

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 760

INTRODUCER: Health Policy Committee and Senators Bradley and Sobel

SUBJECT: Child Protection

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Harper</u>	<u>Stovall</u>	<u>HP</u>	Fav/CS
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 760 requires the Statewide Medical Director for Child Protection to be a physician licensed under chs. 458 or 459, F.S., who is board certified in pediatrics with a subspecialty certification in child abuse from the American Board of Pediatrics.

The bill also requires each district medical director to be a physician licensed under chs. 458 or 459, F.S., who is board certified in pediatrics. In addition, within 2 years after the date of employment as district medical director, he or she must obtain a subspecialty certification in child abuse from the American Board of Pediatrics or a certificate issued by the Deputy Secretary for Children's Medical Services of the Florida Department of Health in recognition of demonstrated specialized competence in child abuse.

The bill also amends s. 458.3175(2), F.S., to authorize a physician with an expert witness certificate to provide expert testimony in a criminal child abuse case.

The DOH indicates that the fiscal impact of the bill is \$70,000 non-recurring and \$25,000 recurring costs, related to development of the certificate in recognition of demonstrated specialized competence in child abuse.

II. Present Situation:

Child Protection Teams

A child protection team (CPT) is a medically directed, multidisciplinary team that works with local Sheriff's offices and the Department of Children and Families (DCF) in cases of child abuse and neglect to supplement investigation activities.¹ Section 39.303, F.S., governs CPTs, and requires the Children's Medical Services Program (CMS) in the Department of Health (DOH) to develop, maintain, and coordinate the services of the CPTs in each of the service districts of the DCF. CPT medical directors are responsible for oversight of the teams.²

CPTs are independent, community-based programs that provide expertise in evaluating alleged child abuse and neglect. Specifically, CPTs help assess risk and protective factors, and provide recommendations for interventions that protect children.³

Child abuse, abandonment, and neglect reports that must be referred to CPTs include cases involving:

- Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.
- Bruises anywhere on a child 5 years of age or younger.
- Any report alleging sexual abuse of a child.
- Any sexually transmitted disease in a prepubescent child.
- Reported malnutrition or failure of a child to thrive.
- Reported medical neglect of a child.
- A sibling or other child remaining in a home where one or more children have been pronounced dead on arrival or have been injured and later died as a result of suspected abuse, abandonment, or neglect.
- Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.⁴

Child Protection Team Medical Director(s)

There is currently no statutory related qualifications of either the Statewide Medical Director for Child Protection or the district team medical directors. However, the Florida Administrative Code provides that each CPT function under the oversight of a CMS approved provider pediatrician whose title is Child Protection Team Medical Director.⁵ According to the rule, the minimum qualifications for this position are:

- Graduation from an accredited school of medicine with board certification in pediatrics and licensed to practice in Florida.

¹ Children's Medical Services, *Child Protection Teams*, (Aug. 30, 2012) available at http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited Mar. 31, 2015).

² Section 39.303, F.S.

³ Children's Medical Services, *Child Protection Team Brochure*, available at http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/documents/child_protection_brochure.pdf (last visited Mar. 31, 2015).

⁴ *Supra* note 2 at (2).

⁵ Chapter 64C-8.002, F.A.C.

- An approved CMS physician provider.
- Demonstrated interest in the field of child abuse and neglect and satisfactory completion of training deemed necessary by the DOH for evaluating alleged abuse and neglect.
- Availability to provide oversight of team and client assessments.⁶

The State Surgeon General and the Deputy Secretary for the CMS, in consultation with the Secretary of Children and Families, have the responsibility for the screening, employment, and any necessary termination of child protection team medical directors, both at the state and district level.⁷

As of February 24, 2015, there are 24 local CPT medical directors in the state of Florida. One of the 24 medical director positions is vacant; two districts also have an associate medical director; and one district also has a clinical director.⁸

Specialty Certification for Child Abuse Pediatrics

The American Board of Medical Specialties approved the child abuse pediatrics specialty in 2006.⁹ The Child Abuse Pediatric certification exam requires a person to be certified in General Pediatrics and to have completed a 3-year child abuse pediatrics fellowship at an accredited program.¹⁰ The American Board of Pediatrics administered the first certification exams in late 2009.¹¹

Child abuse pediatricians diagnose and treat children and adolescents who are suspected child abuse victims. The types of abuse a child abuse pediatrician can treat includes physical abuse, sexual abuse, factitious illness (medical child abuse), neglect, and psychological/emotional abuse. Child abuse pediatricians can give expert testimony in court proceedings involving child abuse.¹²

As of December 31, 2013, Florida has 12 physicians certified in Child Abuse Pediatrics and 9 of those 12 are currently CPT medical directors.¹³

Expert Testimony

Section 458.3175, F.S., authorizes the DOH to issue expert witness certificates to physicians who have an active and valid license to practice medicine in another state or in Canada. A physician must submit a registration application and a \$50 registration fee to the DOH, which has

⁶ Chapter 64C-8.002(1), F.A.C.

⁷ *Supra* note 2.

⁸ Children's Medical Services, *Child Protection Teams: CPT Statewide Directory*, (Feb. 24, 2015) available at <http://www.floridahealth.gov/alternatesites/cms-kids/home/contact/cpt.pdf> (last visited Mar. 31, 2015).

⁹ HealthLeaders Media, *New Specialty Certification for Child Abuse Pediatrics*, (Nov. 6, 2009) available at <http://www.healthleadersmedia.com/content/PHY-241751/New-Specialty-Certification-for-Child-Abuse-Pediatrics.html> (last visited Mar. 31, 2015).

¹⁰ Council of Pediatric Subspecialties, *Pediatric Child Abuse*, (Nov. 5, 2013) available at <http://pedsubs.org/SubDes/ChildAbuse.cfm> (last visited Mar. 31, 2015).

¹¹ *Supra* note 9.

¹² *Supra* note 10.

¹³ Department of Health, *Senate Bill 760 Analysis*, (Feb. 17, 2015) (on file with the Senate Committee on Health Policy).

10 business days to approve a complete application. An expert witness certificate is valid for 2 years and allows a physician to provide:

- A verified written medical opinion; and
- Expert testimony in a medical negligence case against a licensed Florida physician about the prevailing professional standard of care.¹⁴

Expert testimony in criminal child abuse cases can be provided by physicians licensed under chs. 457 or 459, F.S., or those with an expert witness certificate. However, if the criminal child abuse case concerns mental injury the physician must meet the above criteria as well as having completed a residency in psychiatry to provide testimony.¹⁵

While a physician with an expert certificate is permitted to testify in criminal child abuse cases, s. 458.3175, F.S., does not allow such testimony.¹⁶

III. Effect of Proposed Changes:

Section 1 amends s. 39.303, F.S., to require the Statewide Medical Director for Child Protection to be a physician licensed under chs. 458 or 459, F.S., and board certified in pediatrics with a subspecialty certification in child abuse from the American Board of Pediatrics.

This will ensure that the statewide medical director who is responsible for supervising other pediatricians on child protection teams will hold the same or similar credentials.

The bill also requires each district medical director to be a physician licensed under chs. 458 or 459, F.S., and board certified in pediatrics. In addition, within 2 years after the date of employment as district medical director, he or she must obtain a subspecialty certification in child abuse from the American Board of Pediatrics or a certificate issued by the Deputy Secretary for CMS in recognition of demonstrated specialized competence in child abuse.

This will ensure that all district medical directors have a recognized degree of competence.

Section 2 amends s. 458.3175(2), F.S., to authorize a physician with an expert witness certificate to provide expert testimony in a criminal child abuse case. This conforms to the authorizations in existing law in ss. 827.03 and 960.03, F.S., which were added to the statutes in 2012.¹⁷

Sections 3 – 4 reenact ss. 39.3031 and 391.026(2), F.S., to incorporate the amendment to s. 39.303, F.S.

Sections 5 – 7 reenact ss. 766.102(12), 827.03(3)(a) and (b), and 960.03(3)(a), F.S., to incorporate the amendment to s. 458.3175, F.S.

Section 8 provides an effective date of July 1, 2015.

¹⁴ Section 458.3175, F.S.

¹⁵ Section 827.03(3), F.S.

¹⁶ Section 458.3175, F.S.

¹⁷ Chapter 2012-155, L.O.F.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CPT medical directors may incur costs to obtain the required subspecialty certification. The exam fee for the subspecialty certification in child abuse is \$2,900 and the certification period is 10 years. To maintain the subspecialty certification in Child Abuse, the physician must enroll in maintenance of certification requirements every 5 years at a cost of \$1,230.¹⁸ There are 24 CPT medical directors, 9 of which are currently certified in Child Abuse Pediatrics.

C. Government Sector Impact:

The DOH may issue a CPT medical director a certificate “in recognition of demonstrated specialized competence in child abuse.” The DOT indicates that it will incur costs associated with the issuance of certificates and verification of qualifications. The DOH may be required to administer an examination as a means of determining competence. The Florida Certification Board estimated the DOH will need \$70,000 non-recurring costs for credential development for an examination and \$25,000 in recurring costs to maintain the credential.¹⁹

VI. Technical Deficiencies:

The bill does not specifically address currently employed district medical directors or require them to obtain a subspecialty certification in child abuse from the American Board of Pediatrics or a certificate issued by the Deputy Secretary for CMS in recognition of demonstrated specialized competence in child abuse.

¹⁸ *Supra* note 13.

¹⁹ *Id.*

VII. Related Issues:

The bill does not list specific criteria needed for the Deputy Secretary for CMS to issue a certificate in recognition of demonstrated specialized competence in child abuse to a district medical director. Clarification may be needed to advise the DOH whether regulatory responsibilities that are typically associated with the certification of a profession are intended.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.303 and 458.3175.

This bill reenacts the following sections of the Florida Statutes: 39.3031, 391.026(2), 766.102(12), 827.03(3)(a) and (b), and 960.03(3)(a).

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 23, 2015:

The CS conforms provisions relating to activities an expert witness certificate issued by the DOH authorizes under ch. 458, F.S., with existing law. The CS reenacts the following sections of the Florida Statutes: 766.102(12), 827.03(3)(a) and (b), and 960.03(3)(a).

B. Amendments:

None.