

HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

BILL #:	CS/CS/HB 1055	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Health & Human Services Committee; Children, Families & Seniors Subcommittee; Harrell & others	113 Y's	1 N's
COMPANION BILLS:	CS/CS/SB 760	GOVERNOR'S ACTION:	Pending

SUMMARY ANALYSIS

CS/CS/HB 1055 passed the House on April 16, 2015, and subsequently passed the Senate on April 22, 2015.

A child protection team (CPT) is a medically directed, multidisciplinary team that works with local sheriffs' offices and the Department of Children and Families (DCF) in cases of child abuse and neglect to supplement investigation activities. Child protection teams provide expertise in evaluating alleged child abuse and neglect, assessing risk and protective factors, and providing recommendations for interventions to protect children.

CS/CS/HB 1055 makes several changes regarding members of child protection teams. The bill requires:

- The statewide medical director for child protection to be a board-certified pediatrician and hold a sub-specialty certification in child abuse pediatrics;
- The district child protection team medical directors to be board-certified pediatricians and hold either a sub-specialty certification in child abuse pediatrics or an approved credential in child abuse pediatrics;
- Department of Health approval of one or more third-party credentialing entities to develop and administer a credential in child abuse pediatrics, subject to appropriation; and
- The inclusion of a child protection team medical director on any Critical Incident Rapid Response Team initiated by the Department of Children and Families to conduct investigations of certain child deaths or other serious incidents.

The bill also adds testimony in child abuse and neglect cases as an authorized use of the expert witness certificate for physicians and osteopathic physicians.

The bill has an insignificant fiscal impact on state government. See fiscal comments.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2015.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Child Protection Teams

A child protection team (CPT) is a medically directed, multidisciplinary team that supplements the child protective investigation efforts of local sheriffs' offices and the Department of Children and Families (DCF) in cases of child abuse and neglect.¹ They are independent, community-based programs that provide expertise in evaluating alleged child abuse and neglect, assessing risk and protective factors, and providing recommendations for interventions to protect children and to enhance a caregiver's capacity to provide a safer environment when possible.² The Children's Medical Services (CMS) program in the Department of Health (DOH) is authorized via statute to contract for these CPT services with local community-based programs.³ There are 23 CPTs across the state providing services to all 67 Florida counties.⁴

Child abuse, abandonment and neglect reports to the DCF central abuse hotline that must be referred to child protection teams 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 five 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.⁵

The State Surgeon General and the DOH Deputy Secretary for Children's Medical Services, in consultation with the DCF Secretary, have responsibility for the screening, employment, and any necessary termination of child protection team medical directors, both at the state and district level.⁶ There is currently no statutory requirement related to the qualifications of either the Statewide Medical Director for Child Protection or the district team medical directors. The Florida Administrative Code requires a district team medical director to be licensed to practice in Florida, board certified in pediatrics, and interested in the field of child abuse and neglect with satisfactory completion of training deemed necessary by the Department of Health.⁷

Specialty Certification for Child Abuse Pediatrics

Child abuse pediatricians diagnose and treat children and adolescents who are suspected victims of child maltreatment. This includes physical abuse, sexual abuse, factitious illness (medical child abuse), neglect, and psychological/emotional abuse. These specialty pediatricians participate in

¹ Florida Department of Health, Children's Medical Services. *Child Protection Teams* http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited March 10, 2015).

² Id.

³ Section 39.303, F.S.

⁴ Children's Medical Services, *Child Protection Teams: CPT Statewide Directory*, available at <http://www.floridahealth.gov/alternatesites/cms-kids/home/contact/cpt.pdf> (last accessed March 12, 2015).

⁵ Id.

⁶ Supra. at FN 4.

⁷ Rule 64C-8.002, F.A.C.

multidisciplinary collaborative work within the medical, child welfare, and law enforcement systems. They are also often called to provide expert testimony in court proceedings.⁸

The American Board of Medical Specialties approved the child abuse pediatrics specialty in 2006 and the American Board of Pediatrics issued the first certification exams in late 2009. Three years of full-time, broad-based fellowship training in child abuse pediatrics are required for fellows entering training on or after January 1, 2010.⁹ Three-year child abuse fellowships are in various stages of development at academic medical centers because of the new specialty designation. Most of them are housed within children's hospitals across the country, similar to other pediatric specialty fellowships, and will be comprised of both clinical and research training and a requirement for a scholarly project, which will help advance the field.¹⁰ As of December 31, 2013, there were 324 child abuse pediatrics diplomates nationwide, including 12 in Florida.¹¹

In 2014, CPT staff developed a certification exam in child abuse pediatrics to be used by CPT medical directors.¹² This certification exam has not been validated according to national psychometric standards for it to qualify as a child abuse pediatrics certification exam or to ensure that the instrument is reliable and legally defensible.

Expert Testimony in Child Abuse Cases and Expert Witness Certificate

Sections 458.3175 and 459.0066, F.S., require an expert witness who is licensed in another jurisdiction to obtain an "expert witness certificate" from DOH before that expert witness may testify in medical negligence cases or provide an affidavit in the pre-suit portion of a medical negligence case. The certificate is good for 2 years, and only authorizes the physician to do the following:

- Provide a verified written medical expert opinion; and
- Provide expert testimony about the prevailing professional standard of care in connection with medical negligence litigation pending in this state against a physician licensed in Florida.¹³

In criminal child abuse and neglect cases, s. 827.03(3), F.S., allows expert testimony in child abuse and neglect cases by physicians licensed under chapter 458, F.S., or 459, F.S., or by physicians who have obtained an expert witness certification. To provide expert testimony of mental injury in child abuse and neglect cases, physicians must be licensed under chapter 458, F.S., or 459, F.S., and have completed an accredited residency in psychiatry, or obtained an expert witness certification.

While s. 827.03, F.S., allows experts to testify in criminal child abuse and neglect cases if they have an expert witness certificate, ss. 458.3175(2) and 459.0066(2), F.S., only authorize a very narrow enumerated use of this certificate and do not currently allow physicians or osteopathic physicians to give expert testimony in criminal child abuse and neglect cases.

Critical Incident Rapid Response Team

Critical Incident Rapid Response Teams (CIRRTs) were created by the Legislature in 2014. The CIRRTs are established within DCF to conduct investigations of child death or other serious incidents reported to the central abuse hotline if the child or another child in his or her home was the subject of a verified report of abuse or neglect within the previous 12 months.¹⁴ The purpose of a CIRRT is to

⁸ Council of Pediatric Subspecialties. *Pediatric Child Abuse*, available at: <http://pedsubs.org/SubDes/ChildAbuse.cfm>. (last visited March 10, 2015).

⁹ Child Abuse Pediatrics Certification, Eligibility Criteria for Certification in Child Abuse Pediatrics, available at <https://www.abp.org/content/child-abuse-pediatrics-certification> (last visited March 11, 2015).

¹⁰ Giardino, A., Hanson, N., Hill, K.S, and Leventhal, J.M. Child Abuse Pediatrics: New Specialty, Renewed Mission. *Pediatrics* 2011; 128(1):156-159.

¹¹ American Board of Pediatrics, *Workforce Databook*, available at <https://www.abp.org/sites/abp/files/pdf/workforcebook.pdf> (last visited March 11, 2015).

¹² Email from Bryan Wendel, Government Analyst, Florida Department of Health, RE: Follow-up (March 11, 2015).

¹³ S. 758.3175(2), F.S.

¹⁴ S. 39.2015(2), F.S.

perform an immediate root-cause analysis of critical incidents and rapidly determine the need to change policies and practices related to child protection and welfare.¹⁵

A CIRRT must be comprised of a multiagency team of at least five professionals with expertise in child protection, child welfare, and organizational management; a majority of the team must reside in judicial circuits outside the location of the incident.¹⁶ A CPT member may be appointed to the CIRRT, although it is not required.

Effect of Proposed Changes

Child Protection Team Medical Directors

CS/CS/HB 1055 establishes statutory qualifications for statewide and district CPT medical directors. It amends s. 39.303, F.S., to require the Statewide Medical Director for Child Protection to be:

- A licensed physician under chapters 458 or 459;
- A board-certified pediatrician; and
- A diplomate in the subspecialty of child abuse pediatrics from the American Board of Pediatrics.

The bill requires each district CPT medical director to:

- Be a licensed physician under chapters 458 or 459;
- Be a board-certified pediatrician; and
- Be a diplomate in the subspecialty of child abuse pediatrics from the American Board of Pediatrics within 4 years of the bill becoming law or after the date of his or her employment as district medical director; or
- Meet the requirements established by a third-party credentialing entity recognizing a demonstrated specialized competence in child abuse pediatrics.

State Certification in Child Abuse Pediatrics

The bill requires DOH to approve one or more third-party credentialing entities to develop and administer a professional credentialing program for district medical directors to include a child abuse pediatrics certification. This requirement is contingent on an appropriation. DOH must approve an entity within 90 days after receiving documentation that demonstrates the third-party credentialing entity's compliance with certain minimum standards, including:

- Establishment of child abuse pediatrics core competencies,¹⁷ certification standards, testing instruments, and recertification standards;
- A demonstrated ability to administer a professional code of ethics, disciplinary process, biennial continuing education and certification renewal requirements, and an education provider program;
- Establishment of a process to administer the child abuse pediatrics certification application, award, and maintenance processes according to national psychometric standards; and
- Establishment of, and ability to maintain, a publicly accessible Internet-based database that contains information on each person who applies for and is awarded certification, such as the person's first and last name, certification status, and ethical or disciplinary history.

¹⁵ S. 39.2015(1), F.S.

¹⁶ S. 39.2015(3), F.S.

¹⁷ These core competency standards must be established according to nationally recognized psychometric standards.

Expert Witness Certificate

The bill amends ss. 458.3175(2) and 459.0066(2), F.S., adding criminal child abuse and neglect cases as an authorized use of the “expert witness certificate” for physicians and osteopathic physicians.

Critical Incident Rapid Response Team

The bill amends s. 39.2015, F.S., to require the inclusion of a child protection team medical director on any CIRRT.

Lastly, the bill reenacts ss. 39.3031 and 391.026(2), F.S., to incorporate the amendments made by the bill and makes other conforming changes.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has a negative fiscal impact on DOH of \$15,000, recurring, and \$32,000, non-recurring, subject to an appropriation. Please see fiscal comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The cost of obtaining the required child abuse pediatric subspecialty certification from the American Board of Pediatrics or the third-party credential is unknown. The subspecialty certification through the American Board of Pediatrics requires a three-year fellowship.

The cost of obtaining the child abuse sub-specialty credential would be \$150 for the application fee, \$125 for the test fee, and a \$250 renewal fee every 2 years.¹⁸

D. FISCAL COMMENTS:

The cost of validating and finalizing the current Department of Health exam is estimated to be \$32,000 in non-recurring funding. There is an estimated recurring cost of \$15,000 required to maintain the credential.¹⁹ The requirement of the department to approve a third-party credentialing entity is contingent on appropriation.

¹⁸ Email from Amy Farrington, Director of Certification, Florida Certification Board, RE: Budget for Validation of Exam (May 4, 2015).

¹⁹ Id.