; the names, home addresses,  
 2949 | telephone numbers, dates of birth, and places of employment of  
 2950 | the spouses and children of such consultants or their employees;

2951 and the names and locations of schools and day care facilities  
2952 attended by the children of such consultants or employees are  
2953 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
2954 Constitution.

2955       q. The home addresses, telephone numbers, dates of birth,  
2956 and photographs of current or former emergency medical  
2957 technicians or paramedics certified under chapter 401; the  
2958 names, home addresses, telephone numbers, dates of birth, and  
2959 places of employment of the spouses and children of such  
2960 emergency medical technicians or paramedics; and the names and  
2961 locations of schools and day care facilities attended by the  
2962 children of such emergency medical technicians or paramedics are  
2963 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
2964 Constitution.

2965       r. The home addresses, telephone numbers, dates of birth,  
2966 and photographs of current or former personnel employed in an  
2967 agency's office of inspector general or internal audit  
2968 department whose duties include auditing or investigating waste,  
2969 fraud, abuse, theft, exploitation, or other activities that  
2970 could lead to criminal prosecution or administrative discipline;  
2971 the names, home addresses, telephone numbers, dates of birth,  
2972 and places of employment of spouses and children of such  
2973 personnel; and the names and locations of schools and day care  
2974 facilities attended by the children of such personnel are exempt  
2975 from s. 119.07(1) and s. 24(a), Art. I of the State



2976 Constitution.

2977       s. The home addresses, telephone numbers, dates of birth,

2978 and photographs of current or former directors, managers,

2979 supervisors, nurses, and clinical employees of an addiction

2980 treatment facility; the home addresses, telephone numbers,

2981 photographs, dates of birth, and places of employment of the

2982 spouses and children of such personnel; and the names and

2983 locations of schools and day care facilities attended by the

2984 children of such personnel are exempt from s. 119.07(1) and s.

2985 24(a), Art. I of the State Constitution. For purposes of this

2986 sub-subparagraph, the term "addiction treatment facility" means

2987 a county government, or agency thereof, that is licensed

2988 pursuant to s. 397.401 and provides substance abuse prevention,

2989 intervention, or clinical treatment, including any licensed

2990 service component described in s. 397.311(26).

2991       t. The home addresses, telephone numbers, dates of birth,

2992 and photographs of current or former directors, managers,

2993 supervisors, and clinical employees of a child advocacy center

2994 that meets the standards of s. 39.3035(2) and fulfills the

2995 screening requirement of s. 39.3035(3), and the members of a

2996 Child Protection Team as described in s. 39.303 whose duties

2997 include supporting the investigation of child abuse or sexual

2998 abuse, child abandonment, child neglect, and child exploitation

2999 or to provide services as part of a multidisciplinary case

3000 review team; the names, home addresses, telephone numbers,

3001 | photographs, dates of birth, and places of employment of the  
 3002 | spouses and children of such personnel and members; and the  
 3003 | names and locations of schools and day care facilities attended  
 3004 | by the children of such personnel and members are exempt from s.  
 3005 | 119.07(1) and s. 24(a), Art. I of the State Constitution.

3006 |       u. The home addresses, telephone numbers, places of  
 3007 | employment, dates of birth, and photographs of current or former  
 3008 | staff and domestic violence advocates, as defined in s.  
 3009 | 90.5036(1) (b), of domestic violence centers certified by the  
 3010 | Department of Children and Families under chapter 39; the names,  
 3011 | home addresses, telephone numbers, places of employment, dates  
 3012 | of birth, and photographs of the spouses and children of such  
 3013 | personnel; and the names and locations of schools and day care  
 3014 | facilities attended by the children of such personnel are exempt  
 3015 | from s. 119.07(1) and s. 24(a), Art. I of the State  
 3016 | Constitution.

3017 |       v. The home addresses, telephone numbers, dates of birth,  
 3018 | and photographs of current or former inspectors or investigators  
 3019 | of the Department of Agriculture and Consumer Services; the  
 3020 | names, home addresses, telephone numbers, dates of birth, and  
 3021 | places of employment of the spouses and children of current or  
 3022 | former inspectors or investigators; and the names and locations  
 3023 | of schools and day care facilities attended by the children of  
 3024 | current or former inspectors or investigators are exempt from s.  
 3025 | 119.07(1) and s. 24(a), Art. I of the State Constitution. This

3026 sub-subparagraph is subject to the Open Government Sunset Review  
3027 Act in accordance with s. 119.15 and shall stand repealed on  
3028 October 2, 2028, unless reviewed and saved from repeal through  
3029 reenactment by the Legislature.

3030 3. An agency that is the custodian of the information  
3031 specified in subparagraph 2. and that is not the employer of the  
3032 officer, employee, justice, judge, or other person specified in  
3033 subparagraph 2. must maintain the exempt status of that  
3034 information only if the officer, employee, justice, judge, other  
3035 person, or employing agency of the designated employee submits a  
3036 written and notarized request for maintenance of the exemption  
3037 to the custodial agency. The request must state under oath the  
3038 statutory basis for the individual's exemption request and  
3039 confirm the individual's status as a party eligible for exempt  
3040 status.

3041 4.a. A county property appraiser, as defined in s.  
3042 192.001(3), or a county tax collector, as defined in s.  
3043 192.001(4), who receives a written and notarized request for  
3044 maintenance of the exemption pursuant to subparagraph 3. must  
3045 comply by removing the name of the individual with exempt status  
3046 and the instrument number or Official Records book and page  
3047 number identifying the property with the exempt status from all  
3048 publicly available records maintained by the property appraiser  
3049 or tax collector. For written requests received on or before  
3050 July 1, 2021, a county property appraiser or county tax

3051 collector must comply with this sub-subparagraph by October 1,  
 3052 2021. A county property appraiser or county tax collector may  
 3053 not remove the street address, legal description, or other  
 3054 information identifying real property within the agency's  
 3055 records so long as a name or personal information otherwise  
 3056 exempt from inspection and copying pursuant to this section is  
 3057 not associated with the property or otherwise displayed in the  
 3058 public records of the agency.

3059       b. Any information restricted from public display,  
 3060 inspection, or copying under sub-subparagraph a. must be  
 3061 provided to the individual whose information was removed.

3062       5. An officer, an employee, a justice, a judge, or other  
 3063 person specified in subparagraph 2. may submit a written request  
 3064 for the release of his or her exempt information to the  
 3065 custodial agency. The written request must be notarized and must  
 3066 specify the information to be released and the party authorized  
 3067 to receive the information. Upon receipt of the written request,  
 3068 the custodial agency must release the specified information to  
 3069 the party authorized to receive such information.

3070       6. The exemptions in this paragraph apply to information  
 3071 held by an agency before, on, or after the effective date of the  
 3072 exemption.

3073       7. Information made exempt under this paragraph may be  
 3074 disclosed pursuant to s. 28.2221 to a title insurer authorized  
 3075 pursuant to s. 624.401 and its affiliates as defined in s.

3076 624.10; a title insurance agent or title insurance agency as  
3077 defined in s. 626.841(1) or (2), respectively; or an attorney  
3078 duly admitted to practice law in this state and in good standing  
3079 with The Florida Bar.

3080 8. The exempt status of a home address contained in the  
3081 Official Records is maintained only during the period when a  
3082 protected party resides at the dwelling location. Upon  
3083 conveyance of real property after October 1, 2021, and when such  
3084 real property no longer constitutes a protected party's home  
3085 address as defined in sub-subparagraph 1.a., the protected party  
3086 must submit a written request to release the removed information  
3087 to the county recorder. The written request to release the  
3088 removed information must be notarized, must confirm that a  
3089 protected party's request for release is pursuant to a  
3090 conveyance of his or her dwelling location, and must specify the  
3091 Official Records book and page, instrument number, or clerk's  
3092 file number for each document containing the information to be  
3093 released.

3094 9. Upon the death of a protected party as verified by a  
3095 certified copy of a death certificate or court order, any party  
3096 can request the county recorder to release a protected  
3097 decedent's removed information unless there is a related request  
3098 on file with the county recorder for continued removal of the  
3099 decedent's information or unless such removal is otherwise  
3100 prohibited by statute or by court order. The written request to

3101 release the removed information upon the death of a protected  
 3102 party must attach the certified copy of a death certificate or  
 3103 court order and must be notarized, must confirm the request for  
 3104 release is due to the death of a protected party, and must  
 3105 specify the Official Records book and page number, instrument  
 3106 number, or clerk's file number for each document containing the  
 3107 information to be released. A fee may not be charged for the  
 3108 release of any document pursuant to such request.

3109 10. Except as otherwise expressly provided in this  
 3110 paragraph, this paragraph is subject to the Open Government  
 3111 Sunset Review Act in accordance with s. 119.15 and shall stand  
 3112 repealed on October 2, 2024, unless reviewed and saved from  
 3113 repeal through reenactment by the Legislature.

3114 Section 56. Subsection (4) of section 322.09, Florida  
 3115 Statutes, is amended to read:

3116 322.09 Application of minors; responsibility for  
 3117 negligence or misconduct of minor.—

3118 (4) Notwithstanding subsections (1) and (2), if a  
 3119 caregiver of a minor who is under the age of 18 years and is in  
 3120 out-of-home care as defined in s. 39.01 ~~s. 39.01(55)~~, an  
 3121 authorized representative of a residential group home at which  
 3122 such a minor resides, the caseworker at the agency at which the  
 3123 state has placed the minor, or a guardian ad litem specifically  
 3124 authorized by the minor's caregiver to sign for a learner's  
 3125 driver license signs the minor's application for a learner's

3126 driver license, that caregiver, group home representative,  
 3127 caseworker, or guardian ad litem does not assume any obligation  
 3128 or become liable for any damages caused by the negligence or  
 3129 willful misconduct of the minor by reason of having signed the  
 3130 application. Before signing the application, the caseworker,  
 3131 authorized group home representative, or guardian ad litem shall  
 3132 notify the caregiver or other responsible party of his or her  
 3133 intent to sign and verify the application.

3134 Section 57. Paragraph (p) of subsection (4) of section  
 3135 394.495, Florida Statutes, is amended to read:

3136 394.495 Child and adolescent mental health system of care;  
 3137 programs and services.—

3138 (4) The array of services may include, but is not limited  
 3139 to:

3140 (p) Trauma-informed services for children who have  
 3141 suffered sexual exploitation as defined in s. 39.01(80)(g) ~~s.~~  
 3142 ~~39.01(77)(g)~~.

3143 Section 58. Section 627.746, Florida Statutes, is amended  
 3144 to read:

3145 627.746 Coverage for minors who have a learner's driver  
 3146 license; additional premium prohibited.—An insurer that issues  
 3147 an insurance policy on a private passenger motor vehicle to a  
 3148 named insured who is a caregiver of a minor who is under the age  
 3149 of 18 years and is in out-of-home care as defined in s. 39.01 ~~s.~~  
 3150 ~~39.01(55)~~ may not charge an additional premium for coverage of

3151 the minor while the minor is operating the insured vehicle, for  
 3152 the period of time that the minor has a learner's driver  
 3153 license, until such time as the minor obtains a driver license.

3154 Section 59. Paragraph (c) of subsection (1) of section  
 3155 934.255, Florida Statutes, is amended to read:

3156 934.255 Subpoenas in investigations of sexual offenses.—

3157 (1) As used in this section, the term:

3158 (c) "Sexual abuse of a child" means a criminal offense  
 3159 based on any conduct described in s. 39.01(80) ~~s. 39.01(77)~~.

3160 Section 60. Subsection (5) of section 960.065, Florida  
 3161 Statutes, is amended to read:

3162 960.065 Eligibility for awards.—

3163 (5) A person is not ineligible for an award pursuant to  
 3164 paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that  
 3165 person is a victim of sexual exploitation of a child as defined  
 3166 in s. 39.01(80)(g) ~~s. 39.01(77)(g)~~.

3167 Section 61. The Division of Law Revision is requested to  
 3168 prepare a reviser's bill for the 2025 Regular Session of the  
 3169 Legislature to substitute the term "Statewide Guardian ad Litem  
 3170 Office" for the term "Guardian Ad Litem Program" or "Statewide  
 3171 Guardian Ad Litem Program" throughout the Florida Statutes.

3172 Section 62. This act shall take effect July 1, 2024.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

**Amendment (with title amendment)**

Remove lines 504-638 and insert:

Section 6. Subsection (11) of section 39.013, Florida Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel;  
guardian ad litem.-

(11) The court shall appoint a guardian ad litem at the earliest possible time to represent a child throughout the proceedings, including any appeals. The guardian ad litem may represent the child in proceedings outside of the dependency case to secure the services and benefits that provide for the care, safety, and protection of the child ~~encourage the Statewide Guardian Ad Litem Office to provide greater~~

Amendment No. 1

17 ~~representation to those children who are within 1 year of~~  
18 ~~transferring out of foster care.~~

19 Section 7. Paragraph (b) of subsection (1) of section  
20 39.01305, Florida Statutes, is amended to read:

21 39.01305 Appointment of an attorney for a dependent child  
22 with certain special needs.—

23 (1)

24 (b) The Legislature recognizes the existence of  
25 organizations that provide attorney representation to children  
26 in certain jurisdictions throughout the state. Further, the  
27 Statewide Guardian ad Litem Office Program provides best  
28 interest representation for dependent children in every  
29 jurisdiction in accordance with state and federal law. The  
30 Legislature, therefore, does not intend that funding provided  
31 for representation under this section supplant proven and  
32 existing organizations representing children. Instead, the  
33 Legislature intends that funding provided for representation  
34 under this section be an additional resource for the  
35 representation of more children in these jurisdictions, to the  
36 extent necessary to meet the requirements of this chapter, with  
37 the cooperation of existing local organizations or through the  
38 expansion of those organizations. The Legislature encourages the  
39 expansion of pro bono representation for children. This section  
40 is not intended to limit the ability of a pro bono attorney to  
41 appear on behalf of a child.

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Amendment No. 1

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**T I T L E   A M E N D M E N T**

Remove lines 19-33 and insert:  
secure certain services and benefits; amending s.  
39.01305, F.S.; conforming a provision to changes made  
by the act;

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

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

**Amendment (with title amendment)**

Remove lines 1941-2075 and insert:

Section 36. Subsection (6) is added to section 414.56,  
Florida Statutes, to read:

414.56 Office of Continuing Care.—The department shall  
establish an Office of Continuing Care to ensure young adults  
who age out of the foster care system between 18 and 21 years of  
age, or 22 years of age with a documented disability, have a  
point of contact until the young adult reaches the age of 26 in  
order to receive ongoing support and care coordination needed to  
achieve self-sufficiency. Duties of the office include, but are  
not limited to:

Amendment No. 2

16       (6) Working in coordination with the Statewide Guardian ad  
17 Litem Office to identify supportive adults for children  
18 transitioning out of foster care to live independently, in  
19 accordance with s. 39.6036.

20       Section 37. Section 1009.898, Florida Statutes, is created  
21 to read:

22       1009.898 Fostering Prosperity grants.—

23       (1) The Fostering Prosperity program shall administer the  
24 following grants to youth and young adults aging out of foster  
25 care:

26       (a) Grants to provide financial literacy instruction using  
27 a curriculum developed by the Department of Financial Services  
28 in consultation with the Department of Education.

29       (b) Grants to provide SAT, ACT, or CLT preparation,  
30 including one-on-one support and fee waivers for the  
31 examinations.

32       (c) Grants to youth and young adults planning to pursue  
33 trade careers or paid apprenticeships.

34       (2) If a youth who is aging out of foster care is reunited  
35 with his or her parents, the grants remain available for the  
36 youth for up to 1 year after reunification.

37       (3) The State Board of Education shall adopt rules to  
38 administer this section.

39  
40       -----

Amendment No. 2

**T I T L E   A M E N D M E N T**

Remove lines 112-126 and insert:

414.56, F.S.; requiring the Office of Continuing Care  
to work in coordination with the Statewide Guardian ad  
Litem Office for a specified purpose; creating s.  
1009.898, F.S.; authorizing the Fostering Prosperity  
program to provide certain grants to youth and young  
adults who are aging out of foster care; requiring  
grants to extend for a certain period of time after a  
recipient is reunited with his or her parents;  
requiring the State Board of Education to adopt rules;



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 217 College Campus Facilities in Areas of Critical State Concern

**SPONSOR(S):** Postsecondary Education & Workforce Subcommittee, Mooney

**TIED BILLS:** None. **IDEN./SIM. BILLS:** CS/CS/SB 222

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Postsecondary Education & Workforce Subcommittee	16 Y, 0 N, As CS	Collins	Kiner
2) Appropriations Committee		Trexler	Pridgeon
3) Education & Employment Committee			

### SUMMARY ANALYSIS

Current law authorizes a Florida College System (FCS) institution located in a municipality within an area of critical state concern to construct dormitories for up to 340 beds for students and an additional 25 beds for employees, educators, and first responders. The FCS institution is not permitted to use state funds or tuition and fee revenues for construction, debt service payments, maintenance, or operation of the dormitories.

The College of the Florida Keys (CFK) is the only FCS institution that is located in a municipality within an area of critical state concern; therefore, the bill's changes only apply to CFK.

The bill expands the categories of non-students that may be housed within dormitories to include health care workers and increases the cap on non-student beds from 25 to 50.

The bill also authorizes CFK to use state grant funds and capital improvement fee revenues for the construction, debt service payments, maintenance, or operation of dormitories. The bill does not authorize a new fee, as CFK is authorized to assess a capital improvement fee under existing law.

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



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

#### Areas of Critical State Concern

The Areas of Critical State Concern Program (Program) is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.<sup>1</sup> The designated Areas of Critical State Concern are the Apalachicola Bay Area (Franklin County), Brevard Barrier Island Area (Brevard County), Green Swamp Area (portions of Polk and Lake Counties), the Big Cypress Area (portions of Collier, Miami-Dade, and Monroe Counties), the Florida Keys Area (Monroe County), and the City of Key West Area (Monroe County).<sup>2</sup> Currently, the College of the Florida Keys in Monroe County is the only FCS institution located within a municipality designated as an area of critical state concern.<sup>3</sup>

#### Florida College System Dormitory Facilities

An FCS institution and its direct-support organization have limited authority to plan and construct facilities and to acquire additional property.<sup>4</sup> Residency opportunities within the FCS are predominately off campus and provided through a third party, often for specific student populations such as international students, student athletes, or specific scholarship recipients.<sup>5</sup> FCS institutions were developed as commuter schools. With 28 institutions and multiple campuses all over the state, colleges were located so students would drive no further than 50 miles to be able to attend college. Historically, two colleges have institution-owned dormitories, Chipola College and Florida Gateway College, which were started in facilities that originally housed World War II bases for servicemen. Chipola College continues to operate a college-owned dormitory for athletes only. Florida Gateway College allows any student to apply for their limited number of beds.

Florida law authorizes an FCS institution campus within a municipality designated as an area of critical state concern, and having a comprehensive plan and land development regulations containing a building permit allocation system that limits annual growth, to construct dormitories for up to 340 beds for FCS institution students, and an additional 25 beds for employees, educators, and first responders.<sup>6</sup> Such dormitories are exempt from the building permit allocation system and may be constructed up to 60 feet in height if the dormitories are otherwise consistent with the comprehensive plan, the FCS institution has a hurricane evacuation plan that requires all dormitory occupants to be evacuated 48 hours in advance of tropical force winds, and transportation is provided for dormitory occupants during an evacuation.<sup>7</sup>

State funds and tuition and fee revenues may not be used for construction, debt service payments, maintenance, or operation of such dormitories.<sup>8</sup> Additional dormitory beds constructed after July 1,

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<sup>1</sup> See 'Areas of Critical State Concern Program,' on Florida Department of Commerce's website at <https://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern>. (last visited November 28, 2023).

<sup>2</sup> Sections 380.05 – 380.0555, F.S.

<sup>3</sup> Section 1013.40(4), F.S.

<sup>4</sup> Section 1013.40, F.S.

<sup>5</sup> Florida College System, *Student Housing in the Florida College System*, available at <http://www.fldoe.org/core/fileparse.php/7480/urlt/0082726-faqhousing.pdf>.

<sup>6</sup> Section 1013.40(4), F.S. Currently, only the College of the Florida Keys meets this requirement and is able to construct such dormitory facilities.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

2016, may not be financed through the issuance of bonds by the college.<sup>9</sup> However, nonpublic entities may issue bonds as part of a public-private partnership between the college and a nonpublic entity.<sup>10</sup>

Currently, the College of the Florida Keys (CFK) is the only college within a municipality designated as an area of critical state concern that meets the requirements specified in law.

### The College of the Florida Keys

In 2008, CFK was granted legislative authority to build a dormitory facility with 100 beds for students,<sup>11</sup> which was subsequently constructed and opened in 2011. Although there has been no further construction of student housing at CFK, the authorized number of beds has increased to 340 beds for FCS students and 25 beds for employees, educators, and first responders.<sup>12</sup>

### Capital Improvement Fees

Current law authorizes each FCS institution board of trustees to establish a separate fee for capital improvements which may not exceed 20 percent of tuition for resident students or 20 percent of the sum of tuition and out-of-state fees for nonresident students.<sup>13</sup> The fee for resident students is limited to an increase of \$2 per credit hour over the prior year.<sup>14</sup> The fee must be collected as a component part of the tuition and fees, paid into a separate account, and expended only to acquire improved real property or construct and equip, maintain, improve, or enhance the educational facilities of the FCS institution.<sup>15</sup> Funds collected by FCS institutions through the fee may be bonded only for the purpose of financing or refinancing new construction and equipment, renovation, remodeling of educational facilities, or the acquisition and renovation or remodeling of improved real property for use as educational facilities.<sup>16</sup>

### Effect of the Bill

The bill expands the categories of non-students that may be housed within CFK dormitories to include health care workers and increases the cap on non-student beds from 25 to 50.

The bill also authorizes CFK to use state grant funds and capital improvement fee revenues for the construction, debt service payments, maintenance, or operation of dormitories.

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 1013.40, F.S.; relating to planning and construction of Florida College System institution facilities and property acquisition.

**Section 2:** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

---

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> S. 4, ch. 2008-213, Laws of Fla.

<sup>12</sup> See s. 1, ch. 2016-32, and s. 68, ch. 2022-154, Laws of Fla.

<sup>13</sup> Section 1009.23(11)(a) and (b), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill authorizes CFK to use state grant funds and capital improvement fee revenues for the construction, debt service payments, maintenance, or operation of dormitories. CFK is already authorized to assess the capital improvement fee under existing law. The bill does not authorize a new fee. According to the Department of Education, CFK collected \$325,153 in capital improvement fees in Fiscal Year 2022-23.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Postsecondary Education & Workforce Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment restores current law with respect to CFK's hurricane evacuation plan. The amendment also authorizes CFK to use state grant funds and capital improvement fee revenues for the construction, debt service payments, maintenance, or operation of dormitories. CFK is already authorized to assess the capital improvement fee under existing law. Neither the bill, nor amendment authorize a new fee.

The analysis is drafted to the committee substitute adopted by the Postsecondary Education & Workforce Subcommittee.

1 A bill to be entitled  
2 An act relating to college campus facilities in areas  
3 of critical state concern; amending s. 1013.40, F.S.;  
4 revising the number of beds certain Florida College  
5 System institutions may provide to certain persons;  
6 authorizing such beds to be provided to health care  
7 workers; revising which funds may be used for  
8 construction of dormitories; providing an effective  
9 date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13 Section 1. Subsection (4) of section 1013.40, Florida  
14 Statutes, is amended to read:

15 1013.40 Planning and construction of Florida College  
16 System institution facilities; property acquisition.—

17 (4) The campus of a Florida College System institution  
18 within a municipality designated as an area of critical state  
19 concern, as defined in s. 380.05, and having a comprehensive  
20 plan and land development regulations containing a building  
21 permit allocation system that limits annual growth, may  
22 construct dormitories for up to 340 beds for Florida College  
23 System institution students, and an additional 50 ~~25~~ beds for  
24 employees, educators, health care workers, and first responders.  
25 Such dormitories are exempt from the building permit allocation

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26 | system and may be constructed up to 60 feet in height if the  
27 | dormitories are otherwise consistent with the comprehensive  
28 | plan, the Florida College System institution has a hurricane  
29 | evacuation plan that requires all dormitory occupants to be  
30 | evacuated 48 hours in advance of tropical force winds, and  
31 | transportation is provided for dormitory occupants during an  
32 | evacuation. State grant funds and, notwithstanding s.  
33 | 1009.23(11)(b), capital improvement ~~tuition and~~ fee revenues may  
34 | ~~not~~ be used for construction, debt service payments,  
35 | maintenance, or operation of such dormitories. Additional  
36 | dormitory beds constructed after July 1, 2016, may not be  
37 | financed through the issuance of bonds by the Florida College  
38 | System institution; however, bonds may be issued by nonpublic  
39 | entities as part of a public-private partnership between the  
40 | college and a nonpublic entity.

41 | Section 2. 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 Mooney offered the following:

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

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsection (11) of section 1009.23, Florida  
7 Statutes, is amended to read:

8 1009.23 Florida College System institution student fees.—

9 (11) (a) Each Florida College System institution board of  
10 trustees may establish a separate fee for capital improvements,  
11 technology enhancements, equipping student buildings, or the  
12 acquisition of improved real property which may not exceed 20  
13 percent of tuition for resident students or 20 percent of the  
14 sum of tuition and out-of-state fees for nonresident students.  
15 The fee for resident students shall be limited to an increase of  
16 \$2 per credit hour over the prior year. Funds collected by

Amendment No. 1

17 Florida College System institutions through the fee may be  
18 bonded only as provided in this subsection for the purpose of  
19 financing or refinancing new construction and equipment,  
20 renovation, remodeling of educational facilities, or the  
21 acquisition and renovation or remodeling of improved real  
22 property for use as educational facilities. The fee shall be  
23 collected as a component part of the tuition and fees, paid into  
24 a separate account, and expended only to acquire improved real  
25 property or construct and equip, maintain, improve, or enhance  
26 the educational facilities of the Florida College System  
27 institution. Projects and acquisitions of improved real property  
28 funded through the use of the capital improvement fee shall meet  
29 the survey and construction requirements of chapter 1013.  
30 Pursuant to s. 216.0158, each Florida College System institution  
31 shall identify each project, including maintenance projects,  
32 proposed to be funded in whole or in part by such fee.

33 (b) Capital improvement fee revenues may be pledged by a  
34 board of trustees as a dedicated revenue source to the repayment  
35 of debt, including lease-purchase agreements, with an overall  
36 term of not more than 7 years, including renewals, extensions,  
37 and refundings, and revenue bonds with a term not exceeding 20  
38 annual maturities and not exceeding the useful life of the asset  
39 being financed, only for financing or refinancing of the new  
40 construction and equipment, renovation, or remodeling of  
41 educational facilities. Bonds authorized pursuant to this

Amendment No. 1

42 subsection shall be requested by the Florida College System  
43 institution board of trustees and shall be issued by the  
44 Division of Bond Finance in compliance with s. 11(d), Art. VII  
45 of the State Constitution and the State Bond Act. The Division  
46 of Bond Finance may pledge fees collected by one or more Florida  
47 College System institutions to secure such bonds. Any project  
48 included in the approved educational plant survey pursuant to  
49 chapter 1013 is approved pursuant to s. 11(f), Art. VII of the  
50 State Constitution.

51 (c) Bonds issued pursuant to this subsection may be  
52 validated in the manner provided by chapter 75. Only the initial  
53 series of bonds is required to be validated. The complaint for  
54 such validation shall be filed in the circuit court of the county  
55 where the seat of state government is situated, the notice  
56 required to be published by s. 75.06 shall be published only in  
57 the county where the complaint is filed, and the complaint and  
58 order of the circuit court shall be served only on the state  
59 attorney of the circuit in which the action is pending.

60 (d) A maximum of 15 percent may be allocated from the  
61 capital improvement fee for child care centers conducted by the  
62 Florida College System institution. The use of capital  
63 improvement fees for such purpose shall be subordinate to the  
64 payment of any bonds secured by the fees.

65 (e) The state does hereby covenant with the holders of the  
66 bonds issued under this subsection that it will not take any



Amendment No. 1

67 action that will materially and adversely affect the rights of  
68 such holders so long as the bonds authorized by this subsection  
69 are outstanding.

70 (f) Capital improvement fee revenues may be used for  
71 purposes authorized in 1013.40(4).

72 Section 2. Subsection (4) of section 1013.40, Florida  
73 Statutes, is amended to read:

74 1013.40 Planning and construction of Florida College  
75 System institution facilities; property acquisition.—

76 (4) (a) The campus of a Florida College System institution  
77 within a municipality designated as an area of critical state  
78 concern, as defined in s. 380.05, and having a comprehensive  
79 plan and land development regulations containing a building  
80 permit allocation system that limits annual growth, may  
81 construct dormitories for up to 340 beds for Florida College  
82 System institution students, and an additional 50 ~~25~~ beds for  
83 employees, educators, health care workers, and first responders.  
84 Such dormitories are exempt from the building permit allocation  
85 system and may be constructed up to 60 feet in height if the  
86 dormitories are otherwise consistent with the comprehensive  
87 plan, the Florida College System institution has a hurricane  
88 evacuation plan that requires all dormitory occupants to be  
89 evacuated 48 hours in advance of tropical force winds, and  
90 transportation is provided for dormitory occupants during an  
91 evacuation.

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Amendment No. 1

92           (b) State operating funds, state performance funds, and  
93 ~~tuition and fee~~ revenues collected from the tuition, out-of-  
94 state fee, activity and service fee, financial aid fee,  
95 technology fee, and distance learning fee may not be used for  
96 construction, debt service payments, maintenance, or operation  
97 of such dormitories.

98           (c) Grants and donations for capital outlay and revenues  
99 from the capital improvement fee may be used for construction,  
100 debt service payments, maintenance, or operation of such  
101 dormitories.

102           (d) Additional dormitory beds constructed after July 1,  
103 2016, may not be financed through the issuance of bonds by the  
104 Florida College System institution; however, bonds may be issued  
105 by nonpublic entities as part of a public-private partnership  
106 between the college and a nonpublic entity. Before the issuance  
107 of any such bonds, the Division of Bond Finance shall analyze  
108 the financing and any issues raised by such analysis must be  
109 appropriately considered by the college.

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

111  
112 -----  
113           **T I T L E   A M E N D M E N T**

114           Remove everything before the enacting clause and insert:  
115 An act relating to college campus facilities in areas of  
116 critical state concern; amending s. 1009.23, F.S.; revising uses

COMMITTEE/SUBCOMMITTEE AMENDMENT

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Amendment No. 1

117 | of capital improvement fees to include certain college campus  
118 | facilities in areas of critical state concern; amending s.  
119 | 1013.40, F.S.; revising the number of beds certain Florida  
120 | College System institutions may provide to certain persons;  
121 | authorizing such beds to be provided to health care workers;  
122 | revising which funds may be used for construction of  
123 | dormitories; requiring analysis of financing prior to issuance  
124 | of bonds; providing an effective date.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 241 Coverage for Skin Cancer Screenings  
**SPONSOR(S):** Select Committee on Health Innovation, Massullo and Payne  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 56

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Select Committee on Health Innovation	14 Y, 0 N, As CS	Lloyd	Calamas
2) Appropriations Committee		Helpling	Pridgeon
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

Florida's state employee health coverage is managed by the Division of State Group Insurance (DSGI) within the Department of Management Services (DMS). Under the authority of s. 110.123, F.S., the DSGI procures the benefits contracts, and manages the state's benefits program (Program) for over 300,000 state employees, their spouses, and dependents.

Cancer is the second leading cause of death in the United States and skin cancer deaths represent 5 percent of all cancer deaths. Over 9,600 new cases of skin cancer in Florida are diagnosed every year; however, the long term survival rates of those diagnosed are high with early detection.

CS/HB 241 requires contracted state group health insurance plans or health maintenance organizations (HMOs) to provide coverage and payment, without the imposition of a deductible, copayment, coinsurance, or any other cost sharing requirement, an annual skin cancer screening by a dermatologist licensed under chapters 458 or 459, a physician assistant licensed under chapters 458 or 459, or an advanced practice registered nurse who is under the supervision of a dermatologist licensed under chapters 458 and 459, F.S. DSGI oversees the day to day operations of the State Group Program.

Additionally, the bill prohibits the DSGI-contracted health plans from bundling a payment for a skin cancer screening with any other procedure or service, including an evaluation or management visit, which is performed during the same office visit or subsequent office visit.

The bill has a significant negative fiscal impact on the state employee group health plan within the DMS. See Fiscal Analysis and Economic Impact Statement.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

#### **Skin Cancer**

Cancer is the second most common cause of death in the United States after heart disease and in 2023, a total of 1.9 million new cancer cases were diagnosed.<sup>1</sup> Of the estimated new cancer cases in the United States, 5 percent were skin cancer cases.<sup>2</sup>

Florida's 2023 rates show an estimated number of 162,410 total new cases and 47,410 deaths for all cancer types. The actual number of cases is not known as skin cancer diagnoses are not required to be reported to cancer registries.<sup>3</sup>

There are two main types of cancer: nonmelanoma or keratinocyte carcinoma which includes squamous cell carcinoma (SCC) and basal cell carcinoma and melanoma.<sup>4</sup> The most common types are the nonmelanoma types and most of these cancers can be cured.

Cutaneous melanoma can occur on any part of the skin. Unusual moles, exposure to sunlight, and health history can affect a person's risk of melanoma.<sup>5</sup> In men, melanoma is often found in the area from the shoulders to the hips, or the head and neck. In women, it is most often found on the arms and legs.<sup>6</sup> However, melanoma may also occur in the eyes. When it does occur in the eyes, it is known either intraocular or ocular melanoma.

Ocular melanoma (OM) is the most common primary eye tumor in adults and nearly 2,000 new cases are diagnosed each year in the United States, second only to cutaneous melanoma.<sup>7</sup> Intraocular melanoma is a type of melanoma that forms in the tissues of the eyes and is a rare cancer.<sup>8</sup> Risk factors for this particular disease including having a fair complexion, being of an older age, and being white.<sup>9</sup> Ocular melanoma is most commonly diagnosed around age 55 and will metastasize to another organ in about half of all cases.<sup>10</sup> In 90 percent of cases where the tumor does metastasize, it first spreads to the liver.<sup>11</sup> While there is no known cure for OM, several treatment options are available depending on the patient's status and symptoms, including watchful waiting, surgery, or radiation therapy.<sup>12</sup>

The long term survival rate is high for those diagnosed with skin cancer after 5 years at 93.5 percent and more than 1.4 million people were identified in the United States in 2020 as living with this

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<sup>1</sup> American Cancer Society, *Incidence Drops for Cervical Cancer But Rises for Prostate Cancer (January 12, 2024)*, available at <https://www.cancer.org/research/acs-research-news/facts-and-figures-2023.html> (last viewed January 13, 2024).

<sup>2</sup> Id.

<sup>3</sup> American Cancer Society, *Cancer Facts & Figures 2023*, p. 25, available at [Cancer Facts & Figures 2023](#) (last viewed January 13, 2024).

<sup>4</sup> National Cancer Institute, *Skin Cancer Screening (PDQ) – Patient Version*, available at [Skin Cancer Screening - NCI](#) (last viewed January 10, 2024).

<sup>5</sup> National Cancer Institute, *Melanoma Treatment (PDQ) – Patient Version*, available at [Melanoma Treatment - NCI \(cancer.gov\)](#) (last viewed January 12, 2024).

<sup>6</sup> Id.

<sup>7</sup> Melanoma Research Foundation, *Ocular Melanoma Fact Sheet (August 13, 2019)*, available at [Ocular Melanoma Fact Sheet \(flippingbook.com\)](#) (last viewed January 12, 2024).

<sup>8</sup> National Cancer Institute, *Melanoma Treatment (PDQ) – Patient Version*, available at [Melanoma Treatment - NCI \(cancer.gov\)](#) (last viewed January 12, 2024).

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Melanoma Research Foundation, *Ocular Melanoma Patient Guide*, p.14, available at <https://online.flippingbook.com/view/745990/16-17/> (last viewed January 12, 2024).

<sup>12</sup> Supra, note 8.

cancer.<sup>13</sup> The more localized the cancer is when it is found, meaning the cancer has been confined to a primary spot, the higher the survival rate is compared to a cancer that has spread to the regional lymph nodes or metastasized to another region of the body.<sup>14</sup>

Men and women are diagnosed with skin cancer at starkly different rates. The rate of new cases per 100,000 persons for the time period of 2016-2020 for males was 26.9 and for females was 16.7.<sup>15</sup> Incidence rates are higher in women than in men before age 50, but after that the incident rates are increasingly higher in men. These trends have been associated with age differences in historical occupational and recreational exposure to ultraviolet radiation (UV) for men, increased use of indoor tanning among young women, and improvements in early detection practices over time.<sup>16</sup>

National estimates for the probability of developing skin cancer over one’s lifetime is 2.9 percent which is the sixth highest behind uterine (3.1 percent), colorectum (4.1 percent), lung and bronchus (6 percent), prostate (12.6 percent), and breast (12.9 percent).<sup>17</sup>

Differences by race and ethnicity nationally are also present as the chart below shows.<sup>18</sup>

**Rate of New Cases per 100,000 Persons by Race/Ethnicity & Sex: Melanoma of the Skin**

MALES		FEMALES	
All Races	26.9	All Races	16.7
Hispanic	4.5	Hispanic	4.3
Non-Hispanic American Indian/Alaska Native	8.7	Non-Hispanic American Indian/Alaska Native	7.8
Non-Hispanic Asian/Pacific Islander	1.3	Non-Hispanic Asian/Pacific Islander	1.1
Non-Hispanic Black	1.0	Non-Hispanic Black	0.9
Non-Hispanic White	37.9	Non-Hispanic White	25.2

SEER 22 2016–2020, Age-Adjusted

<sup>13</sup> National Cancer Institute, *Cancer Stat Facts: Melanoma of the Skin*, available at <https://seer.cancer.gov/statfacts/html/melan.html> (last viewed January 12, 2024).

<sup>14</sup> National Cancer Institute, *Cancer Stat Facts: Melanoma of the Skin, Survival by State*, available at <https://seer.cancer.gov/statfacts/html/melan.html> (last viewed January 12, 2024).

<sup>15</sup> American Cancer Society, Cancer Statistic Center, *Probability of Developing or Dying of Cancer, by Type (data run on January 13, 2024)* available at [Cancer Statistics Center - American Cancer Society](https://www.cancer.org/cancer-statistics-center) (last viewed January 13, 2024).

<sup>16</sup> American Cancer Society, *Cancer Facts & Figures 2023*, p. 25, available at [Cancer Facts & Figures 2023](https://www.cancer.org/cancer-facts-figures), (last viewed January 12, 2024).

<sup>17</sup> Id.

<sup>18</sup> Id.

Skin Cancer in Florida

For Florida, the estimated new cases of skin cancer are 9,640 with projected deaths at 680 individuals.<sup>19</sup> The state’s incidence rate was calculated at 25.70, indicating the number of diagnoses per 100,000 individuals.<sup>20</sup> In 2020, 4,477 new cases were reported for males and 2,770 cases for women.<sup>21</sup> Hospitalization rates and cost data for Florida are illustrated in the chart below.

Skin Cancer – Comparisons by Sex – Florida Only <sup>22</sup>				
	# of Hospitalizations	Total and Length of Stay Per Hospitalization	Median Length of Stay Per Hospitalization	Total Charges (in millions)
<b>All Cancers</b>	72,456	441,678	4.0	\$8,632.7
<b>Melanoma TOTAL:</b>	136	594	2.0	\$12.1
Female	41	184	4.0	\$3.5
Male	95	410	2.0	\$8.6

From a national perspective, Florida ranks 17<sup>th</sup> for the rate of melanoma per 100,000 people and 30<sup>th</sup> when compared to other states for mortality rates.<sup>23</sup> Increased exposure to UV radiation from the sun, and indoor or outdoor tanning beds are major risks for skin cancer and Floridians may carry a higher likelihood of such risks than individuals in other states. Other artificial sources of UV radiation include mercury vaping lighting which is usually found in stadiums and school gyms, some halogen, florescent and incandescent lights, and a few types of lasers.<sup>24</sup>

A few Florida counties have significantly higher incident rates for skin cancer with rates that fall in the 32.7 to 45.6 per 100,000 per incident rate.<sup>25</sup> Statistical models used by the National Cancer Institute show that new cases on the rise at the rate of 1.2 percent per year nationally from 2010 through 2019, but for the period of time of 2015 through 2020, Florida’s incident rate has remained stable.

<sup>19</sup> American Cancer Society, Cancer Statistics Center, *Estimated New Cancer Cases and Deaths by States (sexes combined, Florida)* (data run on January 13, 2024) available at [Cancer Statistics Center - American Cancer Society](#) (last viewed January 13, 2024).

<sup>20</sup> American Cancer Society, Cancer Statistics Center, *Incidence Rates by State and By Type* (data run on January 13, 2024) available at [Cancer Statistics Center - American Cancer Society](#) (last viewed January 13, 2024).

<sup>21</sup> Florida Cancer Data System, *Table 1: Number of New Cancer Cases by Sex and Race*, available at [https://fcds.med.miami.edu/downloads/FloridaAnnualCancerReport/2020/Table\\_No\\_T1\\_\(2020\).pdf](https://fcds.med.miami.edu/downloads/FloridaAnnualCancerReport/2020/Table_No_T1_(2020).pdf) (last viewed January 11, 2024).

<sup>22</sup> Florida Cancer Data System, *Tables 33 – 38: Number of Cancer Hospitalizations by Sex*, reports generated at [https://fcds.med.miami.edu/inc/statistics\\_data\\_vizf.shtml](https://fcds.med.miami.edu/inc/statistics_data_vizf.shtml) (last viewed January 12, 2024).

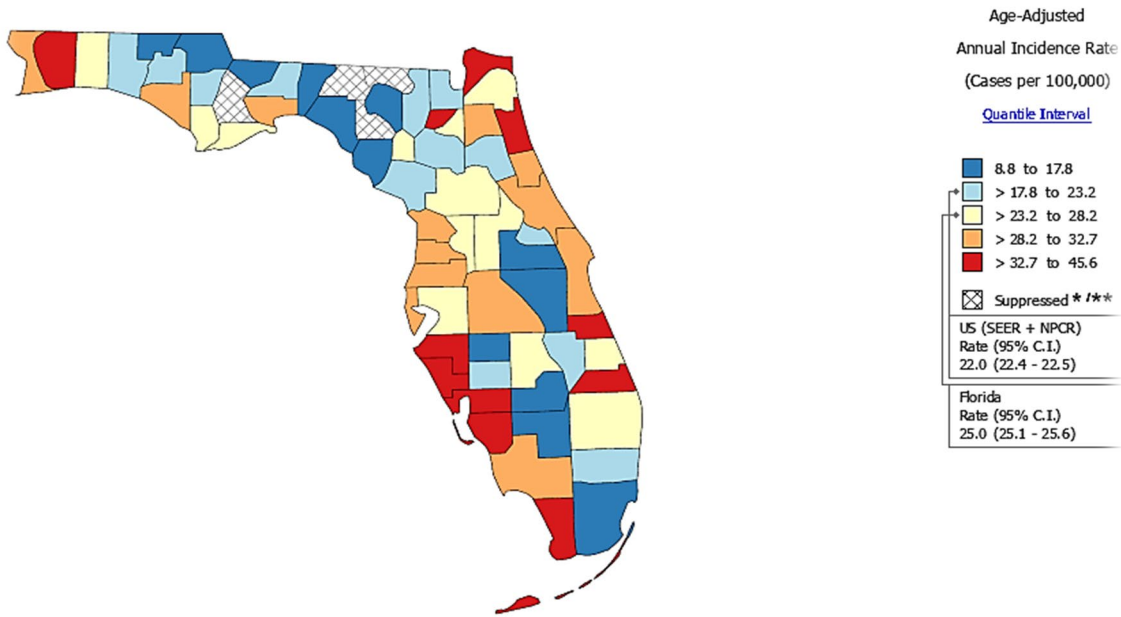
<sup>23</sup> American Cancer Society, Cancer Statistic Center, *Cancer Statistic Center*, available at [Cancer Statistics Center - American Cancer Society](#) (last viewed January 14, 2024).

<sup>24</sup> Centers for Disease Control and Prevention, *UV Radiation*, available at <https://www.cdc.gov/nceh/features/uv-radiation-safety/index.html> (last viewed January 10, 2024).

<sup>25</sup> National Cancer Institute, *Interactive Maps – Incident Rates for Florida by County, Melanoma of the Skin, 2016 – 2020, All Races (includes Hispanic), Both Sexes, All Ages*, report can be re-generated at [Interactive Maps \(cancer.gov\)](#), (last viewed January 10, 2024).

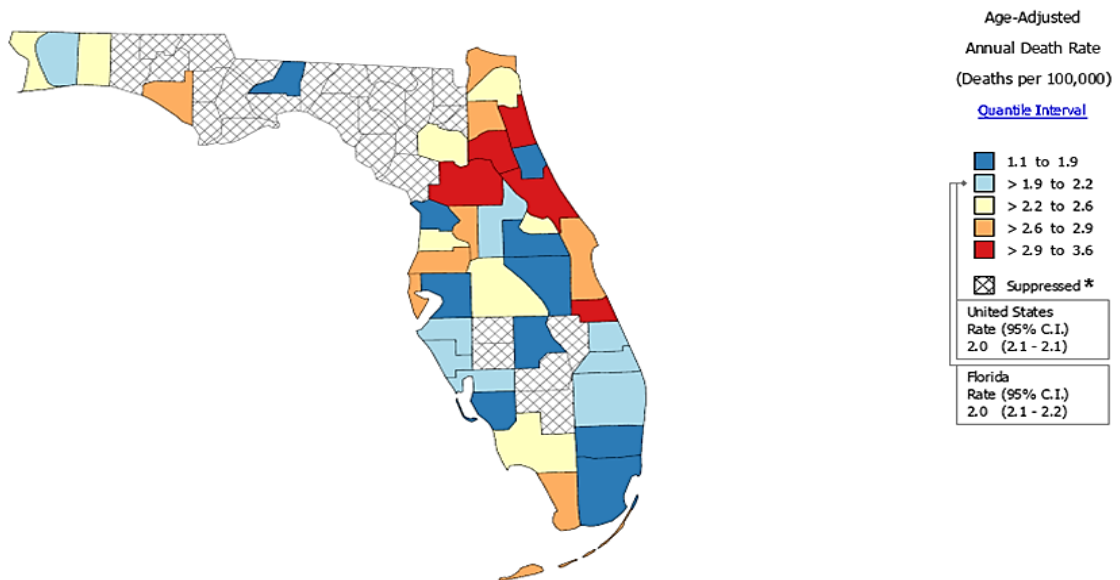


**Incidence Rates<sup>†</sup> for Florida by County**  
**Melanoma of the Skin, 2016 - 2020**  
**All Races (includes Hispanic), Both Sexes, All Ages**



A corresponding map showing the death rate by county reflects a different set of counties. The grouping of counties in southwestern Florida are in one of the lowest death rate quartiles meaning those counties have fewer residents who were diagnosed succumb to death because of that diagnosis. Likewise, many of the southeastern Florida counties have also fallen into the lower death rates as shown in the next figure.<sup>26</sup>

**Death Rates for Florida by County**  
**Melanoma of the Skin, 2016 - 2020**  
**All Races (includes Hispanic), Both Sexes, All Ages**



## Skin Cancer Screening

During a skin cancer screening test, a doctor or nurse checks a patient's skin for moles, birthmarks, or other pigmented areas that may be abnormal in color, size, shape, or texture. If an area looks abnormal, a biopsy of the area may be done where the health care provider may remove as much of the suspicious tissue as possible with a local excision. A pathologist reviews this tissue under a microscope to check for cancer cells.<sup>27</sup>

The American Academy of Dermatologists (AAD) encourages everyone to perform skin self-exams for signs of skin cancer and to get an exam from a doctor, especially if a new spot is found, or an existing spot changes, bleeds, or itches.<sup>28</sup> Individuals with a history of melanoma should have a full-body exam by a board-certified dermatologist at least annually and perform regular self-exams to check for any changes. A *Body Mole Map* is available on the AAD website which allows an individual to record a response for each of the A, B, C, D, and E components discussed below and to record the location of the spot on one sheet.<sup>29</sup>

The American Melanoma Foundation provides a "Record Your Spots" self-check body map on its website to help individuals document any new or changing areas. The AAD also has an infographic to assist individuals with self-checking through the ABCDEs of Melanoma. For each letter, the individual is reminded to look for a warning sign:

- A stands for asymmetry; does one half of the spot look different than the other?
- B stands for border; does the spot have an irregular, scalloped, or poorly defined border?
- C stands for color; does the spot have varying colors from one area to the next?
- D stands for diameter; what is the size?
- E stands for evolving; does the spot look different from the rest or is it changing in size, shape, or color?

However, for adults older than age 24 with fair skin types, the recommendation to clinicians was to selectively offer counseling about minimizing exposure to UV radiation to reduce skin cancer risks and received a C grade. The explanation provided pointed to small net benefit and that clinicians should consider the patient's potential risk factors in determining whether counseling is appropriate.<sup>30</sup>

The United States Preventive Services Task Force (USPSTF) is a volunteer board of national experts in prevention and evidence-based medicine who make recommendations using letters grades (A, B, C, D or I) after a review of the evidence and the balance of benefits and harms of a preventive service.<sup>31</sup> In April 2023, the USPSTF issued its final recommendations on screening for skin cancer and determined that there was not enough evidence to recommend for or against screening individuals without symptoms. As a result, the recommendation, received an "I" grade.<sup>32</sup> The Task Force noted that

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<sup>27</sup> National Cancer Institute, *Skin Cancer Screening (PDQ) – Patient Version*, available at [Skin Cancer Screening - NCI](#) (last viewed January 12, 2024).

<sup>28</sup> American Academy of Dermatologists, *Infographic: How to Spot Skin Cancer*, [Infogra \[https://www.aad.org/public/diseases/skin-cancer/how-to-spot-skin-cancer-phic:How-to-SPOT-Skin-Cancer™\\(aad.org\\)\]\(https://www.aad.org/public/diseases/skin-cancer/how-to-spot-skin-cancer-phic:How-to-SPOT-Skin-Cancer™\(aad.org\)\)](https://www.aad.org/public/diseases/skin-cancer/how-to-spot-skin-cancer-phic:How-to-SPOT-Skin-Cancer™(aad.org)), (last viewed January 12, 2024).

<sup>29</sup> American Academy of Dermatology, *Infographic: Skin Cancer Body Mole Map*, available at <https://www.aad.org/public/diseases/skin-cancer/find/mole-map> (last viewed January 12, 2024).

<sup>30</sup> U.S. Preventive Services Task Force, *Skin Cancer Prevention: Behavioral Counseling (March 20, 2018)* available at [Recommendation: Skin Cancer Prevention: Behavioral Counseling | United States Preventive Services Taskforce \(uspreventiveservicestaskforce.org\)](#) (last viewed January 12, 2024).

<sup>31</sup> An "A" grade means the USPSTF recommends the service and there is a high certainty that the net benefit of the service is substantial. A service with a "B" grade is also recommended, and there is a finding of a high certainty that the net benefit is moderate or there is a moderate certainty that the net benefit is moderate to substantial.<sup>31</sup> A service or screening receiving a "C" grade is recommended to be offered selectively or to be provided to patients based on professional judgment and patient preferences. There is at least a moderate certainty that the net benefit is small. A "D" grade reflects the task force's recommendation against the service finding moderate or high certainty that the service has no net benefit or that the harms outweigh the risks. U.S. Preventive Services Task Force, *Grade Definitions after July 2012*, available at <https://www.uspreventiveservicestaskforce.org/apps/gradedef.jsp> (last viewed January 12, 2024).

<sup>32</sup> An "I" grade by the USPSTF means the task force concluded that current evidence is inconclusive to assess the balance of benefits and harms of the service. Evidence is lacking, of poor quality, or conflicting, and the balance of benefit and harms cannot be determined. United States Prevention Services Task Force, *U.S. Preventive Services Task Force Issues Final Recommendation on Screening for Skin Cancer (April 18, 2023)*, available at

evidence on screening is limited and Task Force members wanted the recommendation to draw attention more culturally diverse research and to be reflective of the nation's population.<sup>33,34</sup> Because the USPSTF did not give skin cancer screening an "A" or "B" grade, these screenings are not required to be covered under the PPACA essential health benefits as preventive services.<sup>35</sup>

While not recommending a skin cancer screening for individuals without symptoms or a family history, the USPSTF does recommend counseling, via a *Behavioral Counseling to Prevent Skin Cancer Recommendation Statement* which has been in place since 2018.<sup>36</sup> For young adults, adolescents, children, and parents of young children, the recommendation for counseling to minimize exposure to UV radiation for persons aged six (6) months to 24 years with fair skin types to reduce their risk of skin cancer has a B grade.<sup>37</sup> As a screening or guidelines recommended by the USPSTF with a B grade, this counseling service is identified as a covered preventive service without cost sharing currently.

## Dermatologist Workforce

The federal Health Resources and Services Administration (HRSA) identifies geographic areas, population groups, and health care facilities with a shortage of health professionals and designates them health professional shortage areas (HPSAs). HPSAs can be designated as geographic areas; areas with a specific group of people such as low-income populations, homeless populations, and migrant farmworker populations; or as a specific facility that serves a population or geographic area with a shortage of providers.<sup>38</sup>

There are three categories of HPSA: primary care, dental health, and mental health.<sup>39</sup> As of September 30, 2023, Florida has 304 primary care HPSAs, 266 dental HPSAs, and 228 mental health HPSAs designated within the state. It would take 1,803 primary care physicians, 1,317 dentists, and 587 psychiatrists to eliminate these shortage areas.<sup>40</sup>

HRSA does not identify shortages in physician specialty or sub-specialty care, including dermatology.

A 2021 report for the Safety Net Hospital Alliance of Florida and the Florida Hospital Association examined Florida's statewide and regional physician workforce and made projections on workforce changes to 2035.<sup>41</sup> Between 2019 and 2035, the report estimates the physician supply will increase by six percent overall and by three to four percent for primary care; however, demand for physician

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[https://www.uspreventiveservicestaskforce.org/uspstf/sites/default/files/file/supporting\\_documents/skin-cancer-screening-final-rec-bulletin.pdf](https://www.uspreventiveservicestaskforce.org/uspstf/sites/default/files/file/supporting_documents/skin-cancer-screening-final-rec-bulletin.pdf) (last viewed January 13, 2024).

<sup>33</sup> Id.  
<sup>34</sup> 45 CFR 156.100. et seq.  
<sup>35</sup> Under the Patient Protection and Affordable Care Act (PPACA), 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 the EHB, the PPACA provides 10 categories of benefits and services which must be covered and then required the Secretary of Health and Human Services to further define the EHB. Under the PPACA, preventive services with an "A" or "B" rating from the USPSTF must be covered by most private health insurance plans. See Issue Brief, Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, *Access to Preventive Services Without Cost Sharing: Evidence from the Affordable Care Act, Issue Brief HP 2022-01 (January 11, 2022)*, Office of Health Policy, Assistant Secretary for Planning and Evaluation, available at [preventive-services-ib-2022.pdf \(hhs.gov\)](https://www.hhs.gov/preventive-services-ib-2022.pdf) (last viewed January 12, 2024).

<sup>36</sup> U.S. Preventive Services Task Force, *Skin Cancer Prevention: Behavioral Counseling (March 20, 2018)* available at [Recommendation: Skin Cancer Prevention: Behavioral Counseling | United States Preventive Services Task Force \(uspreventiveservicestaskforce.org\)](https://www.uspreventiveservicestaskforce.org/recommendation-skin-cancer-prevention-behavioral-counseling) (last viewed January 12, 2024).

<sup>37</sup> Id.  
<sup>38</sup> *What is a Shortage Designation?*, HRSA, available at <https://bhwa.hrsa.gov/workforce-shortage-areas/shortage-designation#hpsas>, (last viewed January 8, 2024).

<sup>39</sup> *Health Professional Shortage Areas (HPSAs) and Your Site*, National Health Service Corps, available at <https://bhwa.hrsa.gov/sites/default/files/bureau-health-workforce/workforce-shortage-areas/nhsc-hpsas-practice-sites.pdf>, (last viewed January 8, 2024).

<sup>40</sup> Bureau of Health Workforce, Health Resources and Services Administration (HRSA), U.S. Department of Health and Human Services, *Designated Health Professional Shortage Areas Statistics, Fourth Quarter of Fiscal Year 2023 (Sept. 30, 2023)*, available at <https://data.hrsa.gov/topics/health-workforce/health-workforce-shortage-areas?hmpgtitle=hmpg-hlth-srvcs> (last viewed January 8, 2024). To generate the report, select "Designated HPSA Quarterly Summary."

<sup>41</sup> IHS Markit, *Florida Statewide and Regional Physician Workforce Analysis: 2019 to 2035: 2021 Update to Projections of Supply and Demand (December 2021)*, available at [Florida-Physician-Workforce-Analysis.pdf \(fha.org\)](https://www.fha.org/florida-physician-workforce-analysis.pdf) (last viewed January 12, 2024).

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services will grow 27 percent.<sup>42</sup> Estimates of current supply deficits indicate Florida needs 1,977 additional physicians for primary care and 1,650 for non-primary care.

For dermatology specifically, the IHS Markit Report found a supply of 1,111 physicians and a projected demand rate of 1,044 physicians in 2035 leading to a supply-demand difference of 67 and an adequacy rating of 106 percent. This indicates Florida has a more than sufficient number of dermatologists for the projected demand.<sup>43</sup> The projected growth rate in the number of physicians in dermatology from 2019 to 2035 is 26 percent, which closely matches the growth rate for primary care physicians (27 percent) under what the report called the “status quo scenario.”<sup>44</sup>

Also noted in the report was that Florida’s current supply of dermatologists, which was cited as more than adequate at 135 percent adequacy, has a surplus of 293 physicians.<sup>45</sup> One possible reason cited was Florida’s high rate of melanoma cases and reference to a study finding that nearly one in ten Floridians (9.2 percent) had been diagnosed with skin cancer.<sup>46</sup>

The IHS report did not address the distribution of dermatologists in Florida; it is likely that some areas of the state have sufficient dermatologists (or a surplus), while others have less access. The Department of Health publishes data on dermatologist distribution. The chart below shows the number of dermatologists per county in Florida.<sup>47</sup>

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<sup>42</sup> Id.

<sup>43</sup> Id.

<sup>44</sup> The “status quo” scenario assumes a 10 percent increase in newly trained physicians entering the workforce annually resulting in 3,191 FTEs (6 percent) physicians in the workforce in 2035, while also assuming the average physician would delay retirement by two years which added 1,543 FTE physicians in the 2035 workforce. See notation on Exhibit 13 of IHS Markit Report.

Id.

<sup>46</sup> Id.

<sup>47</sup> Florida Department of Health, Physician Workforce Annual Report (November 2023) available at 2023 Physician Workforce Annual Report (floridahealth.gov) (last viewed January 18, 2024).

Licensed Florida Dermatologists by County 2023 Physicians Workforce Annual Report			
COUNTY	#	COUNTY	#
Alachua	23	Leon	10
Baker	0	Levy	0
Bay	26	Liberty	0
Bradford	1	Madison	0
Brevard	79	Manatee	18
Broward	330	Marion	13
Calhoun	0	Martin	14
Charlotte	9	Miami-Dade	152
Citrus	6	Monroe	3
Clay	3	Nassau	1
Collier	38	Okaloosa	10
Columbia	1	Okeechobee	1
Desoto	0	Orange	42
Dixie	0	Osceola	5
Duval	43	Palm Beach	148
Escambia	14	Pasco	20
Flagler	2	Pinellas	72
Franklin	0	Polk	22
Gadsden	0	Putnam	0
Gilchrist	0	St. Johns	15
Glades	0	St. Lucie	5
Guif	1	Santa Rosa	3
Hamilton	1	Sarasota	46
Hardee	0	Seminole	23
Hendry	0	Sumter	8
Hernando	4	Suwannee	0
Highlands	4	Taylor	0
Hillsborough	78	Union	0
Holmes	0	Volusia	20
Indian River	9	Wakulla	0
Jackson	0	Walton	2
Jefferson	0	Washington	0
Lafayette	0	Out of State	21
Lake	18	No County	13
Lee	34		

### State Employee Health Plan

For state employees who participate in the state employee benefit program, the Department of Management Services (DMS) through the Division of State Group Insurance (DSGI) under the authority of s. 110.123, F.S., administers the state group health insurance program (Program). The Program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.<sup>48</sup> To administer the program, DSGI contracts with third party administrators for self-insured plans, a fully

<sup>48</sup> 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.

insured HMO, and a pharmacy benefits manager for the state employees' self-insured prescription drug program, pursuant to s.110.12315, F.S.

The state employee health plan contracts currently cover dermatology visits and skin cancer screenings as a specialist office visit. Depending on the plan chosen by the employee, the appropriate out of pocket cost or costs then applies for the specialist office visit.<sup>49</sup>

### **Effect of Proposed Changes**

CS/HB 241 requires health insurers and HMOs under contract with the DSGI to cover annual skin cancer screenings without payment towards a deductible or co-insurance, copayment, or any other cost sharing by the covered individual when conducted by a dermatologist licensed under chapters 458 or 459, a physician assistant licensed under chapters 458 or 459, or an advanced practice nurse practitioner licensed under chapter 464 who is licensed under the supervision of a dermatologist licensed under chapters 458 or 459, F.S. The payment for the screening is to be consistent with other payments for preventive screenings as defined by the American Medical Association Current Procedural Terminology code set.

The bill further prohibits an insurer or HMO contracted with Division of State Group Insurance from bundling a payment for the skin cancer screening with services performed with any other service or procedure, including an evaluation and management visit which is performed during the same office visit or a subsequent office visit. Under this provision, the insurer or HMO may not bundle payments to a provider which would include a patient's annual skin cancer screening service with the payments to that provider for any other service, even if conducted on another day.

When a benefit or service has a patient cost sharing requirement, such as a specialist office co-payment, that amount is deducted from the provider's reimbursement from the insurer or HMO as the amount becomes the responsibility of the provider to collect from the patient for full reimbursement. If there is no cost sharing for a service expected from the patient, then 100 percent of the reimbursement for the service is the responsibility of the insurer or HMO, depending on the contract terms between the health care provider and the insurer or HMO. The unbundling of visits provides assurances to the health care provider that 100 percent reimbursement for the skin care screening has been received from the insurer or the responsibility third party payor.

The DSGI has estimated the annual increase in costs associated with the addition of this benefit for the state group employee group population as \$357,580.

The change contemplated in CS/HB 241 would be effective for contracts issued or renewed on or after January 1, 2025.

The bill will take effect on July 1, 2024

#### **B. SECTION DIRECTORY:**

- Section 1:** Amends s. 110.12303, F.S.; coverage for annual skin cancer screenings.  
**Section 2:** Providing an effective date of July 1, 2024.

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

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

1. Revenues:  
None.

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<sup>49</sup> Department of Management Services, *Agency Bill Analysis – HB 241/SB 56 (January 12, 2024) (on file with the Select Committee on Health Innovation)*.

2. Expenditures:

For the state employee group health plan, the DSGI has estimated an annual increase of \$357,580 for the impact of the no cost sharing liability in the coverage of annual skin cancer screenings.

Expenditures:	<p>Based on an analysis by the state group insurance health plans' actuaries, the estimated Fiscal Impact is \$357,580.00 annually to DSGI health insurance program, if there is no cost sharing liability for the coverage of annual skin cancer screenings.</p> <p>The fiscal impact reflects a combination of the effect of projected changes in health care utilization behavior of insured members and the removal of copayments for services.<sup>50</sup></p>			
	<b>Health Plan</b>	<b>Member count utilized for fiscal analysis by health plan</b>	<b>Per Member Per Month (PMPM)</b>	<b>Annual increase</b>
	<b><u>Self-Insured Plans</u></b>			
	United Health Care	56,000	\$0.14	\$39,000.00
	Aetna	60,225	\$0.07	\$53,758.00
	Florida Blue	151,290	\$0.14	\$256,000.00
	<b><u>Fully Insured Plans</u></b>			
	Capital Health Plan	54,073	\$0.014	\$8,822.00
	<b>Total</b>			<b>\$357,580.00</b>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Not Applicable.

2. Expenditures:

Not Applicable.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The inclusion of coverage for skin cancer screenings with cost sharing restrictions may positively impact physicians who likely will see an increased demand for their services as well as collateral and ancillary medical supports such as laboratories and diagnostic offices which will be called upon to process additional lab slips, biopsies, and scans.

D. FISCAL COMMENTS:

The bill also prohibits an insurer from bundling payments for skin cancer screenings performed under this bill with any other procedure. According to DSGI, State Group insurers do bundle payments currently based on the primary code and there is no current CPT code for "skin cancer screenings." As a result, the insurers may have to manually review clinical records to input these changes and update several systems and processes. Plans may incur costs related to this administrative burden and for updates to claims processing systems.<sup>51</sup>

<sup>50</sup> Department of Management Services, *Email correspondence from Jake Holmgreen, Deputy Legislative Affairs Director (January 16, 2024)(on file with the Select Committee on Health Care Innovation).*

<sup>51</sup> Supra note 50.

### 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

On January 16, 2024, the Select Committee on Health Innovation adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Limits application of the requirement for annual skin cancer screenings without cost sharing restrictions to the State Group Health Insurance Plan effective January 1, 2025.
- Removes provisions requiring health insurers and HMOs to provide coverage for annual skin cancer screenings without cost sharing restrictions.
- Adds physician assistants and advanced practice registered nurses practicing under the supervision of a dermatologist to conduct skin cancer screenings.
- Prohibits State Group Plan insurers and health plans from bundling a payment for a skin cancer screening with any other procedure or service which is performed during the same or a subsequent visit.

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



1                                   A bill to be entitled  
 2           An act relating to coverage for skin cancer  
 3           screenings; amending s. 110.12303, F.S.; requiring the  
 4           Department of Management Services to provide coverage  
 5           and payment through state employee group health  
 6           insurance contracts for annual skin cancer screenings  
 7           performed by specified persons without imposing any  
 8           cost-sharing requirement; specifying a requirement for  
 9           and a restriction on payments for such screenings;  
 10          providing an effective date.

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

13  
 14           Section 1. Subsection (5) is added to section 110.12303,  
 15   Florida Statutes, to read:

16           110.12303 State group insurance program; additional  
 17   benefits; price transparency program; reporting.—

18           (5)(a) Effective January 1, 2025, the department shall  
 19   require all contracted state group health insurance plans and  
 20   HMOs to provide coverage and payment, without imposing a  
 21   deductible, copayment, coinsurance, or any other cost-sharing  
 22   requirement on the covered individual, for annual skin cancer  
 23   screenings performed by a dermatologist licensed under chapter  
 24   458 or chapter 459, or by a physician assistant licensed under  
 25   chapter 458 or chapter 459 or an advanced practice registered

26 | nurse licensed under chapter 464 who is under the supervision of  
27 | a dermatologist licensed under chapter 458 or chapter 459.  
28 | Payment for such screenings must be consistent with how the  
29 | state group health insurance plan or HMO pays for other  
30 | preventive screenings as defined by the American Medical  
31 | Association's Current Procedural Terminology codes.

32 | (b) A state group health insurance plan or HMO  
33 | participating under this section may not bundle a payment for  
34 | skin cancer screenings performed under this section with any  
35 | other procedure or service, including, but not limited to, an  
36 | evaluation and management visit which is performed during the  
37 | same office visit or a subsequent office visit.

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



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 537 Student Achievement

**SPONSOR(S):** Education Quality Subcommittee, Valdés and others

**TIED BILLS:** None. **IDEN./SIM. BILLS:** SB 590

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Education Quality Subcommittee	16 Y, 0 N, As CS	Wolff	Sanchez
2) Appropriations Committee		Potvin	Pridgeon
3) Education & Employment Committee			

### SUMMARY ANALYSIS

Currently a Florida high school student who earns the required 24 credits for a standard high school diploma, or the required 18 credits through the Academically Challenging Curriculum to Enhance Learning (ACCEL) options graduation pathway, but fails to pass the required statewide assessments or achieve a 2.0 GPA must be awarded a certificate of completion. However, a student who is otherwise entitled to a certificate of completion may elect to remain in high school for up to one additional year and receive special instruction designed to remedy his or her identified deficiencies.

The bill deletes all the provisions of the education code related to the certificate of completion, whereby removing the certificate as an option for students that have sufficient high school credits but fail to meet the standardized assessment or GPA requirements for graduation with a standard high school diploma. However, the bill maintains the provision that permits a student to remain in high school either as a full-time or part-time student for up to one additional year and receive special instruction designed to remedy his or her identified deficiencies.

This bill establishes a two-year Music-based Supplemental Content to Accelerate Learner Engagement and Success (mSCALES) Pilot Program within the Department of Education (DOE). The program is intended to assist school districts in adopting music-based supplemental materials that support STEM courses for middle school students. The bill provides that the DOE is responsible for the implementation of the mSCALES pilot program subject to appropriation by the Legislature.

The bill does not have a fiscal impact. See Fiscal Comments.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Florida High School Diploma

##### Present Situation

##### *Requirements for Standard High School Diploma*

Florida law establishes academic requirements for earning a standard high school diploma to include five options:

- 24-credit program;<sup>1</sup>
- 18-credit Academically Challenging Curriculum to Enhance Learning (ACCEL) option;<sup>2</sup>
- Career and Technical Education (CTE) Pathway option;<sup>3</sup>
- an International Baccalaureate (IB) curriculum;<sup>4</sup> or
- an Advanced International Certificate of Education (AICE) curriculum.<sup>5</sup>

The 24 credits required for a standard high school diploma include:<sup>6</sup>

- four credits in English Language Arts (ELA);
- four credits in mathematics;
- three credits in science;
- three credits in social studies;
- one credit in fine or performing arts, speech, and debate, or practical arts;
- one credit in physical education;
- one-half credit in personal financial literacy; and
- seven and one-half credits in electives.

In addition to successful completion of the required courses, a student must earn a cumulative grade point average (GPA) of 2.0 on a 4.0 scale<sup>7</sup> and must pass the following required statewide standardized assessments:

- grade 10 ELA assessment or earn a concordant score on the SAT, ACT, or Classic Learning Test (CLT);<sup>8</sup> and
- Algebra I end-of-course (EOC) assessment or, earn a comparative score on the Math section of the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), the SAT, the ACT, the CLT, or the Geometry EOC assessment.<sup>9</sup>

The 18-credit ACCEL option requirements are similar to those of the 24-credit option, with the following exceptions:

- three elective credits instead of eight;
- a physical education credit is not required; and

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<sup>1</sup> Section 1003.4282(1)(a), F.S.

<sup>2</sup> Section 1002.3105(5), F.S.

<sup>3</sup> Section 1003.4282(10), F.S.

<sup>4</sup> Section 1003.4282(1)(a), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> Section 1003.4282(3)(a)-(h), F.S.

<sup>7</sup> Section 1003.4282(5)(a), F.S.

<sup>8</sup> Section 1003.4282(3)(a), F.S.; Rule 6A-1.09422(8)(a)2., F.A.C. Beginning with students who entered grade 9 in the 2018-2019 school year, students and adults who have not earned the required passing score on the Grade 10 FSA ELA assessment, may meet the testing requirement to earn a high school diploma by earning a specified concordant score.

<sup>9</sup> Section 1003.4282(3)(b)1., F.S.; Rule 6A-1.09422(8)(b)2., F.A.C. Beginning with students who entered grade 9 in the 2018-2019 school year, students and adults who have not earned the required passing score on the Algebra I EOC assessment, may meet the testing requirements to earn a high school diploma by earning a specified comparative score.

- a one-half credit in personal finance is not required.<sup>10</sup>

### *Certificate of Completion*

A student who earns the required 24 credits, or the required 18 credits through the ACCEL options graduation pathway, but fails to pass the required statewide assessments or achieve a 2.0 GPA must be awarded a certificate of completion in a form prescribed by the State Board of Education (SBE).<sup>11</sup> However, a student who is otherwise entitled to a certificate of completion may elect to remain in high school either as a full-time student or a part-time student for up to one additional year and receive special instruction designed to remedy his or her identified deficiencies.<sup>12</sup>

During the transition planning process,<sup>13</sup> a parent of a student with a disability must declare an intention for the student to graduate from high school with either a standard high school diploma or a certificate of completion. A certificate of completion must be awarded to a student with a disability who does not satisfy the standard high school diploma requirements.<sup>14</sup> A student with a disability who receives a certificate of completion may continue to receive Free Appropriate Public Education (FAPE) until their 22<sup>nd</sup> birthday, or, until the end of the school semester or year in which the student turns 22.<sup>15</sup>

### *Certificate of Completion- Admission to Postsecondary Education*

Current law requires a student who has been awarded a certificate of completion to be eligible to enroll in certificate career education programs at a Florida College System (FCS) institution.<sup>16</sup> A certificate career education program is defined as a course of study that leads to at least one occupational completion point.<sup>17</sup> The program may also confer credit that may articulate with a diploma or career degree education program, if authorized by rules of the SBE.<sup>18</sup>

### *Florida Education Finance Program*

The Florida Education Finance Program (FEFP) allocates funds to each school district based on student enrollment.<sup>19</sup> The FEFP uses a unit of measure for each student called a full-time equivalent (FTE). One FTE equals one school year of instruction provided to a student.<sup>20</sup> Districts may earn an add-on weight for certain FTE students who meet qualifying student attainment metrics in specific programs or courses.<sup>21</sup>

### Effect of Proposed Changes

The bill deletes all the provisions of the education code related to the certificate of completion, whereby removing the certificate as an option for students that have sufficient high school credits but fail to meet

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<sup>10</sup> Section 1002.3105, F.S.

<sup>11</sup> Section 1003.4282(6)(c), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 1003.5716(1), F.S. An individualized education plan (IEP) team must identify the need for transition services before a student with a disability enters high school to ensure quality planning for postsecondary education and career opportunities. The plan must be ready for implementation by the first day of the student's first year in high school. *Id.*

<sup>14</sup> Section 1003.4282(9)(a), F.S.

<sup>15</sup> Paul O. Burns, EdD., *High School Graduation and Completion Options*, presentation before the Education Quality Subcommittee (Feb. 8, 2023).

<sup>16</sup> Section 1007.263(4), F.S.

<sup>17</sup> Section 1004.02(20), F.S.; *see also* s. 1004.02(21), F.S. An occupational completion point means the occupational competencies that qualify a person to enter an occupation that is linked to a career and technical program.

<sup>18</sup> *Id.*

<sup>19</sup> *See* s. 1011.62(1)(d)1., F.S.

<sup>20</sup> Section 1011.61(1)(a), F.S.

<sup>21</sup> Section 1011.61(1)(l)-(p), F.S. Bonus FTE programs include Advanced Placement exams, College Board AP Capstone Diploma, International Baccalaureate exams, International Baccalaureate Diploma, Advanced International Certificate of Education exams, Advanced International Certification of Education diploma, Career and Professional Education, and Early High School Graduation. *Id.*

the standardized assessment or GPA requirements for graduation with a standard high school diploma. However, the bill maintains the provision that permits a student that fails to pass the required assessments or achieve a 2.0 GPA to remain in high school either as a full-time student or a part-time student for up to one additional year and receive special instruction designed to remedy his or her identified deficiencies.

## **Music-based Supplemental Content to Accelerate Learner Engagement and Success (mSCALES) Pilot Program**

### Present Situation

Some studies have indicated a positive correlation between instruction in music and math.<sup>22</sup> Additionally, a variety of aspects of cognitive development have been shown to be positively linked with music instruction in school, including spatial-temporal abilities, selective attention, and memory for verbal stimuli.<sup>23</sup> Some research has even identified a positive association between music education and increases in student self-esteem, academic success, and discipline.<sup>24</sup>

### *Early Childhood Music Education Incentive Program*

The Legislature established the Early Childhood Music Education Incentive Pilot Program in 2017 to assist certain school districts in implementing comprehensive music education programs in kindergarten through grade 2, beginning with the 2017-2018 school year.<sup>25</sup> Based on an evaluation of the program following the 2021-2022 school year, students participating in the program showed significant growth in reading and math, as measured by progress monitoring scores; however, the analysis noted that the lack of a control group during the program made it unclear the extent to which academic growth was attributable to the program.<sup>26</sup> In 2023, the Early Childhood Music Education Incentive Pilot Program was converted into a permanent program administered by the Department of Education (DOE).<sup>27</sup>

For a school district to be eligible for participation in the program, the district school superintendent must certify to the DOE that specified elementary schools within the district have established a comprehensive music education program that:

- includes all students enrolled at the school in kindergarten through second grade;
- is staffed by certified music educators;
- provides music instruction for at least 30 consecutive minutes two days a week;
- complies with class size requirements under the law; and
- complies with the DOE's standards for early childhood music education programs for students in kindergarten through second grade.

The DOE is required to approve school districts to participate in the program, subject to legislative appropriation, according to needs-based criteria established by the SBE. Selected school districts must annually receive \$150 per full-time equivalent student in kindergarten through second grade who is enrolled in a comprehensive music education program.

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<sup>22</sup> J.D. Walsh and B.K. Coleman, *Using Music to Teach Math in Middle School*, 2 South Carolina Association for Middle Level Education Journal 144-151 (2023), available at <https://scholarcommons.sc.edu/cgi/viewcontent.cgi?article=1028&context=scamle>; see also M.F. Gardiner, et al, *Learning Improved by Arts Training*, 381 Nature 284 (1996) (last visited Jan. 9, 2024).

<sup>23</sup> See, e.g., Lois Hetland, *Learning to Make Music Enhances Spatial Reasoning*, 34 J. Aesthetic Ed. 179 (2000); J. Goopy, 'Extra-musical effects' and Benefits of Programs Founded on the Kodaly Philosophy, 2 AUSTRALIAN JOURNAL OF MUSIC EDUCATION 71-78 (2013); Yim-Chi Ho, et al, *Music Training Improves Verbal but Not Visual Memory: Cross-Sectional and Longitudinal Explorations in Children*, 17 NEUROPSYCHOLOGY 439 (2003).

<sup>24</sup> See e.g., Cecil Adderley, et al, "A home away from home": The world of the high school music classroom, 51 J. MUSIC RES. 190 (2003).

<sup>25</sup> Chapter 2017-116, Laws of Fla.

<sup>26</sup> Serephine, Anne, and Miller, David, University of Florida, College of Education, *Evaluation Report Early Childhood Education Incentive Pilot Program 2021-2022*, at 92, on file with the Education Quality Subcommittee.

<sup>27</sup> Chapter 2023-168, Laws of Fla.

The SBE is authorized to adopt rules to administer the program.<sup>28</sup>

The Legislature appropriated \$400,000 in recurring funds and \$10 million in nonrecurring funds for the DOE to implement the Early Childhood Music Education Program in the 2023-2024 fiscal year.<sup>29</sup> Based on applications received, the DOE anticipates that the program will serve 19,346 students in 78 schools across 13 school districts in the 2023-2024 fiscal year. The DOE projects expenditures of \$3,205,248 for the 2023-2024 fiscal year.<sup>30</sup>

### *Middle Grades Mathematics Teachers*

Specialization requirements for teacher certification as a middle grades mathematics instructor require a bachelor's or higher degree with a mathematics or middle grades mathematics major, or at least 18 semester hours in mathematics, including:

- calculus, precalculus, or trigonometry;
- geometry; and
- probability or statistics.<sup>31</sup>

As of the 2021-2022 school year, there were 17,786 mathematics teacher certifications in Florida.<sup>32</sup> The maximum number of students assigned to each teacher who is teaching middle school mathematics may not exceed 22 students.<sup>33</sup>

### *The Florida Center for Partnerships in Arts-Integrated Teaching*

The Florida Center for Partnerships in Arts-Integrated Teaching, commonly referred to as PAInT, is a state-wide resource in arts-integrated pedagogy. The Center for PAInT is an essential part of the collaborative strategic planning for the arts in Florida.<sup>34</sup> The goals of the center include research in arts-integrated teaching, technical assistance and support, professional development, and examination of arts integrated teaching in Science, Technology, Engineering, and Math (STEM) educational courses.<sup>35</sup>

### Effect of Proposed Changes

This bill establishes a two-year Music-based Supplemental Content to Accelerate Learner Engagement and Success (mSCALES) Pilot Program within the DOE. The program is intended to assist school districts that participated in the Early Childhood Music Education Incentive Program in adopting music-based supplemental materials through the Muzology<sup>36</sup> digital learning system to support STEM courses for middle school students.

The bill requires the use of music-based supplemental material through the Muzology digital learning system at least twice per week to supplement mathematics instruction by teachers who are certified to teach mathematics. Participating districts are required to annually certify to the DOE that they are complying with this requirement and also class size requirements. Subject to legislative appropriation, participating school districts receive \$6 per FTE student participating in the pilot program.

The bill authorizes the school districts in Alachua, Marion, and Miami-Dade counties to participate in the pilot program. To participate, the school district superintendent must contact the DOE.

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<sup>28</sup> Section 1003.481, F.S.

<sup>29</sup> Specific Appropriation 96, s. 2, ch. 2023-239, Laws of Fla.

<sup>30</sup> Email, Florida Department of Education (January 2, 2024), with attachment, on file with the Education Quality Subcommittee.

<sup>31</sup> Rule 6A-4.0261, F.A.C.

<sup>32</sup> Florida Department of Education, *Identification of High Demand Teacher Needs for 2023-2024*, available at <https://www.fldoe.org/core/fileparse.php/20562/urlt/16-2.pdf>, at 4 (last visited Jan. 20, 2024).

<sup>33</sup> Section 1003.03(1), F.S.

<sup>34</sup> University of South Florida, Center for PAInT, *Mission, Belief Statement, and Definition of Arts Integration*, <https://www.sarasotamanatee.usf.edu/academics/center-for-paint/#:~:text=The%20Florida%20Center%20for%20Partnerships,for%20the%20Arts%20in%20Florida> (last visited Jan. 20, 2024).

<sup>35</sup> Section 1004.344, F.S.

<sup>36</sup> Muzology, <https://www.muzology.com/about-us> (last visited Jan. 20, 2024).



The bill authorizes the Commissioner of Education to select school districts for participation in the pilot program if sufficient funding is available as appropriated by the Legislature. The DOE is required to prescribe application forms and forms for districts to certify they are meeting the requirements of the pilot program. If a selected school district fails to provide the annual certification, the school district must return all funds received through the pilot program for that fiscal year.

The bill requires the College of Education at the University of Florida (UCF) to evaluate the program's effectiveness by measuring the academic performance of participating students through a quantitative and qualitative analysis. UCF's College of Education must also provide progress monitoring updates to the DOE and the Legislature and prepare a comprehensive report of the program's overall effectiveness. The report must be presented, no later than June 30, 2026, to the DOE, the Legislature, and the PAInT .

The mSCALES pilot program expires June 30, 2026.

**B. SECTION DIRECTORY:**

- Section 1:** Amends s. 1002.394, F.S.; conforming provisions to changes made by the act.
- Section 2:** Amends s. 1003.4282, F.S.; deleting provisions providing for the award of a certificate of completion to certain students; conforming provisions to changes made by the act.
- Section 3:** Amends s. 1003.433, F.S.; conforming provisions to changes made by the act.
- Section 4:** Amends s. 1007.263, F.S.; conforming provisions to changes made by the act.
- Section 5:** Creating the Music-based Supplemental Content to Accelerate Learner Engagement and Success Pilot Program within the Department of Education for a specified purpose; providing for participation in the pilot program; providing school district duties; requiring the Commissioner of Education to select school districts for participation in the pilot program, subject to legislative appropriation; requiring the University of Florida's College of Education to evaluate the effectiveness of the pilot program; providing requirements for such evaluation; requiring such college to provide progress monitoring updates to the department and the Legislature and a comprehensive report to the Governor, the Legislature, and a certain center by a specified date; providing for expiration of the pilot program.
- Section 6:** Provides an effective date.

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

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

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

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

- 1. Revenues:  
None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The provision of the bill authorizing school districts to participate in the mSCALES pilot program is subject to a legislative appropriation.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide the SBE with additional rulemaking authority but existing rules may need to be repealed or amended based on the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Education Quality Subcommittee adopted one Proposed Committee Substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differed from the original bill in the following ways:

- Deletes all the provisions of the education code related to the certificate of completion, whereby removing the certificate as an option for students.
- Removes provision from the bill relating to academic counseling for certain freshman students.
- Removes provision from the bill prohibiting recipients of a certificate of completion from participating in graduation ceremonies.
- Removes provision from the bill relating to satisfying the Algebra 1 End-of-Course assessment requirement with a formative assessment.
- Removes provision from the bill relating to changes to acceptable concordant scores for standardized assessments.
- Removes an appropriation from the bill.

The analysis is drafted to the committee substitute adopted by the Education Quality Subcommittee.

1 A bill to be entitled  
2 An act relating to student achievement; amending s.  
3 1002.394, F.S.; conforming provisions to changes made  
4 by the act; amending s. 1003.4282, F.S.; deleting  
5 provisions providing for the award of a certificate of  
6 completion to certain students; conforming provisions  
7 to changes made by the act; amending ss. 1003.433 and  
8 1007.263, F.S.; conforming provisions to changes made  
9 by the act; creating the Music-based Supplemental  
10 Content to Accelerate Learner Engagement and Success  
11 Pilot Program within the Department of Education for a  
12 specified purpose; providing for participation in the  
13 pilot program; providing school district duties;  
14 requiring the Commissioner of Education to select  
15 school districts for participation in the pilot  
16 program, subject to legislative appropriation;  
17 requiring the University of Florida's College of  
18 Education to evaluate the effectiveness of the pilot  
19 program; providing requirements for such evaluation;  
20 requiring such college to provide progress monitoring  
21 updates to the department and the Legislature and a  
22 comprehensive report to the Governor, the Legislature,  
23 and a certain center by a specified date; providing  
24 for expiration of the pilot program; providing an  
25 effective date.

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

Section 1. Subsection (16) of section 1002.394, Florida Statutes, is amended to read:

1002.394 The Family Empowerment Scholarship Program.—

(16) TRANSITION-TO-WORK PROGRAM.—A student with a disability who is determined eligible pursuant to paragraph (3)(b) who is at least 17 years, but not older than 22 years of age and who has not received a high school diploma ~~or certificate of completion~~ is eligible for enrollment in his or her private school's transition-to-work program. A transition-to-work program shall consist of academic instruction, work skills training, and a volunteer or paid work experience.

(a) To offer a transition-to-work program, a participating private school must:

1. Develop a transition-to-work program plan, which must include a written description of the academic instruction and work skills training students will receive and the goals for students in the program.

2. Submit the transition-to-work program plan to the Office of Independent Education and Parental Choice.

3. Develop a personalized transition-to-work program plan for each student enrolled in the program. The student's parent, the student, and the school principal must sign the personalized

51 | plan. The personalized plan must be submitted to the Office of  
52 | Independent Education and Parental Choice upon request by the  
53 | office.

54 |       4. Provide a release of liability form that must be signed  
55 | by the student's parent, the student, and a representative of  
56 | the business offering the volunteer or paid work experience.

57 |       5. Assign a case manager or job coach to visit the  
58 | student's job site on a weekly basis to observe the student and,  
59 | if necessary, provide support and guidance to the student.

60 |       6. Provide to the parent and student a quarterly report  
61 | that documents and explains the student's progress and  
62 | performance in the program.

63 |       7. Maintain accurate attendance and performance records  
64 | for the student.

65 |       (b) A student enrolled in a transition-to-work program  
66 | must, at a minimum:

67 |       1. Receive 15 instructional hours at the private school's  
68 | physical facility, which must include academic instruction and  
69 | work skills training.

70 |       2. Participate in 10 hours of work at the student's  
71 | volunteer or paid work experience.

72 |       (c) To participate in a transition-to-work program, a  
73 | business must:

74 1. Maintain an accurate record of the student's  
 75 performance and hours worked and provide the information to the  
 76 private school.

77 2. Comply with all state and federal child labor laws.

78 Section 2. Paragraph (c) of subsection (5) and paragraphs  
 79 (a) and (d) of subsection (8) of section 1003.4282, Florida  
 80 Statutes, are amended to read:

81 1003.4282 Requirements for a standard high school  
 82 diploma.—

83 (5) AWARD OF A STANDARD HIGH SCHOOL DIPLOMA.—

84 (c) A student who earns the required 24 credits, or the  
 85 required 18 credits under s. 1002.3105(5), but fails to pass the  
 86 assessments required under s. 1008.22(3) or achieve a 2.0 GPA  
 87 ~~shall be awarded a certificate of completion in a form~~  
 88 ~~prescribed by the State Board of Education. However, a student~~  
 89 ~~who is otherwise entitled to a certificate of completion~~ may  
 90 elect to remain in high school either as a full-time student or  
 91 a part-time student for up to 1 additional year and receive  
 92 special instruction designed to remedy his or her identified  
 93 deficiencies.

94 (8) STUDENTS WITH DISABILITIES.—Beginning with students  
 95 entering grade 9 in the 2014-2015 school year, this subsection  
 96 applies to a student with a disability.

97 (a) A parent of the student with a disability shall, in  
 98 collaboration with the individual education plan (IEP) team

99 during the transition planning process pursuant to s. 1003.5716,  
 100 declare an intent for the student to graduate from high school  
 101 with ~~either a standard high school diploma or a certificate of~~  
 102 ~~completion. A student with a disability who does not satisfy the~~  
 103 ~~standard high school diploma requirements pursuant to this~~  
 104 ~~section shall be awarded a certificate of completion.~~

105 (d) A student with a disability who ~~receives a certificate~~  
 106 ~~of completion and~~ has an individual education plan that  
 107 prescribes special education, transition planning, transition  
 108 services, or related services through 21 years of age may  
 109 continue to receive the specified instruction and services.  
 110

111 The State Board of Education shall adopt rules under ss.  
 112 120.536(1) and 120.54 to implement this subsection, including  
 113 rules that establish the minimum requirements for students  
 114 described in this subsection to earn a standard high school  
 115 diploma. The State Board of Education shall adopt emergency  
 116 rules pursuant to ss. 120.536(1) and 120.54.

117 Section 3. Paragraph (b) of subsection (2) of section  
 118 1003.433, Florida Statutes, is amended to read:

119 1003.433 Learning opportunities for out-of-state and out-  
 120 of-country transfer students and students needing additional  
 121 instruction to meet high school graduation requirements.-

122 (2) Students who earn the required 24 credits for the  
 123 standard high school diploma except for passage of any must-pass

124 assessment under s. 1003.4282 or s. 1008.22 or an alternate  
 125 assessment by the end of grade 12 must be provided the following  
 126 learning opportunities:

127 (b) ~~Upon receipt of a certificate of completion,~~ Be  
 128 allowed to take the College Placement Test and be admitted to  
 129 developmental education or credit courses at a Florida College  
 130 System institution, as appropriate.

131 Section 4. Subsection (4) of section 1007.263, Florida  
 132 Statutes, is amended to read:

133 1007.263 Florida College System institutions; admissions  
 134 of students.—Each Florida College System institution board of  
 135 trustees is authorized to adopt rules governing admissions of  
 136 students subject to this section and rules of the State Board of  
 137 Education. These rules shall include the following:

138 (4) A student who has earned the required 24 credits under  
 139 s. 1003.4282, or the required 18 credits under s. 1002.3105(5),  
 140 for the standard high school diploma except for passage of any  
 141 must-pass assessment under s. 1003.4282 or s. 1008.22 or an  
 142 alternate assessment by the end of grade 12 ~~been awarded a~~  
 143 ~~certificate of completion under s. 1003.4282~~ is eligible to  
 144 enroll in certificate career education programs.

145  
 146 Each board of trustees shall establish policies that notify  
 147 students about developmental education options for improving  
 148 their communication or computation skills that are essential to



149 performing college-level work, including tutoring, extended time  
150 in gateway courses, free online courses, adult basic education,  
151 adult secondary education, or private provider instruction.

152 Section 5. (1) Beginning in the 2024-2025 school year,  
153 the Music-based Supplemental Content to Accelerate Learner  
154 Engagement and Success (mSCALES) Pilot Program is created within  
155 the Department of Education for a period of 2 school years. The  
156 purpose of the pilot program is to assist school districts that  
157 participated in the Early Childhood Music Education Incentive  
158 Program in using music-based supplemental materials through the  
159 Muzology digital learning system to support the curriculum for  
160 Science, Technology, Engineering, and Math (STEM) educational  
161 courses for middle school students.

162 (2) The pilot program shall be open to the Alachua,  
163 Marion, and Miami-Dade school districts. In order for a school  
164 district to participate in the pilot program, the district  
165 school superintendent must annually certify to the department,  
166 in a format prescribed by the department, that each  
167 participating middle school class:

168 (a) Includes students who participated in the Early  
169 Childhood Music Education Incentive Program.

170 (b) Uses music-based supplemental materials through the  
171 Muzology digital learning system at least twice a week in STEM  
172 educational courses.

173 (c) Is taught by certified mathematics teachers.

174 (d) Complies with class size requirements under s.  
 175 1003.03, Florida Statutes.

176 (3) (a) The Commissioner of Education shall select school  
 177 districts for participation in the pilot program, subject to  
 178 legislative appropriation. Selected school districts shall  
 179 annually receive \$6 per full-time equivalent student  
 180 participating in the pilot program.

181 (b) To maintain eligibility for participation in the pilot  
 182 program, a selected school district must annually certify to the  
 183 department, in a format prescribed by the department, that each  
 184 participating middle school class meets the requirements of  
 185 subsection (2). If a selected school district fails to provide  
 186 the annual certification for a fiscal year, the school district  
 187 must return all funds received through the pilot program for  
 188 that fiscal year.

189 (4) (a) The University of Florida's College of Education  
 190 shall evaluate the effectiveness of the pilot program by  
 191 measuring the academic performance of participating students and  
 192 the success of the pilot program. The evaluation must include,  
 193 but is not limited to, a quantitative analysis of the  
 194 achievement of participating students and a qualitative  
 195 evaluation of participating students.

196 (b) The University of Florida's College of Education shall  
 197 provide:

198        1. Progress monitoring updates to the department and the  
 199 Legislature.

200        2. A comprehensive report on the results and efficacy of  
 201 the pilot program to the Governor, the President of the Senate,  
 202 the Speaker of the House of Representatives, and the University  
 203 of South Florida's Florida Center for Partnerships in Arts-  
 204 Integrated Teaching (PAInT) by June 30, 2026.

205        (5) This section expires June 30, 2026.

206        Section 6. This act shall take effect July 1, 2024.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 707 State University Unexpended Funds  
**SPONSOR(S):** Higher Education Appropriations Subcommittee, Silvers  
**TIED BILLS:** None. **IDEN./SIM. BILLS:** CS/SB 1128

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education Appropriations Subcommittee	11 Y, 0 N, As CS	Stenson	Smith
2) Postsecondary Education & Workforce Subcommittee	16 Y, 0 N	Kiner	Kiner
3) Appropriations Committee		Stenson	Pridgeon

### SUMMARY ANALYSIS

Currently, each state university is required to maintain a minimum carry forward balance of at least 7 percent of its state operating budget. If a university retains a state operating fund carry forward balance in excess of 7 percent, it must submit a spending plan for the excess carry forward balance to the Board of Governors (BOG).

The bill allows a state university to carry forward unexpended funds in excess of the 7 percent minimum of its state operating budget as an annual reserve balance.

The bill has no fiscal impact on state or local government.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### *End-of-Year Carry Forward Balances*

Currently, each state university is required to maintain a minimum carry forward balance of at least 7 percent of its state operating budget.<sup>1</sup> If a university retains a state operating fund carry forward balance in excess of 7 percent, it must submit a spending plan for the excess carry forward balance to the Board of Governors (BOG) by September 30 each year.<sup>2</sup> The authorized expenditures in the spending plan include:

- Commitment of funds to a public education capital outlay project for which an appropriation has previously been provided that requires additional funds for completion and which is included in the BOG's prioritized list of projects.
- Completion of a renovation, repair, or maintenance project or replacement of a minor facility.
- Completion of a remodeling or infrastructure project, including a project for a developmental research school, if the project is recommended in the educational plant survey.
- Completion of a repair or replacement project necessary due to damage caused by a natural disaster for buildings included in the educational plant survey.
- Operating expenditures that support the university's mission.
- Any purpose specified by the board or in the General Appropriations Act.
- A commitment of funds to a contingency reserve for expenses incurred as a result of a state of emergency declared by the Governor.<sup>3</sup>

A university may spend the minimum carry forward balance of 7 percent if a demonstrated emergency exists and the plan is approved by the university's board of trustees and the Board of Governors.

##### *Florida Auditor General Operational Audit Findings*

In a 2022 Operational Audit conducted by the Florida Auditor General, the Auditor reported that inclusion of reserves in excess of 7 percent in a university's carry forward spending plans "may be inappropriate and contrary to State law."<sup>4</sup> The Auditor General also reported that "BOG personnel indicated that the reserves were allowed to be included in education & general carryforward spending plans because universities need a reserve fund as a 'cost of doing business' and had a legitimate need for amounts they could not foresee related to contingencies" and that the reserves are authorized pursuant to law.<sup>5</sup> The Auditor General maintains that the only permitted instance for a reserve in excess of the minimum 7 percent is for expenses incurred as a result of a declared state of emergency.<sup>6</sup>

#### Effect of the Bill

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<sup>1</sup> Section 1011.45(1), F.S.

<sup>2</sup> Section 1011.45(2), F.S.

<sup>3</sup> Section 1011.45(3), F.S.

<sup>4</sup> State of Florida Auditor General, *Operational Audit, State University System Board of Governors* (Report No. 2023-049, Nov. 2022), [https://flauditor.gov/pages/pdf\\_files/2023-049.pdf](https://flauditor.gov/pages/pdf_files/2023-049.pdf) (last visited January 22, 2024).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

The bill allows a state university to carry forward unexpended funds in excess of the 7 percent minimum of its state operating budget as an annual reserve balance. Universities would now be permitted to include those funds in their spending plans submitted to the university's board of trustees and the Board of Governors, allowing universities to keep a reserve for authorized expenses beyond a declared state of emergency.

**B. SECTION DIRECTORY:**

Section 1: Amends s. 1011.45, F.S., to allow a state university to include carry forward balance funds in excess of its 7 percent state operating budget as a reserve for authorized expenses in subsequent years.

Section 2: 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:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

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

On January 19, 2024, the Higher Education Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarifies that carry forward funds in excess of the statutorily required 7 percent minimum may be retained as an annual reserve balance, and any reserve funds are reported to the Board of Governors.

The analysis is drafted to the committee substitute adopted by the Higher Education Appropriations Subcommittee.



1                                   A bill to be entitled  
 2           An act relating to state university unexpended funds;  
 3           amending s. 1011.45, F.S.; authorizing a state  
 4           university to retain and report an annual reserve  
 5           balance exceeding a specified amount; authorizing a  
 6           state university's carry forward spending plan to  
 7           include a reserve fund to be used for authorized  
 8           expenses in subsequent years; providing an effective  
 9           date.

10

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

12

13           Section 1. Subsections (1) and (3) of section 1011.45,  
 14 Florida Statutes, are amended to read:

15           1011.45 End of year balance of funds.—Unexpended amounts  
 16 in any fund in a university current year operating budget shall  
 17 be carried forward and included as the balance forward for that  
 18 fund in the approved operating budget for the following year.

19           (1) Each university shall maintain a minimum carry forward  
 20 balance of at least 7 percent of its state operating budget; i  
 21 however, a university may retain and report to the Board of  
 22 Governors an annual reserve balance exceeding that amount. If a  
 23 university fails to maintain a 7 percent balance in state  
 24 operating funds, the university shall submit a plan to the Board  
 25 of Governors to attain the 7 percent balance of state operating

26 funds within the next fiscal year.

27 (3) A university's carry forward spending plan must  
28 include the estimated cost per planned expenditure and a  
29 timeline for completion of the expenditure. A carry forward  
30 spending plan may include retention of the carry forward balance  
31 as a reserve fund to be used for authorized expenses in  
32 subsequent years. Authorized expenditures in a carry forward  
33 spending plan may include:

34 (a) Commitment of funds to a public education capital  
35 outlay project for which an appropriation has previously been  
36 provided that requires additional funds for completion and which  
37 is included in the list required by s. 1001.706(12) (d);

38 (b) Completion of a renovation, repair, or maintenance  
39 project that is consistent with s. 1013.64(1) or replacement of  
40 a minor facility;

41 (c) Completion of a remodeling or infrastructure project,  
42 including a project for a developmental research school, if such  
43 project is survey recommended pursuant to s. 1013.31;

44 (d) Completion of a repair or replacement project  
45 necessary due to damage caused by a natural disaster for  
46 buildings included in the inventory required pursuant to s.  
47 1013.31;

48 (e) Operating expenditures that support the university's  
49 mission;

50 (f) Any purpose specified by the board or in the General

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51 Appropriations Act, including the requirements in s.  
52 1001.706(12) (c) or similar requirements pursuant to Board of  
53 Governors regulations; and  
54 (g) A commitment of funds to a contingency reserve for  
55 expenses incurred as a result of a state of emergency declared  
56 by the Governor pursuant to s. 252.36.  
57 Section 2. This act shall take effect July 1, 2024.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 765 Leave of Absence to Officials and Employees

**SPONSOR(S):** Daley

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 818

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	16 Y, 0 N	Burgess	Darden
2) Appropriations Committee		Perez	Pridgeon
3) State Affairs Committee			

### SUMMARY ANALYSIS

The provisions of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) apply to the state. USERRA provides employment protections to servicemembers who have to leave employment to perform military service. USERRA requires compliance of private and public employers, including at the state and local level.

Current law provides a paid leave of absence for state officials and employees, as well as the officials and employees of counties, municipalities, and other political subdivisions of the state, for participation in training or active military service.

A public official or employee who is a servicemember of the National Guard or a reserve component of the United States Armed Forces is eligible to receive full public pay, regardless of any other compensation from the military or other source, for the first 30 days of a leave of absence to perform active military service. Beyond the first 30 days, an employer may supplement military pay to bring the total salary of the employee to the amount earned before the start of active military duty. During the time that a public employee is in active military service, the employer must continue to provide state-issued health insurance and other employee benefits.

The bill revises a requirement that a public employer provide an employee or official who is a servicemember a full paid leave of absence for the first 30 days of active military service. The bill limits application of the paid leave of absence to a servicemember who is activated under federal military service that is 90 consecutive days or more.

The bill may have a positive fiscal impact on state and local governments.

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0765b.APC

**DATE:** 2/7/2024

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Uniformed Services Employment and Reemployment Rights Act (USERRA)<sup>1</sup>

The provisions of the federal USERRA apply to the state.<sup>2</sup> USERRA provides employment protections to servicemembers who have to leave employment to perform military service.

USERRA areas of coverage apply to:

- Reemployment rights;
- Freedom from discrimination and retaliation; and
- Continuation of health insurance coverage.<sup>3</sup>

USERRA requires compliance of private and public employers, including at the state and local level.<sup>4</sup>

##### Public Employment Leave of Absence for Military Duty

Current law provides a paid leave of absence for state officials and employees, as well as the officials and employees of counties, municipalities, and other political subdivisions of the state, for participation in training or active military service.<sup>5</sup> The provisions apply to servicemembers serving as a member of the:

- United States Armed Forces on active or state active duty;<sup>6</sup>
- Florida National Guard; or
- United States Reserve Forces.<sup>7</sup>

A public official or employee who is a servicemember of the National Guard or a reserve component of the United States Armed Forces is eligible to receive full public pay, regardless of any other compensation from the military or other source, for the first 30 days of a leave of absence to perform active military service.<sup>8</sup> Beyond the first 30 days, an employer may supplement military pay to bring the total salary of the employee, including base military pay, to the amount earned before the start of active military duty.<sup>9</sup> During the time that a public employee is in active military service, the employer must continue to provide health insurance and other employee benefits.<sup>10</sup>

A leave of absence due to military training is addressed separately from active military duty.<sup>11</sup> A public official or employee who is a servicemember is entitled to a leave of absence without loss of vacation leave, pay, time, or efficiency rating for each day ordered to military training.<sup>12</sup> However, paid leaves of absence is limited to 240 working hours in any one annual period. For any absence in excess of 240

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<sup>1</sup> 38 U.S.C. ch. 43.

<sup>2</sup> S. 115.15, F.S.

<sup>3</sup> U.S. Dept. of Labor, *Veterans' Employment and Training Service, Know Your Rights*, <https://www.dol.gov/agencies/vets/programs/userra/aboutuserra#:~:text=USERRA%20prohibits%20employment%20discrimination%20against,obligations%2C%20or%20intent%20to%20serve> (last visited Jan. 19, 2024).

<sup>4</sup> U.S. Dept. of Labor, *A Guide to the Uniformed Services Employment and Reemployment Rights Act*, <https://www.dol.gov/agencies/vets/programs/userra/USERRA-Pocket-Guide#:~:text=USERRA%20applies%20to%20virtually%20all,size%2C%20including%20the%20Federal%20Government> (last visited Jan. 20, 2024).

<sup>5</sup> Ss. 115.07, 115.09, and 115.14, F.S.

<sup>6</sup> The "armed forces" include the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard. S. 250.01(4), F.S.

<sup>7</sup> S. 250.01(19), F.S.

<sup>8</sup> Ss. 115.09 and 115.14, F.S. See also Op. Att'y Gen. Fla. 98-43 (1998).

<sup>9</sup> Section 115.14, F.S.

<sup>10</sup> *Id.*

<sup>11</sup> S. 115.07, F.S.

<sup>12</sup> S. 115.07(2), F.S.

hours, an employer may grant administrative leave without pay, but may not reduce a servicemember's time or efficiency rating for providing such leave.

### **Effect of Proposed Changes**

The bill revises a requirement that a public employer provide an employee or official who is a servicemember a full paid leave of absence for the first 30 days of active military service. The bill limits application of the paid leave of absence to a servicemember who is activated under federal military service that is 90 consecutive days or more.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 115.09, F.S., providing certain public officials and employees may receive full pay for a leave of absence relating to active federal military service that lasts a certain length of time.

Section 2: Amends s. 115.14, F.S., providing certain public officials and employees may receive full pay for a leave of absence relating to active federal military service that lasts a certain length of time.

Section 3: 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:

The bill may have a positive impact on state government expenditures to the extent employees currently receive pay for leaves of absence of less than 90 days.

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

1. Revenues:

None.

2. Expenditures:

The bill may have a positive impact on local government expenditures to the extent employees currently receive pay for leaves of absence of less than 90 days.

#### **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 require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

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

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.



1                                   A bill to be entitled  
 2           An act relating to leave of absence to officials and  
 3           employees; amending ss. 115.09 and 115.14, F.S.;  
 4           providing that certain public officials and employees  
 5           may receive full pay for a leave of absence relating  
 6           to active federal military service that lasts a  
 7           certain length of time; providing an effective date.  
 8

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

10  
 11           Section 1. Section 115.09, Florida Statutes, is amended to  
 12   read:

13           115.09 Leave to public officials for military service.—All  
 14   officials of the state, the several counties of the state, and  
 15   the municipalities or political subdivisions of the state,  
 16   including district school and community college officers, which  
 17   officials are also servicemembers in the National Guard or a  
 18   reserve component of the Armed Forces of the United States,  
 19   shall be granted leave of absence from their respective offices  
 20   and duties to perform active military service, the first 30 days  
 21   of any such leave of absence to be with full pay for active  
 22   federal military service that is 90 consecutive days or more.

23           Section 2. Section 115.14, Florida Statutes, is amended to  
 24   read:

25           115.14 Employees.—All employees of the state, the several

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26 | counties of the state, and the municipalities or political  
27 | subdivisions of the state shall be granted leave of absence  
28 | under the terms of this law; upon such leave of absence being  
29 | granted said employee shall enjoy the same rights and privileges  
30 | as are hereby granted to officials under this law, insofar as  
31 | may be, including, without limitation, receiving full pay for  
32 | the first 30 days for active federal military service that is 90  
33 | consecutive days or more. Notwithstanding ~~the provisions of s.~~  
34 | 115.09, the employing authority may supplement the military pay  
35 | of its officials and employees who are reservists called to  
36 | active military service after the first 30 days in an amount  
37 | necessary to bring their total salary, inclusive of their base  
38 | military pay, to the level earned at the time they were called  
39 | to active military duty. The employing authority shall continue  
40 | to provide all health insurance and other existing benefits to  
41 | such officials and employees as required by the Uniformed  
42 | Services Employment and Reemployment Rights Act, chapter 43 of  
43 | Title 38 U.S.C.

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



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 843 Naturopathic Medicine  
**SPONSOR(S):** Smith  
**TIED BILLS:** HB 845 **IDEN./SIM. BILLS:** SB 898

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	12 Y, 4 N	Guzzo	McElroy
2) Appropriations Committee		Aderibigbe	Pridgeon
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

Naturopathic physicians diagnose, treat, and care for patients using a system of practice that bases treatment on natural laws governing the human body. These practitioners may provide treatment to patients using psychological, mechanical, and other means to purify, cleanse, and normalize human tissues for the preservation and restoration of health. This may include the use of air, water, light, heat, earth, food and herb therapy, psychotherapy, electrotherapy, physiotherapy, minor surgery, and naturopathic manipulation. Naturopathic physicians are trained in standard medical sciences and in the use and interpretation of standard diagnostic instruments. Naturopathic medicine stresses a holistic approach to health care, which involves studying, and working with the patient mentally and spiritually, as well as physically, and developing an understanding of the patient in the patient's chosen environment.

Naturopathic practitioners were licensed in Florida from 1927 to 1959, when the Legislature abolished the licensing authority for naturopathy. Only those naturopathic practitioners licensed at that time who had been residents of Florida for two years were authorized to renew their licenses.

HB 843 reestablishes licensure and regulation of naturopathic physicians, and establishes new standards for the practice. The bill provides licensure authority over naturopathic physicians to the Department of Health (DOH). The bill creates the Board of Naturopathic Medicine to assist DOH in the regulation of naturopathic physicians.

The bill has no fiscal impact on state or local government.

The bill provides an effective date of December 31, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

#### **Naturopathy**

The term “naturopathy” was used in the late nineteenth century to refer to an emerging system of natural therapies and philosophy to treat disease. Naturopathic physicians diagnose, treat, and care for patients using a system of practice that bases treatment on natural laws governing the human body. These practitioners may provide treatment to patients using psychological, mechanical, and other means to purify, cleanse, and normalize human tissues for the preservation and restoration of health. This may include the use of air, water, light, heat, earth, food and herb therapy, psychotherapy, electrotherapy, physiotherapy, minor surgery, and naturopathic manipulation. Naturopathic physicians are trained in standard medical sciences and in the use and interpretation of standard diagnostic instruments. Naturopathic medicine stresses a holistic approach to health care, which involves studying, and working with the patient mentally and spiritually, as well as physically, and developing an understanding of the patient in the patient’s chosen environment.

#### **Florida Licensure and Regulation of Naturopathy**

Naturopathy was initially recognized by the Legislature in the Medical Act of 1921<sup>1</sup>, which defined the practice of medicine and exempted naturopaths from the medical practice act. Naturopathic practitioners were first licensed in Florida in 1927.<sup>2</sup> Doctors of Naturopathy were required to observe state, county, and municipal regulations regarding the control of communicable diseases, the reporting of births and deaths, and all matters relating to the public health as was required of other “practitioners of the healing arts.” Between 1947 and 1954, legal cases were decided regarding the rights of naturopaths to prescribe narcotic drugs. The Circuit Court in Pinellas County held that practitioners of naturopathy had the right to prescribe narcotic drugs.<sup>3</sup> On appeal, the Florida Supreme Court affirmed the lower court’s decision.<sup>4</sup>

In 1957, the Legislature abolished the Board of Naturopathic Examiners, significantly revised the regulation of naturopathy, and placed the regulation under the Florida State Board of Health.<sup>5</sup> Naturopaths were classified into three groups based on the length of time that the practitioner was licensed in the state. Under that law, those licensed less than two years could not renew their licenses; those licensed more than two years but less than 15 years could not prescribe medicine in any form; and those licensed more than 15 years could not prescribe narcotic drugs. The Florida Supreme Court held that the naturopathic laws, as amended by ch. 57-129, L.O.F., were unconstitutional and void.<sup>6</sup>

In 1959, the Legislature abolished the licensing authority for naturopathy.<sup>7</sup> Only those naturopathic practitioners licensed at that time who had been residents of Florida for two years prior to enactment of ch. 59-164, L.O.F., were authorized to renew their licenses.

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<sup>1</sup> See chapter 8415, Laws of Florida.

<sup>2</sup> See chapter 12286, Laws of Florida.

<sup>3</sup> *In re: Complaint of Melser*, 32 So.2d 742 (Fla.1947). See also *State Department of Public Works v. Melser*, 69 So.2d 347 at 353 (Fla. 1954).

<sup>4</sup> *Supra*. See also Attorney General Opinion 54-96 and s. 893.02(19), F.S., relating to controlled substances, which defines “practitioner” to include “... a naturopath licensed pursuant to chapter 462, F.S.” In 1939, the 5th Circuit Fed. Ct. (which includes Louisiana, Mississippi, and Texas) interpreted the Federal Narcotic Drug Act which determined that a “naturopath” was not a “physician;” therefore, they were prohibited from prescribing narcotic drugs. The court determined that even under phytotherapy, they could not prescribe drugs. *Perry v. Larson*, 104 F.2d 728 (1939).

<sup>5</sup> Ch. 57-129, Laws of Fla.

<sup>6</sup> See *Eslin v. Collins*, 108 So.2d 889 (Fla. 1959).

<sup>7</sup> See ch. 59-164, Laws of Fla.

Currently, chapter 462, F.S., governs the practice of naturopathy within the Department of Health (DOH). The current practice act includes a wide variety of healing techniques but prohibits surgery, chiropractic medicine, and the practice of “materia medica”, a term that includes the prescription of drugs.<sup>8</sup>

Chapter 462, F.S., prohibits the issuance of a license to any person who was not practicing naturopathy in Florida as of July 1, 1959.<sup>9</sup> The chapter also authorizes DOH to adopt rules to implement the regulation of naturopathic medicine including the establishment of fees.<sup>10</sup> Additionally, it provides procedures for naturopathic physicians licensed prior to 1959 to renew their license.

Draft legislation proposed by the Florida Naturopathic Physician Association was introduced in 2004 and 2006 to reestablish regulation of naturopathic medicine through licensure. A 2004 Sunrise Report on Proposed Licensure of Naturopathic Physicians, by the Florida House of Representatives, Committee on Health Care, concluded that “while there is evidence for support of licensure based on the existence of accredited training programs and licensure examinations, there is no documented evidence of substantial risk from not licensing naturopathic physicians. Moreover, there is potential risk from licensing naturopathic physicians and allowing them to provide a broad range of primary care services.”<sup>11</sup>

### *National Accreditation*

The Council on Naturopathic Medical Education (CNME) accredits four-year, campus-based doctoral programs in naturopathic medicine (ND programs) that qualify graduates for licensure in the U.S. and Canada. CNME-accredited ND programs may also incorporate online/distance education coursework, as well as hybrid courses that combine online and in-person components. The CNME does not accredit ND programs that are taught entirely or primarily using online/distance instruction, and these types of programs do not qualify individuals for licensure. CNME’s accreditation standards cover areas such as ND program length and content, clinical training requirements, faculty qualifications, student services, student and program assessment, facilities, and library resources.<sup>12</sup>

There are five accredited colleges of naturopathic medicine in the United States: Bastyr University, San Diego, California; Bastyr University, Kenmore, Washington; National University of Health Sciences, Chicago, Illinois; National University of Natural Medicine, Portland, Oregon; and Sonoran University of Health Sciences, Tempe, Arizona.<sup>13</sup> The graduates of these programs receive a Doctor of Naturopathic Medicine degree after four years of professional study. Admission requirements include completion of a bachelor’s degree before matriculation into the naturopathic medicine program with specified exceptions, including the following courses: inorganic chemistry with lab, organic chemistry with lab, biology with lab, physics, and psychology.

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<sup>8</sup> S. 462.01(1), F.S., “Natureopathy” and “naturopathy” are defined as synonymous terms and mean the use and practice of psychological, mechanical, and material health sciences to aid in purifying, cleansing, and normalizing human tissues for the preservation or restoration of health, according to the fundamental principles of anatomy, physiology, and applied psychology, as may be required. Naturopathic practice employs, among other agencies, phytotherapy (botanical/herbal medicine), dietetics, psychotherapy, suggestotherapy (process of influencing attitudes and behaviors by suggestions), hydrotherapy (scientific use of water in the treatment of diseases), zone therapy (a process of using various points on the human body causing a reflex action in another part of the body to treat disease and relieve pain), biochemistry, external applications, electrotherapy (generation of heat in the body by use of electrical current), mechanotherapy (manipulation of the body tissues and joints), mechanical and electrical appliances, hygiene, first aid, sanitation, and heliotherapy (the use of sun rays in the treatment).

<sup>9</sup> S. 462.023, F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Florida House of Representatives, Committee on Health Care, *Sunrise Report on Proposed Licensure of Naturopathic Physicians* (Jan. 2004), available at [https://centerforinquiry.org/wp-content/uploads/sites/33/quackwatch/fl\\_sunrise\\_2004.pdf](https://centerforinquiry.org/wp-content/uploads/sites/33/quackwatch/fl_sunrise_2004.pdf) (last visited January 21, 2024).

<sup>12</sup> Council on Naturopathic Medical Education, Naturopathic Program Accreditation, available at <https://cnme.org/naturopathic-accreditation/#overview> (last visited January 21, 2024).

<sup>13</sup> Council on Naturopathic Medical Education, Accredited Naturopathic Schools, available at <https://cnme.org/accredited-programs/#schools> (last visited January 21, 2024).

## Other State Licensure of Naturopathy

Currently, 24 states regulate naturopathic doctors.<sup>14</sup>

According to the Association of Accredited Naturopathic Medical Colleges, to be licensed as a primary care naturopathic physician by a state which requires licensing, one must:<sup>15</sup>

- Graduate from a four-year, professional-level program at an accredited naturopathic medical school that is recognized by the United States Department of Education;
- Pass the two-part Naturopathic Physicians Licensing Exam, which covers basic sciences, diagnostic and therapeutic subjects, and clinical sciences; and
- Pass jurisprudence examinations and meet other state requirements for regulated professions including background checks and continuing education.

## **Effect of the Bill**

The bill creates standards for the licensure and regulation of naturopathic physicians.

### Board of Naturopathic Medicine

The bill creates the Board of Naturopathic Medicine within DOH. The bill provides for the composition of the seven-member board, appointed by the Governor and confirmed by the Senate, to include the following:

- Five licensed naturopathic physicians who are Florida residents.
- Two who are not health care practitioners and who are Florida residents.
- At least one who is 55 years of age or older.

The bill provides for staggered terms by requiring three members to be initially appointed for four-year terms, two members for three-year terms, and two members for two-year terms. As the terms expire, the Governor must appoint successors for terms of 4 years.

The bill requires the board, in conjunction with DOH, to establish a disciplinary training program for board members. The disciplinary training program must provide initial and periodic training on the grounds for disciplinary action, the actions that may be taken by the board and DOH, changes in relevant statutes and rules, and any relevant judicial and administrative decisions. A member of the board may not participate on a probable cause panel or in a disciplinary decision of the board unless they have completed the disciplinary training program.

Board members must attempt to complete their work on a probable cause panel during their terms of service. However, if consideration of a case has begun but it is not completed during a board members term of service, the board may reconvene as a probable cause panel to complete their deliberations on the case.

## Scope of Practice

The bill establishes the scope of practice for naturopathic physicians to include the diagnosis, prevention, and treatment of any human disease, pain, injury, deformity, or other physical or mental condition for therapeutic or preventative purposes. Treatment by a naturopathic physician may include the prescription of lifestyle changes, natural medicines, vitamins, minerals, dietary supplements, botanical medicines, medicinal fungi, and homeopathic medicines. Naturopathic physicians may prescribe legend drugs as specified by the Naturopathic Medical Formulary established under s.

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<sup>14</sup> Association of Accredited Naturopathic Medical Colleges, Naturopathic Doctor Licensure, available at <https://aanmc.org/licensure/> (last visited January 21, 2024). The states include Alaska, Arizona, California, Colorado, Connecticut, Hawaii, Idaho, Kansas, Maine, Maryland, Massachusetts, Minnesota, Montana, New Hampshire, New Mexico, North Dakota, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Washington, and Wisconsin (plus the District of Columbia and Puerto Rico).

<sup>15</sup> *Id.*

462.025, F.S., in accordance with the educational standards and requirements set by the Council on Naturopathic Medical Education, or an equivalent body.

The bill authorizes the board to establish by rule standards of practice and standards of care for particular practice areas, including, but not limited to, education and training, equipment and supplies, medications as specified by the Naturopathic Medical Formulary under s. 462.025, assistance from and delegation to other personnel, transfer agreements, sterilization, records, performance of complex or multiple procedures, informed consent, and policy and procedure manuals.

The bill prohibits a naturopathic physician from performing any of the following duties:

- Prescribing, dispensing, or administering a legend drug other than those authorized under the Naturopathic Medical Formulary established under s. 462.025, F.S.
- Performing any surgical procedures.
- Practicing or claiming to practice as a medical doctor or physician, osteopathic physician, dentist, podiatric physician, optometrist, psychologist, nurse practitioner, physician assistant, chiropractic physician, physical therapist, acupuncturist, midwife, or any other health care practitioner as defined in s. 456.001, F.S.
- Using general or spinal anesthetics.
- Administering ionizing radioactive substances.
- Performing chiropractic or osteopathic adjustments or manipulations that include high-velocity thrusts at or beyond the end range of normal joint motion, unless the naturopathic physician is also licensed as a chiropractic physician or an osteopathic physician.
- Performing acupuncture, unless also licensed as an acupuncturist.
- Prescribing, dispensing, or administering for cosmetic purposes any nonprescription drug or legend drug listed in the Naturopathic Medical Formulary.

## Licensure

### *Initial Licensure*

The bill requires an applicant for licensure as a naturopathic physician to meet the following requirements, which must be certified by the board:

- Be at least 21 years of age.
- Have a bachelor's degree from one of the following:
  - A college or university accredited by an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or its successor entity;
  - A college or university in Canada which is a member of Universities Canada; or
  - A college or university in a foreign country and has provided evidence that her or his educational credentials are deemed equivalent to those provided in this country. To have educational credentials deemed equivalent, the applicant must provide her or his foreign educational credentials, including transcripts, course descriptions or syllabi, and diplomas, to a nationally recognized educational credential evaluating agency approved by the board for the evaluation and determination of equivalency of the foreign educational credentials.
- Have a naturopathic doctoral degree from a college or program accredited by the Council on Naturopathic Medical Education or another accrediting agency recognized by the U.S. Department of Education.
- Be physically and mentally fit to practice as a naturopathic physician.
- Be of good moral character.
- Not have committed any act or offense in this or any other jurisdiction which would constitute the basis for disciplining a naturopathic physician pursuant to s. 462.017.
- Not have had an application for licensure in any profession denied or had her or his license to practice any profession revoked or suspended by any other state, district, or territory of the



United States or another country for reasons that relate to her or his ability to practice skillfully and safely as a naturopathic physician.

- Not have been found guilty of a felony.
- Submit fingerprints to DOH for a criminal background check.
- Demonstrate compliance with the financial responsibility requirements of s. 462.015, F.S.
- Obtain a passing score, as determined by the board, on Part I – Biomedical Science Examination, Part II – Core Clinical Science Examination, and Part II – Clinical Elective Pharmacology Examination of the competency-based national Naturopathic Physician Licensing Examination administered by the North American Board of Naturopathic Examiners, or an equivalent exam offered by an equivalent or successor entity, as approved by the board.

The bill also authorizes DOH to issue a license by endorsement to any person who:

- Has been licensed to practice naturopathic medicine for at least five years in another state or territory of the United States or Canada, if the applicant meets all the above licensure requirements.
- Has held an active license to practice naturopathic medicine in another state or territory of the United States or Canada for less than five years immediately preceding the filing of their application, if they have obtained a passing score on the national licensing exam.

If the board determines that an applicant for licensure, including licensure by endorsement, has failed to meet any of the above requirements, it may enter an order imposing one or more of the following:

- Refusal to certify an application for licensure to DOH;
- Certification to DOH of an application for licensure with restrictions on the scope of practice of the naturopathic physician; or
- Certification to DOH of an application for licensure with a probationary period for the applicant, subject to such conditions as the board specifies, including, requiring the naturopathic physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another naturopathic physician.

The bill prohibits DOH from issuing a license, including a license by endorsement, to any individual who:

- Is under investigation in another jurisdiction for an offense that would constitute a violation of ch. 462, F.S., or ch. 456, F.S., until the investigation has been completed;
- Has committed an act or offense in any jurisdiction which would constitute the basis for disciplining a naturopathic physician under s. 462.017, F.S., until the investigation has been completed;

If the board finds that an applicant for licensure, including licensure by endorsement, has committed an act or offense in any jurisdiction which would constitute the basis for disciplining a naturopathic physician under s. 462.017, F.S., the board may enter an order imposing one or more of the sanctions set forth in that section and s. 456.072(2), F.S., as applicable, including refusing to certify an application for licensure or certifying an application for licensure with conditions.

### *Licensure Renewal*

The bill requires licensed naturopathic physicians to renew their licenses biennially in order to continue practicing naturopathic medicine. The amount of the biennial renewal fee, which may not be more than \$1,000, must be determined by DOH. Upon licensure renewal, an applicant must also provide proof of compliance with continuing education requirements and financial responsibility requirements. The bill requires DOH to adopt rules to establish standards for biennial licensure renewal.

An applicant for licensure renewal must complete 60 hours of continuing education during each biennial renewal period, which must include at least 10 hours in pharmacology, addressing the use of legend drugs that are consistent with the education and training of naturopathic physicians. The board must

approve organizations that accredit naturopathic continuing education providers, including, but not limited to, the American Association of Naturopathic Physicians, the North American Naturopathic Continuing Education Accreditation Council, and the Oregon Association of Naturopathic Physicians.

### *Reactivating an Inactive License*

The bill authorizes a licensee to reactivate an inactive license by paying any applicable fees, and submitting proof of compliance with the financial responsibility requirements of s. 462.015, F.S.

The bill requires the board to adopt rules relating to reactivation of inactive licenses, which must address requirements for continuing education and may not require less than 20 classroom hours for each year the license was inactive. The board may also adopt rules to determine fees, including a fee for placing a license in inactive status, a biennial renewal fee for licenses in inactive status, a delinquency fee, and a fee for the reactivation of a license. None of these fees may exceed the biennial renewal fee established by the board (which may not be more than \$1,000).

### *Patient Records*

The bill requires the board to adopt rules for the handling of medical records by licensed naturopathic physicians, including when a naturopathic physician sells or otherwise terminates their practice. The rules must provide for notification of the naturopathic physician's patients and for an opportunity for the patients to request the transfer of their medical records to another physician or health care practitioner upon payment of actual costs for such transfer.

### *Disciplinary Action*

The bill authorizes the board to take disciplinary action<sup>16</sup> against a naturopathic physician who commits any of the following acts:

- Giving false testimony in the course of any legal or administrative proceedings related to the practice of naturopathic medicine or the delivery of health care services.
- Refusing to provide health care based on a patient's participation in pending or past litigation or participation in any disciplinary action conducted pursuant to this chapter, unless such litigation or disciplinary action directly involves the naturopathic physician requested to provide services.
- Fraudulently altering or destroying records relating to patient care or treatment, including, but not limited to, patient histories, examination results, test results, X rays, records of medicine prescribed, dispensed, or administered, and reports of consultations and hospitalizations.
- Committing medical malpractice or gross medical malpractice.
- Failing to adequately supervise the activities of any persons acting under the supervision of the naturopathic physician.
- Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure.
- Interfering with an investigation or with any disciplinary proceeding.
- Failing to report to DOH any person licensed under chapter 458, chapter 459, whom the naturopathic physician knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the naturopathic physician also provides services.
- Being found by any court in this state to have provided, without reasonable investigation, corroborating written medical expert opinion attached to any statutorily required notice of claim or intent, or to any statutorily required response rejecting a claim.

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<sup>16</sup> S. 456.072(2), F.S. Action taken by the board may include: refusal to certify, or to certify with restrictions, an application for a license; suspension or permanent revocation of a license; restriction of practice or license; imposition of an administrative fine not to exceed \$10,000 for each count or separate offense; issuance of a reprimand or letter of concern; licensure probation; corrective action; imposition of an administrative fine of up to \$100 for non-willful violations and up to \$500 for willful violations; refund of fees billed and collected from the patient; or remedial education.

- Failing to provide patients with information about their patient rights and how to file a patient complaint.
- Providing deceptive or fraudulent expert witness testimony related to the practice of naturopathic medicine.
- Promoting or advertising through any communication medium the use, sale, or dispensing of any controlled substance appearing on any schedule in chapter 893 which is not within the scope of the Naturopathic Medical Formulary established under s. 462.025.

If DOH receives information that a naturopathic physician has had three or more claims filed against them, each with indemnities exceeding \$50,000, within the previous 5-year period, DOH must investigate the occurrences upon which the claims were based and determine if action against the naturopathic physician is warranted.

If any naturopathic physician commits unprofessional conduct or negligence or demonstrates mental or physical incapacity or impairment such that DOH determines that she or he is unable to practice with reasonable skill and safety and presents a danger to patients, DOH may bring an action in circuit court enjoining such naturopathic physician from providing medical services to the public until the naturopathic physician demonstrates the ability to practice with reasonable skill and safety and without danger to patients.

If an investigation of a naturopathic physician is undertaken, DOH must promptly furnish to the naturopathic physician or her or his attorney a copy of the complaint or document that prompted initiation of the investigation. A naturopathic physician may submit to DOH a written response to the information contained in the complaint or document that prompted the initiation of the investigation within 45 days after she or he receives service of such complaint or document. The naturopathic physician's written response must be considered by the probable cause panel, if held on the matter.

The bill provides that certain acts committed by a naturopathic physician constitute a third-degree felony, including:

- Practicing, or attempting to practice, naturopathic medicine without an active license.
- Practicing beyond the scope of practice for a naturopathic physician.
- Obtaining, or attempting to obtain, a license to practice naturopathic medicine by a knowing misrepresentation.
- Obtaining, or attempting to obtain, a position as a naturopathic physician or naturopathic medical resident in a clinic or hospital by knowingly misrepresenting education, training, or experience.
- Dispensing a controlled substance listed in Schedule II or Schedule III of s. 893.03 in violation of s. 465.0276.

The bill provides that certain acts committed by a naturopathic physician constitute a first-degree misdemeanor, including:

- Knowingly concealing information relating to a committed violation.
- Making a false oath or affirmation when an oath or affirmation is required.

The bill provides that certain acts committed by a naturopathic physician constitute a second-degree misdemeanor, including:

- Fraudulently altering, defacing, or falsifying any records relating to patient care or treatment, including, but not limited to, patient histories, examination results, and test results.
- Referring any patient for health care goods or services to any partnership, firm, corporation, or other business entity in which the naturopathic physician or the naturopathic physician's employer has an equity interest of 10 percent or more, unless, before such referral, the naturopathic physician notifies the patient of her or his financial interest and of the patient's right to obtain such goods or services at the location of the patient's choice.

- Paying or receiving any commission, bonus, kickback, or rebate or engaging in any split-fee arrangement in any form with a physician, an organization, an agency, a person, a partnership, a firm, a corporation, or other business entity for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies.

### Naturopathic Medical Formulary Council

The bill creates the Naturopathic Medical Formulary Council within DOH. The bill requires the council to establish the Naturopathic Medical Formulary of legend drugs that a licensed naturopathic physician may prescribe in the practice of naturopathic medicine. The bill prohibits the formulary from including the following drugs:

- Drugs that are inconsistent with the education and training provided by approved colleges and programs of naturopathic medicine or board-approved continuing education courses for naturopathic physicians; or
- Drugs the prescription of which requires education and training beyond that of a naturopathic physician.

The bill provides an effective date of December 31, 2024.

### B. SECTION DIRECTORY:

**Section 1:** Redesignates chapter 462, Florida Statutes, entitled “Naturopathy,” as “Naturopathic Medicine.

**Section 2:** Creates s. 462.001, F.S., relating to legislative findings; purpose.

**Section 3:** Creates s. 462.002, F.S., relating to exceptions.

**Section 4:** Renumbers s. 462.01, F.S., as s. 462.003, F.S., and amends s. 462.003, relating to definitions.

**Section 5:** Creates s. 462.004, F.S., relating to board of naturopathic medicine.

**Section 6:** Renumbers s. 462.023, F.S., as s. 462.005, F.S., and amends s. 462.005, F.S., relating to rulemaking authority; powers and duties of the board.

**Section 7:** Creates s. 462.006, F.S., relating to licensure required.

**Section 8:** Creates s. 462.007, F.S., relating to licensure by examination.

**Section 9:** Creates s. 462.008, F.S., relating to licensure by endorsement.

**Section 10:** Renumbers s. 462.08, F.S., as s. 462.009, F.S., and amends s. 462.009, F.S., relating to renewal of license to practice naturopathic medicine.

**Section 11:** Renumbers s. 462.18, F.S., as s. 462.011, F.S., and amends s. 462.011, F.S., relating to continuing education.

**Section 12:** Renumbers s. 462.19, F.S., as s. 462.012, F.S., and amends s. 462.012, F.S., relating to inactive status; reactivation of license.

**Section 13:** Renumbers s. 462.11, F.S., as s. 462.013, F.S., and amends s. 462.013, F.S., relating to obligations of naturopathic physicians.

**Section 14:** Creates s. 462.014, F.S., relating to patient records; termination of practice.

**Section 15:** Creates s. 462.015, F.S., relating to financial responsibility.

**Section 16:** Renumbers s. 462.13, F.S., as s. 462.016, F.S., and amends s. 462.016, F.S., relating to additional powers and duties of the board and the department.

**Section 17:** Renumbers s. 462.14, F.S., as s. 462.017, F.S., and amends s. 462.017, F.S., relating to grounds for disciplinary action; action by the board and department.

**Section 18:** Creates s. 462.018, F.S., relating to specialties.

**Section 19:** Renumbers s. 462.17, F.S., as s. 462.019, F.S., and amends s. 462.019, F.S., relating to penalty for offenses.

**Section 20:** Creates s. 462.024, F.S., relating to disclosure of medications by patients.

**Section 21:** Creates s. 462.025, F.S., relating to naturopathic medical formulary council; establishment of formulary.

**Section 22:** Creates s. 462.026, F.S., relating to severability.

**Section 23:** Renumber s. 462.09, F.S., as s. 462.027, F.S.

**Section 24:** Repeals s. 462.16, F.S., relating to reissue of license.

**Section 25:** Repeals s. 462.2001, F.S., relating to saving clause.

**Section 26:** Amends s. 921.0022, F.S., relating to criminal punishment code; offense severity ranking chart.

**Section 27:** Provides an effective date of December 31, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

HB 845, which is linked to HB 843, authorizes DOH to collect the following licensure fees:

- Initial licensure fee not to exceed \$2,000;
- Initial licensure by endorsement fee not to exceed \$2,000;
- Biennial licensure renewal fee not to exceed \$1,000;
- Inactive status licensure fee not to exceed \$1,000;
- Biennial renewal fee for inactive status not to exceed \$1,000;
- Delinquency fee not to exceed \$1,000; and a
- Reactivation fee not to exceed \$1,000.

The total revenue DOH will receive from such fees is indeterminate because the number of individuals who will choose to become licensed as a naturopathic physician is unknown.

#### 2. Expenditures:

DOH will incur costs to implement the bill's provisions. Current resources and new revenue from licensure fees are adequate to absorb these costs.

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

#### 2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill provides sufficient rule-making authority to DOH 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 naturopathic medicine;  
3           redesignating the title of ch. 462, F.S., from  
4           "Naturopathy" to "Naturopathic Medicine"; creating s.  
5           462.001, F.S.; providing legislative findings and  
6           purpose; creating s. 462.002, F.S.; providing  
7           applicability and construction; renumbering and  
8           amending s. 462.01, F.S.; revising and defining terms;  
9           creating s. 462.004, F.S.; creating the Board of  
10          Naturopathic Medicine within the Department of Health;  
11          providing for membership of the board; requiring the  
12          board, in conjunction with the department, to  
13          establish a disciplinary training program for board  
14          members; providing requirements for the program;  
15          providing that board members may not participate in  
16          probable cause panels or disciplinary decisions unless  
17          they have completed the training program; requiring  
18          board members appointed to probable cause panels to  
19          attempt to complete their work on every case presented  
20          to them; authorizing board members to reconvene a  
21          probable cause panel under certain circumstances;  
22          providing applicability; renumbering and amending s.  
23          462.023, F.S.; authorizing the board to adopt rules;  
24          deleting obsolete language; creating s. 462.006, F.S.;  
25          prohibiting certain unlicensed persons from practicing

26 | naturopathic medicine or promoting, identifying, or  
27 | describing themselves using specified titles or  
28 | abbreviations; providing construction; creating ss.  
29 | 462.007 and 462.008, F.S.; providing for licensure by  
30 | examination and by endorsement, respectively, of  
31 | naturopathic physicians; requiring the department and  
32 | the board to use an investigative process to ensure  
33 | that applicants meet the applicable criteria;  
34 | authorizing the State Surgeon General or her or his  
35 | designee to issue a 90-day licensure delay under  
36 | certain circumstances; providing construction;  
37 | prohibiting the board from certifying for licensure  
38 | certain applicants until a certain investigation is  
39 | completed; providing applicability; prohibiting the  
40 | department from issuing a license to certain  
41 | applicants until the board has reviewed the  
42 | application and certified the applicant for licensure;  
43 | authorizing the board to enter an order imposing  
44 | certain sanctions against or conditions on an  
45 | applicant for licensure under certain circumstances;  
46 | renumbering and amending s. 462.08, F.S.; revising  
47 | requirements for licensure renewal for naturopathic  
48 | physicians; requiring the department to adopt rules;  
49 | renumbering and amending s. 462.18, F.S.; revising  
50 | continuing education requirements for naturopathic



51 | physicians; requiring naturopathic physicians to use  
52 | the department's electronic continuing education  
53 | tracking system to demonstrate compliance with  
54 | continuing education requirements; renumbering and  
55 | amending s. 462.19, F.S.; revising provisions related  
56 | to reactivation of inactive naturopathic physician  
57 | licenses; requiring the board to adopt rules relating  
58 | to the reactivation of inactive licenses; providing  
59 | requirements for the rules; authorizing the board to  
60 | adopt rules to determine certain fees; prohibiting the  
61 | department from reactivating a license until certain  
62 | conditions have been met; renumbering and amending s.  
63 | 462.11, F.S.; conforming a provision to changes made  
64 | by the act; creating s. 462.014, F.S.; requiring the  
65 | board to adopt rules providing for the handling of  
66 | medical records by licensed naturopathic physicians;  
67 | providing requirements for such rules; creating s.  
68 | 462.015, F.S.; providing financial responsibility  
69 | requirements as a condition of licensure for  
70 | naturopathic physicians; providing exemptions from  
71 | such requirements; requiring certain insuring entities  
72 | to promptly notify the department of a naturopathic  
73 | physician's cancellation or nonrenewal of insurance;  
74 | requiring the department to suspend the license of a  
75 | naturopathic physician under certain circumstances

76 | until the licensee demonstrates compliance with  
77 | specified requirements; providing applicability;  
78 | requiring certain naturopathic physicians to provide a  
79 | specified notice to their patients; providing  
80 | requirements for the notice; providing for permanent  
81 | disqualification from any exemption from the financial  
82 | responsibility requirements, and for disciplinary  
83 | action, for specified conduct; requiring certain  
84 | naturopathic physicians to notify the department in  
85 | writing of any change in circumstance and demonstrate  
86 | compliance with certain requirements; requiring the  
87 | department to suspend the license of a naturopathic  
88 | physician under certain circumstances until certain  
89 | requirements are met; providing applicability;  
90 | requiring the board to adopt rules; renumbering and  
91 | amending s. 462.13, F.S.; conforming a provision to  
92 | changes made by the act; renumbering and amending s.  
93 | 462.14, F.S.; revising grounds for disciplinary  
94 | action; providing construction; providing for  
95 | disciplinary actions by the board and department;  
96 | providing for the standard of proof in certain  
97 | administrative actions; providing requirements for the  
98 | reinstatement of a license for certain persons;  
99 | providing requirements for disciplinary guidelines  
100 | adopted by the board; providing requirements and

101 procedures for the department's receipt of certain  
102 closed claims and reports involving a licensed  
103 naturopathic physician; authorizing the department to  
104 bring an action to enjoin a naturopathic physician  
105 from providing medical services under certain  
106 circumstances; requiring the department to promptly  
107 furnish certain documents to a naturopathic physician  
108 or her or his attorney upon undertaking an  
109 investigation of the naturopathic physician;  
110 authorizing a naturopathic physician who is the  
111 subject of such investigation to submit a written  
112 response within a specified timeframe; requiring the  
113 response to be considered by the probable cause panel,  
114 if held on the matter; creating s. 462.018, F.S.;  
115 prohibiting licensed naturopathic physicians from  
116 holding themselves out as board-certified specialists  
117 unless certified by the board regulating such  
118 specialty; authorizing licensed naturopathic  
119 physicians to accurately indicate or state which  
120 services or types of services they provide within the  
121 scope of practice of naturopathic medicine;  
122 renumbering and amending s. 462.17, F.S.; providing  
123 criminal penalties for specified violations relating  
124 to the practice of naturopathic medicine; creating s.  
125 462.024, F.S.; providing that patients are responsible

126 for advising treating health care practitioners about  
127 any legend drugs, nutrients, or natural medicinal  
128 substances that a naturopathic physician has  
129 prescribed or recommended to the patient; requiring  
130 naturopathic physicians to advise their patients of  
131 such responsibility; creating a rebuttable presumption  
132 that certain injuries sustained by a patient are  
133 caused by her or his failure to disclose such  
134 information as required; providing for the rebuttal of  
135 such presumption under certain circumstances;  
136 providing construction; providing that a naturopathic  
137 physician is not required to confirm whether a patient  
138 has disclosed this information to another treating  
139 health care practitioner; creating s. 462.025, F.S.;  
140 establishing the Naturopathic Medical Formulary  
141 Council, separate and distinct from the board;  
142 providing for membership of the council; requiring the  
143 council to establish the Naturopathic Medical  
144 Formulary; providing requirements for the formulary;  
145 requiring the council to review the formulary annually  
146 and at any time upon board request; providing that  
147 naturopathic physicians may prescribe, administer, and  
148 dispense only those drugs included in the formulary;  
149 providing construction; creating s. 462.026, F.S.;  
150 providing severability; renumbering s. 462.09, F.S.,

151 relating to disposition of fees; repealing s. 462.16,  
 152 F.S., relating to reissue of license; repealing s.  
 153 462.2001, F.S., relating to saving clause; amending s.  
 154 921.0022, F.S.; conforming a cross-reference;  
 155 providing an effective date.

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

158  
 159 Section 1. Chapter 462, Florida Statutes, entitled  
 160 "Naturopathy," is redesignated as "Naturopathic Medicine."

161 Section 2. Section 462.001, Florida Statutes, is created  
 162 to read:

163 462.001 Legislative findings; purpose.—

164 (1) The Legislature finds that a significant number of  
 165 this state's residents choose naturopathic medicine for their  
 166 health care needs, and the Legislature acknowledges that  
 167 naturopathic medicine is a distinct health care profession that  
 168 affects the public health, safety, and welfare and contributes  
 169 to freedom of choice in health care.

170 (2) The purpose of this chapter is to provide standards  
 171 for the licensing and regulation of naturopathic physicians in  
 172 order to protect the public health, safety, and welfare; to  
 173 ensure that naturopathic health care provided by qualified  
 174 naturopathic physicians is available to residents of this state;  
 175 and to provide a means of identifying qualified naturopathic

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176 physicians.

177 Section 3. Section 462.002, Florida Statutes, is created  
178 to read:

179 462.002 Exceptions.—

180 (1) This chapter does not apply to:

181 (a) Other duly licensed health care practitioners acting  
182 within their scopes of practice, as authorized by statute.

183 (b) Students practicing under the direct supervision of a  
184 licensed naturopathic physician as part of a preceptorship  
185 program while enrolled in a college or university program that  
186 is accredited by, or has candidacy status with, the Council on  
187 Naturopathic Medical Education or an equivalent accrediting body  
188 for the naturopathic medical profession which is recognized by  
189 the United States Department of Education and the board.

190 (c) Naturopathic residents practicing under the direct  
191 supervision of a licensed naturopathic physician at a residency  
192 site recognized by the Council on Naturopathic Medical Education  
193 or by an equivalent accrediting body for the naturopathic  
194 medical profession which is recognized by the United States  
195 Department of Education and the board.

196 (d) The practice of the religious tenets of any church in  
197 this state.

198 (e) The domestic administration of recognized family  
199 remedies.

200 (2) This chapter may not be construed to prohibit any

201 service rendered by a person if such service is rendered under  
 202 the direct supervision and control of a licensed naturopathic  
 203 physician who is available if needed, provides specific  
 204 direction for any service to be performed, and gives final  
 205 approval for all services performed.

206 Section 4. Section 462.01, Florida Statutes, is renumbered  
 207 as section 462.003, Florida Statutes, and amended to read:

208 462.003 ~~462.01~~ Definitions.—As used in this chapter, the  
 209 term:

210 (1) "Board" means the Board of Naturopathic Medicine  
 211 "Natureopathy" and "Naturopathy" shall be construed as  
 212 synonymous terms and mean the use and practice of psychological,  
 213 mechanical, and material health sciences to aid in purifying,  
 214 cleansing, and normalizing human tissues for the preservation or  
 215 restoration of health, according to the fundamental principles  
 216 of anatomy, physiology, and applied psychology, as may be  
 217 required. Naturopathic practice employs, among other agencies,  
 218 phytotherapy, dietetics, psychotherapy, suggestotherapy,  
 219 hydrotherapy, zone therapy, biochemistry, external applications,  
 220 electrotherapy, mechanotherapy, mechanical and electrical  
 221 appliances, hygiene, first aid, sanitation, and heliotherapy;  
 222 provided, however, that nothing in this chapter shall be held or  
 223 construed to authorize any naturopathic physician licensed  
 224 hereunder to practice materia medica or surgery or chiropractic  
 225 medicine, nor shall the provisions of this law in any manner

226 ~~apply to or affect the practice of osteopathic medicine,~~  
227 ~~chiropractic medicine, Christian Science, or any other treatment~~  
228 ~~authorized and provided for by law for the cure or prevention of~~  
229 ~~disease and ailments.~~

230 (2) "Department" means the Department of Health.

231 (3) "Division" means the Division of Medical Quality  
232 Assurance of the department.

233 (4) "Legend drug" has the same meaning as "prescription  
234 drug" as defined in s. 499.003.

235 (5) "Naturopathic doctoral degree" means the "Doctor of  
236 Naturopathic Medicine," "Doctor of Naturopathy," or "Diploma of  
237 Naturopathic Medicine" degree, designated as "N.D." or "N.M.D.,"  
238 from a college or university that is accredited by, or has  
239 candidacy with, the Council on Naturopathic Medical Education or  
240 an equivalent accrediting body for the naturopathic medical  
241 profession which is recognized by the United States Department  
242 of Education and the board. When referring to a naturopathic  
243 school of medicine degree, each of these degrees must be  
244 construed as equivalent to each other.

245 (6) "Naturopathic Medical Formulary" or "formulary" means  
246 the Naturopathic Medical Formulary established under s. 462.025,  
247 which authorizes licensed naturopathic physicians to prescribe,  
248 dispense, and administer specific legend drugs that are  
249 consistent with the practice of naturopathic medicine.

250 (7) "Naturopathic physician" means a person licensed to



251 practice naturopathic medicine under this chapter.

252 (8) "Naturopathic therapeutic order" means a set of  
253 guidelines to help naturopathic physicians completely resolve a  
254 patient's symptoms and address the underlying cause while using  
255 the least force necessary.

256 (9) (a) "Practice of naturopathic medicine" means the  
257 diagnosis, prevention, treatment, and prescription of lifestyle  
258 change, natural medicines, including vitamins, minerals, dietary  
259 supplements, botanical medicines, medicinal fungi, and  
260 homeopathic medicines, and legend drugs as specified by the  
261 Naturopathic Medical Formulary established under s. 462.025  
262 which are provided and administered, through the appropriate  
263 route of administration, by a naturopathic physician for  
264 preventative and therapeutic purposes for any human disease,  
265 pain, injury, deformity, or other physical or mental condition;  
266 which is based on and consistent with the naturopathic  
267 educational standards and requirements of the Council on  
268 Naturopathic Medical Education or an equivalent accrediting body  
269 for the naturopathic medical profession which is recognized by  
270 the United States Department of Education and the board; and  
271 which emphasizes the importance of the principles of  
272 naturopathic medicine and the naturopathic therapeutic order in  
273 the maintenance and restoration of health.

274 (b) The term does not include any of the following:

275 1. Prescribing, dispensing, or administering any legend

276 drug other than those authorized under the Naturopathic Medical  
 277 Formulary established under s. 462.025.  
 278 2. Performing any surgical procedure.  
 279 3. Practicing or claiming to practice as a medical doctor  
 280 or physician, an osteopathic physician, a dentist, a podiatric  
 281 physician, an optometrist, a psychologist, a nurse practitioner,  
 282 a physician assistant, a chiropractic physician, a physical  
 283 therapist, an acupuncturist, a midwife, or any other health care  
 284 practitioner as defined in s. 456.001.  
 285 4. Using general or spinal anesthetics.  
 286 5. Administering ionizing radioactive substances.  
 287 6. Performing chiropractic or osteopathic adjustments or  
 288 manipulations that include high-velocity thrusts at or beyond  
 289 the end range of normal joint motion, unless the naturopathic  
 290 physician is also licensed as a chiropractic physician or an  
 291 osteopathic physician.  
 292 7. Performing acupuncture, unless the naturopathic  
 293 physician is also licensed as an acupuncturist.  
 294 8. Prescribing, dispensing, or administering for cosmetic  
 295 purposes any nonprescription drug or legend drug listed in the  
 296 Naturopathic Medical Formulary.  
 297 (10) "Preceptorship program" means a component of a  
 298 naturopathic doctoral degree program which allows naturopathic  
 299 medical students to observe health care practitioners while  
 300 attending patients, giving naturopathic medical students a wide

301 variety of experiences in different health care settings in  
 302 order to develop clinical knowledge, attitudes, and skills  
 303 relevant to the role of a naturopathic physician.

304 (11) "Principles of naturopathic medicine" means the  
 305 foundations of naturopathic medical education and practice as  
 306 set forth by the American Association of Naturopathic  
 307 Physicians, including all of the following principles:

308 (a) The healing power of nature.

309 (b) Identify and treat the causes.

310 (c) First do no harm.

311 (d) Doctor as teacher.

312 (e) Treat the whole person.

313 (f) Prevention.

314 Section 5. Section 462.004, Florida Statutes, is created  
 315 to read:

316 462.004 Board of Naturopathic Medicine.—

317 (1) There is created within the department the Board of  
 318 Naturopathic Medicine, composed of seven members appointed by  
 319 the Governor and confirmed by the Senate.

320 (2)(a) Five members of the board must be licensed  
 321 naturopathic physicians in good standing in this state who are  
 322 residents of this state.

323 (b) Two members must be residents of this state who are  
 324 not, and have never been, licensed health care practitioners.

325 (c) At least one member must be 55 years of age or older.

326       (3) For the purpose of staggering terms, the Governor  
327 shall initially appoint to the board three members for terms of  
328 4 years each, two members for terms of 3 years each, and two  
329 members for terms of 2 years each. As the terms of board members  
330 expire, the Governor shall appoint successors for terms of 4  
331 years, and such members shall serve until their successors are  
332 appointed.

333       (4) The board, in conjunction with the department, shall  
334 establish a disciplinary training program for members of the  
335 board. The program must provide for initial and, thereafter,  
336 periodic training on the grounds for disciplinary action, the  
337 actions that may be taken by the board and the department,  
338 changes in relevant statutes and rules, and any relevant  
339 judicial and administrative decisions. A member of the board may  
340 not participate on a probable cause panel or in a disciplinary  
341 decision of the board unless she or he has completed the  
342 disciplinary training program.

343       (5) During the terms of service of members of the board on  
344 a probable cause panel, such members shall attempt to complete  
345 their work on every case presented to them. If consideration of  
346 a case has begun but is not completed during the terms of  
347 service of the board members on the panel, the board members may  
348 reconvene as a probable cause panel for the purpose of  
349 completing their deliberations on that case.

350       (6) All provisions of chapter 456 relating to activities

351 of boards apply to the board.

352 Section 6. Section 462.023, Florida Statutes, is  
 353 renumbered as section 462.005, Florida Statutes, and amended to  
 354 read:

355 462.005 ~~462.023~~ Rulemaking authority; powers and duties of  
 356 the board department.—The board department may adopt ~~such~~ rules  
 357 pursuant to ss. 120.536(1) and 120.54 to implement the  
 358 provisions of this chapter conferring duties upon it and ~~as are~~  
 359 ~~necessary~~ to carry out the purposes of this chapter, may  
 360 initiate disciplinary action as provided by this chapter, and  
 361 shall establish fees based on its estimates of the revenue  
 362 required to administer this chapter but shall not exceed the fee  
 363 amounts provided in this chapter. ~~The department shall not adopt~~  
 364 ~~any rules which would cause any person who was not licensed in~~  
 365 ~~accordance with this chapter on July 1, 1959, and had not been a~~  
 366 ~~resident of the state for 2 years prior to such date, to become~~  
 367 ~~licensed.~~

368 Section 7. Section 462.006, Florida Statutes, is created  
 369 to read:

370 462.006 License required.—Unless licensed under this  
 371 chapter, a person may not practice naturopathic medicine in this  
 372 state and may not promote, identify, or describe himself or  
 373 herself as a "doctor of naturopathic medicine," a "naturopathic  
 374 doctor," a "doctor of naturopathy," or a "naturopathic  
 375 physician" or use the abbreviations "N.D." or "N.M.D." However,

376 this section may not be construed to prohibit any person  
377 licensed in this state under any other law from engaging in the  
378 practice for which she or he is licensed.

379 Section 8. Section 462.007, Florida Statutes, is created  
380 to read:

381 462.007 Licensure by examination.—

382 (1) Any person desiring to be licensed as a naturopathic  
383 physician must apply to the department on forms furnished by the  
384 department. The department shall license each applicant who  
385 completes the application form and who the board certifies has  
386 met all of the following criteria:

387 (a) Is at least 21 years of age.

388 (b) Has received a bachelor's degree from one of the  
389 following:

390 1. A college or university accredited by an accrediting  
391 agency recognized by the United States Department of Education  
392 or the Council for Higher Education Accreditation or its  
393 successor entity.

394 2. A college or university in Canada which is a member of  
395 Universities Canada.

396 3. A college or university in a foreign country and has  
397 provided evidence that her or his educational credentials are  
398 deemed equivalent to those provided in this country. To have  
399 educational credentials deemed equivalent, the applicant must  
400 provide her or his foreign educational credentials, including

401 transcripts, course descriptions or syllabi, and diplomas, to a  
402 nationally recognized educational credential evaluating agency  
403 approved by the board for the evaluation and determination of  
404 equivalency of the foreign educational credentials.

405 (c) Has received a naturopathic doctoral degree from a  
406 college or program accredited by the Council on Naturopathic  
407 Medical Education or another accrediting agency recognized by  
408 the United States Department of Education.

409 (d) Is physically and mentally fit to practice as a  
410 naturopathic physician.

411 (e) Is of good moral character and has not:

412 1. Committed any act or offense in this or any other  
413 jurisdiction which would constitute the basis for disciplining a  
414 naturopathic physician pursuant to s. 462.017.

415 2. Had an application for licensure in any profession  
416 denied or had her or his license to practice any profession  
417 revoked or suspended by any other state, district, or territory  
418 of the United States or another country for reasons that relate  
419 to her or his ability to practice skillfully and safely as a  
420 naturopathic physician.

421 3. Been found guilty of a felony.

422

423 The board and the department shall ensure that applicants for  
424 licensure meet the criteria of this paragraph by independently  
425 verifying the provided information through the department's

426 investigative process.

427 (f) Has submitted to the department a set of fingerprints  
428 on a form and in accordance with procedures specified by the  
429 department under s. 456.039(4), along with payment in an amount  
430 equal to the costs incurred by the department for the criminal  
431 background check of the applicant.

432 (g) Has demonstrated compliance with the financial  
433 responsibility requirements imposed under s. 462.015.

434 (h) Has obtained a passing score, as determined by board  
435 rule, on Part I - Biomedical Science Examination, Part II - Core  
436 Clinical Science Examination, and Part II - Clinical Elective  
437 Pharmacology Examination of the competency-based national  
438 Naturopathic Physician Licensing Examination administered by the  
439 North American Board of Naturopathic Examiners, or an equivalent  
440 examination offered by an equivalent or successor entity, as  
441 approved by the board.

442 (2) The department and the board shall ensure that  
443 applicants for licensure satisfy applicable criteria in this  
444 section through an investigative process. If the investigative  
445 process is not completed within the timeframe established in s.  
446 120.60(1) and the department or board has reason to believe that  
447 the applicant does not meet such criteria, the State Surgeon  
448 General or her or his designee may issue a 90-day licensure  
449 delay, which must be in writing and sufficient to notify the  
450 applicant of the reason for the delay. This subsection prevails



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451 over any conflicting provisions of s. 120.60(1).

452 (3) The board may not certify to the department for  
453 licensure any applicant who is under investigation in another  
454 jurisdiction for an offense that would constitute a violation of  
455 this chapter or chapter 456 until the investigation has been  
456 completed. Upon completion of the investigation, s. 462.017  
457 applies.

458 (4) (a) The department may not issue a license to any  
459 individual who has committed an act or offense in any  
460 jurisdiction which would constitute the basis for disciplining a  
461 naturopathic physician under s. 462.017 until the board has  
462 reviewed the application and certified the applicant for  
463 licensure.

464 (b) If the board finds that an applicant for licensure has  
465 committed an act or offense in any jurisdiction which would  
466 constitute the basis for disciplining a naturopathic physician  
467 under s. 462.017, the board may enter an order imposing one or  
468 more of the sanctions set forth in that section and s.  
469 456.072(2) as applicable to applicants for licensure, including  
470 refusing to certify an application for licensure or certifying  
471 an application for licensure with conditions.

472 (5) If the board determines that an applicant for  
473 licensure has failed to meet, to the board's satisfaction, any  
474 of the requirements of this section, it may enter an order  
475 imposing one or more of the following:

476 (a) Refusal to certify to the department an application  
 477 for licensure.

478 (b) Certification to the department of an application for  
 479 licensure with restrictions on the scope of practice of the  
 480 naturopathic physician.

481 (c) Certification to the department of an application for  
 482 licensure with a probationary period for the applicant, subject  
 483 to such conditions as the board specifies, including, but not  
 484 limited to, requiring the naturopathic physician to submit to  
 485 treatment, attend continuing education courses, submit to  
 486 reexamination, or work under the supervision of another  
 487 naturopathic physician.

488 Section 9. Section 462.008, Florida Statutes, is created  
 489 to read:

490 462.008 Licensure by endorsement.—

491 (1) Any person licensed to practice naturopathic medicine  
 492 in another state or territory of the United States or in Canada  
 493 who desires to be licensed as a naturopathic physician in this  
 494 state must apply to the department on forms furnished by the  
 495 department. The department shall issue a license by endorsement  
 496 to any applicant who completes the application form and who the  
 497 board certifies has met all of the following criteria:

498 (a) Has met the qualifications for licensure established  
 499 in s. 462.007(1) (a) - (g) .

500 (b)1. Has submitted evidence of holding an active license

501 to practice naturopathic medicine in another state or territory  
502 of the United States or in Canada for at least the 5 years  
503 immediately preceding the filing of her or his application; or

504 2. If an applicant has held an active license to practice  
505 naturopathic medicine in another state or territory of the  
506 United States or in Canada for less than the 5 years immediately  
507 preceding the filing of her or his application, has obtained a  
508 passing score on the national licensing examination, as  
509 specified in s. 462.007(1)(h), within the year immediately  
510 preceding the filing of the application.

511 (2) The department and the board shall ensure that  
512 applicants for licensure by endorsement meet applicable criteria  
513 in this section through an investigative process. When the  
514 investigative process is not completed within the timeframe  
515 established in s. 120.60(1) and the department or board has  
516 reason to believe that the applicant does not meet the criteria,  
517 the State Surgeon General or her or his designee may issue a 90-  
518 day licensure delay, which must be in writing and sufficient to  
519 notify the applicant of the reason for the delay. This  
520 subsection controls over any conflicting provisions of s.  
521 120.60(1).

522 (3) The board may not certify to the department for  
523 licensure by endorsement any applicant who is under  
524 investigation in another jurisdiction for an offense that would  
525 constitute a violation of this chapter or chapter 456 until the

526 investigation has been completed. Upon completion of the  
527 investigation, s. 462.017 applies.

528 (4) (a) The department may not issue a license by  
529 endorsement to any individual who has committed an act or  
530 offense in any jurisdiction which would constitute the basis for  
531 disciplining a naturopathic physician under s. 462.017 until the  
532 board has reviewed the application and certified the applicant  
533 for licensure.

534 (b) If the board finds that an applicant for licensure by  
535 endorsement has committed an act or offense in any jurisdiction  
536 which would constitute the basis for disciplining a naturopathic  
537 physician under s. 462.017, the board may enter an order  
538 imposing one or more of the sanctions set forth in that section  
539 and s. 456.072(2) as applicable to applicants for licensure,  
540 including refusing to certify an application for licensure or  
541 certifying an application for licensure with conditions.

542 (5) If the board determines that an applicant for  
543 licensure has failed to meet, to the board's satisfaction, any  
544 of the requirements of this section, it may enter an order  
545 imposing one or more of the following:

546 (a) Refusal to certify to the department an application  
547 for licensure.

548 (b) Certification to the department of an application for  
549 licensure with restrictions on the scope of practice of the  
550 naturopathic physician.

551 (c) Certification to the department of an application for  
 552 licensure with a probationary period for the applicant, subject  
 553 to such conditions as the board specifies, including, but not  
 554 limited to, requiring the naturopathic physician to submit to  
 555 treatment, attend continuing education courses, submit to  
 556 reexamination, or work under the supervision of another  
 557 naturopathic physician.

558 Section 10. Section 462.08, Florida Statutes, is  
 559 renumbered as section 462.009, Florida Statutes, and amended to  
 560 read:

561 462.009 ~~462.08~~ Renewal of license to practice naturopathic  
 562 medicine naturopathy.—

563 (1) In order to continue practicing naturopathic medicine  
 564 in this state, each licensed naturopathic physician must  
 565 ~~licenseholder shall~~ biennially renew her or his license to  
 566 practice naturopathic medicine naturopathy. The applicant for  
 567 license renewal must furnish to the board ~~department~~ such  
 568 evidence as it requires of the applicant's compliance with s.  
 569 462.011 ~~s. 462.18~~, relating to continuing education ~~educational~~  
 570 requirements, and s. 462.015, relating to financial  
 571 responsibility requirements. The biennial renewal fee, the  
 572 amount of which shall be determined by the department but which  
 573 may not exceed \$1,000, must be paid at the time the application  
 574 for renewal of the license is filed.

575 (2) The department shall adopt rules establishing

576 procedures for the biennial renewal of licenses under this  
 577 chapter.

578 Section 11. Section 462.18, Florida Statutes, is  
 579 renumbered as section 462.011, Florida Statutes, and amended to  
 580 read:

581 462.011 ~~462.18~~ Continuing education ~~Educational~~  
 582 requirements.—

583 (1) At the time each licensee renews ~~shall renew~~ her or  
 584 his license as ~~otherwise~~ provided in s. 462.009 ~~this chapter~~,  
 585 each licensee must, in addition to the payment of the regular  
 586 renewal fee, ~~shall~~ furnish to the board ~~department~~ satisfactory  
 587 evidence that, in the preceding biennial period, the licensee  
 588 has completed the continuing education requirements of this  
 589 section.

590 (2) The board shall require each naturopathic physician to  
 591 receive at least 60 hours of continuing education during each  
 592 biennial renewal period.

593 (a) At least 10 hours of the 60 hours of continuing  
 594 education must be in pharmacology, addressing the use of legend  
 595 drugs that are consistent with the education and training of  
 596 naturopathic physicians.

597 (b) The board shall approve organizations that accredit  
 598 naturopathic continuing education providers, including, but not  
 599 limited to, the American Association of Naturopathic Physicians,  
 600 the North American Naturopathic Continuing Education

601 Accreditation Council, and the Oregon Association of  
602 Naturopathic Physicians.

603 (c) The determination of whether substitute continuing  
604 education programs are permissible is solely within the  
605 discretion of the board.

606 (3) The naturopathic physician must use the electronic  
607 continuing education tracking system developed by the department  
608 under s. 456.0361 to demonstrate compliance with the continuing  
609 education requirements of this section year preceding each such  
610 application for renewal, the licensee has attended the 2-day  
611 educational program as promulgated and conducted by the Florida  
612 Naturopathic Physicians Association, Inc., or, as a substitute  
613 therefor, the equivalent of that program as approved by the  
614 department. The department shall send a written notice to this  
615 effect to every person holding a valid license to practice  
616 naturopathy within this state at least 30 days prior to May 1 in  
617 each even-numbered year, directed to the last known address of  
618 such licensee, and shall enclose with the notice proper blank  
619 forms for application for annual license renewal. All of the  
620 details and requirements of the aforesaid educational program  
621 shall be adopted and prescribed by the department. In the event  
622 of national emergencies, or for sufficient reason, the  
623 department shall have the power to excuse the naturopathic  
624 physicians as a group or as individuals from taking this  
625 postgraduate course.

626 ~~(2) The determination of whether a substitute annual~~  
627 ~~educational program is necessary shall be solely within the~~  
628 ~~discretion of the department.~~

629 Section 12. Section 462.19, Florida Statutes, is  
630 renumbered as section 462.012, Florida Statutes, and amended to  
631 read:

632 462.012 ~~462.19~~ ~~Renewal of license;~~ Inactive status;  
633 reactivation of license.—

634 (1) A licensee may reactivate an inactive license by  
635 applying to the department, paying any applicable fees, and  
636 submitting proof of compliance with the financial responsibility  
637 requirements of s. 462.015.

638 (2) The board shall adopt rules relating to reactivation  
639 of licenses that have become inactive and for the renewal of  
640 inactive licenses. The rules must include continuing education  
641 requirements as a condition of reactivating a license. The  
642 continuing education requirements for reactivating a license may  
643 not be fewer than 20 classroom hours for each year the license  
644 was inactive. The board may also adopt rules to determine fees,  
645 including a fee for placing a license into inactive status, a  
646 biennial renewal fee for licenses in inactive status, a  
647 delinquency fee, and a fee for the reactivation of a license.  
648 None of these fees may exceed the biennial renewal fee  
649 determined by the board in s. 462.009.

650 (3) The department may not reactivate a license unless the



651 applicable fees have been paid and the financial responsibility  
 652 requirements of s. 462.015 have been satisfied ~~The department~~  
 653 ~~shall renew a license upon receipt of the renewal application~~  
 654 ~~and fee.~~

655 ~~(2) A licensee may request that her or his license be~~  
 656 ~~placed in an inactive status by making application to the~~  
 657 ~~department and paying a fee in an amount set by the department~~  
 658 ~~not to exceed \$50.~~

659 Section 13. Section 462.11, Florida Statutes, is  
 660 renumbered as section 462.013, Florida Statutes, and amended to  
 661 read:

662 462.013 462.11 Obligations of naturopathic physicians  
 663 ~~Naturopaths to observe regulations. Naturopathic physicians~~  
 664 ~~Doctors of naturopathy~~ shall comply with ~~observe~~ and are ~~be~~  
 665 subject to all state, county, and municipal regulations relating  
 666 ~~in regard~~ to the control of contagious and infectious diseases,  
 667 the reporting of births and deaths, and ~~to any and all~~ other  
 668 matters pertaining to the public health in the same manner as is  
 669 required of other health care practitioners ~~of the healing art.~~

670 Section 14. Section 462.014, Florida Statutes, is created  
 671 to read:

672 462.014 Patient records; termination of practice.—The  
 673 board shall adopt rules providing for the handling of medical  
 674 records by licensed naturopathic physicians, including when a  
 675 naturopathic physician sells or otherwise terminates a practice.

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676 The rules must provide for notification of the naturopathic  
677 physician's patients and for an opportunity for the patients to  
678 request the transfer of their medical records to another  
679 physician or health care practitioner upon payment of actual  
680 costs for such transfer.

681 Section 15. Section 462.015, Florida Statutes, is created  
682 to read:

683 462.015 Financial responsibility.—

684 (1) As a condition of licensure, a naturopathic physician  
685 must, by one of the following methods, demonstrate to the  
686 satisfaction of the board and the department that she or he has  
687 the ability to pay claims and ancillary costs arising from the  
688 rendering of, or the failure to render, medical care or  
689 services:

690 (a) Establishing and maintaining an escrow account  
691 consisting of cash or assets eligible for deposit in accordance  
692 with s. 625.52 in the per-claim amounts specified in paragraph  
693 (b). Expenditures may not be made from the escrow amount for  
694 litigation costs or attorney fees for the defense of any medical  
695 malpractice claim.

696 (b) Obtaining and maintaining professional liability  
697 coverage in an amount not less than \$100,000 per claim, with a  
698 minimum annual aggregate of not less than \$300,000, from an  
699 authorized insurer as defined under s. 624.09, from an eligible  
700 surplus lines insurer as defined under s. 626.914(2), from a

701 risk retention group as defined under s. 627.942, from the Joint  
702 Underwriting Association operated under s. 627.351(4), or  
703 through self-insurance as provided in s. 627.357. Expenditures  
704 may not be made from the required coverage amount for litigation  
705 costs or attorney fees for the defense of any medical  
706 malpractice claim.

707 (c) Obtaining and maintaining an unexpired, irrevocable  
708 letter of credit, issued pursuant to chapter 675, in an amount  
709 not less than \$100,000 per claim, with a minimum aggregate  
710 availability of credit of not less than \$300,000. The letter of  
711 credit must be payable to the naturopathic physician as  
712 beneficiary upon presentment of a final judgment indicating  
713 liability and awarding damages to be paid by the naturopathic  
714 physician or upon presentment of a settlement agreement signed  
715 by all parties to such agreement when such final judgment or  
716 settlement is a result of a claim arising out of the rendering  
717 of, or the failure to render, medical care or services. The  
718 letter of credit may not be used for litigation costs or  
719 attorney fees for the defense of any medical malpractice claim.  
720 The letter of credit must be nonassignable and nontransferable  
721 and be issued by a bank or savings association organized and  
722 existing under the laws of this state or a bank or savings  
723 association organized under the laws of the United States which  
724 has its principal place of business in this state or has a  
725 branch office that is authorized under the laws of this state or

726 of the United States to receive deposits in this state.

727 (2)(a) Meeting the financial responsibility requirements  
728 of this section or the criteria for any exemption from such  
729 requirements must be demonstrated at the time of issuance,  
730 renewal, or reactivation of a naturopathic physician license.

731 (b) Any person may, at any time, submit to the department  
732 a request for an advisory opinion regarding such person's  
733 qualifications for exemption.

734 (3)(a) Each insurer, self-insurer, or risk retention group  
735 or the Joint Underwriting Association must promptly notify the  
736 department of a cancellation or nonrenewal of insurance required  
737 by this section. Unless the naturopathic physician demonstrates  
738 that she or he is otherwise in compliance with the requirements  
739 of this section, the department shall suspend the license of the  
740 naturopathic physician pursuant to ss. 120.569 and 120.57 and  
741 notify all health care facilities licensed under part IV of  
742 chapter 394 or chapter 395 or a health maintenance organization  
743 certified under part I of chapter 641 of such action. Any  
744 suspension imposed under this subsection remains in effect until  
745 the naturopathic physician demonstrates compliance with the  
746 requirements of this section. If any judgments or settlements  
747 are pending at the time of suspension, those judgments or  
748 settlements must be paid in accordance with this section unless  
749 otherwise mutually agreed to in writing by the parties. This  
750 paragraph does not abrogate a judgment debtor's obligation to

751 satisfy the entire amount of any judgment.

752 (b) If the financial responsibility requirements are met  
753 by maintaining an escrow account or letter of credit as provided  
754 in this section, upon the entry of an adverse final judgment  
755 arising from a medical malpractice arbitration award, from a  
756 claim in contract or tort of medical malpractice, or from  
757 noncompliance with the terms of a settlement agreement arising  
758 from a claim in contract or tort of medical malpractice, the  
759 naturopathic physician must pay the entire amount of the  
760 judgment together with all accrued interest or the amount  
761 maintained in the escrow account or provided in the letter of  
762 credit as required by this section, whichever is less, within 60  
763 days after the date such judgment becomes final and subject to  
764 execution, unless otherwise mutually agreed to in writing by the  
765 parties. If timely payment is not made by the naturopathic  
766 physician, the department must suspend the license of the  
767 naturopathic physician pursuant to procedures set forth in  
768 subparagraphs (4) (f) 3., 4., and 5. This paragraph does not  
769 abrogate a judgment debtor's obligation to satisfy the entire  
770 amount of any judgment.

771 (4) The requirements imposed in subsection (1) do not  
772 apply to:

773 (a) Any person licensed under this chapter who practices  
774 naturopathic medicine exclusively as an officer, employee, or  
775 agent of the Federal Government or of the state or its agencies

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776 or subdivisions. For purposes of this subsection, an agent of  
777 the state, its agencies, or its subdivisions is a person who is  
778 eligible for coverage under any self-insurance or insurance  
779 program as provided in s. 768.28(16).

780 (b) Any person whose license has become inactive under  
781 this chapter and who is not practicing naturopathic medicine in  
782 this state. Any person applying for reactivation of a  
783 naturopathic physician license must either:

784 1. Demonstrate that she or he maintained tail insurance  
785 coverage that provided liability coverage for incidents that  
786 occurred on or after the initial date of licensure in this state  
787 and for incidents that occurred before the date on which the  
788 license became inactive; or

789 2. Submit an affidavit stating that she or he has no  
790 unsatisfied medical malpractice judgments or settlements at the  
791 time of application for reactivation of the license.

792 (c) Any person licensed under this chapter who practices  
793 only in conjunction with her or his teaching duties at a college  
794 of naturopathic medicine. Such person may engage in the practice  
795 of naturopathic medicine to the extent that such practice is  
796 incidental to and a necessary part of duties in connection with  
797 the teaching position in the college of naturopathic medicine.

798 (d) Any person holding an active naturopathic physician  
799 license under this chapter who is not practicing naturopathic  
800 medicine in this state. If such person initiates or resumes any

801 practice of naturopathic medicine in this state, she or he must  
802 notify the department of such activity and fulfill the financial  
803 responsibility requirements of this section before resuming the  
804 practice of naturopathic medicine in this state.

805 (e) Any person holding an active naturopathic physician  
806 license under this chapter who meets all of the following  
807 criteria:

808 1. Has held an active license to practice naturopathic  
809 medicine in this state or another state or some combination  
810 thereof for more than 15 years.

811 2. Has either retired from the practice of naturopathic  
812 medicine or maintains a part-time practice of naturopathic  
813 medicine of no more than 1,000 patient contact hours per year.

814 3. Has had no more than two claims for medical malpractice  
815 resulting in an indemnity exceeding \$25,000 within the previous  
816 5-year period.

817 4. Has not been convicted of, or pled guilty or nolo  
818 contendere to, any criminal violation specified in this chapter  
819 or the practice act of any other state.

820 5. Has not been subject, within the last 10 years of  
821 practice, to license revocation or suspension for any period of  
822 time, probation for a period of 3 years or longer, or a fine of  
823 \$500 or more for a violation of this chapter or the naturopathic  
824 medical practice act of another jurisdiction. A regulatory  
825 agency's acceptance of a naturopathic physician's relinquishment

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826 of her or his license or of a stipulation, consent order, or  
827 other settlement, offered in response to or in anticipation of  
828 the filing of administrative charges against her or his license,  
829 constitutes action against the naturopathic physician's license  
830 for the purposes of this paragraph.

831 6. Has submitted a form supplying necessary information as  
832 required by the department and an affidavit affirming compliance  
833 with this paragraph.

834 7. Biennially submits to the department a certification  
835 stating compliance with this paragraph. The naturopathic  
836 physician must also demonstrate compliance with this paragraph  
837 at any time upon department request.

838  
839 A naturopathic physician who meets the requirements of this  
840 paragraph must provide notice to patients, either by prominently  
841 displaying a sign in the reception area of her or his practice  
842 in a manner clearly visible to patients or by providing a  
843 written statement to each patient to whom she or he provides  
844 naturopathic medical services. The sign or statement must read  
845 as follows: "Under Florida law, naturopathic physicians are  
846 generally required to carry medical malpractice insurance or  
847 otherwise demonstrate financial responsibility to cover  
848 potential claims for medical malpractice. However, certain part-  
849 time naturopathic physicians who meet certain criteria are  
850 exempt from the financial responsibility requirements. YOUR



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851 NATUROPATHIC PHYSICIAN MEETS THE EXEMPTION CRITERIA AND HAS  
852 DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice  
853 is provided pursuant to Florida law."

854 (f) Any person holding an active naturopathic physician  
855 license under this chapter who agrees to all of the following  
856 conditions:

857 1. Upon the entry of an adverse final judgment arising  
858 from a medical malpractice arbitration award, from a claim of  
859 medical malpractice either in contract or tort, or from  
860 noncompliance with the terms of a settlement agreement arising  
861 from a claim of medical malpractice either in contract or tort,  
862 the naturopathic physician agrees to pay the judgment creditor  
863 the lesser of the entire amount of the judgment with all accrued  
864 interest or either \$100,000, if the naturopathic physician is  
865 licensed pursuant to this chapter but does not maintain hospital  
866 staff privileges, or \$250,000, if the naturopathic physician is  
867 licensed pursuant to this chapter and maintains hospital staff  
868 privileges, within 60 days after the date such judgment becomes  
869 final and subject to execution, unless otherwise mutually agreed  
870 to in writing by the parties. Such adverse final judgment must  
871 include any cross-claim, counterclaim, or claim for indemnity or  
872 contribution arising from the claim of medical malpractice. Upon  
873 notification of the existence of an unsatisfied judgment or  
874 payment pursuant to this subparagraph, the department shall  
875 notify the naturopathic physician by certified mail that she or

876 he is subject to disciplinary action unless, within 30 days  
 877 after the date of mailing, the naturopathic physician either:  
 878 a. Shows proof that the unsatisfied judgment has been paid  
 879 in the amount specified in this subparagraph; or  
 880 b. Furnishes the department with a copy of a timely filed  
 881 notice of appeal and either:  
 882 (I) A copy of a supersedeas bond properly posted in the  
 883 amount required by law; or  
 884 (II) An order from a court of competent jurisdiction  
 885 staying execution on the final judgment, pending disposition of  
 886 the appeal.  
 887 2. The department shall issue an emergency order  
 888 suspending the license of any naturopathic physician who, 31  
 889 days or more after receipt of a notice from the department, has  
 890 failed to satisfy a medical malpractice claim against him or  
 891 her; furnish the department a copy of a timely filed notice of  
 892 appeal; furnish the department a copy of a supersedeas bond  
 893 properly posted in the amount required by law; or furnish the  
 894 department an order from a court of competent jurisdiction  
 895 staying execution on the final judgment pending disposition of  
 896 the appeal.  
 897 3. Upon the next meeting of the probable cause panel of  
 898 the board 31 days or more after the date of mailing the notice  
 899 of disciplinary action to the naturopathic physician, the panel  
 900 shall make a determination as to whether probable cause exists

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901 to take disciplinary action against the naturopathic physician  
902 for a violation of subparagraph 1.

903 4. If the board determines that the factual requirements  
904 of subparagraph 1. are met, it must take disciplinary action as  
905 it deems appropriate against the naturopathic physician. Such  
906 disciplinary action must include, at a minimum, probation of the  
907 license with the restriction that the naturopathic physician  
908 must make payments to the judgment creditor on a schedule  
909 determined by the board to be reasonable and within the  
910 financial capability of the naturopathic physician.

911 Notwithstanding any other disciplinary penalty imposed, the  
912 disciplinary penalty may include suspension of the license for a  
913 period not to exceed 5 years. In the event that an agreement to  
914 satisfy a judgment has been met, the board must remove any  
915 restriction on the license.

916 5. The naturopathic physician must complete a form  
917 supplying necessary information as required by department rule.

918  
919 A naturopathic physician who agrees to the conditions of this  
920 paragraph must provide notice to patients, either by prominently  
921 displaying a sign in the reception area of her or his practice  
922 in a manner clearly visible to patients or by providing a  
923 written statement to each patient to whom she or he provides  
924 naturopathic medical services. The sign or statement must read  
925 as follows: "Under Florida law, naturopathic physicians are

926 generally required to carry medical malpractice insurance or  
927 otherwise demonstrate financial responsibility to cover  
928 potential claims for medical malpractice. However, certain part-  
929 time naturopathic physicians who meet certain criteria are  
930 exempt from the financial responsibility requirements. YOUR  
931 NATUROPATHIC PHYSICIAN MEETS THE EXEMPTION CRITERIA AND HAS  
932 DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice  
933 is provided pursuant to Florida law."

934 (5) A naturopathic physician who makes any deceptive,  
935 untrue, or fraudulent representation with respect to any  
936 provision of this section is permanently disqualified from any  
937 exemption from financial responsibility requirements under this  
938 section and is subject to disciplinary action under s. 462.017  
939 for such conduct.

940 (6) Any naturopathic physician who relies on an exemption  
941 from the financial responsibility requirements must notify the  
942 department in writing of any change of circumstance regarding  
943 her or his qualifications for such exemption and must  
944 demonstrate that she or he is in compliance with the  
945 requirements of this section.

946 (7) Notwithstanding any other provision of this section,  
947 the department shall suspend the license of any naturopathic  
948 physician against whom a final judgment, arbitration award, or  
949 other order has been entered or who has entered into a  
950 settlement agreement to pay damages arising out of a claim for

951 medical malpractice if all appellate remedies have been  
 952 exhausted and payment up to the amounts required by this section  
 953 has not been made within 30 days after the entering of such  
 954 judgment, award, or order or agreement. A suspension under this  
 955 subsection remains in effect until proof of payment is received  
 956 by the department or a payment schedule has been agreed upon by  
 957 the naturopathic physician and the claimant and presented to the  
 958 department. This subsection does not apply to a naturopathic  
 959 physician who has met the financial responsibility requirements  
 960 under paragraph (1)(b).

961 (8) The board shall adopt rules to implement this section.

962 Section 16. Section 462.13, Florida Statutes, is  
 963 renumbered as section 462.016, Florida Statutes, and amended to  
 964 read:

965 462.016 ~~462.13~~ Additional powers and duties of the board  
 966 and the department.—The board and the department may administer  
 967 oaths, summon witnesses, and take testimony in all matters  
 968 relating to their respective ~~its~~ duties under ~~pursuant to~~ this  
 969 chapter. Evidence of an active, ~~Every~~ unrevoked license must  
 970 ~~shall be presumed by presumptive evidence in~~ all courts and  
 971 places to be evidence that the person therein named is legally  
 972 licensed to practice naturopathic medicine in this state  
 973 ~~naturopathy.~~ The board and the department shall aid the  
 974 prosecuting attorneys of the state in the enforcement of this  
 975 chapter.

976 Section 17. Section 462.14, Florida Statutes, is  
 977 renumbered as section 462.017, Florida Statutes, and amended to  
 978 read:

979 462.017 ~~462.14~~ Grounds for disciplinary action; action by  
 980 the board and department.—

981 (1) The following acts constitute grounds for denial of a  
 982 license or disciplinary action, as specified in s. 456.072(2):

983 (a) Attempting to obtain, obtaining, or renewing a license  
 984 to practice naturopathic medicine by bribery, by fraudulent  
 985 misrepresentation, or through an error of the board or the  
 986 department.

987 (b) Having a license to practice naturopathic medicine  
 988 revoked, suspended, or otherwise acted against, including the  
 989 denial of licensure, by the licensing authority of another  
 990 state, territory, or country. The licensing authority's  
 991 acceptance of a naturopathic physician's relinquishment of her  
 992 or his license or of a stipulation, a consent order, or other  
 993 settlement offered in response to or in anticipation of the  
 994 filing of administrative charges against her or his license  
 995 shall be construed as action against the naturopathic  
 996 physician's license.

997 (c) Being convicted or found guilty, regardless of  
 998 adjudication, of a crime in any jurisdiction which directly  
 999 relates to the practice of naturopathic medicine or to the  
 1000 ability to practice naturopathic medicine. Any plea of nolo

1001 contendere creates a rebuttable presumption of guilt to the  
 1002 underlying criminal charges ~~shall be considered a conviction for~~  
 1003 ~~purposes of this chapter.~~

1004 (d) False, deceptive, or misleading advertising.

1005 (e) ~~Advertising, practicing, or attempting to practice~~  
 1006 ~~under a name other than one's own.~~

1007 ~~(f)~~ Failing to report to the department or the  
 1008 department's impaired practitioner program consultant, as  
 1009 applicable, any person whom ~~who~~ the licensee knows is in  
 1010 violation of this chapter or of the rules of the board or  
 1011 department. However, a person whom ~~who~~ the licensee knows is  
 1012 unable to practice naturopathic medicine with reasonable skill  
 1013 and safety to patients by reason of illness or use of alcohol,  
 1014 drugs, narcotics, chemicals, or any other type of material, or  
 1015 as a result of a mental or physical condition, may be reported  
 1016 to a consultant operating an impaired practitioner program as  
 1017 described in s. 456.076 rather than to the department.

1018 ~~(f)(g)~~ Aiding, assisting, procuring, or advising any  
 1019 unlicensed person to practice naturopathic medicine contrary to  
 1020 this chapter or to a rule of the board or department.

1021 ~~(g)(h)~~ Failing to perform any statutory or legal  
 1022 obligation placed upon a licensed naturopathic physician.

1023 (h) Giving false testimony in the course of any legal or  
 1024 administrative proceedings relating to the practice of  
 1025 naturopathic medicine or the delivery of health care services.

1026 (i) Making or filing a report which the licensee knows to  
 1027 be false, intentionally or negligently failing to file a report  
 1028 or record required by state or federal law, willfully impeding  
 1029 or obstructing such filing or inducing another person to do so.  
 1030 Such reports or records must ~~shall~~ include only those which are  
 1031 signed in the capacity as a licensed naturopathic physician.

1032 (j) Paying or receiving any commission, bonus, kickback,  
 1033 or rebate, or engaging in any split-fee arrangement in any form  
 1034 whatsoever with a physician, an organization, an agency, a ~~or~~  
 1035 person, a partnership, a firm, a corporation, or other business  
 1036 entity, either directly or indirectly, for patients referred to  
 1037 providers of health care goods and services, including, but not  
 1038 limited to, hospitals, nursing homes, clinical laboratories,  
 1039 ambulatory surgical centers, or pharmacies. ~~The provisions of~~  
 1040 This paragraph may ~~shall~~ not be construed to prevent a  
 1041 naturopathic physician from receiving a fee for professional  
 1042 consultation services.

1043 (k) Refusing to provide health care based on a patient's  
 1044 participation in pending or past litigation or participation in  
 1045 any disciplinary action conducted pursuant to this chapter,  
 1046 unless such litigation or disciplinary action directly involves  
 1047 the naturopathic physician requested to provide services.

1048 (l) Exercising influence within a patient-physician  
 1049 relationship for purposes of engaging a patient in sexual  
 1050 activity. A patient is ~~shall~~ be presumed to be incapable of



1051 giving free, full, and informed consent to sexual activity with  
 1052 her or his naturopathic physician.

1053 ~~(m)-(1)~~ Making deceptive, untrue, or fraudulent  
 1054 representations in or related to the practice of naturopathic  
 1055 medicine or employing a trick or scheme in the practice of  
 1056 naturopathic medicine ~~when such scheme or trick fails to conform~~  
 1057 ~~to the generally prevailing standards of treatment in the~~  
 1058 ~~medical community.~~

1059 ~~(n)-(m)~~ Soliciting patients, either personally or through  
 1060 an agent, through the use of fraud, intimidation, undue  
 1061 influence, or a form of overreaching or vexatious conduct. A  
 1062 "solicitation" is any communication which directly or implicitly  
 1063 requests an immediate oral response from the recipient.

1064 ~~(o)-(n)~~ Failing to keep legible, written medical records,  
 1065 as defined by department rule in consultation with the board,  
 1066 which identify by name and professional title the licensed  
 1067 naturopathic physician or the supervising naturopathic physician  
 1068 who is responsible for rendering, ordering, supervising, or  
 1069 billing for each diagnostic or treatment procedure and which  
 1070 justify ~~justifying~~ the course of treatment of the patient,  
 1071 including, but not limited to, patient histories, examination  
 1072 results, test results, X rays, ~~and~~ records of medicine  
 1073 prescribed, dispensed, or administered, and reports of  
 1074 consultations and hospitalizations ~~the prescribing, dispensing~~  
 1075 ~~and administering of drugs.~~

1076 (p) Fraudulently altering or destroying records relating  
 1077 to patient care or treatment, including, but not limited to,  
 1078 patient histories, examination results, test results, X rays,  
 1079 records of medicine prescribed, dispensed, or administered, and  
 1080 reports of consultations and hospitalizations.

1081 (g)~~(e)~~ Exercising influence on the patient ~~or client~~ in  
 1082 such a manner as to exploit the patient ~~or client~~ for the  
 1083 financial gain of the licensee or of a third party, which  
 1084 includes ~~shall include~~, but is not ~~be~~ limited to, the promoting  
 1085 or selling of services, goods, appliances, or medicines. ~~drugs~~  
 1086 ~~and the~~

1087 (r) Promoting or advertising on any prescription form of a  
 1088 community pharmacy unless the form also states "This  
 1089 prescription may be filled at any pharmacy of your choice."

1090 (s)~~(p)~~ Performing professional services that ~~which~~ have  
 1091 not been duly authorized by the patient ~~or client~~, or her or his  
 1092 legal representative, except as provided in s. 743.064, s.  
 1093 766.103, or s. 768.13.

1094 (t)~~(e)~~ Except as authorized by the Naturopathic Medical  
 1095 Formulary established under s. 462.025, prescribing, dispensing,  
 1096 administering, supplying, selling, giving, mixing, or otherwise  
 1097 preparing a legend drug, including any controlled substance,  
 1098 other than in the course of the naturopathic physician's  
 1099 professional practice. For the purposes of this paragraph, it is  
 1100 ~~shall be~~ legally presumed that prescribing, dispensing,

1101 administering, supplying, selling, giving, mixing, or otherwise  
 1102 preparing legend drugs, including all controlled substances,  
 1103 inappropriately or in excessive or inappropriate quantities is  
 1104 not in the best interest of the patient and is not in the scope  
 1105 ~~course~~ of the naturopathic physician's professional practice,  
 1106 regardless of ~~without regard to~~ her or his intent.

1107 (u)~~(r)~~ Prescribing or, ~~dispensing, or administering~~ any  
 1108 legend medicinal drug appearing on any schedule set forth in  
 1109 chapter 893 ~~by the naturopathic physician~~ to herself or himself  
 1110 or administering any such drug to herself or himself unless such  
 1111 drug is, ~~except one~~ prescribed for, ~~dispensed, or administered~~  
 1112 ~~to~~ the naturopathic physician by another practitioner authorized  
 1113 to prescribe legend, ~~dispense, or administer medicinal~~ drugs.

1114 (v)~~(s)~~ Being unable to practice naturopathic medicine with  
 1115 reasonable skill and safety to patients by reason of illness or  
 1116 use of alcohol, drugs, narcotics, chemicals, or any other type  
 1117 of material or as a result of any mental or physical condition.  
 1118 In enforcing this paragraph, the department ~~shall have,~~ upon a  
 1119 showing of probable cause, has the authority to issue an order  
 1120 to compel a naturopathic physician to submit to a mental or  
 1121 physical examination by naturopathic physicians designated by  
 1122 the department. If the ~~failure of a~~ naturopathic physician  
 1123 refuses to comply with such order, the department's order  
 1124 directing ~~submit to~~ such ~~an~~ examination may be enforced by  
 1125 filing a petition for enforcement in the circuit court where the

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1126 naturopathic physician resides or does business. The  
1127 naturopathic physician against whom the petition is filed may  
1128 not be named or identified by initials in any public court  
1129 records or documents, and the proceedings must be closed to the  
1130 public. The department is entitled to the summary procedure  
1131 provided in s. 51.011 ~~when so directed shall constitute an~~  
1132 ~~admission of the allegations against her or him upon which a~~  
1133 ~~default and final order may be entered without the taking of~~  
1134 ~~testimony or presentation of evidence, unless the failure was~~  
1135 ~~due to circumstances beyond the naturopathic physician's~~  
1136 ~~control.~~ A naturopathic physician subject to an order issued  
1137 affected under this paragraph must, ~~shall~~ at reasonable  
1138 intervals, be afforded an opportunity to demonstrate that she or  
1139 he can resume the competent practice of naturopathic medicine  
1140 with reasonable skill and safety to patients. In any proceeding  
1141 under this paragraph, neither the record of proceedings nor the  
1142 orders entered by the department may be used against a  
1143 naturopathic physician in any other proceeding.

1144 (w) Notwithstanding s. 456.072(2) but as specified in s.  
1145 456.50(2):

1146 1. Committing medical malpractice as defined in s. 456.50.  
1147 The board shall give great weight to s. 766.102 when enforcing  
1148 this paragraph. Medical malpractice may not be construed to  
1149 require more than one instance, event, or act.

1150 2. Committing gross medical malpractice.

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1151 3. Committing repeated medical malpractice as defined in  
1152 s. 456.50. A person found by the board to have committed such  
1153 repeated malpractice may not be licensed or continue to be  
1154 licensed to provide health care services as a naturopathic  
1155 physician in this state.

1156  
1157 This paragraph may not be construed to require that a  
1158 naturopathic physician be deemed incompetent to practice  
1159 naturopathic medicine in order to be disciplined pursuant to  
1160 this paragraph. A recommended order by an administrative law  
1161 judge or a final order of the board finding a violation under  
1162 this paragraph must specify whether the naturopathic physician  
1163 was found to have committed gross medical malpractice, repeated  
1164 medical malpractice, or medical malpractice, or any combination  
1165 thereof, and any publication by the board must include the  
1166 specified finding.

1167 ~~(t) Gross or repeated malpractice or the failure to~~  
1168 ~~practice naturopathic medicine with that level of care, skill,~~  
1169 ~~and treatment which is recognized by a reasonably prudent~~  
1170 ~~similar physician as being acceptable under similar conditions~~  
1171 ~~and circumstances. The department shall give great weight to the~~  
1172 ~~provisions of s. 766.102 when enforcing this paragraph.~~

1173 (x)(u) Performing any procedure or prescribing any therapy  
1174 that ~~which~~, by the prevailing standards of medical practice in  
1175 the naturopathic medical community, constitutes experimentation

1176 on a human subject, without first obtaining full, informed, and  
 1177 written consent.

1178 ~~(y)-(v)~~ Practicing or offering to practice beyond the scope  
 1179 permitted by law or accepting and performing professional  
 1180 responsibilities that ~~which~~ the licensee knows or has reason to  
 1181 know ~~that~~ she or he is not competent to perform. The board may  
 1182 establish by rule standards of practice and standards of care  
 1183 for particular practice areas, including, but not limited to,  
 1184 education and training, equipment and supplies, medications as  
 1185 specified by the Naturopathic Medical Formulary under s.  
 1186 462.025, assistance from and delegation to other personnel,  
 1187 transfer agreements, sterilization, records, performance of  
 1188 complex or multiple procedures, informed consent, and policy and  
 1189 procedure manuals.

1190 ~~(z)-(w)~~ Delegating professional responsibilities to a  
 1191 person when the licensee delegating such responsibilities knows  
 1192 or has reason to know that such person is not qualified by  
 1193 training, experience, or licensure to perform them.

1194 ~~(aa)-(x)~~ Violating a lawful order of the board or the  
 1195 department previously entered in a disciplinary hearing or  
 1196 failing to comply with a lawfully issued subpoena of the board  
 1197 or department.

1198 ~~(bb)-(y)~~ Conspiring with another licensee or with any other  
 1199 person to commit an act, or committing an act, which would tend  
 1200 to coerce, intimidate, or preclude another licensee from

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1201 lawfully advertising her or his services.

1202 ~~(cc)(z)~~ Procuring, or aiding or abetting in the procuring  
1203 of, an unlawful termination of pregnancy.

1204 ~~(dd)(aa)~~ Presigning blank prescription forms.

1205 (ee) Failing to adequately supervise the activities of any  
1206 persons acting under the supervision of the naturopathic  
1207 physician.

1208 ~~(bb) Prescribing by the naturopathic physician for office~~  
1209 ~~use any medicinal drug appearing on Schedule II in chapter 893.~~

1210 ~~(cc) Prescribing, ordering, dispensing, administering,~~  
1211 ~~supplying, selling, or giving any drug which is an amphetamine~~  
1212 ~~or sympathomimetic amine drug, or a compound designated pursuant~~  
1213 ~~to chapter 893 as a Schedule II controlled substance to or for~~  
1214 ~~any person except for:~~

1215 ~~1. The treatment of narcolepsy; hyperkinesis; behavioral~~  
1216 ~~syndrome in children characterized by the developmentally~~  
1217 ~~inappropriate symptoms of moderate to severe distractability,~~  
1218 ~~short attention span, hyperactivity, emotional lability, and~~  
1219 ~~impulsivity; or drug-induced brain dysfunction.~~

1220 ~~2. The differential diagnostic psychiatric evaluation of~~  
1221 ~~depression or the treatment of depression shown to be refractory~~  
1222 ~~to other therapeutic modalities.~~

1223 ~~3. The clinical investigation of the effects of such drugs~~  
1224 ~~or compounds when an investigative protocol therefor is~~  
1225 ~~submitted to, reviewed, and approved by the department before~~

1226 ~~such investigation is begun.~~

1227 (ff) ~~(dd)~~ Prescribing, ordering, dispensing, administering,  
1228 supplying, selling, or giving growth hormones, testosterone or  
1229 its analogs, human chorionic gonadotropin (HCG), or other  
1230 hormones for the purpose of muscle building or to enhance  
1231 athletic performance. For the purposes of this subsection, the  
1232 term "muscle building" does not include the treatment of injured  
1233 muscle. A prescription written for the drug products identified  
1234 in this paragraph ~~listed above~~ may be dispensed by the  
1235 pharmacist with the presumption that the prescription is for  
1236 legitimate medical use.

1237 (gg) Misrepresenting or concealing a material fact at any  
1238 time during any phase of a licensing or disciplinary process or  
1239 procedure.

1240 (hh) Interfering with an investigation or with any  
1241 disciplinary proceeding.

1242 (ii) Failing to report to the department any person  
1243 licensed under chapter 458, chapter 459, or this chapter whom  
1244 the naturopathic physician knows has violated the grounds for  
1245 disciplinary action set out in the law under which that person  
1246 is licensed and who provides health care services in a facility  
1247 licensed under chapter 395, or a health maintenance organization  
1248 certificated under part I of chapter 641, in which the  
1249 naturopathic physician also provides services.

1250 (jj) Being found by any court in this state to have



1251 provided, without reasonable investigation, corroborating  
 1252 written medical expert opinion attached to any statutorily  
 1253 required notice of claim or intent or to any statutorily  
 1254 required response rejecting a claim.

1255 (kk) Except as provided in s. 462.018, advertising or  
 1256 holding oneself out as a board-certified specialist in violation  
 1257 of this chapter.

1258 (ll) Failing to comply with the requirements of ss.  
 1259 381.026 and 381.0261 to provide patients with information about  
 1260 their patient rights and how to file a patient complaint.

1261 (mm)~~(ee)~~ Violating any provision of this chapter or  
 1262 chapter 456, or any rules adopted pursuant thereto.

1263 (nn) Providing deceptive or fraudulent expert witness  
 1264 testimony related to the practice of naturopathic medicine.

1265 (oo) Promoting or advertising through any communication  
 1266 medium the use, sale, or dispensing of any controlled substance  
 1267 appearing on any schedule in chapter 893 which is not within the  
 1268 scope of the Naturopathic Medical Formulary established under s.  
 1269 462.025.

1270 (pp) Willfully failing to comply with s. 627.64194 or s.  
 1271 641.513 with such frequency as to indicate a general business  
 1272 practice.

1273 (2) The board ~~department~~ may enter an order denying  
 1274 licensure or imposing any of the penalties in s. 456.072(2)  
 1275 against any applicant for licensure or licensee who commits a

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1276 violation of is found guilty of violating any provision of  
1277 subsection (1) of this section or who is found guilty of  
1278 violating any provision of s. 456.072 (1). In determining what  
1279 action is appropriate, the board must first consider which  
1280 sanctions are necessary to protect the public or to compensate  
1281 the patient. Only after those sanctions have been imposed may  
1282 the board consider and include in the order other requirements  
1283 designed to rehabilitate the naturopathic physician. All costs  
1284 associated with compliance with orders issued under this  
1285 subsection are the obligation of the naturopathic physician.

1286 (3) In any administrative action against a naturopathic  
1287 physician which does not involve a revocation or suspension of  
1288 license, the division has the burden, by the greater weight of  
1289 the evidence, to establish the existence of grounds for  
1290 disciplinary action. The division shall establish grounds for  
1291 revocation or suspension of license by clear and convincing  
1292 evidence.

1293 (4) The board may department shall not reinstate the  
1294 license of a naturopathic physician or cause a license to be  
1295 issued to a person it has deemed unqualified until such time as  
1296 it the department is satisfied that such person has complied  
1297 with all the terms and conditions set forth in the final order  
1298 and that such person is capable of safely engaging in the  
1299 practice of naturopathic medicine. However, the board may not  
1300 issue a license to, or reinstate the license of, any person

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1301 found by the board to have committed repeated medical  
1302 malpractice as defined in s. 456.50, regardless of the extent to  
1303 which the licensed naturopathic physician or prospective  
1304 licensed naturopathic physician has complied with all terms and  
1305 conditions set forth in the final order or whether she or he is  
1306 capable of safely engaging in the practice of naturopathic  
1307 medicine.

1308 (5)-(4) The board department shall establish by rule  
1309 establish guidelines for the disposition of disciplinary cases  
1310 involving specific types of violations. Such guidelines must  
1311 establish offenses and circumstances for which revocation will  
1312 be presumed to be appropriate, as well as offenses and  
1313 circumstances for which suspension for particular periods of  
1314 time will be presumed to be appropriate. The guidelines must  
1315 also may include minimum and maximum fines, periods of  
1316 supervision or probation, ~~or~~ conditions of probation, and  
1317 conditions for ~~or~~ reissuance of a license with respect to  
1318 particular circumstances and offenses. Gross medical  
1319 malpractice, repeated medical malpractice, and medical  
1320 malpractice, respectively, as specified in paragraph (1)(w),  
1321 must each be considered a distinct violation requiring specific  
1322 individual guidelines.

1323 (6) Upon the department's receipt of a closed claim  
1324 against a naturopathic physician submitted by an insurer or  
1325 self-insurer pursuant to s. 627.912 or information reported to

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1326 the Office of Insurance Regulation by a health care practitioner  
1327 pursuant to s. 456.049, or receipt from a claimant of presuit  
1328 notice against a naturopathic physician under s. 766.106, the  
1329 department shall review such information and determine whether  
1330 it potentially involves conduct by a licensed naturopathic  
1331 physician which is subject to disciplinary action, in which case  
1332 s. 456.073 applies. However, if the department receives  
1333 information that a naturopathic physician has had three or more  
1334 claims filed against her or him, each with indemnities exceeding  
1335 \$50,000, within the previous 5-year period, the department must  
1336 investigate the occurrences upon which the claims were based and  
1337 determine if action by the department against the naturopathic  
1338 physician is warranted.

1339 (7) Upon the department's receipt of a report from the  
1340 Agency for Health Care Administration pursuant to s. 395.0197  
1341 related to a naturopathic physician whose conduct may constitute  
1342 grounds for disciplinary action, the department shall  
1343 investigate the occurrences upon which the report was based and  
1344 determine if action by the department against the naturopathic  
1345 physician is warranted.

1346 (8) If any naturopathic physician commits such  
1347 unprofessional conduct or negligence or demonstrates mental or  
1348 physical incapacity or impairment such that the department  
1349 determines that she or he is unable to practice with reasonable  
1350 skill and safety and presents a danger to patients, the

1351 department may bring an action in circuit court enjoining such  
1352 naturopathic physician from providing medical services to the  
1353 public until the naturopathic physician demonstrates the ability  
1354 to practice with reasonable skill and safety and without danger  
1355 to patients.

1356 (9) (a) If an investigation of a naturopathic physician is  
1357 undertaken, the department must promptly furnish to the  
1358 naturopathic physician or her or his attorney a copy of the  
1359 complaint or document that prompted initiation of the  
1360 investigation. For purposes of this subsection, such documents  
1361 include, but are not limited to:

1362 1. The pertinent portions of an annual report submitted by  
1363 a licensed facility to the Agency for Health Care Administration  
1364 pursuant to s. 395.0197(6).

1365 2. A report of an adverse incident which is provided by a  
1366 licensed facility to the department pursuant to s. 395.0197.

1367 3. A report of peer review disciplinary action submitted  
1368 to the department pursuant to s. 395.0193(4), provided that the  
1369 investigations, proceedings, and records relating to such peer  
1370 review disciplinary action continue to retain their privileged  
1371 status even as to the naturopathic physician who is the subject  
1372 of the investigation, as provided by s. 395.0193(8).

1373 4. A closed claim report submitted pursuant to s. 627.912.

1374 5. A presuit notice submitted pursuant to s. 766.106(2).

1375 6. A petition brought under the Florida Birth-Related

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1376 Neurological Injury Compensation Plan pursuant to s. 766.305(2).

1377 (b) A naturopathic physician may submit to the department  
 1378 a written response to the information contained in the complaint  
 1379 or document that prompted the initiation of the investigation  
 1380 within 45 days after she or he receives service of such  
 1381 complaint or document. The naturopathic physician's written  
 1382 response must be considered by the probable cause panel, if held  
 1383 on the matter.

1384 Section 18. Section 462.018, Florida Statutes, is created  
 1385 to read:

1386 462.018 Specialties.—A naturopathic physician licensed  
 1387 under this chapter may not hold himself or herself out as a  
 1388 board-certified specialist unless the naturopathic physician has  
 1389 successfully completed the requirements for certification as set  
 1390 forth by the board regulating such specialty. A naturopathic  
 1391 physician may indicate the services offered and may state that  
 1392 her or his practice is limited to one or more types of services  
 1393 if it accurately reflects the scope of practice of the  
 1394 naturopathic physician.

1395 Section 19. Section 462.17, Florida Statutes, is  
 1396 renumbered as section 462.019, Florida Statutes, and amended to  
 1397 read:

1398 462.019 ~~462.17~~ Penalty for offenses relating to  
 1399 naturopathy.—Any person who shall:

1400 (1) Each of the following acts constitutes a felony of the

1401 third degree, punishable as provided in s. 775.082, s. 775.083,  
 1402 or s. 775.084:

1403 (a) Practicing, or attempting to practice, naturopathic  
 1404 medicine without an active license issued under this chapter.

1405 (b) A licensed naturopathic physician practicing beyond  
 1406 the scope of practice authorized under this chapter.

1407 (c) Obtaining, or attempting to obtain, a license to  
 1408 practice naturopathic medicine by a knowing misrepresentation.

1409 (d) Obtaining, or attempting to obtain, a position as a  
 1410 naturopathic physician or naturopathic medical resident in a  
 1411 clinic or hospital by knowingly misrepresenting education,  
 1412 training, or experience.

1413 (e) Dispensing a controlled substance listed in Schedule  
 1414 II or Schedule III of s. 893.03 in violation of s. 465.0276.

1415 (2) Each of the following acts constitutes a misdemeanor  
 1416 of the first degree, punishable as provided in s. 775.082 or s.  
 1417 775.083:

1418 (a) Knowingly concealing information relating to  
 1419 violations of this chapter.

1420 (b) Making a false oath or affirmation when an oath or  
 1421 affirmation is required by this chapter.

1422 (3) Each of the following constitutes a misdemeanor of the  
 1423 second degree, punishable as provided in s. 775.082 or s.  
 1424 775.083:

1425 (a) Fraudulently altering, defacing, or falsifying any

1426 records relating to patient care or treatment, including, but  
1427 not limited to, patient histories, examination results, and test  
1428 results.

1429 (b) Referring any patient for health care goods or  
1430 services to any partnership, firm, corporation, or other  
1431 business entity in which the naturopathic physician or the  
1432 naturopathic physician's employer has an equity interest of 10  
1433 percent or more, unless, before such referral, the naturopathic  
1434 physician notifies the patient of her or his financial interest  
1435 and of the patient's right to obtain such goods or services at  
1436 the location of the patient's choice. This section does not  
1437 apply to the following types of equity interest:

1438 1. The ownership of registered securities issued by a  
1439 publicly held corporation or the ownership of securities issued  
1440 by a publicly held corporation, the shares of which are traded  
1441 on a national exchange or the over-the-counter market.

1442 2. A naturopathic physician's own practice, whether the  
1443 naturopathic physician is a sole practitioner or part of a  
1444 group, when the health care good or service is prescribed or  
1445 provided solely for the naturopathic physician's own patients  
1446 and is provided or performed by the naturopathic physician or  
1447 under the naturopathic physician's supervision.

1448 3. An interest in real property resulting in a landlord-  
1449 tenant relationship between the naturopathic physician and the  
1450 entity in which the equity interest is held, unless the rent is



1451 determined, in whole or in part, by the business volume or  
 1452 profitability of the tenant or is otherwise unrelated to fair  
 1453 market value.

1454 (c) Paying or receiving any commission, bonus, kickback,  
 1455 or rebate or engaging in any split-fee arrangement in any form  
 1456 with a physician, an organization, an agency, a person, a  
 1457 partnership, a firm, a corporation, or other business entity for  
 1458 patients referred to providers of health care goods and  
 1459 services, including, but not limited to, hospitals, nursing  
 1460 homes, clinical laboratories, ambulatory surgical centers, or  
 1461 pharmacies. This paragraph may not be construed to prevent a  
 1462 naturopathic physician from receiving a fee for professional  
 1463 consultation services ~~Sell, fraudulently obtain, or furnish any~~  
 1464 ~~naturopathic diploma, license, record, or registration or aid or~~  
 1465 ~~abet in the same;~~

1466 ~~(2) Practice naturopathy under the cover of any diploma,~~  
 1467 ~~license, record, or registration illegally or fraudulently~~  
 1468 ~~obtained or secured or issued unlawfully or upon fraudulent~~  
 1469 ~~representations;~~

1470 ~~(3) Advertise to practice naturopathy under a name other~~  
 1471 ~~than her or his own or under an assumed name;~~

1472 ~~(4) Falsely impersonate another practitioner of a like or~~  
 1473 ~~different name;~~

1474 ~~(5) Practice or advertise to practice naturopathy or use~~  
 1475 ~~in connection with her or his name any designation tending to~~

1476 ~~imply or to designate the person as a practitioner of~~  
 1477 ~~naturopathy without then being lawfully licensed and authorized~~  
 1478 ~~to practice naturopathy in this state; or~~

1479 ~~(6) Practice naturopathy during the time her or his~~  
 1480 ~~license is suspended or revoked~~

1481  
 1482 ~~shall be guilty of a felony of the third degree, punishable as~~  
 1483 ~~provided in s. 775.082, s. 775.083, or s. 775.084.~~

1484 Section 20. Section 462.024, Florida Statutes, is created  
 1485 to read:

1486 462.024 Disclosure of medications by patients.-

1487 (1) A patient who takes prescribed legend drugs consistent  
 1488 with the Naturopathic Medical Formulary established under s.  
 1489 462.025 or nutrients or other natural medicinal substances upon  
 1490 the recommendation of her or his treating naturopathic physician  
 1491 is responsible for advising any other treating health care  
 1492 practitioner of her or his use of such legend drugs, nutrients,  
 1493 or other natural medicinal substances.

1494 (2) Naturopathic physicians shall advise their patients of  
 1495 this requirement in writing, maintain a signed copy of a  
 1496 patient's disclosure in the patient's medical records, and  
 1497 provide a copy of the disclosure to their patients, upon  
 1498 request.

1499 (3) A patient's failure to disclose her or his use of  
 1500 prescribed legend drugs or recommended nutrients or other

1501 natural medicinal substances to any other treating health care  
 1502 practitioner creates a rebuttable presumption that any  
 1503 subsequent related injuries sustained by the patient were caused  
 1504 by the patient's failure to disclose such information. This  
 1505 presumption may be rebutted by clear and convincing evidence  
 1506 that the patient's injuries were caused by the negligence of the  
 1507 other treating health care practitioner.

1508 (4) This section may not be construed to preclude a  
 1509 patient of a naturopathic physician from consulting with a  
 1510 medical physician, an osteopathic physician, or other health  
 1511 care practitioner.

1512 (5) A naturopathic physician is not required to confirm a  
 1513 patient's consultation with, or disclosure to, any other health  
 1514 care practitioner.

1515 Section 21. Section 462.025, Florida Statutes, is created  
 1516 to read:

1517 462.025 Naturopathic Medical Formulary Council;  
 1518 establishment of formulary.-

1519 (1) The Naturopathic Medical Formulary Council is  
 1520 established, separate and distinct from the board, to be  
 1521 composed of five members.

1522 (a) Two members must be naturopathic physicians licensed  
 1523 under this chapter, appointed by the board.

1524 (b) Three members must be pharmacists licensed under  
 1525 chapter 465, appointed by the board from a list of nominees

1526 provided by the Board of Pharmacy.

1527 (c) Each member shall be appointed for a 3-year term;  
 1528 however, for the purpose of providing staggered terms, the  
 1529 initial appointments to the council shall be as follows: one  
 1530 naturopathic physician appointed for a 1-year term, one  
 1531 pharmacist appointed for a 2-year term, and two pharmacists and  
 1532 one naturopathic physician, each appointed for a 3-year term.

1533 (d) A quorum consists of three members and is required for  
 1534 any vote to be taken.

1535 (2)(a) The council shall establish the Naturopathic  
 1536 Medical Formulary of legend drugs that a licensed naturopathic  
 1537 physician may prescribe in the practice of naturopathic  
 1538 medicine. The formulary may not include drugs:

1539 1. That are inconsistent with the education and training  
 1540 provided by approved colleges and programs of naturopathic  
 1541 medicine or board-approved continuing education courses for  
 1542 naturopathic physicians; or

1543 2. The prescription of which requires education and  
 1544 training beyond that of a naturopathic physician.

1545 (b) The council shall submit the formulary to the board  
 1546 immediately upon adoption of, and any revision to, the  
 1547 formulary. The board shall adopt the formulary, and any revision  
 1548 thereto, by rule.

1549 (c) The council shall review the formulary at least  
 1550 annually and at any time upon board request.

1551 (d) A naturopathic physician may prescribe, administer, or  
 1552 dispense only those drugs included in the formulary adopted by  
 1553 the board. This section may not be construed to authorize a  
 1554 naturopathic physician to prescribe, administer, or dispense any  
 1555 controlled substance under s. 893.03 unless such substance is  
 1556 specifically included in the formulary.

1557 Section 22. Section 462.026, Florida Statutes, is created  
 1558 to read:

1559 462.026 Severability.—The provisions of this chapter are  
 1560 severable. If any provision of this chapter or its application  
 1561 is held invalid or unconstitutional by any court of competent  
 1562 jurisdiction, that invalidity or unconstitutionality does not  
 1563 affect other provisions or applications of this chapter which  
 1564 can be given effect without the invalid or unconstitutional  
 1565 provision or application.

1566 Section 23. Section 462.09, Florida Statutes, is  
 1567 renumbered as section 462.027, Florida Statutes.

1568 Section 24. Section 462.16, Florida Statutes, is repealed.

1569 Section 25. Section 462.2001, Florida Statutes, is  
 1570 repealed.

1571 Section 26. Paragraph (g) of subsection (3) of section  
 1572 921.0022, Florida Statutes, is amended to read:

1573 921.0022 Criminal Punishment Code; offense severity  
 1574 ranking chart.—

1575 (3) OFFENSE SEVERITY RANKING CHART

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1576	(g) LEVEL 7			
1577				
	Florida	Felony		
	Statute	Degree		Description
1578				
	316.027 (2) (c)		1st	Accident involving death, failure to stop; leaving scene.
1579				
	316.193 (3) (c) 2.		3rd	DUI resulting in serious bodily injury.
1580				
	316.1935 (3) (b)		1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
1581				

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1582	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
1583	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
1584	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
1585	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
1586	456.065 (2)	3rd	Practicing a health care profession without a license.
	456.065 (2)	2nd	Practicing a health care profession without a license which results in

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1587			serious bodily injury.
	458.327 (1)	3rd	Practicing medicine without a license.
1588			
	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
1589			
	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
1590			
	461.012 (1)	3rd	Practicing podiatric medicine without a license.
1591			
	<u>462.019</u> <del>462.17</del>	3rd	Practicing <u>naturopathic medicine</u> <del>naturopathy</del> without a license.
1592			
	463.015 (1)	3rd	Practicing optometry without a license.
1593			
	464.016 (1)	3rd	Practicing nursing without a license.
1594			
	465.015 (2)	3rd	Practicing pharmacy



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1595			without a license.
	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
1596			
	467.201	3rd	Practicing midwifery without a license.
1597			
	468.366	3rd	Delivering respiratory care services without a license.
1598			
	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
1599			
	483.901 (7)	3rd	Practicing medical physics without a license.
1600			
	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
1601			
	484.053	3rd	Dispensing hearing aids without a license.

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1602	494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
1603	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
1604	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
1605	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less

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1606	775.21(10) (a)	3rd	<p>than \$20,000 by financial institution.</p> <p>Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.</p>
1607	775.21(10) (b)	3rd	<p>Sexual predator working where children regularly congregate.</p>
1608	775.21(10) (g)	3rd	<p>Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.</p>
1609	782.051 (3)	2nd	<p>Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.</p>

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1610	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
1611	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
1612	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
1613	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1614	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
1615			

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1616	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1617	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
1618	784.048 (7)	3rd	Aggravated stalking; violation of court order.
1619	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
1620	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
1621	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
	784.081 (1)	1st	Aggravated battery on specified official or

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1622			employee.
	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
1623			
	784.083 (1)	1st	Aggravated battery on code inspector.
1624			
	787.06 (3) (a) 2.	1st	Human trafficking using coercion for labor and services of an adult.
1625			
	787.06 (3) (e) 2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
1626			
	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2).
1627			

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1628	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
1629	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
1630	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1631	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1632	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
	790.23	1st, PBL	Possession of a firearm by a person who qualifies for the

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1633			penalty enhancements provided for in s. 874.04.
	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
1634			
	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
1635			
	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
1636			
	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
1637			
	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12



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1638	800.04 (5) (e)	1st	years of age or older but younger than 16 years of age; offender 18 years of age or older.
1639	806.01 (2)	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
1640	810.02 (3) (a)	2nd	Maliciously damage structure by fire or explosive.
1641	810.02 (3) (b)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1642	810.02 (3) (d)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
			Burglary of occupied

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1643			conveyance; unarmed; no assault or battery.
	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1644			
	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
1645			
1646			
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1647			
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1651			

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1652	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
1653			
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1658	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
1659			
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1663	812.014 (2) (f)	2nd	Grand theft; second degree; firearm with previous conviction of s. 812.014 (2) (c) 5.
1664			
1665			

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

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812.0145(2) (a) 1st Theft from person  
65 years of age or  
older; \$50,000 or  
more.

1678

812.019(2) 1st Stolen property;  
initiates, organizes,  
plans, etc., the theft of  
property and traffics in  
stolen property.

1679

812.131(2) (a) 2nd Robbery by sudden  
snatching.

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1680	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1681	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
1682	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1683	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
1684	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
1685	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property

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1686	817.418 (2) (a)	3rd	values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
1687	817.504 (1) (a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
1688	817.535 (2) (a)	3rd	Offering or advertising a vaccine with intent to defraud.
1689	817.611 (2) (b)	2nd	Filing false lien or other unauthorized document.
1690	825.102 (3) (b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
			Neglecting an elderly person or disabled adult causing

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1691	825.103 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
1692	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
1693	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
1694	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1695	838.015	2nd	Bribery.

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1696	838.016	2nd	Unlawful compensation or reward for official behavior.
1697	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
1698	838.22	2nd	Bid tampering.
1699	843.0855(2)	3rd	Impersonation of a public officer or employee.
1700	843.0855(3)	3rd	Unlawful simulation of legal process.
1701	843.0855(4)	3rd	Intimidation of a public officer or employee.
1702	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1703	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.



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1704	872.06	2nd	Abuse of a dead human body.
1705	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
1706	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
1707	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or

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1708	893.13(1)(e)1.	1st	municipal park or publicly owned recreational facility or community center.
1709	893.13(4)(a)	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
1710	893.135(1)(a)1.	1st	Use or hire of minor; deliver to minor other controlled substance.
1711	893.135	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
			Trafficking in cocaine,

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1712	(1) (b) 1.a.		more than 28 grams, less than 200 grams.
	893.135	1st	Trafficking in illegal
	(1) (c) 1.a.		drugs, more than 4 grams, less than 14 grams.
1713			
	893.135	1st	Trafficking in hydrocodone,
	(1) (c) 2.a.		28 grams or more, less than 50 grams.
1714			
	893.135	1st	Trafficking in hydrocodone,
	(1) (c) 2.b.		50 grams or more, less than 100 grams.
1715			
	893.135	1st	Trafficking in oxycodone, 7
	(1) (c) 3.a.		grams or more, less than 14 grams.
1716			
	893.135	1st	Trafficking in oxycodone,
	(1) (c) 3.b.		14 grams or more, less than 25 grams.
1717			
	893.135	1st	Trafficking in fentanyl,
	(1) (c) 4.b. (I)		4 grams or more, less

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1718			than 14 grams.
	893.135 (1) (d) 1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
1719			
	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
1720			
	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
1721			
	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1722			
	893.135 (1) (h) 1.a.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1723			

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1724	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4- Butanediol, 1 kilogram or more, less than 5 kilograms.
1725	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1726	893.135 (1) (m) 2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
1727	893.135 (1) (m) 2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
1728	893.135 (1) (n) 2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.

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1729	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1730	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
1731	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1732	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1733	943.0435 (9) (a)	3rd	Sexual offender; failure

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1734	943.0435(13)	3rd	<p>to comply with reporting requirements.</p> <p>Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.</p>
1735	943.0435(14)	3rd	<p>Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.</p>
1736	944.607(9)	3rd	<p>Sexual offender; failure to comply with reporting requirements.</p>
1737	944.607(10)(a)	3rd	<p>Sexual offender; failure to submit to the taking of a digitized photograph.</p>

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1738 | 944.607(12) | 3rd | Failure to report or  
 providing false  
 information about a sexual  
 offender; harbor or  
 conceal a sexual offender.

1739 | 944.607(13) | 3rd | Sexual offender; failure to  
 report and reregister;  
 failure to respond to address  
 verification; providing false  
 registration information.

1740 | 985.4815(10) | 3rd | Sexual offender; failure  
 to submit to the taking  
 of a digitized  
 photograph.

1741 | 985.4815(12) | 3rd | Failure to report or  
 providing false  
 information about a  
 sexual offender; harbor  
 or conceal a sexual  
 offender.

1742



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985.4815(13)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

1743

1744

1745

Section 27. This act shall take effect December 31, 2024.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 885 Coverage for Biomarker Testing

**SPONSOR(S):** Select Committee on Health Innovation, Gonzalez Pittman and others

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Select Committee on Health Innovation	15 Y, 0 N, As CS	Lloyd	Calamas
2) Appropriations Committee		Smith	Pridgeon
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

Biomarker testing is a method of looking for any structure, process, genes, proteins, or other substance in the body that can provide information that can be measured in the body or its products and influence or predict the incidence of outcome or disease. It is a type of personalized or precision medicine where medical care is tailored to a person's specific genes, proteins, and other substances which may be present in a person's body. Biomarker testing is not helpful for all kinds of diseases. With cancer, for example, biomarker testing can help show:

- Whether the cancer is likely to grow or spread;
- Whether certain types of cancer treatments may be more likely or unlikely to be helpful; and
- Whether the cancer treatment is working.

Different types of biomarker tests can be done to help determine the best cancer treatment options or what treatment options are not helpful. Many tests look for gene changes in the cancer cells, while some measure certain proteins or other kinds of markers.

Biomarker testing for other diseases may look at just a single biomarker or check for many biomarkers at the same time (such as patterns of certain genes or proteins). Some tests look at all of the genes inside cancer cells. Biomarker tests may be done on tumor samples removed during a biopsy or surgery, but some biomarker tests can be done on samples of blood or other bodily fluids.

CS/HB 885 would require coverage for biomarker testing in Medicaid and the state group health insurance program. A recipient or insured and health care providers must have access to a clear and convenient process to request authorization for such testing through a readily accessible website of the insurer or plan. Coverage would not be required for biomarker testing for screening purposes.

The bill has an indeterminate, insignificant negative fiscal impact on state government. See Fiscal Analysis.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### *Biomarker Testing*

Biomarker testing is a way of looking for genes, proteins, and other substances in the body that can provide information about diseases, such as cancer.<sup>1</sup> In 1988, the International Programme on Chemical Safety, led by the World Health Organization (WHO) and in coordination with the United Nations and the International Labor Organization, defined a biomarker as “any substance, structure, or process that can be measured in the body or its products and influence or predict the incidence of outcome or disease”.<sup>2</sup>

An even broader definition of biomarker testing considers not just the incidence and outcome of disease, but also the effects of treatments, interventions, and even unintended environmental exposure, such as to chemicals or nutrients. In its report on the validity of biomarkers in environment risk assessment, the WHO has stated that a true definition of biomarkers includes “almost any measurement reflecting an interaction between a biological system and a potential hazard, which may be chemical, physical, or biological.”<sup>3</sup> Biomarker testing is also a type of personalized or precision medicine where medical care is tailored to a person’s specific genes, proteins, and other substances which may be present in a person’s body.<sup>4</sup>

Biomarker testing is not helpful for every kind of disease, but in the example of biomarker testing for cancer, such testing can help show:

- Whether the cancer is likely to grow or spread.
- Whether certain types of cancer treatments may be more likely or unlikely to be helpful.
- Whether the cancer treatment is working.<sup>5</sup>

Studies indicate that currently only half of patients with cancer in the United States for whom biomarker testing is recommended receive biomarker testing.<sup>6</sup> More than a quarter of patients who did not receive recommended biomarker testing reported that it was because insurance was not covering the test at all and/or they would have incurred high out-of-pocket costs.<sup>7</sup>

Different types of biomarker tests can be done to help determine the best cancer treatment options. Many tests look for gene changes in the cancer cells, while some measure certain proteins or other kinds of markers. Other tests may look at just a single biomarker or check for many biomarkers at the same time (such as patterns of certain genes or proteins). Some tests look at all of the genes inside cancer cells.<sup>8</sup>

Biomarker tests may be done on tumor samples removed during a biopsy or surgery, but some biomarker tests can be done on samples of blood or other bodily fluids without being as invasive.<sup>9</sup> For certain types of cancer, biomarker testing is done routinely to assist with treatment decisions. Some

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<sup>1</sup> National Cancer Institute, *Biomarker Testing for Cancer*, [Biomarker Testing for Cancer Treatment - NCI](#) (last visited February 6, 2024).

<sup>2</sup> Kyle Strimbu and Jorge Tavel, M.D., *What are biomarkers?* *Curr Opin HIV AIDS*. 2010 Nov; 5(6): 463–466, available at doi: [10.1097/COH.0b013e32833ed177](https://doi.org/10.1097/COH.0b013e32833ed177) (last visited February 6, 2024).

<sup>3</sup> *Id.*

<sup>4</sup> American Cancer Society, *Biomarker Tests and Cancer Treatment*, available [Biomarker Tests and Cancer Treatment | American Cancer Society](#) (last visited February 6, 2024).

<sup>5</sup> *Id.*

<sup>6</sup> Chawla A, Peeples M, Li N, Anhorn R, Ryan J, Signorovitch J., *Real-world utilization of molecular diagnostic testing and matched drug therapies in the treatment of metastatic cancers*, *J Med Econ*. 2018; 21:543-552, available at [Real-world utilization of molecular diagnostic testing and matched drug therapies in the treatment of metastatic cancers - PubMed \(nih.gov\)](#) (last visited February 6, 2024).

<sup>7</sup> Improving access to biomarker testing. American Cancer Society Cancer Action Network. Published September 28, 2020, available at [Improving Access to Biomarker Testing | American Cancer Society Cancer Action Network \(fightcancer.org\)](#) (last visited February 6, 2024).

<sup>8</sup> *Supra*, note 4.

<sup>9</sup> *Id.*

cancer treatments, such as targeted therapies and immunotherapies, may only work for individuals with certain type of cancers.<sup>10</sup> However, biomarker testing may not be appropriate or helpful in all such situations. Using cancer as an example, the most common types of cancer for biomarker testing include cancers where there are changes in designated genes for:

- Non-small cell lung cancer;
- Breast cancer;
- Colorectal cancer; and
- Melanoma skin cancer.<sup>11</sup>

Biomarker testing is conducted using a sample of an individual's cancer cells, where the cells are analyzed to identify the specific biomarkers. The lab's report on the specific biomarkers will also identify the treatments that may be helpful for the cancer or the cancer strains identified. Some biomarker tests also require a testing of healthy cells for comparison of a person's healthy cells to his or her cancer cells for different mutations.<sup>12</sup>

One type of biomarker that can be identified is a driver mutation, which is a change in the DNA of a cancer cell and can cause a cancer cell to overgrow or a normal cell to become a cancer cell. The other type of biomarker is an immunotherapy biomarker, which may be found on the surface of a cancer cell and impacts how the cancer cells interact with the immune system. Knowing the types of biomarkers an individual has aids in the individual's plan of care.<sup>13</sup>

A number of types of biomarker tests for molecularly targeted therapies are in clinical use, ranging from single-gene tests to guide the use of a single class of therapy to a suite of multiple, but separate, tests for single analytes to guide the use of multiple therapy options in a specific clinical context for something like breast cancer treatment.<sup>14</sup> Multiple-gene panels include additional analytes for other clinical or research purposes, including assessing secondary response or resistance to targeted therapies, multiplex panel tests, protein express, and whole exome, whole genome, and whole transcriptome sequencing.<sup>15</sup>

Growth in this area of medicine has grown exponentially. For genome-informed therapy, the number of tests available or eligible for testing since 2018 has increased from 16 percent to 27 percent in 2020.<sup>16</sup> From January 1, 2006, when tracking of such approval began at the federal Food and Drug Administration (FDA), through June 30, 2020, 51 different drugs had been approved for 36 genomic indications covering 18 cancer types.<sup>17</sup>

Results of a biomarker test can help an individual find different options for treatment through the FDA-approved treatment regimens, off-label treatments, or clinical trials. Knowing that a cancer does not have certain biomarkers can also save a patient from undergoing unnecessary treatment or treatment that has not been as successful in a particular diagnosis or not have a long-term result leading to the return of the cancer.<sup>18</sup>

Waiting for results from biomarker tests before determining treatment options can provide patients and their providers more information on which to make decisions. Results from testing can take up to four

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<sup>10</sup> *Supra*, note 1.

<sup>11</sup> *Supra*, note 4.

<sup>12</sup> *Id.*

<sup>13</sup> Genentech, *Understanding Biomarkers*, available at [Learn About Biomarkers And Biomarker Testing in Advanced Non-Small Cell Lung Cancer | MyCareRoadMap By Genentech](#) (last visited February 6, 2024).

<sup>14</sup> Laurene A. Graig, et al, *Biomarker Tests for Molecularly Targeted Therapies*, *Institute of Medicine, The Nat'l Academies of Science, Engineering & Medicine* (2016), available at [Biomarker Tests for Molecularly Targeted Therapies. Key to Unlocking Precision Medicine \(nih.gov\)](#) (last visited February 6, 2024).

<sup>15</sup> *Id.*

<sup>16</sup> Genomic testing for targeted oncology drugs: hopes against hype, Editorial, *Annals of Oncology*, (Vol. 32, Iss.7, 2021), available at [Genomic testing for targeted oncology drugs: hopes against hype \(annalsofoncology.org\)](#) (last visited February 6, 2024).

<sup>17</sup> A. Haslam, M.S. Kim, & V. Presad, *Updated Estimates of Eligibility for and Responses to Genome Targeted Oncology Drugs Among US Cancer Patients*, *Annals of Oncology* (Vol. 32, Issue 7, July 2021; 926:943), available at [Updated estimates of eligibility for and response to genome-targeted oncology drugs among US cancer patients, 2006-2020 - Annals of Oncology](#) (last visited February 6, 2024).

<sup>18</sup> *Supra*, note 4.

weeks or longer to receive.<sup>19</sup> A patient may also have biomarker testing more than once during treatment to determine the efficacy of a treatment or if other options need to be considered.<sup>20</sup>

In 2020, the FDA approved two liquid biopsy tests that help guide treatment therapies for individuals with any solid tumor cancer, but not those with a blood cancer. These two approved tests can check for multiple cancer related mutations and are considered less invasive and quicker than the typical needle biopsy.<sup>21</sup> One test, Guardant360 CDX, checks for changes in more than 60 genes, while the other approved test, FoundationOne Liquid CDx, can identify changes in more than 300 genes.<sup>22</sup> Medicare does provide coverage for two FDA-approved tests, but coverage by private insurance companies for these same tests is not consistent.

### *Costs of Biomarker Testing*

The costs of biomarker testing vary based on the type of testing being conducted and the type of disease being tested. The average allowed unit cost to insurers per biomarker test ranges from \$78.71 (Medicaid) to \$224.40 (large group self-insured).<sup>23</sup>

One study published in November 2022 found that among those with biomarker tests, the median per-patient total payer lifetime costs of all biomarker testing were \$394/\$462 (lung/metastatic lung) and \$148/\$232 (thyroid/metastatic thyroid).<sup>24</sup> In this study, total lifetime biomarker costs for payers ranged from a median of \$128 (consumer-driven health plans) to \$477 (preferred provider organizations). Median lifetime patient out-of-pocket costs were \$0.00 for both tumor types and all payer types except for consumer-driven health plans (\$12 for thyroid and \$10 for metastatic lung).<sup>25</sup>

Costs vary by type of testing. The FDA has provided marketing approval for the sale of direct to patient biomarker tests. One of these tests, which was approved in 2019, can identify cancer-associated alterations in 324 genes in any type of solid tumor.<sup>26</sup> Different levels of screening tests can be ordered by a patient directly online or by a patient's health care provider for \$299 - \$350 for the cost of the test – not including the cost of analysis or review by the practitioner.<sup>27</sup>

For new cancer treatments, costs may be covered as part of clinical trials. If an individual participates in a clinical trial, costs of the testing are usually covered as part of participation.<sup>28</sup> Increasingly, clinical trials report the enrollment of individuals based on the specific genetic mutation or alteration and not which organ the cancer originated from.<sup>29</sup>

### *State Employee Health Plan Coverage*

For state employees who participate in the state employee benefit program, the Department of Management Services (DMS) through the Division of State Group Insurance (DSGI) under the authority of section 110.123, F.S., administers the state group health insurance program (Program). The

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<sup>19</sup> LUNGevity, *Biomarker testing can help you get the best treatment for your lung cancer*, [353b8753a58e4eba940e2d4b95ca49 \(d2zd6ny1q7rvh6.cloudfront.net\)](https://d2zd6ny1q7rvh6.cloudfront.net) (last visited February 6, 2024).

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

<sup>21</sup> National Cancer Institute, *FDA Approves Cancer Test Which Can Help Guide Cancer Treatment (October 15, 2020)* [FDA Approves Blood Tests That Can Help Guide Cancer Treatment - NCI](#) (last visited February 6, 2024).

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

<sup>23</sup> Yu TM, Morrison C, Gold EJ, Tradonsky A, Arnold RJG. *Budget Impact of Next-Generation Sequencing for Molecular Assessment of Advanced Non-Small Cell Lung Cancer*, *Value Health*. 2018 Nov;21(11):1278-1285, available at doi: 10.1016/j.jval.2018.04.1372, Epub 2018 Jun 8. PMID: 30442274. (last visited February 6, 2024).

<sup>24</sup> Lisa M. Hess, et al., *Costs of biomarker testing among patients with metastatic lung or thyroid cancer in the USA: a real-world commercial claims database study*, *J Med Econ* 2023 Jan-Dec;26(1):43-50., available at [Costs of biomarker testing among patients with metastatic lung or thyroid cancer in the USA: a real-world commercial claims database study - PubMed \(nih.gov\)](#) (last visited February 6, 2024).

<sup>25</sup> *Id.*

<sup>26</sup> National Cancer Institute, *Genomic Profiling Tests Cleared by FDA Can Help Guide Cancer Treatment, Clinical Trial Enrollment (December 21, 2017)*, <https://www.cancer.gov/news-events/cancer-currents-blog/2017/genomic-profiling-tests-cancer>, (last visited February 6, 2024).

<sup>28</sup> *Id.*

<sup>28</sup> *Supra*, note 4.

<sup>29</sup> National Cancer Institute, *Genomic Profiling Tests Cleared by FDA Can Help Guide Cancer Treatment, Clinical Trial Enrollment (December 21, 2017)* available at [FDA Approves Two Genomic Profiling Tests for Cancer - NCI](#) (last visited February 6, 2024).

Program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Code.<sup>30</sup> To administer the program, DSGI contracts with third party administrators for self-insured plans, a fully insured HMO, and a pharmacy benefits manager for the state employees' self-insured prescription drug program, pursuant to s. 110.12315, F.S.

The state group health insurance program delivers benefits to state employees, retirees, and their families through contracts it competitively bids for on regular contract cycles with health insurers, health maintenance organizations, and third party administrators. The current benefits and premium rates for the plan year of January 1, 2024 through December 31, 2024 are established in these contracts and the state's General Appropriations Act. Any additional statutory changes in state employee benefits require a contract amendment to effectuate these benefits.

An online review of the 2024 member benefit handbooks and medical coverage guidelines for the currently contracted state employee insurers indicate that biomarker testing may already be covered within the Program under certain parameters. Based on the diagnosis, additional criteria are usually applied for testing to be covered in some of the coverage guidelines and all of the contracted plans have a general exclusionary coverage statement testing for any testing considered experimental or investigational, unless the testing falls under an allowable clinical trial.<sup>31</sup>

### *Medicaid Coverage of Biomarker Testing*

Florida Medicaid covers biomarker testing under s. 409.905(7), F.S., as a mandatory Medicaid service under independent laboratory services. Eligible providers are reimbursed for biomarker testing under Rule 59G-4.190, Florida Administrative Code (F.A.C.), the Laboratory Services and Coverages Policy and Rule 59G-4.002, F.A.C., the Independent and Practitioner Laboratory Fee Schedules. The services provided to the eligible recipient must be determined to be medically necessary, not duplicative of another service, and meet the criteria of the policy.

The Medicaid Laboratory Services Policy covers reimbursement for:

- Chemistry;
- Clinical cytogenetics;
- Diagnostic immunology;
- Genetic carrier screening;
- Hematology;
- Histocompatibility;
- Immunohematology;
- Microbiology; and
- Pathology.<sup>32</sup>

Medicaid managed care plans have the flexibility to cover services above and beyond Agency for Health Care Administration (AHCA) coverage policies, but they may not be more restrictive than AHCA policy.<sup>33</sup>

### **Effects of the Bill**

CS/HB 885 would require all policies issued under the state group health insurance program on or after January 1, 2025, to provide coverage of biomarker testing as a covered benefit, for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's disease or

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<sup>30</sup> 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.

<sup>31</sup> Department of Management Services, *My Benefits – Health Plans in Your Area*, available at [Health Plans in Your Area / Health Insurance Plans / Health - MyBenefits / Department of Management Services \(myflorida.com\)](https://myflorida.com/Health-MyBenefits/DepartmentofManagementServices) (last viewed January 23, 2024). A scan of Health Insurance Booklets, Benefits Documents,

<sup>32</sup> Rule 59G-4.190, F.A.C., *Laboratory Services and Coverage Policy*, available at [59G-4.190 Coverage Policy Proposed.pdf](#) (last visited February 6, 2024).

<sup>33</sup> Agency for Health Care Administration, *2024 Agency Legislative Bill Analysis – SB 964/HB 885* (January 17, 2024)(on file with the Select Committee on Health Innovation).

condition if the medical and scientific evidence indicated that the biomarker testing provides clinical utility to the enrollee. Under the bill, such medical and scientific evidence includes, but is not limited to:

- A labeled indication for a test approved or cleared by the FDA;
- An indicated test for a drug approved by the FDA;
- A National Coverage Determination made by the Centers for Medicare and Medicaid Services or a Local Coverage Determination made by the Medicare Administrative Contractor; or
- A nationally recognized clinical practice guideline developed by an independent organization or medical professional society using transparent methodology and reporting structure, and with a conflict of interest policy.

The bill expressly provides that the coverage requirements for biomarker testing services do not include testing for screening purposes.

CS/HB 885 amends s.409.906, F.S., to add biomarker testing services as an optional Medicaid service, if medical and scientific evidence indicate that biomarker testing for the diagnosis, treatment, and appropriate management of a Medicaid recipient's disease provides clinical utility to the Medicaid recipient.

The bill requires Medicaid managed care plans provide coverage for biomarker testing in the same manner and scope as Medicaid provides to other medically necessary treatments. The provision also requires that the recipient and his or her provider have easy access to a clear and convenient authorization process on the managed care plan's website.

The bill further authorizes the agency to seek federal approval, if necessary to implement the coverage requirement.

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

## B. SECTION DIRECTORY

- Section 1:** Amends s.110.12303, F.S., related to state group health insurance coverage for biomarker testing.
- Section 2:** Amends s.409.906, F.S., related to optional Medicaid services.
- Section 3:** Creates s. 409.9745, F.S., related to managed care plan biomarker testing.
- Section 4:** 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 would have an indeterminate, insignificant negative fiscal impact on the Department of State Group Insurance, if the requirements of the bill result in a higher employer premium. Based on denied claims for biomarker testing from prior years, and with no reasoning provided for the test order, the potential impact may range from \$0 to \$1.6 million annually.<sup>34</sup>

It is unclear the extent to which current contractors in the state group insurance program do or do not currently cover biomarker testing; therefore, the potential fiscal impact to the state of the costs of this coverage decision is unknown.

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<sup>34</sup> Department of Management Services, *2024 Agency Legislative Bill Analysis: CS/HB 885* (February 5, 2024), (on file with the House Appropriations Committee).



The bill would have no impact on AHCA, as biomarker testing is already a covered service under Florida Medicaid.<sup>35</sup>

**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:**

AHCA and the DSGI have 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**

On January 22, 2024, the Select Committee on Health Innovation adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Limits application of the requirement for biomarker testing to the Medicaid program and State Group Health Insurance Plan effective July 1, 2024.
- Removes provisions requiring private health insurers and HMOs to provide coverage for annual skin cancer screenings without cost sharing restrictions.

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

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<sup>35</sup> *Supra*, note 34.

1                                   A bill to be entitled  
2           An act relating to coverage for biomarker testing;  
3           amending s. 110.12303, F.S.; requiring the Department  
4           of Management Services to provide coverage of  
5           biomarker testing for specified purposes for state  
6           employees' state group health insurance plan policies  
7           issued on or after a specified date; specifying  
8           circumstances under which such coverage may be  
9           provided; providing definitions; requiring a clear,  
10          convenient, and readily accessible process for  
11          authorization requests for biomarker testing;  
12          providing construction; amending s. 409.906, F.S.;  
13          authorizing the Agency for Health Care Administration  
14          to pay for biomarker testing under the Medicaid  
15          program for specified purposes, subject to specific  
16          appropriations; specifying circumstances under which  
17          such payments may be made; providing definitions;  
18          requiring a clear, convenient, and readily accessible  
19          process for authorization requests for biomarker  
20          testing; providing construction; authorizing the  
21          agency to seek federal approval for biomarker testing  
22          payments; creating s. 409.9745, F.S.; requiring  
23          managed care plans under contract with the agency in  
24          the Medicaid program to provide coverage for biomarker  
25          testing for Medicaid recipients in a certain manner;

26 requiring a clear, convenient, and readily accessible  
 27 process for authorization requests for biomarker  
 28 testing; providing construction; providing an  
 29 effective date.

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

32  
 33 Section 1. Subsection (5) is added to section 110.12303,  
 34 Florida Statutes, to read:

35 110.12303 State group insurance program; additional  
 36 benefits; price transparency program; reporting.—

37 (5)(a) For state group health insurance plan policies  
 38 issued on or after January 1, 2025, the department shall provide  
 39 coverage of biomarker testing for the purposes of diagnosis,  
 40 treatment, appropriate management, or ongoing monitoring of an  
 41 enrollee's disease or condition to guide treatment decisions if  
 42 medical and scientific evidence indicates that the biomarker  
 43 testing provides clinical utility to the enrollee. Such medical  
 44 and scientific evidence includes, but is not limited to:

45 1. A labeled indication for a test approved or cleared by  
 46 the United States Food and Drug Administration;

47 2. An indicated test for a drug approved by the United  
 48 States Food and Drug Administration;

49 3. A national coverage determination made by the Centers  
 50 for Medicare and Medicaid Services or a local coverage

51 determination made by the Medicare Administrative Contractor; or  
52 4. A nationally recognized clinical practice guideline. As  
53 used in this subparagraph, the term "nationally recognized  
54 clinical practice guideline" means an evidence-based clinical  
55 practice guideline developed by independent organizations or  
56 medical professional societies using a transparent methodology  
57 and reporting structure and with a conflict-of-interest policy.  
58 Guidelines developed by such organizations or societies  
59 establish standards of care informed by a systematic review of  
60 evidence and an assessment of the benefits and costs of  
61 alternative care options and include recommendations intended to  
62 optimize patient care.

63 (b) As used in this subsection, the term:

64 1. "Biomarker" means a defined characteristic that is  
65 measured as an indicator of normal biological processes,  
66 pathogenic processes, or responses to an exposure or  
67 intervention, including therapeutic interventions. The term  
68 includes, but is not limited to, molecular, histologic,  
69 radiographic, or physiologic characteristics but does not  
70 include an assessment of how a patient feels, functions, or  
71 survives.

72 2. "Biomarker testing" means an analysis of a patient's  
73 tissue, blood, or other biospecimen for the presence of a  
74 biomarker. The term includes, but is not limited to, single  
75 analyte tests, multiplex panel tests, protein expression, and

76 whole exome, whole genome, and whole transcriptome sequencing  
77 performed at a participating in-network laboratory facility that  
78 is certified pursuant to the federal Clinical Laboratory  
79 Improvement Amendment (CLIA) or that has obtained a CLIA  
80 Certificate of Waiver by the United States Food and Drug  
81 Administration for the tests.

82 3. "Clinical utility" means the test result provides  
83 information that is used in the formulation of a treatment or  
84 monitoring strategy that informs a patient's outcome and impacts  
85 the clinical decision.

86 (c) Each state group health insurance plan shall provide a  
87 clear and convenient process for providers to request  
88 authorization for biomarker testing. Such process shall be made  
89 readily accessible to all enrollees and participating providers  
90 online.

91 (d) This subsection does not require coverage of biomarker  
92 testing for screening purposes.

93 Section 2. Subsection (29) is added to section 409.906,  
94 Florida Statutes, to read:

95 409.906 Optional Medicaid services.—Subject to specific  
96 appropriations, the agency may make payments for services which  
97 are optional to the state under Title XIX of the Social Security  
98 Act and are furnished by Medicaid providers to recipients who  
99 are determined to be eligible on the dates on which the services  
100 were provided. Any optional service that is provided shall be

101 provided only when medically necessary and in accordance with  
 102 state and federal law. Optional services rendered by providers  
 103 in mobile units to Medicaid recipients may be restricted or  
 104 prohibited by the agency. Nothing in this section shall be  
 105 construed to prevent or limit the agency from adjusting fees,  
 106 reimbursement rates, lengths of stay, number of visits, or  
 107 number of services, or making any other adjustments necessary to  
 108 comply with the availability of moneys and any limitations or  
 109 directions provided for in the General Appropriations Act or  
 110 chapter 216. If necessary to safeguard the state's systems of  
 111 providing services to elderly and disabled persons and subject  
 112 to the notice and review provisions of s. 216.177, the Governor  
 113 may direct the Agency for Health Care Administration to amend  
 114 the Medicaid state plan to delete the optional Medicaid service  
 115 known as "Intermediate Care Facilities for the Developmentally  
 116 Disabled." Optional services may include:

117 (29) BIOMARKER TESTING SERVICES.—

118 (a) The agency may pay for biomarker testing for the  
 119 purposes of diagnosis, treatment, appropriate management, or  
 120 ongoing monitoring of a recipient's disease or condition to  
 121 guide treatment decisions if medical and scientific evidence  
 122 indicates that the biomarker testing provides clinical utility  
 123 to the recipient. Such medical and scientific evidence includes,  
 124 but is not limited to:

- 125 1. A labeled indication for a test approved or cleared by

126 | the Unites States Food and Drug Administration;  
 127 |       2. An indicated test for a drug approved by the United  
 128 | States Food and Drug Administration;  
 129 |       3. A national coverage determination made by the Centers  
 130 | for Medicare and Medicaid Services or a local coverage  
 131 | determination made by the Medicare Administrative Contractor; or  
 132 |       4. A nationally recognized clinical practice guideline. As  
 133 | used in this subparagraph, the term "nationally recognized  
 134 | clinical practice guideline" means an evidence-based clinical  
 135 | practice guideline developed by independent organizations or  
 136 | medical professional societies using a transparent methodology  
 137 | and reporting structure and with a conflict-of-interest policy.  
 138 | Guidelines developed by such organizations or societies  
 139 | establish standards of care informed by a systematic review of  
 140 | evidence and an assessment of the benefits and costs of  
 141 | alternative care options and include recommendations intended to  
 142 | optimize patient care.  
 143 |       (b) As used in this subsection, the term:  
 144 |       1. "Biomarker" means a defined characteristic that is  
 145 | measured as an indicator of normal biological processes,  
 146 | pathogenic processes, or responses to an exposure or  
 147 | intervention, including therapeutic interventions. The term  
 148 | includes, but is not limited to, molecular, histologic,  
 149 | radiographic, or physiologic characteristics but does not  
 150 | include an assessment of how a patient feels, functions, or

151 survives.

152 2. "Biomarker testing" means an analysis of a patient's  
153 tissue, blood, or other biospecimen for the presence of a  
154 biomarker. The term includes, but is not limited to, single  
155 analyte tests, multiplex panel tests, protein expression, and  
156 whole exome, whole genome, and whole transcriptome sequencing  
157 performed at a participating in-network laboratory facility that  
158 is certified pursuant to the federal Clinical Laboratory  
159 Improvement Amendment (CLIA) or that has obtained a CLIA  
160 Certificate of Waiver by the United States Food and Drug  
161 Administration for the tests.

162 3. "Clinical utility" means the test result provides  
163 information that is used in the formulation of a treatment or  
164 monitoring strategy that informs a patient's outcome and impacts  
165 the clinical decision.

166 (c) A recipient and participating provider shall have  
167 access to a clear and convenient process to request  
168 authorization for biomarker testing as provided under this  
169 subsection. Such process shall be made readily accessible to all  
170 recipients and participating providers online.

171 (d) This subsection does not require coverage of biomarker  
172 testing for screening purposes.

173 (e) The agency may seek federal approval necessary to  
174 implement this subsection.

175 Section 3. Section 409.9745, Florida Statutes, is created



176 | to read:

177 |       409.9745 Managed care plan biomarker testing.-

178 |       (1) A managed care plan must provide coverage for  
 179 | biomarker testing for recipients, as authorized under s.  
 180 | 409.906, at the same scope, duration, and frequency as the  
 181 | Medicaid program provides for other medically necessary  
 182 | treatments.

183 |       (2) A recipient and health care provider shall have access  
 184 | to a clear and convenient process to request authorization for  
 185 | biomarker testing as provided under this section. Such process  
 186 | shall be made readily accessible on the website of the managed  
 187 | care plan.

188 |       (3) This section does not require coverage of biomarker  
 189 | testing for screening purposes.

190 |       Section 4. This act shall take effect July 1, 2024.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1007 Nicotine Products  
**SPONSOR(S):** Overdorf  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1006

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	11 Y, 1 N	Larkin	Anstead
2) Appropriations Committee		Helpling	Pridgeon
3) Commerce Committee			

### SUMMARY ANALYSIS

The Division of Alcoholic Beverages and Tobacco (Division) within the Department of Business and Professional Regulation (DBPR) is the state agency responsible for the regulation and enforcement of tobacco products under part I of ch. 569, F.S., and nicotine products under part II of ch. 569, F.S.

The bill:

- Provides definitions for “nicotine products manufacturer”, “wholesale nicotine products dealer”, and “wholesale nicotine products dealer permit”.
- Requires manufacturers to certify nicotine products with the Division and provide evidence that they have sought approval with the Food and Drug Administration (FDA).
- Creates a new wholesale nicotine product permit and requires wholesalers who do not have tobacco permit to register, and only buy products on the directory.
- Authorizes the Division to conduct unannounced inspections of nicotine product manufacturers.
- Provides administrative fines and imposes criminal penalties for violations of certain provisions.
- Mandates retail nicotine product permit holders, other than nicotine manufacturers selling direct to consumers, to purchase only from permitted wholesalers and only purchase registered products.
- Modifies retail nicotine product dealer permit requirements.
- Allows law enforcement to seize and destroy non-registered nicotine products.

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

The bill may have a significant negative fiscal impact on state government. See Fiscal Analysis and Economic Impact Statement.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### **Federal Regulation of Tobacco Products**

The Family Smoking Prevention and Tobacco Control Act of 2009 (Tobacco Control Act) gives the U.S. Food and Drug Administration (FDA) authority to regulate the manufacture, distribution, and marketing of tobacco products to protect the public health. The Tobacco Control Act provides advertising and labeling guidelines, provides standards for tobacco products, and requires face-to-face transactions for tobacco sales with certain exceptions.<sup>1</sup>

On August 8, 2016, the FDA extended the definition of “**tobacco product[s]**” regulated under the Act to **include electronic nicotine delivery systems (ENDS)**. ENDS include e-cigarettes, e-cigars, e-hookah, vape pens, personal vaporizers and electronic pipes. Additionally, the definition of tobacco products includes components and parts such as e-liquids, tanks, cartridges, pods, wicks, and atomizers. On April 14, 2022, the FDA’s authority was further expanded to include tobacco products containing nicotine from any source, including synthetic nicotine.<sup>2</sup>

Federal law preempts states from providing additional or different requirements for tobacco products in regards to “standards, premarket review, adulteration, misbranding, labeling, registration, good manufacturing standards, or modified risk tobacco products.” However, federal law explicitly preserves the right of states, or any political subdivision of a state, to enact laws, rules, regulations or other measures related to prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of tobacco products which are more stringent than federal requirements.<sup>3</sup>

#### Registration by Manufacturers

Under federal law, manufacturers<sup>4</sup> are required initially, and annually thereafter, to register the name<sup>5</sup>, places of business, and all such establishments of that manufacturer in any State with the FDA.<sup>6</sup> These manufacturers are required to register any additional places which they own or operate and start to manufacture, prepare, compound, or process a tobacco product or tobacco products.<sup>7</sup>

#### FDA Premarket Review Application Process for Tobacco Products<sup>8</sup>

Before a new tobacco product<sup>9</sup> can be distributed into interstate commerce, the manufacturer is required to submit a marketing application to the FDA and receive authorization.<sup>10</sup> These applications

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<sup>1</sup> Federal Food, Drug, and Cosmetic Act, 21 USC § 351 et seq; 15 U.S.C. s. 1333, s. 1335; 21 U.S.C. s. 387g, s. 387f.

<sup>2</sup> “NTN is the term used to describe nicotine that did not come from a tobacco plant. NTN includes ‘synthetic’ nicotine.” U.S. Food and Drug Administration. *Regulation and Enforcement of Non-Tobacco Nicotine (NTN) Products*, U.S. Food and Drug Administration, [www.fda.gov/tobacco-products/products-ingredients-components/regulation-and-enforcement-non-tobacco-nicotine-ntn-products](http://www.fda.gov/tobacco-products/products-ingredients-components/regulation-and-enforcement-non-tobacco-nicotine-ntn-products) (last visited Jan. 19, 2024).

<sup>3</sup> 21 U.S.C. § 387p.

<sup>4</sup> “The term ‘manufacture, preparation, compounding, or processing’ shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user.” 21 USCA § 387e(a)(1).

<sup>5</sup> “The term ‘name’ shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.” 21 USCA § 387e(a)(2).

<sup>6</sup> 21 USCA § 387e(b)(c).

<sup>7</sup> 21 USCA § 387e(d).

<sup>8</sup> See generally, 21 U.S.C. § 387j.

**STORAGE NAME:** h1007b.APC

**DATE:** 2/7/2024

are reviewed by the FDA to determine whether the product meets the proper requirements to receive marketing authorization. Marketing authorization can be achieved through a Premarket Tobacco Product Application (PMTA), Substantial Equivalence (SE) Report, or Exemption from Substantial Equivalence Request (EX REQ).<sup>11</sup> The FDA may issue a marketing granted order, temporarily suspend a marketing order, withdraw a marketing granted order, or issue a marketing denial order.<sup>12</sup> Preexisting tobacco products were required to submit marketing applications to the FDA and receive authorization by a particular date depending on the kind of tobacco product. A tobacco manufacturer may challenge the FDA's marketing denial.<sup>13</sup> Manufacturers must hold onto records that show their tobacco products are legally on the market.

An applicant may submit a PMTA to demonstrate that a new tobacco product meets the requirements to receive a marketing granted order.<sup>14</sup> The PMTA must contain certain information<sup>15</sup> for the FDA to ascertain whether there are any applicable grounds for a marketing denial order. A PMTA must demonstrate the new tobacco product would be appropriate for the protection of the public health and takes into account the increased or decreased likelihood that existing users of tobacco products will stop using such products, as well as the increased or decreased likelihood that those who do not use tobacco products will start using such products.<sup>16</sup>

A SE Report can be submitted by the tobacco manufacturer to seek an FDA substantially equivalent order. The applicant must provide information on the new tobacco product's characteristics and compare its characteristics to another tobacco product.<sup>17</sup> The SE Report must contain certain information to allow the FDA to determine whether the new tobacco product is substantially equivalent to a tobacco product that was commercially marketed in the United States as of February 15, 2007.<sup>18</sup>

On the other hand, FDA may exempt from the requirements relating to the demonstration that a tobacco product is substantially equivalent tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive if certain conditions are met. An EX REQ from the requirement of showing a substantial equivalence may be made only by the manufacturer of a legally marketed tobacco product for a minor modification to that tobacco product.<sup>19</sup>

The FDA receives millions of applications.<sup>20</sup> **“To date, the FDA has authorized marketing of 45 products, including 23 tobacco-flavored e-cigarette products and devices.”**<sup>21</sup> However, the FDA

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<sup>9</sup> “A ‘new tobacco product’ is defined as any product not commercially marketed in the U.S. as of Feb. 15, 2007, or the modification of a tobacco product where the modified product was commercially marketed in the U.S. after Feb. 15, 2007.” 21 U.S.C. § 387j(1).

<sup>10</sup> *Market and Distribute a Tobacco Product*, U.S. Food and Drug Administration, [www.fda.gov/tobacco-products/products-guidance-regulations/market-and-distribute-tobacco-product](http://www.fda.gov/tobacco-products/products-guidance-regulations/market-and-distribute-tobacco-product) (last visited Jan. 19, 2024).

<sup>11</sup> <https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/tobacco-products-marketing-orders>

<sup>12</sup> 21 U.S.C. § 387j.

<sup>13</sup> See Melissa Kress, *Bat to Challenge FDA's Marketing Denial Order for Flavored Vuse Products*, Convenience Store News, (Oct. 13, 2023), <https://csnews.com/bat-challenge-fdas-marketing-denial-order-flavored-vuse-products> (last visited Jan. 20, 2024).

<sup>14</sup> 21 CFR 1114.5.

<sup>15</sup> The PMTA must include information, such as, full reports of investigations of health risks, effect on the population as a whole, product formulation, statement of compliance and certification, and manufacturing. See 21 CFR § 1114.7(a).

<sup>16</sup> *Supra* note 9.

<sup>17</sup> See 21 CFR 1107.16 and 21 CFR 1107.18.

<sup>18</sup> 21 CFR 1107.18.

<sup>19</sup> 21 CFR 1107.1.

<sup>20</sup> “FDA Makes Determinations on More than 99% of the 26 Million Tobacco.” U.S. Food and Drug Administration, [www.fda.gov/tobacco-products/ctp-newsroom/fda-makes-determinations-more-99-26-million-tobacco-products-which-applications-were-submitted](http://www.fda.gov/tobacco-products/ctp-newsroom/fda-makes-determinations-more-99-26-million-tobacco-products-which-applications-were-submitted) (last visited Jan. 24, 2024).

<sup>21</sup> “Premarket Tobacco Product Marketing Granted Orders”, U.S. Food and Drug Administration, (updated as of Jan. 9, 2024), [www.fda.gov/tobacco-products/premarket-tobacco-product-applications/premarket-tobacco-product-marketing-granted-orders](http://www.fda.gov/tobacco-products/premarket-tobacco-product-applications/premarket-tobacco-product-marketing-granted-orders) (last visited Jan. 24, 2024).

tobacco premarket application process has been challenged. In 2022, the Eleventh Circuit Court of Appeals set aside FDA marketing order denials as arbitrary and capricious<sup>22</sup> because FDA failed to consider relevant factors in evaluating the applications submitted by the six tobacco companies.<sup>23</sup> In 2024, the Fifth Circuit Court of Appeals stated in reference to the tobacco premarketing application process, that [o]ver several years, the Food and Drug Administration sent manufacturers of flavored e-cigarette products on a wild goose chase.<sup>24</sup>

## Florida Regulation of Tobacco and Nicotine Products

The Division of Alcoholic Beverages and Tobacco (Division) within the Department of Business and Professional Regulation (DBPR) is the state agency responsible for the regulation and enforcement of tobacco products under part I of ch. 569, F.S., and nicotine products under part II of ch. 569, F.S. Under Florida law, tobacco products and nicotine products have different definitions. This differs from federal law where tobacco products include nicotine products.

### Regulation of Tobacco Products

“Tobacco products” include loose tobacco leaves, and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing, or chewing.<sup>25</sup>

Section 210.25(11), F.S., relating to the tax on tobacco products other than cigarettes or cigars, defines the term “tobacco products” differently as “loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing.”

“Tobacco products” in either definition does not include nicotine products or nicotine dispensing devices.

Under Section 210.01, F.S.:

“Wholesale dealer” means any person located inside or outside this state who sells cigarettes<sup>26</sup> to retail dealers or other persons for purposes of resale only. Such term shall not include any cigarette manufacturer, export warehouse proprietor, or importer with a valid permit <sup>27</sup>if such person sells or distributes cigarettes in this state only to dealers who are agents and who hold valid and current permits under s. 210.15, F.S. or to any cigarette manufacturer, export warehouse proprietor, or importer who holds a valid and current permit under 26 U.S.C. s. 5712.<sup>28</sup>

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<sup>22</sup> Arbitrary and capricious means “founded on prejudice or preference rather than on reason or fact. ARBITRARY, Black’s Law Dictionary (11th ed. 2019); see also, “[A]n agency action is lawful only if it rests ‘on a consideration of the relevant factors. An agency rule would be arbitrary and capricious if the agency ... entirely failed to consider an important aspect of the problem.” *Bidi Vapor LLC v. U.S. Food & Drug Admin.*, 47 F.4th 1191, 1202 (11th Cir. 2022).

<sup>23</sup> See, *Bidi Vapor LLC v. U.S. Food & Drug Admin.*, 47 F.4th 1191, 1205 (11th Cir. 2022) (where 6 tobacco companies included their proposed marketing and sales-access restrictions in their application, and the FDA marketing denial orders specifically stated that it did not consider the marketing or sales-access-restriction plans in the companies’ applications.).

<sup>24</sup> *Wages & White Lion Investments, L.L.C. v. Food & Drug Admin.*, 90 F.4th 357 (5th Cir. 2024) (the court held that the FDA’s denial of marketing orders was arbitrary and capricious because FDA failed to give manufacturers fair notice of the rules, did not explain or admit a change in position regarding application requirements, and disregarded the tobacco manufacturers’ good faith reliance on previous FDA guidance).

<sup>25</sup> S. 569.002(6), F.S.

<sup>26</sup> “Cigarette” means any roll for smoking, except one of which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition of the material in which the roll is wrapped, which is made wholly or in part of tobacco irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient. S. 210.01(1), F.S.

<sup>27</sup> 26 U.S.C. s. 5712.

<sup>28</sup> S. 210.01(6), F.S.

“Distributing agent” means every person, firm or corporation in this state who acts as an agent for any person, firm or corporation outside or inside the state by receiving cigarettes in interstate or intrastate commerce and storing such cigarettes subject to distribution or delivery upon order from said principal to wholesale dealers and other distributing agents inside or outside this state.<sup>29</sup>

### *Cigarette and Tobacco Products Wholesalers, Distributors, and Manufacturers*

A person must obtain a permit from the Division in order to distribute tobacco products, not including cigarettes or cigars. A person must obtain a permit for each place of business. The fee for such permit is \$25.<sup>30</sup>

A person must obtain a cigarette permit from the Division in order to import, export, manufacture, deal at wholesale, or distribute cigarettes in the state. A person must obtain a permit for each place of business in the state or its principal place of business if the person does not have a business in this state. The fee for such permit is \$100. The Division may only issue permits to persons who are 18 years or older or corporations with officers who are 21 years or older.<sup>31</sup>

### *Retail Tobacco Products Dealers*

In order to sell tobacco products at retail or operate a tobacco products vending machine in Florida, a person must obtain a retail tobacco products dealer permit from the Division. A tobacco products dealer permit holder is allowed to sell nicotine products and nicotine dispensing devices, in addition to tobacco products. A person must obtain a permit for each place of business or premises where tobacco products are sold. Any person who owns, leases, furnishes, or operates a vending machines that dispense tobacco products must also obtain a permit for each machine. The fee for such permit is \$50.<sup>32</sup> The Division may only issue permits to persons who are 21 years or older or corporations with officers who are 21 years or older.<sup>33</sup>

Anyone who deals in tobacco products at retail or allows a vending machine on the premises without a permit is subject to a \$500 fine.<sup>34</sup>

DBPR is required to submit an annual report to the Governor and Legislature regarding the enforcement of tobacco products, including:<sup>35</sup>

- The number and results of compliance visits by the Division;
- The number of violations for failure of a retailer to hold a valid license;
- The number of violations for selling tobacco products to anyone under the age of 21 and the results of administrative hearings on such violations; and
- The number of people under the age of 21 cited, including sanctions imposed as a result of such citation, for misrepresenting their age, purchasing tobacco products underage, and misrepresenting military service for the purpose of obtaining tobacco products underage.

Florida also has an excise tax and surcharge on cigarettes and other tobacco products, not including cigars. The tax and surcharge for cigarettes is \$0.1695 to \$0.42375 per pack and a surcharge of \$0.50 to \$1.25 per pack depending on the number of cigarettes in the pack. The excise tax for tobacco products is 25 percent of the wholesale price and the surcharge is 60 percent of the wholesale price. There is no excise tax or surcharge for nicotine products or nicotine dispensing devices.<sup>36</sup>

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<sup>29</sup> S. 210.01(14), F.S.

<sup>30</sup> S. 210.40, F.S.

<sup>31</sup> S. 210.15, F.S.

<sup>32</sup> S. 569.003, F.S.

<sup>33</sup> S. 569.003, F.S.

<sup>34</sup> S. 569.005, F.S.

<sup>35</sup> S. 569.19, F.S.

<sup>36</sup> Ss. 210.011, 210.02, 210.276, and 210.30, F.S.; DBPR, Alcoholic Beverages & Tobacco – Tax & Reporting Information For Licensees, <http://www.myfloridalicense.com/DBPR/alcoholic-beverages-and-tobacco/tax-and-reporting-information-for-licensees/#1510753842753-25986d10-086f> (last visited Jan. 20, 2024).

## Nicotine Regulations

“Nicotine dispensing device” means any product that employs an electronic, chemical, or mechanical means to produce vapor or aerosol from a nicotine product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of nicotine in a solution or other form intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.

“Nicotine product” means any product that contains nicotine, including liquid nicotine, which is intended for human consumption, whether inhaled, chewed, absorbed, dissolved, or ingested by any means.

### *Retail Nicotine Products Dealers*

The regulations for the sale of nicotine products and nicotine dispensing devices mirror the regulations for the sale of tobacco products. However, nicotine products **do not** have a tax or permit fee similar to tobacco products.

### Administrative Penalties

The Division may suspend or revoke the permit of the retail tobacco products dealer or retail nicotine product dealer upon sufficient cause appearing of the violation of chapter 569. The Division may also assess and accept administrative fines of up to \$1,000 against a dealer for each violation. The Division shall deposit all fines collected into the General Revenue Fund as collected. An order imposing an administrative fine becomes effective 15 days after the date of the order. The Division may suspend the imposition of a penalty against a dealer, conditioned upon the dealer's compliance with terms the Division considers appropriate.<sup>37</sup>

### Consent to inspection and search without warrant

The place or premises covered by a permit for a retail tobacco products dealer or a permit for a retail nicotine product dealer is subject to inspection and search without a search warrant by the Division or its authorized assistants, and by sheriffs, deputy sheriffs, or police officers, to determine compliance with requirements for and dealing.<sup>38</sup>

## **Effect of the Bill**

### **Definitions**

The bill modifies the definition of “nicotine product” by providing that “each individual stock keeping unit is considered a separate nicotine product.” The bill provides the following definitions:

- “Nicotine products manufacturer” means any person that manufactures nicotine products.
- “Wholesale nicotine products dealer” means the holder of a wholesale nicotine products dealer permit who purchases nicotine dispensing devices or nicotine products from any nicotine products manufacturer.
- “Wholesale nicotine products dealer permit” means a permit issued by the division under s. 569.316.

### **Nicotine Directory**

#### Submission of Form and Applicable Copy Page for Certification

The bill requires every nicotine products manufacturer that sells nicotine products in Florida to execute and deliver a form, prescribed by the Division under penalty of perjury for each nicotine product sold that meets either of the following criteria:

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<sup>37</sup> Ss. 569.006 and 569.35, F.S.

<sup>38</sup> Ss. 569.004 and 569.33, F.S.



- The nicotine product manufacturer has applied for a marketing order for the nicotine product derived from a tobacco source or nontobacco source by submitting a premarket tobacco product application to the FDA under certain conditions, AND
  - The premarket tobacco product application for the nicotine product remains under review by the FDA, and neither a marketing authorization nor a marketing denial order has been issued, OR
  - The FDA issued a marketing denial order for the nicotine product, but the FDA or a federal court issued a stay or an injunction during the pendency of the manufacturer's appeal of the marketing denial order or either the order has been appealed to the FDA or a challenge to the order has been filed with a federal court and the appeal or challenge is still pending
- The nicotine products manufacturer has received a marketing authorization or other authorization, such as the SE or EX REQ, for the nicotine product from the FDA.

The Division's form must require each nicotine products manufacturer to set forth:

- the name under which the nicotine products manufacturer transacts or intends to transact business,
- the address of the location of the nicotine products manufacturer's principal place of business,
- the nicotine products manufacturer's e-mail address, and
- any other information the division requires.

The bill provides that the Division may allow a nicotine products manufacturer to group its nicotine products on its certification.

In addition to completing the form prescribed by the Division, each nicotine products manufacturer is required to provide a copy of the cover page of the premarket tobacco application with evidence of the receipt of the application by the FDA, or a copy of the cover page of the marketing authorization or other authorization issued by the FDA, whichever is applicable.

After the nicotine manufacturer submits the form and the applicable cover page ("the certification") as prescribed under the bill to the Division, nicotine manufacturer must notify the Division of any material change to the certification, including, but not limited to, issuance by the FDA of any of the following:

- A market authorization or authorization;
- An marketing order requiring a nicotine products manufacturer to remove a product from the market either temporarily or permanently;
- Any notice of action taken by the FDA affecting the ability of the nicotine product to be introduced or delivered in this state for commercial distribution;
- Any change in policy which results in a nicotine product no longer being exempt from federal enforcement oversight; or
- Any other change deemed material by the division pursuant to a rule of the Division.

The bill provides that a nicotine products manufacturer that falsely represents any of the information in the form prescribed by the Division or the applicable copy page in the certification process commits a felony of the third degree for each false representation.

### Directory

The bill requires the Division to develop and maintain a directory listing all the nicotine products certified with the Division which comply with the requirements discussed above. On January 1, 2025, the Division must make the directory available on the DBPR website, and update the directory as necessary.

The bill provides that a determination by the Division not to include or remove from the directory a nicotine products manufacturer or nicotine product is subject to review under the Florida Administrative

Procedure Act. If a nicotine products manufacturer seeks review of the decision to remove it from the directory, the Division must keep the nicotine product on the directory until conclusion of the hearing.

#### Process for Removal from the Directory

The bill requires that the Division provide a nicotine products manufacturer notice and an opportunity to cure deficiencies before removing the manufacturer or its nicotine product from the directory. The Division may not remove the nicotine products manufacturer or its nicotine product from the directory until at least 15 days after the nicotine products manufacturer has been given notice of an intended action. Notice is sufficient and deemed immediately received by a nicotine products manufacturer if the notice is sent either electronically or by facsimile to an e-mail address or facsimile number provided by the nicotine products manufacturer in its most recent certification filed. The bill provides that the nicotine products manufacturer has 15 days from the date of service of the notice of the Division's intended action to establish that the nicotine products manufacturer or its nicotine product should be included in the directory.

The bill provides a process for retailers and wholesalers if a nicotine product is removed from the directory. Each retailer and wholesaler have 21 days from when the such product is removed from the directory to remove the product from its inventory and return the nicotine product to the nicotine products manufacturer. Each nicotine products manufacturer shall provide to the Division information regarding the return of such product and how the returned product was disposed of within 21 days after receipt. After 21 days following removal from the directory, the product identified in the notice of removal is contraband.

#### Nicotine Products Not Listed on the Directory

The bill provides that beginning March 1, 2025, or on the date that the Division first makes the directory available for public inspection on its or the DBPR's website, whichever is later, a nicotine products manufacturer that offers for sale a nicotine product not listed on the directory is subject to a fine of \$1,000 per day for each nicotine product offered for sale in violation of this section until the offending product is removed from the market or until the offending product is properly listed on the directory.

#### Unannounced Inspections

The bill provides that each retail nicotine products dealer and wholesale nicotine products dealer is subject to unannounced inspections or audit checks by the Division for purposes of enforcing compliance with the certification process and the directory. The Division is required under the bill to conduct unannounced follow-up compliance checks of all noncompliant retail nicotine products dealers or wholesale nicotine products dealers within 30 days after a violation. The bill requires the Division to publish the results of all inspections at least annually and make the results available to the public on request.

#### Certification Renewal

The bill gives the Division rule making authority to develop a procedure to allow nicotine products manufacturers to renew certifications without having to resubmit all the information for the certification process.

## **Maintenance and inspection of nicotine product records**

The bill provides that each nicotine products manufacturer must keep for a period of 3 years, at the address listed on the certification:

- a complete and accurate record of the sales of each nicotine product sold or the amount of nicotine products delivered to a wholesaler in Florida, and
- to whom each nicotine product was sold on a wholesale basis, including the business name, license number, shipping and business addresses, e-mail address, and telephone number for the person or entity to which each product was sold. Such records may be kept in an electronic or paper format.

The bill provides similar maintenance requirements for retail nicotine products dealers; wholesale nicotine products dealers; wholesale dealers, and distributing agent. They must keep a record of the amount of each nicotine product received, delivered, or sold in Florida and to whom each nicotine product was sold or delivered or from whom they received each nicotine product, including the business name, license number, shipping and business addresses, e-mail address, and telephone number for the person or entity to which each product was sold or delivered or from which each product was received. The records are allowed to kept in electronic or paper format.

Upon request by the Division, a nicotine products manufacturer, including a nicotine products manufacturer selling nicotine products directly to consumers; a retail nicotine products dealer; a wholesale nicotine products dealer; a wholesale dealer, and a distributing agent provide such records. The bill provides that the Division is allowed to examine such records, issue subpoenas to such persons or entities; administer oaths; and take depositions of witnesses within or outside of Florida. For each violation regarding maintenance and inspection of records, the Division may assess an administrative fine of up to \$1,000. The Division shall deposit all fines collected into the General Revenue Fund. An order imposing an administrative fine becomes effective 15 days after the date of the order.

## **Shipment of unregistered nicotine products into Florida**

The bill prohibits a nicotine products manufacturer from distributing nicotine products in Florida which:

- there is an FDA order requiring the nicotine products manufacturer to remove the product from the market either temporarily or permanently;
- has not submitted a premarket tobacco product application; or
- has not submitted the certification required for the nicotine product.

The bill states that a nicotine products manufacturer who knowingly distributes an unregistered nicotine product, which is described above, commits a first degree misdemeanor. The Division may also impose an administrative fine up to \$5,000 for each violation. The Division shall deposit all fines collected into the General Revenue Fund. An order imposing an administrative fine becomes effective 15 days after the date of the order.

## **Wholesale nicotine products dealer**

The bill creates a wholesale nicotine products dealer permit which is issued by the Division. The bill language for a wholesale nicotine products dealer permits mirrors the requirements for a retail tobacco dealer and a retail nicotine dealer. The bill provides that a wholesale dealer or a distributing agent is not required to have a separate or additional wholesale nicotine products dealer permit to deal, at wholesale, in nicotine products in Florida. Furthermore, the bill states that a wholesale dealer, a distributing agent, or a tobacco products distributor, which deals, at wholesale, in nicotine products is subject to, and must be in compliance with ch. 569, F.S., regarding nicotine and tobacco.

The bill requires that wholesale nicotine products dealer may only purchase and sell nicotine products contained on the directory created by the Division. The Division may suspend or revoke the permit of a

wholesale nicotine products dealer if the dealer fails to comply. The Division may also impose an administrative fine up to \$5,000 for each violation. The Division shall deposit all fines collected into the General Revenue Fund. An order imposing an administrative fine becomes effective 15 days after the date of the order.

The bill provides that the place or premises covered by a permit for a wholesale nicotine product dealer is subject to inspection and search without a search warrant by the Division or its authorized assistants, and by sheriffs, deputy sheriffs, or police officers, to determine compliance with requirements.

### **Retail nicotine products dealer**

The bill provides that retail nicotine products dealer permits may be renewed each year. Under the bill, a retail nicotine products dealer that does not timely renew its permit must pay a late fee of \$5 for each month or portion of a month occurring after expiration, and before renewal, of the dealer's permit. The Division shall establish by rule a renewal procedure that, to the greatest extent feasible, combines the application and permitting procedure for permits with the application and licensing system for alcoholic beverages. The bill forbids the Division from granting an exemption from the permit fees for any applicant.

The bill provides that on or after March 1, 2025, it is unlawful for a person, a firm, an association, or a corporation to deal, at retail, in nicotine products that are not listed on the Division's directory. Any person who knowingly ships or receives such nicotine products commits a misdemeanor of the second degree.

The bill provides that on or after January 1, 2025, it is unlawful for a retail nicotine products dealer to purchase nicotine products from a wholesaler, manufacturer, or other source that is not a wholesale nicotine products dealer permitholder, a wholesale dealer, a distributing agent, or a tobacco products distributor. The bill states that any person who knowingly ships or receives nicotine products in violation of this section commits a misdemeanor of the second degree. The Division may suspend or revoke a retail nicotine products permit and may also assess an administrative fine of up to \$1,000 for each violation.

### **Seizure and destruction of contraband nicotine products**

The bill declares all nicotine products sold in contravention of ch. 569, F.S., to be contraband. The contraband may be searched and seized per the Florida Contraband Forfeiture Act. The bill requires that a Judge order the destruction and forfeiture of contraband nicotine products. The bill requires that the Division document the place where the contraband was seized, the kind and quantities of contraband seized, the cost of destruction, the time, place, and manner of destruction, the chain of custody of the contraband, and the cost of destruction.

## **B. SECTION DIRECTORY:**

Section 1: amending s. 569.31, F.S., relating to definitions.

Section 2: creating s. 569.311, F.S., relating to nicotine directory.

Section 3: creating s. 569.312, F.S., relating to maintenance and inspection of nicotine product records.

Section 4: creating s. 569.313, F.S., relating to shipment of unregistered nicotine products.

Section 5: creating s. 569.316, F.S., relating to wholesale nicotine products dealer permits.

Section 6: creating s. 569.317, F.S., relating to wholesale nicotine products dealer permitholder and administrative penalties.

Section 7: amending s. 569.32, F.S., relating to retail nicotine products dealer permits.

Section 8: amending s. 569.33, F.S., relating to consent to inspection and search without warrant.

Section 9: amending s. 569.34, F.S., relating to operating without a retail nicotine products dealer permit.

Section 10: creating s. 569.345, F.S., relating to contraband nicotine products.

Section 11: amending s. 569.31, F.S., relating to definitions.  
Section 12: providing an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill establishes new fines and penalties that the Division may impose. The revenue generated from these penalties will vary each year depending on the number of violations enforced.

#### 2. Expenditures:

DBPR estimates that the Division will need an additional 16.00 FTE and \$1,304,523 of budget authority (\$111,378 nonrecurring) to implement the bill.<sup>39</sup>

However, as of February 6, 2024, the Division has 24.50 vacant FTE that are either Law Enforcement, Investigative, or Regulatory positions. Of these positions, 10.5 have been vacant for a year or longer.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

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

Businesses that are distributing nicotine products and operating as manufacturers, retailers, or wholesales will be penalized by fines or a criminal offense if they are distributing nicotine products without being on the directory or without proper permitting.

### D. FISCAL COMMENTS:

Collected fines established in the bill are to be deposited into the General Revenue Fund. However, the Division currently deposits fines and other revenues into the Alcoholic Beverage and Tobacco Trust Fund. These funds are used for the purposes of operating the Division as requested by DBPR in their legislative budget request.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

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

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<sup>39</sup> Florida Department of Business and Professional Regulation, Agency Analysis of 2024 Senate Bill 1006, p. 6 (Dec. 20, 2023).

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill empowers the Division to develop and maintain a directory listing all the certified nicotine products and to develop a procedure to allow nicotine products manufacturers to renew certifications without having to resubmit all the information for the certification process. The bill provides that the Division must develop a form for the nicotine manufacturers to certify their businesses and nicotine products.

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

There are parts of the bill that have unclear language or misuse legal terms. The bill also uses the term “certification” and “registration” interchangeably.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
2           An act relating to nicotine products; reordering and  
3           amending s. 569.31, F.S.; revising and defining terms  
4           for purposes of part II of ch. 569, F.S.; creating s.  
5           569.311, F.S.; requiring nicotine products  
6           manufacturers to execute and deliver a form, under  
7           penalty of perjury, to the Division of Alcoholic  
8           Beverages and Tobacco of the Department of Business  
9           and Professional Regulation for each product sold  
10          within this state which meets certain criteria;  
11          specifying requirements for the form prescribed by the  
12          division; requiring manufacturers to submit certain  
13          additional materials when submitting the form to the  
14          division; requiring a manufacturer to notify the  
15          division of certain events; requiring the division to  
16          develop and maintain a directory listing certified  
17          nicotine products manufacturers and certified nicotine  
18          products by a specified date; specifying requirements  
19          for the directory; providing procedures and notice to  
20          manufacturers for removal of the manufacturer or any  
21          of its products from the directory; providing for  
22          administrative review of action by the division  
23          regarding the directory; requiring manufacturers to  
24          take certain actions upon a product's removal from the  
25          directory; providing penalties for certain violations

26 by manufacturers; subjecting retail and wholesale  
27 nicotine products dealers to inspections or audits to  
28 ensure compliance; requiring the division to publish  
29 findings of such inspections and audits and make them  
30 available to the public; authorizing the division to  
31 adopt certain procedures by rule; creating s. 569.312,  
32 F.S.; requiring specified manufacturers and dealers of  
33 nicotine products to maintain certain records for a  
34 specified timeframe; requiring such manufacturers and  
35 dealers to timely comply with division requests to  
36 produce records; authorizing the division to examine  
37 such records for specified purposes; providing for  
38 enforcement; authorizing the division to assess  
39 administrative fines for noncompliance and to deposit  
40 them into the General Revenue Fund; creating s.  
41 569.313, F.S.; prohibiting the sale, shipment, or  
42 distributing of certain nicotine products into this  
43 state; providing a criminal penalty; authorizing the  
44 division to assess fines and deposit them into the  
45 General Revenue Fund; creating s. 569.316, F.S.;  
46 requiring persons or entities that seek to deal or  
47 sell certain nicotine products or dispensing devices  
48 to retail dealers to obtain a wholesale nicotine  
49 products dealer permit; specifying requirements and  
50 limitations regarding the issuance of such permits;



51 specifying conditions under which the division may  
52 refuse to issue a permit; providing requirements and  
53 limitations for permitholders; providing construction;  
54 creating s. 569.317, F.S.; requiring wholesale  
55 nicotine products dealer permitholders to sell only  
56 nicotine products listed in the division's directory;  
57 authorizing the division to revoke or suspend a permit  
58 if a violation is deemed to have occurred; authorizing  
59 the division to assess administrative penalties for  
60 violations and to deposit them into the General  
61 Revenue Fund; amending s. 569.32, F.S.; requiring that  
62 retail nicotine products dealer permits be issued  
63 annually; providing procedures for the renewal of  
64 permits; requiring the division to levy a delinquent  
65 fee under certain circumstances; requiring the  
66 division to adopt by rule a certain procedure for the  
67 submittal of applications; prohibiting the division  
68 from granting exemptions from permit fees; amending s.  
69 569.33, F.S.; providing that holders of a wholesale  
70 nicotine products dealer permit must consent to  
71 certain inspections and searches without a warrant;  
72 amending s. 569.34, F.S.; providing criminal penalties  
73 for the unlawful sale or dealing of unlisted nicotine  
74 products; providing criminal penalties for the  
75 unauthorized purchase of certain nicotine products;

76 | authorizing the division to suspend or revoke a permit  
 77 | of a permitholder upon sufficient cause of a violation  
 78 | of part II of ch. 569, F.S.; authorizing the division  
 79 | to assess an administrative penalty for violations and  
 80 | deposit them into the General Revenue Fund; creating  
 81 | s. 569.345, F.S.; providing for the seizure and  
 82 | destruction of unlawful nicotine products in  
 83 | accordance with the Florida Contraband Forfeiture Act;  
 84 | requiring a court with jurisdiction to take certain  
 85 | action; requiring the division to maintain certain  
 86 | records; requiring that costs be borne by the person  
 87 | who held the seized products; amending s. 569.002,  
 88 | F.S.; conforming cross-references to changes made by  
 89 | the act; providing an effective date.

90 |

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

92 |

93 | Section 1. Section 569.31, Florida Statutes, is reordered  
 94 | and amended to read:

95 | 569.31 Definitions.—As used in this part, the term:

96 | (2)~~(1)~~ "Dealer" is synonymous with the term "retail  
 97 | nicotine products dealer."

98 | (3)~~(2)~~ "Division" means the Division of Alcoholic  
 99 | Beverages and Tobacco of the Department of Business and  
 100 | Professional Regulation.

101           (4) "FDA" means the United States Food and Drug  
 102 Administration.

103           ~~(5)-(3)~~ "Nicotine dispensing device" means any product that  
 104 employs an electronic, chemical, or mechanical means to produce  
 105 vapor or aerosol from a nicotine product, including, but not  
 106 limited to, an electronic cigarette, electronic cigar,  
 107 electronic cigarillo, electronic pipe, or other similar device  
 108 or product, any replacement cartridge for such device, and any  
 109 other container of nicotine in a solution or other form intended  
 110 to be used with or within an electronic cigarette, electronic  
 111 cigar, electronic cigarillo, electronic pipe, or other similar  
 112 device or product.

113           ~~(6)-(4)~~ "Nicotine product" means any product that contains  
 114 nicotine, including liquid nicotine, which is intended for human  
 115 consumption, whether inhaled, chewed, absorbed, dissolved, or  
 116 ingested by any means. The term also includes any nicotine  
 117 dispensing device. For purposes of this definition, each  
 118 individual stock keeping unit is considered a separate nicotine  
 119 product. The term does not include a:

- 120           (a) Tobacco product, as defined in s. 569.002;
- 121           (b) Product regulated as a drug or device by the United  
 122 States Food and Drug Administration under Chapter V of the  
 123 Federal Food, Drug, and Cosmetic Act; or
- 124           (c) Product that contains incidental nicotine.

125           (7) "Nicotine products manufacturer" means any person that

126 manufactures nicotine products.

127 ~~(8)-(5)~~ "Permit" is synonymous with the term "retail  
128 nicotine products dealer permit."

129 ~~(9)-(6)~~ "Retail nicotine products dealer" means the holder  
130 of a retail nicotine products dealer permit.

131 ~~(10)-(7)~~ "Retail nicotine products dealer permit" means a  
132 permit issued by the division under s. 569.32.

133 ~~(11)-(8)~~ "Self-service merchandising" means the open  
134 display of nicotine products, whether packaged or otherwise, for  
135 direct retail customer access and handling before purchase  
136 without the intervention or assistance of the dealer or the  
137 dealer's owner, employee, or agent. An open display of such  
138 products and devices includes the use of an open display unit.

139 ~~(12)~~ "Wholesale nicotine products dealer" means the holder  
140 of a wholesale nicotine products dealer permit who purchases  
141 nicotine dispensing devices or nicotine products from any  
142 nicotine products manufacturer.

143 ~~(13)~~ "Wholesale nicotine products dealer permit" means a  
144 permit issued by the division under s. 569.316.

145 ~~(1)-(9)~~ "Any person under the age of 21" does not include  
146 any person under the age of 21 who:

147 (a) Is in the military reserve or on active duty in the  
148 Armed Forces of the United States; or

149 (b) Is acting in his or her scope of lawful employment.

150 Section 2. Section 569.311, Florida Statutes, is created

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151 to read:

152 569.311 Nicotine product directory.-

153 (1) Every nicotine products manufacturer that sells  
154 nicotine products in this state shall execute and deliver a  
155 form, prescribed by the division, under penalty of perjury for  
156 each nicotine product sold that meets either of the following  
157 criteria:

158 (a) A nicotine product which contains nicotine derived  
159 from a tobacco source and was on the market in the United States  
160 as of August 8, 2016, and the manufacturer has applied for a  
161 marketing order pursuant to 21 U.S.C. s. 387j for the nicotine  
162 product by submitting a premarket tobacco product application on  
163 or before September 9, 2020, to the FDA, or the nicotine product  
164 contains nicotine derived from a non-tobacco source and was on  
165 the market in the United States as of April 14, 2022, and the  
166 manufacturer has applied for a marketing order pursuant to 21  
167 U.S.C. s. 387j for the nicotine product containing nicotine  
168 derived from a non-tobacco source by submitting a premarket  
169 tobacco product application on or before May 14, 2022, and:

170 1. The premarket tobacco product application for the  
171 nicotine product remains under review by the FDA, and neither a  
172 marketing authorization nor a marketing denial order has been  
173 issued; or

174 2. The FDA issued a marketing denial order for the  
175 nicotine product, but the FDA or a federal court issued a stay

176 or an injunction during the pendency of the manufacturer's  
177 appeal of the marketing denial order or either the order has  
178 been appealed to the FDA or a challenge to the order has been  
179 filed with a federal court and the appeal or challenge is still  
180 pending.

181 (b) The nicotine products manufacturer has received a  
182 marketing authorization or other authorization under 21 U.S.C.  
183 s. 387j for the nicotine product from the FDA.

184 (2) The form prescribed by the division pursuant to  
185 subsection (1) must require each nicotine products manufacturer  
186 to set forth the name under which the nicotine products  
187 manufacturer transacts or intends to transact business, the  
188 address of the location of the nicotine products manufacturer's  
189 principal place of business, the nicotine products  
190 manufacturer's e-mail address, and any other information the  
191 division requires. The division may allow a nicotine products  
192 manufacturer to group its nicotine products on its  
193 certification.

194 (3) In addition to completing the form prescribed by the  
195 division pursuant to subsection (1), each nicotine products  
196 manufacturer shall provide a copy of the cover page of the  
197 premarket tobacco application with evidence of the receipt of  
198 the application by the FDA, or a copy of the cover page of the  
199 marketing authorization or other authorization issued pursuant  
200 to 21 U.S.C. s. 387j, whichever is applicable.

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201       (4) Any nicotine products manufacturer submitting a  
202 certification pursuant to subsection (1) shall notify the  
203 division within 30 days after any material change to the  
204 certification, including, but not limited to, issuance by the  
205 FDA of any of the following:

206       (a) A market authorization or authorization pursuant to 21  
207 U.S.C. s. 387j;

208       (b) An order requiring a nicotine products manufacturer to  
209 remove a product from the market either temporarily or  
210 permanently;

211       (c) Any notice of action taken by the FDA affecting the  
212 ability of the nicotine product to be introduced or delivered in  
213 this state for commercial distribution;

214       (d) Any change in policy which results in a nicotine  
215 product no longer being exempt from federal enforcement  
216 oversight; or

217       (e) Any other change deemed material by the division  
218 pursuant to a rule of the division.

219       (5) The division shall develop and maintain a directory  
220 listing all nicotine products manufacturers and the nicotine  
221 products certified with the division which comply with this  
222 section. The division shall make the directory available January  
223 1, 2025, on its or the Department of Business and Professional  
224 Regulation's website. The division shall update the directory as  
225 necessary.

226       (6) The division shall provide a nicotine products  
227 manufacturer notice and an opportunity to cure deficiencies  
228 before removing the manufacturer or its nicotine product from  
229 the directory.

230       (a) The division may not remove the nicotine products  
231 manufacturer or its nicotine product from the directory until at  
232 least 15 days after the nicotine products manufacturer has been  
233 given notice of an intended action. Notice is sufficient and  
234 deemed immediately received by a nicotine products manufacturer  
235 if the notice is sent either electronically or by facsimile to  
236 an e-mail address or facsimile number provided by the nicotine  
237 products manufacturer in its most recent certification filed  
238 under subsection (1).

239       (b) The nicotine products manufacturer has 15 days from  
240 the date of service of the notice of the division's intended  
241 action to establish that the nicotine products manufacturer or  
242 its nicotine product should be included in the directory.

243       (c) A determination by the division not to include or to  
244 remove from the directory a nicotine products manufacturer or  
245 nicotine product is subject to review under chapter 120. If a  
246 nicotine products manufacturer seeks review of removal from the  
247 directory, the division must keep the nicotine product on the  
248 directory until conclusion of the hearing.

249       (d) If a nicotine product is removed from the directory,  
250 each retailer and wholesaler has 21 days from the day such



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251 product is removed from the directory to remove the product from  
252 its inventory and return the product to the manufacturer. Each  
253 nicotine products manufacturer shall provide to the division  
254 information regarding the return of such product and how the  
255 returned product was disposed of within 21 days after receipt.  
256 After 21 days following removal from the directory, the product  
257 identified in the notice of removal is contraband and subject to  
258 s. 569.345.

259 (7) Beginning March 1, 2025, or on the date that the  
260 division first makes the directory available for public  
261 inspection on its or the Department of Business and Professional  
262 Regulation's website, whichever is later, a nicotine products  
263 manufacturer that offers for sale a nicotine product not listed  
264 on the directory is subject to a fine of \$1,000 per day for each  
265 nicotine product offered for sale in violation of this section  
266 until the offending product is removed from the market or until  
267 the offending product is properly listed on the directory.

268 (8) A nicotine products manufacturer that falsely  
269 represents any of the information required by subsection (1) or  
270 subsection (2) commits a felony of the third degree for each  
271 false representation, punishable as provided in s. 775.082 or s.  
272 775.083.

273 (9) Each retail nicotine products dealer and wholesale  
274 nicotine products dealer is subject to unannounced inspections  
275 or audit checks by the division for purposes of enforcing this

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276 section. The division shall conduct unannounced follow-up  
277 compliance checks of all noncompliant retail nicotine products  
278 dealers or wholesale nicotine products dealers within 30 days  
279 after any violation of this section. The division shall publish  
280 the results of all inspections or audits at least annually and  
281 shall make the results available to the public on request.

282 (10) The division may establish by rule a procedure to  
283 allow nicotine products manufacturers to renew certifications  
284 without having to resubmit all the information required by this  
285 section.

286 Section 3. Section 569.312, Florida Statutes, is created  
287 to read:

288 569.312 Maintenance and inspection of nicotine product  
289 records.—

290 (1) Each nicotine products manufacturer shall maintain and  
291 keep for a period of 3 years, at the address listed on the  
292 certification required pursuant to s. 569.311, a complete and  
293 accurate record of the amount of each nicotine product sold or  
294 delivered to a wholesaler in this state and to whom each  
295 nicotine product was sold on a wholesale basis, including the  
296 business name, license number, shipping and business addresses,  
297 e-mail address, and telephone number for the person or entity to  
298 which each product was sold. Such records may be kept in an  
299 electronic or paper format.

300 (2) Each retail nicotine products dealer; wholesale

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301 nicotine products dealer; wholesale dealer, as defined in s.  
302 210.01(6); and distributing agent, as defined in s. 210.01(14),  
303 shall maintain and keep for a period of 3 years at its principal  
304 place of business a complete and accurate record of the amount  
305 of each nicotine product received, delivered, or sold in this  
306 state and to whom each nicotine product was sold or delivered or  
307 from whom they received each nicotine product, including the  
308 business name, license number, shipping and business addresses,  
309 e-mail address, and telephone number for the person or entity to  
310 which each product was sold or delivered or from which each  
311 product was received. Such records may be kept in an electronic  
312 or paper format.

313 (3) Nicotine products manufacturers; retail nicotine  
314 products dealers; wholesale nicotine products dealers; wholesale  
315 dealers, as defined in s. 210.01(6); and distributing agents, as  
316 defined in s. 210.01(14), who sell or deliver nicotine products  
317 directly to consumers are not required to keep and maintain the  
318 name, address, e-mail address, and telephone number of consumers  
319 who purchase or receive nicotine products.

320 (4) Upon request by the division, a nicotine products  
321 manufacturer, including a nicotine products manufacturer selling  
322 nicotine products directly to consumers; a retail nicotine  
323 products dealer; a wholesale nicotine products dealer; a  
324 wholesale dealer, as defined in s. 210.01(6); and a distributing  
325 agent, as defined in s. 210.01(14), shall timely provide to the

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326 division or its duly authorized representative copies of records  
327 related to the nicotine products received, delivered, or sold in  
328 this state and to whom those nicotine products were sold or  
329 delivered or from whom they were received.

330 (5) The division, or a designated employee thereof, may  
331 examine the records required to be maintained by each nicotine  
332 products manufacturer, retail nicotine products dealer,  
333 wholesale nicotine products dealer, wholesale dealer, as defined  
334 in s. 210.01(6), and distributing agent, as defined in s.  
335 210.01(14); issue subpoenas to such persons or entities;  
336 administer oaths; and take depositions of witnesses within or  
337 outside of this state. The civil law of this state regarding  
338 enforcing obedience to a subpoena lawfully issued by a judge or  
339 other person duly authorized to issue subpoenas under the laws  
340 of this state in civil cases applies to a subpoena issued by the  
341 division, or any designated employee thereof. The subpoena may  
342 be enforced by writ of attachment issued by the division, or any  
343 designated employee, for such witness to compel him or her to  
344 attend before the division, or any designated employee, and give  
345 his or her testimony and to bring and produce such records as  
346 may be required for examination. The division, or any designated  
347 employee, may bring an action against a witness who refuses to  
348 appear or give testimony by citation before the circuit court  
349 which shall punish such witness for contempt as in cases of  
350 refusal to obey the orders and process of the circuit court. The

351 division may in such cases pay such attendance and mileage fees  
 352 as are permitted to be paid to witnesses in civil cases  
 353 appearing before the circuit court.

354 (6) The division may assess an administrative fine of up  
 355 to \$1,000 for each violation of this section. The division shall  
 356 deposit all fines collected into the General Revenue Fund. An  
 357 order imposing an administrative fine becomes effective 15 days  
 358 after the date of the order.

359 Section 4. Section 569.313, Florida Statutes, is created  
 360 to read:

361 569.313 Shipment of unregistered nicotine products into  
 362 this state.-

363 (1) A nicotine products manufacturer may not sell, ship,  
 364 or otherwise distribute a nicotine product in this state for  
 365 which:

366 (a) The FDA has entered an order requiring the nicotine  
 367 products manufacturer to remove the product from the market  
 368 either temporarily or permanently, which order has not been  
 369 stayed by the FDA or a court of competent jurisdiction;

370 (b) The nicotine products manufacturer has not submitted a  
 371 premarket tobacco product application; or

372 (c) The nicotine products manufacturer has not submitted  
 373 the certification required under this chapter for the nicotine  
 374 product.

375 (2) Any person who knowingly ships or receives nicotine

376 products in violation of this section commits a misdemeanor of  
377 the first degree, punishable as provided in s. 775.082 or s.  
378 775.083.

379 (3) The division may also assess an administrative fine of  
380 up to \$5,000 for each violation. The division shall deposit all  
381 finances collected into the General Revenue Fund. An order imposing  
382 an administrative fine becomes effective 15 days after the date  
383 of the order.

384 Section 5. Section 569.316, Florida Statutes, is created  
385 to read:

386 569.316 Wholesale nicotine products dealer permits;  
387 application; qualifications; renewal; duplicates.—

388 (1)(a) Each person, firm, association, or corporation that  
389 seeks to deal, at wholesale, in nicotine products within this  
390 state, or to sell nicotine products or nicotine dispensing  
391 devices to any retail nicotine products dealer, must obtain a  
392 wholesale nicotine products dealer permit for each place of  
393 business or premises at which nicotine products are sold.

394 (b) Application for a wholesale nicotine products dealer  
395 permit must be made on a form furnished by the division and must  
396 set forth the name under which the applicant transacts or  
397 intends to transact business, the address of the location of the  
398 applicant's place of business, the applicant's e-mail address,  
399 and any other information the division requires. If the  
400 applicant has or intends to have more than one place of business

401 dealing in nicotine products, a separate application must be  
402 made for each place of business. If the applicant is a firm or  
403 an association, the application must set forth the names, e-mail  
404 addresses, and addresses of the persons constituting the firm or  
405 association. If the applicant is a corporation, the application  
406 must set forth the names, e-mail addresses, and addresses of the  
407 principal officers of the corporation. The application must also  
408 set forth any other information prescribed by the division for  
409 the purpose of identifying the applicant firm, association, or  
410 corporation. The application must be signed and verified by oath  
411 or affirmation by the owner, if a sole proprietor; or, if the  
412 owner is a firm, association, or partnership, by the members or  
413 partners thereof; or, if the owner is a corporation, by an  
414 executive officer of the corporation or by a person authorized  
415 by the corporation to sign the application, together with the  
416 written evidence of this authority.

417 (2)(a) Wholesale nicotine products dealer permits may be  
418 issued only to persons who are 21 years of age or older or to  
419 corporations the officers of which are 21 years of age or older.

420 (b) The division may refuse to issue a wholesale nicotine  
421 products dealer permit to any person, firm, association, or  
422 corporation whose permit has been revoked; to any corporation an  
423 officer of which has had such permit revoked; or to any person  
424 who is or has been an officer of a corporation whose permit has  
425 been revoked. The division must revoke any wholesale nicotine

426 products dealer permit issued to a firm, an association, or a  
427 corporation prohibited from obtaining such permit under this  
428 chapter.

429 (3) Upon approval of an application for a wholesale  
430 nicotine products dealer permit, the division shall issue to the  
431 applicant a wholesale nicotine products dealer permit for the  
432 place of business or premises specified in the application. A  
433 wholesale nicotine products dealer permit is not assignable and  
434 is valid only for the person in whose name the wholesale  
435 nicotine products dealer permit is issued and for the place  
436 designated in the wholesale nicotine products dealer permit. The  
437 wholesale nicotine products dealer permit must be conspicuously  
438 displayed at all times at the place for which it is issued.

439 (4) A wholesale dealer, as defined in s. 210.01(6), or a  
440 distributing agent, as defined in s. 210.01(14), is not required  
441 to have a separate or additional wholesale nicotine products  
442 dealer permit to deal, at wholesale, in nicotine products within  
443 this state. A wholesale dealer, as defined in s. 210.01(6), a  
444 distributing agent, as defined in s. 210.01(14), or a tobacco  
445 products distributor, as defined in s. 210.25(5), which deals,  
446 at wholesale, in nicotine products is subject to, and must be in  
447 compliance with, this chapter.

448 Section 6. Section 569.317, Florida Statutes, is created  
449 to read:

450 569.317 Wholesale nicotine products dealer permitholder;



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451 administrative penalties.—A wholesale nicotine products dealer  
452 permitholder may only purchase and sell nicotine products  
453 contained on the directory created by the division pursuant to  
454 s. 569.311. The division may suspend or revoke the wholesale  
455 nicotine products dealer permit of a wholesale nicotine products  
456 dealer permitholder upon sufficient cause appearing of a  
457 violation of this part by a wholesale nicotine products dealer  
458 permitholder or its agent or employee. The division may also  
459 assess an administrative fine of up to \$5,000 for each  
460 violation. The division shall deposit all fines collected into  
461 the General Revenue Fund. An order imposing an administrative  
462 fine becomes effective 15 days after the date of the order. The  
463 division may suspend the imposition of a penalty against a  
464 wholesale nicotine products dealer permitholder, conditioned  
465 upon compliance with terms the division considers appropriate.

466 Section 7. Section 569.32, Florida Statutes, is amended to  
467 read:

468 569.32 Retail nicotine products dealer permits;  
469 application; qualifications; renewal; duplicates.—

470 (1)(a) Each person, firm, association, or corporation that  
471 seeks to deal, at retail, in nicotine products within this ~~the~~  
472 state, or to allow a nicotine products vending machine to be  
473 located on its premises in this ~~the~~ state, must obtain a retail  
474 nicotine products dealer permit for each place of business or  
475 premises at which nicotine products are sold. Each dealer

476 owning, leasing, furnishing, or operating vending machines  
477 through which nicotine products are sold must obtain a permit  
478 for each machine and shall post the permit in a conspicuous  
479 place on or near the machine; however, if the dealer has more  
480 than one vending machine at a single location or if nicotine  
481 products are sold both over the counter and through a vending  
482 machine at a single location, the dealer need obtain only one  
483 permit for that location.

484 (b) Application for a permit must be made on a form  
485 furnished by the division and must set forth the name under  
486 which the applicant transacts or intends to transact business,  
487 the address of the location of the applicant's place of business  
488 within this ~~the~~ state, and any other information the division  
489 requires. If the applicant has or intends to have more than one  
490 place of business dealing in nicotine products within this ~~the~~  
491 state, a separate application must be made for each place of  
492 business. If the applicant is a firm or an association, the  
493 application must set forth the names and addresses of the  
494 persons constituting the firm or association; if the applicant  
495 is a corporation, the application must set forth the names and  
496 addresses of the principal officers of the corporation. The  
497 application must also set forth any other information prescribed  
498 by the division for the purpose of identifying the applicant  
499 firm, association, or corporation. The application must be  
500 signed and verified by oath or affirmation by the owner, if a

501 sole proprietor; or, if the owner is a firm, association, or  
 502 partnership, by the members or partners thereof; or, if the  
 503 owner is a corporation, by an executive officer of the  
 504 corporation or by a person authorized by the corporation to sign  
 505 the application, together with the written evidence of this  
 506 authority.

507 (c) Permits must be issued annually.

508 (d) The holder of a permit may renew the permit each year.

509 A dealer that does not timely renew its permit must pay a late  
 510 fee of \$5 for each month or portion of a month occurring after  
 511 expiration, and before renewal, of the dealer's permit. The  
 512 division shall establish by rule a renewal procedure that, to  
 513 the greatest extent feasible, combines the application and  
 514 permitting procedure for permits with the application and  
 515 licensing system for alcoholic beverages.

516 (e) The division may not grant an exemption from the  
 517 permit fees prescribed in this subsection for any applicant.

518 (2) (a) Permits may be issued only to persons who are 21  
 519 years of age or older or to corporations the officers of which  
 520 are 21 years of age or older.

521 (b) The division may refuse to issue a permit to any  
 522 person, firm, association, or corporation the permit of which  
 523 has been revoked; to any corporation an officer of which has had  
 524 his or her permit revoked; or to any person who is or has been  
 525 an officer of a corporation the permit of which has been

526 | revoked. Any permit issued to a firm, an association, or a  
 527 | corporation prohibited from obtaining a permit under this  
 528 | chapter must ~~shall~~ be revoked by the division.

529 |       (3) Upon approval of an application for a permit, the  
 530 | division shall issue to the applicant a permit for the place of  
 531 | business or premises specified in the application. A permit is  
 532 | not assignable and is valid only for the person in whose name  
 533 | the permit is issued and for the place designated in the permit.  
 534 | The permit must ~~shall~~ be conspicuously displayed at all times at  
 535 | the place for which issued.

536 |       Section 8. Section 569.33, Florida Statutes, is amended to  
 537 | read:

538 |       569.33 Consent to inspection and search without warrant.—  
 539 | An applicant for a retail nicotine products dealer permit or a  
 540 | wholesale nicotine products dealer permit, by accepting the  
 541 | permit when issued, agrees that the place or premises covered by  
 542 | the permit is subject to inspection and search without a search  
 543 | warrant by the division or its authorized assistants, and by  
 544 | sheriffs, deputy sheriffs, or police officers, to determine  
 545 | compliance with this part.

546 |       Section 9. Section 569.34, Florida Statutes, is amended to  
 547 | read:

548 |       569.34 Operating without a retail nicotine products dealer  
 549 | permit; penalty.—

550 |       (1) It is unlawful for a person, a firm, an association,

551 or a corporation to deal, at retail, in nicotine products, in  
552 any manner, or to allow a nicotine products vending machine to  
553 be located on its premises, without having a retail nicotine  
554 product dealer permit as required by s. 569.32. A person who  
555 violates this subsection ~~section~~ commits a noncriminal  
556 violation, punishable by a fine of not more than \$500.

557 (2) A retail tobacco products dealer, as defined in s.  
558 569.002(4), is not required to have a separate or additional  
559 retail nicotine products dealer permit to deal, at retail, in  
560 nicotine products within this ~~the~~ state, or allow a nicotine  
561 products vending machine to be located on its premises in this  
562 ~~the~~ state. Any retail tobacco products dealer that deals, at  
563 retail, in nicotine products or allows a nicotine products  
564 vending machine to be located on its premises in this ~~the~~ state,  
565 is subject to, and must be in compliance with, this part.

566 (3) Any person who violates subsection (1) must ~~this~~  
567 ~~section shall~~ be cited for such infraction and must ~~shall~~ be  
568 cited to appear before the county court. The citation may  
569 indicate the time, date, and location of the scheduled hearing  
570 and must indicate that the penalty for a noncriminal violation  
571 is a fine of not more than \$500.

572 (a) A person cited for a violation of subsection (1) ~~for~~  
573 ~~an infraction under this section~~ may:

- 574 1. Post a \$500 bond; or  
575 2. Sign and accept the citation indicating a promise to

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576 appear.

577 (b) A person cited for violating this section may:

578 1. Pay the fine, either by mail or in person, within 10  
579 days after receiving the citation; or

580 2. If the person has posted bond, forfeit the bond by not  
581 appearing at the scheduled hearing.

582 (c) If the person pays the fine or forfeits bond, the  
583 person is deemed to have admitted violating this section and to  
584 have waived the right to a hearing on the issue of commission of  
585 the violation. Such admission may not be used as evidence in any  
586 other proceeding.

587 (d) The court, after a hearing, shall make a determination  
588 as to whether an infraction has been committed. If the  
589 commission of an infraction has been proven beyond a reasonable  
590 doubt, the court may impose a civil penalty in an amount that  
591 may not exceed \$500.

592 (e) If a person is found by the court to have committed  
593 the infraction, that person may appeal that finding to the  
594 circuit court.

595 (4) On or after March 1, 2025, it is unlawful for a  
596 person, a firm, an association, or a corporation to deal, at  
597 retail, in nicotine products that are not listed on the  
598 directory created pursuant to s. 569.311. Any person who  
599 knowingly ships or receives nicotine products in violation of  
600 this section commits a misdemeanor of the second degree,

601 punishable as provided in s. 775.082 or s. 775.083.

602 (5) On or after January 1, 2025, it is unlawful for a  
603 retail nicotine products dealer, other than a nicotine products  
604 manufacturer that also is permitted as a retail nicotine  
605 products dealer and is selling its own products directly to  
606 consumers, to buy nicotine products from a wholesaler,  
607 manufacturer, or other source that is not a wholesale nicotine  
608 products dealer permitholder, a wholesale dealer, as defined in  
609 s. 210.01(6), a distributing agent, as defined in s. 210.01(14),  
610 or a tobacco products distributor, as defined in s. 210.25(5).  
611 Any person who knowingly ships or receives nicotine products in  
612 violation of this section commits a misdemeanor of the second  
613 degree, punishable as provided in s. 775.082 or s. 775.083.

614 (6) The division may suspend or revoke the permit of a  
615 retail nicotine products dealer permitholder, upon sufficient  
616 cause appearing of a violation of this part by a retail nicotine  
617 products dealer permitholder, or its agent or employee. The  
618 division may also assess an administrative fine of up to \$1,000  
619 for each violation. The division shall deposit all fines  
620 collected into the General Revenue Fund. An order imposing an  
621 administrative fine becomes effective 15 days after the date of  
622 the order.

623 Section 10. Section 569.345, Florida Statutes, is created  
624 to read:

625 569.345 Seizure and destruction of contraband nicotine

626 products.—All nicotine products sold, delivered, possessed, or  
627 distributed contrary to any provisions of this chapter are  
628 declared to be contraband, are subject to seizure and  
629 confiscation under the Florida Contraband Forfeiture Act by any  
630 person whose duty it is to enforce the provisions of this  
631 chapter, and must be disposed of as follows:

632 (1) A court having jurisdiction shall order such nicotine  
633 products forfeited and destroyed. A record of the place where  
634 such nicotine products and any accompanying nicotine dispensing  
635 devices were seized, the kinds and quantities of nicotine  
636 products and accompanying nicotine dispensing devices destroyed,  
637 and the time, place, and manner of destruction must be kept, and  
638 a return under oath reporting the destruction must be made to  
639 the court by the officer who destroys them.

640 (2) The division shall keep a full and complete record of  
641 all nicotine products and nicotine dispensing devices showing:

642 (a) The exact kinds, quantities, and forms of such  
643 nicotine products or nicotine dispensing devices;

644 (b) The persons from whom they were received and to whom  
645 they were delivered;

646 (c) By whose authority they were received, delivered, and  
647 destroyed; and

648 (d) The dates of the receipt, disposal, or destruction,  
649 which record must be open to inspection by all persons charged  
650 with the enforcement of tobacco and nicotine product laws.



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651        (3) The cost of seizure, confiscation, and destruction of  
652 contraband nicotine products is borne by the person from whom  
653 such products are seized.

654        Section 11. Subsections (3) and (4) of section 569.002,  
655 Florida Statutes, are amended to read:

656        569.002 Definitions.—As used in this part, the term:

657        (3) "Nicotine product" has the same meaning as provided in  
658 s. 569.31 ~~s. 569.31(4)~~.

659        (4) "Nicotine dispensing device" has the same meaning as  
660 provided in s. 569.31 ~~s. 569.31(3)~~.

661        Section 12. This act shall take effect October 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>	

Committee/Subcommittee hearing bill: Appropriations Committee  
Representative Overdorf offered the following:

**Amendment (with title amendment)**

Between lines 660 and 661, insert:

Section 11: For the 2024-2025 fiscal year, the sums of \$278,875 in recurring and \$20,268 in nonrecurring funds from the Alcoholic Beverage and Tobacco Trust Fund are appropriated to the Department of Business and Professional Regulation, and 4 full-time equivalent positions with associated salary rate of 180,000 is authorized, for the purpose of implementing the provisions related to this act.

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**T I T L E   A M E N D M E N T**

Remove line 89 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1007 (2024)

Amendment No. 1

17 | the act; providing an appropriation, providing an effective  
18 | date.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1013 State Board of Administration

**SPONSOR(S):** Stevenson

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1028

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Constitutional Rights, Rule of Law & Government Operations Subcommittee	10 Y, 0 N	Villa	Miller
2) Appropriations Committee		Willson	Pridgeon
3) State Affairs Committee			

### SUMMARY ANALYSIS

The State Board of Administration (SBA) is responsible for investing the assets of the Florida Retirement System (FRS) Pension Plan and administering the FRS Investment Plan, which combined represent approximately \$190.8 billion, or 84.4 percent, of the \$225.4 billion in assets managed by the SBA. The SBA also manages over 25 other investment portfolios, with combined assets of approximately \$34.6 billion, including the Florida Hurricane Catastrophe Fund, the Florida Lottery Fund, and the Florida Prepaid College Plan.

The SBA's authority to invest the funds, including FRS assets, is governed by an authorized list of investments established in law, known as the "legal list." The legal list specifies the permitted types of investments as well as the total percentage that may be invested in each type. Currently, the SBA may invest 30 percent of any fund in alternative investments. Alternative investments are investments in a private equity fund, venture fund, hedge fund, or distress fund, or a direct investment in a portfolio company through an investment manager.

Alternative investments are generally illiquid and involve obligations contracted over multiple year periods. In response to this, the SBA employs a strategy of selling its interests on the secondary market to generate liquidity and rebalance its alternative investment portfolio. However, this approach represents a complete exit from the SBA's position.

Over the past several years, other financial instruments have gained prominence in the institutional investment landscape that allow fund managers to realize liquidity without necessitating the sale of portfolio assets. These tools include net asset value-based (NAV) facilities and collateralized fund obligations (CFOs). NAV facilities allow fund managers to borrow against committed capital, offering short-term access to cash without having to sell illiquid portfolio assets. CFOs involve issuing different tranches of debt securities, each with distinct risk and return profiles, with the cash flows from the underlying portfolio allocated to repay those tranches.

Unsecured debt instruments are not secured by any specific collateral and generally have higher associated interest rates.

The bill authorizes the SBA, or an affiliated limited liability entity, to issue securities and borrow money through loans or other financial obligations, including bonds, equity securities, and other security instruments, any of which may be unsecured, secured by alternative investments or related cash flows, guaranteed by the related fund, or governed by financial covenants. The bill caps such authorization at no more than 5 percent of any fund.

The bill does not appear to have a fiscal impact on the state or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### State Board of Administration

The State Board of Administration (SBA) is established by Art. IV, s. 4(e) of the Florida Constitution, and is composed of the Governor as Chair, the Chief Financial Officer, and the Attorney General, commonly referred to as the “Board of Trustees.”<sup>1</sup> The SBA has responsibility for investing the assets of the Florida Retirement System (FRS) Pension Plan<sup>2</sup> and administering the FRS Investment Plan,<sup>3</sup> which combined represent approximately \$190.8 billion, or approximately 84.4 percent, of the \$225.4 billion in assets managed by the SBA, as of October 31, 2023.<sup>4</sup> The SBA also manages over 25 other investment portfolios, with combined assets of approximately \$34.6 billion, including the Florida Hurricane Catastrophe Fund, the Florida Lottery Fund, the Florida Prepaid College Plan, and various debt-service accounts for state bond issues.<sup>5</sup>

Investment decisions for the pension plan are made by fiduciaries hired by the state. Under Florida law, an SBA fiduciary charged with an investment decision must act as a prudent expert would under similar circumstances, considering all relevant substantive factors. A nine-member Investment Advisory Council (IAC) provides recommendations to the SBA on investment policy, strategy, and procedures and serves as a resource to the Board of Trustees.<sup>6</sup>

The SBA’s authority to invest the funds, including FRS assets, is governed by an authorized list of investments established in law, known as the “legal list.”<sup>7</sup> The legal list specifies the permitted types of investments as well as the total percentage that may be invested in each type of investment and provides that:

- No more than 80 percent of any fund may be invested in domestic equity securities;
- No more than 75 percent of any fund may be invested in internally managed equity securities;
- No more than 3 percent of equity assets may be invested in the equity securities of any one issuing entity, except to the extent a higher percentage of the same issue is included in a nationally recognized market index, based on market values, or except upon a specific finding by the SBA that such higher percentage is in the best interest of the fund;
- No more than 25 percent of any fund may be invested in specific instruments, such as certain bonds or other obligations of other states or of municipalities or other political subdivisions, notes secured by first mortgages insured or guaranteed by the Federal Housing Administration or the United States Department of Veterans Affairs, investment-grade group annuity contracts of the pension investment type, certain interests in real property, certain bonds or instruments issued by the government of Israel, foreign government general obligations, or other asset-backed securities;
- No more than 50 percent of any fund may be invested in foreign corporate or commercial securities or obligations; and
- No more than 30 percent of any fund may be invested in alternative investments.<sup>8,9</sup>

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<sup>1</sup> See also Art. XII, s. 9, FLA. CONST.

<sup>2</sup> S. 121.151, F.S.

<sup>3</sup> S. 121.4501(8), F.S. See also, R. 19-13.001, F.A.C.

<sup>4</sup> State Board of Administration, *Performance Report Month Ending: October 31, 2023*,

<https://www.sbafla.com/fsb/Portals/FSB/Content/Performance/Trustees/2023/October%202023%20Monthly%20Trustee%20Report.pdf?ver=2023-12-22-140235-787> (last visited January 10, 2024), herein “State Board of Administration 2023 Report.”

<sup>5</sup> *Id.*

<sup>6</sup> S. 215.444(1), F.S.

<sup>7</sup> S. 215.47, F.S.

<sup>8</sup> “Alternative investment” means an investment by the SBA in a private equity fund, venture fund, hedge fund, or distress fund or a direct investment in a portfolio company through an investment manager. S. 215.4401(3)(a), F.S.

<sup>9</sup> S. 215.47, F.S.

In addition, the SBA may invest up to 5 percent of any fund as it deems appropriate. However, before making such investment, the SBA must present a proposed plan for such investment to the IAC. The proposed plan must include a detailed analysis of the investment, the expected benefits and potential risks, and methods for monitoring and measuring performance.<sup>10</sup>

In 2023, the Legislature authorized the SBA to hold certain interests in real property and related personal property through limited liability entities or joint ventures. The SBA and its affiliated limited liability entities and joint ventures may issue securities and borrow money through loans or other financial obligations, including bonds, equity securities, and other security instruments, any of which may be unsecured, or secured by investments in real property or related cash flows, guaranteed by the related fund, or governed by financial covenants.<sup>11</sup>

### Alternative Investments

To diversify its investments, the SBA invests in multiple asset classes: global equities, fixed income, real estate, cash equivalents, strategic investments, and private equity.<sup>12</sup> The table below shows the asset allocation and valuation data for FRS Pension Plan assets over the past two years.<sup>13</sup>

<b>Asset Class</b>	<b>Dollar Value (billions) 10/31/22</b>	<b>Percentage of Fund 10/31/22</b>	<b>Dollar value (billions) 10/31/23</b>	<b>Percentage of Fund 10/31/23</b>	<b>Total Percent Change from 2022-2023</b>
<b>Global Equities</b>	\$84,976	48.6%	\$84,791	48.1%	(0.5)
<b>Fixed Income</b>	\$28,675	16.4%	\$29,263	16.6%	0.2
<b>Real Estate</b>	\$21,506	12.3%	\$20,977	11.9%	(0.4)
<b>Cash Equivalents</b>	\$2,098	1.2%	\$2,292	1.3%	0.1
<b>Strategic Investments</b>	\$20,282	11.6%	\$21,330	12.1%	0.5
<b>Private Equity</b>	\$17,310	9.9%	\$17,628	10.0%	0.1
<b>Total</b>	<b>\$174,847</b>	<b>100%</b>	<b>\$176,281</b>	<b>100%</b>	<b>0.82</b>

As noted above, the SBA may not invest more than 30 percent of any fund in alternative investments through participation in alternative investment vehicles<sup>14</sup> or in securities or investments that are not publicly traded and not otherwise authorized by the legal list. The use of alternative investment vehicles was first authorized in 1996 at a maximum of 5 percent of a fund.<sup>15</sup> In 2007, the use was expanded to include a broader spectrum of alternative investments, including private equity funds, venture funds, hedge funds, and distress funds.<sup>16</sup> In 2008, the maximum threshold was increased to 10 percent of a

<sup>10</sup> S. 215.47(6), F.S.

<sup>11</sup> Ch. 2023-111, Laws of Fla., codified in part in s. 215.47(2)(e), F.S. The proceeds of such loans or financing obligations may be loaned to or otherwise used as a source of funding for affiliated limited liability entities or joint ventures.

<sup>12</sup> The SBA categorizes their investments in the asset classes in the following manner:

- Global equity: primarily consists of equities in companies located in the United States and abroad.
- Fixed income: primarily consists of investment grade bonds.
- Real estate: primarily consists of directly owned real properties, real estate-based joint ventures, open-end and closed-end funds, and publicly traded real estate securities.
- Cash equivalents: primarily consists of short-term securities that have a high credit quality and liquidity.
- Strategic investments: contains investments not suitable for inclusion in the other asset classes, such as hedge funds, private debt, infrastructure, and timberland.
- Private equity: primarily consists of equity investments in non-publicly traded entities through limited partnerships.

State Board of Administration, *Summary Overview of the State Board of Administration of Florida*, [https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/SBAOverview\\_20211025.pdf?ver=2021-10-28-120954-217](https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/SBAOverview_20211025.pdf?ver=2021-10-28-120954-217) (last visited January 10, 2024).

<sup>13</sup> See State Board of Administration, *Performance Report Month Ending: October 31, 2022*, <https://www.sbafla.com/fsb/Portals/FSB/Content/Trustees/2022/October%202022%20Monthly%20Trustee%20Report.pdf?ver=2023-01-03-095602-000> (last visited January 10, 2024); see also State Board of Administration *2023 Report*, *supra* note 4.

<sup>14</sup> "Alternative Investment Vehicle" means the limited partnership, limited liability company, or similar legal structure or investment manager through which the State Board of Administration invests in a portfolio company. S. 215.4401(3)(a)2., F.S.

<sup>15</sup> Ch. 96-177, s. 5, Laws of Fla., authorized the SBA to invest up to 5 percent of a fund in private equity through participation in limited partnerships and limited liability companies.

<sup>16</sup> Ch. 2007-98, s. 1, Laws of Fla.

fund.<sup>17</sup> In 2012, the threshold was increased to 20 percent.<sup>18</sup> In 2023, the threshold was increased to the present limit of 30 percent.<sup>19</sup>

Alternative investments are generally illiquid and involve obligations contracted over multiple year periods. In response to this, the SBA employs a strategy of selling its interests on the secondary market to generate liquidity and rebalance its alternative investment portfolio. However, this approach represents a complete exit from the SBA's position.<sup>20</sup>

Over the past several years, additional financial instruments have gained prominence in the institutional investment landscape that allow fund managers to realize liquidity without necessitating the sale of portfolio assets. These tools include net asset value-based (NAV) facilities and collateralized fund obligations (CFOs). NAV facilities allow fund managers to borrow against committed capital, offering short-term access to cash without having to sell illiquid portfolio assets.<sup>21</sup> CFOs represent a structured finance approach that securitizes future cash flows. CFOs involve issuing different tranches of debt securities, each with distinct risk and return profiles, with the cash flows from the underlying portfolio allocated to repay those tranches.<sup>22</sup>

Unsecured debt instruments are not secured by any specific asset and instead typically rely on the borrower's creditworthiness. Interest rates on unsecured debt instruments are generally higher due to the inherent associated risk.<sup>23</sup>

### **Effect of the Bill**

The bill authorizes the SBA, or an affiliated limited liability entity, to issue securities and borrow money through loans or other financial obligations, including bonds, equity securities, and other security instruments, any of which may be unsecured; secured by alternative investments or related cash flows; guaranteed by the related fund; or governed by financial covenants. The bill caps such authorization at no more than 5 percent of any fund.

#### **B. SECTION DIRECTORY:**

Section 1 amends s. 215.47, F.S., relating to Investments; authorized securities; loan of securities.

Section 2 provides an effective date of upon becoming law.

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

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

##### **1. Revenues:**

None.

##### **2. Expenditures:**

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<sup>17</sup> Ch. 2008-31, s. 3, Laws of Fla., increased the threshold to 10 percent and expanded this limitation to authorize SBA to invest in securities or investments that are not publicly traded and are not otherwise authorized in s. 215.47, F.S.

<sup>18</sup> Ch. 2012-112, s. 1, Laws of Fla.

<sup>19</sup> Ch. 2023-111, s. 3, Laws of Fla.

<sup>20</sup> See State Board of Administration, Agency Analysis of 2023 HB 1139 (dated March 18, 2023), on file with the Constitutional Rights, Rule of Law & Government Operations Subcommittee.

<sup>21</sup> See Mayer Brown, *The Advantages of Net Asset Value Credit Facilities*, <https://www.mayerbrown.com/en/perspectives-events/publications/2023/03/the-advantages-of-net-asset-value-credit-facilities> (last visited January 10, 2024).

<sup>22</sup> See Mayer Brown, *Collateralized Fund Obligations: A Growing CDO/CLO and Fund Finance Liquidity Solution*, <https://www.mayerbrown.com/en/perspectives-events/publications/2023/08/collateralized-fund-obligations-a-growing-cdo-clo-and-fund-finance-liquidity-solution#:~:text=A%20close%20sibling%20of%20collateralized,and%20equity%2C%20and%20other%20similar> (last visited January 10, 2024).

<sup>23</sup> Mark Henricks and Mitch Strohm, *Unsecured vs. Secured Debts: What's the Difference*, Forbes Advisor (dated August 12, 2021), <https://www.forbes.com/advisor/debt-relief/unsecured-vs-secured-debts/> (last visited January 10, 2024).



None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

The SBA indicates the bill will have a positive fiscal impact on the funds under its management. The SBA emphasizes that the capacity to generate liquidity and strategically rebalance or reposition alternative investment portfolios is integral to the effectiveness of a well-managed and high-performing alternative investment program. The SBA asserts that it currently faces a disadvantage by not having all options available to generate liquidity or adjust its alternative investment portfolio as necessary, should market conditions warrant.<sup>24</sup>

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill neither authorizes nor requires additional executive branch rulemaking.

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

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

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<sup>24</sup> See State Board of Administration, Agency Analysis of 2023 HB 1139 (dated March 18, 2023), on file with the Constitutional Rights, Rule of Law & Government Operations Subcommittee.

1                                   A bill to be entitled  
 2           An act relating to the State Board of Administration;  
 3           amending s. 215.47, F.S.; authorizing the State Board  
 4           of Administration and its affiliated limited liability  
 5           entities to issue securities and borrow money through  
 6           specified means, subject to specified limitations;  
 7           providing an effective date.

8

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

10

11           Section 1. Subsection (22) is added to section 215.47,  
 12   Florida Statutes, to read:

13           215.47 Investments; authorized securities; loan of  
 14   securities.—Subject to the limitations and conditions of the  
 15   State Constitution or of the trust agreement relating to a trust  
 16   fund, moneys available for investments under ss. 215.44-215.53  
 17   may be invested as follows:

18           (22) With no more than 5 percent of any fund, the State  
 19   Board of Administration or its affiliated limited liability  
 20   entities may issue securities and borrow money through loans or  
 21   other financial obligations, including bonds, equity securities,  
 22   and other security instruments, any of which may be unsecured;  
 23   secured by alternative investments, as defined in s.  
 24   215.4401(3)(a), or related cash flows; guaranteed by the related  
 25   fund; or governed by financial covenants.

HB 1013

2024

26 |       Section 2.   This act shall take effect upon becoming a law. |



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1109 Security for Jewish Day Schools and Preschools

**SPONSOR(S):** Fine and others

**TIED BILLS:** None. **IDEN./SIM. BILLS:** SB 1396

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Judiciary Committee	18 Y, 1 N	Wolff	Kramer
2) Appropriations Committee		Potvin	Pridgeon
3) Education & Employment Committee			

### SUMMARY ANALYSIS

Since 2018, the Legislature has appropriated more than \$1 billion in the Safe Schools Allocation in the Florida Education Finance Program to assist school districts in their compliance with the statutory requirements for safe schools.

For Fiscal Year 2023-2024, the Legislature appropriated \$5 million in nonrecurring funds for security funding at Jewish day schools. During special session in November 2023, an additional \$25 million was appropriated for security measures at Jewish day schools and \$20 million for the Nonprofit Security Grant Program while amending such program to include nonprofit schools.

HB 1109 requires the Department of Education, subject to appropriation in the General Appropriations Act, to establish a program to provide funds to make full-time Jewish day schools and preschools in the state secure with professional security hardening, as needed, to better secure facilities of such schools and preschools and to protect their students.

Based on a risk assessment by law enforcement or a private security company, the bill requires funds to be used for the following:

- The purchase and installation of security cameras, perimeter lighting, perimeter fencing, and shatter-resistant glass for windows.
- Hiring or contracting with security personnel who are licensed and regulated by the state and insured.
- Expenses relating to transportation to minimize security exposure of staff, parents, and students.
- Other nonhardening security measures, including, but not limited to providing professional detection, prevention, and security services to such schools and preschools.

The bill authorizes the State Board of Education to adopt rules to implement the provisions of the bill.

The bill specifies that any security funding for Jewish day school and preschools is subject to a legislative appropriation. See Fiscal Comments .

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

**FULL ANALYSIS.**

**I. SUBSTANTIVE ANALYSIS**

**A. EFFECT OF PROPOSED CHANGES:**

**Present Situation**

School Safety Funding

The Safe School Allocation provides funding to assist school districts in their compliance with ss. 1006.07-1006.12, F.S., with priority given to safe-school officers.<sup>1</sup> For the 2023-2024 school year, \$250 million was appropriated for the Safe Schools Allocation . Each school district receives a minimum of \$250,000 and the remaining balance of funds is allocated by a formula based one-third on the recent Florida Crime Index and two-thirds based on each school district’s proportionate share of the state’s total unweighted full-time equivalent student enrollment.<sup>2</sup>

The distribution of these funds is contingent upon the school district’s compliance with all reporting procedures related to the prevention of bullying and harassment.<sup>3</sup>

Another program related to school safety is the School Hardening Grant program, which was designed to improve the physical security of school buildings based on a required security risk assessment. Funds could only be used for capital purchases and are allocated based on each school district’s capital outlay Full-Time Equivalent (FTE) and charter school FTE. Funds must be provided based on district application.<sup>4</sup> In 2023, all school safety funding for public schools was rolled into the safe schools allocation in order to provide school districts the most flexibility in the use of funds to fulfill the needs of the school district.

<b>Safe Schools Allocation</b>	
<b>Fiscal Year</b>	<b>Funding Amount</b>
2018-2019 <sup>5</sup>	\$ 162 million
2019-2020 <sup>6</sup>	\$ 180 million
2020-2021 <sup>7</sup>	\$ 180 million
2021-2022 <sup>8</sup>	\$ 180 million
2022-2023 <sup>9</sup>	\$ 210 million
2023-2024 <sup>10</sup>	\$250 million
<b>Total</b>	<b>\$ 1.2 billion</b>

The Safe Schools Allocation and the school physical security improvement,<sup>11</sup> or school hardening grant program, represent the most significant investments in school safety since the shooting at Marjory Stoneman Douglas High School. Below is a summary of the appropriations associated with these programs:

**School Physical Security Improvement Grant**

<sup>1</sup> Section 1011.62(12), F.S.

<sup>2</sup> Specific Appropriations 5 and 86, s. 2, ch. 2022-156, Laws of Fla. See s. 1011.62(12), F.S.

<sup>3</sup> Section 1006.147(7), F.S.

<sup>4</sup> See, e.g., Specific Appropriation 108, s. 2, ch. 2022-156, Laws of Fla.; see, also, Specific Appropriation 113A, s. 2, ch. 2021-36, Specific Appropriation 117A, s. 2, ch. 2020-111, and Specific Appropriation 116A, s. 2, ch. 2019-115, Laws of Fla.

<sup>5</sup> Section 42, ch. 2018-3, Laws of Fla. (\$97,500,000); Specific Appropriations 6 and 92, s. 2, ch. 2018-9, Laws of Fla. (\$64,456,019)

<sup>6</sup> Specific Appropriations 6 and 93, s. 2, ch. 2019-115, Laws of Fla.

<sup>7</sup> Specific Appropriations 8 and 92, s. 2, ch. 2020-111, Laws of Fla.

<sup>8</sup> Specific Appropriations 7 and 90, s. 2, ch. 2021-36, Laws of Fla.

<sup>9</sup> Specific Appropriations 5 and 86, s. 2, ch. 2022-156, Laws of Fla.

<sup>10</sup> Specific Appropriations 5 and 80, s. 2, ch. 2023-239, Laws of Fla.

<sup>11</sup> Section 44, ch. 2018-3, Laws of Fla.

<b>Fiscal Year</b>	<b>Funding Amount</b>
2018-2019 <sup>12</sup>	\$99 million

<b>School Hardening Grant</b>	
<b>Fiscal Year</b>	<b>Funding Amount</b>
2019-2020 <sup>13</sup>	\$ 50 million
2020-2021 <sup>14</sup>	\$ 42 million
2021-2022 <sup>15</sup>	\$ 42 million
2022-2023 <sup>16</sup>	\$ 20 million
<b>Total</b>	<b>\$ 154 million</b>

For Fiscal Year 2023-2024, the Legislature appropriated \$5 million in nonrecurring funds for security funding at Jewish day schools.<sup>17</sup> During special session in November 2023, the Legislature appropriated an additional \$25 million for security measures at Jewish day schools and preschools<sup>18</sup> and \$20 million for the Nonprofit Security Grant Program<sup>19</sup> while amending such program to include nonprofit schools.<sup>20</sup> Other than these programs, the law does not currently provide security funding for private schools generally.

### **Effect of Proposed Changes**

HB 1109 creates s. 1001.2921, F.S., to provide, subject to appropriation in the General Appropriations Act, security funding for Jewish day schools and preschools. The bill requires the Department of Education to establish a program to provide funds to make full-time Jewish day schools and preschools in the state secure with professional security hardening, as needed, to better secure facilities of such schools and preschools and to protect their students.

Based on a risk assessment by law enforcement or a private security company, the bill requires funds to be used for the following:

- The purchase and installation of security cameras, perimeter lighting, perimeter fencing, and shatter-resistant glass for windows.
- Hiring or contracting with security personnel who are licensed and regulated by the state and insured.
- Expenses relating to transportation to minimize security exposure of staff, parents, and students.
- Other nonhardening security measures, including, but not limited to providing professional detection, prevention, and security services to such schools and preschools.

The bill authorizes the State Board of Education to adopt rules to implement the provisions of the bill.

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

### **B. SECTION DIRECTORY:**

**Section 1:** Creates s. 1001.2921, F.S.; relating to security funding for Jewish day schools and preschools.

<sup>12</sup> Section 44, ch. 2018-3, Laws of Fla.

<sup>13</sup> Specific Appropriation 116A, s. 2, ch. 2019-115, Laws of Fla.

<sup>14</sup> Specific Appropriation 117A, s. 2, ch. 2020-111, Laws of Fla.

<sup>15</sup> Specific Appropriation 113A, s. 2, ch. 2021-36, Laws of Fla.

<sup>16</sup> Specific Appropriation 108, s. 2, ch. 2022-156, Laws of Fla.

<sup>17</sup> Specific Appropriations 100 and 105, s. 2, ch. 2023-239, Laws of Fla.

<sup>18</sup> Section 4 and 5, ch. 2023-352, Laws of Fla.

<sup>19</sup> Established in 2023, the Nonprofit Security Grant Program allows Florida nonprofit organizations, including houses of worship and community centers, that are at high risk of violent attacks or hate crimes to apply for program grants to increase safety and security. S. 252.3712, F.S.

<sup>20</sup> Section 1 and 2, ch. 2023-352, Laws of Fla.

**Section 2:** 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:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

### **D. FISCAL COMMENTS:**

HB 5001, the House proposed General Appropriations Act for Fiscal Year 2024-2025, appropriates \$20 million in nonrecurring funds for security funding at Jewish day schools and preschools.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

### **B. RULE-MAKING AUTHORITY:**

The bill authorizes the State Board of Education to adopt rules 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 security for Jewish day schools and  
 3           preschools; creating s. 1001.2921, F.S.; subject to  
 4           and consistent with funds appropriated from the  
 5           General Appropriations Act, requiring the Department  
 6           of Education to establish a program to provide funds  
 7           to full-time Jewish day schools and preschools for  
 8           specified security purposes; providing authorized uses  
 9           for such funds; authorizing the State Board of  
 10          Education to adopt rules to administer this section;  
 11          providing an effective date.

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

14  
 15           Section 1.   Section 1001.2921, Florida Statutes, is created  
 16          to read:

17           1001.2921 Security funding for Jewish day schools and  
 18          preschools.-

19           (1) As authorized by and consistent with funds  
 20          appropriated in the General Appropriations Act, the Department  
 21          of Education shall establish a program to provide funds to make  
 22          full-time Jewish day schools and preschools in the state secure  
 23          with professional security hardening, as needed, to better  
 24          secure facilities of such schools and preschools and to protect  
 25          their students. Based on a risk assessment by law enforcement or

26 | a private security company, recurring funds shall be used  
 27 | towards:

28 |       (a) The purchase and installation of security cameras,  
 29 | perimeter lighting, perimeter fencing, and shatter-resistant  
 30 | glass for windows.

31 |       (b) Hiring or contracting with security personnel who are  
 32 | licensed and regulated by the state and insured.

33 |       (c) Expenses relating to transportation to minimize  
 34 | security exposure of staff, parents, and students.

35 |       (d) Other nonhardening security measures, including, but  
 36 | not limited to providing professional detection, prevention, and  
 37 | security services to such schools and preschools.

38 |       (2) The State Board of Education may adopt rules to  
 39 | administer this section.

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



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1267 Economic Self-sufficiency

**SPONSOR(S):** Children, Families & Seniors Subcommittee, Anderson and others

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

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

### SUMMARY ANALYSIS

Public assistance programs help low-income families meet their basic needs, such as housing, food, and utilities. The most commonly utilized public assistance programs in Florida include Medicaid, the Supplemental Nutrition Assistance Program (SNAP) or food assistance, and the Temporary Assistance for Needy Families (TANF) Temporary Cash Assistance (TCA) program. In Florida, the majority of the participants in these programs are children.

While the goal of public assistance programs is, generally, to ensure that a family's basic needs are met and facilitate economic advancement, families often exit programs before they are truly capable of maintaining self-sufficiency. A benefit cliff occurs when a modest increase in wages results in a net loss of income due to the reduction in or loss of public benefits that follows. Benefit cliffs create a financial disincentive for low-income individuals to earn more income due to the destabilization and uncertainty that often results from a loss in benefits, especially when the benefit lost was essential to a parent's ability to reliably work.

The most significant benefit cliffs occur when a family loses housing or child care assistance. While a family is receiving housing and/or child care benefits, the costs for these necessities are a defined, affordable share of the family's income, but those expenses can significantly increase when the family enters the private market where there are no controls on prices.

This bill revises various components of the TANF, SNAP, and School Readiness (SR) programs. The bill creates case management as a transitional benefit for families transitioning off of TCA. The bill requires CareerSource Florida to use a tool to demonstrate future financial impacts of changes to benefits and income and local workforce boards to administer and analyze and use data from intake and exit surveys of TCA recipients.

The bill requires the Department of Children and Families to expand mandatory SNAP Employment and Training participation to include adults ages 18-59, who do not have children under age 18 in the home, or otherwise qualify for an exemption.

The bill creates the School Readiness Subsidy Program to provide financial assistance to families who no longer qualify for school readiness program funding. The new program will mitigate the child care cliff effect for families transitioning to economic self-sufficiency.

The bill has a significant fiscal impact on state government. See Fiscal Comments.

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

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h1267b.APC

**DATE:** 2/7/2024

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Public Assistance Programs

Public assistance programs help low-income families meet their basic needs, such as housing, food, and utilities.<sup>1</sup> The social safety net for American families depends on the coordination of a complex patchwork of federal, state, and local funding and program administration.<sup>2</sup> Through various programs, public assistance is capable of helping families to keep children in their family home through economic difficulties<sup>3</sup> and reducing the material hardship that has been linked to negative outcomes in children;<sup>4</sup> as well as driving the economy in times of market downturns<sup>5</sup> and supporting the career advancement of low-income adults striving to break the cycle of intergenerational poverty.<sup>6</sup> But while these outcomes have been shown to be feasible, the positive impact of public assistance programs can be inhibited by incongruent policies and the intricacies of overlapping federal programs.

The process of facilitating the broad, conceptual goals of public assistance programs involves several federal programs with different levels of flexibility for states to tailor the programs to their own populations. The specific eligibility criteria and participation requirements vary by program through complementary state and federal policy.

The most commonly utilized public assistance programs in Florida include Medicaid, the Supplemental Nutrition Assistance Program (SNAP) or food assistance, and the Temporary Assistance for Needy Families (TANF) Temporary Cash Assistance (TCA) program. In Florida, the majority of the participants in one or more of these programs are children. In May 2021, 54 percent of children in Florida were participating in at least one of these public assistance programs.<sup>7</sup>

##### Barriers to Economic Self-Sufficiency

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<sup>1</sup> National Conference of State Legislatures, *Introduction to Benefits Cliffs and Public Assistance Programs* (2023). Available at <https://www.ncsl.org/human-services/introduction-to-benefits-cliffs-and-public-assistance-programs> (last visited January 17, 2024).

<sup>2</sup> Brookings Institute, *State Social Safety Net Policy: How are States Addressing Economic Need?* (2023). Available at <https://www.brookings.edu/events/state-social-safety-net-policy-how-are-states-addressing-economic-need/> (last visited January 17, 2024).

<sup>3</sup> Providing assistance to needy families so that children can be cared for in their own homes is one of the four purposes of the TANF program. See, Office of Family Assistance, *About TANF* (2022). Available at <https://www.acf.hhs.gov/ofa/programs/tanf/about> (last visited January 17, 2024). See also, Gennetian, L. & Magnuson, K., *Three Reasons Why Providing Cash to Families with Children is a Sound Policy Investment* (2022). Center on Budget and Policy Priorities. Available at <https://www.cbpp.org/research/income-security/three-reasons-why-providing-cash-to-families-with-children-is-a-sound> (last visited January 17, 2024).

<sup>4</sup> Karpman, M., Gonzalez, D., Zuckerman, S., & Adams, G., *What Explains the Widespread Material Hardships among Low-Income Families with Children?* (2018). Urban Institute. Available at [https://www.urban.org/sites/default/files/publication/99521/what\\_explains\\_the\\_widespread\\_material\\_hardship\\_among\\_low-income\\_families\\_with\\_children\\_0.pdf](https://www.urban.org/sites/default/files/publication/99521/what_explains_the_widespread_material_hardship_among_low-income_families_with_children_0.pdf) (last visited January 17, 2024).

<sup>5</sup> Vogel, S., Miller, C., & Ralston, K., *Impact of USDA's Supplemental Nutrition Assistance Program (SNAP) on Rural and Urban Economies in the Aftermath of the Great Recession* (2021). USDA, Economic Research Service Economic Research Report Number 296. Available at <https://ssrn.com/abstract=3938336> (last visited January 17, 2024).

<sup>6</sup> Duncan, G. & Holzer, H., *Policies that Reduce Intergenerational Poverty* (2023). The Brookings Institute. Available at <https://www.brookings.edu/articles/policies-that-reduce-intergenerational-poverty/> (last visited January 17, 2024).

<sup>7</sup> Office of Program Policy Analysis and Government Accountability (OPPAGA). *Research Memorandum: Economic Self-Sufficiency*, Research Product 10. On file with the Children, Families & Seniors Subcommittee.

## Benefit Cliffs

While the goal of public assistance programs is, generally, to ensure that a family's basic needs are met and facilitate economic advancement, families often exit programs before they are truly capable of maintaining self-sufficiency. A benefit cliff occurs when a modest increase in wages results in a net loss of income due to the reduction in or loss of public benefits that follows.<sup>8</sup>

Benefit cliffs create a financial disincentive for low-income individuals to earn more income due to the destabilization and uncertainty that often results from a loss in benefits, such as child care, especially when the benefit lost was essential to a parent's ability to reliably work.<sup>9</sup> The fear of an impending benefit cliff can be sufficient to discourage career advancement. The complex nature of public assistance programs contributes to workers struggling to understand the timing and magnitude of benefits loss. This uncertainty, paired with economic insecurity, can prevent individuals from seeking or accepting opportunities for career advancement.<sup>10</sup>

The most significant benefit cliffs occur when a family loses housing or child care assistance. While a family is receiving housing and/or child care benefits, the costs for these necessities are a defined, affordable share of the family's income, but those expenses can skyrocket when the family enters the private market where there are no controls on prices.<sup>11</sup>

The chart below reflects an example of a family's possible financial situation. A family receiving cash assistance and a child care subsidy can experience a sudden, significant drop in net resources when their income makes them ineligible for these benefits.

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<sup>8</sup> Altig, D., Ilin, E., Ruder, A., Terry, E., *Benefits Cliffs and the Financial Incentives for Career Advancement: A Case Study of the Health Care Services Career Pathway* (2020). The Federal Reserve Bank of Atlanta. Available at <https://www.atlantafed.org/community-development/publications/discussion-papers/2020/01/31/01-benefits-cliffs-and-the-financial-incentives-for-career-advancement> (last visited January 16, 2024).

<sup>9</sup> Altig, D., Ilin, E., Ruder, A., & Terry, E., *Benefits Cliffs and the Financial Incentives for Career Advancement: A Case Study of the Health Care Services Career Pathway* (2020). The Federal Reserve Bank of Atlanta. Available at <https://www.atlantafed.org/community-development/publications/discussion-papers/2020/01/31/01-benefits-cliffs-and-the-financial-incentives-for-career-advancement> (last visited January 16, 2024).

<sup>10</sup> Federal Reserve Bank of Atlanta, *Career Ladder Identifier and Financial Forecaster (CLIFF)*. Available at <https://www.atlantafed.org/economic-mobility-and-resilience/advancing-careers-for-low-income-families/cliff-tool> (last visited January 19, 2024).

<sup>11</sup> Ettinger de Cuba, S., *Cliff Effects and the Supplemental Nutritional Assistance Program* (2017), Federal Reserve Bank of Boston. Available at <https://www.bostonfed.org/publications/communities-and-banking/2017/winter/cliff-effects-and-the-supplemental-nutrition-assistance-program.aspx#f17> (last visited January 16, 2024).

*FAMILY NET FINANCIAL RESOURCES  
(INCOME + PUBLIC ASSISTANCE - TAXES - EXPENSES)*

The chart below shows how changes in income affect family net financial resources. As income increases, the programs shown in the chart above phase out. As a result, the net financial resources may flatten (reflecting a *benefits plateau*) or even dip (reflecting a *benefits cliff*) as income increases.



*Benefits depicted: TCA and School Readiness for a family of 3 in Flagler County*

### *Recidivism*

Recidivism occurs when a family leaves an assistance program due to increased income and then returns to the program within two calendar years.<sup>12</sup> Some degree of recidivism is expected; assistance programs exist to support families through financial hardship and, regardless of personal planning, unanticipated events can cause families to find themselves financially unstable once again. A high rate of recidivism, however, indicates that families are not exiting a program at a point where they are able to maintain self-sufficiency. Due to the structure of some public benefits programs, families may be exiting the program into financially tenuous situations and without a clear path for upward mobility.<sup>13</sup>

Program recidivism is exacerbated by factors like the benefits cliff, where families are exiting a program with fewer net resources, and persistent barriers to employment that were not sufficiently addressed before the family exited the program.

### *Child Care*

The lack of child care services presents a significant barrier to employment for the parents of small children. It is estimated that only 44 percent of U.S. families with children under the age of 13 can afford the full price of childcare without having to sacrifice other basic needs such as housing, food, health care, and transportation.<sup>14</sup>

The unavailability of appropriate, high quality child care affects both how parents participate in the workforce and children’s development. Parents who want to work may have to work fewer hours or turn

<sup>12</sup> CareerSource Florida, *Temporary Assistance for Needy Families (TANF) Transitional Benefits Feasibility Study*. (2023). On file with the Children, Families & Seniors Subcommittee.

<sup>13</sup> Bourdeaux C. & Pandey, L. *Report on the Outcomes and Characteristics of TANF Leavers* (2017). Georgia State University, Center for State and Local Finance. Available at <https://cslf.gsu.edu/download/outcomes-and-characteristics-of-tanf-leavers/?wpdmdl=6494571&refresh=5f7852f89a8bc1601721080> (last visited January 9, 2024).

<sup>14</sup> Birken, B., Ilin, E., Ruder, A., & Terry, E. *Restructuring the Eligibility Policies of the Child Care and Development Fund to Address Benefit Cliffs and Affordability: Florida As a Case Study* (2021). Federal Reserve Bank of Atlanta. Available at <https://www.atlantafed.org/-/media/documents/community-development/publications/discussion-papers/2021/01-restructuring-the-eligibility-policies-of-the-child-care-and-development-fund-to-address-benefit-cliffs-and-affordability-2021-06-18.pdf>

down higher-paying jobs in order to remain eligible for child care assistance programs.<sup>15</sup> There is a significant economic impact associated with parents opting out of the workforce, or choosing to remain in lower-paying jobs, due to the inaccessibility of quality, affordable child care.<sup>16</sup>

For parents who choose to remain in the workforce, the inability to afford quality child care can have negative effects on children's development. Parents may have to reduce their standard of living in order to afford child care and continue to work; if this results in the sacrifice of adequate housing and health care, this can adversely affect parents as well as children and lead to financial and psychological stress.<sup>17</sup> Alternatively, parents may choose lower-quality child care that is more affordable. The quality of child care, however, matters for the healthy development of children at early ages.<sup>18</sup> Low-quality child care can adversely affect children's task attentiveness and emotional regulation;<sup>19</sup> whereas high-quality child care has been associated with positive outcomes such as fewer reports of problem behaviors, higher cognitive performance, and higher language skills.<sup>20</sup>

### Education

A person's level of educational attainment has a significant impact on the employment opportunities available to that person and on his or her capacity for upward economic mobility over time. A person who attained at least a high school credential, or the equivalent,<sup>21</sup> has access to further education and professional development that are not available to individuals who did not complete high school. Higher levels of educational attainment are associated with higher employment rates and higher median earnings.<sup>22</sup> For example, in 2022 the employment rate for adults ages 25 to 34 ranged from 61 percent among individuals who had not completed high school<sup>23</sup> to 87 percent for those with a bachelor's degree or higher.<sup>24</sup>

The lack of a high school diploma, or the equivalent, complicates the transition to adulthood. Among youth who do not pursue post-secondary education, having a high school diploma leads to significantly

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<sup>15</sup> Morrissey, T.W. *Child care and parent labor force participation: a review of the research literature* (2017). *Rev Econ Household* **15**, 1–24. <https://doi.org/10.1007/s11150-016-9331-3>

<sup>16</sup> For more information on this economic impact, see, Altig, D., Ilin, E., Ruder, A., & Terry, E. *Benefits Cliffs and the Financial Incentives for Career Advancement: A Case Study of a Health Care Career Pathway*. (2020). Federal Reserve Bank of Atlanta. Available at <https://www.atlantafed.org/community-development/publications/discussion-papers/2020/01/31/01-benefits-cliffs-and-the-financial-incentives-for-career-advancement> (last visited January 16, 2024); and Council of Economic Advisers, *The Role of Affordable Child Care in Promoting Work Outside the Home*. (2019). Available at <https://trumpwhitehouse.archives.gov/wpcontent/uploads/2019/12/The-Role-of-Affordable-Child-Care-in-Promoting-Work-Outsidethe-Home-1.pdf>. (last visited January 19, 2024).

<sup>17</sup> *Supra*, note 14.

<sup>18</sup> *Id.*

<sup>19</sup> Gialamas, A., Mittinty, M., Sawyer, M., Zubrick, S., & Lynch, J. *Child Care Quality and Children's Cognitive and Socio-Emotional Development: an Australian Longitudinal Study* (2014). *Early Child Development and Care* **184** (7): 977–997.

<sup>20</sup> National Institute of Child Health and Human Development (NICHD). Early Child Care Research Network. *The NICHD Study of Early Child Care and Youth Development* (2005). Available at [https://www.nichd.nih.gov/sites/default/files/publications/pubs/documents/seccyd\\_06.pdf](https://www.nichd.nih.gov/sites/default/files/publications/pubs/documents/seccyd_06.pdf) (last visited January 19, 2024).

<sup>21</sup> The most commonly recognized high school equivalent is the General Educational Development (GED) credential. GED credentials are an alternative credential for individuals who did not complete high school. The GED is accepted by most colleges and universities that require a high school diploma for admission, and most companies that have positions requiring a high school diploma accept the GED as an alternative credential. For more information see, Stark, P. & Noel, A. *Trends in High School Dropout and Completion Rates in the United States: 1972-2012*. (2015). US Department of Education, National Center for Education Statistics. Available at <https://eric.ed.gov/?id=ED557576> (last visited January 19, 2024).

<sup>22</sup> US Department of Education, *Report on the Condition of Education 2023* (2023). Available at <https://nces.ed.gov/pubs2023/2023144rev.pdf> (last visited January 7, 2023).

<sup>23</sup> "High school completion" includes those who graduated from high school with a diploma, as well as those who completed a high school equivalency program, such as obtaining GED credentials.

<sup>24</sup> *Supra*, note 22.; see also, Stark, P. & Noel, A. *Trends in High School Dropout and Completion Rates in the United States: 1972-2012*. (2015). US Department of Education, National Center for Education Statistics. Available at <https://eric.ed.gov/?id=ED557576> (last visited January 19, 2024).



more time employed during the early years of adulthood.<sup>25</sup> The top risk factor for homelessness among young adults is the lack of a high school diploma or an equivalent credential.<sup>26</sup> There are a variety of other long-term negative outcomes associated with dropping out of high school, such as lower median income,<sup>27</sup> higher rates of criminal activity, higher rates of unemployment and incarceration, and poorer health.<sup>28</sup>

Personal, social, and economic reasons may lead an individual to not complete high school; however, generally, people who did not complete high school are more likely to have grown up in low-income, single-parent households and lived in distressed communities than their counterparts who complete high school.<sup>29</sup> For low-income youths living in areas with high rates of income inequality, this has been tied to a perceived lower rate of return on investment for continuing high school.<sup>30</sup> This phenomena is consistent with the patterns of intergenerational poverty in the US.

### *Intergenerational Poverty*

Intergenerational poverty occurs when individuals who grew up in families with incomes below the poverty line are themselves poor as adults. Children living in families with low incomes face an array of challenges that place them at a much higher risk of experiencing poverty in adulthood compared with other children.<sup>31</sup> As a result, roughly one-third of children who grow up poor in the US will also experience poverty as adults.<sup>32</sup>

There are numerous social and cultural factors that contribute to intergenerational poverty, but key drivers influencing intergenerational mobility include:<sup>33</sup>

- education, spanning early education to career training;
- children's health and access to health care;
- family employment, income, and wealth; and
- crime and involvement with the criminal justice system.

### Temporary Assistance for Needy Families (TANF)

The Temporary Assistance for Needy Families (TANF) system was established at the federal level in 1996 through the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of

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<sup>25</sup> McDaniel, M. & Kuehn, D. *What Does a High School Diploma Get You? Employment, Race, and the Transition to Adulthood* (2013). *The Review of Black Political Economy*. 40, 371-399. <https://doi.org/10.1007/s12114-012-9147-1>

<sup>26</sup> Morton, M.H., Dworsky, A., & Samuels, G.M. *Missed opportunities: Youth homelessness in America. National estimates* (2017). Chicago, IL: Chapin Hall at the University of Chicago. Available at [https://www.chapinhall.org/wp-content/uploads/ChapinHall\\_VoYC\\_NationalReport\\_Final.pdf](https://www.chapinhall.org/wp-content/uploads/ChapinHall_VoYC_NationalReport_Final.pdf) (last visited January 9, 2024).

<sup>27</sup> Stark, P. & Noel, A. *Trends in High School Dropout and Completion Rates in the United States: 1972-2012*. (2015). US Department of Education, National Center for Education Statistics. Available at <https://eric.ed.gov/?id=ED557576> (last visited January 19, 2024).

<sup>28</sup> Lansford, J., Dodge, K., Pettit, G., & Bates, J. *A Public Health Perspective on School Dropout and Adult Outcomes: A Prospective Study of Risk and Protective Factors from Age 5 to 27 Years* (2016). *Journal of Adolescent Health*. 58. 652-658. <http://dx.doi.org/10.1016/j.jadohealth.2016.01.014>

<sup>29</sup> *Supra*, note 25.

<sup>30</sup> Kearney, M. & Levine, P. *Income Inequality, Social Mobility, and the Decision to Drop Out of High School*. (2016). Brookings Papers on Economic Activity. Available at <https://www.brookings.edu/wp-content/uploads/2016/03/kearneytextspring16bpea.pdf> (last visited January 10, 2024).

<sup>31</sup> National Academies of Sciences, Engineering, and Medicine. *Reducing Intergenerational Poverty* (2023). Washington, DC: The National Academies Press. <https://doi.org/10.7226/27058>.

<sup>32</sup> *Id.* For comparison, 17% of people who did not grow up in low-income environments will experience poverty as adults.

<sup>33</sup> *Id.* See also, Duncan, G. & Holzer, H., *Policies that Reduce Intergenerational Poverty* (2023). Brookings Institute. Available at <https://www.brookings.edu/articles/policies-that-reduce-intergenerational-poverty/> (last visited January 19, 2024).

1996.<sup>34</sup> PRWORA ended the Aid to Families with Dependent Children (AFDC) program, a federal program which provided dedicated funding for cash assistance to needy families with children, and alternatively created the broad-purpose TANF block grant.<sup>35</sup> TANF became effective July 1, 1997, and was reauthorized by the Deficit Reduction Act of 2005.

The TANF block grant annually distributes federal funds to states, territories, and tribes to accomplish four federally defined purposes:<sup>36</sup>

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.
- End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.
- Prevent and reduce the incidence of out-of-wedlock pregnancies.
- Encourage the formation and maintenance of two-parent families.

TANF itself is not a single cohesive program; rather, it is a system of funding streams used at the state and local level to provide a wide range of benefits, services, and activities with the general aim of minimizing the effects, or addressing the root causes, of childhood economic disadvantage.<sup>37</sup> States use TANF funds to operate state-designed and state-administered programs with significant discretion in how the funds are used to achieve the statutory goals of TANF.<sup>38</sup> Most federal regulation of TANF-funded state programs relate to funding spent on direct cash assistance and the recipients of such assistance.<sup>39</sup>

TANF is funded through both federal and state dollars. The basic federal grant amount and minimum state amounts are set by law, based on expenditures in the pre-TANF programs in the early- to mid-1990s, and have not been adjusted for inflation or other changes in circumstances. States are required to contribute nonfederal “maintenance of effort” (MOE) funds based on state spending in the pre-TANF welfare programs. A state’s required MOE contribution is lowered for states who have met the federal work participation standard for TANF recipients.<sup>40</sup>

### *Florida’s Temporary Cash Assistance (TCA) Program*

Direct cash assistance to needy families is the foundation of public welfare in the U.S.<sup>41</sup> Prior to the establishment of TANF in 1996, direct cash assistance to needy families was the primary method of

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<sup>34</sup> Center on Budget and Policy Priorities. *Policy Basics: Temporary Assistance for Needy Families* (2022). Available at [https://www.cbpp.org/research/family-income-support/policy-basics-an-introduction-to-tanf#:~:text=States%20can%20use%20federal%20TANF,%2C%20and%20marriage%3B%20\(3\)](https://www.cbpp.org/research/family-income-support/policy-basics-an-introduction-to-tanf#:~:text=States%20can%20use%20federal%20TANF,%2C%20and%20marriage%3B%20(3)) (last visited December 27, 2023). See also, US Department of Health & Human Services, Office of Family Assistance, *Major Provisions of the Welfare Law* (1997). Available at <https://www.acf.hhs.gov/ofa/policy-guidance/major-provisions-welfare-law> (last visited December 27, 2023), for more information on PRWORA.

<sup>35</sup> Congressional Research Service. *Temporary Assistance for Needy Families: The Decline in Assistance Receipt Among Eligible Individuals* (2023). Available at <https://crsreports.congress.gov/product/pdf/R/R47503> (last visited December 27, 2023).

<sup>36</sup> US Department of Health & Human Services. *About TANF* (2022). Available at <https://www.acf.hhs.gov/ofa/programs/tanf/about> (last visited December 27, 2023).

<sup>37</sup> Congressional Research Service. *The Temporary Assistance for Needy Families (TANF) Block Grant: A Primer on TANF Financing and Federal Requirements* (2023). Available at <https://crsreports.congress.gov/product/pdf/RL/RL32748> (last visited December 27, 2023).

<sup>38</sup> *Supra*, note 36.

<sup>39</sup> *Supra*, note 37.

<sup>40</sup> *Supra*, note 37.

<sup>41</sup> Public cash assistance to needy families has its origin in the early 1900s; state and local entities financed “mother’s pension” programs that provided support to single, often widowed, mothers so that children could be raised in their family homes rather than be

providing support to low-income families with children. Since the transition to the TANF block grant system, the number of families receiving direct cash assistance has waned significantly, even among eligible populations, and the majority of TANF funds are allocated for indirect methods of assisting families.<sup>42</sup>

The Temporary Cash Assistance (TCA) Program is Florida's direct cash assistance program for needy families. The TCA program is one of several Florida programs funded with the TANF block grant. Through the TCA program, families who meet specific technical, income, and asset requirements<sup>43</sup> may receive cash assistance in the form of monthly payments deposited into an electronic benefits transfer (EBT) account.<sup>44</sup>

The TCA program is administered by several state agencies through a series of contracts and memoranda of understanding. The Department of Children and Families (DCF) receives the federal TANF block grant funds, processes applications, determines initial eligibility, monitors ongoing eligibility, and disburses benefits to recipients. The Department of Commerce<sup>45</sup> (Florida Commerce) is responsible for financial and performance reporting to ensure compliance with federal and state measures and for providing training and technical assistance to Local Workforce Development Boards (LWDBs). LWDBs provide information about available jobs, on-the-job training, and education and training services within their respective areas and contract with one-stop career centers.<sup>46</sup> CareerSource Florida has planning and oversight responsibilities for all workforce-related programs and contracts with the LWDBs on a performance-basis.<sup>47</sup>

The number of families receiving TCA dramatically increased during the COVID-19 pandemic, peaking at more than 50,000 families receiving TCA payments in July of 2020.<sup>48</sup> While TCA caseloads have not yet returned to pre-pandemic levels, they have decreased steadily since July 2020. In November 2023, 34,015 families, including 44,309 children, received TCA.<sup>49</sup> Since 2016, Florida's recidivism rate for the TCA program has averaged 30 percent; approximately one third of families exiting TCA due to earned income were not successful in maintaining self-sufficiency.<sup>50</sup>

### *TCA Eligibility*

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institutionalized. See, Congressional Research Service, *The Temporary Assistance for Needy Families (TANF) Block Grant: A Legislative History* (2023). Available at <https://crsreports.congress.gov/product/pdf/R/R44668> (last visited December 27, 2023).

<sup>42</sup> *Supra*, note 35.

<sup>43</sup> Children must be under the age of 18, or under age 19 if they are full time secondary school students. Parents, children and minor siblings who live together must apply together. Additionally, pregnant women may also receive TCA, either in the third trimester of pregnancy if unable to work, or in the 9th month of pregnancy. See, Florida Department of Children and Families, *Temporary Cash Assistance (TCA)*. Available at <https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance> (last visited December 27, 2023).

<sup>44</sup> Florida Department of Children and Families. *Temporary Cash Assistance Fact Sheet* (2019). Available at [https://www.myflfamilies.com/sites/default/files/2022-10/tcafactsheet\\_0.pdf](https://www.myflfamilies.com/sites/default/files/2022-10/tcafactsheet_0.pdf) (last visited December 27, 2023).

<sup>45</sup> The Department of Commerce, formerly known as the Department of Economic Opportunity, was renamed as such in the 2023 Legislative session. See, Governor DeSantis Signs Legislation to Streamline Economic Development in Florida (2023). Available at <https://www.flgov.com/2023/05/31/governor-desantis-signs-legislation-to-streamline-economic-development-in-florida/> (last visited December 27, 2023).

<sup>46</sup> Florida Department of Commerce, CareerSource Florida, *Workforce Innovation and Opportunity Act Annual Statewide Performance Report* (2023). Available at <https://careersourceflorida.com/wp-content/uploads/2023/12/2022-23-WIOA-Annual-Performance-Report.pdf> (last visited December 27, 2023).

<sup>47</sup> *Id.*

<sup>48</sup> Florida Department of Children and Families. *ESS Standard Reports: Caseload Report*. Available at <https://www.myflfamilies.com/services/public-assistance/additional-resources-and-services/ess-standard> (last visited January 5, 2024).

<sup>49</sup> Florida Department of Children and Families. *ESS Standard Reports: Flash Points*. Available at <https://www.myflfamilies.com/services/public-assistance/additional-resources-and-services/ess-standard> (last visited January 5, 2024).

<sup>50</sup> CareerSource Florida, *Temporary Assistance for Needy Families (TANF) Transitional Benefits Feasibility Study*. (2023). On file with the Children, Families & Seniors Subcommittee.

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States have broad discretion in determining who is eligible for cash assistance. Florida’s TCA program requires applicants to meet all of the following criteria in order to be eligible:<sup>51</sup>

- be a U.S. citizen or qualified noncitizen in accordance with federal and state law;
- be a legal resident of Florida;
- have a minor child residing with a custodial parent or relative caregiver, or be a pregnant woman in the 9<sup>th</sup> month of pregnancy;
- have a gross income of 185 percent or less of the federal poverty level;<sup>52</sup>
- have liquid or nonliquid resources, of all members of the family, valued at less than \$2,000; and<sup>53</sup>
- Register for work with the Local Workforce Development Board (LWDB), unless an applicant qualifies for an exemption.

In Florida, TCA eligible families fall into one of two case categories: work-eligible or child-only.<sup>54</sup> Work-eligible cases generally include adult or teenaged heads of household who are subject to work requirements and qualify for benefits based on the needs of the full family so long as work requirements are met. Child-only cases make up roughly half of TCA cases and include households wherein there is no work-eligible adult, such as participants in the Relative Caregiver Program;<sup>55</sup> such cases receive TCA benefits based only on the needs of the child rather than the full-family. As of November 2023, there were 16,425 child-only TCA cases and 17,590 TCA cases including an adult.<sup>56</sup>

Florida imposes a lifetime limit of 48 cumulative months for an adult to be eligible for and receive cash assistance. Current law outlines specific, limited circumstances under which a person may be exempt from the time limitation. LWDBs are required to interview and assess the employment prospects and barriers of each participant who is within six months of reaching the 48-month time limit;<sup>57</sup> however, few families exit TCA due to the time limit. Most households receive TCA for fewer than six months.<sup>58</sup>

TCA Monthly Payment Maximums<sup>59</sup>

Family Size	Shelter Obligation <sup>60</sup>		
	\$50.01 and up	\$0.01-50.00	\$0
	Payment Standard	Payment Standard	Payment Standard
<b>1</b>	\$180	\$153	\$95
<b>2</b>	\$241	\$205	\$158
<b>3</b>	\$303	\$258	\$198

<sup>51</sup> Florida Department of Children and Families. *Temporary Assistance for Needy Families – State Plan Renewal, October 1, 2020 – September 30, 2023*. Available at <https://www.myflfamilies.com/sites/default/files/2022-10/TANF-Plan.pdf> (last visited January 5, 2024).

<sup>52</sup> Gross income cannot exceed 185% FPL, and a family’s countable income cannot exceed the payment standard for the family size. There is a \$90 deduction on earned income per individual. See, Florida Department of Children and Families, *Temporary Cash Assistance (TCA)*. Available at <https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance> (last visited January 22, 2024).

<sup>53</sup> Licensed vehicles with a combined value of not more than \$8,500 are excluded if a family includes individuals subject to the work requirement, or if the vehicle is necessary to transport a disabled family member and the vehicle has been specially equipped to transport the disabled person. See, s. 414.075, F.S.

<sup>54</sup> Section 414.045, F.S.

<sup>55</sup> The Relative Caregiver Program provides financial assistance to relatives who are caring full-time for an eligible child as an alternative to the child being placed in foster care. See, Florida Department of Children and Families, *Temporary Cash Assistance (TCA)*. Available at <https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance> (last visited January 5, 2024).

<sup>56</sup> *Supra*, note 49.

<sup>57</sup> Section 414.105, F.S.

<sup>58</sup> CareerSource Florida, *Temporary Assistance for Needy Families (TANF) Transitional Benefits Feasibility Study*. (2023). On file with the Children, Families & Seniors Subcommittee.

<sup>59</sup> Florida Department of Children and Families. *Temporary Cash Assistance Fact Sheet* (2019). Available at [https://www.myflfamilies.com/sites/default/files/2022-10/tcafactsheet\\_0.pdf](https://www.myflfamilies.com/sites/default/files/2022-10/tcafactsheet_0.pdf) (last visited January 20, 2024).

<sup>60</sup> “Shelter obligation,” reflects housing expenses, such as rent payments.

4	\$364	\$309	\$254
5	\$426	\$362	\$289
6	\$487	\$414	\$346
7	\$549	\$467	\$392
8	\$610	\$519	\$438
<b>Additional Person</b>	+\$62	+\$52	+\$48

### *TCA Work Requirement*

To be eligible for full-family TCA, work-eligible adult family members must participate in work activities in accordance with s. 445.024, F.S., unless they qualify for an exemption.<sup>61</sup> Individuals who fail to comply with the work requirements may be sanctioned.<sup>62</sup> TCA applicants who are determined by the DCF to not be exempt from the work requirement are referred by the DCF to Florida Commerce for work registration and intake processing. The DCF does not disburse benefits until Florida Commerce, or the LWDB, if applicable, has confirmed that the participant has registered for and attended orientation.

Upon referral, the participant must complete an intake application and undergo assessment by the LWDB staff which includes:<sup>63</sup>

- Identifying barriers to employment.
- Identifying the participant’s skills that will translate into employment and training opportunities.
- Reviewing the participant’s work history.
- Identifying whether a participant needs alternative requirements due to domestic violence, substance abuse, medical problems, mental health issues, hidden disabilities, learning disabilities or other problems which prevent the participant from engaging in full-time employment or activities.

Once the assessment is complete, the staff member and participant create an individual responsibility plan (IRP). The IRP includes the:<sup>64</sup>

- participant’s employment goal;
- participant’s assigned activities;
- services provided through program partners, community agencies and the workforce system;
- weekly number of hours the participant is expected to complete; and
- completion dates and deadlines for particular activities.

If an individual cannot participate in assigned work activities due to a medical incapacity, the individual may be exempted from the activity for a specific period of time.<sup>65</sup> To be excused from the work activity requirements, the participant’s medical incapacity must be verified by a physician, in accordance with the procedures established by the DCF.<sup>66</sup>

<sup>61</sup> Section 414.095(1), F.S. A person may be exempt from the work requirement if they receive benefits under the Supplemental Security Income Program or the Security Disability Program, is a single parent of a child under three months of age (parenting preparation activities may be alternatively required), is exempt from the TCA time limitation due to hardship, or not considered work-eligible under federal policy. See also, Florida Department of Children and Families. *Temporary Assistance for Needy Families – State Plan Renewal, October 1, 2020 – September 30, 2023*. Available at <https://www.myflfamilies.com/sites/default/files/2022-10/TANF-Plan.pdf> (last visited January 5, 2024).

<sup>62</sup> Section 414.065, F.S.

<sup>63</sup> *Supra*, note 51.

<sup>64</sup> *Id.*

<sup>65</sup> Section 414.065(4)(d), F.S.

<sup>66</sup> Rule 65A-4.206(2),(3), F.A.C.

## Qualifying Work Activities

Pursuant to state and federal law, there are 12 distinct types of work activities which can be used to satisfy a TCA recipient’s work requirement.<sup>67</sup> The 12 activities are categorized as either “core” and “supplemental” activities; such categorization impacts how the activity is counted toward a TCA recipient’s work requirement.

Work Activities	
“Core” Activities	“Supplemental” Activities
<ul style="list-style-type: none"> <li>• Unsubsidized employment</li> <li>• Subsidized private-sector employment</li> <li>• Subsidized public-sector employment</li> <li>• Work experience</li> <li>• On-the-job training</li> <li>• Job search and job readiness assistance</li> <li>• Community service programs</li> <li>• Vocational educational training</li> <li>• Providing child care services to an individual participating in a community service program</li> </ul>	<ul style="list-style-type: none"> <li>• Job skills training directly related to employment</li> <li>• Education directly related to employment</li> <li>• Completion of a secondary school program</li> </ul>

While each of these activities may contribute toward a TCA recipient’s work requirement, federal policy limits the extent to which certain activities may satisfy the work requirement. Federal and state law further limits how the different work activities may count toward a person’s work requirement based on the characteristics of the individual and the length of time in which the individual engages in the activity.<sup>68</sup>

The number of required work participation hours and the ratio of “core” to “supplemental” work activities is determined by the structure of the recipient family. “Core” activities can contribute to the entirety of a TCA recipient’s required work activity hours, while “supplemental” activities may only contribute after a recipient has completed the required hours of “core” activities. The number of work-eligible adults and the age of children in the family impact the required work participation hours.<sup>69</sup> For example, education directly related to employment includes activities such as GED examination prep courses, but these activities only count toward the full work participation hours of parents under the age of 20; once a parent is over 20 years of age, they can no longer count GED prep courses toward their total required work activity hours.

Work Participation Requirements	
Family Composition	Required Work Participation Hours
Single parent with a child under age 6	20 hours weekly of “core” work activities

<sup>67</sup> 45 CFR 261.30; S. 445.024(1), F.S.; See also, Florida Department of Children and Families, *Temporary Assistance for Needy Families (TANF) – An Overview of Program Requirements* (2016). Available at [https://www.myflfamilies.com/sites/default/files/2022-10/TANF%20101%20final\\_1.pdf](https://www.myflfamilies.com/sites/default/files/2022-10/TANF%20101%20final_1.pdf) (last visited January 6, 2024).

<sup>68</sup> 45 CFR § 261.31; S. 445.024, F.S.; See also, Congressional Research Service, *Temporary Assistance for Needy Families (TANF): The Work Participation Standard and Engagement in Welfare-to-Work Activities* (2017). Available at <https://crsreports.congress.gov/product/pdf/R/R44751> (last visited January 10, 2023).

<sup>69</sup> Florida Department of Children and Families, *Temporary Assistance for Needy Families (TANF) – An Overview of Program Requirements* (2016). Available at [https://www.myflfamilies.com/sites/default/files/2022-10/TANF%20101%20final\\_1.pdf](https://www.myflfamilies.com/sites/default/files/2022-10/TANF%20101%20final_1.pdf) (last visited January 6, 2024).

Single parent with a child over 6, or two-parent families where one parent is disabled	30 hours weekly with at least 20 hours of “core” work activities
Married teen or teen head of household under age 20	Maintains satisfactory attendance at secondary school or the equivalent, or participates in education related directly to employment for at least 20 hours weekly
Two-parent families who do not receive subsidized child care	35 hours weekly with at least 30 hours of “core” work activities, combined between both parents
Two-parent families who receive subsidized child care	55 hours weekly with at least 50 hours in “core” activities, combined between both parents

### *Sanctions for Noncompliance*

TCA recipients who fail to comply with work requirements may be sanctioned by the LWDBs. Sanctions result in cash assistance being withheld for a specified period of time, the length of which increases with repeated lack of compliance.<sup>70</sup> The process for imposing sanctions involves coordination between agencies; the LWDB first becomes aware of the noncompliance, Florida Commerce tracks compliance and notifies recipients of possible adverse action, and the DCF applies the sanctions.<sup>71</sup>

When a participant fails to comply with a mandatory work activity, the LWDB records the non-compliance in Florida Commerce’s tracking system and sends the recipient a notice of adverse action; the recipient then has 10 days to contact Florida Commerce to show good cause<sup>72</sup> for missing the requirement.<sup>73</sup> During the 10-day period, the LWDB must make both oral and written attempts to contact the participant to:<sup>74</sup>

- determine if the participant had good cause for failing to meet the work requirement;
- Refer to or provide services to the participant, if appropriate, to assist with the removal of barriers to participation;
- counsel the participant on the consequences for failure to comply with work or alternative requirement plan activity requirements without good cause;
- provide information on transitional benefits if the participant subsequently obtained employment; and
- make sure the participant understands that compliance with work activity requirements<sup>75</sup> during the 10-day period will avoid the imposition of a sanction.

If the recipient complies within 10 days, the LWDB does not request a sanction. However, if the recipient does not show good cause to the LWDB and does not comply, the LWDB sends the DCF a sanction request.<sup>76</sup> Once the DCF receives the sanction request from the LWDB, it then sends the

<sup>70</sup> Section. 414.065, F.S.

<sup>71</sup> Office of Program Policy Analysis & Government Accountability, *Mandatory Work Requirements for Recipients of the Food Assistance and Cash Assistance Programs*, p. 4, (2018). On file with the Children, Families & Seniors Subcommittee.

<sup>72</sup> *Id.* DCF captures limited information regarding good-cause for noncompliance in three categories: temporary illness, household emergency, and temporary transportation unavailable.

<sup>73</sup> *Id.* at 11, see also rule 65A-4.205(3), F.A.C.

<sup>74</sup> Rule 65A-4.205(3), F.A.C.

<sup>75</sup> The LWDB designee must provide the participant with another work activity within the 10-day period if it is impossible for the participant to comply with the original assigned activity.

<sup>76</sup> *Supra*, note 71. DCF only receives a request for sanction and not the reasons for the sanction. See also rule 65A-4.205(4), F.A.C.

recipient a notice of intent to sanction.<sup>77</sup> If the recipient does not show good cause within 10 days, the recipient is sanctioned by the DCF, and the DCF notifies Florida Commerce.<sup>78</sup>

Section 414.065(4), F.S., allows for noncompliance related to the following to constitute exceptions to the penalties for noncompliance with work participation requirements:

- unavailability of child care in certain circumstances;<sup>79</sup>
- treatment or remediation of past effects of domestic violence;
- medical incapacity;
- outpatient mental health or substance abuse treatment; and
- decision pending for Supplemental Security Income or Social Security Disability Income.

Section 414.065(4)(g), F.S., grants rulemaking authority to the DCF to determine other situations that would constitute good cause for noncompliance with work participation requirements. It specifies that these situations must include caring for a disabled family member when the need for the care has been verified and alternate care is not available.<sup>80</sup>

Florida Commerce classifies reasons for sanctions for noncompliance in the following categories:<sup>81</sup>

- Failure to respond to a mandatory letter.<sup>82</sup> Typically, this is the letter recipients receive from Florida Commerce upon referral from the DCF requiring them to register with Florida Commerce.
- Failure to attend a work activity.
- Failure to turn in a timesheet.
- Failure to attend training.
- Failure to turn in necessary documentation.

Consequences of sanctions are as follows:<sup>83</sup>

- First noncompliance - cash assistance is terminated for the full-family for a minimum of 10 days or until the individual complies.
- Second noncompliance - cash assistance is terminated for the full-family for one month or until the individual complies, whichever is later.
- Third noncompliance - cash assistance is terminated for the full-family for three months or until the individual complies, whichever is later.

For the second and subsequent instances of noncompliance, the TCA for the child or children in a family who are under age 16 may be continued (i.e. the case becomes a child-only case). Any such payments must be made through a protective payee, and under no circumstances may temporary cash assistance or food assistance be paid to an individual who has not complied with program requirements.<sup>84</sup> If a previously sanctioned participant fully complies with work activity requirements for

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<sup>77</sup> *Id.*

<sup>78</sup> *Id.*, see also rule 65A-4.205(4), F.A.C

<sup>79</sup> Specifically, if the individual is a single parent caring for a child who has not attained 6 years of age, and the adult proves to the LWDB an inability to obtain needed child care for one or more of the following reasons, as defined in the Child Care and Development Fund State Plan required by 45 C.F.R. part 98: (1) the unavailability of appropriate child care within a reasonable distance from the individual's home or worksite; (2) the unavailability or unsuitability of informal child care by a relative or under other arrangements; or (3) the unavailability of appropriate and affordable formal child care arrangements. S. 414.065(4)(a), F.S.

<sup>80</sup> Section. 414.065(4)(g), F.S.,

<sup>81</sup> *Supra*, note 71.

<sup>82</sup> *Id.* For work-eligible individuals with at least one sanction in FFY 2017, over half the sanctions were for failure to respond to a mandatory letter in 14 of 24 LWDBs.

<sup>83</sup> Section. 414.065(1), F.S.

<sup>84</sup> Section. 414.065(2), F.S.



at least six months, then the participant can be reinstated as being in full compliance with program requirements and TCA payments can resume.<sup>85</sup>

### *Federal Work Participation Standard*

The federal government sets a minimum work participation standard which states must meet as a part of the conditions of receiving TANF funding. The work participation standard is intended to measure how a state is performing in engaging TANF recipients in work or work activities and reinforce the programmatic goal of transitioning families from welfare to work.<sup>86</sup> Federal law stipulates that 50 percent of all families and 90 percent of two-parent families must be engaged in work in order to meet the standard;<sup>87</sup> however, in practice the minimum standard varies by state due to caseload reduction credits a state can earn. For the 2022 fiscal year, Florida’s adjusted standard was 12.3 percent for “all families” and 52.3 percent for two parent-families.<sup>88</sup> States may be subject to penalties if the federal minimum work participation rates are not met, though the federal government may reduce or waive these penalties in negotiation with states.<sup>89</sup>

### TANF Transitional Benefits

One of the express goals of the TANF Block Grant program is to end family dependence on public benefits by promoting job preparation and work; this is foundational to the welfare-to-work concept on which the TANF Block Grant is based.<sup>90</sup> Most parents who receive temporary cash assistance benefits work both before and after leaving the program; however, they are predominantly employed in low-wage jobs with few options for advancement.<sup>91</sup> TANF transitional benefits help families navigate this period when they become ineligible for TCA but are not yet self-sufficient.

TCA recipients who become ineligible due to reasons other than noncompliance with work requirements, such as time limits or earned income, are eligible for transitional benefits intended to reduce the unintended negative effects of the lost benefits. Transitional benefits are designed to support work retention and advancement and assist individuals in achieving economic self-sufficiency.

Families generally become ineligible for TCA when their income reaches 185 percent of the federal poverty level (FPL), at which point they become eligible for transitional benefits.<sup>92</sup> Current law outlines four types of transitional benefits which are available to qualifying former TCA recipients.

Transitional Benefits		
Benefit Type	Description	Eligibility Requirements

<sup>85</sup> Section. 414.065, F.S.

<sup>86</sup> Congressional Research Service, *Temporary Assistance for Needy Families (TANF): The Work Participation Standard and Engagement in Welfare-to-Work Activities* (2017). Available at <https://crsreports.congress.gov/product/pdf/R/R44751> (last visited January 10, 2023).

<sup>87</sup> 45 CFR § 261.20

<sup>88</sup> US Department of Health & Human Services, Administration for Children and Families, *Temporary Assistance for Needy Families (TANF) and Separate State Programs Maintenance of Effort (SSP-MOE): Work Participation Rates and Engagement in Work Activities Fiscal Year 2022*. On file with the Children, Families & Seniors Subcommittee.

<sup>89</sup> 45 CFR § 261.50

<sup>90</sup> *Supra*, note 86.

<sup>91</sup> Safawi, A. & Pavetti, L. *Most Parents Leaving TANF Work, But in Low-Paying, Unstable Jobs, Recent Studies Find* (2020). Center on Budget and Policy Priorities. Available at <https://www.cbpp.org/research/family-income-support/most-parents-leaving-tanf-work-but-in-low-paying-unstable-jobs> (last visited January 9, 2024).

<sup>92</sup> See, Florida Department of Children and Families, Temporary Cash Assistance (TCA). Available at <https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance> (last visited January 22, 2024). To be eligible, a family’s gross income must be less than 185% FPL, and countable income cannot exceed the payment standard for the family size.

There is a \$90 deduction from each individual’s gross earned income.

Transitional Child Care <sup>93</sup>	Provides subsidized child care vouchers to families	Available for up to 24 months, with an income cap of 200 percent FPL
Transitional Medical <sup>94</sup>	Allows families to remain eligible for Medicaid	Available for up to 12 months, with an income cap of 185 percent FPL after 6 months
Transitional Education and Training <sup>95</sup>	Job-related education and training	Available for up to 24 months, with an income cap of 200 percent FPL
Transitional Transportation <sup>96</sup>	Support typically provided to families in the form of payment for public transportation or gas	Available for up to 24 months, with an income cap of 200 percent FPL

CareerSource Florida, Inc., administers transitional benefits through the LWDBs. The provision of transitional benefits depends on the LWDBs available resources and funding, as well as the availability of appropriate services locally.<sup>97</sup>

### Supplemental Nutrition Assistance Program (SNAP)

#### *Program Overview*

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).<sup>98</sup> SNAP is the nation’s largest domestic food and nutrition program for low-income Americans, offering nutritional assistance to millions of individuals and families each year through the provision of funds that can be used to purchase eligible foods.<sup>99</sup> In fiscal year 2020, SNAP provided assistance to approximately 39.9 million people living in 20.5 million households across the US.<sup>100</sup> SNAP benefits support individual households by reducing the effects of poverty and increasing food security while supporting economic activity across communities, as SNAP benefits directly benefit farmers, retailers, food processors and distributors, and their employees.<sup>101</sup>

SNAP is a federal program administered at the state level in Florida by the DCF.<sup>102</sup> The DCF determines and monitors eligibility and disburses benefits to SNAP participants. The state and federal governments share the administrative costs of the program, while the federal government funds 100%

<sup>93</sup> Section. 445.032, F.S.

<sup>94</sup> Section. 445.029, F.S.

<sup>95</sup> Section. 445.030, F.S.

<sup>96</sup> Section. 445.031, F.S.

<sup>97</sup> CareerSource Florida, Inc. *Legislative Inquiry Response* (2024). On file with the Children, Families & Seniors Subcommittee.

<sup>98</sup> The Food Stamp Program (FSP) originated in 1939 as a pilot program for certain individuals to buy stamps equal to their normal food expenditures: for every \$1 of orange stamps purchased, people received 50 cents worth of blue stamps, which could be used to buy surplus food. The FSP expanded nationwide in 1974. Under the federal welfare reform legislation of 1996, Congress enacted major changes to the FSP, including limiting eligibility for certain adults who did not meet work requirements. The Food and Nutrition Act of 2008 renamed the FSP the Supplemental Nutrition Assistance Program (SNAP) and implemented priorities to strengthen program integrity; simplify program administration; maintain states’ flexibility in how they administer their programs; and improve access to SNAP. See, US Department of Agriculture, Food and Nutrition Service, *Short History of SNAP*. Available at <https://www.fns.usda.gov/snap/short-history-snap> (last visited February 24, 2023).

<sup>99</sup> US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Overview*. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/> (last visited February 24, 2023).

<sup>100</sup> US Department of Agriculture, Food and Nutrition Service, *Characteristics of SNAP Households: FY 2020 and Early Months of the COVID-19 Pandemic: Characteristics of SNAP Households*, available at <https://www.fns.usda.gov/snap/characteristics-snap-households-fy-2020-and-early-months-covid-19-pandemic-characteristics> (last visited February 24, 2023).

<sup>101</sup> US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Economic Linkages*. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/economic-linkages/> (last visited February 24, 2023).

<sup>102</sup> Section 414.31, F.S.

of the benefit amount received by participants.<sup>103</sup> Federal laws, regulations, and waivers provide states with various policy options to better target benefits to those most in need, streamline program administration and field operations, and coordinate SNAP activities with those of other programs.<sup>104</sup>

The Thrifty Food Plan, a minimal cost food plan reflects current nutrition standards and guidance, the nutrient content and cost of food, and consumption patterns of low-income households, was developed by the USDA to serve as the basis for the determination of SNAP benefits.<sup>105</sup> SNAP benefits are intended to supplement food purchases made with a household's own income; as such, the formula used to determine SNAP benefits assumes that a household will spend 30 percent of their net income on food purchases.<sup>106</sup> The benefit allotted to SNAP households is equal to the difference between the maximum allotment for their household size and 30 percent of their net income.<sup>107</sup> The structure of this formula ensures that the lowest income households receive the most benefits.

As of January 2023, 3,220,757 individuals, including 1,262,174 children and 1,017,860 elderly or disabled individuals, were receiving SNAP benefits in Florida.<sup>108</sup>

### *SNAP Eligibility & Work Requirements*

To be eligible for SNAP, households must meet the following criteria: (1) gross monthly income must be at or below 130 percent of the poverty level; (2) net income must be equal to or less than the poverty level; and (3) assets must be below the limits set based on household composition.<sup>109</sup>

Individuals may be deemed ineligible for SNAP due to any of the following:<sup>110</sup>

- conviction of drug trafficking;
- fleeing a felony warrant;
- breaking SNAP or TANF program rules;
- failure to cooperate with the child support enforcement agency; or
- being a noncitizen without qualified status.

Able-bodied, non-elderly adults are generally required to participate in work activities in order to be eligible for SNAP. Federal policy outlines two tiers of work requirements for SNAP recipients: the general work requirement and the Able-Bodied Adult Without Dependents (ABAWD) work requirement.

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<sup>103</sup> Center on Budget and Policy Priorities, *Policy Basics: The Supplemental Nutrition Assistance Program (SNAP)*. Available at <https://www.cbpp.org/research/food-assistance/the-supplemental-nutrition-assistance-program-snap#:~:text=The%20federal%20government%20pays%20the,the%20states%2C%20which%20operate%20it>. (last visited February 24, 2023).

<sup>104</sup> US Department of Agriculture, Food and Nutrition Service, *State Options Report*. Available at <https://www.fns.usda.gov/snap/waivers/state-options-report> (last visited February 24, 2023).

<sup>105</sup> US Department of Agriculture, Food and Nutrition Service, *Nutrition Assistance Program Report: Barriers That Constrain the Adequacy of Supplemental Nutrition Assistance Program Allotments: Survey Findings*, p. 9. Available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAP-Barriers-SurveyFindings.pdf> (last visited March 1, 2023).

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> Email from Chad Corcoran, Deputy Director of Legislative Affairs, Department of Children and Families, *Re: SNAP Participants* (March 2, 2023). On file with the Children, Families & Seniors Subcommittee.

<sup>109</sup> US Department of Agriculture, *Indicators of Diet Quality, Nutrition, and Health for Americans by Program Participation Status, 2011-2016: SNAP Report. Final Report* (2021). Available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/Indicators-Diet-QualitySNAP.pdf> (last visited January 16, 2024).

<sup>110</sup> Florida Department of Children and Families, *SNAP Eligibility*. Available at <https://www.myffamilies.com/services/public-assistance/supplemental-nutrition-assistance-program-snap/snap-eligibility> (last visited January 16, 2024). See also, s. 414.32, F.S.

The general work requirement applies to all recipients between 16 and 59 years of age, unless they qualify for an exemption.<sup>111</sup> The general work requirements include requiring a recipient register for work, participating in SNAP Employment and Training (E&T) or workfare if assigned, taking a suitable job if offered, and not voluntarily quitting a job or reducing work hours below 30 a week without a good reason.<sup>112</sup>

Adults between age 18 and 52, able-bodied, and without dependents are subject to the ABAWD work requirement and time limit, unless otherwise exempt.<sup>113</sup> The ABAWDs are required to work or participate in a qualifying work program for a combined total of at least 80 hours per month. The ABAWDs who fail to comply with the ABAWD work requirement for three months in a 36-month period will lose their SNAP benefits.<sup>114</sup>

### *SNAP Mandatory Employment and Training*

SNAP Employment and Training (SNAP E&T) is intended to help SNAP recipients gain skills, training, work, or experience that will help them obtain regular employment. States are required to operate a SNAP E&T program which includes case management and at least one of the following components:

- supervised job search;
- job search training;
- workfare;
- work experience;
- education; or
- self-employment.

Beyond simply requiring a state to operate a SNAP E&T program and setting the minimum components, states have significant flexibility in how they design their SNAP E&T programs in order to meet the needs of SNAP participants and address local workforce needs.<sup>115</sup>

Florida operates a mandatory SNAP E&T program for adults between the ages of 18 and 59<sup>116</sup> without dependents who are not exempt from the general or the ABAWD work requirements. SNAP E&T components that are available to mandatory E&T participants include supervised job search, job search training, work experience, education, vocational training, and job retention services. If the DCF determines there is not an appropriate and available SNAP E&T component for an individual, the participant will be exempt from mandatory SNAP E&T participation.<sup>117</sup>

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<sup>111</sup> A person may be excused from the general work requirement if they are already working at least 30 hours per week, meeting the work requirements for another program, taking care of a child under 6 or an incapacitated person, unable to work due to a physical or mental limitation, participating regularly in an alcohol or drug treatment program, or studying in school or a training program at least half-time. See, US Department of Agriculture, Food and Nutrition Service, *SNAP Work Requirements*. Available at <https://www.fns.usda.gov/snap/work-requirements> (last visited January 10, 2024).

<sup>112</sup> US Department of Agriculture, Food and Nutrition Service, *SNAP Work Requirements*. Available at <https://www.fns.usda.gov/snap/work-requirements> (last visited January 10, 2024).

<sup>113</sup> *Id.* Adults who are unable to work due to a physical or mental limitation, are pregnant, have someone under 18 in their SNAP household, are excused from the general work requirement (see *also*, note 111), are a veteran, experiencing homelessness, or were in foster care on their 18<sup>th</sup> birthday and are under age 24 are exempt from the ABAWD requirements.

<sup>114</sup> US Department of Agriculture, Food and Nutrition Service, *Supplemental Nutrition Assistance Program (SNAP) ABAWD Policy Guide* (2023). Available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAP-ABAWD-Policy-Guide-September-2023.pdf> (last visited January 10, 2024).

<sup>115</sup> *Supra*, note 114.

<sup>116</sup> In 2024 Florida expanded the definition of mandatory E&T participants to include ABAWDs and work registrants between the ages of 18 and 59 who do not have children in the household. See, Florida Department of Children and Families, *Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) State Plan – Federal Fiscal Year 2024*. Available at [https://www.floridajobs.org/docs/default-source/lwdb-resources/programs-and-resources/snap/florida-fy2024-snap-et-state-plan-final\\_10-31-2023.pdf?sfvrsn=96c95db0\\_2](https://www.floridajobs.org/docs/default-source/lwdb-resources/programs-and-resources/snap/florida-fy2024-snap-et-state-plan-final_10-31-2023.pdf?sfvrsn=96c95db0_2) (last visited January 16, 2024).

<sup>117</sup> *Id.*

Currently, when the ABAWDs are determined eligible for benefits, the DCF refers these clients to Florida Commerce and the CareerSource Florida network to engage in a comprehensive assessment to identify barriers to employment, training needs, and professional opportunities. Florida Commerce and CareerSource Florida utilize relationships with educational institutions, private sector employers and programs like apprenticeships to assist Floridians in achieving meaningful employment.<sup>118</sup>

The DCF is required to reimburse SNAP E&T participants for all reasonable, allowable, and necessary expenses related to program participation. This may include but is not limited to childcare, tuition, books, and work uniforms. If the DCF is unable to reimburse the participant, the individual must be exempted from mandatory participation in the SNAP E&T program.<sup>119</sup>

### School Readiness Program

#### *Program Overview*

The School Readiness (SR) program is a state-federal partnership between Florida's Division of Early Learning (DEL) within the Florida Department of Education (DOE) and the Office of Child Care of the United States Department of Health and Human Services.<sup>120</sup> The SR program is administered by DEL at the state level and early learning coalitions (ELC) at the county and regional levels.<sup>121</sup> The DEL partners with 30 local ELCs and the Redlands Christian Migrant Association to deliver comprehensive early childhood care and education services statewide.<sup>122</sup> The SR Program is one of three main early learning programs overseen by DEL.<sup>123</sup>

Established in 1999<sup>124</sup>, the SR Program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, abandonment, or homelessness; foster children; and children with disabilities.<sup>125</sup> The SR Program offers financial assistance for child care to families while supporting children in the development of skills for success in school. Additionally, the program provides developmental screenings and referrals to health and education specialists where needed. These services are provided in conjunction with other programs for young children such as Child Care Resource and Referral and the Voluntary Prekindergarten Program.<sup>126</sup>

The DCF Office of Child Care Regulation, as the regulatory agency over child care providers, inspects all child care providers that provide the SR services for compliance with specified health and safety standards.<sup>127</sup> In lieu of the DCF regulation, counties may designate a local licensing agency to license providers if its licensing standards meet or exceed the DCF's standards.<sup>128</sup> Five counties have done this – Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota. In these five counties the local

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<sup>118</sup> Florida Department of Children and Families, *Economic Self-Sufficiency – SNAP Work Requirements Memo* (2023). On File with the Children, Families & Seniors Subcommittee.

<sup>119</sup> *Id.*

<sup>120</sup> U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*. Available at [https://www.acf.hhs.gov/sites/default/files/documents/occ/factsheets\\_occ.pdf](https://www.acf.hhs.gov/sites/default/files/documents/occ/factsheets_occ.pdf) (last visited January 9, 2024).

<sup>121</sup> Section 1002.83, F.S.; see also, Florida Department of Education, Division of Early Learning Annual Report 2022-2023. Available at <https://www.fldoe.org/core/fileparse.php/20628/urlt/2223-DEL-AnnualReport.pdf> (last visited January 8, 2024).

<sup>122</sup> *Id.*

<sup>123</sup> The DEL also oversees the Voluntary Prekindergarten Program and the Child Care Resource & Referral Programs. See also, Florida Department of Education, Division of Early Learning, *Early Learning*. Available at <http://www.floridaearlylearning.com/school-readiness> (last visited January 9, 2024).

<sup>124</sup> Chapter 99-357, Laws of Fla., Section 1.

<sup>125</sup> Sections 1002.81 and 1002.87, F.S.

<sup>126</sup> Florida Department of Education, Division of Early Learning, *Early Learning*. Available at <http://www.floridaearlylearning.com/school-readiness> (last visited January 9, 2024).

<sup>127</sup> Sections 402.306-402.319 and 1002.88, F.S.

<sup>128</sup> Section. 402.306(1), F.S.

licensing agency, not the DCF, inspects child care providers that provide the SR services for compliance with health and safety standards.<sup>129</sup>

### *School Readiness Program Funding*

The SR Program is primarily funded through the federal Child Care and Development Fund (CCD) Block Grant. The regulations governing the use of CCD funds authorizes states to use grant funds for child care services if:<sup>130</sup>

- the child is under 13 years of age, or at the state’s option, under age 19 if the child is physically or mentally incapable of caring for himself or herself or under court supervision;
- the child’s family income does not exceed 85 percent of the state’s median income (SMI) for a family of the same size; and
- the child:
  - resides with a parent or parents who work or attend job training or educational programs;
  - or
  - receives, or needs to receive, protective services.

In addition to the CCD Block Grant, the SR program receives additional funding through the Federal TANF Block Grant, Federal Social Services Block Grant, and the General Revenue Fund.<sup>131</sup> The Legislature appropriates the SR program funds to the ELCs and the Redlands Christian Migrant Association, with participating providers receiving their funding primarily from reimbursements from the ELCs and tuition payments by enrolled families.<sup>132</sup> The ELCs reimburse participating providers with appropriated funds for each eligible child, either through child care certificates provided by parents or through contracted slots.<sup>133</sup> Provider reimbursement rates are based on provider type and the level of care a child receives with consideration of the market rate schedule set by the DOE.<sup>134</sup> The reimbursement rate schedules are set locally by the ELC and must be approved by the DEL.<sup>135</sup>

### *School Readiness Program Participation & Eligibility*

There were 209,986 children enrolled with 6,790 providers in the SR program during the 2022-2023 fiscal year.<sup>136</sup>

Early learning coalitions are required by statute to prioritize the following groups for participation in the SR Program:<sup>137</sup>

- children younger than 13 with a parent receiving temporary cash assistance under ch. 414, F.S., and subject to the federal TANF work requirements or a parent who has an Intensive Service Account or an Individual Training Account under s. 445.009, F.S.; and
- at-risk children<sup>138</sup> younger than 9.

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<sup>129</sup> See, Florida Department of Education, *Child Care Development Fund (CCDF) Plan for Florida: FFY 2022-2024*, p. 240. Available at <https://www.fldoe.org/core/fileparse.php/20628/urlt/2022-2024-CCDF-State-Plan.pdf> (last visited January 16, 2024).

<sup>130</sup> 45 C.F.R. § 98.20(a).

<sup>131</sup> Florida Department of Education, Division of Early Learning Annual Report 2022-2023 (2023), p. 4. Available at <https://www.fldoe.org/core/fileparse.php/20628/urlt/2223-DEL-AnnualReport.pdf> (last visited January 8, 2024).

<sup>132</sup> Sections 1002.84(9) and 1002.89, F.S.

<sup>133</sup> Rule 6M-4.500(1), F.A.C.

<sup>134</sup> Rule 6M-4.500(1), F.A.C.; See also, s. 1002.895, F.S.

<sup>135</sup> Rule 6M-4.500(1), F.A.C.

<sup>136</sup> *Supra*, note 131.

<sup>137</sup> Section 1002.87, F.S.

<sup>138</sup> “At-risk child” is defined under s. 1002.81, F.S., as a child meeting one of the following criteria: from a family under investigation or supervision by the Department of Children and Families (DCF) or a designated sheriff’s office for child abuse, neglect, abandonment, or exploitation; in a diversion program provided by DCF or its contracted provider and who is from a family that is actively participating and complying in department-prescribed activities, including education, health services, or work; placed in court-ordered, long-term custody

Subsequent enrollment in the program is to be prioritized according to the ELC's local priorities determined by an assessment of local priorities within the county or multicounty region based on the needs of families and provider capacity using available community data.<sup>139</sup> Based on the ELCs local priorities, enrollment in the SR Program can be made available to children meeting at least one of the following criteria:<sup>140</sup>

- Economically disadvantaged<sup>141</sup> children until eligible to enter kindergarten. Their older siblings up to the age they are eligible to enter 6th grade may also be served.
- Children from birth to kindergarten whose parents are transitioning from the TCA work program to employment.
- At-risk children who are at least age 9 but younger than 13. Those with siblings in priority groups 1-3 are higher priority than other children ages 9-13 in this priority group.
- Economically disadvantaged children younger than 13. Priority in this category is given to children who have a younger sibling in the School Readiness Program under priority 3.
- Children younger than 13 whose parents are transitioning from the TCA work program to employment.
- Children who have special needs and current individual educational plans from age 3 until they are eligible to enter kindergarten.
- Children concurrently enrolled in the federal Head Start Program and VPK, regardless of priorities 1-4.

#### *School Readiness Copayments and Fees*

Parents of children enrolled in a SR program are responsible for paying a copayment directly to the child care provider. Copayments are based on a sliding fee scale set by the ELCs and approved by the DEL.<sup>142</sup> Families receiving SR pay a copayment based on the ELC's sliding fee scale rather than a full tuition amount with the intention of eliminating cost as a barrier to services.<sup>143</sup> An ELC's sliding fee scale must be set such that economically disadvantaged families have equal access to the care available to families whose income makes them ineligible for school readiness services.<sup>144</sup> Parent copayments may not exceed 10 percent of a family's income unless the ELC provides justification of how the sliding fee scale meets the federal requirement that the copayment be affordable. In addition to the copayment, families may be subject to additional fees, such as a registration fee. The ELC may pay for a participant's registration fees up to \$75 in certain circumstances.<sup>145</sup>

The current copay schedule is not established with a smooth transition toward the end of the eligibility threshold. Instead, copays tend to remain relatively low, which means that when a family's income reaches 85 percent of state median income (SMI), the cost increase is very high when the family must

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or under the guardianship of a relative or nonrelative after termination of supervision by DCF or its contracted provider; in the custody of a parent who is considered a victim of domestic violence and is receiving services through a certified domestic violence center; in the custody of a parent who is considered homeless as verified by a DCF certified homeless shelter.

<sup>139</sup> Section 1002.85(2)(i), F.S.

<sup>140</sup> Section 1002.87(1), F.S.

<sup>141</sup> "Economically disadvantaged" is defined under s. 1002.81, F.S., as having a family income that does not exceed 150 percent of the federal poverty level and includes being a child of a working migratory family as defined by 34 C.F.R. s. 200.81(d) or (f) or an agricultural worker who is employed by more than one agricultural employer during the course of a year, and whose income varies according to weather conditions and market stability.

<sup>142</sup> Rule 6M-4.400, F.A.C.

<sup>143</sup> Section 1002.84(9), F.S.

<sup>144</sup> Rule 6M-4.400, F.A.C.

<sup>145</sup> Rule 6M-4.500, F.A.C.

absorb the full cost of child care. This transition creates a significant benefit cliff for families participating in the SR program if their income level upon exiting the program is insufficient to afford the full cost of child care. In some cases, families may attempt to “park” their income below the eligibility threshold in order to not lose access to the child care benefit.<sup>146</sup>

### Career Ladder Identifier and Financial Forecaster (CLIFF)

The Career Ladder Identifier and Financial Forecaster (CLIFF) navigator is a suite of tools developed by the Federal Reserve Bank of Atlanta to model the interaction of public benefits, taxes, and tax credits with career advancement. The tool is used to help working families navigate the complex system of public assistance, stabilize their financial situation in the short term, and plan long term career paths.<sup>147</sup>

CareerSource Florida, Inc. partnered with the Federal Reserve Bank of Atlanta to incorporate the CLIFF tool into state workforce programs. A Florida-specific suite of CLIFF tools has been developed and is being introduced into the local workforce development boards’ processes, and staff at both CareerSource, Florida, Inc. and the DCF have received training on the suite of CLIFF tools. The goal of this program is to assist Floridians in identifying career strategies and achieving economic stability while minimizing the negative impacts of losing public assistance.<sup>148</sup>

## **Effect of The Bill**

### Temporary Assistance for Needy Families (TANF)

#### *Qualifying Work Activities*

The bill allows adults who have not attained a high school diploma, or its equivalent, to satisfy their TCA work activity requirement through participating in adult basic education or high school equivalency examination preparation for at least 20 hours per week.

The bill includes a mechanism by which this provision may be suspended if the state’s work participation rate (WPR) falls below the federally required minimum rate. If the state’s WPR does not exceed the federal minimum WPR by more than 10 percent, then Florida Commerce must suspend the provision until the state has again exceeded the federal minimum WPR by 10 percent for three consecutive months. If the provision is suspended, Florida Commerce issues notice to the affected TCA recipients within 5 days of the policy’s suspension.

Under the bill, if the provision allowing adult basic education or high school equivalency examination preparation as a work activity is suspended, individuals whose work requirements are impacted are protected from being sanctioned as a result of the state’s action: impacted TCA recipients are considered to have good cause for noncompliance for up to six weeks after the change in the participants’ work requirements.

#### *Transitional Case Management*

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<sup>146</sup> *Supra*, note 14.

<sup>147</sup> Federal Reserve Bank of Atlanta, *Career Ladder Identifier and Financial Forecaster (CLIFF)*. Available at <https://www.atlantafed.org/economic-mobility-and-resilience/advancing-careers-for-low-income-families/cliff-tool> (last visited January 19, 2024).

<sup>148</sup> CareerSource Florida. *2022-2023 Annual Report (2023)*. Available at [https://careersourceflorida.com/wp-content/uploads/2023/12/CAREERSOURCE-FLORIDA-FY-22-23-ANNUAL-REPORT\\_DIGITAL.pdf](https://careersourceflorida.com/wp-content/uploads/2023/12/CAREERSOURCE-FLORIDA-FY-22-23-ANNUAL-REPORT_DIGITAL.pdf) (last visited January 19, 2024).



The bill creates transitional case management as a service available to families who have transitioned off of cash assistance. Under the bill, individuals who have been determined ineligible for cash assistance for a reason other than noncompliance with work activity requirements are eligible for voluntary case management services administered by the local workforce development board.

The bill directs Florida Commerce to develop training for the local workforce development boards relating to case management methods and the provision of welfare transition services generally.

### *Data Collection*

The bill directs CareerSource Florida, Inc., in collaboration with the Florida Commerce and the DCF, to develop standardized surveys for TCA recipients to be administered by the LWDBs. The bill requires CareerSource Florida, Inc., to develop an intake survey to collect baseline information as a person is entering the program, and an exit survey to collect information which can be used to discern programmatic impacts on individuals over time. The stated purpose of the surveys is to monitor program effectiveness, inform program improvements, and effectively allocate resources.

The bill requires that the intake surveys collect, at a minimum, information relating to perceived barriers to employment, reasons for past separation from employment, stated goals for employment or professional development, the highest level of education or training the individual has attained, and awareness of non-cash assistance transitional services. The bill directs the LWDBs to administer the intake survey in conjunction with the diversion screening process required under s. 445.017, F.S., or in case of administrative oversight, the bill generally requires the survey be completed by each new TCA recipient who has not otherwise completed the survey.

The bill requires that the exit surveys collect, at a minimum, information on the recipient's enrollment in other benefits programs, long-term career plan, credentials, education, or training received during enrollment, barriers to employment addressed, and remaining barriers to employment. The bill directs the LWDBs to administer the exit survey at the points of contact required in current law<sup>149</sup> when a TCA recipient becomes, or is anticipated to become, ineligible for TCA.

The bill directs the local workforce development boards to submit the completed surveys to CareerSource Florida, Inc., and disseminate anonymized data to Florida Commerce and the DCF on a quarterly basis. The bill requires Florida Commerce, in consultation with CareerSource Florida, Inc., and the DCF, to prepare and submit a report to the Legislature annually. The report is required to include survey results, an analysis of the barriers to employment faced by survey respondents, and recommendations for legislative and administrative changes to mitigate such barriers and improve the effective use of transitional benefits.

### Supplemental Nutritional Assistance Program (SNAP)

The bill directs the DCF, unless prohibited by the federal government, to require participation in SNAP E&T among SNAP recipients who:

- are eligible for the program;
- are between 18 and 59 years of age;
- do not have children under age 18 in the home; and
- do not otherwise meet an exemption.

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<sup>149</sup> Section 414.105, F.S., requires TCA recipients to be interviewed when they near the 48-month lifetime limit on TCA. S. 445.028, F.S., requires TCA recipients be contacted when they are determined ineligible for cash assistance.

This provision is consistent with Florida's current SNAP E&T plan which has been approved by the federal government.

### Career Ladder Identifier and Financial Forecaster (CLIFF)

The bill requires the use of a tool “to demonstrate future financial impacts” (tool) relating to a person's change in income and benefits in several settings. The CLIFF suite of tools developed with the Federal Reserve Bank of Atlanta is currently used for this purpose.

The bill requires that the tool be implemented during the interview process that occurs when a TCA-recipient is approaching the 48-month time limit on TCA. The tool is also included in the required elements of transitional case management.

The bill requires Florida Commerce to integrate the tool into the workforce service delivery system, and requires Florida Commerce to develop training for the local workforce development boards, and other workforce system partners, on the use of the tool. The bill also directs the ELCs to provide School Readiness Subsidy Program participants with access to the tool.

### School Readiness Subsidy Program

The bill creates the School Readiness Subsidy Program (subsidy program) within the DOE. The subsidy program will supplement the existing SR program and serve to mitigate the benefit cliff experienced by families as they become ineligible for the SR program funding due to earned income.

The subsidy program will be available to families who have become ineligible for the existing SR program due to family income and the family income is between 85 and 100 percent SMI. This applies to families who entered the existing SR program as “economically disadvantaged,” with an income less than 150 percent FPL, and become ineligible when their income exceeds 85 percent SMI.<sup>150</sup>

To receive a subsidy under the program, a parent must:

- submit an application to the ELC in the form prescribed by the DOE;
- provide any documentation necessary to verify eligibility for the subsidy; and
- be responsible for the payment of child care expenses in excess of the amount of the subsidy.

The subsidy program is available on a first-come, first-served basis, subject to a legislative appropriation .

The bill directs the ELCs to administer the subsidy program. The ELCs are responsible for determining the subsidy amount as a percentage of the ELC's approved provider reimbursement rates, with consideration of family income and a required parent copayment that increases in relation to family income. The amount of the subsidy and the parent copayment must be sufficient to allow the family to access child care providers and enable the parent to achieve self-sufficiency.

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

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 414.065, F.S., relating to noncompliance with work requirements.

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<sup>150</sup> For reference, for a family of three: 150 percent FPL is \$38,730, 85 percent SMI is \$63,471, and 100 percent SMI is \$74,672.

- Section 2:** Amends s. 414.105, F.S., relating to time limitations of temporary cash assistance.
- Section 3:** Amends s. 414.455, F.S., relating to Supplemental Nutrition Assistance Program; legislative authorization.
- Section 4:** Amends s. 445.009, F.S., relating to one-stop delivery system.
- Section 5:** Amends s. 445.011, F.S., relating to consumer-first workforce system.
- Section 6:** Amends s. 445.017, F.S., relating to diversion.
- Section 7:** Amends s. 445.024, F.S., relating to work requirements.
- Section 8:** Amends s. 445.028, F.S., relating to transitional benefits and services.
- Section 9:** Creates s. 445.0281, F.S., relating to transitional case management.
- Section 10:** Amends s. 445.035, F.S., relating to data collection and reporting.
- Section 11:** Creates s. 1002.935, F.S., relating to School Readiness Subsidy Program.
- Section 12:** 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:

Data Collection and Reporting:

CareerSource Florida, in collaboration with the departments of Commerce and Children and Families, shall develop standardized intake and exit surveys to collect and aggregate data to monitor program effectiveness. Any costs associated with this workload can be absorbed within existing resources of these three entities collectively.

There remains an indeterminate fiscal impact with regard to data storage and its dissemination to the DCF. To the degree that CareerSource does not have resources to house the information collected and share it with the DCF, and once workload is actually determined, CareerSource may submit a future budget request to the Legislature which details any such information technology infrastructure needs for consideration.

The workload associated with the annual reporting requirement provisions in the bill can be absorbed within existing Department of Commerce resources.

New School Readiness Subsidy Program: Funding for the new subsidy program is contingent upon a legislative appropriation should funding be provided. The DOE will have increased recurring General Revenue expenditures for the new subsidy for families who have exceeded the current

eligibility limit of 85% of the SMI. There may also be costs to modify the DOE's information technology system to administer the new subsidy. The impact of this is indeterminate.

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

1. Revenues:

None.

2. Expenditures:

None.

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

Families who are able to receive the subsidy will have increased household resources. These resources may enable them to increase the hours they work, further benefitting those households economically.

Child care providers may experience increased enrollment from the expanded eligibility criteria allowing children to remain eligible for services.

**D. FISCAL COMMENTS:**

Depending on the degree to which former TCA recipients use the new transitional case management services, local workforce development boards may also see a workload increase from providing that service. The fiscal impact is indeterminate at this time..

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

Sufficient rule-making authority exists to implement the provisions of the bill.

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

None.

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

On January 24, 2024, the Children, Families & Seniors Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Align the provision of the bill relating to SNAP E&T with current, federally-approved the DCF policy which does not require mandatory participation in SNAP E&T for households that include children under age 18; and
- Revise the provision of the bill relating to the SR program such that:
  - A new program is created to supplement the existing SR program;
  - The exit point of the supplemental program is established at 100 percent SMI ;
  - The supplemental program is available on a first-come, first-served basis, subject to a legislative appropriation .

The analysis is drafted to the committee substitute as approved by the Children, Families & Seniors Subcommittee.

1                   A bill to be entitled  
2           An act relating to economic self-sufficiency; amending  
3           s. 414.065, F.S.; providing that a participant has  
4           good cause for noncompliance with work requirements  
5           for a specified time period under certain  
6           circumstances; amending s. 414.105, F.S.; providing  
7           requirements for staff members of local workforce  
8           development boards when interviewing participants;  
9           amending s. 414.455, F.S.; requiring certain persons  
10          to participate in an employment and training program;  
11          amending s. 445.009, F.S.; requiring benefit  
12          management and career planning using a specified tool  
13          as part of the state's one-stop delivery system;  
14          amending s. 445.011, F.S.; requiring the Department of  
15          Commerce to develop certain training; conforming  
16          provisions to changes made by the act; amending s.  
17          445.017, F.S.; requiring a local workforce development  
18          board to administer an intake survey; amending s.  
19          445.024, F.S.; authorizing certain participants to  
20          participate in certain programs or courses for a  
21          specified number of hours per week; authorizing the  
22          Department of Commerce to suspend certain work  
23          requirements under certain circumstances; requiring  
24          the department to issue notice to participants under  
25          certain circumstances; amending s. 445.028, F.S.;

26 requiring the Department of Children and Families to  
 27 administer an exit survey; creating s. 445.0281, F.S.;  
 28 providing voluntary case management services to  
 29 certain persons for specified purposes; providing  
 30 requirements for such case management services and  
 31 case managers; amending s. 445.035, F.S.; requiring  
 32 CareerSource Florida, Inc., in collaboration with  
 33 other entities, to develop standardized intake and  
 34 exit surveys for specified purposes; specifying when  
 35 such surveys must be administered; providing  
 36 requirements for such surveys; requiring completed  
 37 surveys to be submitted to CareerSource Florida, Inc.,  
 38 and disseminated quarterly to certain departments;  
 39 requiring the Department of Commerce, in consultation  
 40 with other entities, to prepare and submit an annual  
 41 report to the Legislature; providing requirements for  
 42 such report; creating s. 1002.935, F.S.; creating the  
 43 School Readiness Subsidy Program within the Department  
 44 of Education; providing requirements for the program;  
 45 providing eligibility requirements to receive a  
 46 subsidy under the program; requiring early learning  
 47 coalitions to administer the program and provide  
 48 participants access to a specified tool; providing for  
 49 the calculation of the amount of the subsidy;  
 50 providing requirements for parents to receive a

51           subsidy; providing an effective date.

52

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

54

55           Section 1. Subsection (1) of section 414.065, Florida  
56 Statutes, is amended to read:

57           414.065 Noncompliance with work requirements.—

58           (1) PENALTIES FOR NONPARTICIPATION IN WORK REQUIREMENTS  
59 AND FAILURE TO COMPLY WITH ALTERNATIVE REQUIREMENT PLANS.—The  
60 department shall establish procedures for administering  
61 penalties for nonparticipation in work requirements and failure  
62 to comply with the alternative requirement plan. If an  
63 individual in a family receiving temporary cash assistance fails  
64 to engage in work activities required in accordance with s.  
65 445.024, the following penalties shall apply. ~~Before~~ Prior to  
66 the imposition of a sanction, the participant must ~~shall~~ be  
67 notified orally or in writing that the participant is subject to  
68 sanction and that action will be taken to impose the sanction  
69 unless the participant complies with the work activity  
70 requirements. The participant must ~~shall~~ be counseled as to the  
71 consequences of noncompliance and, if appropriate, ~~shall be~~  
72 referred for services that could assist the participant to fully  
73 comply with program requirements. If the participant has good  
74 cause for noncompliance or demonstrates satisfactory compliance,  
75 the sanction may ~~shall~~ not be imposed. If the requirements of s.



76 445.024(2)(a)1. are suspended pursuant to s. 445.024(2)(a)2., a  
77 participant in noncompliance because of such suspension is  
78 considered to have good cause for noncompliance for up to 6  
79 weeks after the change in the participant's work requirements.

80 If the participant has subsequently obtained employment, the  
81 participant must ~~shall~~ be counseled regarding the transitional  
82 benefits that may be available and provided information about  
83 how to access such benefits. The department shall administer  
84 sanctions related to food assistance consistent with federal  
85 regulations.

86 (a)1. First noncompliance: temporary cash assistance is  
87 ~~shall be~~ terminated for the family for a minimum of 10 days or  
88 until the individual who failed to comply does so.

89 2. Second noncompliance: temporary cash assistance is  
90 ~~shall be~~ terminated for the family for 1 month or until the  
91 individual who failed to comply does so, whichever is later.  
92 Upon meeting this requirement, temporary cash assistance must  
93 ~~shall~~ be reinstated to the date of compliance or the first day  
94 of the month following the penalty period, whichever is later.

95 3. Third noncompliance: temporary cash assistance is ~~shall~~  
96 ~~be~~ terminated for the family for 3 months or until the  
97 individual who failed to comply does so, whichever is later. The  
98 individual must ~~shall be required to~~ comply with the required  
99 work activity upon completion of the 3-month penalty period,  
100 before reinstatement of temporary cash assistance. Upon meeting

101 this requirement, temporary cash assistance must ~~shall~~ be  
 102 reinstated to the date of compliance or the first day of the  
 103 month following the penalty period, whichever is later.

104 (b) If a participant receiving temporary cash assistance  
 105 who is otherwise exempted from noncompliance penalties fails to  
 106 comply with the alternative requirement plan required in  
 107 accordance with this section, the penalties provided in  
 108 paragraph (a) ~~shall~~ apply.

109  
 110 If a participant fully complies with work activity requirements  
 111 for at least 6 months, the participant must ~~shall~~ be reinstated  
 112 as being in full compliance with program requirements for  
 113 purpose of sanctions imposed under this section.

114 Section 2. Subsection (10) of section 414.105, Florida  
 115 Statutes, is amended to read:

116 414.105 Time limitations of temporary cash assistance.—  
 117 Except as otherwise provided in this section, an applicant or  
 118 current participant shall receive temporary cash assistance for  
 119 no more than a lifetime cumulative total of 48 months, unless  
 120 otherwise provided by law.

121 (10) A member of the staff of the local workforce  
 122 development board shall interview and assess the employment  
 123 prospects and barriers of each participant who is within 6  
 124 months of reaching the 48-month time limit. The staff member  
 125 shall do all of the following:

126 (a) Administer the exit survey required under s. 445.035.

127 (b) Use a tool to demonstrate future financial impacts of  
 128 the participant's change in income and benefits over time.

129 (c) Assist the participant in identifying actions  
 130 necessary to become employed before reaching the benefit time  
 131 limit for temporary cash assistance.

132 (d) and, If appropriate, shall refer the participant for  
 133 services that could facilitate employment, including, but not  
 134 limited to, transitional benefits and services.

135 Section 3. Section 414.455, Florida Statutes, is amended  
 136 to read:

137 414.455 Supplemental Nutrition Assistance Program;  
 138 legislative authorization; mandatory participation in employment  
 139 and training programs.—

140 (1) Notwithstanding s. 414.45, and unless expressly  
 141 required by federal law, the department must ~~shall~~ obtain  
 142 specific authorization from the Legislature before seeking,  
 143 applying for, accepting, or renewing any waiver of work  
 144 requirements established by the Supplemental Nutrition  
 145 Assistance Program under 7 U.S.C. s. 2015(o).

146 (2) Unless prohibited by the Federal Government, the  
 147 department must require a person who is receiving food  
 148 assistance; who is 18 to 59 years of age, inclusive; who does  
 149 not have children under the age of 18 in his or her home; who  
 150 does not qualify for an exemption; and who is determined by the

151 department to be eligible, to participate in an employment and  
 152 training program.

153 Section 4. Paragraph (k) of subsection (1) of section  
 154 445.009, Florida Statutes, is redesignated as paragraph (l), and  
 155 a new paragraph (k) is added to that subsection, to read:

156 445.009 One-stop delivery system.—

157 (1) The one-stop delivery system is the state's primary  
 158 customer-service strategy for offering every Floridian access,  
 159 through service sites or telephone or computer networks, to the  
 160 following services:

161 (k) Benefit management and career planning using a tool to  
 162 demonstrate future financial impacts of the participant's change  
 163 in income and benefits over time.

164 Section 5. Subsections (1) and (5) of section 445.011,  
 165 Florida Statutes, are amended to read:

166 445.011 Consumer-first workforce system.—

167 (1) The department, in consultation with the state board,  
 168 the Department of Education, and the Department of Children and  
 169 Families, shall implement, subject to legislative appropriation,  
 170 an automated consumer-first workforce system that improves  
 171 coordination among required one-stop partners and is necessary  
 172 for the efficient and effective operation and management of the  
 173 workforce development system. This system must ~~shall~~ include,  
 174 but is ~~need~~ not ~~be~~ limited to, the following:

175 (a) An integrated management system for the one-stop

176 service delivery system, which includes, at a minimum, common  
177 registration and intake for required one-stop partners,  
178 screening for needs and benefits, benefit management and career  
179 planning using a tool to demonstrate future financial impacts of  
180 the participant's change in income and benefits over time, case  
181 management, training benefits management, service and training  
182 provider management, performance reporting, executive  
183 information and reporting, and customer-satisfaction tracking  
184 and reporting.

185 1. The system should report current budgeting,  
186 expenditure, and performance information for assessing  
187 performance related to outcomes, service delivery, and financial  
188 administration for workforce programs pursuant to s. 445.004(5)  
189 and (9).

190 2. The system should include auditable systems and  
191 controls to ensure financial integrity and valid and reliable  
192 performance information.

193 3. The system should support service integration and case  
194 management across programs and agencies by providing for case  
195 tracking for participants in workforce programs, participants  
196 who receive benefits pursuant to public assistance programs  
197 under chapter 414, and participants in welfare transition  
198 programs under this chapter.

199 (b) An automated job-matching information system that is  
200 accessible to employers, job seekers, and other users via the

201 Internet, and that includes, at a minimum, all of the following:

202 1. Skill match information, including skill gap analysis;  
 203 resume creation; job order creation; skill tests; job search by  
 204 area, employer type, and employer name; and training provider  
 205 linkage. ~~†~~

206 2. Job market information based on surveys, including  
 207 local, state, regional, national, and international occupational  
 208 and job availability information. ~~† and~~

209 3. Service provider information, including education and  
 210 training providers, child care facilities and related  
 211 information, health and social service agencies, and other  
 212 providers of services that would be useful to job seekers.

213 (5) The department shall develop training for required  
 214 one-stop partners on the use of the consumer-first workforce  
 215 system, best practices for the use of a tool demonstrating  
 216 future financial impacts of the participant's change in income  
 217 and benefits over time, the different case management methods,  
 218 the availability of welfare transition services, and how to  
 219 prequalify individuals for workforce programs.

220 Section 6. Subsection (4) of section 445.017, Florida  
 221 Statutes, is amended to read:

222 445.017 Diversion.—

223 (4) (a) The local workforce development board shall screen  
 224 each family on a case-by-case basis for barriers to obtaining or  
 225 retaining employment. The screening must ~~shall~~ identify barriers

226 that, if corrected, may prevent the family from receiving  
 227 temporary cash assistance on a regular basis. At the time of  
 228 screening, the local workforce development board shall  
 229 administer the intake survey required under s. 445.035(2).

230 (b) Assistance to overcome a barrier to employment is not  
 231 limited to cash, but may include vouchers or other in-kind  
 232 benefits.

233 Section 7. Subsection (2) of section 445.024, Florida  
 234 Statutes, is amended to read:

235 445.024 Work requirements.—

236 (2) WORK ACTIVITY REQUIREMENTS.—Each individual who is not  
 237 otherwise exempt from work activity requirements must  
 238 participate in a work activity for the maximum number of hours  
 239 allowable under federal law; however, a participant may not be  
 240 required to work more than 40 hours per week. The maximum number  
 241 of hours each month that a family may be required to participate  
 242 in community service or work experience programs is the number  
 243 of hours that would result from dividing the family's monthly  
 244 amount for temporary cash assistance and food assistance by the  
 245 applicable minimum wage. However, the maximum hours required per  
 246 week for community service or work experience may not exceed 40  
 247 hours.

248 (a)1. A participant who has not earned a high school  
 249 diploma or its equivalent may participate in adult general  
 250 education, as defined in s. 1004.02(3), or a high school

251 equivalency examination preparation, as defined in s.  
252 1004.02(16). A participant must participate in such program or  
253 course for at least 20 hours per week in order to satisfy the  
254 participant's work activity requirement.

255 2. If the state's TANF work participation rate, as  
256 provided by federal law, does not exceed the federal minimum  
257 work participation rate by 10 percentage points in any month,  
258 the requirements of this subsection may be suspended by the  
259 department until the work participation rate exceeds the federal  
260 minimum work participation rate by 10 percentage points for at  
261 least 3 consecutive months.

262 3. If the requirements of this subsection are suspended,  
263 the department must issue notice to the affected participants of  
264 the changed work requirements within 5 days after the change in  
265 such work requirements.

266 (b)(a) A participant in a work activity may also be  
267 required to enroll in and attend a course of instruction  
268 designed to increase literacy skills to a level necessary for  
269 obtaining or retaining employment if the instruction plus the  
270 work activity does not require more than 40 hours per week.

271 (c)(b) Program funds may be used, as available, to support  
272 the efforts of a participant who meets the work activity  
273 requirements and who wishes to enroll in or continue enrollment  
274 in an adult general education program or other training  
275 programs.



276 Section 8. Subsections (1) and (2) of section 445.028,  
 277 Florida Statutes, are amended to read:

278 445.028 Transitional benefits and services.—In cooperation  
 279 with the department, the Department of Children and Families  
 280 shall develop procedures to ensure that families leaving the  
 281 temporary cash assistance program receive transitional benefits  
 282 and services that will assist the family in moving toward self-  
 283 sufficiency. At a minimum, such procedures must include, but are  
 284 not limited to, the following:

285 (1) Each recipient of cash assistance who is determined  
 286 ineligible for cash assistance for a reason other than a work  
 287 activity sanction must ~~shall~~ be contacted by the workforce  
 288 system case manager and provided information about the  
 289 availability of transitional benefits and services. Such contact  
 290 must include the administration of the exit survey required  
 291 under s. 445.035(2) and ~~shall~~ be attempted before ~~prior to~~  
 292 closure of the case management file.

293 (2) Each recipient of temporary cash assistance who is  
 294 determined ineligible for cash assistance due to noncompliance  
 295 with the work activity requirements must ~~shall~~ be contacted and  
 296 provided information in accordance with s. 414.065(1). Such  
 297 contact must include the administration of the exit survey  
 298 required under s. 445.035(2).

299 Section 9. Section 445.0281, Florida Statutes, is created  
 300 to read:

301        445.0281 Transitional case management.—Each recipient of  
 302 cash assistance who is determined ineligible for cash assistance  
 303 for a reason other than noncompliance with work activity  
 304 requirements is eligible for voluntary case management services  
 305 administered by the local workforce development board. Case  
 306 management services must be available to support families who  
 307 transition to economic self-sufficiency and to mitigate  
 308 dependency on cash assistance. Case management services must  
 309 include, but are not limited to, career planning, job search  
 310 assistance, resume building, basic financial planning,  
 311 connection to support services, and benefits management using a  
 312 tool to demonstrate future financial impacts of the  
 313 participant's change in income and benefits over time, as  
 314 applicable. Case managers must connect recipients to other  
 315 transitional benefits as needed.

316        Section 10. Section 445.035, Florida Statutes, is amended  
 317 to read:

318        445.035 Data collection and reporting.—

319        (1) The Department of Children and Families and the state  
 320 board shall collect data necessary to administer this chapter  
 321 and make the reports required under federal law to the United  
 322 States Department of Health and Human Services and the United  
 323 States Department of Agriculture.

324        (2) CareerSource Florida, Inc., in collaboration with the  
 325 department, the Department of Children and Families, and the

326 local workforce development boards, shall develop standardized  
327 intake and exit surveys for the purpose of collecting and  
328 aggregating data to monitor program effectiveness, inform  
329 program improvements, and allocate resources.

330 (a) The intake survey must be administered by the local  
331 workforce development boards during the required diversion  
332 screening process under s. 445.017. The intake survey must be  
333 administered to each new recipient of temporary cash assistance  
334 under chapter 414 who has not otherwise completed the survey.

335 (b) The intake survey must, at a minimum, collect  
336 qualitative or quantitative data, as applicable, relating to all  
337 of the following:

338 1. The recipient's perceived individual barriers to  
339 employment.

340 2. The reasons cited by the recipient for his or her  
341 separation from employment in the previous 12 months.

342 3. The recipient's stated goals for employment or  
343 professional development.

344 4. The recipient's highest level of education or  
345 credentials attained or training received at the time of  
346 enrollment.

347 5. The recipient's awareness of welfare transition  
348 services.

349 (c) The exit survey must be administered by the local  
350 workforce development boards to recipients of temporary cash

351 assistance under chapter 414 as recipients prepare to transition  
 352 off of temporary cash assistance. Based on a recipient's  
 353 circumstances, the exit survey must be administered to the  
 354 recipient at one of the following points of contact:

355 1. The recipient is approaching the statutory time  
 356 limitation for temporary cash assistance and is interviewed  
 357 pursuant to s. 414.105(10); or

358 2. At such time when the recipient becomes ineligible for  
 359 cash assistance and is contacted pursuant to s. 445.028.

360 (d) The exit survey must, at a minimum, collect data  
 361 relating to all of the following:

362 1. The recipient's enrollment in other public benefits  
 363 programs at the time of exit.

364 2. Whether the recipient has a long-term career plan.

365 3. The recipient's credentials or education attained or  
 366 training received during enrollment.

367 4. Barriers to the recipient's employment which were  
 368 addressed during enrollment.

369 5. Any remaining barriers to the recipient's employment.

370 (e) The completed surveys must be submitted to  
 371 CareerSource Florida, Inc., and anonymized data must be  
 372 disseminated quarterly to the department and the Department of  
 373 Children and Families.

374 (f) The department, in consultation with CareerSource  
 375 Florida, Inc., and the Department of Children and Families,

376 shall prepare and submit to the President of the Senate and the  
377 Speaker of the House of Representatives a report by January 1 of  
378 each year. The report must include, at a minimum, the results of  
379 the intake and exit surveys, an analysis of the barriers to  
380 employment experienced by the survey respondents, and any  
381 recommendations for legislative and administrative changes to  
382 mitigate such barriers and improve the effective use of  
383 transitional benefits.

384 Section 11. Section 1002.935, Florida Statutes, is created  
385 to read:

386 1002.935 School Readiness Subsidy Program.—The School  
387 Readiness Subsidy Program is created within the Department of  
388 Education to support the continued school readiness and child  
389 care needs of working families with children. The program is  
390 contingent upon a legislative appropriation and is provided on a  
391 first-come, first-served basis.

392 (1)(a) A child who is determined to be ineligible for  
393 school readiness program funds due to family income during the  
394 annual eligibility determination pursuant to s. 1002.87(6) is  
395 eligible for a subsidy under this section if the family income  
396 is between 85 percent and 100 percent, inclusive, of the state  
397 median income.

398 (b) The early learning coalitions established in s.  
399 1002.83 shall administer the School Readiness Subsidy Program  
400 and provide participants with access to the benefit management

401 and career planning tool described in s. 445.009(1)(k).

402 (2)(a) The amount of the subsidy is a percentage of the  
403 early learning coalition's approved school readiness program  
404 provider reimbursement rates as calculated pursuant to s.  
405 1002.84(17). An early learning coalition shall consider family  
406 income and a required parent copayment that increases in  
407 relation to the family income when establishing the percentage  
408 for the amount of the subsidy for the program.

409 (b) The amount of the subsidy and parent copayment must be  
410 sufficient to allow the family to access child care providers  
411 pursuant to s. 1002.88 and enable the parent to achieve self-  
412 sufficiency.

413 (3) For a parent to receive a subsidy under the program,  
414 he or she must:

415 (a) Submit an application to the early learning coalition  
416 in a format prescribed by the Department of Education.

417 (b) Provide any documentation necessary to verify the  
418 parent's eligibility to receive the subsidy.

419 (c) Be responsible for the payment of all child care  
420 expenses in excess of the amount of the subsidy.

421 Section 12. 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>	

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

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

5 Between lines 420 and 421, insert:

6 Section 12. For the 2024-2025 fiscal year, the sum of  
7 \$23,076,259 in nonrecurring funds is appropriated from the  
8 General Revenue Fund to the Department of Education to implement  
9 the School Readiness Subsidy Program created in s. 1002.935,  
10 Florida Statutes. These funds shall be placed in reserve. The  
11 department is authorized to submit budget amendments requesting  
12 the release of the funds pursuant to chapter 216, Florida  
13 Statutes. Release of the funds is contingent upon the  
14 submission of an allocation plan developed by the department in  
15 collaboration with the early learning coalitions established  
16 pursuant to s. 1002.83, Florida Statutes.

Amendment No. 1

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**T I T L E   A M E N D M E N T**

Remove line 51 and insert:  
subsidy; providing an appropriation; providing an effective  
date.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1329 Veterans

**SPONSOR(S):** Local Administration, Federal Affairs & Special Districts Subcommittee, Redondo, Alvarez and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1666

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	15 Y, 0 N, As CS	Mwakyanjala	Darden
2) Appropriations Committee		Aderibigbe	Pridgeon
3) State Affairs Committee			

### SUMMARY ANALYSIS

Florida is home to 21 military installations and more than 69,000 military personnel. Florida also has the nation's third-largest veteran population with almost 1.5 million veterans. Many of these veterans are recently transitioned servicemembers. Each year, about 250,000 servicemembers end military service as veterans and either reenter the civilian workforce or enroll in higher education.

The bill revises provisions relating to veterans and the transition of veterans to civilian life by:

- Expanding employment outreach, marketing, and support services activities of Florida is for Veterans, Inc. (Veterans Florida);
- Revising the appointment process for the governing board of Veterans Florida;
- Providing definitions for terms used in law relating to Veterans Florida and the Veterans Employment and Training Services Program (VETSP);
- Revising the duties of Veterans Florida relating to the administration of VETSP;
- Allowing an educational stipend for veterans while training at specified locations;
- Expanding the role of Veterans Florida in assisting with industry certification;
- Prohibiting the Department of State from charging veterans who are residents of the state various filing fees;
- Creating an exemption from fees related to hunting and fishing permits and licenses for certain disabled veterans;
- Revising the structure, appointment of members, and frequency of meetings of the Advisory Council on Brain and Spinal Cord Injuries; and
- Adding required instructional material for middle and high school students.

The bill has an indeterminate negative fiscal impact that can be absorbed within existing resources.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### SkillBridge Program

The Department of Defense (DoD) SkillBridge program grants servicemembers<sup>1</sup> an opportunity to “gain valuable civilian work experience through specific industry training, apprenticeships, or internships” by matching civilian opportunities to a servicemember’s job training and work experience.<sup>2</sup> The goal of providing these opportunities is to enhance the servicemember’s marketability and post-separation career prospects following separation from duty.<sup>3</sup> Servicemembers are eligible for the program regardless of rank. Military spouses and veterans may also participate in programs with some partners; however, the DoD will not provide pay, allowances, benefits, or other program support to the military spouse or veteran.<sup>4</sup>

The servicemember is permitted to use up to the last 180 days of service to train and learn with an industry partner that best matches that applicant’s job training and work experience. The training must offer the servicemember a high probability of employment. Throughout the SkillBridge program partnership, the servicemember continues to receive military compensation and benefits. Eligibility for the SkillBridge program is mission-dependent and must be authorized by the unit commander prior to entering into any agreement with interested industry employment partners.<sup>5</sup>

##### Florida Department of Veterans’ Affairs

The Florida Department of Veterans’ Affairs (FDVA) is a nearly 1,500-member constitutionally chartered<sup>6</sup> department with a budget of \$201 million for FY 2023-24.<sup>7</sup> FDVA operates a network of nine state veterans’ homes and provides statewide outreach to connect veterans and their spouses with services, benefits and support.<sup>8</sup> FDVA is currently required to provide benefits and services in the fields of health care, mental health and substance abuse, claims support, education, employment, housing, burial benefits, and legal assistance to veterans and their spouses.<sup>9</sup> Current law does not require FDVA to provide these benefits and services to the spouses of veterans.

Each year, about 250,000 servicemembers end military service as veterans and either reenter the civilian workforce or enroll in higher education.<sup>10</sup> Florida is home to 21 military installations<sup>11</sup> and

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<sup>1</sup> The term “servicemember” is generally referred to as being on “active duty.” 10 USC s. 101 defines “active duty” as full-time duty in the active military service of the United States. The term includes full-time training duty, annual training duty, and attendance, while in the active military service. The term does not include full-time National Guard duty.

<sup>2</sup> Dept. of Defense, SkillBridge, *Program Overview*, <https://skillbridge.osd.mil/program-overview.htm> (last visited Jan. 26, 2024).

<sup>3</sup> Dept. of Defense, SkillBridge, *Military Members*, <https://skillbridge.osd.mil/military-members.htm> (last visited Jan. 26, 2024).

<sup>4</sup> Dept. of Defense, SkillBridge, *Frequently Asked Questions*, <https://skillbridge.osd.mil/faq.htm> (last visited Jan. 26, 2024).

<sup>5</sup> *Supra* note 3.

<sup>6</sup> Art. IV, s. 11, Fla. Const.

<sup>7</sup> Ch. 2023-239, Laws of Fla., pg. 143.

<sup>8</sup> Florida Department of Veterans Affairs, *Florida Department of Veterans’ Affairs – Our Vision and Mission*, <https://www.floridavets.org/leadership/> (last visited Jan. 26, 2024).

<sup>9</sup> Florida Department of Veterans Affairs, *Benefits & Services*, <https://www.floridavets.org/benefits-services/> (last visited Jan. 26, 2024).

<sup>10</sup> U.S. Department of Veterans Affairs, *Your VA Transition Assistance Program (TAP)*, <https://www.benefits.va.gov/transition/tap.asp> (last visited Jan. 26, 2024).

<sup>11</sup> Select Florida, *Defense & Homeland Security, 2*, <https://selectflorida.org/wp-content/uploads/defense-and-homeland-security-industry-profile.pdf> (last visited Jan. 26, 2024).

69,290 military personnel.<sup>12</sup> Florida also has the nation's third-largest veteran<sup>13</sup> population with almost 1.4 million veterans.<sup>14</sup> Many of these veterans are recently transitioned servicemembers.

### *Veterans Florida*

Florida is for Veterans, Inc. (Veterans Florida),<sup>15</sup> a non-profit corporation within the Florida Department of Veterans' Affairs, was created to promote Florida as a veteran-friendly state.<sup>16</sup> Veterans Florida encourages and assists retired and recently separated military personnel to keep or make Florida their permanent residence, helps equip veterans for employment opportunities, and promotes the hiring of veterans.<sup>17</sup> In fiscal year 2022-2023, Veterans Florida assisted 2,307 veterans with career assistance and job placement.<sup>18</sup> Current law does not require Veterans Florida to provide assistance or services to the spouses of veterans.

Veterans Florida is governed by a nine-member board of directors (Board). The Governor, the Senate President, and the Speaker of the House of Representatives each appoint three members to the Board. Members serve four-year staggered terms and each member may be reappointed to another four-year term once. Vacancies are filled in the same manner of appointment and members of the Board are not compensated but may be reimbursed for travel and per diem expenses.<sup>19</sup>

Duties of Veterans Florida include:

- Contracting with at least one entity to research and identify the target market and the educational and employment needs of veterans and their spouses;
- Advising the Florida Tourism Industry Marketing Corporation regarding:
  - The target market;
  - Developing and implementing a marketing campaign to encourage servicemembers to remain in Florida or make Florida their permanent residence; and
  - Methods for disseminating information to the target market that relate to interests and needs of veterans and their spouses and facilitate veterans' knowledge of and access to benefits;
- Promoting and enhancing the value of military skill sets to businesses;
- Implementing and administering the Veterans Employment and Training Services Program;
- Managing all appropriated funds to ensure the use of such funds conforms to all applicable laws, bylaws, or contractual requirements; and
- Serve as the state's principal assistance organization under the United States Department of Defense's SkillBridge program for employers and transitioning service members.<sup>20</sup>

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<sup>12</sup> Data from September 2021. Florida Military & Defense, *Economic Impact Summary* (2022), 2, available at <https://selectflorida.org/wp-content/uploads/Florida-2022-EIS-Summary-Book-Final.pdf> (last visited Jan. 26, 2024).

<sup>13</sup> S. 1.01(14), F.S., defines a "veteran" as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions, or who later received an upgraded discharge under honorable conditions. The definition in s. 1.01(14), F.S., is cited in numerous statutes, including ss. 117.02, 265.003, 292.055, 295.02, 295.07, 295.187, 295.188, 296.02, 296.08, 296.33, 296.36, 409.1664, 548.06, 943.17, and 1009.26, F.S.

<sup>14</sup> U.S. Department of Veterans Affairs (VA), National Center for Veterans Analysis and Statistics, *VetPop2020 by State, Age Group, Gender, 2020-2050*, available at [https://www.va.gov/vetdata/veteran\\_population.asp](https://www.va.gov/vetdata/veteran_population.asp) (last visited Jan. 25, 2024). The Veteran Population Projection Model 2020 (VetPop2020) provides an official veteran population projection from the U.S. Department of Veterans Affairs.

<sup>15</sup> In 2015, the Florida is for Veterans, Inc., Board of Directors approved the fictitious name "Veterans Florida" and rebranded as such. See <http://dos.sunbiz.org/scripts/ficidet.exe?action=DETREG&docnum=G15000027981&rdocnum=G15000027981> (last visited Jan. 26, 2024). See also s. 295.21(5)(e), F.S.

<sup>16</sup> S. 295.21(1), F.S.

<sup>17</sup> S. 295.21(2), F.S.

<sup>18</sup> Veterans Florida, *Annual Report* (2023), 15, [https://www.veteransflorida.org/wp-content/uploads/2023/11/FIFV-Annual-Report-2023\\_.pdf](https://www.veteransflorida.org/wp-content/uploads/2023/11/FIFV-Annual-Report-2023_.pdf) (last visited Jan. 26, 2024).

<sup>19</sup> S. 295.21(4), F.S.

<sup>20</sup> S. 295.21(3), F.S.

## *Veterans Employment and Training Services Program (VETSP)*

Veterans Florida administers VETSP to assist in connecting veterans in search of employment with businesses seeking to hire dedicated, well-trained workers.<sup>21</sup> The purpose of the program is to meet the workforce demands of businesses in the state by facilitating access to training and education in high-demand fields for veterans or their spouses.<sup>22</sup>

Functions of the program include:

- Conducting marketing and recruiting efforts directed at veterans or their spouses who are seeking employment and who reside in or who have an interest in relocating to Florida;
- Assisting veterans or their spouses seeking employment who reside in Florida or who relocate to Florida;
- Assisting Florida businesses in recruiting and hiring veterans and their spouses;
- Creating a grant program to provide funding to assist veterans in meeting the workforce-skill needs of businesses seeking to hire, promote, or generally improve specialized skills of veterans, establishing criteria for approval of requests for funding, and maximizing the use of funding for the grant program;<sup>23</sup>
  - Costs and expenditures for each veteran trainee is capped at \$8,000. Qualified businesses may receive reimbursement equal to 50 percent of the cost to train a permanently, full-time employed veteran, however the business must cover the entire cost of the training initially. Eligible costs and expenditures that may be reimbursed include:
    - Tuition and fees;
    - Books and classroom materials; and
    - Rental fees for facilities.
- Contracting with one or more entities to administer an entrepreneur initiative program for veterans in Florida that connects business leaders with veterans seeking to become entrepreneurs.<sup>24</sup>

## Advisory Council on Brain and Spinal Cord Injuries (Council)

The Council is part of the Florida Department of Health (Health) and administers the Brain and Spinal Cord Injury Program (BSCIP). BSCIP's purpose is to provide all eligible residents<sup>25</sup> who sustain a traumatic brain or spinal cord injury the opportunity to obtain the necessary services that will enable them to return to an appropriate level of functioning in their community.<sup>26</sup>

The Council is a 16-member body appointed by the state Surgeon General, comprised of:

- Four members must have a brain injury or are family members of individuals who have a brain injury;
- Four members must have a spinal cord injury or are family members of individuals who have a spinal cord injury;
- Two members who represent the special needs children who have a brain or spinal cord injury; and

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<sup>21</sup> S. 295.22, F.S.

<sup>22</sup> S. 295.22(2), F.S.

<sup>23</sup> Grant funds may only be used in the absence of available veteran-specific federally funded programs. S. 295.22(3)(d), F.S.

<sup>24</sup> S. 295.22(3), F.S.

<sup>25</sup> All hospitals, attending physicians, public, private, or social agencies must refer all new traumatic moderate-to-severe brain or spinal cord injuries to the Department of Health's (Central Registry). S. 381.74, F.S. Caseworkers within the Central Registry work with affected individuals and their families and determine which individuals meet the eligibility criteria and require services and supports to sustain their health and safety. Fla. Dept. of Health, *Central Registry*, <https://www.floridahealth.gov/provider-and-partner-resources/brain-and-spinal-cord-injury-program/applicants/central-registry.html> (last visited Jan. 26, 2024).

<sup>26</sup> Fla. Dept. of Health, *Brain and Spinal Cord Injury Program*, <https://www.floridahealth.gov/provider-and-partner-resources/brain-and-spinal-cord-injury-program/index.html> (last visited Jan. 26, 2024).

- Six members who physicians, other allied health professionals, administrators of brain and spinal cord injury programs, or representatives from support groups that have expertise in areas related to the rehabilitation of individuals who have brain or spinal cord injuries.<sup>27</sup>

Members of the Council serve four-year terms. Members may not serve more than two terms, however if a vacancy occurs for a member with less than 18 months remaining in their term, the member appointed to fill the vacancy may be reappointed twice.<sup>28</sup> The Council meets at least twice annually and provides advice and expertise to Health in the preparation, implementation, and periodic review of the BSCIP.<sup>29</sup> Members of the Council are not compensated but may be reimbursed for per diem and travel expenses.<sup>30</sup>

### Department of State (DOS) and Incorporation

The DOS is responsible for receiving and maintaining incorporation and business filings required in law, such as service of process for legal proceedings,<sup>31</sup> articles of incorporation,<sup>32</sup> and registration of fictitious names.<sup>33</sup> A person who wants to file incorporation and business filings with the DOS must pay the appropriate fee. Amongst the filings received and maintained by the DOS, and the appropriate filing fee associated with them, are those identified in:

- Chapter 605, Florida Revised Limited Liability Company Act: limited liability companies file with the DOS a registration with their name, registered agent, and registered office location;<sup>34</sup>
- Chapter 607, Florida Business Corporation Act: corporations file their articles of incorporation, changes to their registered office or registered agent, and must file an annual report, among other documents;<sup>35</sup>
- Chapter 617, Corporations not for profit: requires not for profit corporations to file with the DOS their articles of incorporation, changes to their registered office or registered agent, and must file an annual report, among other documents;<sup>36</sup> and
- Chapter 620, Partnership laws: limited partnerships must file a certificate of limited partnership with the DOS containing the name of the limited partnership, the address, and the business address of each general partner<sup>37</sup> as well as an annual report, among other documents.<sup>38</sup> General partnerships must file a partnership registration statement and an annual report, among other documents.<sup>39</sup>

### Recreational Licenses and Permits

The Florida Fish and Wildlife Conservation Commission (FWC) regulates hunting and fishing seasons, means of take, bag limits, and areas authorized for hunting or fishing. Florida residents and visitors are required to possess a Florida hunting, freshwater fishing, or saltwater fishing license when engaged in fishing and hunting activities.<sup>40</sup> Fees for licenses and permits typically range from \$17 to \$151<sup>41</sup>

<sup>27</sup> S. 381.78(1), F.S.

<sup>28</sup> S. 381.78(2), F.S.

<sup>29</sup> S. 381.78(3)-(4), F.S.

<sup>30</sup> S. 381.78(5), F.S.

<sup>31</sup> See, e.g., ss. 48.061, 48.062, and 48.181, F.S.

<sup>32</sup> S. 607.0203, F.S.

<sup>33</sup> S. 865.09, F.S.

<sup>34</sup> S. 605.0112(5), 605.113(4), and 605.113(5), F.S. See s. 605.0206, F.S.

<sup>35</sup> Ss. 607.0203, 607.0502, and 607.1622, F.S. See 607.0120(9), F.S.

<sup>36</sup> Ss. 617.0203, 617.0502, and 617.1622, F.S.

<sup>37</sup> Ss. 620.1109 and 620.1201(1)(a)-(e), F.S.

<sup>38</sup> S. 620.1210, F.S.

<sup>39</sup> Ss. 620.8105 and 620.9003, F.S.

<sup>40</sup> This includes individuals who are aiding in the take. FWC, *Exemptions*, <https://myfwc.com/license/recreational/do-i-need-one/> (last visited Jan. 23, 2024).

<sup>41</sup> Outside of this range, FWC offers a five-year resident gold sportsman's license that includes freshwater fishing, hunting, and saltwater fishing licenses and wildlife management area, archery, muzzleloading gun, crossbow, deer, turkey, Florida waterfowl, snook, and lobster permits for \$494.

depending on the type and duration of the license, as well as if the individual is a Florida resident.<sup>42</sup> Certain individuals are exempt from the permitting requirements.<sup>43</sup> Individuals can obtain hunting and fishing permits online,<sup>44</sup> in person at a license agent<sup>45</sup> or tax collector's office, by calling toll-free numbers, and through the FWC Fish|Hunt FL app.<sup>46</sup> Licenses expire a year from the date they are issued.<sup>47</sup>

### Required Instruction in Florida Schools

The law requires each district school board to provide all courses required for middle grades promotion, high school graduation, and appropriate instruction designed to ensure that students meet State Board of Education (SBE) adopted standards in the following subject areas:

- Reading and other language arts;
- Mathematics;
- Science;
- Social studies;
- Foreign languages;
- Health and physical education; and
- The arts.<sup>48</sup>

In addition, the following specific topics must be taught:

- The history and content of the Declaration of Independence, including national sovereignty, natural law, self-evident truth, equality of all persons, limited government, popular sovereignty, and inalienable rights of life, liberty, and property, and how they form the philosophical foundation of our government.
- The history, meaning, significance, and effect of the U.S. Constitution, with emphasis on the Bill of Rights and how the Constitution provides the structure of our government.
- The arguments in support of adopting our republican form of government, as they are embodied in the most important of the Federalist Papers.
- Flag education, including proper flag display and flag salute.
- The elements of civil government, including the primary functions of and interrelationships between the federal government, the state, and its local entities.
- U.S. history, including the period of discovery, early colonies, the War for Independence, the Civil War, the expansion of the United States to its present boundaries, the world wars, and the civil rights movement to the present.
- The history of the Holocaust.
- The history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the history and contributions of Americans of the African diaspora to society.
- The history of Asian Americans and Pacific Islanders, including the history of Japanese internment camps and the incarceration of Japanese-Americans during World War II; the

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<sup>42</sup> See, FWC, *Recreational Freshwater Licenses & Permits*, <https://myfwc.com/license/recreational/freshwater-fishing/> (last visited January 8, 2024); FWC, *Recreational Saltwater Licenses & Permits*, <https://myfwc.com/license/recreational/saltwater-fishing/> (last visited January 8, 2024); FWC, *Recreational Hunting Licenses & Permits*, <https://myfwc.com/license/recreational/hunting/> (last visited January 8, 2024).

<sup>43</sup> See s. 379.353, F.S., for a list of individuals who are exempt from permitting requirements. See also, FWC, *Exemptions*, <https://myfwc.com/license/recreational/do-i-need-one/> (last visited January 8, 2024).

<sup>44</sup> FWC, *Go Outdoors Florida – The official Licensing and Permitting site of the FWC!*, <https://license.gooutdoorsflorida.com/Licensing/CustomLookup.aspx> (last visited January 8, 2024).

<sup>45</sup> Licensing agents often include bait-and-tackle shops and sports retailers like Wal-Mart and Bass Pro Shop. FWC, *FAQs: Recreational Licenses*, <https://myfwc.com/license/recreational/faqs/> (last visited January 8, 2024). Individuals can look up local agents through FWC's locate an agent portal. FWC, *Locate an Agent*, available at <https://license.gooutdoorsflorida.com/Licensing/LocateAgent.aspx> (last visited January 8, 2024).

<sup>46</sup> FWC, *How to Order*, <https://myfwc.com/license/recreational/how-to-order/> (last visited January 8, 2024).

<sup>47</sup> FWC, *FAQs: Recreational Licenses*, <https://myfwc.com/license/recreational/faqs/> (last visited January 8, 2024).

<sup>48</sup> Ss. 1003.42(1)(a), F.S.

immigration, citizenship, civil rights, identity, and culture of Asian Americans and Pacific Islanders; and the contributions of Asian Americans and Pacific Islanders to American society.

- The study of Hispanic contributions to the United States.
- The study of women’s contributions to the United States.
- The sacrifices that veterans and Medal of Honor recipients have made in serving our country and protecting democratic values worldwide, with instruction occurring on or before Medal of Honor Day, Veterans’ Day, and Memorial Day. Instructional staff is encouraged to use the assistance of local veterans and Medal of Honor recipients.<sup>49</sup>

Teachers must teach the topics specified in law efficiently and faithfully, using books and materials meeting the highest standards for professionalism and historical accuracy, following the prescribed courses of study, and employing approved methods of instruction.<sup>50</sup> Unless otherwise specified, the law generally does not prescribe grade level, instructional hours, or instructional materials requirements for these topics.

## **Effect of Proposed Changes**

### Veterans Florida

The bill provides that Veterans Florida is to serve as the state’s initial point of military transition assistance for veterans and their spouses. The bill directs Veterans Florida to connect veterans or their spouses with opportunities for entrepreneurship education, training, and resources and also inspire the growth and development of veteran-owned small businesses. The bill requires Veterans Florida to conduct marketing and recruiting efforts directed at veterans or their spouses within the target market. The bill provides a definition for “target market” as:

- Members and spouses of members of the United States Armed Forces with 24 months or less until discharge;
- Veterans with 36 months or less since discharge; and
- Members of the Florida National Guard or reserves.

The bill provides that the Senate President and the Speaker of the House of Representatives may appoint only one member from the body over which he or she presides. The bill removes the requirement that Veterans Florida must contract with at least one entity to research and identify its target market and the educational and employment needs of veterans and their spouses.

### VETSP

The bill provides the following definitions:

- “Secondary industry business” to mean a business that the state has an additional interest in supporting and for which veterans and their spouses may have directly transferrable skills.
- “Spouse” to mean a person who is married to a veteran, or a person who was married to a veteran killed in action and is not remarried.
- “Target industry business” to mean a business that is engaged in one of the target industries identified pursuant to criteria developed by the Department of Commerce.<sup>51</sup>
- “Target market” to have the same meaning as the term is used for Veterans Florida programs.

The bill revises the duties of VETSP to focus on efforts within their target market and to assist those veterans and spouses with finding employment in target industries or secondary industries. The bill modifies VETSP’s grant program that provides funding to assist veterans in meeting the workforce-skill needs by providing that the program must prioritize funding certificate, license, or nondegree training

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<sup>49</sup> S. 1003.42(2)(a)-(u), F.S.

<sup>50</sup> S. 1003.42(2), F.S.

<sup>51</sup> See s. 288.005(7), F.S., for the criteria developed by Department of Commerce, a list of business activities that would not be included under the term, and qualifying conditions certain businesses must meet in order to be included under the term.



from the Master Credentials list,<sup>52</sup> federally created certifications or licenses, and any skills-based industry certifications or licenses deemed relevant or necessary by Veterans Florida. The bill provides that the list of training expenses for which a qualified business may be reimbursed includes, but is not limited to, the items enumerated in statute, but maintains an \$8,000 maximum cost per veteran trainee.

- The bill also provides that grant funds may be used to provide grants to non-active duty members of the United States Armed Forces for educational stipends while training at any location of the University of Florida's Institute of Food and Agricultural Sciences within the state. The bill requires Veterans Florida and the University of Florida to enter into a grant agreement before any use of funds and provides the training must be between four to six months in duration; and

The bill encourages Veterans Florida to collaborate with state agencies and other entities in order to provide information on a website that links to state agencies and other entities that maintain benefits, services, training, education, and other resources that are available to veterans and their spouses. The bill provides a non-exhaustive list of entities and programs that Veterans Florida is encouraged to collaborate with and promote.

## Fees

### *Department of State*

The bill provides that the Department of State may not charge veterans residing within the state fees for filing articles of organization or incorporation, a certificate of limited partnership, a partnership registration statement, or for the designation of a registered agent as required by general law.

### *Fish and Wildlife Conservation*

The bill provides that honorably discharged disabled veterans of the United States who are separated from service and are certified by the United States Department of Veterans Affairs or by any branch of the United States Armed Forces as having a 50 percent or greater service-connected disability do not have to pay a fee in order to be issued a license or permit for hunting, freshwater fishing, or saltwater fishing.

## Council

The bill revises the membership of the Council in the following manner:

- Eight members shall be appointed by the Speaker of the House of Representatives:
  - Two members must have a brain injury or are family members of individuals who have a brain injury;
  - Two members must have a spinal cord injury or are family members of individuals who have a spinal cord injury;
  - Two members of the Council to be individuals who have, or who are family members of individuals who have or had, a traumatic injury, chronic encephalopathy, or subconcussive impacts due to sports; and
  - Two veterans who have or have had a traumatic brain injury, chronic traumatic encephalopathy, or subconcussive impacts due to military service, or family members of such veterans.
- Six members shall be appointed by the state Surgeon General who are physicians, other allied health professionals, administrators of brain and spinal cord injury programs, and representatives from support groups that have expertise in areas related to the rehabilitation of individuals who have brain or spinal cord injuries.

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<sup>52</sup> See s. 445.04(4)(h), F.S.  
STORAGE NAME: h1329b.APC  
DATE: 2/7/2024

The bill provides that members shall serve staggered four-year terms of office, requires the Council to meet quarterly basis, and provides that Council meetings may only adjourn via unanimous consent.

#### Required Instruction

The bill requires instruction on the history and importance of Veterans' Day and Memorial Day including two 45-minute lessons that occur on or before the respective holidays.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 295.21, F.S., relating to Veterans Florida.

**Section 2:** Amends s. 295.22, F.S., relating to VETSP.

**Section 3:** Creates s. 295.25, F.S., providing an exemption for certain filing fees.

**Section 4:** Amends s. 379.353, F.S., providing an exemption for certain recreational licenses and permits.

**Section 5:** Amends s. 381.78, F.S., relating to the Council.

**Section 6:** Amends s. 1003.42, F.S., relating to required instruction.

**Section 7:** Amends s. 288.0001, F.S., relating to economic development programs evaluation.

**Section 8:** Reenacting s. 379.3581, F.S., relating to hunter safety courses.

**Section 9:** Reenacting s. 379.401, F.S., relating to FWC penalties and violations.

**Section 10:** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

##### 1. Revenues:

FWC and the Department of State would lose some revenue typically generated from fees due the exemptions provided for by the bill. The anticipated impact is indeterminant but likely insignificant and can be absorbed within existing resources.

##### 2. Expenditures:

Veterans Florida may have to expend additional funds in order to implement the expansion of duties provided for by the bill. Additional educational support may be needed in order to carry out the required educational instructions provided for by the bill.

The Legislature provides annual funding for Veterans Florida each year in the General Appropriations Act (GAA). The House proposed GAA for Fiscal Year 2024-2025 includes \$2 million in nonrecurring funds for Veterans Florida.

Public schools may experience an indeterminant, likely insignificant fiscal impact with curriculum to teach the required two 45-minute lessons on the history and importance of Veterans Day and Memorial Day.

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

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The FWC and Department of State revenues provided for by the bill will have a positive fiscal impact on those who qualify.

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:

The bill neither authorizes nor requires rulemaking by executive branch agencies.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.



26 training must occur for a specified duration;  
27 authorizing the corporation to provide certain  
28 assistance to state agencies and entities, to provide  
29 a website that has relevant hyperlinks, and to  
30 collaborate with specified state agencies and other  
31 entities for specified purposes;; conforming  
32 provisions to changes made by the act; making  
33 technical changes; creating s. 295.25, F.S.;  
34 prohibiting the Department of State from charging  
35 veterans who reside in this state fees for the filing  
36 of specified documents; amending s. 379.353, F.S.;  
37 providing free hunting, freshwater fishing, and  
38 saltwater fishing licenses to certain disabled  
39 veterans; providing that such licenses expire after a  
40 certain period of time; requiring such licenses to be  
41 reissued in specified circumstances; amending s.  
42 381.78, F.S.; revising the membership, appointment,  
43 and meetings of the advisory council on brain and  
44 spinal cord injuries; amending s. 1003.42, F.S.;  
45 requiring instruction on the history and importance of  
46 Veterans' Day and Memorial Day; requiring certain  
47 instruction to consist of two 45-minute lessons that  
48 occur within a certain timeframe; amending s.  
49 288.0001, F.S.; conforming a cross-reference;  
50 reenacting ss. 379.3581(2)(b) and 379.401(2)(b) and

51 (3)(b), F.S., relating to special authorization  
52 hunting licenses and the suspension and forfeiture of  
53 licenses and permits, respectively, to incorporate the  
54 amendment made to s. 379.353, F.S., in references  
55 thereto; providing an effective date.  
56

57 Be It Enacted by the Legislature of the State of Florida:  
58

59 Section 1. Subsection (2), paragraph (a) of subsection  
60 (3), and paragraph (a) of subsection (4) of section 295.21,  
61 Florida Statutes, are amended to read:

62 295.21 Florida Is For Veterans, Inc.—

63 (2) PURPOSE.—The purpose of the corporation is to serve as  
64 the state's initial point of military transition assistance  
65 dedicated to promoting ~~promote~~ Florida as a veteran-friendly  
66 state helping ~~that seeks~~ to provide veterans and their spouses  
67 with employment opportunities and promoting ~~that promotes~~ the  
68 hiring of veterans and their spouses by the business community.  
69 The corporation shall encourage retired and recently separated  
70 military personnel to remain in this ~~the~~ state or to make this  
71 ~~the~~ state their permanent residence. The corporation shall  
72 promote the value of military skill sets to businesses in this  
73 ~~the~~ state, assist in tailoring the training of veterans and  
74 their spouses to match the needs of the employment marketplace,  
75 and enhance the entrepreneurial skills of veterans and their

76 spouses.

77 (3) DUTIES.—The corporation shall:

78 (a) Conduct marketing, awareness, and outreach activities  
 79 directed toward its target market. As used in this section, the  
 80 term "target market" means those members, and their spouses, of  
 81 the United States Armed Forces with 24 months or less until  
 82 discharge, veterans with 36 months or less since discharge, and  
 83 members of the Florida National Guard or reserves ~~research to~~  
 84 ~~identify the target market and the educational and employment~~  
 85 ~~needs of those in the target market. The corporation shall~~  
 86 ~~contract with at least one entity pursuant to the competitive~~  
 87 ~~bidding requirements in s. 287.057 and the provisions of s.~~  
 88 ~~295.187 to perform the research. Such entity must have~~  
 89 ~~experience conducting market research on the veteran~~  
 90 ~~demographic. The corporation shall seek input from the Florida~~  
 91 ~~Tourism Industry Marketing Corporation on the scope, process,~~  
 92 ~~and focus of such research.~~

93 (4) GOVERNANCE.—

94 (a) The corporation shall be governed by a nine-member  
 95 board of directors. The Governor, the President of the Senate,  
 96 and the Speaker of the House of Representatives shall each  
 97 appoint three members to the board. In making appointments, the  
 98 Governor, the President of the Senate, and the Speaker of the  
 99 House of Representatives must consider representation by active  
 100 or retired military personnel and their spouses, representing a

101 range of ages and persons with expertise in business, education,  
 102 marketing, and information management. The President of the  
 103 Senate and the Speaker of the House of Representatives may each  
 104 appoint only one member from the body over which he or she  
 105 presides.

106 Section 2. Section 295.22, Florida Statutes, is amended to  
 107 read:

108 295.22 Veterans Employment and Training Services Program.—

109 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
 110 that the state has a compelling interest in ensuring that each  
 111 veteran or his or her spouse who is a resident of this ~~the~~ state  
 112 finds employment that meets his or her professional goals and  
 113 receives the training or education necessary to meet those  
 114 goals. The Legislature also finds that connecting dedicated,  
 115 well-trained veterans with businesses that need a dedicated,  
 116 well-trained workforce is of paramount importance. The  
 117 Legislature recognizes that veterans or their spouses may not  
 118 currently have the skills to meet the workforce needs of Florida  
 119 employers and may require assistance in obtaining additional  
 120 workforce training or in transitioning their skills to meet the  
 121 demands of the marketplace. It is the intent of the Legislature  
 122 that the Veterans Employment and Training Services Program  
 123 coordinate and meet the needs of veterans and their spouses and  
 124 the business community to enhance the economy of this state.

125 (2) DEFINITIONS.—For the purposes of this section, the



126 term:

127 (a) "Secondary industry business" is a business that the  
 128 state has an additional interest in supporting and for which  
 129 veterans and their spouses may have directly transferrable  
 130 skills. These businesses are in the fields of health care,  
 131 agriculture, commercial construction, education, law  
 132 enforcement, and public service.

133 (b) "Servicemember" has the same meaning as in s. 250.01.

134 (c) "Spouse" means a person who is married to a veteran or  
 135 an unremarried surviving spouse of a veteran.

136 (d) "Target industry business" is a business as defined in  
 137 s. 288.005.

138 (e) "Target market" has the same meaning as in s.  
 139 295.21(3)(a).

140 (f) "Veteran" means, irrespective of discharge status, a  
 141 person who otherwise meets the definition of the term veteran in  
 142 s. 1.01(14) or who is a servicemember.

143 (3) CREATION.—The Veterans Employment and Training  
 144 Services Program is created within the Department of Veterans'  
 145 Affairs to assist in connecting ~~linking~~ veterans or their  
 146 spouses ~~in search of employment~~ with businesses seeking to hire  
 147 dedicated, well-trained workers and with opportunities for  
 148 entrepreneurship education, training, and resources. The purpose  
 149 of the program is to meet the workforce demands of businesses in  
 150 this ~~the~~ state by facilitating access to training and education

151 in high-demand fields for veterans or their spouses and to  
152 inspire the growth and development of veteran-owned small  
153 businesses.

154 (4)~~(3)~~ ADMINISTRATION.—Florida Is For Veterans, Inc.,  
155 shall administer the Veterans Employment and Training Services  
156 Program and perform all of the following functions:

157 (a) Conduct marketing and recruiting efforts directed at  
158 veterans or their spouses within the target market who reside in  
159 or ~~who~~ have an interest in relocating to this state and who are  
160 seeking employment. Marketing must include information related  
161 to how a veteran's military experience can be valuable to a  
162 target industry or secondary industry business. Such efforts may  
163 include attending veteran job fairs and events, hosting events  
164 for veterans and their spouses or the business community, and  
165 using digital and social media and direct mail campaigns. The  
166 corporation shall also include such marketing as part of its  
167 main marketing campaign.

168 (b) Assist veterans or their spouses who reside in or  
169 relocate to this state and who are seeking employment with  
170 target industry or secondary industry businesses. The  
171 corporation shall offer skills assessments to veterans or their  
172 spouses and assist them in establishing employment goals and  
173 applying for and achieving gainful employment.

174 1. Assessment may include skill match information, skill  
175 gap analysis, résumé creation, translation of military skills

176 into civilian workforce skills, and translation of military  
177 achievements and experience into generally understood civilian  
178 workforce skills.

179 2. Assistance may include providing the veteran or his or  
180 her spouse with information on current workforce demand by  
181 industry or geographic region, creating employment goals, and  
182 aiding or teaching general knowledge related to completing  
183 applications. ~~The corporation may provide information related to~~  
184 ~~industry certifications approved by the Department of Education~~  
185 ~~under s. 1008.44 as well as information related to earning~~  
186 ~~academic college credit at public postsecondary educational~~  
187 ~~institutions for college-level training and education acquired~~  
188 ~~in the military under s. 1004.096.~~

189 3. ~~The corporation shall encourage veterans or their~~  
190 ~~spouses to register with the state's job bank system and may~~  
191 ~~refer veterans to local one-stop career centers for further~~  
192 ~~services. The corporation shall provide each veteran with~~  
193 ~~information about state workforce programs and shall consolidate~~  
194 ~~information about all available resources on one website that,~~  
195 ~~if possible, includes a hyperlink to each resource's website and~~  
196 ~~contact information, if available.~~

197 4. Assessment and assistance may be in person or by  
198 electronic means, as determined by the corporation to be most  
199 efficient and best meet the needs of veterans or their spouses.

200 (c) Assist Florida target industry and secondary industry

201 businesses in recruiting and hiring veterans and veterans'  
202 spouses. The corporation shall provide services to Florida  
203 businesses to meet their hiring needs by connecting businesses  
204 with suitable veteran applicants for employment. Suitable  
205 applicants include veterans or veterans' spouses who have  
206 appropriate job skills or may need additional training to meet  
207 the specific needs of a business. The corporation shall also  
208 provide information about the state and federal benefits of  
209 hiring veterans.

210 (d) Create a grant program to provide funding to assist  
211 veterans in meeting the workforce-skill needs of target industry  
212 and secondary industry businesses seeking to hire, promote, or  
213 generally improve specialized skills of veterans, establish  
214 criteria for approval of requests for funding, and maximize the  
215 use of funding for this program. Grant funds may be used only in  
216 the absence of available veteran-specific federally funded  
217 programs. Grants may fund specialized training specific to a  
218 particular business.

219 1. The program may prioritize ~~if~~ grant funds to be ~~are~~  
220 used to provide a ~~technical~~ certificate, a license ~~licensure~~, or  
221 nondegree training from the Master Credentials List pursuant to  
222 s. 445.004(4)(h); any federally created certifications or  
223 licenses; and any skills-based industry certifications or  
224 licenses deemed relevant or necessary by the corporation. a  
225 ~~degree~~, Funds may be allocated only upon a review that includes,

226 but is not limited to, documentation of accreditation and  
227 licensure. ~~Instruction funded through the program terminates~~  
228 ~~when participants demonstrate competence at the level specified~~  
229 ~~in the request but may not exceed 12 months. Preference shall be~~  
230 ~~given to target industry businesses, as defined in s. 288.005,~~  
231 ~~and to businesses in the defense supply, cloud virtualization,~~  
232 ~~health care, or commercial aviation manufacturing industries.~~

233 2. Costs and expenditures are ~~shall be~~ limited to \$8,000  
234 per veteran trainee. Qualified businesses must cover the entire  
235 cost for all of the training provided before receiving  
236 reimbursement from the corporation equal to 50 percent of the  
237 cost to train a veteran who is a permanent, full-time employee.  
238 Eligible costs and expenditures include, but are not limited to:

- 239 a. Tuition and fees.  
240 b. Books and classroom materials.  
241 c. Rental fees for facilities.

242 3. Before funds are allocated for a request pursuant to  
243 this section, the corporation shall prepare a grant agreement  
244 between the business requesting funds and the corporation. Such  
245 agreement must include, but need not be limited to:

246 a. Identification of the personnel necessary to conduct  
247 the instructional program, instructional program description,  
248 and any vendors used to conduct the instructional program.

249 b. Identification of the estimated duration of the  
250 instructional program.

251 c. Identification of all direct, training-related costs.

252 d. Identification of special program requirements that are  
253 not otherwise addressed in the agreement.

254 e. Permission to access aggregate information specific to  
255 the wages and performance of participants upon the completion of  
256 instruction for evaluation purposes. The agreement must specify  
257 that any evaluation published subsequent to the instruction may  
258 not identify the employer or any individual participant.

259 4. A business may receive a grant under any state program  
260 ~~the Quick-Response Training Program created under s. 288.047~~ and  
261 a grant under this section for the same veteran trainee.

262 5. A portion of grant funds, as determined by the  
263 corporation, may be used for veterans who are not active members  
264 of the United States Armed Forces for educational stipends while  
265 training at any location of the University of Florida's  
266 Institute of Food and Agricultural Sciences within this state.  
267 The corporation and the University of Florida shall enter into a  
268 grant agreement before funds are expended. The corporation must  
269 determine the amount of the stipend. The training for any  
270 individual may not be less than 4 months and not more than 6  
271 months.

272 (e) Contract with one or more entities to administer an  
273 entrepreneur initiative program for veterans in this state which  
274 connects business leaders in the state with veterans seeking to  
275 become entrepreneurs.

276 1. The corporation shall award each contract in accordance  
 277 with the competitive bidding requirements in s. 287.057 to one  
 278 or more public or private entities that:

279 a. Demonstrate the ability to implement the program and  
 280 the commitment of resources, including financial resources, to  
 281 such programs.

282 b. Have a demonstrated experience working with veteran  
 283 entrepreneurs.

284 c. As determined by the corporation, have been recognized  
 285 for their performance in assisting entrepreneurs to launch  
 286 successful businesses in this ~~the~~ state.

287 2. Each contract must include performance metrics,  
 288 including a focus on employment and business creation. The  
 289 entity may also work with a university or college offering  
 290 related programs to refer veterans or to provide services. The  
 291 entrepreneur initiative program may include activities and  
 292 assistance such as peer-to-peer learning sessions, mentoring,  
 293 technical assistance, business roundtables, networking  
 294 opportunities, support of student organizations, speaker series,  
 295 or other tools within a virtual environment.

296 (f) Administer a ~~As the state's principal assistance~~  
 297 ~~organization under the United States Department of Defense's~~  
 298 SkillBridge initiative program for target industry and secondary  
 299 industry ~~qualified~~ businesses in this state and for eligible  
 300 veterans ~~transitioning servicemembers~~ who reside in, or who wish

301 to reside in, this state. In administering the initiative, the  
302 corporation shall:

303 1. Establish and maintain, as applicable, its  
304 certification for the SkillBridge initiative ~~program~~ or any  
305 other similar workforce training and transition programs  
306 established by the United States Department of Defense;

307 2. Educate businesses, business associations, and eligible  
308 veterans ~~transitioning servicemembers~~ on the SkillBridge  
309 initiative ~~program~~ and its benefits, and educate military  
310 command and personnel within the state on the opportunities  
311 available to eligible veterans ~~transitioning servicemembers~~  
312 ~~through the SkillBridge program~~;

313 3. Assist businesses in obtaining approval for skilled  
314 workforce training curricula under the SkillBridge initiative  
315 ~~program~~, including, but not limited to, apprenticeships,  
316 internships, or fellowships; and

317 4. Match eligible veterans ~~transitioning servicemembers~~  
318 ~~who are deemed eligible for SkillBridge participation by their~~  
319 ~~military command~~ with training opportunities offered by the  
320 corporation or participating businesses, with the intent of  
321 having them ~~transitioning servicemembers~~ achieve gainful  
322 employment in this state upon completion of their SkillBridge  
323 training.

324 ~~(g) Assist veterans and their spouses in accessing~~  
325 ~~training, education, and employment in health care professions.~~



326 ~~(h) Coordinate with the Office of Veteran Licensure~~  
327 ~~Services within the Department of Health to assist veterans and~~  
328 ~~their spouses in obtaining licensure pursuant to s. 456.024.~~

329 (5) COLLABORATION.—The corporation may assist state  
330 agencies and entities with recruiting veteran talent into their  
331 workforce. The corporation is encouraged to, and may collaborate  
332 with state agencies and other entities in efforts to, maximize  
333 access to and provide information on one website that, if  
334 possible, includes hyperlinks to the websites of and contact  
335 information, if available, for state agencies and other entities  
336 that maintain benefits, services, training, education, and other  
337 resources that are available to veterans and their spouses.

338 (a) Outreach, information exchange, marketing, and  
339 referrals between agencies, entities, and the corporation  
340 regarding programs and initiatives that may be conducted  
341 include, but are not limited to, the Veterans Employment and  
342 Training Services Program and those within any of the following:

343 1. The Department of Veterans' Affairs:

344 a. Access to benefits and assistance programs.

345 b. Hope Navigators Program.

346 2. The Department of Commerce:

347 a. The Disabled Veteran Outreach Program and Local Veteran  
348 Employment Representatives.

349 b. CareerSource Florida, Inc., and local workforce boards  
350 employment and recruitment services.

351        c. The Quick-Response Training Program.  
 352        d. Select Florida.  
 353        3. The Department of Business and Professional Regulation,  
 354 reciprocity and the availability of certain license and fee  
 355 waivers.  
 356        4. The Department of Education:  
 357        a. CAPE industry certifications under s. 1008.44.  
 358        b. Information related to earning postsecondary credit at  
 359 public postsecondary educational institutions for college-level  
 360 training and education acquired in the military under s.  
 361 1004.096.  
 362        5. The Department of Health:  
 363        a. The Office of Veteran Licensure Services.  
 364        b. The Florida Veterans Application for Licensure Online  
 365 Response expedited licensing.  
 366        (b) The corporation may coordinate and collaborate with  
 367 the Office of Reimagining Education and Career Help, the State  
 368 University System, the Florida College System, the Florida  
 369 Defense Support Task Force, the Florida Small Business  
 370 Development Center Network, and the Florida Talent Development  
 371 Council, as necessary.  
 372        Section 3. Section 295.25, Florida Statutes, is created to  
 373 read:  
 374        295.25 Veterans exempt from certain filing fees.—The  
 375 Department of State may not charge veterans who reside in this

376 state the applicable fees for filing articles of organization,  
 377 articles of incorporation, a certificate of limited partnership,  
 378 or a partnership registration statement, or for the designation  
 379 of a registered agent, if applicable, as provided in s.  
 380 605.0213, s. 607.0122, s. 617.0122, s. 620.1109, or s.  
 381 620.81055.

382 Section 4. Subsection (1) of section 379.353, Florida  
 383 Statutes, is amended to read:

384 379.353 Recreational licenses and permits; exemptions from  
 385 fees and requirements.—

386 (1) The commission shall issue without fee hunting,  
 387 freshwater fishing, and saltwater fishing licenses and permits  
 388 ~~shall be issued without fee~~ to any resident who is certified or  
 389 determined to be:

390 (a) ~~To be~~ Totally and permanently disabled for purposes of  
 391 workers' compensation under chapter 440 as verified by an order  
 392 of a judge of compensation claims or written confirmation by the  
 393 carrier providing workers' compensation benefits, or to be  
 394 totally and permanently disabled by the Railroad Retirement  
 395 Board, by the United States Department of Veterans Affairs or  
 396 its predecessor, or by any branch of the United States Armed  
 397 Forces, or who holds a valid identification card issued under  
 398 ~~the provisions of~~ s. 295.17, upon proof of such certification or  
 399 determination ~~same~~. Any license issued under this paragraph  
 400 after January 1, 1997, expires after 5 years and must be

401 reissued, upon request, every 5 years thereafter.

402 (b) ~~To be~~ Disabled by the United States Social Security  
 403 Administration, upon proof of such certification or  
 404 determination ~~same~~. Any license issued under this paragraph  
 405 after October 1, 1999, expires after 2 years and must be  
 406 reissued, upon proof of certification of disability, every 2  
 407 years thereafter.

408 (c) A disabled veteran of the United States Armed Forces  
 409 who was honorably discharged upon separation from service and  
 410 who is certified by the United States Department of Veterans  
 411 Affairs or its predecessor or by any branch of the United States  
 412 Armed Forces as having a service-connected disability percentage  
 413 rating of 50 percent or greater, upon proof of such  
 414 certification or determination. Any license issued under this  
 415 paragraph after July 1, 2024, expires after 5 years and must be  
 416 reissued, upon request, every 5 years thereafter.

417  
 418 A disability license issued after July 1, 1997, and before July  
 419 1, 2000, retains the rights vested thereunder until the license  
 420 has expired.

421 Section 5. Subsections (1), (2), and (3) of section  
 422 381.78, Florida Statutes, are amended to read:

423 381.78 Advisory council on brain and spinal cord  
 424 injuries.—

425 (1) There is created within the department a 16-member

426 advisory council on brain and spinal cord injuries. The council  
427 shall be composed of a minimum of:

428 (a) Two ~~four~~ individuals who have brain injuries or are  
429 family members of individuals who have brain injuries, with one  
430 individual appointed by the President of the Senate and the  
431 other individual appointed by the Speaker of the House of  
432 Representatives. ~~, a minimum of four~~

433 (b) Two individuals who have spinal cord injuries or are  
434 family members of individuals who have spinal cord injuries,  
435 with one individual appointed by the President of the Senate and  
436 the other individual appointed by the Speaker of the House of  
437 Representatives. ~~, and a minimum of~~

438 (c) Two individuals who represent the special needs of  
439 children who have brain or spinal cord injuries, with one  
440 individual appointed by the President of the Senate and the  
441 other individual appointed by the Speaker of the House of  
442 Representatives.

443 (d) Two individuals who have, or who are family members of  
444 individuals who have or had, a traumatic brain injury, chronic  
445 traumatic encephalopathy, or subconcussive impacts due to  
446 sports, with one individual appointed by the President of the  
447 Senate and the other individual appointed by the Speaker of the  
448 House of Representatives.

449 (e) Two veterans as defined in s. 1.01(14) who have or  
450 have had a traumatic brain injury, chronic traumatic

451 encephalopathy, or subconcussive impacts due to military  
 452 service, or family members of such veterans, with one individual  
 453 appointed by the President of the Senate and the other  
 454 individual appointed by the Speaker of the House of  
 455 Representatives.

456 (f) Six individuals appointed by the State Surgeon General  
 457 who are ~~The balance of the council members shall be~~ physicians,  
 458 other allied health professionals, administrators of brain and  
 459 spinal cord injury programs, or ~~and~~ representatives from support  
 460 groups who ~~that~~ have expertise in areas related to the  
 461 rehabilitation of individuals who have brain or spinal cord  
 462 injuries.

463 ~~(2) Members of the council shall be appointed to serve by~~  
 464 ~~the State Surgeon General.~~ All members' terms shall be staggered  
 465 terms of for 4 years. An individual may not serve more than two  
 466 terms. Any council member who is unwilling or unable to properly  
 467 fulfill the duties of the office shall be succeeded by an  
 468 individual chosen by the State Surgeon General to serve out the  
 469 unexpired balance of the replaced council member's term. If the  
 470 unexpired balance of the replaced council member's term is less  
 471 than 18 months, ~~then,~~ notwithstanding the provisions of this  
 472 subsection, the succeeding council member may be reappointed by  
 473 the State Surgeon General twice.

474 (3) The council shall meet at least quarterly and may  
 475 adjourn a meeting only by unanimous consent ~~two times annually.~~

476 Section 6. Paragraph (u) of subsection (2) of section  
477 1003.42, Florida Statutes, is amended to read:

478 1003.42 Required instruction.—

479 (2) Members of the instructional staff of the public  
480 schools, subject to the rules of the State Board of Education  
481 and the district school board, shall teach efficiently and  
482 faithfully, using the books and materials required that meet the  
483 highest standards for professionalism and historical accuracy,  
484 following the prescribed courses of study, and employing  
485 approved methods of instruction, the following:

486 (u)1. In order to encourage patriotism, the sacrifices  
487 that ~~veterans and~~ Medal of Honor recipients have made in serving  
488 our country and protecting democratic values worldwide. Such  
489 instruction must occur on or before Medal of Honor Day~~,~~  
490 ~~Veterans' Day, and Memorial Day.~~ Members of the instructional  
491 staff are encouraged to use the assistance of local veterans and  
492 Medal of Honor recipients when practicable.

493 2. The history and importance of Veterans' Day and  
494 Memorial Day. Such instruction must include two 45-minute  
495 lessons that occur on or before the respective holidays.

496  
497 The State Board of Education is encouraged to adopt standards  
498 and pursue assessment of the requirements of this subsection.  
499 Instructional programming that incorporates the values of the  
500 recipients of the Congressional Medal of Honor and that is

501 offered as part of a social studies, English Language Arts, or  
 502 other schoolwide character building and veteran awareness  
 503 initiative meets the requirements of paragraph (u).

504 Section 7. Paragraph (c) of subsection (2) of section  
 505 288.0001, Florida Statutes, is amended to read:

506 288.0001 Economic Development Programs Evaluation.—The  
 507 Office of Economic and Demographic Research and the Office of  
 508 Program Policy Analysis and Government Accountability (OPPAGA)  
 509 shall develop and present to the Governor, the President of the  
 510 Senate, the Speaker of the House of Representatives, and the  
 511 chairs of the legislative appropriations committees the Economic  
 512 Development Programs Evaluation.

513 (2) The Office of Economic and Demographic Research and  
 514 OPPAGA shall provide a detailed analysis of economic development  
 515 programs as provided in the following schedule:

516 (c) By January 1, 2016, and every 3 years thereafter, an  
 517 analysis of the following:

518 1. The tax exemption for semiconductor, defense, or space  
 519 technology sales established under s. 212.08(5)(j).

520 2. The Military Base Protection Program established under  
 521 s. 288.980.

522 3. The Quick Response Training Program established under  
 523 s. 288.047.

524 4. The Incumbent Worker Training Program established under  
 525 s. 445.003.



526           5. The direct-support organization and international trade  
 527 and business development programs established or funded under s.  
 528 288.012 or s. 288.826.

529           6. The program established under s. 295.22(3) ~~s.~~  
 530 ~~295.22(2)~~.

531           Section 8. For the purpose of incorporating the amendment  
 532 made by this act to section 379.353, Florida Statutes, in a  
 533 reference thereto, paragraph (b) of subsection (2) of section  
 534 379.3581, Florida Statutes, is reenacted to read:

535           379.3581 Hunter safety course; requirements; penalty.—  
 536           (2)

537           (b) A person born on or after June 1, 1975, who has not  
 538 successfully completed a hunter safety course may apply to the  
 539 commission for a special authorization to hunt under  
 540 supervision. The special authorization for supervised hunting  
 541 shall be designated on any license or permit required under this  
 542 chapter for a person to take game or fur-bearing animals. A  
 543 person issued a license with a special authorization to hunt  
 544 under supervision must hunt under the supervision of, and in the  
 545 presence of, a person 21 years of age or older who is licensed  
 546 to hunt pursuant to s. 379.354 or who is exempt from licensing  
 547 requirements or eligible for a free license pursuant to s.  
 548 379.353.

549           Section 9. For the purpose of incorporating the amendment  
 550 made by this act to section 379.353, Florida Statutes, in

551 references thereto, paragraph (b) of subsection (2) and  
 552 paragraph (b) of subsection (3) of section 379.401, Florida  
 553 Statutes, are reenacted to read:

554 379.401 Penalties and violations; civil penalties for  
 555 noncriminal infractions; criminal penalties; suspension and  
 556 forfeiture of licenses and permits.—

557 (2) LEVEL TWO VIOLATIONS.—

558 (b)1. A person who commits a Level Two violation but who  
 559 has not been convicted of a Level Two or higher violation within  
 560 the past 3 years commits a misdemeanor of the second degree,  
 561 punishable as provided in s. 775.082 or s. 775.083.

562 2. Unless the stricter penalties in subparagraph 3. or  
 563 subparagraph 4. apply, a person who commits a Level Two  
 564 violation within 3 years after a previous conviction for a Level  
 565 Two or higher violation commits a misdemeanor of the first  
 566 degree, punishable as provided in s. 775.082 or s. 775.083, with  
 567 a minimum mandatory fine of \$250.

568 3. Unless the stricter penalties in subparagraph 4. apply,  
 569 a person who commits a Level Two violation within 5 years after  
 570 two previous convictions for a Level Two or higher violation,  
 571 commits a misdemeanor of the first degree, punishable as  
 572 provided in s. 775.082 or s. 775.083, with a minimum mandatory  
 573 fine of \$500 and a suspension of any recreational license or  
 574 permit issued under s. 379.354 for 1 year. Such suspension shall  
 575 include the suspension of the privilege to obtain such license

576 or permit and the suspension of the ability to exercise any  
577 privilege granted under any exemption in s. 379.353.

578 4. A person who commits a Level Two violation within 10  
579 years after three previous convictions for a Level Two or higher  
580 violation commits a misdemeanor of the first degree, punishable  
581 as provided in s. 775.082 or s. 775.083, with a minimum  
582 mandatory fine of \$750 and a suspension of any recreational  
583 license or permit issued under s. 379.354 for 3 years. Such  
584 suspension shall include the suspension of the privilege to  
585 obtain such license or permit and the suspension of the ability  
586 to exercise any privilege granted under s. 379.353. If the  
587 recreational license or permit being suspended was an annual  
588 license or permit, any privileges under ss. 379.353 and 379.354  
589 may not be acquired for a 3-year period following the date of  
590 the violation.

591 (3) LEVEL THREE VIOLATIONS.—

592 (b)1. A person who commits a Level Three violation but who  
593 has not been convicted of a Level Three or higher violation  
594 within the past 10 years commits a misdemeanor of the first  
595 degree, punishable as provided in s. 775.082 or s. 775.083.

596 2. A person who commits a Level Three violation within 10  
597 years after a previous conviction for a Level Three or higher  
598 violation commits a misdemeanor of the first degree, punishable  
599 as provided in s. 775.082 or s. 775.083, with a minimum  
600 mandatory fine of \$750 and a suspension of any recreational

601 license or permit issued under s. 379.354 for the remainder of  
602 the period for which the license or permit was issued up to 3  
603 years. Such suspension shall include the suspension of the  
604 privilege to obtain such license or permit and the ability to  
605 exercise any privilege granted under s. 379.353. If the  
606 recreational license or permit being suspended was an annual  
607 license or permit, any privileges under ss. 379.353 and 379.354  
608 may not be acquired for a 3-year period following the date of  
609 the violation.

610 3. A person who commits a violation of s. 379.354(17)  
611 shall receive a mandatory fine of \$1,000. Any privileges under  
612 ss. 379.353 and 379.354 may not be acquired for a 5-year period  
613 following the date of the violation.

614 Section 10. This act shall take effect July 1, 2024.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1473 School Safety  
**SPONSOR(S):** Judiciary Committee, Trabulsy and others  
**TIED BILLS:** CS/HB 1509 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Judiciary Committee	22 Y, 0 N, As CS	Wolff	Kramer
2) Appropriations Committee		Saag	Pridgeon
3) Education & Employment Committee			

### SUMMARY ANALYSIS

CS/HB 1473 clarifies that private schools seeking to participate in the guardian program are responsible for costs associated with background screening in addition to costs associated with training; however, the bill authorizes the sheriff providing training for the participating private school to waive costs related to training and background screening. Additionally, the bill provides that an individual certified by the Criminal Justice Standards and Training Commission is exempt from the required school guardian training. The bill implements new reporting requirements related to individuals certified as school guardians and serving as school guardians in school districts, charter schools, and private schools. The Florida Department of Law Enforcement (FDLE) shall serve as the central repository of information regarding certified and appointed guardians.

The bill establishes new perimeter and door safety requirements that school districts and charter school governing boards must comply with by August 1, 2024. These requirements include keeping routes of ingress and egress securely closed and locked when students are on campus, requiring that these routes be actively staffed when open or unlocked, requiring that violations of such perimeter and safety requirements be reported to applicable school official or governing board, and providing disciplinary measures for a school administrator who knowingly violates such requirements.

The bill requires the Office of Safe Schools (OSS), by August 1, 2024, to develop and adopt a Florida school safety compliance inspection report to document compliance with Florida school safety requirements. The bill requires that the OSS triennially conduct unannounced inspections of all public schools, using the safety compliance inspection report. The bill provides for a bonus program for school principals and charter school administrators whose schools are found to be in full compliance with school safety requirements. The bill requires the OSS, by December 1, 2024, to recommend a methodology to distribute the Safe Schools Allocation included in the Florida Education Finance Program based upon the number and severity of incidents in school district School Environmental Safety Incident Reporting (SESIR) and each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment.

The bill prohibits a person from operating a drone over a public or private school serving students in any grade from voluntary prekindergarten through grade 12, unless the person was granted permission by school personnel or the drone is operated by a law enforcement agency. A violation is punishable as a second degree misdemeanor for a first offense and a first degree misdemeanor for a second or subsequent offense. The bill provides increased penalties if a person operates a drone over a public or private school and, in doing so, records video of the school, including any person or object on the premises of the school.

The bill creates, subject to appropriation, a grant program to support private schools' school safety efforts. Under the program, the FDLE shall provide competitive grants to sheriff's offices and law enforcement agencies to conduct physical site security assessments for and provide reports to private schools with recommendations on improving such schools' infrastructure safety and security.

The bill has an indeterminate fiscal impact on the OSS and FDLE, as well as local governments. See Fiscal Comments.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

In February 2018, a 19-year old gunman killed 14 students and three staff members at Marjory Stoneman Douglas High School in Parkland, Florida.<sup>1</sup> The staff members killed were athletic director Chris Hixon, assistant football coach Aaron Feis, and teacher and cross-country coach Scott Beigel.<sup>2</sup> The incident of mass violence was preceded by multiple, repeated interactions between the shooter and law enforcement agencies, social services agencies, and schools, over many years. This history was characterized by a lack of communication and coordination, preventing these many entities from understanding the whole problem and acting to prevent the mass violence incident.

In response, the Legislature created the Marjory Stoneman Douglas High School Public Safety Commission (Commission) within FDLE.<sup>3</sup> The Commission is composed of 16 voting members and four nonvoting members. The Governor appointed five voting members to the Commission, including the chair, and the President of the Senate and Speaker of the House of Representatives each appointed five voting members to the Commission. The Secretary of the Department of Children and Families, the Secretary of the Department of Juvenile Justice, the Secretary of the Agency for Health Care Administration, and the Commissioner of Education serve as ex officio, non-voting members of the Commission.<sup>4</sup> The Commission meets, as necessary, to conduct its work at the call of the chair and at designated times and locations throughout the state.

The Commission published an initial report on its findings and recommendations on January 2, 2019. Many of the recommendations were adopted during the 2019 Legislative Session. The Commission issued its second report on November 1, 2019, and may issue reports annually until it sunsets.<sup>5</sup>

In 2022, the Legislature extended the sunset of the Commission until July 1, 2026, and substantially amended the responsibilities of the Commission.<sup>6</sup> The Commission must monitor the implementation of school safety legislation by:

- Evaluating the activities of the Office of Safe Schools (OSS) to provide guidance to school districts, identifying areas of noncompliance and mechanisms used to achieve compliance.
- Reviewing the findings of the Auditor General regarding school district school safety policies and procedures needing improvement to ensure and demonstrate compliance with state law.
- Reviewing school hardening grant expenditures and evaluating such expenditures based on the report of the School Hardening and Harm Mitigation Workgroup, recommendations of law enforcement agencies based on school campus tours and the required return on investment analysis component of the Florida Safe Schools Assessment Tool (FSSAT).
- Evaluating the utilization of the centralized integrated data repository by schools and its effectiveness in conducting threat assessments.
- Assessing efforts by local governments to improve communication and coordination among regional emergency communications systems.
- Investigating any failures in incident responses by local law enforcement agencies and school resource officers.
- Investigating any failures in interactions with perpetrators preceding incidents of violence.<sup>7</sup>

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<sup>1</sup> Tonya Alanez, David Fleshler, Stephen Hobbs, Lisa J. Huriash, Paula McMahon, Megan O'Matz and Scott Travis, *Unprepared and Overwhelmed*, South Florida Sun-Sentinel (Dec 28, 2018), <https://projects.sun-sentinel.com/2018/sfl-parkland-school-shooting-critical-moments/> (last visited Feb. 6, 2024).

<sup>3</sup> S. 943.687, F.S.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

## School Safety Oversight and Compliance

### Background

Florida's Commissioner of Education (commissioner) oversees compliance with school safety and security requirements by school districts, district school superintendents, and public schools, including charter schools.<sup>8</sup> The commissioner must facilitate compliance to the maximum extent provided under law, identify incidents of noncompliance, and impose or recommend enforcement and sanctioning actions to the State Board of Education (SBE), the Governor, or the Legislature.<sup>9</sup>

The Office of Safe Schools (OSS) is fully accountable to the commissioner and serves as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning.<sup>10</sup> The OSS responsibilities include, among other duties, collecting School Environmental Safety Incident Reporting (SESIR) data, providing a School Safety Specialist Training Program, evaluating usage of the standardized, statewide behavioral threat assessment instrument, monitoring compliance with requirements relating to school safety, and reporting incidents of noncompliance to the commissioner and the SBE.<sup>11</sup>

District school boards and superintendents each have responsibilities related to school safety and security. District school superintendents must designate a school safety specialist who is responsible for the supervision and oversight for all school safety and security personnel, policies, and procedures in the school district, including conducting and reporting the recommendations from the annual school security risk assessment at each public school using the Florida Safe Schools Assessment Tool (FSSAT).<sup>12</sup> District school boards must adopt policies that guide many aspects of school safety including the establishment of threat management teams (TMT) and emergency procedures and emergency preparation drills. TMTs assess and provide intervention recommendations for individuals whose behavior may pose a threat to the safety of school staff or students.<sup>13</sup> TMT members must include individuals with expertise in counseling, instruction, school administration, and law enforcement.<sup>14</sup> To conduct its work, a TMT must use the standardized, statewide behavioral threat assessment instrument developed by the OSS<sup>15</sup> and may use the Florida Schools Safety Portal (FSSP) until the OSS operationalizes the statewide threat management portal, which must be in place by August 1, 2025.<sup>16</sup>

Emergency drills and procedures are guided by district school boards' policies and procedures, which are formulated in consultation with the appropriate public safety agencies. These policies apply to all students and faculty at all K-12 public schools. Emergencies include fires, natural disasters, active shooter and hostage situations, and bomb threats.<sup>17</sup> Drills for active shooter and hostage situations must be conducted in accordance with developmentally appropriate and age-appropriate procedures at least as often as other emergency drills.<sup>18</sup> The active shooter situation training for each school must engage the participation of the district school safety specialist, the TMT members, faculty, staff, and students, and must be conducted by the law enforcement agency or agencies designated as first responders to the school's campus.<sup>19</sup>

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<sup>8</sup> S. 1001.11(9), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> S. 1001.212, F.S.

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

<sup>12</sup> *Id.*

<sup>13</sup> S. 1006.07(7), F.S.

<sup>14</sup> S. 1006.07(7)(a), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> S. 1006.07(7)(f), F.S.; S. 1001.212(12)(c), F.S.

<sup>17</sup> S. 1006.07(4)(a), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> S. 1006.07(4)(b)1., F.S.



In 2020, the Legislature passed HB 23, requiring all public and charter schools to have a mobile panic alert system.<sup>20</sup> Known as Alyssa’s Law, the bill is named for Alyssa Alhadeff, a Marjory Stoneman Douglas High School student who was one of the 17 people killed during the shooting. The legislation required the DOE to procure a statewide, mobile panic alert system for school districts to facilitate an integrated Enhanced 911 transmission or mobile activation during emergencies on public school campuses. The DOE completed the procurement and selected 11 vendors from which school districts may choose to satisfy this requirement.<sup>21</sup>

In 2021, the Legislature clarified that school districts were required to conduct active assailant drills but may provide accommodations for emergency drills conducted by exceptional student education centers.<sup>22</sup>

In 2022, to provide more statewide uniformity in emergency drills at Florida’s schools, the Legislature required the SBE to adopt rules governing emergency drills by August 1, 2023, and required such rules be based on recommendations from the Commission and in consultation with state and local constituencies. The rules must require all types of emergency drills be conducted at least once per school year. Additionally, the rules must define “emergency drill,” “active threat,” and “after-action report” and provide minimum requirements for school district emergency drill policies and procedures by incident type, school level, school type, and student and school characteristics, including timing, frequency, participation, training, notification, accommodations, and response to threat situations.<sup>23</sup>

Additionally, law enforcement responsible for responding to schools in the event of an active assailant emergency must be physically present and participate in active assailant emergency drills. School districts must provide notice to the law enforcement officers required to be present at such drills at least 24 hours before the drill.<sup>24</sup>

## Effect of Proposed Changes – School Safety Oversight and Compliance

### *Perimeter and Door Security Measures*

The bill establishes new perimeter and door safety requirements that school districts and charter school governing boards must comply with by August 1, 2024. The bill requires compliance with the following:

- All gates or other access points that restrict ingress to or egress from a school campus shall remain closed and locked when students are on campus. The school safety specialist may determine in writing and notify the OSS that the open and unlocked gate or other access point is not a threat to school safety based upon other school safety measures. The OSS may conduct a compliance visit to review if such determination is appropriate.
- All school classrooms and other instructional spaces must be locked to prevent ingress when occupied by students, except between class periods when students are moving between classrooms or other instructional spaces.
- All campus access doors, gates, and other access points that allow ingress to or egress from a school building shall remain closed and locked at all times to prevent ingress, unless a person is actively entering or exiting the door, gate, or other access point. The school safety specialist may determine in writing and notify the OSS that the open and unlocked gate or other access point is not a threat to school safety based upon other school safety measures. The OSS may conduct a compliance visit to review if such determination is appropriate. All campus access doors, gates, and other access points may be electronically or manually controlled by school personnel to allow access by authorized visitors, students, and school personnel.

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<sup>20</sup> Ch. 2020-145, Laws of Fla.

<sup>21</sup> Florida Department of Education, *Alyssa’s Alert*, <https://www.fldoe.org/safe-schools/alyssas-alert.stml> (last visited Feb. 6, 2024).

<sup>22</sup> Ch. 2021-176, Laws of Fla.

<sup>23</sup> S. 1006.07(4), F.S.

<sup>24</sup> *Id.*

In relation to the locking of doors and access points, the bill requires that any time a door or access point is left open or unlocked it must be actively staffed by a person standing or seated at the door.

Additionally, the bill requires that all school classrooms and other instructional spaces must clearly and conspicuously mark the safest areas in each classroom or other instructional space where students must shelter in place during an emergency. Students must be notified of these safe areas within the first 5 days of the school year. If it is not feasible to clearly and conspicuously mark the safest areas in a classroom or other instructional space, the school safety specialist or his or her designee must document such determination in writing, identify where affected students must shelter in place, and notify the OSS. The OSS shall conduct a compliance inspection of this requirement.

The bill requires any person who becomes aware of a violation of these requirements to report the violation to the school principal. The school principal must report the violation to the school safety specialist no later than the next business day after receiving such report. If the school principal or charter school administrator allegedly violated these requirements, then the report must be made directly to the district school superintendent or charter school governing board, as applicable.

The bill requires that the OSS refer any instructional personnel that knowingly violated the perimeter and door safety requirements to the district school superintendent or charter school administrator for disciplinary action. The superintendent or charter school administrator must notify the OSS of the outcome of the disciplinary proceeding within three school days of the conclusion of the proceedings.

The bill requires that the OSS refer any administrative personnel that knowingly permitted a violation of the perimeter and door safety requirements to the Education Practices Commission. The bill amends s. 1012.795, F.S., to authorize the Education Practices Commission to discipline an administrative certificate holder for a knowing violation of the perimeter and door safety requirements.

The OSS is required to maintain a record of any instructional or administrative personnel that unknowingly violated the perimeter and door safety requirements, and may use such information to inform any future investigation of the individual for a violation of the requirements.

The bill requires that the OSS annually notify all administrative and instructional personnel by electronic mail of the perimeter and door safety requirements.

#### *Unannounced School Inspections*

The bill requires the OSS, by August 1, 2024, to develop and adopt a Florida school safety compliance inspection report to document compliance with Florida school safety requirements. The OSS must provide school district superintendents and charter school administrators with a blank copy of the adopted report.

The bill requires that the OSS triennially conduct unannounced inspections of all public schools, including charter schools, using the safety compliance inspection report. Within three school days of the inspection, the OSS must provide a copy of the completed report to the school safety specialist and the school principal or charter school administrator. The school principal or charter school administrator must acknowledge receipt of the report within one school day. If the OSS finds any instance of noncompliance with Florida's school safety laws, the bill requires that a reinspection of the school occur within six months.

Upon a finding of noncompliance with the perimeter and door safety requirements, the bill requires a school principal or charter school administrator to notify the OSS within three school days of receipt of the report how the noncompliance will be remedied.

In addition to the unannounced inspections, the OSS must provide quarterly reports to each district superintendent and school safety specialist identifying the number and percentage of school inspected

or re-inspected during the quarter and the number and percentage of schools that had no safety deficiencies.

The bill requires the school safety specialist to present the quarterly OSS report to the district school board in a public meeting. Additionally, during the first quarter of every school year, the school safety specialist shall report to the district school board the number of schools inspected during the preceding calendar year and the number and percentage of schools in compliance with school safety laws during the initial inspection and reinspection.

The bill requires the school safety specialist to conduct annual unannounced inspections of all public schools while school is in session and investigate reports of noncompliance with school safety requirements.

The bill creates a bonus program for school principals and charter school administrators that provides a bonus, as set forth in the General Appropriations Act, if, after the initial unannounced inspection during each triennial period, the OSS report reflects full compliance with Florida's school safety laws.

### *Emergency Drills*

The bill requires each public school to maintain a record that is accessible on each campus or by request of the OSS of all emergency drills conducted, including the names of law enforcement personnel present on campus for each active assailant emergency drill.

### *School Safety Specialist Duties*

The bill improves the communication between the school safety specialist and the district superintendent by requiring the school safety specialist to report to the district school superintendent and school board, at least on a quarterly basis, any noncompliance by the school district with laws or rules relating to school safety. In addition, the bill requires the school safety specialist to report any violations of the perimeter and door safety requirements by administrative personnel or instructional personnel to the district school superintendent or charter school administrator, and to the OSS.

## **Safe-school Officers**

### Background

District school boards and school district superintendents are required to partner with law enforcement or security agencies to establish or assign one or more safe-school officers at each school facility within the district, including charter schools. To assist charter schools with fulfilling this requirement, a district school board must collaborate with charter school governing boards to facilitate charter school access to all safe-school officer options.<sup>25</sup>

A safe-school officer may be a school resource officer, school safety officer, school guardian, or a school security guard. A school district may implement any combination of the following options based upon the needs of the school district and may.<sup>26</sup>

- **School Resource Officer:** Establish a school resource officer program through a cooperative agreement with law enforcement agencies. A school resource officer is a certified law enforcement officer<sup>27</sup> who is employed by a law enforcement agency and is required to undergo criminal background checks, drug testing, and a psychological evaluation.<sup>28</sup> School resource officers abide by school board policies and consult with and coordinate activities through the school principal. They are responsible to the law enforcement agency in all matters relating to

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<sup>25</sup> S. 1006.12, F.S.

<sup>26</sup> S. 1006.12(1)–(4), F.S.

<sup>27</sup> See s. 943.10(1), F.S.

<sup>28</sup> S. 1006.12(1)(a), F.S.

employment, subject to agreements between a school board and a law enforcement agency. Activities conducted by the school resource officer, which are part of the regular instructional program of the school, are under the principal's direction.<sup>29</sup>

- School Safety Officer: Commission one or more school safety officers as recommended by the district school superintendent and appointed by the district school board. A school safety officer is a certified law enforcement officer who may be employed by a district school board or law enforcement agency and is required to undergo criminal background checks, drug testing, and a psychological evaluation. A school safety officer has and must exercise the power to make arrests for violations of law on school board property or on property owned or leased by a charter school under a charter contract. The officer may also make arrests off school board property if the law violation occurred on such property and may carry weapons when performing his or her official duties. A school safety officer's salary may be paid jointly by the school board and the law enforcement agency, as mutually agreed.<sup>30</sup>
- School Guardian: Appoint a school guardian under the Chris Hixon, Coach Aaron Feis, and Coach Scott Beigel Guardian Program who is certified by the sheriff after completing a psychological evaluation, drug testing, and specified training, which includes firearm instruction. A guardian may be a school district employee or charter school employee who volunteers to serve as a guardian, in support of school sanctioned activities, in addition to his or her official job duties. A qualifying individual may also be employed specifically as a guardian.<sup>31</sup> Guardians do not have arrest powers.<sup>32</sup>
- School Security Guard: Contract with a security agency to employ a school security guard. A school security guard is an individual who is employed by a security agency and serves on a school facility as a safe-school officer in support of school sanctioned activities. Security guards are required to hold a concealed carry weapon permit and undergo drug testing and a psychological evaluation. An individual serving in this capacity must complete guardian program training, including 144 training hours.<sup>33</sup> A security guard must aid in the prevention or abatement of active assailant incidents on school premises,<sup>34</sup> but does not have arrest powers.<sup>35</sup>

A school district contract with a security agency must define the entity or entities responsible for training and the responsibilities for maintaining records relating to training, inspection, and firearm qualification.<sup>36</sup>

All safe-school officers are required to receive mental health training. Safe-school officers who are sworn law enforcement officers must complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in the topic. The training must improve the safe-school officers' knowledge and skills as a first responder to incidents involving students with emotional disturbance or mental illness, to include de-escalation skills. Safe-school officers who are not sworn law enforcement officers are required to receive training to improve their knowledge and skills related to incident response and de-escalation.<sup>37</sup>

A district school superintendent or charter school administrator, or their designee, is required to notify its county sheriff and the OSS within 72 hours after a safe-school officer being dismissed for misconduct, being disciplined, or discharging a firearm in the exercise of duties during a non-training incident.<sup>38</sup>

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<sup>29</sup> S. 1006.12(1)(b), F.S.

<sup>30</sup> S. 1006.12(2), F.S.

<sup>31</sup> S. 1006.12(3), F.S.

<sup>32</sup> S. 30.15(1)(k), F.S.

<sup>33</sup> S. 1006.12(4), F.S.

<sup>34</sup> S. 1006.12(4)(c), F.S.

<sup>35</sup> S. 30.15(1)(k), F.S.

<sup>36</sup> S. 1006.12(4)(b), F.S.

<sup>37</sup> S. 1006.12(6), F.S.

<sup>38</sup> S. 1006.12(5), F.S.

The OSS must annually publish certain information about safe-school officers including the total number of officers, officers disciplined or relieved of duty due to misconduct, disciplinary incidents, and incidents in which a safe-school officer discharged his or her firearm outside of a training situation or in the course of duty.<sup>39</sup>

Florida law exempts from disclosure any information held by a law enforcement agency, school district, or charter school that would identify whether a particular individual has been appointed as a safe-school officer.<sup>40</sup>

Florida law prohibits a person from falsely impersonating a school guardian and a violation of the prohibition is a third degree felony. In addition, the law prohibits a person from impersonating a law enforcement officer or licensed security officer acting in the capacity of a safe-school officer.<sup>41</sup>

### *Chris Hixon, Coach Aaron Feis, and Coach Scott Beigel Guardian Program*

The Chris Hixon, Coach Aaron Feis, and Coach Scott Beigel Guardian Program (guardian program) authorizes qualified school personnel to serve as an armed guard to aid in the prevention or abatement of active assailant incidents on school premises.<sup>42</sup>

A school district or charter school employee may serve as a guardian if the individual is appointed by the district school superintendent or charter school principal and is certified by a sheriff. The individual must satisfy the following requirements:

- hold a concealed weapons or concealed firearms License;
- pass a psychological evaluation administered by a licensed psychologist;
- pass an initial drug test and subsequent random drug tests; and
- successfully complete a 144-hour training program that includes at least 12 hours of certified nationally recognized diversity training and 132 total hours of specified, comprehensive firearm safety and proficiency training conducted by Criminal Justice Standards and Training Commission-certified instructors, and ongoing training, weapon inspection, and firearm qualification on at least an annual basis.<sup>43</sup>

An individual must satisfy the background screening, psychological evaluation, and drug testing requirements prior to participating in the required guardian training. All training for the guardian program must be conducted by a sheriff.<sup>44</sup>

A county sheriff must establish a program if the district school board elects to participate. The sheriff may contract with another county sheriff who has already established a program to provide training. Charter school governing boards may directly request guardian training from the county sheriff even if the school district decides not to participate. Should the sheriff deny the request, the charter school may contract with a county sheriff who is willing to provide the training.<sup>45</sup>

A sheriff who establishes a guardian program may consult with the FDLE on programmatic guiding principles, practices, and resources.<sup>46</sup>

A school guardian has no authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident on school premises.<sup>47</sup> The sheriff who

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<sup>39</sup> S. 1001.212(16), F.S.

<sup>40</sup> S. 1006.12(8), F.S.

<sup>41</sup> S. 843.08, F.S. A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Ss. 775.082, 775.083, or 775.084, F.S.

<sup>42</sup> S. 30.15(1)(k), F.S.

<sup>43</sup> *Id.*

<sup>44</sup> S. 1006.12(7), F.S.

<sup>45</sup> S. 30.15(1)(k), F.S.

<sup>46</sup> S. 943.03(16), F.S.

<sup>47</sup> S. 30.15(1)(k), F.S.

conducts the guardian training must issue a school guardian certificate to individuals who meet these requirements and maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each school guardian certified by the sheriff.<sup>48</sup>

The guardian training specified in statute is the statewide standard that must be used, however, sheriffs are authorized to supplement such training. A guardian that has received the required training cannot be required to attend the training again unless there has been at least a one-year break in her or his employment as a guardian.<sup>49</sup>

### *Safe-school Officers in Private Schools*

In 2023, the Legislature expanded the guardian program by authorizing private schools to partner with a law enforcement or security agency to establish or assign a safe-school officer to their schools.<sup>50</sup> The private school is responsible for any costs associated with implementing a safe-school officer, including training under the guardian program.<sup>51</sup> A private school electing to implement a safe-school officer must comply with the same statutory requirements for such officers as school districts and charter schools.<sup>52</sup>

If the county in which a private school operates does not currently participate in the guardian program, the private school may request the sheriff to initiate a guardian program for the purpose of training private school employees.<sup>53</sup> If the local sheriff declines, the private school may contract with a sheriff of a county that has implemented a guardian program to provide the necessary training.<sup>54</sup> The private school is responsible for notifying the local sheriff prior to entering into such a contract and is responsible for all costs associated with the training of private school employees to serve as guardians.<sup>55</sup> The sheriff providing guardian training to private school employees is prohibited from comingling funds received for such training with funds received from the state for the purposes of training school district or charter school employees to serve as guardians.<sup>56</sup>

### Effect of Proposed Changes – Safe-School Officers

The bill clarifies that private schools seeking to participate in the guardian program are responsible for costs associated with background screening in addition to costs associated with training. However, the bill authorizes a sheriff to waive training and background screening costs for a private school participating in the school guardian program. Funds provided to the sheriff by the DOE for the school guardian program may not be used to subsidize any costs that have been waived by the sheriff.

The bill clarifies that the one-time guardian stipend only applies to employees of the school district or charter school serving as guardians.

The bill provides that an individual certified under the Florida Criminal Justice Standards and Training Commission, and who is otherwise qualified to serve as a guardian, is exempt from the 144-hour training requirement prior to certification as a guardian. The bill authorizes a sheriff to issue a school guardian certificate to such individuals.

The bill requires a school guardian to complete 12 hours of training to improve the guardian's knowledge and skills necessary to respond to and de-escalate incident on school premises, and

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<sup>48</sup> *Id.*

<sup>49</sup> S. 30.15(1)(k)1.d., F.S.

<sup>50</sup> S. 2, ch. 2023-18, Laws of Fla.

<sup>51</sup> S. 30.15(1)(k)1.c., F.S.

<sup>52</sup> S. 1002.42(18), F.S.

<sup>53</sup> S. 30.15(1)(k)1.c., F.S.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

deletes a requirement for a school guardian to complete 12 hours of certified nationally recognized diversity training.

The bill requires that agreements between a school district and a law enforcement agency for the provision of school resource officers (SRO) in district schools must identify the entity responsible for maintain records relating to SRO training.

The bill requires that a school notify the local sheriff and the OSS within 72 hours when a safe-school officer separates from employment or appointment with the district.

#### *Required Reporting of Certified and Appointed School Guardians*

The bill implements new reporting requirements related to individuals certified as school guardians and serving as school guardians in school districts, charter schools, and private schools. Under the bill, the FDLE shall serve as the central repository of information regarding certified and appointed school guardians.

The bill requires that each sheriff report to the FDLE, within 30 days of such certification, each individual certified as a school guardian. Each sheriff must also make a one-time report, by September 1, 2024, of every individual previously certified as a school guardian by the sheriff. The required reports must include the name, date of birth, and certification date of the guardian.

Additionally, the bill requires each school district, charter school, and private school participating in the guardian program to report to the FDLE, each February 1 and September 1, the name, date of birth, and appointment date of each individual appointed as a school guardian. The schools must also report the end date of any appointment as a school guardian within 30 days of the end of the appointment. Each participating school must make a one-time report to the FDLE, by September 1, 2024, providing a current list of appointed school guardians that includes, name, date of birth, and appointment date of each guardian.

Using the information from these reports, the FDLE must maintain a list of all individuals appointed as school guardians that includes name, certification date, date of appointment, including the name of the school, information reported by the DOE related to a school guardian discharging their firearms or being subject to discipline, and end date of appointment, if applicable. The FDLE must remove anyone from the list whose required guardian training has expired.

The bill requires that each sheriff report to the FDLE, on a quarterly basis, the schedule for upcoming guardian trainings, including the dates, locations, contact person for registration, and class capacity. The FDLE is required to publish, and update quarterly, the information related to such trainings on its website.

For any sheriff that fails to comply with the above reporting requirements, the bill prohibits the sheriff from receiving reimbursements from the DOE for costs associated with the school guardian program. For any school district, charter school, or private school that fails to comply with the above reporting requirements, the bill prohibits the entity from operating a school guardian program the following school year. Such prohibition is lifted as soon as the sheriff, school district, charter school, or private school complies with reporting requirements. In order for the DOE to be able to enforce these prohibitions, the bill requires the FDLE to report any non-compliance to the DOE by March 1 and October 1, each year.

The bill requires that each school district, charter school, or private school, before employing an individual as a school guardian, must contact the FLDE and review all information maintained by the FDLE related to the individual's school guardian certification and employment as a school guardian. Additionally, the DOE must provide the FDLE with any information relating to a school guardian discharging their firearms or being disciplined.

## Incident Reporting and Safe Schools Allocation

### Background

#### *Incident Reporting*

With respect to school safety, there are a number of tracking and reporting tools managed by the DOE to which school districts are required to report incident information. The OSS monitors school district compliance with SESIR requirements and TMT utilization of the standardized behavioral assessment tool, i.e., the FSSP. The FSSP is available to individual TMT members with specific permissions and the OSS tracks the number of queries.<sup>57</sup> The FSSP provides a centralized repository to access student records across multiple disciplines including law enforcement and behavioral health care.<sup>58</sup>

The SESIR data is collated by a DOE electronic database to which school districts report on 26 incidents of crime, violence, and disruptive behaviors that occur on school grounds.<sup>59</sup> The SESIR reporting is required for all public schools.<sup>60</sup> Each district school board must adopt policies to ensure the accurate and timely reporting of incidents related to school safety and discipline and the district school superintendent is responsible for reporting such incidents in SESIR.<sup>61</sup> The DOE revised the reporting rule in 2020 to direct how incidents are reported at regular intervals throughout the school year.<sup>62</sup> Superintendents must annually certify that the school district is in compliance with the SBE rule. Failure to report SESIR data by the survey deadlines can result in forfeiture of the superintendent's salary until the reporting is completed.<sup>63</sup> The DOE makes the data available annually through publication of summary excel files on its website,<sup>64</sup> which are separate from other DOE databases that provide public visibility into school accountability and performance metrics.<sup>65</sup>

School districts must provide emergency notifications for a limited list of life-threatening emergencies that take place on a K-12 public school campus.<sup>66</sup> Incidents include weapon-use, hostage, and active shooter situations, hazardous materials or toxic chemical spills, weather emergencies, and exposure as a result of manmade emergencies.<sup>67</sup> For colleges and universities, the Clery Act prescribes a broader list of violent incidents or criminal acts for which notification is required to the "campus community."<sup>68</sup> Acts that must be reported include criminal offenses,<sup>69</sup> hate crimes,<sup>70</sup> Violence Against Women Act offenses,<sup>71</sup> and arrests and referrals for discipline for weapons, drug, or liquor law violations.<sup>72</sup>

In 2021,<sup>73</sup> the Legislature established the parental right to timely notification of school safety and emergency incidents, including certain threats, unlawful acts, and significant emergencies, and the right

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<sup>57</sup> Florida Department of Education, *Department of Education Announces the Florida Schools Safety Portal*, <http://www.fldoe.org/newsroom/latest-news/department-of-education-announces-the-florida-schools-safety-portal.stml> (last visited Feb. 6, 2024).

<sup>58</sup> S. 1001.212(12), F.S.

<sup>59</sup> Florida Department of Education, *Discipline Data*, <http://www.fldoe.org/safe-schools/discipline-data.stml> (last visited Feb. 6, 2024).

<sup>60</sup> Ss. 1001.212(8) and 1006.07(6), F.S.

<sup>61</sup> S. 1006.07(9), F.S.

<sup>62</sup> R. 6A-1.0017, F.A.C. The survey periods for submission of data by school districts to the DOE are established in *Full-time Equivalent (FTE) General Instructions 2022-2023*, <https://www.fldoe.org/core/fileparse.php/7508/urlt/2223FTEGenInstruct.pdf> (last visited Feb. 6, 2024).

<sup>63</sup> R. 6A-1.0017, F.A.C.

<sup>64</sup> Florida Department of Education, *Discipline Data*, <http://www.fldoe.org/safe-schools/discipline-data.stml> (last visited Feb. 6, 2024).

<sup>65</sup> See Florida Department of Education, *Know Your Schools*, <https://edudata.fldoe.org/> (last visited Feb. 6, 2024).

<sup>66</sup> S. 1006.07(4), F.S.

<sup>67</sup> *Id.*

<sup>68</sup> Pub. L. No. 101-152, 104 Stat. 2381 (Nov. 8, 1990).

<sup>69</sup> *Id.* Criminal offenses include criminal homicide, sexual assault, robbery, burglary, motor vehicle theft, and arson.

<sup>70</sup> *Id.* Hate crimes can include any of the covered criminal offenses and larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property.

<sup>71</sup> *Id.* Violence Against Women Act offenses include domestic violence, dating violence, and stalking.

<sup>72</sup> *Id.*

<sup>73</sup> Ch. 2021-176, Laws of Fla.



to access the SESIR data as reported by school districts to the DOE.<sup>74</sup> The DOE must annually publish the most recently available SESIR data, along with other school accountability and performance data, in a uniform, statewide format that is easy to read and understand.<sup>75</sup>

In response to concerns the SESIR reporting requirements were unclear and not aligned with Florida's criminal statutes regarding criminal offenses being reported by schools, the DOE substantially amended the SESIR reporting rule in January 2023.<sup>76</sup> The amendment updated a number of definitions, clarified the process for determining when incidents must be referred to law enforcement, and bolstered the annual school district reporting requirements to improve overall data quality.<sup>77</sup> To address under-reporting of serious crimes due to school district discretion, in 2023, the Legislature authorized the SBE to adopt emergency rules to establish which SESIR incidents must be reported to law enforcement. The SBE must adopt final rules no later than July 1, 2024.<sup>78</sup>

Additionally, school districts must provide timely notice to parents of the following unlawful acts and significant emergency situations on school grounds, school transportation, or school-sponsored activities:

- Weapons possession or use or hostage and active assailant situations.
- Murder, homicide, or manslaughter.
- Sex offenses, including rape, sexual assault, or sexual misconduct with a student by school personnel.
- Aggravated assault or battery.
- Natural emergencies, including hurricanes, tornadoes, and severe weather.
- Exposure as a result of a manmade emergency.<sup>79</sup>

When a child is taken into custody by a law enforcement officer for an offense that would have been a felony if committed by an adult, or a crime of violence, the law enforcement agency must notify the superintendent of schools that the child is alleged to have committed the delinquent act.<sup>80</sup>

### *Safe Schools Allocation*

The Safe Schools Allocation is a categorical in the Florida Education Finance Program and provides funding to assist school districts in their compliance with ss. 1006.07-1006.12, F.S., with priority given to safe-school officers. For the 2023-2024 school year, \$250 million is appropriated for this categorical with each district receiving a minimum of \$250,000 and the remaining balance of funds allocated by a formula based on one-third of the recent Florida Crime Index and two-thirds allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment.<sup>81</sup>

The distribution of safe schools funds provided to a school district is contingent upon the district's compliance with all reporting procedures related to the prevention of bullying and harassment.<sup>82</sup>

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<sup>74</sup> Ss. 1002.20(25) and 1002.33(9)(r), F.S.

<sup>75</sup> S. 1006.07(9), F.S.

<sup>76</sup> R. 6A-1.0017, F.A.C.

<sup>77</sup> *Id.*

<sup>78</sup> S. 24, ch. 2023-18, Laws of Fla.

<sup>79</sup> S. 1006.07(4)(b), F.S.

<sup>80</sup> S. 985.04(4)(a), F.S.

<sup>81</sup> Specific Appropriations 5 and 86, ch. 2022-156, Laws of Fla. See S. 1011.62(12), F.S.

<sup>82</sup> S. 1006.147(7), F.S.

<b>Safe Schools Allocation</b>	
<b>Fiscal Year</b>	<b>Funding Amount</b>
2018-2019 <sup>83</sup>	\$ 162 million
2019-2020 <sup>84</sup>	\$ 180 million
2020-2021 <sup>85</sup>	\$ 180 million
2021-2022 <sup>86</sup>	\$ 180 million
2022-2023 <sup>87</sup>	\$ 210 million
2023-2024 <sup>88</sup>	\$250 million
	<b>\$ 1.2 billion</b>

### Effect of Proposed Changes – Incident Reporting

The bill creates, subject to appropriation, a grant program to support private schools' school safety efforts. Under the program, the FDLE shall provide grants to sheriff's offices and law enforcement agencies to:

- conduct physical site security assessments for and provide reports to private schools with recommendations on improving such schools' infrastructure safety and security;
- assist private schools in developing active assailant response protocols and develop and implement training relating to active assailant responses, including active assailant response drills; and
- consult with or provide guidance to private schools in implementing a threat management program similar to the program required for public schools.

The FDLE must develop a site security assessment form for use by sheriff's offices and law enforcement agencies and provide the form, including any subsequent revisions, to the recipient of funds in conducting the duties outlined in the bill. Grants awarded under this program may be used by sheriff's offices and law enforcement agencies for personnel costs and to purchase software and other items necessary to assist private schools. The FDLE must establish the requirements for awarding such grants through an open, competitive process and must award grants no later than October 1, 2024.

The bill requires the OSS, by December 1, 2024, to recommend a methodology to distribute the safe schools allocation based upon the number and severity of incidents in school district SESIR reporting and each school district's proportionate share of the state's total unweighted FTE student enrollment.

The bill also requires the superintendent, if the student in question was taking dual enrollment courses, to inform the postsecondary institution where the dual enrollment courses were being taken of the alleged delinquent act within 24 hours of receiving such notification.

## **FortifyFL**

### Background

The School Safety Awareness Program is a mobile suspicious activity reporting tool known as FortifyFL, which is based upon a recommendation by the students of Marjory Stoneman Douglas High School. The tool allows students and the community to share information anonymously concerning

<sup>83</sup> S. 42, ch. 2018-3, Laws of Fla. (\$97,500,000); Specific Appropriations 6 and 92, ch. 2018-9, L.O.F. (\$64,456,019)

<sup>84</sup> Specific Appropriations 6 and 93, ch. 2019-115, Laws of Fla.

<sup>85</sup> Specific Appropriations 8 and 92, ch. 2020-111, Laws of Fla.

<sup>86</sup> Specific Appropriations 7 and 90, ch. 2021-36, Laws of Fla.

<sup>87</sup> Specific Appropriations 5 and 86, ch. 2022-156, Laws of Fla.

<sup>88</sup> Specific Appropriations 5 and 80, ch. 2023-239, Laws of Fla.

unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of criminal activities, to the appropriate public safety agencies and school officials.<sup>89</sup> The information reported using FortifyFL must be promptly forwarded to the appropriate law enforcement agency or school official.<sup>90</sup> The tool will notify the person reporting the suspicious activity that information may be provided anonymously, but if, following an investigation, it is determined that an individual knowingly submitted a false tip, the Internet Protocol (IP) address of the device from which the tip was submitted will be provided to law enforcement and the individual may be subject to criminal penalties.<sup>91</sup> If the person chooses to identify him or herself, then the identity will be shared with the law enforcement agency and school officials. However, those entities must keep the identify information confidential.<sup>92</sup>

The FDLE must collaborate with the Division of Victims Services within the Office of the Attorney General and the OSS to develop and provide a comprehensive training and awareness program on the use of FortifyFL.<sup>93</sup> Each district school board must promote the use of FortifyFL by advertising it on the school district website, in publications, and on school campuses. FortifyFL must be installed on all mobile devices issued to students and bookmarked in web browsers on all computer devices issued to students.<sup>94</sup>

### Effect of Proposed Changes – FortifyFL

The bill requires each school principal to incorporate use of FortifyFL into the school curriculum at least once per school year. Instruction on FortifyFL must be age and developmentally appropriate and include the consequences for inappropriate use of the system.

## **Drones**

### Background

Under Florida law, a drone is a powered, aerial vehicle that:

- does not carry a human operator;
- uses aerodynamic forces to provide vehicle lift;
- can fly autonomously or be piloted remotely;
- can be expendable or recoverable; and
- can carry a lethal or nonlethal payload.<sup>95</sup>

In Florida, the authority to regulate the operation of drones is preempted to the state.<sup>96</sup> Political subdivisions may not enforce ordinances or resolutions impacting the design, manufacture, testing, maintenance, licensing, registration, certification, or operation of a drone.<sup>97</sup> However, political subdivisions may enact or enforce ordinances relating to nuisances, voyeurism, harassment, reckless endangerment, property damage, or other illegal acts arising from the use of drones if such laws or ordinances are not specifically related to the use of a drones for those illegal acts.<sup>98</sup>

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<sup>89</sup> S. 943.082(1), F.S.

<sup>90</sup> S. 943.082(3), F.S.

<sup>91</sup> S. 943.082(2), F.S.

<sup>92</sup> *Id.*

<sup>93</sup> S. 943.082(5), F.S.

<sup>94</sup> S. 943.082(4)(b), F.S.

<sup>95</sup> S. 934.50(2)(a), F.S.

<sup>96</sup> S. 330.41(3)(a), F.S.

<sup>97</sup> S. 330.41(3)(b), F.S.

<sup>98</sup> S. 330.41(3)(c), F.S.

A person may not knowingly or willfully:

- operate a drone over a critical infrastructure facility;
- allow a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or
- allow a drone to come close enough to a critical infrastructure facility as to interfere with the operations of or cause a disturbance to the facility.<sup>99</sup>

A person who violates this prohibition commits a second degree misdemeanor.<sup>100</sup> A second or subsequent violation is a first degree misdemeanor.<sup>101</sup>

The prohibition against operating a drone over a critical infrastructure facility does not apply to:

- a federal, state, or other governmental entity, or a person under contract or otherwise acting under the direction of a federal, state, or other governmental entity;
- a law enforcement agency that is in compliance with s. 934.50, F.S.,<sup>102</sup> or a person under contract with or otherwise acting under the direction of such law enforcement agency; or
- an owner, operator, or occupant of the critical infrastructure facility, or a person who has prior written consent of such owner, operator, or occupant.

A “critical infrastructure facility” is defined as any of the following, if completely enclosed by a fence or other physical barrier, or if clearly marked with a sign or signs that indicate entry is forbidden:

- power generation or transmission facility, substation, switching station, or electrical control center;
- chemical or rubber manufacturing or storage facility;
- water intake structure, water treatment facility, wastewater treatment plant, or pump station;
- mining facility;
- natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline;
- liquid natural gas or propane gas terminal or storage facility;
- any portion of an aboveground oil or gas pipeline;
- refinery;
- gas processing plant, including a plant used in the processing, treatment, or fractionalization of natural gas;
- wireless communications facility, including the tower, antennae, support structures, and all associated ground-based equipment;
- seaport;
- an inland port or other facility or group of facilities serving as a point or intermodal transfer of freight in a specific area physically separated from a seaport;
- an airport;
- spaceport;
- military installation as defined in 10 U.S.C. s. 2801(c)(4) or an armory;
- dam, or other structures such as locks, floodgates, or dikes, which are designed to maintain or control the level of navigable waterways;
- state correctional institution or a private correctional facility;
- secure detention center or facility, or a nonsecure residential facility, a high-risk residential facility, or a maximum-risk residential facility; or
- county detention facility.<sup>103</sup>

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<sup>99</sup> S. 330.41(4)(a), F.S.

<sup>100</sup> A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine. Ss. 775.082 or 775.083, F.S.

<sup>101</sup> A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. Ss. 775.082 or 775.083, F.S.

<sup>102</sup> Generally, s. 934.50, F.S., provides requirements for the use of drones by a law enforcement agency.

<sup>103</sup> S. 330.41(2)(a), F.S.

## Effect of Proposed Changes – Drones

The bill prohibits a person from knowingly or willfully:

- operating a drone over a public or private school serving students in any grade from voluntary prekindergarten through grade 12; or
- allowing a drone to make contact with a school, including any person or object on the premises of or within a school facility.

Under the bill, a person who violates such a prohibition commits a second degree misdemeanor for a first violation or a first degree misdemeanor for a second or subsequent violation.

If a person commits a violation and records video of the school, including any person or object on the premises of or within the school facility, the person commits a first degree misdemeanor for a first violation, or a third degree felony for a second or subsequent violation.

The prohibition against operating a drone over a school does not apply to a:

- person operating a drone with the prior written consent of the school principal, district school board, superintendent, or school governing board; or
- law enforcement agency that is in compliance with s. 934.50, F.S., or a person under contract with or otherwise acting under the direction of such law enforcement agency.

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

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 30.15, F.S., relating to powers, duties, and obligations.

**Section 2:** Amends s. 330.41, F.S., relating to Unmanned Systems Aircraft Act.

**Section 3:** Amends s. 943.082, F.S., relating to School Safety Awareness Program.

**Section 4:** Amends s. 985.04, F.S., relating to oaths; records; confidential information.

**Section 5:** Amends s. 1001.212, F.S., relating to Office of Safe Schools.

**Section 6:** Amends s. 1006.07, F.S., relating to district school board duties relating to student discipline and school safety.

**Section 7:** Amends s. 1006.12, F.S., relating to safe-school officers at each public school.

**Section 8:** Amends s. 1012.795, F.S.; relating to Education Practices Commission; authority to discipline.

**Section 9:** Establishes a grant program.

**Section 10:** 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:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The House Proposed General Appropriations Act for Fiscal Year 2024-2025 (HB 5001) appropriates \$3.8 million in recurring general revenue funds for the bonus program administered by the OSS. Additionally, 15 FTE and \$1.7 million in recurring funds is appropriated to the OSS for the additional workload associated with the completion of the annual compliance inspections.

The bill may have a positive fiscal impact on revenues of sheriff's offices and other law enforcement agencies who apply for and receive cost reimbursements under the school security assessment grant program. HB 5001 appropriates \$5.0 million in nonrecurring general revenue funds to FDLE to implement the grant program.

FDLE may also experience increased workload and additional technology costs associated with administering the grant program, tracking school guardian data, and publishing online training information.<sup>104</sup> However, any initial impact can likely be absorbed within existing resources. Future needs of the department could be addressed through the annual Legislative Budget Request process.

The bill may also have an indeterminate positive impact on jail beds by creating new misdemeanor offenses for operating drones near schools.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not give the SBE any additional rulemaking authority, however, existing rules may need to be amended to incorporate the changes to statute in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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<sup>104</sup> Florida Department of Law Enforcement, Agency Analysis of House Bill 1473, p. 4 (Jan. 12, 2024).

#### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 30, 2024, the Judiciary Committee adopted a proposed committee substitute (PCS) and two amendments to the PCS. The PCS, as amended, differed from the original bill as filed in that it:

- Specified that any stipend provided by a sheriff to a school guardian cannot be used to subsidize any screening or training-related costs that have been waived by a sheriff.
- Required a school guardian to complete 12 hours of de-escalation training, rather than 12 hours of diversity training.
- Revised the date by which a sheriff must report to the FDLE specified information about each person who was issued a guardian certificate from August 1 to September 1.
- Revised the date by which a school district, charter school, or private school must report to the FDLE specified information about each person who has been appointed as a school guardian from August 1 to September 1.
- Specified that a school district, charter school, or private school who fails to report guardian information to the FDLE may not operate a guardian program for the following school year.
- Prohibited a person from knowingly or willfully operating a drone over a public or private school.
- Required the OSS to conduct unannounced inspections of schools triennially, rather than annually.
- Deleted a requirement for the OSS to provide a copy of the school safety compliance inspection report to the Commissioner of Education and the SBE.
- Required the school safety specialist to report noncompliance with laws or rules relating to school safety to the district school board, in addition to the district school superintendent.
- Required the school safety specialist to conduct annual unannounced inspections of all public schools while school is in session and investigate reports of noncompliance with school safety requirements.
- Deleted signage requirements for specified gates or access points.
- Authorized a school safety specialist to determine that an open or unlocked door, gate, or other access point is not a threat to school safety and thus does not need to be closed or locked at all times.
- Required a school district or charter school, prior to appointing a person as a school guardian, to contact the FDLE and review all information related to the person.
- Made other technical changes to improve the clarity and structure of the bill.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.

1                                    A bill to be entitled  
2            An act relating to school safety; amending s. 30.15,  
3            F.S.; providing that private schools are responsible  
4            for specified costs relating to school guardian  
5            programs; authorizing sheriffs to waive specified  
6            costs for private schools; prohibiting specified funds  
7            from being used to subsidize certain costs;  
8            authorizing certain persons to be certified as school  
9            guardians without completing certain training  
10           requirements; revising specified training requirements  
11           for school guardians; requiring school districts,  
12           charter schools, private schools, and sheriffs to  
13           report specified information relating to school  
14           guardians and school guardian programs to the  
15           Department of Law Enforcement within specified  
16           timeframes; requiring the Department of Law  
17           Enforcement to maintain a list of school guardians and  
18           school guardian trainings; providing for the removal  
19           of specified persons from such list; providing  
20           requirements for such list; prohibiting sheriffs who  
21           fail to report specified information from receiving  
22           certain reimbursement; prohibiting school districts,  
23           charter schools, and private schools that fail to  
24           report specified information from operating school  
25           guardian programs for the following school year;



26 requiring the Department of Law Enforcement to report  
27 certain information to the Department of Education by  
28 specified dates of each school year; amending 330.41,  
29 F.S.; prohibiting the operation of a drone over public  
30 and private schools and recording video of such  
31 schools; providing criminal penalties; providing  
32 exemptions; amending s. 943.082, F.S.; requiring the  
33 mobile suspicious activity reporting tool to be  
34 integrated into schools' curriculum at least once per  
35 academic year; providing requirements for such  
36 instruction; amending s. 985.04, F.S.; requiring the  
37 superintendent of schools to notify specified chiefs  
38 of police or public safety directors of certain  
39 postsecondary institutions of specified alleged acts  
40 by children dual enrolled at such institutions;  
41 amending s. 1001.212, F.S.; requiring the Office of  
42 Safe Schools to develop and adopt a specified report  
43 relating to compliance and noncompliance with school  
44 safety requirements by a specified date; requiring the  
45 office to provide such report to specified persons;  
46 requiring the office to conduct specified inspections  
47 triennially and investigate certain noncompliance;  
48 providing requirements for the provision of specified  
49 information from such inspections and investigations;  
50 requiring the office to provide certain quarterly

51 reports to specified persons; requiring the office to  
52 provide bonuses to certain persons who comply with  
53 specified requirements; requiring the office to refer  
54 certain personnel to specified persons or the  
55 Department of Education; requiring the office to  
56 notify specified personnel electronically of certain  
57 requirements; requiring the office to recommend a  
58 methodology to distribute the safe schools allocation  
59 by a specified date; providing requirements for such  
60 recommendation; amending s. 1006.07, F.S.; requiring  
61 schools, including charter schools, to maintain a  
62 specified record relating to certain drills; providing  
63 that certain school safety specialist duties are in  
64 conjunction with the district school superintendent;  
65 requiring school safety specialists to conduct  
66 specified annual inspections, investigate specified  
67 reports of noncompliance, and report certain  
68 noncompliance and violations to specified individuals,  
69 the district school board, and the office; requiring  
70 school districts and charter school governing boards  
71 to comply with certain school safety requirements by a  
72 specified date; providing that certain personnel are  
73 subject to specified disciplinary measures for certain  
74 violations; providing reporting requirements for  
75 violations of certain school safety requirements;

76 amending s. 1006.12, F.S.; requiring specified  
77 agreements relating to school resource officers to  
78 identify the entity responsible for maintaining  
79 specified records; providing requirements before the  
80 appointment of a school guardian; requiring the  
81 Department of Education to provide certain information  
82 to the Department of Law Enforcement; requiring county  
83 sheriffs and the office to be notified when a safe-  
84 school officer separates from his or her appointment;  
85 repealing specified training requirements for safe-  
86 school officers; amending s. 1012.795, F.S.; providing  
87 that school administrators are subject to disciplinary  
88 measures by the Education Practices Commission for  
89 certain violations; subject to legislative  
90 appropriation, requiring the Department of Law  
91 Enforcement to provide grants to sheriffs' offices and  
92 law enforcement agencies for specified purposes  
93 relating to school safety in private schools;  
94 providing requirements for such grants; requiring the  
95 Department of Law Enforcement to develop a specified  
96 form and provide such form to grant recipients;  
97 providing an effective date.

98  
99 Be It Enacted by the Legislature of the State of Florida:  
100

101 Section 1. Paragraph (k) of subsection (1) of section  
 102 30.15, Florida Statutes, is amended to read:

103 30.15 Powers, duties, and obligations.—

104 (1) Sheriffs, in their respective counties, in person or  
 105 by deputy, shall:

106 (k) Assist district school boards and charter school  
 107 governing boards in complying with, or private schools in  
 108 exercising options in, s. 1006.12. A sheriff must, at a minimum,  
 109 provide access to a Chris Hixon, Coach Aaron Feis, and Coach  
 110 Scott Beigel Guardian Program to aid in the prevention or  
 111 abatement of active assailant incidents on school premises, as  
 112 required under this paragraph. Persons certified as school  
 113 guardians pursuant to this paragraph have no authority to act in  
 114 any law enforcement capacity except to the extent necessary to  
 115 prevent or abate an active assailant incident.

116 1.a. If a local school board has voted by a majority to  
 117 implement a guardian program, the sheriff in that county shall  
 118 establish a guardian program to provide training, pursuant to  
 119 subparagraph 2., to school district, charter school, or private  
 120 school employees, either directly or through a contract with  
 121 another sheriff's office that has established a guardian  
 122 program.

123 b. A charter school governing board in a school district  
 124 that has not voted, or has declined, to implement a guardian  
 125 program may request the sheriff in the county to establish a

126 guardian program for the purpose of training the charter school  
127 employees. If the county sheriff denies the request, the charter  
128 school governing board may contract with a sheriff that has  
129 established a guardian program to provide such training. The  
130 charter school governing board must notify the superintendent  
131 and the sheriff in the charter school's county of the contract  
132 prior to its execution.

133 c. A private school in a school district that has not  
134 voted, or has declined, to implement a guardian program may  
135 request that the sheriff in the county of the private school  
136 establish a guardian program for the purpose of training private  
137 school employees. If the county sheriff denies the request, the  
138 private school may contract with a sheriff from another county  
139 who has established a guardian program to provide such training.  
140 The private school must notify the sheriff in the private  
141 school's county of the contract with a sheriff from another  
142 county before its execution. The private school is responsible  
143 for all training and screening-related costs for a school  
144 guardian program. The sheriff providing such training must  
145 ensure that any moneys paid by a private school are not  
146 commingled with any funds provided by the state to the sheriff  
147 as reimbursement for screening-related and training-related  
148 costs of any school district or charter school employee.

149 d. The training program required in sub-subparagraph 2.b.  
150 is a standardized statewide curriculum, and each sheriff

151 providing such training shall adhere to the course of  
152 instruction specified in that sub-subparagraph. This  
153 subparagraph does not prohibit a sheriff from providing  
154 additional training. A school guardian who has completed the  
155 training program required in sub-subparagraph 2.b. may not be  
156 required to attend another sheriff's training program pursuant  
157 to that sub-subparagraph unless there has been at least a 1-year  
158 break in his or her appointment ~~employment~~ as a guardian.

159 e. The sheriff conducting the training pursuant to  
160 subparagraph 2. for school district and charter school employees  
161 will be reimbursed for screening-related and training-related  
162 costs and for providing a one-time stipend of \$500 to each  
163 school guardian who participates in the school guardian program.

164 f. The sheriff may waive the training and screening-  
165 related costs for a private school for a school guardian  
166 program. Funds provided pursuant to sub-subparagraph e. may not  
167 be used to subsidize any costs that have been waived by the  
168 sheriff.

169 g. A person who is certified under the Florida Criminal  
170 Justice Standards and Training Commission, who meets the  
171 qualifications established in s. 943.13, and who is otherwise  
172 qualified for the position of a school guardian may be certified  
173 as a school guardian by the sheriff without completing the  
174 training requirements of sub-subparagraph 2.b. However, a person  
175 certified as a school guardian under this sub-subparagraph must

176 meet the requirements of sub-subparagraphs 2.c.-e.

177       2. A sheriff who establishes a program shall consult with  
178 the Department of Law Enforcement on programmatic guiding  
179 principles, practices, and resources, and shall certify as  
180 school guardians, without the power of arrest, school employees,  
181 as specified in s. 1006.12(3), who:

182       a. Hold a valid license issued under s. 790.06.

183       b. Complete a 144-hour training program, consisting of 12  
184 hours of training to improve the school guardian's knowledge and  
185 skills necessary to respond to and de-escalate incidents on  
186 school premises ~~certified nationally recognized diversity~~  
187 ~~training~~ and 132 total hours of comprehensive firearm safety and  
188 proficiency training conducted by Criminal Justice Standards and  
189 Training Commission-certified instructors, which must include:

190       (I) Eighty hours of firearms instruction based on the  
191 Criminal Justice Standards and Training Commission's Law  
192 Enforcement Academy training model, which must include at least  
193 10 percent but no more than 20 percent more rounds fired than  
194 associated with academy training. Program participants must  
195 achieve an 85 percent pass rate on the firearms training.

196       (II) Sixteen hours of instruction in precision pistol.

197       (III) Eight hours of discretionary shooting instruction  
198 using state-of-the-art simulator exercises.

199       (IV) Sixteen hours of instruction in active shooter or  
200 assailant scenarios.

201 (V) Eight hours of instruction in defensive tactics.

202 (VI) Four hours of instruction in legal issues.

203 c. Pass a psychological evaluation administered by a  
 204 psychologist licensed under chapter 490 and designated by the  
 205 Department of Law Enforcement and submit the results of the  
 206 evaluation to the sheriff's office. The Department of Law  
 207 Enforcement is authorized to provide the sheriff's office with  
 208 mental health and substance abuse data for compliance with this  
 209 paragraph.

210 d. Submit to and pass an initial drug test and subsequent  
 211 random drug tests in accordance with the requirements of s.  
 212 112.0455 and the sheriff's office.

213 e. Successfully complete ongoing training, weapon  
 214 inspection, and firearm qualification on at least an annual  
 215 basis.

216  
 217 The sheriff who conducts the guardian training or waives the  
 218 training requirements for a person under sub-subparagraph 1.g.  
 219 shall issue a school guardian certificate to persons ~~individuals~~  
 220 who meet the requirements of this section to the satisfaction of  
 221 the sheriff, and shall maintain documentation of weapon and  
 222 equipment inspections, as well as the training, certification,  
 223 inspection, and qualification records of each school guardian  
 224 certified by the sheriff. A person ~~An individual~~ who is  
 225 certified under this paragraph may serve as a school guardian



226 | under s. 1006.12(3) only if he or she is appointed by the  
227 | applicable school district superintendent, charter school  
228 | principal, or private school head of school.

229 |       3.a.(I) Within 30 days after issuing a school guardian  
230 | certificate, the sheriff who issued the certificate must report  
231 | to the Department of Law Enforcement the name, date of birth,  
232 | and certification date of the school guardian.

233 |       (II) By September 1, 2024, each sheriff who issued a  
234 | school guardian certificate must report to the Department of Law  
235 | Enforcement the name, date of birth, and certification date of  
236 | each school guardian who received a certificate from the  
237 | sheriff.

238 |       b.(I) By February 1 and September 1 of each school year,  
239 | each school district, charter school, and private school must  
240 | report to the Department of Law Enforcement the name, date of  
241 | birth, and appointment date of each person appointed as a school  
242 | guardian. The school district, charter school, and private  
243 | school must also report to the Department of Law Enforcement the  
244 | date such person separates from his or her appointment as a  
245 | school guardian.

246 |       (II) By September 1, 2024, each school district, charter  
247 | school, and private school must report to the Department of Law  
248 | Enforcement the name, date of birth, and appointment date of  
249 | each person appointed as a school guardian. Within 30 days after  
250 | a school guardian separates from his or her appointment, the

251 school district, charter school, and private school must report  
252 to the Department of Law Enforcement the date such person  
253 separated from his or her appointment as a school guardian.

254 c. The Department of Law Enforcement shall maintain a list  
255 of each person appointed as a school guardian in the state. The  
256 list must include the name and certification date of each school  
257 guardian and the date the person was appointed as a school  
258 guardian, including the name of the school district, charter  
259 school, or private school in which the school guardian is  
260 appointed, any information provided pursuant to s. 1006.12(5),  
261 and, if applicable, the date such person separated from his or  
262 her appointment as a school guardian. The Department of Law  
263 Enforcement shall remove from the list any person whose training  
264 has expired pursuant to sub-subparagraph 1.d.

265 d. Each sheriff must report on a quarterly basis to the  
266 Department of Law Enforcement the schedule for upcoming school  
267 guardian trainings, including the dates of the training, the  
268 training locations, a contact person to register for the  
269 training, and the class capacity. The Department of Law  
270 Enforcement shall publish on its website a list of the upcoming  
271 school guardian trainings. The Department of Law Enforcement  
272 must update such list quarterly.

273 e. A sheriff who fails to report the information required  
274 by this subparagraph may not receive reimbursement from the  
275 Department of Education for school guardian trainings. Upon the

276 submission of the required information, a sheriff is deemed  
 277 eligible for such funding and is authorized to continue to  
 278 receive reimbursement for school guardian training.

279 f. A school district, charter school, or private school  
 280 that fails to report the information required by this  
 281 subparagraph may not operate a school guardian program for the  
 282 following school year. Upon the submission of the required  
 283 information, the school district, charter school, or private  
 284 school is authorized to resume operation of the school guardian  
 285 program.

286 g. By March 1 and October 1 of each school year, the  
 287 Department of Law Enforcement shall notify the Department of  
 288 Education of any sheriff, school district, charter school, or  
 289 private school that has not complied with the reporting  
 290 requirements of this subparagraph.

291 Section 2. Subsection (5) of section 330.41, Florida  
 292 Statutes, is renumbered as subsection (6), and a new subsection  
 293 (5) is added to that section to read:

294 330.41 Unmanned Aircraft Systems Act.—

295 (5) PROTECTION OF SCHOOLS.—

296 (a) A person may not knowingly or willfully:

297 1. Operate a drone over a public or private school serving  
 298 students in any grade from voluntary prekindergarten through  
 299 grade 12; or

300 2. Allow a drone to make contact with a school, including

301 any person or object on the premises of or within the school  
 302 facility.

303 (b) A person who violates paragraph (a) commits a  
 304 misdemeanor of the second degree, punishable as provided in s.  
 305 775.082 or s. 775.083. A person who commits a second or  
 306 subsequent violation commits a misdemeanor of the first degree,  
 307 punishable as provided in s. 775.082 or s. 775.083.

308 (c) A person who violates paragraph (a) and records video  
 309 of the school, including any person or object on the premises of  
 310 or within the school facility, commits a misdemeanor of the  
 311 first degree, punishable as provided in s. 775.082 or s.  
 312 775.083. A person who commits a second or subsequent violation  
 313 commits a felony of the third degree, punishable as provided in  
 314 s. 775.082, s. 775.083, or s. 775.084.

315 (d) This subsection does not apply to actions identified  
 316 in paragraph (a) which are committed by:

317 1. A person acting under the prior written consent of the  
 318 school principal, district school board, superintendent, or  
 319 school governing board.

320 2. A law enforcement agency that is in compliance with s.  
 321 934.50 or a person under contract with or otherwise acting under  
 322 the direction of such law enforcement agency.

323 Section 3. Paragraph (b) of subsection (4) of section  
 324 943.082, Florida Statutes, is amended to read:

325 943.082 School Safety Awareness Program.—

326 (4)

327 (b) The district school board shall promote the use of the  
328 mobile suspicious activity reporting tool by advertising it on  
329 the school district website, in newsletters, on school campuses,  
330 and in school publications, by installing it on all mobile  
331 devices issued to students, and by bookmarking the website on  
332 all computer devices issued to students. Each school principal  
333 must integrate the use of the mobile suspicious activity  
334 reporting tool within the school's curriculum a minimum of once  
335 per academic year. The instruction must be age and  
336 developmentally appropriate and include the consequences for  
337 making a threat or false report, as described in ss. 790.162 and  
338 790.163, respectively, involving school or school personnel's  
339 property, school transportation, or a school-sponsored activity.

340 Section 4. Paragraph (a) of subsection (4) of section  
341 985.04, Florida Statutes, is amended to read:

342 985.04 Oaths; records; confidential information.—

343 (4) (a) Notwithstanding any other provision of this  
344 section, when a child of any age is taken into custody by a law  
345 enforcement officer for an offense that would have been a felony  
346 if committed by an adult, or a crime of violence, the law  
347 enforcement agency must notify the superintendent of schools  
348 that the child is alleged to have committed the delinquent act.  
349 If the child is a dual enrolled student at a postsecondary  
350 institution, the superintendent of schools must notify the chief

351 of police or the public safety director of the postsecondary  
352 institution at which the student is dual enrolled within 24  
353 hours after receiving such notification.

354 Section 5. Subsection (14) of section 1001.212, Florida  
355 Statutes, is amended, and subsections (17) and (18) are added to  
356 that section, to read:

357 1001.212 Office of Safe Schools.—There is created in the  
358 Department of Education the Office of Safe Schools. The office  
359 is fully accountable to the Commissioner of Education. The  
360 office shall serve as a central repository for best practices,  
361 training standards, and compliance oversight in all matters  
362 regarding school safety and security, including prevention  
363 efforts, intervention efforts, and emergency preparedness  
364 planning. The office shall:

365 (14) (a) By August 1, 2024, develop and adopt a Florida  
366 school safety compliance inspection report to document  
367 compliance or noncompliance with school safety requirements  
368 mandated by law or rule and adherence to established school  
369 safety best practices to evaluate the safety, security, and  
370 emergency response of the school. Upon the adoption of the  
371 report and upon any revisions to the report, the office shall  
372 provide a blank copy of the report to each district school  
373 superintendent and charter school administrator.

374 (b) Monitor compliance with requirements relating to  
375 school safety by school districts and public schools, including

376 | charter schools. The office shall conduct unannounced  
377 | inspections of all public schools, including charter schools,  
378 | while school is in session, triennially and investigate reports  
379 | of noncompliance with school safety requirements. Within 3  
380 | school days after the unannounced inspection, the office shall  
381 | provide a copy of the completed Florida school safety compliance  
382 | inspection report, including any photographs or other evidence  
383 | of noncompliance, to the school safety specialist and the school  
384 | principal or charter school administrator, as appropriate. The  
385 | school principal or charter school administrator shall  
386 | acknowledge receipt of the report in writing within 1 school day  
387 | after receipt. The school safety specialist shall inform the  
388 | district school superintendent of any schools in the district,  
389 | including charter schools, with documented noncompliance. The  
390 | office shall reinspect any school with documented deficiencies  
391 | within 6 months. The school principal or charter school  
392 | administrator, or his or her designee, must provide the office  
393 | with written notice of how the noncompliance with s.  
394 | 1006.07(6)(f) has been remediated within 3 school days after  
395 | receipt of the report.

396 |       (c) Provide quarterly reports to each district school  
397 | superintendent and school safety specialist identifying the  
398 | number and percentage of schools, including charter schools,  
399 | inspected or reinspected during that quarter and the number and  
400 | percentage of inspected schools that had no school safety

401 requirement deficiencies. The school safety specialist shall  
402 present each quarterly report to the district school board in a  
403 public meeting. Annually, during the first quarter of every  
404 school year, the school safety specialist shall report to the  
405 district school board in a public meeting the number of schools  
406 inspected during the preceding calendar year and the number and  
407 percentage of schools in compliance during the initial  
408 inspection and reinspection.

409 (d) Provide a bonus in an amount determined in the General  
410 Appropriations Act, at the conclusion of the initial unannounced  
411 inspection conducted during the triennial period, to the school  
412 principal or charter school administrator of each school that  
413 complies with all school safety requirements.

414 (e)1. Refer any instructional personnel as defined in s.  
415 1012.01(2) who knowingly violate s. 1006.07(6)(f) to the  
416 district school superintendent or charter school administrator,  
417 as applicable, for disciplinary action if such action has not  
418 already been commenced by the district school superintendent or  
419 charter school administrator upon receipt of the Florida school  
420 safety compliance inspection report. The district school  
421 superintendent or charter school administrator must notify the  
422 office of the outcome of the disciplinary proceedings within 3  
423 school days after the conclusion of the proceedings.

424 2. Refer any administrative personnel as defined in s.  
425 1012.01(3) who knowingly permitted a violation of s.



426 1006.07(6)(f) to the department pursuant to s. 1012.796.

427 3. Maintain a record of any administrative personnel or  
 428 instructional personnel who unknowingly violated s.  
 429 1006.07(6)(f), and may use such information when making any  
 430 subsequent determinations of an alleged violation by the same  
 431 person.

432 (17) Annually, at the beginning of the school year, notify  
 433 all administrative and instructional personnel by electronic  
 434 mail of the requirements of s. 1006.07(6)(f).

435 (18) By December 1, 2024, recommend a methodology to  
 436 distribute the safe schools allocation under s. 1011.62(12)  
 437 based upon the number and severity of incidents reported  
 438 pursuant to s. 1006.07(9) and each school district's  
 439 proportionate share of the state's total unweighted full-time  
 440 equivalent student enrollment ~~report incidents of noncompliance~~  
 441 ~~to the commissioner pursuant to s. 1001.11(9) and the state~~  
 442 ~~board pursuant to s. 1008.32 and other requirements of law, as~~  
 443 ~~appropriate.~~

444 Section 6. Paragraph (a) of subsection (4) and paragraph  
 445 (a) of subsection (6) of section 1006.07, Florida Statutes, are  
 446 amended, and paragraph (f) is added to subsection (6) of that  
 447 section, to read:

448 1006.07 District school board duties relating to student  
 449 discipline and school safety.—The district school board shall  
 450 provide for the proper accounting for all students, for the

451 attendance and control of students at school, and for proper  
452 attention to health, safety, and other matters relating to the  
453 welfare of students, including:

454 (4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

455 (a) Formulate and prescribe policies and procedures, in  
456 consultation with the appropriate public safety agencies, for  
457 emergency drills and for actual emergencies, including, but not  
458 limited to, fires, natural disasters, active assailant and  
459 hostage situations, and bomb threats, for all students and  
460 faculty at all public schools of the district composed of grades  
461 K-12, pursuant to State Board of Education rules. Drills for  
462 active assailant and hostage situations must be conducted in  
463 accordance with developmentally appropriate and age-appropriate  
464 procedures, as specified in State Board of Education rules. Law  
465 enforcement officers responsible for responding to the school in  
466 the event of an active assailant emergency, as determined  
467 necessary by the sheriff in coordination with the district's  
468 school safety specialist, must be physically present on campus  
469 and directly involved in the execution of active assailant  
470 emergency drills. School districts must notify law enforcement  
471 officers at least 24 hours before conducting an active assailant  
472 emergency drill at which such law enforcement officers are  
473 expected to attend. Each school, including charter schools, must  
474 maintain a record that is accessible on each campus or by  
475 request of the Office of Safe Schools of all current school year

476 and prior school year drills conducted pursuant to this  
477 subsection, including the names of law enforcement personnel  
478 present on campus for each active assailant emergency drill.  
479 District school board policies must include commonly used alarm  
480 system responses for specific types of emergencies and  
481 verification by each school that drills have been provided as  
482 required by law, State Board of Education rules, and fire  
483 protection codes and may provide accommodations for drills  
484 conducted by exceptional student education centers. District  
485 school boards shall establish emergency response and emergency  
486 preparedness policies and procedures that include, but are not  
487 limited to, identifying the individuals responsible for  
488 contacting the primary emergency response agency and the  
489 emergency response agency responsible for notifying the school  
490 district for each type of emergency. The State Board of  
491 Education shall refer to recommendations provided in reports  
492 published pursuant to s. 943.687 for guidance and, by August 1,  
493 2023, consult with state and local constituencies to adopt rules  
494 applicable to the requirements of this subsection which, at a  
495 minimum, define the terms "emergency drill," "active threat,"  
496 and "after-action report" and establish minimum emergency drill  
497 policies and procedures related to the timing, frequency,  
498 participation, training, notification, accommodations, and  
499 responses to threat situations by incident type, school level,  
500 school type, and student and school characteristics. The rules

501 must require all types of emergency drills to be conducted no  
 502 less frequently than on an annual school year basis.

503 (6) SAFETY AND SECURITY BEST PRACTICES.—Each district  
 504 school superintendent shall establish policies and procedures  
 505 for the prevention of violence on school grounds, including the  
 506 assessment of and intervention with individuals whose behavior  
 507 poses a threat to the safety of the school community.

508 (a) School safety specialist.—Each district school  
 509 superintendent shall designate a school safety specialist for  
 510 the district. The school safety specialist must be a school  
 511 administrator employed by the school district or a law  
 512 enforcement officer employed by the sheriff's office located in  
 513 the school district. Any school safety specialist designated  
 514 from the sheriff's office must first be authorized and approved  
 515 by the sheriff employing the law enforcement officer. Any school  
 516 safety specialist designated from the sheriff's office remains  
 517 the employee of the office for purposes of compensation,  
 518 insurance, workers' compensation, and other benefits authorized  
 519 by law for a law enforcement officer employed by the sheriff's  
 520 office. The sheriff and the school superintendent may determine  
 521 by agreement the reimbursement for such costs, or may share the  
 522 costs, associated with employment of the law enforcement officer  
 523 as a school safety specialist. The school safety specialist must  
 524 earn a certificate of completion of the school safety specialist  
 525 training provided by the Office of Safe Schools within 1 year

526 after appointment and is responsible for the supervision and  
527 oversight for all school safety and security personnel,  
528 policies, and procedures in the school district. The school  
529 safety specialist shall:

530 1. In conjunction with the district school superintendent,  
531 annually review school district policies and procedures for  
532 compliance with state law and rules, including the district's  
533 timely and accurate submission of school environmental safety  
534 incident reports to the department pursuant to s. 1001.212(8).  
535 At least quarterly, the school safety specialist must report to  
536 the district school superintendent and the district school board  
537 any noncompliance by the school district with laws or rules  
538 regarding school safety.

539 2. Provide the necessary training and resources to  
540 students and school district staff in matters relating to youth  
541 mental health awareness and assistance; emergency procedures,  
542 including active shooter training; and school safety and  
543 security.

544 3. Serve as the school district liaison with local public  
545 safety agencies and national, state, and community agencies and  
546 organizations in matters of school safety and security.

547 4. In collaboration with the appropriate public safety  
548 agencies, as that term is defined in s. 365.171, by October 1 of  
549 each year, conduct a school security risk assessment at each  
550 public school using the Florida Safe Schools Assessment Tool

551 developed by the Office of Safe Schools pursuant to s.  
552 1006.1493. Based on the assessment findings, the district's  
553 school safety specialist shall provide recommendations to the  
554 district school superintendent and the district school board  
555 which identify strategies and activities that the district  
556 school board should implement in order to address the findings  
557 and improve school safety and security. Each district school  
558 board must receive such findings and the school safety  
559 specialist's recommendations at a publicly noticed district  
560 school board meeting to provide the public an opportunity to  
561 hear the district school board members discuss and take action  
562 on the findings and recommendations. Each school safety  
563 specialist, through the district school superintendent, shall  
564 report such findings and school board action to the Office of  
565 Safe Schools within 30 days after the district school board  
566 meeting.

567 5. Conduct annual unannounced inspections of all public  
568 schools while school is in session and investigate reports of  
569 noncompliance with school safety requirements.

570 6. Report violations of paragraph (f) by administrative  
571 personnel and instructional personnel to the district school  
572 superintendent or charter school administrator, as applicable,  
573 and the Office of Safe Schools.

574 (f) School safety requirements.-

575 1. By August 1, 2024, each school district and charter

576 school governing board shall comply with the following school  
577 safety requirements:

578 a. All gates or other access points that restrict ingress  
579 to or egress from a school campus shall remain closed and locked  
580 when students are on campus. A gate or other campus access point  
581 may not be open or unlocked, unless attended or actively staffed  
582 by a person when students are on campus, regardless of whether  
583 it is during normal school hours, or the school safety  
584 specialist has determined in writing and notified the Office of  
585 Safe Schools that the open and unlocked gate or other access  
586 point is not a threat to school safety based upon other school  
587 safety measures. The office may conduct a compliance visit  
588 pursuant to s. 1001.212(14) to review if such determination is  
589 appropriate.

590 b. All school classrooms and other instructional spaces  
591 must be locked to prevent ingress when occupied by students,  
592 except between class periods when students are moving between  
593 classrooms or other instructional spaces. If a classroom or  
594 other instructional space door must be left unlocked or open for  
595 any reason other than between class periods when students are  
596 moving between classrooms or other instructional spaces, the  
597 door must be actively staffed by a person standing or seated at  
598 the door.

599 c. All campus access doors, gates, and other access points  
600 that allow ingress to or egress from a school building shall

601 remain closed and locked at all times to prevent ingress, unless  
602 a person is actively entering or exiting the door, gate, or  
603 other access point or the school safety specialist has  
604 determined in writing and notified the Office of Safe Schools  
605 that the open and unlocked door, gate, or other access point is  
606 not a threat to school safety based upon other school safety  
607 measures. The office may conduct a compliance visit pursuant to  
608 s. 1001.212(14) to review if such determination is appropriate.  
609 All campus access doors, gates, and other access points may be  
610 electronically or manually controlled by school personnel to  
611 allow access by authorized visitors, students, and school  
612 personnel.

613 d. All school classrooms and other instructional spaces  
614 must clearly and conspicuously mark the safest areas in each  
615 classroom or other instructional space where students must  
616 shelter in place during an emergency. Students must be notified  
617 of these safe areas within the first 5 days of the school year.  
618 If it is not feasible to clearly and conspicuously mark the  
619 safest areas in a classroom or other instructional space, the  
620 school safety specialist or his or her designee must document  
621 such determination in writing, identify where affected students  
622 must shelter in place, and notify the Office of Safe Schools.  
623 The office shall assist the school safety specialist with  
624 compliance during the inspection required under s. 1001.212(14).

625 2. Administrative personnel as defined in s. 1012.01(3)



626 who knowingly violate the requirements of this paragraph are  
 627 subject to disciplinary measures under ss. 1012.795 and  
 628 1012.796.

629  
 630 Persons who are aware of a violation of this paragraph must  
 631 report the violation to the school principal. The school  
 632 principal must report the violation to the school safety  
 633 specialist no later than the next business day after receiving  
 634 such report. If the person who violated this paragraph is the  
 635 school principal or charter school administrator, the report  
 636 must be made directly to the district school superintendent or  
 637 charter school governing board, as applicable.

638 Section 7. Paragraph (b) of subsection (1) and subsections  
 639 (3), (5), and (6) of section 1006.12, Florida Statutes, are  
 640 amended to read:

641 1006.12 Safe-school officers at each public school.—For  
 642 the protection and safety of school personnel, property,  
 643 students, and visitors, each district school board and school  
 644 district superintendent shall partner with law enforcement  
 645 agencies or security agencies to establish or assign one or more  
 646 safe-school officers at each school facility within the  
 647 district, including charter schools. A district school board  
 648 must collaborate with charter school governing boards to  
 649 facilitate charter school access to all safe-school officer  
 650 options available under this section. The school district may

651 implement any combination of the options in subsections (1)-(4)  
652 to best meet the needs of the school district and charter  
653 schools.

654 (1) SCHOOL RESOURCE OFFICER.—A school district may  
655 establish school resource officer programs through a cooperative  
656 agreement with law enforcement agencies.

657 (b) School resource officers shall abide by district  
658 school board policies and shall consult with and coordinate  
659 activities through the school principal, but shall be  
660 responsible to the law enforcement agency in all matters  
661 relating to employment, subject to agreements between a district  
662 school board and a law enforcement agency. The agreements shall  
663 identify the entity responsible for maintaining records relating  
664 to training. Activities conducted by the school resource officer  
665 which are part of the regular instructional program of the  
666 school shall be under the direction of the school principal.

667 (3) SCHOOL GUARDIAN.—

668 (a) At the school district's or the charter school  
669 governing board's discretion, as applicable, pursuant to s.  
670 30.15, a school district or charter school governing board may  
671 participate in the Chris Hixon, Coach Aaron Feis, and Coach  
672 Scott Beigel Guardian Program to meet the requirement of  
673 establishing a safe-school officer. The following individuals  
674 may serve as a school guardian, in support of school-sanctioned  
675 activities for purposes of s. 790.115, upon satisfactory

676 completion of the requirements under s. 30.15(1)(k) and  
 677 certification by a sheriff:

678 ~~1.(a)~~ A school district employee or personnel, as defined  
 679 under s. 1012.01, or a charter school employee, as provided  
 680 under s. 1002.33(12)(a), who volunteers to serve as a school  
 681 guardian in addition to his or her official job duties; or

682 ~~2.(b)~~ An employee of a school district or a charter school  
 683 who is hired for the specific purpose of serving as a school  
 684 guardian.

685 (b) Before appointing an individual as a school guardian,  
 686 the school district or charter school shall contact the  
 687 Department of Law Enforcement and review all information  
 688 maintained under s. 30.15(1)(k)3.c. related to the individual.

689 (c) The department shall provide to the Department of Law  
 690 Enforcement any information relating to a school guardian  
 691 received pursuant to subsection (5).

692 (5) NOTIFICATION.—The district school superintendent or  
 693 charter school administrator, or a respective designee, shall  
 694 notify the county sheriff and the Office of Safe Schools  
 695 immediately after, but no later than 72 hours after:

696 (a) A safe-school officer is dismissed for misconduct or  
 697 is otherwise disciplined.

698 (b) A safe-school officer discharges his or her firearm in  
 699 the exercise of the safe-school officer's duties, other than for  
 700 training purposes.

701        (c) A safe-school officer separates from his or her  
 702 appointment.

703        (6) CRISIS INTERVENTION TRAINING.—

704        ~~(a)~~ Each safe-school officer who is also a sworn law  
 705 enforcement officer shall complete mental health crisis  
 706 intervention training using a curriculum developed by a national  
 707 organization with expertise in mental health crisis  
 708 intervention. The training must improve the officer's knowledge  
 709 and skills as a first responder to incidents involving students  
 710 with emotional disturbance or mental illness, including de-  
 711 escalation skills to ensure student and officer safety.

712        ~~(b) Each safe-school officer who is not a sworn law~~  
 713 ~~enforcement officer shall receive training to improve the~~  
 714 ~~officer's knowledge and skills necessary to respond to and de-~~  
 715 ~~escalate incidents on school premises.~~

716  
 717 If a district school board, through its adopted policies,  
 718 procedures, or actions, denies a charter school access to any  
 719 safe-school officer options pursuant to this section, the school  
 720 district must assign a school resource officer or school safety  
 721 officer to the charter school. Under such circumstances, the  
 722 charter school's share of the costs of the school resource  
 723 officer or school safety officer may not exceed the safe school  
 724 allocation funds provided to the charter school pursuant to s.  
 725 1011.62(12) and shall be retained by the school district.

726 Section 8. Paragraph (q) is added to subsection (1) of  
727 section 1012.795, Florida Statutes, to read:

728 1012.795 Education Practices Commission; authority to  
729 discipline.—

730 (1) The Education Practices Commission may suspend the  
731 educator certificate of any instructional personnel or school  
732 administrator, as defined in s. 1012.01(2) or (3), for up to 5  
733 years, thereby denying that person the right to teach or  
734 otherwise be employed by a district school board or public  
735 school in any capacity requiring direct contact with students  
736 for that period of time, after which the person may return to  
737 teaching as provided in subsection (4); may revoke the educator  
738 certificate of any person, thereby denying that person the right  
739 to teach or otherwise be employed by a district school board or  
740 public school in any capacity requiring direct contact with  
741 students for up to 10 years, with reinstatement subject to  
742 subsection (4); may permanently revoke the educator certificate  
743 of any person thereby denying that person the right to teach or  
744 otherwise be employed by a district school board or public  
745 school in any capacity requiring direct contact with students;  
746 may suspend a person's educator certificate, upon an order of  
747 the court or notice by the Department of Revenue relating to the  
748 payment of child support; may direct the department to place a  
749 certificateholder employed by a public school, charter school,  
750 charter school governing board, or private school that

751 participates in a state scholarship program under chapter 1002  
752 on the disqualification list maintained by the department  
753 pursuant to s. 1001.10(4)(b) for misconduct that would render  
754 the person ineligible pursuant to s. 1012.315 or sexual  
755 misconduct with a student; or may impose any other penalty  
756 provided by law, if the person:

757 (q) Is a school administrator who knowingly violated the  
758 school safety requirements under s. 1006.07(6)(f).

759 Section 9. For the 2024-2025 fiscal year and subject to  
760 legislative appropriation, the Department of Law Enforcement  
761 shall provide grants to sheriffs' offices and law enforcement  
762 agencies to conduct physical site security assessments for and  
763 provide reports to private schools with recommendations on  
764 improving such schools' infrastructure safety and security; to  
765 assist private schools in developing active assailant response  
766 protocols and develop and implement training relating to active  
767 assailant responses, including active assailant response drills  
768 for students and school personnel; and to consult with or  
769 provide guidance to private schools in implementing a threat  
770 management program similar to the program required under s.  
771 1001.212(12), Florida Statutes, for public schools. The  
772 Department of Law Enforcement shall develop a site security  
773 assessment form for use by sheriffs' offices and law enforcement  
774 agencies and provide the form, including any subsequent  
775 revisions, to the recipient of funds in conducting the duties

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776 outlined in this section. Grants awarded under this section may  
777 be used for personnel costs and to purchase software and other  
778 items necessary to assist private schools. The Department of Law  
779 Enforcement shall establish the requirements for awarding grants  
780 under this section through an open, competitive process. Grants  
781 must be awarded no later than October 1, 2024.

782 Section 10. This act shall take effect July 1, 2024.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1645 Energy Resources

**SPONSOR(S):** Energy, Communications & Cybersecurity Subcommittee, Payne

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1624

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy, Communications & Cybersecurity Subcommittee	16 Y, 0 N, As CS	Bauldree	Keating
2) Appropriations Committee		Pigott	Pridgeon
3) Commerce Committee			

### SUMMARY ANALYSIS

The bill updates Florida's energy policies and amends specific energy-related laws. Specifically, the bill:

- Provides an updated statement of legislative intent concerning the state's energy policy and establishes a list of specific, fundamental policy goals to guide the state's energy policy.
- Updates energy policy statements in current law and the duties of the Department of Agriculture and Consumer Services (DACS) to be consistent with the energy policy goals established in the bill.
- Increases the minimum length of an intrastate natural gas pipeline that requires certification under the Natural Gas Transmission Pipeline Siting Act from 15 miles to 100 miles.
- Creates s. 163.3210, F.S., pertaining to natural gas resiliency and reliability infrastructure, and provides that certain "resiliency facilities" owned and operated by a public utility that deploy natural gas reserves for temporary use during a system outage or natural disaster are a permitted use in all commercial, industrial, and manufacturing land use categories and districts, subject to setback and landscape criteria for other similar uses.
- Provides for the recovery of certain facility relocation costs incurred by a natural gas utility through a charge separate from the utility's base rates.
- Requires the PSC to conduct an assessment of the security and resiliency of the state's electric grid and natural gas facilities against both physical threats and cyber threats and to submit a report.
- Prohibits the PSC, without specific legislative authority, from authorizing a public utility to make direct sales of energy to a consumer solely for the consumer's use in powering a means of transportation.
- Authorizes the PSC to approve a utility program for residential, customer-specific electric vehicle (EV) charging if the program will not adversely impact the utility's general body of ratepayers.
- Requires the Department of Management Services (DMS) to develop the Florida Humane Preferred Energy Products List to identify certain products that appear to be largely made free from forced labor.
- Repeals the Renewable Energy and Energy-Efficient Technologies Grant Program, Florida Green Government Grants, the Energy Economic Zone Pilot Program, and Qualified Energy Conservation Bonds provisions.
- Prohibits community development districts and homeowners' associations from prohibiting certain types or fuel sources of energy production and appliances that use such fuels.
- Requires the PSC to study and evaluate the technical and economic feasibility of using advanced nuclear power technologies and to submit a report of its findings and recommendations.
- Requires DOT to study and evaluate the potential development of hydrogen fueling infrastructure, including fueling stations, to support hydrogen-powered vehicles that use the state highway system.

The bill does not appear to have a fiscal impact on state or local government revenues but may have an indeterminate negative fiscal impact on expenditures. See fiscal comments.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### *Florida Energy Profile*

Florida is the third most populous state and the fourth largest energy-consuming state in the nation. However, Florida uses less energy per capita than all but six other states, in part because of its large population, moderate winter weather, and relatively low industrial sector energy use.<sup>1</sup> Florida's energy consumption can be broken down by end-use sector as follows:<sup>2</sup>

- Transportation – 39%
- Residential – 28%
- Commercial – 22%
- Industrial – 11%

In the electric power industry, natural gas is the dominant fuel in Florida and since 2011 has generated more electric power than all other fuels combined. Natural gas fueled approximately 70 percent of electric energy consumed in Florida in 2022. This number is anticipated to decline over the next ten years, reaching 56 percent by 2032.<sup>3</sup> Florida has very little natural gas production and limited gas storage capacity, thus the state is reliant upon out-of-state production and storage to satisfy its demand.<sup>4</sup> Supply from out-of-state is provided by five interstate natural gas pipelines, with the majority of peninsular Florida's supply provided by three interstate pipelines: Florida Gas Transmission Pipeline, Gulf Stream Natural Gas System, and Sabal Trail Transmission.<sup>5</sup>

In 2021, renewable energy resources were used to generate approximately 6 percent of the electric energy consumed in Florida. This number is anticipated to increase over the next ten years, reaching 28 percent by 2032, primarily from the addition of new solar generation. Solar generation in Florida is expected to exceed all non-natural gas energy sources combined (primarily nuclear and coal) by 2029.<sup>6</sup>

Of the current renewable generation capacity in Florida, approximately 37 percent is considered a “firm” resource than can be relied upon to serve customers and defer the need for traditional power plants. Because of the coincidence of solar generation and the peak demand for electrical energy, about 40 percent of installed solar generation is considered a firm resource. For utility-scale solar projects, that number increases to 52 percent. As the amount of solar increases in the state, the difference in how it operates compared to traditional generation will have an increasing importance to the grid. Solar generation cannot be dispatched as needed, but is produced based upon the conditions at the plant site, influenced by variations in daylight hours, cloud cover, and other environmental factors. Generally, the peak hours for production of a solar facility are closer to noon, whereas the peak in system demand tends to be in the early evening in summer and early morning in winter. Still, Florida is projected to meet its electricity demand and carry a reserve margin of between 16.4 and 30.1 percent on a statewide basis over the next 10 years.<sup>7</sup>

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<sup>1</sup> U.S. Energy Information Administration (EIA), *Florida, State Profile and Energy Estimates, Analysis*, <https://www.eia.gov/state/analysis.php?sid=FL#:~:text=Renewable%20resources%20fueled%20about%206,generation%20came%20from%20solar%20energy> (last visited Jan. 12, 2024).

<sup>2</sup> EIA, *Florida, State Profile and Energy Estimates, Data*, <https://www.eia.gov/state/data.php?sid=FL> (last visited Jan. 12, 2024). These figures reflect consumption in 2021, the most recent period reported by EIA for the state.

<sup>3</sup> Florida Public Service Commission (FPSC), *Review of the 2023 Ten-Year Site Plans of Florida's Electric Utilities*, available at <https://www.floridapsc.com/pscfiles/website-files/PDF/Utilities/Electricgas/TenYearSitePlans//2023/Review.pdf> (last visited Jan. 12, 2024).

<sup>4</sup> *Id.* at 42.

<sup>5</sup> FPSC, *Facts and Figures of the Florida Utility Industry, 2023*, at 17, <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202023.pdf> (last visited Jan. 15, 2024).

<sup>6</sup> FPSC, *supra* note 3, at 3.

<sup>7</sup> *Id.*

Since 2001, utility-scale electric generation from renewable resources in Florida had grown only 28 percent through 2016, but had grown over 300 percent by 2022.<sup>8</sup> Customer-owned renewable generation connected to the electric grid in Florida has also grown dramatically in recent years, increasing 460 percent from 2018 to 2022. This growth appears to correlate with decreasing prices for both utility-scale and customer-owned solar generation systems.<sup>9</sup>

In the transportation sector, the market for electric vehicles (EV) in Florida has grown significantly in recent years and is expected to continue growing.<sup>10</sup> Including both full battery electric vehicles and plug-in hybrid electric vehicles, only 21,700 EVs were registered in Florida in 2016; that number increased to 213,800 in 2022, second only to California.<sup>11</sup> Florida's generating electric utilities anticipate that annual EV energy consumption in their service territories will increase at a rate of almost 20% per year through 2032 and will comprise 3.9 percent of their net energy for load and 4 percent of summer peak demand in 2032.<sup>12</sup> This growth is accounted for in utility planning.<sup>13</sup> Registrations for compressed natural gas vehicles in Florida have declined from 18,000 in 2016 to 400 in 2022, and there is no data for registration of hydrogen-fueled vehicles in Florida for 2022.<sup>14</sup> Gasoline powered vehicles still account for the overwhelming majority of vehicle registrations in Florida, with almost 16 million registered in Florida.<sup>15</sup>

The United States Environmental Protection Agency (EPA) maintains an inventory of greenhouse gas (GHG) emissions by state, end-use sector, and type of gas, with the most recent inventory data for 2021.<sup>16</sup> According to this inventory, Florida's net GHG emissions for all sectors peaked in 2005 and were slightly lower (0.7 percent) in 2021 as compared to 2008.<sup>17</sup> GHGs reported to the EPA by large facilities<sup>18</sup> in Florida have declined from 147 million metric tons in 2010 to 113 million metric tons in 2022.<sup>19</sup> In 2021, the transportation sector accounted for 41 percent of Florida's GHG emissions, the electric power industry accounted for 35 percent, and the remaining 24 percent was associated with the industrial, commercial, agricultural, and residential sectors.<sup>20</sup>

## State Energy Policy and Governance (Sections 7-9)

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<sup>8</sup> EIA, *Electricity Data Browser*,

<https://www.eia.gov/electricity/data/browser/#/topic/0?agg=2,0,1&fuel=02fh&geo=g000001&sec=g&linechart=ELEC.GEN.AOR-US-99.A~ELEC.GEN.AOR-FL-99.A&columnchart=ELEC.GEN.AOR-US-99.A&map=ELEC.GEN.AOR-US-99.A&freq=A&start=2001&end=2022&chartindexed=1&ctype=linechart&ltype=pin&rtype=s&maptype=0&rse=0&pin=> (last visited Jan. 12, 2024).

<sup>9</sup> See, e.g., NREL, *Documenting a Decade of Cost Declines for PV Systems*, Feb. 10, 2021,

<https://www.nrel.gov/news/program/2021/documenting-a-decade-of-cost-declines-for-pv-systems.html> (last visited Jan. 12, 2024) (stating that, from 2010 to 2020, there had been a 64%, 69%, and 82% reduction in the cost of residential, commercial-rooftop, and utility-scale PV systems, respectively and that a significant portion of the cost declines over that decade can be attributed to an 85% cost decline in module price).

<sup>10</sup> Florida Department of Transportation (FDOT), *Florida's Electric Vehicle Infrastructure Deployment Plan, August 2023*, at 17, [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/emergingtechnologies/evprogram/2023\\_florida-s-evidp\\_update\\_092923.pdf?sfvrsn=1e4aee0\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/emergingtechnologies/evprogram/2023_florida-s-evidp_update_092923.pdf?sfvrsn=1e4aee0_1) (last visited Jan. 15, 2024).

<sup>11</sup> U.S. Department of Energy (DOE), *Alternative Fuels Data Center*,

[https://afdc.energy.gov/transatlas/#/?state=FL&view=vehicle\\_count](https://afdc.energy.gov/transatlas/#/?state=FL&view=vehicle_count) (last visited Jan. 15, 2024).

<sup>12</sup> FPSC, *supra* note 3, at 5-6, 19.

<sup>13</sup> *Id.* at 17-20/.

<sup>14</sup> DOE, *supra* note 11.

<sup>15</sup> *Id.*

<sup>16</sup> For purposes of the EPA's inventory, GHGs include carbon dioxide, methane, fluorinated gases, and nitrous oxide. The inventory also accounts for changes associated with land use and forestry that affect the land's ability to serve as a sink for GHG emissions. EPA, *Greenhouse Gas Inventory Data Explorer*,

<https://cfpub.epa.gov/ghgdata/inventoryexplorer/#/allsectors/allsectors/allgas/gas/all> (last visited Jan. 15, 2024).

<sup>17</sup> *Id.*

<sup>18</sup> Facilities that emit 25,000 metric tons or more per year of GHGs are required to annually report their GHG emissions to the EPA. Roughly half of total U.S. GHG emissions are reported by direct emitters. EPA, *Facility Level Information on Greenhouse Gases Tool*, [https://ghgdata.epa.gov/ghgp/main.do?site\\_preference=normal](https://ghgdata.epa.gov/ghgp/main.do?site_preference=normal) (last visited Jan. 12, 2024).

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

<sup>20</sup> EPA, *supra* note 16.

## Present Situation

In 1974, in response to the 1973-1974 oil embargo,<sup>21</sup> the Legislature, upon finding that a lack of accurate and relevant information was hampering its ability to develop energy policy to address the energy resource shortages facing the state, created an “energy data center” to collect data on production, refinement, transportation, storage, and sale of energy resources in Florida, including all types of fossil fuels, nuclear energy, and renewables.<sup>22</sup> Three years later, the Legislature developed an energy policy statement with a focus on energy conservation, alternative energy resources, and public education about energy use.<sup>23</sup> This energy policy statement is still mostly intact in Florida law.<sup>24</sup>

In 1978, the Legislature transferred the duties of the energy data center to the former Department of Administration and expanded those duties to include additional data analysis and forecasting, public education, promoting conservation, and coordinating state energy-related programs.<sup>25</sup> This list of duties is now reflected in the duties established in current law for the Department of Agriculture and Consumer Services (DACS).<sup>26</sup>

Florida’s current energy policies are largely established through various provisions of law related to specific aspects of energy production, distribution, sales, and use. The Legislature last addressed energy policy at a holistic level in 2008,<sup>27</sup> when it adopted the following statement of intent with regard to energy resource planning and development, which is unchanged in current law.<sup>28</sup>

The Legislature finds that the state’s energy security can be increased by lessening dependence on foreign oil; that the impacts of global climate change can be reduced through the reduction of greenhouse gas emissions; and that the implementation of alternative energy technologies can be a source of new jobs and employment opportunities for many Floridians. The Legislature further finds that the state is positioned at the front line against potential impacts of global climate change. Human and economic costs of those impacts can be averted by global actions and, where necessary, adapted to by a concerted effort to make Florida’s communities more resilient and less vulnerable to these impacts. In focusing the government’s policy and efforts to benefit and protect our state, its citizens, and its resources, the Legislature believes that a single government entity with a specific focus on energy and climate change is both desirable and advantageous. Further, the Legislature finds that energy infrastructure provides the foundation for secure and reliable access to the energy supplies and services on which Florida depends. Therefore, there is significant value to Florida consumers that comes from investment in Florida’s energy infrastructure that increases system reliability, enhances energy independence and diversification, stabilizes energy costs, and reduces greenhouse gas emissions.

In 2008, the Legislature also adopted the following energy policy statements, which are unchanged in current law:<sup>29</sup>

It is the policy of the State of Florida to:

- Develop and promote the effective use of energy in the state, discourage all forms of energy waste, and recognize and address the potential of global climate change wherever possible.
- Play a leading role in developing and instituting energy management programs aimed at promoting energy conservation, energy security, and the reduction of greenhouse gas emissions.

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<sup>21</sup> See, generally, U.S Department of State, Office of the Historian, *Oil Embargo, 1973-1974*, <https://history.state.gov/milestones/1969-1976/oil-embargo> (last visited Jan. 12, 2024).

<sup>22</sup> Ch. 74-186, L.O.F.

<sup>23</sup> Ch. 77-334, L.O.F.

<sup>24</sup> See s. 377.601(2), F.S.

<sup>25</sup> Ch. 78-25, L.O.F.

<sup>26</sup> See ss. 377.603 and 377.703, F.S.

<sup>27</sup> Ch. 2008-227, L.O.F.

<sup>28</sup> S. 377.601(1), F.S.

<sup>29</sup> S. 377.601(2), F.S.

- Include energy considerations in all state, regional, and local planning.
- Utilize and manage effectively energy resources used within state agencies.
- Encourage local governments to include energy considerations in all planning and to support their work in promoting energy management programs.
- Include the full participation of citizens in the development and implementation of energy programs.
- Consider in its decisions the energy needs of each economic sector, including residential, industrial, commercial, agricultural, and governmental uses, and reduce those needs whenever possible.
- Promote energy education and the public dissemination of information on energy and its environmental, economic, and social impact.
- Encourage the research, development, demonstration, and application of alternative energy resources, particularly renewable energy resources.
- Consider, in its decision making, the social, economic, and environmental impacts of energy-related activities, including the whole-life-cycle impacts of any potential energy use choices, so that detrimental effects of these activities are understood and minimized.
- Develop and maintain energy emergency preparedness plans to minimize the effects of an energy shortage within Florida.

Under current law,<sup>30</sup> DACS is required to perform the following functions, consistent with the development of a state energy policy:

- Perform or coordinate the functions of any federal energy programs delegated to the state, including energy supply, demand, conservation, or allocation.
- Analyze present and proposed federal energy programs and make recommendations regarding those programs to the Governor and the Legislature.
- Coordinate efforts to seek federal support or other support for state energy activities, including energy conservation, research, or development, and is responsible for the coordination of multiagency energy conservation programs and plans.
- Analyze energy data collected and prepare long-range forecasts of energy supply and demand in coordination with the Public Service Commission (PSC), which is responsible for electricity and natural gas forecasts, which must contain:
  - An analysis of the relationship of state economic growth and development to energy supply and demand.
  - Plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas, and an analysis of the extent to which renewable energy sources are being utilized in the state.
  - Consideration of alternative scenarios of statewide energy supply and demand for 5, 10, and 20 years to identify strategies for long-range action, including identification of potential social, economic, and environmental effects.
  - An assessment of the state's energy resources, including examination of the availability of commercially developable and imported fuels, and an analysis of anticipated effects on the state's environment and social services resulting from energy resource development activities or from energy supply constraints, or both.
- Submit an annual report to the Governor and the Legislature reflecting its activities and making recommendations for policies for improvement of the state's response to energy supply and demand and its effect on the health, safety, and welfare of the residents of this state, including a report from the PSC on electricity and natural gas and information on energy conservation programs, with recommendations for energy efficiency and conservation programs for the state.
- Promote the development and use of renewable energy resources, consistent with the state comprehensive plan and the policy statements made in 2008.
- Promote energy efficiency and conservation in all energy use sectors in the state, including consultation with the Department of Management Services to coordinate energy conservation programs of state agencies.

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<sup>30</sup> S. 377.703, F.S.

- Serve as the state clearinghouse for indexing and gathering all information related to energy programs in state universities, in private universities, in federal, state, and local government agencies, and in private industry and prepare and distribute this information in any manner necessary to inform and advise the public.
- Coordinate energy-related programs of state government.
- Promote a comprehensive research plan for state programs, which must be consistent with state energy policy and be updated on a biennial basis.
- Prepare an assessment of the state's renewable energy production credit.

DACS is also responsible for administering the Florida Renewable Energy Technologies and Energy Efficiency Act,<sup>31</sup> which consists of the Renewable Energy and Energy-Efficient Technologies Grant Program, and the Florida Green Government Grants Act.<sup>32</sup> Both programs are discussed in further detail in this analysis under *Energy Grant Programs*, below.

### Effect of the Bill

The bill replaces the current statement of legislative intent concerning the state's energy policy with a more streamlined statement of intent that expresses the purpose of the state's energy policy. The new statement of intent provides:

The purpose of the state's energy policy is to ensure an adequate, reliable, and cost-effective supply of energy for the state in a manner that promotes the health and welfare of the public and economic growth. The Legislature intends that governance of the state's energy policy be efficiently directed toward achieving this purpose.

For purposes of achieving this new statement of intent, the bill provides a list of specific, fundamental policy goals to guide the state's energy policy. These goals are:

- Ensuring a cost-effective and affordable energy supply;
- Ensuring adequate supply and capacity;
- Ensuring a secure, resilient, and reliable energy supply, with an emphasis on a diverse supply of domestic energy resources;
- Protecting public safety;
- Protecting the state's natural resources, including its coastlines, tributaries, and waterways; and
- Supporting economic growth.

The bill's revised statement of intent removes current legislative findings related to global climate change, and the bill's list of energy policy goals does not specifically address global climate change.

Consistent with the bill's revised statement of legislative intent and its list of energy policy goals, the bill revises the energy policy statements in current law. These changes:

- Specify that it is the state's policy to promote the "cost-effective development and use of a diverse supply of domestic energy resources in the state," rather than the "effective use of energy in the state."
- Remove a provision that provides for recognizing and addressing "the potential of global climate change" as a state energy policy.
- Add that promotion of "the cost-effective development and maintenance of energy infrastructure that is resilient to natural and manmade threats to the security and reliability of the state's energy supply" is a state energy policy.
- Remove a provision that provides for the state to "play a leading role in developing and instituting energy management programs aimed at promoting energy conservation, energy security, and the reduction of greenhouse gas emissions."
- Add that reduction of "reliance on foreign energy resources" is a state energy policy.

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<sup>31</sup> Ss. 377.801-377.804, F.S.

<sup>32</sup> S. 377.808, F.S.

- Provide that it is the state’s policy to promote energy education and dissemination of public information on energy and its impacts in relation to the list of energy policy goals established by the bill.
- Provide that it is the state’s energy policy to consider, in its decision-making, the impacts of energy-related activities on the energy policy goals established in the bill.
- Provide that it is the state’s energy policy to encourage the research, development, demonstration, and application of domestic energy resources, including the use of renewable resources.

The bill also revises DACS’ energy-related duties to be consistent with these changes. First, the bill requires that DACS advocate for energy issues consistent with the bill’s list of energy policy goals. Next, the bill provides that DACS’ energy data analyses must address potential impacts in relation to the bill’s list of energy policy goals. The bill removes a provision that requires these analyses to include plans for development of renewable energy resources and reduction in dependence on depletable energy resources.

## **Reliability and Resilience of Energy Infrastructure and Supply** (Sections 1, 15, 17)

### Present Situation

#### *Florida’s Electrical Power Grid*

The electric power grid primarily consists of a network of transmission lines, substations, distribution lines, transformers, and meters that deliver electricity from electrical power plants to homes and businesses. Since 1974, the PSC has had jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes and to avoid uneconomic duplication of facilities.<sup>33</sup> The PSC exercises this jurisdiction, in part, through its review of electric utilities’ ten-year plans regarding power generating needs and proposed electrical power plant sites<sup>34</sup> and through its review of applications for certain electrical power plant additions and expansions and certain intrastate transmission line additions and expansions.

#### *Natural Gas Infrastructure*

Natural gas is transported to Florida consumers via three major interstate pipelines: Florida Gas Transmission Company (3.2 billion cubic feet, or bcf, per day), Gulfstream Natural Gas System (1.4 bcf per day), and Sabal Trail Interstate Pipeline (1.1 bcf per day). Florida also receive natural gas from two minor interstate pipelines: Gulf South Pipeline Company reaches into northwest Florida, and Southern Natural Gas reaches into north Florida.<sup>35</sup> Companies seeking to build interstate natural gas pipelines must obtain certificates of public convenience and necessity issued by the Federal Energy Regulatory Commission (FERC). FERC considers both economic and environmental factors in its review.<sup>36</sup>

Construction and operation of intrastate natural gas pipelines generally require approval through a process similar to the PPSA and TLSA processes. The Natural Gas Transmission Pipeline Siting Act (NGTPSA)<sup>37</sup> is the state’s process for licensing the construction and operation of such pipelines within Florida.<sup>38</sup> The NGTPSA provides a centralized and coordinated permitting process for the location of natural gas transmission pipeline corridors and the construction and maintenance of natural gas transmission pipelines in Florida.<sup>39</sup>

<sup>33</sup> Ch. 74-196, L.O.F., codified at s. 366.04(5), F.S.

<sup>34</sup> S. 186.801, F.S.

<sup>35</sup> FPSC, *supra* note 5, at 13 and 17.

<sup>36</sup> See Congressional Research Service, *Interstate Natural Gas Pipeline Siting: FERC Policy and Issues for Congress*, Jun. 9, 2024, available at <https://crsreports.congress.gov/product/pdf/R/R45239> (last visited Jan. 23, 2024).

<sup>37</sup> Ss. 403.9401-403.9425, F.S.

<sup>38</sup> Florida Department of Environmental Protection, *Natural Gas Pipeline Siting Act* (July 27, 2022), <https://floridadep.gov/water/siting-coordination-office/content/natural-gas-pipeline-siting-act> (last visited Jan. 18, 2024).

<sup>39</sup> S. 403.9402, F.S.

An intrastate natural gas pipeline does not require certification if the pipeline:

- Is less than 15 miles long or does not cross a county line;<sup>40</sup>
- Has been issued a certificate of public convenience and necessity by FERC under s. 7 of the Natural Gas Act;<sup>41</sup>
- Has been certified as an associated facility to an electrical power plant pursuant to the Florida Electrical Power Plant Siting Act;<sup>42</sup> or
- Is owned or operated by a municipality or an agency thereof, by any person primarily for the local distribution of natural gas, or by a special district created by special act to distribute natural gas.<sup>43</sup>

These exceptions do not preclude an applicant from applying for certification under the NGTPSA.<sup>44</sup>

The U.S. Department of Transportation/Pipeline and Hazardous Materials Safety Administration (PHMSA) implements federal pipeline safety standards for interstate and intrastate gas pipelines, hazardous liquid pipelines, and underground natural gas storage under the Pipeline Safety Act.<sup>45</sup> The Pipeline Safety Act authorizes state assumption of the intrastate regulatory, inspection, and enforcement responsibilities subject to an annual certification with PHMSA.<sup>46</sup> State agencies must adopt standards that comply with the Pipeline Safety Act to qualify for certification.

In Florida, The Gas Safety Law of 1967 authorizes the PSC to regulate the safe transmission and distribution of natural gas in Florida.<sup>47</sup> The Gas Safety Law grants the PSC exclusive jurisdiction over “all persons, corporations, partnerships, associations, public agencies, municipalities, or other legal entities engaged in the operation of gas transmission or distribution facilities with respect to their compliance with the rules and regulations governing safety standards.”<sup>48</sup> Under this authority, the PSC promulgates rules covering the design, improvement, fabrication, installation, inspection, repair, reporting, testing, and safety standards of gas transmission and gas distribution systems.<sup>49</sup> The PSC is currently the state agency certified by PHMSA to inspect and enforce intrastate gas pipelines.<sup>50</sup>

### *Land Development Regulations and Comprehensive Plans*

Under the Community Planning Act, local governments manage local growth through comprehensive plans enforced by local land use ordinances.<sup>51</sup> The Act prescribes certain principles, guidelines, standards, and strategies to allow for an orderly and balanced future land development<sup>52</sup> and outlines the required and optional elements of a comprehensive plan.<sup>53</sup> Local governments are directed to create and adopt comprehensive plans which are sensitive to private property rights, have no undue restrictions, and leave property owners free from government action that would harm their property or constitute an inordinate burden on their property rights.<sup>54</sup>

### Effect of the Bill

#### *Intrastate Natural Gas Pipeline Permitting*

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<sup>40</sup> S. 403.9405(2)(a), F.S.

<sup>41</sup> S. 403.9405(2)(b), F.S.

<sup>42</sup> S. 403.9405(2)(b), F.S.

<sup>43</sup> S. 403.9405(2)(c), F.S.

<sup>44</sup> S. 403.9405(2)(a)-(c), F.S.

<sup>45</sup> See 49 U.S.C. §§ 60102-60143.

<sup>46</sup> 49 U.S.C. §§ 60105(e), 60106(d).

<sup>47</sup> S. 368.01-061, F.S.

<sup>48</sup> S. 368.05(1), F.S.; see also S. 368.021, F.S. (providing more entities subject to PSC jurisdiction).

<sup>49</sup> See ch. 25-12, F.A.C.

<sup>50</sup> Florida Public Service Commission, Agency Analysis of 2023 House Bill 81, p. 2 (October 26, 2023).

<sup>51</sup> S. 163.3167(1)(b), F.S.

<sup>52</sup> S. 163.3167(2), F.S.

<sup>53</sup> S. 163.3177, F.S.

<sup>54</sup> S. 163.3161(10), F.S. Specifically, such plans



The bill increases the minimum length of an intrastate natural gas pipeline that requires certification under the NGTPSA from 15 miles to 100 miles. A natural gas transmission pipeline company may still obtain certification under the NGTPSA if it chooses to do so.

#### *Land Development Regulations and Comprehensive Plans for Certain Natural Gas Facilities*

The bill defines the term “resiliency facility” as a facility owned and operated by a public utility for the purposes of assembling, creating, holding, securing, or deploying natural gas reserves for temporary use during a system outage or natural disaster. Under the bill, “natural gas reserve” means a facility that is capable of storing and transporting and, when operational, actively stores and transports a supply of natural gas.

The bills states that a resiliency facility is a permitted use in all commercial, industrial, and manufacturing land use categories in a local government comprehensive plan and in all commercial, industrial, and manufacturing districts.

Under the bill, a resiliency facility must comply with the setback and landscape criteria for other similar uses. As long as buffer and landscaping requirements do not exceed the requirements for similar uses in commercial, industrial, and manufacturing land use categories and zoning districts, a local government may adopt an ordinance specifying such requirements for resiliency facilities.

The bill provides that after July 1, 2024, a local government may not amend its comprehensive plan, land use map, zoning districts, or land development regulations in a way that would conflict with a resiliency facility’s classification as a permitted and allowable use, including, but not limited to, a nonconforming use, structure, or development.

#### *Security and Resiliency Assessment of Electric and Natural Gas Infrastructure*

The bill requires the PSC to conduct an assessment of the security and resiliency of the state's electric grid and natural gas facilities against both physical threats and cyber threats. The bill requires the PSC to consult with the Division of Emergency Management and, in its assessment of cyber threats, with the Florida Digital Service. The bill provides that all electric utilities, natural gas utilities, and natural gas pipelines operating in this state, regardless of ownership structure, shall cooperate with the PSC to provide access to all information necessary to conduct the assessment.

The bill requires the PSC, by July 1, 2025, to submit a report of its assessment to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must also contain any recommendations for potential legislative or administrative actions that may enhance the physical security or cyber security of the state's electric grid or natural gas facilities.

#### **Provision of Transportation Fuels by Public Utilities (Sections 4-5)**

##### Present Situation

Under Florida law, the term “public utility” includes providers of electricity or natural gas, with the exception of rural cooperatives, municipal utilities, special districts, and wholesale-only pipeline companies.<sup>55</sup> With the growing use of EVs, most public electric utilities in the state have begun to offer EV charging services through their own public charging equipment, charging equipment at customer premises, or both. These services are typically provided under pilot programs and at rates approved by the PSC. Some public natural gas utilities in Florida support natural gas vehicle fueling under specific rate schedules approved by the PSC, either through publicly accessible compressed natural gas fueling facilities or through delivery of such gas to customer premises for use by the customer to fuel vehicles (typically for fleet fueling).

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<sup>55</sup> S. 366.02(8), F.S.  
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## Effect of the Bill

The bill provides that the PSC, without specific legislative authority, may not authorize a public utility to expand the scope of its regulated business activity to include direct sales of energy to a consumer solely for the consumer's use in powering means of transportation owned by the consumer. The bill provides that it does not apply to limited or pilot programs approved by the PSC before January 1, 2024.

The bill provides specific authority for the PSC to approve public utility programs for residential, customer-specific EV charging if the PSC determines that the rates and rate structure of the program will not adversely impact the public utility's general body of ratepayers. The bill requires that all revenues received from the program must be credited to the utility's retail ratepayers. The bill provides that it does not preclude cost recovery for EV charging programs approved by the PSC before January 1, 2024.

## **Relocation of Utility Facilities (Section 6)**

### Present Situation

Under current law, utilities bear the cost of relocating utility facilities placed upon, under, over, or within the right-of-way limits of any public road or publicly owned rail corridor which is found by the authority<sup>56</sup> to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor. Utility owners, upon 30 days' notice, must eliminate the unreasonable interference within a reasonable time or an agreed time, at their own expense.<sup>57</sup> These requirements apply even if the utility facility is within a public utility easement and the utility has a franchise agreement with the authority, absent some other agreement to the contrary regarding costs of relocation.<sup>58</sup> These costs are recovered by public utilities through base rates approved by the PSC.

### Effect of the Bill

The bill authorizes natural gas public utilities to petition the PSC to annually recover prudently incurred costs to relocate natural gas facilities<sup>59</sup> to accommodate requirements imposed by DOT and local government entities.<sup>60</sup> The bill allows each utility to recover such costs through a charge separate and apart from base rates, referred to in the bill as the natural gas facilities relocation cost recovery clause. Such costs may not include any costs that the utility recovers through its base rates.

The bill requires the PSC to establish an annual proceeding to review these petitions. This review is limited to:

- Determining the prudence of the utility's actual incurred natural gas facilities relocation costs;
- Determining the reasonableness of the utility's projected natural gas facilities relocation costs for the next calendar year; and
- Providing for a true-up of the costs with the projections on which past cost recovery charges were set.

Any refund or collection made pursuant to the true-up process must include applicable interest.

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<sup>56</sup> As used in ss. 337.401-337.404, F.S., "the authority" means DOT and local government entities. S. 337.401(1)(a), F.S.

<sup>57</sup> S. 337.403(1)(a)-(j), F.S., provides exceptions.

<sup>58</sup> *Lee County Electric Coop., Inc. v. City of Cape Coral*, 159 So. 3d 126, 130 (Fla. 2d DCA 2014).

<sup>59</sup> The bill defines natural gas facilities as gas mains, laterals, and service lines used to distribute natural gas to customers. The term also includes all ancillary equipment needed for safe operations, including, but not limited to, regulating stations, meters, other measuring devices, regulators, and pressure monitoring equipment.

<sup>60</sup> The bill defines these costs as the costs to relocate or reconstruct facilities as required by a mandate, a statute, a law, an ordinance, or an agreement between the utility and an authority, including, but not limited to, costs associated with reviewing plans provided by an authority.

The bill requires that all costs approved pursuant to this clause be allocated to customer classes pursuant to the rate design most recently approved by the PSC. If a capital expenditure is recoverable as a natural gas facilities relocation cost, the public utility may recover the annual depreciation on the cost, calculated at the public utility's current approved depreciation rates, and a return on the undepreciated balance of the costs at the public utility's weighted average cost of capital using the last approved return on equity.

The bill requires the PSC to adopt implementing rules as soon as practicable.

## **Energy Guidelines for Public Business (Section 2)**

### Present Situation

Current law requires state agencies to follow specified guidelines to promote energy efficiency and other environmental benefits when conducting public business.<sup>61</sup> Such guidelines require state agencies to:

- Consult the Florida Climate-Friendly Preferred Products List<sup>62,63</sup> when procuring products from state term contracts<sup>64</sup> and procuring such products if the price is comparable;<sup>65</sup>
- Contract for meeting and conference space only with facilities that have received the "Green Lodging" designation from DEP for best practices in water, energy, and wastewater efficiency standards, absent a determination from the agency head that no other viable alternative exists;<sup>66</sup>
- Ensure all maintained vehicles meet minimum maintenance schedules shown to reduce fuel consumption and reporting compliance to the Department of Management Services (DMS);<sup>67</sup> and
- Use ethanol and biodiesel blended fuels when available. State agencies administering central fueling operations for state-owned vehicles must procure biofuels for fleet needs to the greatest extent practicable.<sup>68</sup>

Additionally, when procuring new vehicles, state agencies, state universities, community colleges, and local governments that purchase vehicles under a state purchasing plan must first define the intended purpose for the vehicle and determine which statutorily listed use class<sup>69</sup> the vehicle is being procured for. These vehicles must be selected based on the greatest fuel efficiency available for the appropriate use class when fuel economy data is available. Exceptions may be made for emergency response vehicles in certain circumstances.<sup>70</sup>

### *Goods Produced by Child and Forced Labor*

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<sup>61</sup> S. 286.29, F.S.

<sup>62</sup> The Florida Climate-Friendly Preferred Products List is developed by the Department of Management Services (DMS), which works with the Department of Environmental Protection to continually assess the list. The list identifies specific products and vendors that offer energy efficiency or other environmental benefits over competing products. See s. 286.29(1), F.S.

<sup>63</sup> The Florida Climate-Friendly Preferred Products List was last updated in January of 2021 and contains 12 recommended products, which all are categorized as either hand sanitizer or cleaning supplies. See Florida Climate-Friendly Preferred Products List, Department of Management Services (Jan. 2021), [https://www.dms.myflorida.com/business\\_operations/state\\_purchasing/state\\_contracts\\_and\\_agreements/florida\\_climate-friendly\\_preferred\\_products\\_list](https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements/florida_climate-friendly_preferred_products_list) (last visited Jan. 12, 2024).

<sup>64</sup> A state term contract is a contract for commodities or contractual services that is competitively procured by DMS and is used by agencies and other eligible users. See ss. 287.012(28), F.S. and 287.042(2)(a), F.S.

<sup>65</sup> S. 286.29(1), F.S.

<sup>66</sup> S. 286.29(2), F.S.

<sup>67</sup> S. 286.29(3), F.S.

<sup>68</sup> S. 286.29(5), F.S.

<sup>69</sup> Vehicle use classes include: state business travel, designated operator; state business travel, pool operators; construction, agricultural, or maintenance work; conveyance of passengers; conveyance of building or maintenance materials and supplies; off-road vehicle, motorcycle, or all-terrain vehicle; emergency response; or other. S. 286.29(4), F.S.

<sup>70</sup> S. 286.29(4), F.S.

The Bureau of International Labor Affairs (ILAB) in the United States Department of Labor maintains a list of goods and the countries which they are sourced from which ILAB has reason to believe are produced by child labor or forced labor. ILAB maintains this list to raise awareness about these issues in an effort to combat them. This list also provides information to consumers by highlighting product categories that may be at risk of being produced with child labor or forced labor.<sup>71</sup>

### Effect of the Bill

Under the bill, DMS is no longer required to maintain the Florida Climate-Friendly Preferred Products List, and state agencies are no longer required to consult the list when procuring products from state term contracts.

The bill repeals the requirement that state agencies contract for meeting and conference space only with hotels or conference facilities that have received the “Green Lodging” designation.

Under the bill, state agencies, local governments, state universities, and community colleges procuring a new vehicle no longer have to select each vehicle based on the greatest fuel efficiency available for the use class.

The bill requires DMS, in consultation with the Department of Commerce (COM) and DACS, to develop the Florida Humane Preferred Energy Products List. In developing the list, DMS must assess products currently available for purchase under state term contracts and identify specific products that appear to be largely made free from forced labor if the products contain or consist of:

- An energy storage device with a capacity of greater than one kilowatt, or
- An energy generation device with a capacity of greater than 500 kilowatts.

Under the bill, the term “forced labor” means any work performed or service rendered that is:

- Obtained by intimidation, fraud, or coercion, including by threat of serious bodily harm to, or physical restraint against, a person, by means of a scheme intended to cause the person to believe that if he or she does not perform such labor or render such service, the person will suffer serious bodily harm or physical restraint, or by means of the abuse or threatened abuse of law or the legal process;
- Imposed on the basis of a characteristic that has been held by the United States Supreme Court or the Florida Supreme Court to be protected against discrimination under the Fourteenth Amendment to the United States Constitution or under s. 2, Art. I of the State Constitution, including race, color, national origin, religion, gender, or physical disability;
- Not performed or rendered voluntarily by a person; or
- In violation of the Child Labor Law or otherwise performed or rendered through oppressive child labor.

When procuring the specified energy storage and generation devices, state agencies and political subdivisions must consult the Florida Humane Preferred Energy Products List and only purchase products from the list.

### **Energy Grant Programs (Sections 10-14)**

#### Present Situation

##### *Renewable Energy and Energy-Efficient Technologies Grant Program*

The Renewable Energy and Energy-Efficient Technologies (REET) Grant Program is established within DACS to provide matching grants for demonstration, commercialization, research, and development projects relating to renewable energy technologies and innovative technologies that significantly

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<sup>71</sup> U.S. Department of Labor, Bureau of International Labor Affairs, *List of Goods Produced by Child Labor or Forced Labor*, <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods> (last visited Jan. 12, 2024).

increase energy efficiency for vehicles and commercial buildings.<sup>72</sup> The REET program is no longer active.<sup>73</sup>

### *Florida Green Government Grants Act*

DACS also administers the Florida Green Government Grants Act.<sup>74</sup> DACS is directed to adopt rules and come up with green government standards that provide for cost-efficient solutions, reducing greenhouse gas emissions, improving quality of life, and strengthening the state's economy.<sup>75</sup> DACS must administer the program to assist local governments, including municipalities, counties, and school districts in the development and implementation of programs that achieve green standards.<sup>76</sup> The Florida Green Government Grants program is no longer active.<sup>77</sup>

### *Energy Economic Zone Pilot Program*

In 2009, the Legislature authorized the creation of the Energy Economic Zone Pilot Program for the purpose of developing a model area that incorporates energy-efficient land-use patterns, cultivates green economic development, encourages the generation of renewable electric energy, and promotes the manufacturing of "green" products and jobs.<sup>78</sup> Florida law directs the Department of Commerce,<sup>79</sup> in consultation with the Department of Transportation to implement the program.<sup>80</sup>

### *Qualified Energy Conservation Bond Allocation*

Qualified Energy Conservation Bonds (QECBs) are taxable bonds that are issued by state or local governments to finance one or more qualified energy conservation purpose. QCEBs are federally funded, with Congress first authorizing the program in 2008. Examples of qualified projects include energy efficiency capital expenditures in public buildings, green communities, renewable energy production, and energy efficiency education campaigns.<sup>81</sup> Current law authorizes DACS to establish an allocation program for Florida's QCEB allocation in accordance with federal law.<sup>82</sup>

### Effect of the Bill

The bill repeals the REET Grant Program, the Florida Green Government Grants Act, the Energy Economic Zone Pilot Program, and all provisions related to Qualified Energy Conservation Bonds.

Under the bill, no new applications, certifications, or allocations may be approved; no new letters of certification may be issued; no new contracts or agreements may be executed; and no new awards may be made for the repealed programs. All certifications or allocations issued under such programs are rescinded except for the certifications of, or allocations to, those certified applicants or projects that continue to meet the applicable criteria in effect before July 1, 2024. Any existing contract or agreement authorized under any of these programs shall continue in full force and effect in accordance with the statutory requirements in effect when the contract or agreement was executed or last modified.

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<sup>72</sup> S. 377.804, F.S.

<sup>73</sup> Email from Isabelle Garbarino, Director of Legislative Affairs, Florida Department of Agriculture and Consumer Services, RE: [External]RE: Question about grants programs (Jan. 22, 2024).

<sup>74</sup> S. 377.808, F.S.

<sup>75</sup> S. 377.808(2), F.S.

<sup>76</sup> *Id.*

<sup>77</sup> Email from Isabelle Garbarino, Director of Legislative Affairs, Florida Department of Agriculture and Consumer Services, RE: [External]RE: Question about grants programs (Jan. 22, 2024).

<sup>78</sup> S. 377.809(1), F.S.

<sup>79</sup> In 2023, the Department of Economic Opportunity was renamed as the Department of Commerce. See Chapter 2023-173, Laws of Fla.

<sup>80</sup> S. 377.809(1), F.S.

<sup>81</sup> Kelly Smith Burk, Florida Department of Agriculture and Consumer Services, *Qualified Energy Efficiency Conservation Bonds (QCEB) Formula Allocations to Large Local Jurisdiction* (Apr. 23, 2015), [https://ccmedia.fdacs.gov/content/download/60128/file/FDACS%27\\_Memorandum\\_regarding\\_Qualified\\_Energy\\_Conservation\\_Bond\\_Formula\\_Allocations\\_to\\_Large\\_Local\\_Governments.pdf](https://ccmedia.fdacs.gov/content/download/60128/file/FDACS%27_Memorandum_regarding_Qualified_Energy_Conservation_Bond_Formula_Allocations_to_Large_Local_Governments.pdf) (last visited Jan. 25, 2024).

<sup>82</sup> S. 377.816, F.S.

However, further modifications, extensions, or waivers may not be made or granted relating to such contracts or agreements, except computations by the Department of Revenue of the income generated by or arising out of the qualifying project.

## **Consumer Choice of Energy Resources** (Sections 3, 16)

### Present Situation

#### *Community Development Districts*

Community development districts (CDDs) are a type of independent special district intended to provide urban community services in a cost-effective manner by managing and financing the delivery of basic services and capital infrastructure to developing communities without overburdening other governments and their taxpayers.<sup>83</sup> As of January 18, 2024, there were 961 active CDDs in Florida.<sup>84</sup>

Each CDD is governed by a five-member board elected by the landowners of the district on a one-acre, one-vote basis.<sup>85</sup> Board members serve four-year terms, except some initial board members serve a two-year term for the purpose of creating staggered terms.<sup>86</sup> After the sixth year (for districts of up to 5,000 acres) or the 10th year (for districts exceeding 5,000 acres or for a compact, urban, mixed-use district<sup>87</sup>) following the CDD's creation, each member of the board is subject to election by the electors of the district at the conclusion of their term. However, this transition does not occur if the district has fewer than 250 qualified electors (for districts of up to 5,000 acres) or 500 qualified electors (for districts exceeding 5,000 acres or for a compact, urban, mixed-use district).<sup>88</sup>

#### *Homeowners' Associations*

A homeowners' association (HOA) is an association of residential property owners in which voting membership is made up of parcel owners and membership is a mandatory condition of parcel ownership. HOAs are authorized to impose assessments that, if unpaid, may become a lien on the parcel.<sup>89</sup>

Only HOAs whose covenants and restrictions include mandatory assessments are regulated under chapter 720, F.S., the Homeowners' Association Act (HOA Act). An HOA is administered by an elected board of directors (board). The powers and duties of an HOA include the powers and duties provided in the HOA Act and in the association's governing documents, which include the recorded covenants and restrictions, together with the bylaws, articles of incorporation, and duly adopted amendments to those documents.<sup>90</sup>

An HOA must be a Florida corporation, and the initial governing documents must be recorded in the official records of the county in which the community is located. The powers and duties of an association include those set forth in the HOA Act and in the governing documents, except as expressly limited or restricted in the HOA Act.

HOA governing documents may not:

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<sup>83</sup> S. 190.002(1)(a), F.S.

<sup>84</sup> Dept. of Commerce, Special District Accountability Program, *Official List of Special Districts*, available at <https://specialdistrictreports.floridajobs.org/OfficialList/CustomList> (last visited Jan. 26, 2024).

<sup>85</sup> S. 190.006(2), F.S.

<sup>86</sup> S. 190.006(1), F.S.

<sup>87</sup> S. 190.006(3)(a)2.a., F.S. A "compact, urban, mixed-use district" is a district located within a municipality and a CRA that consists of a maximum of 75 acres, and has development entitlements of at least 400,000 square feet of retail development and 500 residential units. S. 190.003(7), F.S.

<sup>88</sup> S. 190.006(3)(a)2.b., F.S.

<sup>89</sup> S. 720.301(9), F.S.

<sup>90</sup> See *generally* ch. 720, F.S.

- Prohibit a homeowner from displaying up to two portable, removable flags in a respectful manner, consistent with the requirements for the United States flag.<sup>91</sup>
- Prohibit any property owner from implementing Florida-friendly landscaping<sup>92</sup> on his or her land or create any requirement or limitation in conflict with any provision of part II of Chapter 373, F.S., regarding consumptive uses of water or a water shortages order.<sup>93</sup>
- Prohibit solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the deed restriction, covenant, declaration, or binding agreement.<sup>94</sup>

Additionally, HOAs may not restrict the installation, display, and storage of any items on a parcel that are not visible from the parcel's frontage or an adjacent parcel, unless the item is prohibited by general law or local ordinance. Such items include, but are not limited to:<sup>95</sup>

- Artificial turf.
- Boats.
- Flags.
- Recreational vehicles.

## Effect of the Bill

### *Prohibition of CDD Energy Use Restrictions*

The bill provides that development district resolutions, ordinances, rules, codes, or policies, may not take any action that restricts or prohibits, or has the effect of restricting or prohibiting, certain types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to serve customers that these entities are authorized to serve:

- Investor-owned electric utilities;
- Municipal electric utilities;
- Rural electric cooperatives;
- Entities formed by interlocal agreement to generate, sell, and transmit electrical energy;
- Investor-owned gas utilities;
- Gas districts;
- Municipal natural gas utilities;
- Natural gas transmission companies; and
- Certain propane dealers, dispensers, and gas cylinder exchange operators.

The bill also provides that development district resolutions, ordinances, rules, codes, or policies, may not take any action that restricts or prohibits, or have the effect of restricting or prohibiting, the use of any appliance,<sup>96</sup> including a stove or grill, which uses the types or fuel source of energy production which may be used, delivered, converted, or supplied by the entities listed above.

### *Prohibition of HOA Energy Use Restrictions*

The bill provides that HOA documents, including declarations of covenants, articles of incorporation, or bylaws, may not preclude the types or fuel sources of energy production which may be used, delivered,

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<sup>91</sup> S. 720.3075(3), F.S.

<sup>92</sup> Section 373.185, F.S., defines "Florida-friendly landscaping" as quality landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. The principles of such landscaping include planting the right plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protection. Additional components include practices such as landscape planning and design, soil analysis, the appropriate use of solid waste compost, minimizing the use of irrigation, and proper maintenance.

<sup>93</sup> S. 720.3075(4), F.S.

<sup>94</sup> S. 163.04(2), F.S.

<sup>95</sup> S. 720.3045, F.S.

<sup>96</sup> The bill defines the term "appliance" as a device or apparatus manufactured and designed to use energy and for which the Florida Building Code or the Florida Fire Prevention Code provides specific requirements.

converted, or supplied by the following entities to customer within the HOA that these entities are authorized to serve:

- Investor-owned electric utilities;
- Municipal electric utilities;
- Rural electric cooperatives;
- Entities formed by interlocal agreement to generate, sell, and transmit electrical energy;
- Investor-owned gas utilities;
- Gas districts;
- Municipal natural gas utilities;
- Natural gas transmission companies; and
- Certain propane dealers, dispensers, and gas cylinder exchange operators.

The bill also provides that HOA declarations of covenants, articles of incorporation, or bylaws may not preclude, the use of any appliance,<sup>97</sup> including a stove or grill, which uses the types or fuel source of energy production which may be used, delivered, converted, or supplied by the entities listed above.

## **Developing Energy Technologies (Sections 18, 19)**

### Present Situation

#### *Nuclear Technologies*

Historically, nuclear power generation in the United States has relied on large light water reactors (LWRs) which were first commercialized in the 1950s.<sup>98</sup> Following the passage of the 2005 Energy Policy Act, federal loan guarantees along with state financing mechanisms began to spur activity in nuclear reactor development throughout states.<sup>99</sup> This activity slowed after public sentiment turned against nuclear power due to safety concerns related to the 2011 disaster at the Fukushima Daiichi nuclear plant in Japan and after the economics of power generation changed due to falling natural gas prices.<sup>100</sup> However, there has been increasing interest in “advanced nuclear reactors”<sup>101</sup> and “small modular reactors”<sup>102</sup> recently.<sup>103</sup> Advanced nuclear reactors are believed to improve upon earlier generations of reactors in areas of: cost, safety, security, waste management, and versatility.<sup>104</sup>

Nuclear energy is “carbon-free” as it does not directly produce carbon dioxide or other greenhouse gases.<sup>105</sup> Nuclear power provides more than half of the carbon-free electricity produced in the U.S.<sup>106</sup> Nuclear energy currently constitutes 8% of electric generating capacity in the United States, yet generates 18% of the total electricity in the country.<sup>107</sup> Nuclear energy generates about 13% of total electricity generation in Florida.<sup>108</sup> This is because most nuclear plants operate around the clock and

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<sup>97</sup> The bill defines the term “appliance” as a device or apparatus manufactured and designed to use energy and for which the Florida Building Code or the Florida Fire Prevention Code provides specific requirements.

<sup>98</sup> MARK HOLT, CONG. RSCH. SERV., R45706, ADVANCED NUCLEAR REACTORS: TECHNOLOGY OVERVIEW AND CURRENT ISSUES (2023) [hereinafter CRS Report, Advanced Nuclear Reactors].

<sup>99</sup> Daniel Shea, *Nuclear Policy in the States: A National Review*, Journal of Critical Infrastructure Policy, Fall/Winter 2023, at 14-15 [hereinafter Shea, Nuclear Policy in the States].

<sup>100</sup> *Id.* at 15.

<sup>101</sup> An advanced nuclear reactor is a fission reactor “with significant improvements compared to reactors operating on the date of enactment” or a reactor using nuclear fusion. 42 U.S.C § 16271(b)(1).

<sup>102</sup> Small modular reactors are a form of advanced nuclear reactor with an electric generating capacity of 300 MW. Advanced nuclear reactors can be configured into small modular reactors. CRS Report, Advanced Nuclear Reactors, *supra* note 98, at 3-4.

<sup>103</sup> *Id.* at Introduction.

<sup>104</sup> CRS Report, Advanced Nuclear Reactors, *supra* note 98, at 3.

<sup>105</sup> Anne White & Aaron Krol, *Nuclear Energy*, Climate Portal (Oct. 14, 2020), <https://climate.mit.edu/explainers/nuclear-energy> (last visited Jan. 13, 2024).

<sup>106</sup> *Id.*

<sup>107</sup> U.S. Energy Information Administration, *U.S. energy facts explained*, <https://www.eia.gov/energyexplained/us-energy-facts/data-and-statistics.php> (last visited Jan. 12, 2024).

<sup>108</sup> U.S. Energy Information Administration, *Florida’s electricity generation mix is changing*, (Aug. 24, 2023), <https://www.eia.gov/todayinenergy/detail.php?id=60221> (last visited Jan. 19, 2024).



generate at maximum capacity around 93% of the time – nearly twice the capacity factor of resources like coal and natural gas, and triple that of wind and solar.<sup>109</sup>

State legislation related to nuclear energy has increased over the past decades.<sup>110</sup> These policies address different vantage points; some states have enacted policies to insulate their existing fleet of reactors from premature closure, while others have enacted policies to develop new nuclear capacity.<sup>111</sup> Many states have directed the conduct of studies on advanced nuclear reactors.<sup>112</sup>

### *Hydrogen for Transportation*

Hydrogen powered vehicles use hydrogen as a fuel source and produce no harmful tailpipe emissions as they only emit water vapor and warm air.<sup>113</sup> Currently, hydrogen powered vehicles are only available in select markets like southern and northern California.<sup>114</sup> This is because California is the only state which has a hydrogen fueling infrastructure, with over 60 public stations.<sup>115</sup>

California implemented its hydrogen fueling infrastructure with its “Hydrogen Highway Network” (Network) in 2004, which was later implemented by the legislature in 2005. The Network was designed with the desire to expand zero-emission hydrogen fuel cell electric cars by expanding California’s network of hydrogen refueling stations.<sup>116</sup> While hydrogen powered vehicles are environmentally beneficial, issues arise from the fueling infrastructure. Such issues, made apparent by the Network, include<sup>117</sup>:

- Vehicles becoming stranded because of lack of fueling stations;
- Frequent station malfunctions/shortages; and
- High state subsidies per fueling station.

In October 2023, the U.S. Department of Energy announced \$7 billion in federal funding under the Bipartisan Infrastructure Law to fund seven Regional Clean Hydrogen Hubs. The purpose of these investments is to “accelerate the commercial-scale deployment of clean hydrogen helping to generate clean, dispatchable power, create a new form of energy storage, and decarbonize heavy industry and transportation.”<sup>118</sup>

### Effect of the Bill

#### *Evaluation of Advanced Nuclear Technologies*

The bill requires the PSC to study and evaluate the technical and economic feasibility of using advanced nuclear power technologies, including SMRs, to meet the electrical power needs of the state. The bill also requires the PSC to research means to encourage installation and use of nuclear technologies at military installations in the state in partnership with public utilities. In conducting this

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<sup>109</sup> Shea, Nuclear Policy in the States, *supra* note 99, at 16.

<sup>110</sup> Daniel Shea, *Nuclear Power and the Clean Energy Transition* (Apr. 6, 2023), <https://www.ncsl.org/energy/nuclear-power-and-the-clean-energy-transition> (last visited Jan. 13, 2024) (noting an increase from 74 bills considered in 2016 to more than 160 bills considered in 2022 in relation to nuclear energy).

<sup>111</sup> *Id.*

<sup>112</sup> See e.g., MICH. COMP. LAWS § 460.10hh (2022); Montana Senate Joint Resolution 3 (2021); Penn. HR 238 (2022).

<sup>113</sup> United States Department of Energy, *Fuel Cell Electric Vehicles*, [https://afdc.energy.gov/vehicles/fuel\\_cell.html](https://afdc.energy.gov/vehicles/fuel_cell.html) (last visited Jan. 13, 2024).

<sup>114</sup> United States Department of Energy, *Hydrogen Fuel Cell Electric Vehicle Availability*, [https://afdc.energy.gov/vehicles/fuel\\_cell\\_availability.html](https://afdc.energy.gov/vehicles/fuel_cell_availability.html) (last visited Jan. 13, 2024).

<sup>115</sup> United States Department of Energy, *Hydrogen Fueling Station Locations by State*, <https://afdc.energy.gov/data/10370> (last visited Jan. 13, 2024).

<sup>116</sup> California Energy Commission, *Hydrogen Vehicles & Refueling Infrastructure*, <https://www.energy.ca.gov/programs-and-topics/programs/clean-transportation-program/clean-transportation-funding-areas-1> (last visited Jan. 13, 2024).

<sup>117</sup> Evan Halper, *Is California’s ‘Hydrogen Highway’ a road to nowhere?*, L.A. Times, Aug. 10, 2021.

<sup>118</sup> U.S. DOE, Office of Clean Energy Demonstrations, *Regional Clean Hydrogen Hubs Selections for Award Negotiations*, <https://www.energy.gov/oced/regional-clean-hydrogen-hubs-selections-award-negotiations> (last visited Jan. 26, 2024).

study, the PSC must consult with the Department of Environmental Protection and the Division of Emergency Management.

By April 1, 2025, the PSC must prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing its findings and recommendations for potential legislative or administrative actions that may enhance the use of advanced nuclear technologies in a manner consistent with the state energy policy goals established by the bill.

#### *Evaluation of Hydrogen Fueling Infrastructure*

The bill requires DOT, in consultation with DACS, to study and evaluate the potential development of hydrogen fueling infrastructure, including fueling stations, to support hydrogen-powered vehicles that use the state highway system.

By April 1, 2025, DOT must prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing its findings and any recommendations for potential legislative or administrative actions concerning the development of hydrogen fueling infrastructure in manner consistent with the state energy policy goals established by the bill.

#### B. SECTION DIRECTORY:

- Section 1.** Creates s. 163.3210, F.S., relating to natural gas resiliency and reliability infrastructure.
- Section 2.** Amends s. 286.29, F.S., relating to energy guidelines for public business.
- Section 3.** Amends s. 366.032, F.S., relating to preemptions over utility service restrictions.
- Section 4.** Amends s. 366.04, F.S., relating to jurisdiction of the Public Service Commission.
- Section 5.** Amends s. 366.94, F.S., relating to electric vehicle charging.
- Section 6.** Creates s. 366.99, F.S.; relating to natural gas facilities relocation costs.
- Section 7.** Amends s. 377.601, F.S., relating to legislative intent.
- Section 8.** Amends s. 377.6015, F.S., relating to the Department of Agriculture and Consumer Services; powers and duties.
- Section 9.** Amends s. 377.703, F.S., relating to additional functions of the Department of Agriculture and Consumer Services.
- Section 10.** Repeals energy-related grant programs.
- Section 11.** Provides application relating to existing agreements under certain programs
- Section 12.** Amends s. 220.193, F.S., relating to Florida renewable energy production credit.
- Section 13.** Amends s. 288.9606, F.S., relating to issue of revenue bonds.
- Section 14.** Amends s. 380.0651, F.S., relating to statewide guidelines, standards, and exemptions.
- Section 15.** Amends s. 403.9405, F.S. relating to applicability; certification; exemption; notice of intent under the Natural Gas Transmission Pipeline Siting Act.
- Section 16.** Amends s. 720.3075, F.S., relating to prohibited clauses in association documents.
- Section 17.** Directs the Public Service Commission to conduct a security and resiliency assessment.

**Section 18.** Directs the Public Service Commission to study and evaluate advanced nuclear technologies.

**Section 19.** Directs the Department of Transportation to study and evaluate hydrogen fueling infrastructure.

**Section 20.** 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:

The bill may have a negative impact on state government expenditures because it imposes the following new requirements for specified state agencies, which may require the expenditure of resources:

- PSC assessment of the security and resiliency of the state's electric grid and natural gas facilities;
- DMS development of a Florida Humane Preferred Energy Products List;
- PSC study and evaluation of advanced nuclear power technologies; and
- DOT study and evaluation of the potential development of hydrogen fueling infrastructure.

Affected agencies may be able to satisfy all or some of these requirements with existing resources. Further, affected agencies may see expenditures offset to some degree by potential savings, and other agencies may see reduced expenditures, related to:

- Elimination of certain state purchasing requirements; and
- Expansion of the types of intrastate natural gas pipelines that are exempt from siting under the Natural Gas Transmission Pipeline Siting Act.

The impact of requiring state agencies to purchase certain energy-related items from a new Florida Humane Preferred Energy Products List, as required by the bill, is indeterminate, but likely not significant.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The impact of requiring political subdivisions of the state to purchase certain energy-related items from a new Florida Humane Preferred Energy Products List, as required by the bill, is indeterminate.

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

The bill refocuses state energy policy on promoting and ensuring a cost-effective, reliable, resilient, safe, diverse, and U.S. sourced energy supply and makes specific changes in law to meet these policy goals. The bill also attempts to streamline certain regulatory requirements to strengthen energy infrastructure, prepare Florida to respond to changing market forces, and increase market-based policies within Florida's various energy sectors. To the extent these changes succeed, there will be direct positive impacts on the economic well-being of Florida's businesses and consumers.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On January 30, 2024, the Energy, Communications & Cybersecurity Subcommittee adopted a strike-all amendment to the bill and reported the bill favorably as a committee substitute. The strike-all amendment:

- Removed provisions that:
  - Require public utilities to obtain approval from the Public Service Commission (PSC) to retire certain electrical power plants and require the PSC to inform and provide technical support to the Attorney General if a plant retirement is required or induced by federal regulation and is inconsistent with the state's energy policy goals.
  - Require the PSC to develop certain smart grid policies to be submitted for consideration by the Legislature.
  - Require the Department of Transportation (DOT) to offer potential access to vendors of certain alternative motor vehicle fuels and repowering stations along the turnpike system.
  - Create an Electric Vehicle Battery Deposit Program within the Department of Highway Safety and Motor Vehicles.
- Provided for the recovery of certain facility relocation costs incurred by a natural gas utility through a charge separate from the utility's base rates.
- Extended due dates for certain reports that the bill requires the PSC and DOT to submit.
- Corrected drafting errors.

This analysis is drafted to the committee substitute as passed by the Energy, Communications & Cybersecurity Subcommittee.



26 Management Services to develop a Florida Humane  
27 Preferred Energy Products List in consultation with  
28 the Department of Commerce and the Department of  
29 Agriculture and Consumer Services; providing for  
30 assessment considerations in developing the list;  
31 defining the term "forced labor"; requiring state  
32 agencies and political subdivisions that procure  
33 energy products from state term contracts to consult  
34 the list and purchase or procure such products;  
35 prohibiting state agencies and political subdivisions  
36 from purchasing or procuring products not included in  
37 the list; amending s. 366.032, F.S.; including  
38 development districts as a type of political  
39 subdivision for purposes of preemption over utility  
40 service restrictions; amending s. 366.04, F.S.;  
41 revising the jurisdiction of the Florida Public  
42 Service Commission; amending s. 366.94, F.S.; removing  
43 terminology; conforming provisions to changes made by  
44 the act; authorizing the commission upon a specified  
45 date to approve voluntary public utility programs for  
46 electric vehicle charging if certain requirements are  
47 met; requiring that all revenues received from such  
48 program be credited to the public utility's general  
49 body of ratepayers; providing applicability; creating  
50 s. 366.99, F.S.; providing definitions; authorizing

51 public utilities to submit to the commission a  
52 petition for a proposed cost recovery for certain  
53 natural gas facilities relocation costs; requiring the  
54 commission to conduct annual proceedings to determine  
55 each utility's prudently incurred natural gas  
56 facilities relocation costs and to allow for the  
57 recovery of such costs; providing requirements for the  
58 commission's review; providing requirements for the  
59 allocation of such recovered costs; requiring the  
60 commission to adopt rules; providing a timeframe for  
61 such rulemaking; amending s. 377.601, F.S.; revising  
62 legislative intent; amending s. 377.6015, F.S.;  
63 revising the powers and duties of the department;  
64 conforming provisions to changes made by the act;  
65 amending s. 377.703, F.S.; revising additional  
66 functions of the department relating to energy  
67 resources; conforming provisions to changes made by  
68 the act; repealing s. 377.801, F.S., relating to the  
69 Florida Energy and Climate Protection Act; repealing  
70 s. 377.802, F.S., relating to the purpose of the act;  
71 repealing s. 377.803, F.S., relating to definitions  
72 under the act; repealing s. 377.804, F.S., relating to  
73 the Renewable Energy and Energy-Efficient Technologies  
74 Grants Program; repealing s. 377.808, F.S., relating  
75 to the Florida Green Government Grants Act; repealing

76 s. 377.809, F.S., relating to the Energy Economic Zone  
77 Pilot Program; repealing s. 377.816, F.S., relating to  
78 the Qualified Energy Conservation Bond Allocation  
79 Program; prohibiting the approval of new or additional  
80 applications, certifications, or allocations under  
81 such programs; prohibiting new contracts, agreements,  
82 and awards under such programs; rescinding all  
83 certifications or allocations issued under such  
84 programs; providing an exception; providing  
85 application relating to existing contracts or  
86 agreements under such programs; amending ss. 220.193,  
87 288.9606, and 380.0651, F.S.; conforming provisions to  
88 changes made by the act; amending s. 403.9405, F.S.;  
89 revising the applicability of the Natural Gas  
90 Transmission Pipeline Siting Act; amending s.  
91 720.3075, F.S.; prohibiting certain homeowners'  
92 association documents from precluding certain types or  
93 fuel sources of energy production and the use of  
94 certain appliances; requiring the commission to  
95 conduct an assessment of the security and resiliency  
96 of the state's electric grid and natural gas  
97 facilities against physical threats and cyber threats;  
98 requiring the commission to consult with the Division  
99 of Emergency Management and the Florida Digital  
100 Service; requiring cooperation from all operating



101 facilities in the state relating to such assessment;  
102 requiring the commission to submit by a specified date  
103 a report of such assessment to the Governor and the  
104 Legislature; providing additional content requirements  
105 for such report; requiring the commission to study and  
106 evaluate the technical and economic feasibility of  
107 using advanced nuclear power technologies to meet the  
108 electrical power needs of the state; requiring the  
109 commission to research means to encourage and foster  
110 the installation and use of such technologies at  
111 military installations in partnership with public  
112 utilities; requiring the commission to consult with  
113 the Department of Environmental Protection and the  
114 Division of Emergency Management; requiring the  
115 commission to submit by a specified date a report to  
116 the Governor and the Legislature that contains its  
117 findings and any additional recommendations for  
118 potential legislative or administrative actions;  
119 requiring the Department of Transportation, in  
120 consultation with the Office of Energy within the  
121 Department of Agriculture and Consumer Services, to  
122 study and evaluate the potential development of  
123 hydrogen fueling infrastructure to support hydrogen-  
124 powered vehicles; requiring the department to submit  
125 by a specified date a report to the Governor and the

126 Legislature that contains its findings and  
 127 recommendations for specified actions that may  
 128 accommodate the future development of hydrogen fueling  
 129 infrastructure; providing effective dates.

130

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

132

133 Section 1. Section 163.3210, Florida Statutes, is created  
 134 to read:

135 163.3210 Natural gas resiliency and reliability  
 136 infrastructure.-

137 (1) It is the intent of the Legislature to maintain,  
 138 encourage, and ensure adequate and reliable fuel sources for  
 139 public utilities. The resiliency and reliability of fuel sources  
 140 for public utilities is critical to the state's economy; the  
 141 ability of the state to recover from natural disasters; and the  
 142 health, safety, welfare, and quality of life of the residents of  
 143 the state.

144 (2) As used in this section, the term:

145 (a) "Natural gas" means all forms of fuel commonly or  
 146 commercially known or sold as natural gas, including compressed  
 147 natural gas and liquefied natural gas.

148 (b) "Natural gas reserve" means a facility that is capable  
 149 of storing and transporting and, when operational, actively  
 150 stores and transports a supply of natural gas.

151 (c) "Public utility" has the same meaning as defined in s.  
152 366.02.

153 (d) "Resiliency facility" means a facility owned and  
154 operated by a public utility for the purposes of assembling,  
155 creating, holding, securing, or deploying natural gas reserves  
156 for temporary use during a system outage or natural disaster.

157 (3) A resiliency facility is a permitted use in all  
158 commercial, industrial, and manufacturing land use categories in  
159 a local government comprehensive plan and all commercial,  
160 industrial, and manufacturing districts. A resiliency facility  
161 must comply with the setback and landscape criteria for other  
162 similar uses. A local government may adopt an ordinance  
163 specifying buffer and landscaping requirements for resiliency  
164 facilities, provided such requirements do not exceed the  
165 requirements for similar uses involving the construction of  
166 other facilities that are permitted uses in commercial,  
167 industrial, and manufacturing land use categories and zoning  
168 districts.

169 (4) After July 1, 2024, a local government may not amend  
170 its comprehensive plan, land use map, zoning districts, or land  
171 development regulations in a manner that would conflict with a  
172 resiliency facility's classification as a permitted and  
173 allowable use, including, but not limited to, an amendment that  
174 causes a resiliency facility to be a nonconforming use,  
175 structure, or development.

176 Section 2. Section 286.29, Florida Statutes, is amended to  
177 read:

178 286.29 Energy guidelines for Climate-friendly public  
179 business. ~~The Legislature recognizes the importance of~~  
180 ~~leadership by state government in the area of energy efficiency~~  
181 ~~and in reducing the greenhouse gas emissions of state government~~  
182 ~~operations. The following shall pertain to all state agencies~~  
183 ~~when conducting public business:~~

184 ~~(1) The Department of Management Services shall develop~~  
185 ~~the "Florida Climate-Friendly Preferred Products List." In~~  
186 ~~maintaining that list, the department, in consultation with the~~  
187 ~~Department of Environmental Protection, shall continually assess~~  
188 ~~products currently available for purchase under state term~~  
189 ~~contracts to identify specific products and vendors that offer~~  
190 ~~clear energy efficiency or other environmental benefits over~~  
191 ~~competing products. When procuring products from state term~~  
192 ~~contracts, state agencies shall first consult the Florida~~  
193 ~~Climate-Friendly Preferred Products List and procure such~~  
194 ~~products if the price is comparable.~~

195 ~~(2) State agencies shall contract for meeting and~~  
196 ~~conference space only with hotels or conference facilities that~~  
197 ~~have received the "Green Lodging" designation from the~~  
198 ~~Department of Environmental Protection for best practices in~~  
199 ~~water, energy, and waste efficiency standards, unless the~~  
200 ~~responsible state agency head makes a determination that no~~

201 ~~other viable alternative exists.~~

202 (1)~~(3)~~ Each state agency shall ensure that all maintained  
 203 vehicles meet minimum maintenance schedules shown to reduce fuel  
 204 consumption, which include:

205 (a) Ensuring appropriate tire pressures and tread depth~~.~~

206 (b) Replacing fuel filters and emission filters at  
 207 recommended intervals~~.~~

208 (c) Using proper motor oils~~.~~ and

209 (d) Performing timely motor maintenance.

210

211 Each state agency shall measure and report compliance to the  
 212 Department of Management Services through the Equipment  
 213 Management Information System database.

214 ~~(4) When procuring new vehicles, all state agencies, state  
 215 universities, community colleges, and local governments that  
 216 purchase vehicles under a state purchasing plan shall first  
 217 define the intended purpose for the vehicle and determine which  
 218 of the following use classes for which the vehicle is being  
 219 procured:~~

220 ~~(a) State business travel, designated operator;~~

221 ~~(b) State business travel, pool operators;~~

222 ~~(c) Construction, agricultural, or maintenance work;~~

223 ~~(d) Conveyance of passengers;~~

224 ~~(e) Conveyance of building or maintenance materials and  
 225 supplies;~~

226 ~~(f) Off-road vehicle, motorcycle, or all-terrain vehicle;~~  
 227 ~~(g) Emergency response; or~~  
 228 ~~(h) Other.~~

229  
 230 ~~Vehicles described in paragraphs (a) through (h), when being~~  
 231 ~~processed for purchase or leasing agreements, must be selected~~  
 232 ~~for the greatest fuel efficiency available for a given use class~~  
 233 ~~when fuel economy data are available. Exceptions may be made for~~  
 234 ~~individual vehicles in paragraph (g) when accompanied, during~~  
 235 ~~the procurement process, by documentation indicating that the~~  
 236 ~~operator or operators will exclusively be emergency first~~  
 237 ~~responders or have special documented need for exceptional~~  
 238 ~~vehicle performance characteristics. Any request for an~~  
 239 ~~exception must be approved by the purchasing agency head and any~~  
 240 ~~exceptional performance characteristics denoted as a part of the~~  
 241 ~~procurement process prior to purchase.~~

242 (2)(5) All state agencies shall use ethanol and biodiesel  
 243 blended fuels when available. State agencies administering  
 244 central fueling operations for state-owned vehicles shall  
 245 procure biofuels for fleet needs to the greatest extent  
 246 practicable.

247 (3)(a) The Department of Management Services shall, in  
 248 consultation with the Department of Commerce and the Department  
 249 of Agriculture and Consumer Services, develop a Florida Humane  
 250 Preferred Energy Products List. In developing the list, the

251 department must assess products currently available for purchase  
 252 under state term contracts that contain or consist of an energy  
 253 storage device with a capacity of greater than one kilowatt-hour  
 254 or that contain or consist of an energy generation device with a  
 255 capacity of greater than 500 watts and identify specific  
 256 products that appear to be largely made free from forced labor,  
 257 irrespective of the age of the worker. For purposes of this  
 258 subsection, the term "forced labor" means any work performed or  
 259 service rendered that is:

260 1. Obtained by intimidation, fraud, or coercion, including  
 261 by threat of serious bodily harm to, or physical restraint  
 262 against, a person, by means of a scheme intended to cause the  
 263 person to believe that if he or she does not perform such labor  
 264 or render such service, the person will suffer serious bodily  
 265 harm or physical restraint, or by means of the abuse or  
 266 threatened abuse of law or the legal process;

267 2. Imposed on the basis of a characteristic that has been  
 268 held by the United States Supreme Court or the Florida Supreme  
 269 Court to be protected against discrimination under the  
 270 Fourteenth Amendment to the United States Constitution or under  
 271 s. 2, Art. I of the State Constitution, including race, color,  
 272 national origin, religion, gender, or physical disability;

273 3. Not performed or rendered voluntarily by a person; or

274 4. In violation of the Child Labor Law or otherwise  
 275 performed or rendered through oppressive child labor.

276        (b) When procuring the types of energy products described  
 277 in paragraph (a) from state term contracts, state agencies and  
 278 political subdivisions shall first consult the Florida Humane  
 279 Preferred Energy Products List and may not purchase or procure  
 280 products not included in the list.

281        Section 3. Subsections (1), (2), and (5) of section  
 282 366.032, Florida Statutes, are amended to read:

283        366.032 Preemption over utility service restrictions.—

284        (1) A municipality, county, special district, development  
 285 district, or other political subdivision of the state may not  
 286 enact or enforce a resolution, ordinance, rule, code, or policy  
 287 or take any action that restricts or prohibits or has the effect  
 288 of restricting or prohibiting the types or fuel sources of  
 289 energy production which may be used, delivered, converted, or  
 290 supplied by the following entities to serve customers that such  
 291 entities are authorized to serve:

292        (a) A public utility or an electric utility as defined in  
 293 this chapter;

294        (b) An entity formed under s. 163.01 that generates,  
 295 sells, or transmits electrical energy;

296        (c) A natural gas utility as defined in s. 366.04(3)(c);

297        (d) A natural gas transmission company as defined in s.  
 298 368.103; or

299        (e) A Category I liquefied petroleum gas dealer or  
 300 Category II liquefied petroleum gas dispenser or Category III



301 liquefied petroleum gas cylinder exchange operator as defined in  
 302 s. 527.01.

303 (2) Except to the extent necessary to enforce the Florida  
 304 Building Code adopted pursuant to s. 553.73 or the Florida Fire  
 305 Prevention Code adopted pursuant to s. 633.202, a municipality,  
 306 county, special district, development district, or other  
 307 political subdivision of the state may not enact or enforce a  
 308 resolution, an ordinance, a rule, a code, or a policy or take  
 309 any action that restricts or prohibits or has the effect of  
 310 restricting or prohibiting the use of an appliance, including a  
 311 stove or grill, which uses the types or fuel sources of energy  
 312 production which may be used, delivered, converted, or supplied  
 313 by the entities listed in subsection (1). As used in this  
 314 subsection, the term "appliance" means a device or apparatus  
 315 manufactured and designed to use energy and for which the  
 316 Florida Building Code or the Florida Fire Prevention Code  
 317 provides specific requirements.

318 (5) Any municipality, county, special district,  
 319 development district, or political subdivision charter,  
 320 resolution, ordinance, rule, code, policy, or action that is  
 321 preempted by this act that existed before or on July 1, 2021, is  
 322 void.

323 Section 4. Subsection (10) is added to section 366.04,  
 324 Florida Statutes, to read:

325 366.04 Jurisdiction of commission.—

326       (10) In the exercise of its jurisdiction, the commission,  
 327 without specific legislative authority, may not authorize a  
 328 public utility to expand the scope of its regulated business  
 329 activity to include direct sales of energy to a consumer solely  
 330 for the consumer's use in powering means of transportation owned  
 331 by the consumer. This provision does not apply to limited or  
 332 pilot programs approved by the commission before January 1,  
 333 2024.

334       Section 5. Section 366.94, Florida Statutes, is amended to  
 335 read:

336       366.94 Electric vehicle charging ~~stations~~.—

337       (1) The provision of electric vehicle charging to the  
 338 public by a nonutility is not the retail sale of electricity for  
 339 the purposes of this chapter. The rates, terms, and conditions  
 340 of electric vehicle charging services by a nonutility are not  
 341 subject to regulation under this chapter. This section does not  
 342 affect the ability of individuals, businesses, or governmental  
 343 entities to acquire, install, or use an electric vehicle charger  
 344 for their own vehicles.

345       (2) The Department of Agriculture and Consumer Services  
 346 shall adopt rules to provide definitions, methods of sale,  
 347 labeling requirements, and price-posting requirements for  
 348 electric vehicle charging ~~stations~~ to allow for consistency for  
 349 consumers and the industry.

350       (3) (a) It is unlawful for a person to stop, stand, or park

351 a vehicle that is not capable of using an electrical recharging  
 352 station within any parking space specifically designated for  
 353 charging an electric vehicle.

354 (b) If a law enforcement officer finds a motor vehicle in  
 355 violation of this subsection, the officer or specialist shall  
 356 charge the operator or other person in charge of the vehicle in  
 357 violation with a noncriminal traffic infraction, punishable as  
 358 provided in s. 316.008(4) or s. 318.18.

359 (4) The commission may approve voluntary public utility  
 360 programs to become effective on or after January 1, 2025, for  
 361 residential, customer-specific electric vehicle charging if the  
 362 commission determines that the rates and rate structure of the  
 363 program will not adversely impact the public utility's general  
 364 body of ratepayers. All revenues received from the program must  
 365 be credited to the public utility's retail ratepayers. This  
 366 provision does not preclude cost recovery for electric vehicle  
 367 charging programs approved by the commission before January 1,  
 368 2024.

369 Section 6. Section 366.99, Florida Statutes, is created to  
 370 read:

371 366.99 Natural gas facilities relocation costs.-

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

373 (a) "Authority" has the same meaning as in s.

374 337.401(1)(a).

375 (b) "Facilities relocation" means the physical moving,

376 modification, or reconstruction of public utility facilities to  
 377 accommodate the requirements imposed by an authority.

378 (c) "Natural gas facilities" or "facilities" means gas  
 379 mains, laterals, and service lines used to distribute natural  
 380 gas to customers. The term includes all ancillary equipment  
 381 needed for safe operations, including, but not limited to,  
 382 regulating stations, meters, other measuring devices,  
 383 regulators, and pressure monitoring equipment.

384 (d) "Natural gas facilities relocation costs" means the  
 385 costs to relocate or reconstruct facilities as required by a  
 386 mandate, a statute, a law, an ordinance, or an agreement between  
 387 the utility and an authority, including, but not limited to,  
 388 costs associated with reviewing plans provided by an authority.  
 389 The term does not include any costs recovered through the public  
 390 utility's base rates.

391 (e) "Public utility" or "utility" has the same meaning as  
 392 in s. 366.02, except that the term does not include an electric  
 393 utility.

394 (2) A utility may submit to the commission, pursuant to  
 395 commission rule, a petition describing the utility's projected  
 396 natural gas facilities relocation costs for the next calendar  
 397 year, actual natural gas facilities relocation costs for the  
 398 prior calendar year, and proposed cost-recovery factors designed  
 399 to recover such costs. A utility's decision to proceed with  
 400 implementing a plan before filing such a petition does not

401 constitute imprudence.

402 (3) The commission shall conduct an annual proceeding to  
403 determine each utility's prudently incurred natural gas  
404 facilities relocation costs and to allow each utility to recover  
405 such costs through a charge separate and apart from base rates,  
406 to be referred to as the natural gas facilities relocation cost  
407 recovery clause. The commission's review in the proceeding is  
408 limited to determining the prudence of the utility's actual  
409 incurred natural gas facilities relocation costs and the  
410 reasonableness of the utility's projected natural gas facilities  
411 relocation costs for the following calendar year; and providing  
412 for a true-up of the costs with the projections on which past  
413 factors were set. The commission shall require that any refund  
414 or collection made as a part of the true-up process includes  
415 interest.

416 (4) All costs approved for recovery through the natural  
417 gas facilities relocation cost recovery clause must be allocated  
418 to customer classes pursuant to the rate design most recently  
419 approved by the commission.

420 (5) If a capital expenditure is recoverable as a natural  
421 gas facilities relocation cost, the public utility may recover  
422 the annual depreciation on the cost, calculated at the public  
423 utility's current approved depreciation rates, and a return on  
424 the undepreciated balance of the costs at the public utility's  
425 weighted average cost of capital using the last approved return

426 on equity.

427 (6) The commission shall adopt rules to implement and  
 428 administer this section and shall propose a rule for adoption as  
 429 soon as practicable after July 1, 2024.

430 Section 7. Section 377.601, Florida Statutes, is amended  
 431 to read:

432 377.601 Legislative intent.—

433 (1) The purpose of the state's energy policy is to ensure  
 434 an adequate, reliable, and cost-effective supply of energy for  
 435 the state in a manner that promotes the health and welfare of  
 436 the public and economic growth. The Legislature intends that  
 437 governance of the state's energy policy be efficiently directed  
 438 toward achieving this purpose. ~~The Legislature finds that the~~  
 439 ~~state's energy security can be increased by lessening dependence~~  
 440 ~~on foreign oil; that the impacts of global climate change can be~~  
 441 ~~reduced through the reduction of greenhouse gas emissions; and~~  
 442 ~~that the implementation of alternative energy technologies can~~  
 443 ~~be a source of new jobs and employment opportunities for many~~  
 444 ~~Floridians. The Legislature further finds that the state is~~  
 445 ~~positioned at the front line against potential impacts of global~~  
 446 ~~climate change. Human and economic costs of those impacts can be~~  
 447 ~~averted by global actions and, where necessary, adapted to by a~~  
 448 ~~concerted effort to make Florida's communities more resilient~~  
 449 ~~and less vulnerable to these impacts. In focusing the~~  
 450 ~~government's policy and efforts to benefit and protect our~~

451 ~~state, its citizens, and its resources, the Legislature believes~~  
452 ~~that a single government entity with a specific focus on energy~~  
453 ~~and climate change is both desirable and advantageous. Further,~~  
454 ~~the Legislature finds that energy infrastructure provides the~~  
455 ~~foundation for secure and reliable access to the energy supplies~~  
456 ~~and services on which Florida depends. Therefore, there is~~  
457 ~~significant value to Florida consumers that comes from~~  
458 ~~investment in Florida's energy infrastructure that increases~~  
459 ~~system reliability, enhances energy independence and~~  
460 ~~diversification, stabilizes energy costs, and reduces greenhouse~~  
461 ~~gas emissions.~~

462 (2) For the purposes of subsection (1), the state's energy  
463 policy must be guided by the following goals:

464 (a) Ensuring a cost-effective and affordable energy  
465 supply.

466 (b) Ensuring adequate supply and capacity.

467 (c) Ensuring a secure, resilient, and reliable energy  
468 supply, with an emphasis on a diverse supply of domestic energy  
469 resources.

470 (d) Protecting public safety.

471 (e) Protecting the state's natural resources, including  
472 its coastlines, tributaries, and waterways.

473 (f) Supporting economic growth.

474 (3)-(2) In furtherance of the goals in subsection (2), it  
475 is the policy of the state of Florida to:

476           (a) ~~Develop and~~ Promote the cost-effective development and  
 477 effective use of a diverse supply of domestic energy resources  
 478 in the state ~~and~~, discourage all forms of energy waste, ~~and~~  
 479 ~~recognize and address the potential of global climate change~~  
 480 ~~wherever possible.~~

481           (b) Promote the cost-effective development and maintenance  
 482 of energy infrastructure that is resilient to natural and  
 483 manmade threats to the security and reliability of the state's  
 484 energy supply. ~~Play a leading role in developing and instituting~~  
 485 ~~energy management programs aimed at promoting energy~~  
 486 ~~conservation, energy security, and the reduction of greenhouse~~  
 487 ~~gas emissions.~~

488           (c) Reduce reliance on foreign energy resources.

489           (d)~~(e)~~ Include energy reliability and security  
 490 considerations in all state, regional, and local planning.

491           (e)~~(d)~~ Utilize and manage effectively energy resources  
 492 used within state agencies.

493           (f)~~(e)~~ Encourage local governments to include energy  
 494 considerations in all planning and to support their work in  
 495 promoting energy management programs.

496           (g)~~(f)~~ Include the full participation of citizens in the  
 497 development and implementation of energy programs.

498           (h)~~(g)~~ Consider in its decisions the energy needs of each  
 499 economic sector, including residential, industrial, commercial,  
 500 agricultural, and governmental uses, and reduce those needs



501 whenever possible.

502 ~~(i)-(h)~~ Promote energy education and the public  
503 dissemination of information on energy and its impacts in  
504 relation to the goals in subsection (2) ~~environmental, economic,~~  
505 ~~and social impact.~~

506 ~~(j)-(i)~~ Encourage the research, development, demonstration,  
507 and application of domestic energy resources, including the use  
508 of alternative energy resources, particularly renewable energy  
509 resources.

510 ~~(k)-(j)~~ Consider, in its decisionmaking, the impacts of  
511 energy-related activities on the goals in subsection (2) ~~social,~~  
512 ~~economic, and environmental impacts of energy-related~~  
513 ~~activities,~~ including the whole-life-cycle impacts of any  
514 potential energy use choices, so that detrimental effects of  
515 these activities are understood and minimized.

516 ~~(l)-(k)~~ Develop and maintain energy emergency preparedness  
517 plans to minimize the effects of an energy shortage within this  
518 state Florida.

519 Section 8. Subsection (2) of section 377.6015, Florida  
520 Statutes, is amended to read:

521 377.6015 Department of Agriculture and Consumer Services;  
522 powers and duties.—

523 (2) The department shall:

524 ~~(a) Administer the Florida Renewable Energy and Energy-~~  
525 ~~Efficient Technologies Grants Program pursuant to s. 377.804 to~~

526 | ~~assure a robust grant portfolio.~~

527 |     ~~(a)-(b)~~ Develop policy for requiring grantees to provide  
 528 | royalty-sharing or licensing agreements with state government  
 529 | for commercialized products developed under a state grant.

530 |     ~~(c) Administer the Florida Green Government Grants Act~~  
 531 | ~~pursuant to s. 377.808 and set annual priorities for grants.~~

532 |     ~~(b)-(d)~~ Administer the information gathering and reporting  
 533 | functions pursuant to ss. 377.601-377.608.

534 |     ~~(c) Administer the provisions of the Florida Energy and~~  
 535 | ~~Climate Protection Act pursuant to ss. 377.801-377.804.~~

536 |     ~~(c)-(f)~~ Advocate for energy and climate change issues  
 537 | consistent with the goals in s. 377.601(2) and provide  
 538 | educational outreach and technical assistance in cooperation  
 539 | with the state's academic institutions.

540 |     ~~(d)-(g)~~ Be a party in the proceedings to adopt goals and  
 541 | submit comments to the Public Service Commission pursuant to s.  
 542 | 366.82.

543 |     ~~(e)-(h)~~ Adopt rules pursuant to chapter 120 in order to  
 544 | implement all powers and duties described in this section.

545 |     Section 9. Subsection (1) and paragraphs (e), (f), and (m)  
 546 | of subsection (2) of section 377.703, Florida Statutes, are  
 547 | amended to read:

548 |     377.703 Additional functions of the Department of  
 549 | Agriculture and Consumer Services.—

550 |     (1) LEGISLATIVE INTENT.—Recognizing that energy supply and

551 demand questions have become a major area of concern to the  
552 state which must be dealt with by effective and well-coordinated  
553 state action, it is the intent of the Legislature to promote the  
554 efficient, effective, and economical management of energy  
555 problems, centralize energy coordination responsibilities,  
556 pinpoint responsibility for conducting energy programs, and  
557 ensure the accountability of state agencies for the  
558 implementation of s. 377.601 ~~s. 377.601(2)~~, the state energy  
559 policy. It is the specific intent of the Legislature that  
560 nothing in this act shall in any way change the powers, duties,  
561 and responsibilities assigned by the Florida Electrical Power  
562 Plant Siting Act, part II of chapter 403, or the powers, duties,  
563 and responsibilities of the Florida Public Service Commission.

564 (2) DUTIES.—The department shall perform the following  
565 functions, unless as otherwise provided, consistent with the  
566 development of a state energy policy:

567 (e) The department shall analyze energy data collected and  
568 prepare long-range forecasts of energy supply and demand in  
569 coordination with the Florida Public Service Commission, which  
570 is responsible for electricity and natural gas forecasts. To  
571 this end, the forecasts shall contain:

572 1. An analysis of the relationship of state economic  
573 growth and development to energy supply and demand, including  
574 the constraints to economic growth resulting from energy supply  
575 constraints.

576           2. ~~Plans for the development of renewable energy resources~~  
 577 ~~and reduction in dependence on depletable energy resources,~~  
 578 ~~particularly oil and natural gas,~~ and An analysis of the extent  
 579 to which domestic energy resources, including renewable energy  
 580 sources, are being utilized in this ~~the~~ state.

581           3. Consideration of alternative scenarios of statewide  
 582 energy supply and demand for 5, 10, and 20 years to identify  
 583 strategies for long-range action, including identification of  
 584 potential impacts in relation to the goals in s. 377.601(2)  
 585 ~~social, economic, and environmental effects.~~

586           4. An assessment of the state's energy resources,  
 587 including examination of the availability of commercially  
 588 developable and imported fuels, and an analysis of anticipated  
 589 impacts in relation to the goals in s. 377.601(2) ~~effects on the~~  
 590 ~~state's environment and social services~~ resulting from energy  
 591 resource development activities or from energy supply  
 592 constraints, or both.

593           (f) The department shall submit an annual report to the  
 594 Governor and the Legislature reflecting its activities and  
 595 making recommendations for policies for improvement of the  
 596 state's response to energy supply and demand and its effect on  
 597 the health, safety, and welfare of the residents of this state.  
 598 The report must include a report from the Florida Public Service  
 599 Commission on electricity and natural gas and information on  
 600 energy conservation programs conducted and underway in the past

601 year and include recommendations for energy efficiency and  
 602 conservation programs for the state, including:

603 1. Formulation of specific recommendations for improvement  
 604 in the efficiency of energy utilization in governmental,  
 605 residential, commercial, industrial, and transportation sectors.

606 2. Collection and dissemination of information relating to  
 607 energy efficiency and conservation.

608 3. Development and conduct of educational and training  
 609 programs relating to energy efficiency and conservation.

610 4. An analysis of the ways in which state agencies are  
 611 seeking to implement s. 377.601 ~~s. 377.601(2)~~, the state energy  
 612 policy, and recommendations for better fulfilling this policy.

613 (m) In recognition of the devastation to the economy of  
 614 this state and the dangers to the health and welfare of  
 615 residents of this state caused by severe hurricanes, and the  
 616 potential for such impacts caused by other natural disasters,  
 617 the Division of Emergency Management shall include in its energy  
 618 emergency contingency plan and provide to the Florida Building  
 619 Commission for inclusion in the Florida Energy Efficiency Code  
 620 for Building Construction specific provisions to facilitate the  
 621 use of cost-effective ~~solar~~ energy technologies as emergency  
 622 remedial and preventive measures for providing electric power,  
 623 street lighting, and water heating service in the event of  
 624 electric power outages.

625 Section 10. Sections 377.801, 377.802, 377.803, 377.804,

626 377.808, 377.809, and 377.816, Florida Statutes, are repealed.

627 Section 11. (1) For programs established pursuant to s.  
 628 377.804, s. 377.808, s. 377.809, or s. 377.816, Florida  
 629 Statutes, there may not be:

630 (a) New or additional applications, certifications, or  
 631 allocations approved.

632 (b) New letters of certification issued.

633 (c) New contracts or agreements executed.

634 (d) New awards made.

635 (2) All certifications or allocations issued under such  
 636 programs are rescinded except for the certifications of, or  
 637 allocations to, those certified applicants or projects that  
 638 continue to meet the applicable criteria in effect before July  
 639 1, 2024. Any existing contract or agreement authorized under any  
 640 of these programs shall continue in full force and effect in  
 641 accordance with the statutory requirements in effect when the  
 642 contract or agreement was executed or last modified. However,  
 643 further modifications, extensions, or waivers may not be made or  
 644 granted relating to such contracts or agreements, except  
 645 computations by the Department of Revenue of the income  
 646 generated by or arising out of the qualifying project.

647 Section 12. Paragraph (d) of subsection (2) of section  
 648 220.193, Florida Statutes, is amended to read:

649 220.193 Florida renewable energy production credit.—

650 (2) As used in this section, the term:

651 (d) "Florida renewable energy facility" means a facility  
 652 in the state that produces electricity for sale from renewable  
 653 energy, ~~as defined in s. 377.803.~~

654 Section 13. Subsection (7) of section 288.9606, Florida  
 655 Statutes, is amended to read:

656 288.9606 Issue of revenue bonds.—

657 (7) Notwithstanding any provision of this section, the  
 658 corporation in its corporate capacity may, without authorization  
 659 from a public agency under s. 163.01(7), issue revenue bonds or  
 660 other evidence of indebtedness under this section to:

661 (a) Finance the undertaking of any project within the  
 662 state that promotes renewable energy as defined in s. 366.91 ~~or~~  
 663 ~~s. 377.803~~;

664 (b) Finance the undertaking of any project within the  
 665 state that is a project contemplated or allowed under s. 406 of  
 666 the American Recovery and Reinvestment Act of 2009; ~~or~~

667 (c) If permitted by federal law, finance qualifying  
 668 improvement projects within the state under s. 163.08; or

669 (d) Finance the costs of acquisition or construction of a  
 670 transportation facility by a private entity or consortium of  
 671 private entities under a public-private partnership agreement  
 672 authorized by s. 334.30.

673 Section 14. Paragraph (w) of subsection (2) of section  
 674 380.0651, Florida Statutes, is amended to read:

675 380.0651 Statewide guidelines, standards, and exemptions.—

676 (2) STATUTORY EXEMPTIONS.—The following developments are  
 677 exempt from s. 380.06:

678 ~~(w) Any development in an energy economic zone designated~~  
 679 ~~pursuant to s. 377.809 upon approval by its local governing~~  
 680 ~~body.~~

681  
 682 If a use is exempt from review pursuant to paragraphs (a)-(u),  
 683 but will be part of a larger project that is subject to review  
 684 pursuant to s. 380.06(12), the impact of the exempt use must be  
 685 included in the review of the larger project, unless such exempt  
 686 use involves a development that includes a landowner, tenant, or  
 687 user that has entered into a funding agreement with the state  
 688 land planning agency under the Innovation Incentive Program and  
 689 the agreement contemplates a state award of at least \$50  
 690 million.

691 Section 15. Subsection (2) of section 403.9405, Florida  
 692 Statutes, is amended to read:

693 403.9405 Applicability; certification; exemption; notice  
 694 of intent.—

695 (2) ~~No construction of~~ A natural gas transmission pipeline  
 696 may not be constructed ~~be undertaken after October 1, 1992,~~  
 697 without first obtaining certification under ss. 403.9401-  
 698 403.9425, but these sections do not apply to:

699 (a) Natural gas transmission pipelines which are less than  
 700 100 ~~15~~ miles in length or which do not cross a county line,



701 unless the applicant has elected to apply for certification  
702 under ss. 403.9401-403.9425.

703 (b) Natural gas transmission pipelines for which a  
704 certificate of public convenience and necessity has been issued  
705 under s. 7(c) of the Natural Gas Act, 15 U.S.C. s. 717f, or a  
706 natural gas transmission pipeline certified as an associated  
707 facility to an electrical power plant pursuant to the Florida  
708 Electrical Power Plant Siting Act, ss. 403.501-403.518, unless  
709 the applicant elects to apply for certification of that pipeline  
710 under ss. 403.9401-403.9425.

711 (c) Natural gas transmission pipelines that are owned or  
712 operated by a municipality or any agency thereof, by any person  
713 primarily for the local distribution of natural gas, or by a  
714 special district created by special act to distribute natural  
715 gas, unless the applicant elects to apply for certification of  
716 that pipeline under ss. 403.9401-403.9425.

717 Section 16. Subsection (3) of section 720.3075, Florida  
718 Statutes, is amended to read:

719 720.3075 Prohibited clauses in association documents.—

720 (3) Homeowners' association documents, including  
721 declarations of covenants, articles of incorporation, or bylaws,  
722 may not preclude:

723 (a) The display of up to two portable, removable flags as  
724 described in s. 720.304(2)(a) by property owners. However, all  
725 flags must be displayed in a respectful manner consistent with

726 the requirements for the United States flag under 36 U.S.C.  
 727 chapter 10.

728 (b) Types or fuel sources of energy production which may  
 729 be used, delivered, converted, or supplied by the following  
 730 entities to serve customers within the association that such  
 731 entities are authorized to serve:

732 1. A public utility or an electric utility as defined in  
 733 this chapter;

734 2. An entity formed under s. 163.01 that generates, sells,  
 735 or transmits electrical energy;

736 3. A natural gas utility as defined in s. 366.04(3)(c);

737 4. A natural gas transmission company as defined in s.  
 738 368.103; or

739 5. A Category I liquefied petroleum gas dealer, a Category  
 740 II liquefied petroleum gas dispenser, or a Category III  
 741 liquefied petroleum gas cylinder exchange operator as defined in  
 742 s. 527.01.

743 (c) The use of an appliance, including a stove or grill,  
 744 which uses the types or fuel sources of energy production which  
 745 may be used, delivered, converted, or supplied by the entities  
 746 listed in paragraph (b). As used in this paragraph, the term  
 747 "appliance" means a device or apparatus manufactured and  
 748 designed to use energy and for which the Florida Building Code  
 749 or the Florida Fire Prevention Code provides specific  
 750 requirements.

751           Section 17. (1) The Public Service Commission shall  
752 conduct an assessment of the security and resiliency of the  
753 state's electric grid and natural gas facilities against both  
754 physical threats and cyber threats. In conducting this  
755 assessment, the commission shall consult with the Division of  
756 Emergency Management and, in its assessment of cyber threats,  
757 shall consult with the Florida Digital Service. All electric  
758 utilities, natural gas utilities, and natural gas pipelines  
759 operating in this state, regardless of ownership structure,  
760 shall cooperate with the commission to provide access to all  
761 information necessary to conduct the assessment.

762           (2) By July 1, 2025, the commission shall submit a report  
763 of its assessment to the Governor, the President of the Senate,  
764 and the Speaker of the House of Representatives. The report must  
765 also contain any recommendations for potential legislative or  
766 administrative actions that may enhance the physical security or  
767 cyber security of the state's electric grid or natural gas  
768 facilities.

769           Section 18. (1) Recognizing the evolution and advances  
770 that have occurred and continue to occur in nuclear power  
771 technologies, the Public Service Commission shall study and  
772 evaluate the technical and economic feasibility of using  
773 advanced nuclear power technologies, including small modular  
774 reactors, to meet the electrical power needs of the state, and  
775 research means to encourage and foster the installation and use

776 of such technologies at military installations in the state in  
777 partnership with public utilities. In conducting this study, the  
778 commission shall consult with the Department of Environmental  
779 Protection and the Division of Emergency Management.

780 (2) By April 1, 2025, the commission shall prepare and  
781 submit a report to the Governor, the President of the Senate,  
782 and the Speaker of the House of Representatives, containing its  
783 findings and any recommendations for potential legislative or  
784 administrative actions that may enhance the use of advanced  
785 nuclear technologies in a manner consistent with the energy  
786 policy goals in s. 377.601(2), Florida Statutes.

787 Section 19. (1) Recognizing the continued development of  
788 technologies that support the use of hydrogen as a  
789 transportation fuel and the potential for such use to help meet  
790 the state's energy policy goals in s. 377.601(2), Florida  
791 Statutes, the Department of Transportation, in consultation with  
792 the Office of Energy within the Department of Agriculture and  
793 Consumer Services, shall study and evaluate the potential  
794 development of hydrogen fueling infrastructure, including  
795 fueling stations, to support hydrogen-powered vehicles that use  
796 the state highway system.

797 (2) By April 1, 2025, the Department of Transportation  
798 shall prepare and submit a report to the Governor, the President  
799 of the Senate, and the Speaker of the House of Representatives,  
800 containing its findings and any recommendations for potential

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801 legislative or administrative actions that may accommodate the  
802 future development of hydrogen fueling infrastructure in a  
803 manner consistent with the energy policy goals in s. 377.601(2),  
804 Florida Statutes.

805 Section 20. This act shall take effect July 1, 2024.