



Judiciary Committee

Thursday, April 14, 2011

9:00 AM

404 HOB

Action Packet

**Dean Cannon
Speaker**

**William Snyder
Chair**

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

Summary:

Judiciary Committee

Thursday April 14, 2011 09:00 am

CS/HB 241	Favorable	Yeas: 10	Nays: 6
HB 265	Favorable With Committee Substitute	Yeas: 17	Nays: 0
CS/HB 441	Favorable	Yeas: 16	Nays: 0
CS/CS/CS/HB 479	Favorable With Committee Substitute	Yeas: 15	Nays: 3
CS/HB 513	Favorable	Yeas: 15	Nays: 0
CS/HB 1261	Favorable With Committee Substitute	Yeas: 11	Nays: 6
HJR 1471	Favorable With Committee Substitute	Yeas: 12	Nays: 4
CS/HB 1475	Favorable	Yeas: 17	Nays: 0
HB 4035	Favorable	Yeas: 12	Nays: 4
CS/HB 4157	Favorable With Committee Substitute	Yeas: 16	Nays: 0
HB 7233	Favorable With Committee Substitute	Yeas: 17	Nays: 0

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
William Snyder (Chair)	X		
Dennis Baxley	X		
Daphne Campbell	X		
Eric Eisnaugle	X		
Matt Gaetz	X		
Tom Goodson	X		
Bill Hager	X		
Shawn Harrison	X		
John Julien	X		
Charles McBurney	X		
Larry Metz	X		
Kathleen Passidomo	X		
Ray Pilon	X		
Ari Porth	X		
Elaine Schwartz	X		
Darren Soto	X		
Richard Steinberg	X		
W. Gregory Steube	X		
Totals:	18	0	0

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

CS/HB 241 : Wage Protection

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley			X		
Daphne Campbell		X			
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Shawn Harrison	X				
John Julien		X			
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth		X			
Elaine Schwartz		X			
Darren Soto		X			
Richard Steinberg		X			
W. Gregory Steube	X				
William Snyder (Chair)			X		
Total Yeas: 10		Total Nays: 6			

Appearances:

CS/HB 241

McCarty, Jess (Lobbyist) - Waive In Opposition

Miami-Dade County

111 NW 1st St Ste 2810

Miami FL 33128

Phone: (305)979-7110

CS/HB 241

Babington, Adam (Lobbyist) - Waive In Support

Florida Chamber of Commerce

136 S Bronough St

Tallahassee FL 32301

Phone: (850)521-1200

CS/HB 241

Mattingly, Dwight (General Public) - Opponent

Florida Wage Theft Task Force

8907 SE Pine Cone Lane

Hobe Sound FL 33455

Phone: 561-523-0525

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Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

CS/HB 241

Husband, Warren (Lobbyist) - Waive In Support

Florida Restaurant and Lodging Association

PO Box 1779

Tallahassee FL 32302

Phone: (850)205-9000

CS/HB 241

Hebrank, Kari (Lobbyist) - Waive In Support

Florida Building Material Association, Inc

1303 Limit Ave

Mount Dora FL 32757

Phone: (850)681-3290

CS/HB 241

Pitts, Brian - Information Only

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

CS/HB 241

Padgett, Samantha (Lobbyist) - Proponent

Florida Retail Federation

PO Box 10024

Tallahassee FL 32302-2024

Phone: (850)222-4082

CS/HB 241

Dyga, Peter (Lobbyist) - Proponent

Associated Builders & Contractors of Florida, Inc

2008 N Himes Ave

Tampa FL 33607

Phone: (954)984-0075

CS/HB 241

Perdue, Tammy (Lobbyist) - Waive In Support

Associated Industries of Florida

516 N. Adams St.

Tallahassee Florida 32301

Phone: 224-7173

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

HB 265 : Sexual Offenders and Predators

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley	X				
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
W. Gregory Steube	X				
William Snyder (Chair)					X
Total Yeas: 17		Total Nays: 0			

Appearances:

HB 265

Pitts, Brian - Opponent

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

HB 265

Connors, Jordan (Lobbyist) - Waive In Support

City of Port St. Lucie

2145 SW Cape Cod Dr

Port St. Lucie FL 34953

Phone: 772-418-6068

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 265 (2011)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

*favorable
4.14.11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Baxley offered the following:

Amendment (with title amendment)

Remove lines 18-23 and insert:

6 (m) Whether the defendant, other than a defendant whose
 7 only criminal charge is a misdemeanor offense under chapter 316,
 8 is required to register as a sexual offender under s. 943.0435;
 9 and, if so, he or she is not eligible for release on bail or
 10 surety bond until the first appearance on the case in order to
 11 ensure the full participation of the prosecutor and the
 12 protection of the public.

13 (n) Whether the defendant, other than a defendant whose
 14 only criminal charge is a misdemeanor offense under chapter 316,
 15 is required to register as a

17 -----
 18 **T I T L E A M E N D M E N T**

19 Remove line 8 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 265 (2011)

Amendment No.

20

case; providing an exception; providing an effective date.

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

CS/HB 441 : Scrutinized Companies

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley	X				
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Shawn Harrison			X		
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
W. Gregory Steube	X				
William Snyder (Chair)			X		
Total Yeas: 16		Total Nays: 0			

Appearances:

CS/HB 441

Pitts, Brian - Waive In Support

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

CS/HB 441

Friedman, Bernie (Lobbyist) - Waive In Support

Florida Association of Jewish Federations

4200 Biscayne Blvd

Miami FL

Phone: (954)985-4180

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

CS/CS/CS/HB 479 : Medicaid Malpractice

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley	X				
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz		X			
Darren Soto		X			
Richard Steinberg		X			
W. Gregory Steube	X				
William Snyder (Chair)	X				
Total Yeas: 15		Total Nays: 3			

Appearances:

CS/CS/CS/HB 479

Large, William (Lobbyist) - Proponent

Florida Justice Reform Institute

210 S Monroe St

Tallahassee FL 32301-1824

Phone: (850)222-0170

CS/CS/CS/HB 479

Bell, Ricky (State Employee) - Waive In Support

Leon County District Athletic Director

2757 W Pensacola St

Tallahassee FL 32304

Phone: 850-544-3499

CS/CS/CS/HB 479

Wang, M.D., Andrew (General Public) - Waive In Support

Florida Orthopaedic Society

3304 Capital Medical Blvd

Tallahassee FL 32334

Phone: 850-509-6005

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Location: 404 HOB

CS/CS/CS/HB 479

Michles, Marcus (General Public) - Opponent

Florida Justice Association

609 Fairpoint Dr

Gulf Breeze FL

Phone: 850-932-5102

CS/CS/CS/HB 479

Guzzo, Gary (Lobbyist) - Waive In Support

Florida Insurance Council

2888 Remington Green Ln

Tallahassee FL 32308

Phone: (850)681-0024

CS/CS/CS/HB 479

Sobel, Ken (General Public) - Opponent

7460 NW 127 Ter

Parkland FL 33076

Phone: 954-249-1078

CS/CS/CS/HB 479

Dudley, Alison (Lobbyist) - Waive In Support

Florida Radiological Society, Inc

5620 W Sligh Ave

Tampa FL 33634

Phone: (850)556-6517

CS/CS/CS/HB 479

Edenfield, Mary (Lobbyist) - Waive In Support

Florida Dental Association

118 E Jefferson St

Tallahassee FL 32301

Phone: (850) 224-1089

CS/CS/CS/HB 479

Dudley, Fred (Lobbyist) - Waive In Support

Florida Society of Ophthalmology

6816 Southpoint Pky Ste 1000

Jacksonville FL 32216

Phone: (850)224-7000

CS/CS/CS/HB 479

Winn, Stephen (Lobbyist) - Waive In Support

Florida Osteopathic Medical Association

2007 Apalachee Pky

Tallahassee FL 32301

Phone: (850)878-3056

CS/CS/CS/HB 479

Kuvin, Grant (General Public) - Opponent

2907 Lolissa Lane

Winter Park FL 32789

Phone: (407)-810-8084

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COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

CS/CS/CS/HB 479

Perdue, Tammy (Lobbyist) - Waive In Support

Associated Industries of Florida

516 N. Adams St.

Tallahassee Florida 32301

Phone: 224-7173

CS/CS/CS/HB 479

Bell, Bill - Waive In Support

Florida Hospital Association

306 E College Ave

Tallahassee FL 32301

Phone: (850) 222-9800

CS/CS/CS/HB 479

Scott, Jeffery (Lobbyist) - Waive In Support

Florida Medical Association

PO Box 10269

Tallahassee FL 32302

Phone: (850)224-6496

CS/CS/CS/HB 479

Delegal, Mark (Lobbyist) - Proponent

Safety Net Hospital Alliance of Florida

101 N Gadsden St

Tallahassee FL 32301

Phone: (850)222-3533

CS/CS/CS/HB 479 Amendment #3

Henley, Debra (Lobbyist) - Waive In Opposition

Florida Justice Association

218 S Monroe St

Tallahassee FL 32301

Phone: (850)224-9403

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

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 _____

*favourable
4.14.11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Hager offered the following:

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

5 Between lines 464 and 465, insert:

6 Section 1. Section 768.135, Florida Statutes, is amended
7 to read:

8 768.135 Volunteer team physicians; immunity.— (1) A
9 "volunteer team physician" is Any person licensed to practice
10 medicine pursuant to chapter 458, chapter 459, chapter 460,
11 chapter 461, or chapter 466:

12 (a) ~~(1)~~ Who is acting in the capacity of a volunteer team
13 physician in attendance at an athletic event sponsored by a
14 public or private elementary or secondary school; and

15 (b) ~~(2)~~ Who gratuitously and in good faith prior to the
16 athletic event agrees to render emergency care or treatment to
17 any participant in such event in connection with an emergency
18 arising during or as the result of such event, without objection
19 of such participant.

Amendment No. 1

20 (2) A volunteer team physician shall not be held liable
21 for any civil damages as a result of such care or treatment or
22 as a result of any act or failure to act in providing or
23 arranging further medical treatment ~~unless when~~ such care or
24 treatment was rendered ~~in a wrongful manner as a reasonably~~
25 ~~prudent person similarly licensed to practice medicine would~~
26 ~~have acted under the same or similar circumstances.~~ As used in
27 this section, the term "wrongful manner" means in bad faith or
28 with malicious purpose or in a manner exhibiting wanton and
29 willful disregard of human rights, safety, or property, and
30 shall be construed in conformity with the standard set forth in
31 s. 768.28(9)(a).
32
33

34 -----
35 **T I T L E A M E N D M E N T**

36 Remove line 41 and insert:
37 medical negligence claims; amending s. 768.135, F.S.; providing
38 immunity for volunteer team physicians under certain
39 circumstances; providing an effective date.

Amendment No. 1a

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	_____	

*Favorable
4.14.11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Passidomo offered the following:

4 **Amendment to Amendment (1) by Representative Hager**

5 Remove lines 24-31 and insert:

6 treatment was rendered in a wrongful manner as a reasonably
7 ~~prudent person similarly licensed to practice medicine would~~
8 ~~have acted under the same or similar circumstances.~~

9 (3) A practitioner licensed under the provisions of
10 chapter 458, chapter 459, chapter 460, or s. 464.012 who
11 gratuitously and in good faith conducts an evaluation pursuant
12 to s. 1006.20(2)(c) shall not be held liable for any civil
13 damages arising from such evaluation unless the evaluation was
14 conducted in a wrongful manner.

15 (4) As used in this section, the term "wrongful manner"
16 means in bad faith or with malicious purpose or in a manner
17 exhibiting wanton and willful disregard of human rights, safety,
18 or property, and shall be construed in conformity with the
19 standard set forth in s. 768.28(9)(a).

COMMITTEE/SUBCOMMITTEE AMENDMENT
Bill No. CS/CS/CS/HB 479 (2011)

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	_____	

*favourable
4.14.11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Julien and Porth offered the following:

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Amendment

Remove line 100 and insert:

(oo) Providing deceptive or fraudulent expert

Remove line 190 and insert:

(qq) Providing deceptive or fraudulent expert

Remove line 250 and insert:

(ll) Providing deceptive or fraudulent expert

Amendment No. 3

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 _____

*favorable
4-14-11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Horner offered the following:

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Amendment (with title amendment)

Between lines 452 and 453, insert:

Section 11. Paragraph (a) of subsection (2), subsection (5), and paragraph (b) of subsection (6) of section 766.106, Florida Statutes, is amended to read:

766.106 Notice before filing action for medical negligence; presuit screening period; offers for admission of liability and for arbitration; informal discovery; review.—

(2) PRESUIT NOTICE.—

(a) After completion of presuit investigation pursuant to s. 766.203(2) and prior to filing a complaint for medical negligence, a claimant shall notify each prospective defendant by certified mail, return receipt requested, of intent to initiate litigation for medical negligence. Notice to each prospective defendant must include, if available, a list of all known health care providers seen by the claimant for the

Amendment No. 3

20 injuries complained of subsequent to the alleged act of
21 negligence, all known health care providers during the 2-year
22 period prior to the alleged act of negligence who treated or
23 evaluated the claimant, and copies of all of the medical records
24 relied upon by the expert in signing the affidavit, and the
25 executed authorization form provided in s. 766.1065. The
26 ~~requirement of providing the list of known health care providers~~
27 ~~may not serve as grounds for imposing sanctions for failure to~~
28 ~~provide presuit discovery.~~

29 (5) DISCOVERY AND ADMISSIBILITY.— ~~A No~~ statement,
30 discussion, written document, report, or other work product
31 generated by the presuit screening process is not discoverable
32 or admissible in any civil action for any purpose by the
33 opposing party. All participants, including, but not limited to,
34 physicians, investigators, witnesses, and employees or
35 associates of the defendant, are immune from civil liability
36 arising from participation in the presuit screening process.
37 This subsection does not prevent a physician licensed under
38 chapter 458 or chapter 459 or a dentist licensed under chapter
39 466 who submits a verified written expert medical opinion from
40 being subject to a denial of a license or disciplinary action
41 under s. 458.331(1)(oo), s. 459.015(1)(qq), or s.
42 466.028(1)(ll).

43 (6) INFORMAL DISCOVERY.—

44 (b) Informal discovery may be used by a party to obtain
45 unsworn statements, the production of documents or things, and
46 physical and mental examinations, as follows:

Amendment No. 3

47 1. Unsworn statements.—Any party may require other parties
48 to appear for the taking of an unsworn statement. Such
49 statements may be used only for the purpose of presuit screening
50 and are not discoverable or admissible in any civil action for
51 any purpose by any party. A party desiring to take the unsworn
52 statement of any party must give reasonable notice in writing to
53 all parties. The notice must state the time and place for taking
54 the statement and the name and address of the party to be
55 examined. Unless otherwise impractical, the examination of any
56 party must be done at the same time by all other parties. Any
57 party may be represented by counsel at the taking of an unsworn
58 statement. An unsworn statement may be recorded electronically,
59 stenographically, or on videotape. The taking of unsworn
60 statements is subject to the provisions of the Florida Rules of
61 Civil Procedure and may be terminated for abuses.

62 2. Documents or things.—Any party may request discovery of
63 documents or things. The documents or things must be produced,
64 at the expense of the requesting party, within 20 days after the
65 date of receipt of the request. A party is required to produce
66 discoverable documents or things within that party's possession
67 or control. Medical records shall be produced as provided in s.
68 766.204.

69 3. Physical and mental examinations.—A prospective
70 defendant may require an injured claimant to appear for
71 examination by an appropriate health care provider. The
72 prospective defendant shall give reasonable notice in writing to
73 all parties as to the time and place for examination. Unless
74 otherwise impractical, a claimant is required to submit to only

Amendment No. 3

75 one examination on behalf of all potential defendants. The
76 practicality of a single examination must be determined by the
77 nature of the claimant's condition, as it relates to the
78 liability of each prospective defendant. Such examination report
79 is available to the parties and their attorneys upon payment of
80 the reasonable cost of reproduction and may be used only for the
81 purpose of presuit screening. Otherwise, such examination report
82 is confidential and exempt from the provisions of s. 119.07(1)
83 and s. 24(a), Art. I of the State Constitution.

84 4. Written questions.—Any party may request answers to
85 written questions, the number of which may not exceed 30,
86 including subparts. A response must be made within 20 days after
87 receipt of the questions.

88 5. Ex parte interviews of treating health care providers.—
89 A prospective defendant or his or her legal representative may
90 interview the claimant's treating health care providers, without
91 notice to or the presence of the claimant or the claimant's
92 legal representative.

93 56. Unsworn statements of treating health care providers
94 ~~Medical information release. The claimant must execute a medical~~
95 ~~information release that allows a~~ A prospective defendant or his
96 or her legal representative may also ~~to~~ take unsworn statements
97 of the claimant's treating health care providers ~~physicians~~. The
98 statements must be limited to those areas that are potentially
99 relevant to the claim of personal injury or wrongful death.
100 Subject to the procedural requirements of subparagraph 1., a
101 prospective defendant may take unsworn statements from a
102 claimant's treating physicians. Reasonable notice and

Amendment No. 3

103 opportunity to be heard must be given to the claimant or the
104 claimant's legal representative before taking unsworn
105 statements. The claimant or claimant's legal representative has
106 the right to attend the taking of such unsworn statements.

107 Section 12. Section 766.1065, Florida Statutes, is created
108 to read:

109 766.1065 Authorization for release of protected health
110 information.-

111 (1) Presuit notice of intent to initiate litigation for
112 medical negligence under s. 766.106(2) must be accompanied by an
113 authorization for release of protected health information in the
114 form specified by this section, authorizing the disclosure of
115 protected health information that is potentially relevant to the
116 claim of personal injury or wrongful death. The presuit notice
117 is void if this authorization does not accompany the presuit
118 notice and other materials required by s. 766.106(2).

119 (2) If the authorization required by this section is
120 revoked, the presuit notice under s. 766.106(2) is deemed
121 retroactively void from the date of issuance, and any tolling
122 effect that the presuit notice may have had on any applicable
123 statute-of-limitations period is retroactively rendered void.

124 (3) The authorization required by this section shall be in
125 the following form and shall be construed in accordance with the
126 "Standards for Privacy of Individually Identifiable Health
127 Information" in 45 C.F.R. parts 160 and 164:

128
129 AUTHORIZATION FOR RELEASE OF PROTECTED HEALTH INFORMATION
130

Amendment No. 3

131 A. I, (...Name of patient or authorized
132 representative...) [hereinafter "Patient"], authorize that
133 (...Name of health care provider to whom the presuit
134 notice is directed...) and his/her/its insurer(s), self-
135 insurer(s), and attorney(s) may obtain and disclose
136 (within the parameters set out below) the protected health
137 information described below for the following specific
138 purposes:

139 1. Facilitating the investigation and evaluation of
140 the medical negligence claim described in the accompanying
141 presuit notice; or

142 2. Defending against any litigation arising out of
143 the medical negligence claim made on the basis of the
144 accompanying presuit notice.

145 B. The health information obtained, used, or
146 disclosed extends to, and includes, the verbal as well as
147 the written and is described as follows:

148 1. The health information in the custody of the
149 following health care providers who have examined,
150 evaluated, or treated the Patient in connection with
151 injuries complained of after the alleged act of
152 negligence: (List the name and current address of all
153 health care providers). This authorization extends to any
154 additional health care providers that may in the future
155 evaluate, examine, or treat the Patient for the injuries
156 complained of.

157 2. The health information in the custody of the
158 following health care providers who have examined,

Amendment No. 3

159 evaluated, or treated the Patient during a period
160 commencing 2 years before the incident that is the basis
161 of the accompanying presuit notice.

162
163 (List the name and current address of such health care
164 providers, if applicable.)

165
166 C. This authorization does not apply to the
167 following list of health care providers possessing health
168 care information about the Patient because the Patient
169 certifies that such health care information is not
170 potentially relevant to the claim of personal injury or
171 wrongful death that is the basis of the accompanying
172 presuit notice.

173
174 (List the name of each health care provider to whom this
175 authorization does not apply and the inclusive dates of
176 examination, evaluation, or treatment to be withheld from
177 disclosure. If none, specify "none.")

178
179 D. The persons or class of persons to whom the
180 Patient authorizes such health information to be disclosed
181 or by whom such health information is to be used:

182 1. Any health care provider providing care or
183 treatment for the Patient.

184 2. Any liability insurer or self-insurer providing
185 liability insurance coverage, self-insurance, or defense

Amendment No. 3

186 to any health care provider to whom presuit notice is
187 given regarding the care and treatment of the Patient.

188 3. Any consulting or testifying expert employed by
189 or on behalf of (name of health care provider to whom
190 presuit notice was given), his/her/its insurer(s), self-
191 insurer(s), or attorney(s) regarding to the matter of the
192 presuit notice accompanying this authorization.

193 4. Any attorney (including secretarial, clerical, or
194 paralegal staff) employed by or on behalf of (name of
195 health care provider to whom presuit notice was given)
196 regarding the matter of the presuit notice accompanying
197 this authorization.

198 5. Any trier of the law or facts relating to any
199 suit filed seeking damages arising out of the medical care
200 or treatment of the Patient.

201 E. This authorization expires upon resolution of the
202 claim or at the conclusion of any litigation instituted in
203 connection with the matter of the presuit notice
204 accompanying this authorization, whichever occurs first.

205 F. The Patient understands that, without exception,
206 the Patient has the right to revoke this authorization in
207 writing. The Patient further understands that the
208 consequence of any such revocation is that the presuit
209 notice under s. 766.106(2), Florida Statutes, is deemed
210 retroactively void from the date of issuance, and any
211 tolling effect that the presuit notice may have had on any
212 applicable statute-of-limitations period is retroactively
213 rendered void.

Amendment No. 3

214 G. The Patient understands that signing this
215 authorization is not a condition for continued treatment,
216 payment, enrollment, or eligibility for health plan
217 benefits.

218 H. The Patient understands that information used or
219 disclosed under this authorization may be subject to
220 additional disclosure by the recipient and may not be
221 protected by federal HIPAA privacy regulations.

222

223 Signature of Patient/Representative:

224 Date:

225 Name of Patient/Representative:

226 Description of Representative's Authority:

227 Section 13. Subsection (2) of section 766.206, Florida
228 Statutes, is amended to read:

229 766.206 Presuit investigation of medical negligence claims
230 and defenses by court.-

231 (2) If the court finds that the notice of intent to
232 initiate litigation mailed by the claimant does is not comply in
233 compliance with the reasonable investigation requirements of ss.
234 766.201-766.212, including a review of the claim and a verified
235 written medical expert opinion by an expert witness as defined
236 in s. 766.202, or that the authorization accompanying the notice
237 of intent required under s. 766.1065 is not completed in good
238 faith by the claimant, the court shall dismiss the claim, and
239 the person who mailed such notice of intent, whether the
240 claimant or the claimant's attorney, shall be personally liable
241 for all attorney's fees and costs incurred during the

Amendment No. 3

242 investigation and evaluation of the claim, including the
243 reasonable attorney's fees and costs of the defendant or the
244 defendant's insurer.

245

246

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

248

Remove line 39 and insert:

249

negligence cases in this state; amending s. 766.106, F.S.;

250

requiring claimants for medical malpractice to execute an

251

authorization form; allowing prospective medical malpractice

252

defendants to interview a claimant's treating health care

253

provider without notice to or the presence of the claimant or

254

the claimant's legal representative; authorizing prospective

255

defendants to take unsworn statements of a claimant's health

256

care provider; creating s. 766.1065, F.S.; requiring that

257

presuit notice for medical negligence claims be accompanied by

258

an authorization for release of protected health information;

259

providing requirements for the form of such authorization;

260

amending s. 766.206, F.S.; requiring dismissal of a medical

261

malpractice claim if such authorization is not completed in good

262

faith; amending s. 768.0981, F.S.;

Amendment No. 3a

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 _____

*Favorable
4.14.11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Julien and Porth offered the following:

3
4 **Amendment to Amendment (3) by Representative Horner (with**
5 **title amendment)**

6 Remove lines 88-92 and insert:

7 5. Ex parte interviews of treating health care providers.-

8 A prospective defendant or his or her legal representative may
9 interview the claimant's treating health care providers without
10 the presence of the claimant or the claimant's legal
11 representative. The prospective defendant or legal
12 representative that intends to interview a claimant's health
13 care provider must provide the claimant with notice of such
14 intent at least 10 days prior to the interview.

15
16
17 -----
18 **T I T L E A M E N D M E N T**

19 Remove lines 253-254 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/CS/HB 479 (2011)

Amendment No. 3a

20 provider without the presence of the claimant or the claimant's
21 legal representatives; requiring prospective defendant to
22 provide 10 day notice before such interviews; authorizing
23 prospective

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

CS/HB 513 : Missing Adults

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley			X		
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Shawn Harrison			X		
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
W. Gregory Steube	X				
William Snyder (Chair)			X		
Total Yeas: 15		Total Nays: 0			

Appearances:

CS/HB 513

Hoza, Meghan (Lobbyist) - Waive In Support
Alzheimer's Community Care
10521 SW Village Center Dr
Port St. Lucie FL 34987

CS/HB 513

Cantwell, Laura (Lobbyist) - Waive In Support
AARP
200 West College Avenue Suite 304
Tallahassee FL 32301
Phone: (850)577-5163

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

CS/HB 1261 : Election Ballots

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley	X				
Daphne Campbell		X			
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Shawn Harrison	X				
John Julien		X			
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth		X			
Elaine Schwartz		X			
Darren Soto		X			
Richard Steinberg		X			
W. Gregory Steube	X				
William Snyder (Chair)			X		
Total Yeas: 11		Total Nays: 6			

Appearances:

CS/HB 1261

Kent, Russell (State Employee) - Waive In Support

Special Counsel, Attorney General's Office

Capitol

Tallahassee FL

CS/HB 1261

Pitts, Brian - Proponent

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1261 (2011)

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 _____

*Jarrable
4.14.11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) McBurney offered the following:

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

5 Remove lines 72-128 and insert:

6 (4) (a) Whenever a constitutional amendment or revision is
7 proposed by joint resolution, the joint resolution shall include
8 a ballot title consisting of a caption, not exceeding 15 words
9 in length, by which the measure is commonly referred to or
10 spoken of. The joint resolution may include a ballot summary or
11 alternate ballot summaries, listed in order of preference,
12 describing the chief purpose of the amendment or revision in
13 clear and unambiguous language. The joint resolution shall
14 specify placement on the ballot of a ballot title and either a
15 ballot summary embodied in the joint resolution or the full text
16 of the proposed amendment or revision. As specified by the joint
17 resolution, the ballot title and ballot summary, or the ballot
18 title and the full text of the proposed amendment or revision,
19 shall be printed on the ballot, with a designating number

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1261 (2011)

Amendment No. 1

20 assigned by the Secretary of State pursuant to subsection (2),
21 after the list of candidates, followed by the word "yes" and
22 also by the word "no," and shall be styled in such a manner that
23 a "yes" vote will indicate approval of the proposal and a "no"
24 vote will indicate rejection. The Department of State shall
25 furnish the designating number and, as specified by the joint
26 resolution proposing an amendment or revision, the ballot title
27 and a ballot summary or the full text of the amendment or
28 revision to the supervisor of elections of each county.

29 (b) If the court determines that each ballot summary
30 embodied in a joint resolution is defective, the full text of
31 the proposed amendment or revision shall appear on the ballot in
32 lieu of a ballot summary unless the Secretary of State certifies
33 to the court that placement of the full text on the ballot is
34 incompatible with voting systems that must be utilized during
35 the election at which the proposed amendment will be presented
36 to voters and that no other available accommodation will enable
37 persons with disabilities to vote on the proposed amendment or
38 revision. If the Secretary of State submits such certification
39 or the court determines that all ballot summaries in the joint
40 resolution are deficient and that the full text of a proposed
41 amendment or revision may not be placed on the ballot, and
42 further appeals are declined, abandoned, or exhausted, unless
43 otherwise provided in the joint resolution, the Attorney General
44 shall prepare and submit within 10 days to the Secretary of
45 State and the court a revised ballot summary that corrects
46 ballot summary deficiencies identified by the court. That court
47 shall retain jurisdiction over challenges to any revised ballot

Amendment No. 1

48 summary submitted by the Attorney General, and any challenge to
49 a revised ballot summary shall be filed within 10 days after the
50 revised ballot summary is submitted to the court by the Attorney
51 General.

52 (c)1. If the full text of a proposed amendment or revision
53 delineates existing text in the State Constitution that will be
54 removed or replaced if approved by the electors, the full text
55 shall be presumed to be a clear and unambiguous statement of the
56 substance and effect of the amendment or revision, providing
57 fair notice to the electors of the content of the proposal and
58 sufficiently advising electors of the issue upon which they are
59 voting.

60 2. In determining whether a ballot summary, ballot title,
61 or full text of a proposed amendment or revision is legally
62 sufficient, the court shall use the same rules of construction
63 to interpret language in a proposed constitutional amendment as
64 it does when interpreting existing constitutional provisions.

65 (d)1. Any legal action challenging placement on the ballot
66 of a ballot title, any ballot summary, or the full text of a
67 proposed amendment or revision embodied in a joint resolution on
68 constitutional, statutory or other grounds must be commenced by
69 filing a complaint or petition with the appropriate court within
70 30 days after the joint resolution is filed with the Secretary
71 of State. Furthermore, in any legal action challenging placement
72 on the ballot of any ballot summary embodied in a joint
73 resolution, the complaint or petition shall assert all grounds
74 for challenging the ballot title, each ballot summary embodied
75 in the joint resolution, and the full text of the proposed

Amendment No. 1

76 amendment or revision. Any such grounds not asserted within 30
77 days after the joint resolution is filed with the Secretary of
78 State shall be deemed waived.

79 2. If a court finds the ballot title, ballot summary, or
80 full text of a proposed amendment defective for purposes of
81 placement on the ballot, the court shall, in its written order
82 or judgment, describe each deficiency with specificity in order
83 to facilitate the Attorney General's preparation of a revised
84 ballot summary.

85 (e) Legal actions challenging ballot language specified by
86

87 -----
88 **T I T L E A M E N D M E N T**

89 Remove lines 7-19 and insert:

90 joint resolution may include a ballot summary or alternate
91 ballot summaries, listed in order of preference, describing the
92 chief purpose of the amendment or revision in clear and
93 unambiguous language; requiring a joint resolution to specify
94 placement on the ballot of a ballot title and either a ballot
95 summary embodied in the joint resolution or the full text of the
96 proposed amendment or revision; requiring placement on the
97 ballot of the ballot title and ballot summary, or the ballot
98 title and the full text of the proposed amendment or revision,
99 as specified by a joint resolution; requiring placement on the
100 ballot of the full text of an amendment or revision if the court
101 determines that each ballot summary embodied in a joint
102 resolution is defective unless the Secretary of State certifies
103 to the court that placement of the full text on the ballot is

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1261 (2011)

Amendment No. 1

104 incompatible with voting systems that must be utilized during
105 the election at which the proposed amendment will be presented
106 to voters and that no other available accommodation will enable
107 persons with disabilities to vote on the proposed amendment or
108 revision; requiring the Attorney General to revise a ballot
109 summary under certain circumstances; requiring the court to
110 retain jurisdiction over challenges to any revised ballot
111 summary submitted by the Attorney General; requiring challenges
112 to revised ballot summaries to be filed within 10 days after the
113 revised ballot summary is submitted to the court by the Attorney
114 General; creating a presumption that the full text of an
115 amendment or revision must be considered a clear and unambiguous
116 statement of the substance and effect of an amendment or
117 revision proposed by joint resolution and sufficient notice to
118 electors under certain circumstances; establishing rules of
119 construction for construing proposed ballot titles, ballot
120 summaries, or the full text of proposed amendments or revisions;
121 requiring legal challenges to ballot language to be filed within
122 certain time periods; requiring complaints or petitions
123 challenging ballot language to assert all grounds for such
124 challenges; providing that any grounds not asserted are waived;
125 requiring the courts to describe with specificity each
126 deficiency in a ballot title, summary or full text of a proposed
127 amendment or revision; requiring the courts to accord actions

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

HJR 1471 : Religious Freedom

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley			X		
Daphne Campbell		X			
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth		X			
Elaine Schwartz		X			
Darren Soto	X				
Richard Steinberg		X			
W. Gregory Steube	X				
William Snyder (Chair)			X		
Total Yeas: 12		Total Nays: 4			

Appearances:

HJR 1471

Barkey, David (Lobbyist) - Waive In Opposition
Anti-Defamation League
621 NW 53rd St # 450
Boca Raton FL 33487
Phone: (561)988-2912

HJR 1471

Sheedy, Michael (Lobbyist) - Proponent
Florida Catholic Conference
201 W Park Ave
Tallahassee FL 32301-7715
Phone: (850)222-3803

HJR 1471

Watson, Kevin (Lobbyist) - Waive In Opposition
Florida Education Association
213 S Adams St
Tallahassee FL 32301
Phone: (850)224-2078

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

HJR 1471

Bilbao, Ron (Lobbyist) - Waive In Opposition

American Civil Liberties Union of Florida

4500 Biscayne Blvd, Suite 340

Miami Florida 33137

Phone: 919-923-7288

HJR 1471

Bunkley, William (Lobbyist) - Waive In Support

Florida Baptist Convention

1639 Jaclif Ct

Tallahassee FL 32308

Phone: (813)264-2977

HJR 1471

Barkey, David (Lobbyist) - Waive In Opposition

Anti-Defamation League

621 NW 53rd St # 450

Boca Raton FL 33487

Phone: (561)988-2912

HJR 1471

Pitts, Brian - Proponent

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

HJR 1471

Peshek, Adam (Lobbyist) - Waive In Support

Foundation for Florida's Future

215 S Monroe St Ste 100

Tallahassee FL 32301

Phone: (850)391-3070

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HJR 1471 (2011)

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	___	

*favorable
4-14-11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Eisnaugle offered the following:

Amendment (with ballot amendment)

Remove lines 116-125 and insert:

SECTION 3. Religious freedom.—There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace, or safety. Except to the extent required by the First Amendment to the United States Constitution, neither the government nor any agent of the government may deny to any individual or entity the benefits of any program, funding, or other support on the basis of religious identity or belief. ~~No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.~~

Amendment No. 1

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32

B A L L O T A M E N D M E N T

Remove lines 130-136 and insert:

RELIGIOUS FREEDOM.—Proposing an amendment to the State Constitution to provide, consistent with the United States Constitution, that no individual or entity may be denied, on the basis of religious identity or belief, governmental benefits, funding, or other support, and to delete the prohibition against using revenues from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

CS/HB 1475 : Alimony

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley	X				
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
W. Gregory Steube	X				
William Snyder (Chair)			X		
Total Yeas: 17		Total Nays: 0			

Appearances:

CS/HB 1475

Pitts, Brian - Waive In Support

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

HB 4035 : Misdemeanor Pretrial Substance Abuse Programs

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley			X		
Daphne Campbell	X				
Eric Eisnaugle		X			
Matt Gaetz	X				
Tom Goodson		X			
Bill Hager		X			
Shawn Harrison		X			
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
W. Gregory Steube	X				
William Snyder (Chair)			X		
Total Yeas: 12		Total Nays: 4			

Appearances:

HB 4035

Pitts, Brian - Waive In Support

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: 727-897-9291

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

CS/HB 4157 : Juvenile Justice

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley	X				
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon				X	
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
W. Gregory Steube	X				
William Snyder (Chair)			X		
Total Yeas: 16		Total Nays: 0			

Appearances:

CS/HB 4157

Sanchez, Ana Maria (Lobbyist) (State Employee) - Waive In Support

Legislative Affairs Director, Department of Juvenile Justice

2737 Centerview Dr

Tallahassee FL 32399

Phone: (850)410-1097

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 4157 (2011)

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 _____

*Favorable
4-14-11*

1 Committee/Subcommittee hearing bill: Judiciary

2 Representative Baxley offered the following:

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

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 985.03(48), Florida Statutes, is
7 repealed.

8 Section 2. Section 985.03 (56), Florida Statutes, is
9 repealed.

10 Section 3. Section 985.445, Florida Statutes, is repealed.

11 Section 4. Section 985.47, Florida Statutes, is repealed.

12 Section 5. Section 985.48 (8), Florida Statutes, is
13 repealed.

14 Section 6. Section 985.483, Florida Statutes, is repealed.

15 Section 7. Section 985.486, Florida Statutes, is repealed.

16 Section 8. Section 985.636, Florida Statutes, is repealed.

17 Section 9. Section 985.652, Florida Statutes, is amended to
18 read:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 4157 (2011)

Amendment No. 1

19 985.652 Participation of certain programs in the State
20 Risk Management Trust Fund.—Pursuant to s. 284.30, the Division
21 of Risk Management of the Department of Financial Services is
22 authorized to insure a private agency, or individual, ~~or~~
23 ~~corporation operating a state-owned training school under a~~
24 ~~contract~~ to carry out the purposes and responsibilities of any
25 program of the department. The coverage authorized herein shall
26 be under the same general terms and conditions as the department
27 is insured for its responsibilities under chapter 284.

28 Section 10. Paragraph (i) is added to subsection (4) of
29 section 394.492, Florida Statutes, to read:

30 394.492 Definitions.—As used in ss. 394.490-394.497, the
31 term:

32 (4) "Child or adolescent at risk of emotional disturbance"
33 means a person under 18 years of age who has an increased
34 likelihood of becoming emotionally disturbed because of risk
35 factors that include, but are not limited to:

36 (i) Being 9 years of age or younger at the time of
37 referral for a delinquent act.

38 Section 11. Subsection (1) of section 984.14, Florida
39 Statutes, is amended to read:

40 984.14 Shelter placement; hearing.—

41 (1) Unless ordered by the court pursuant to ~~the provisions~~
42 ~~of~~ this chapter, or upon voluntary consent to placement by the
43 child and the child's parent, legal guardian, or custodian, a
44 child taken into custody may ~~shall~~ not be placed in a shelter
45 prior to a court hearing unless a determination has been made
46 that ~~the provision of~~ appropriate and available services will

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 4157 (2011)

Amendment No. 1

47 not eliminate the need for placement and that such placement is
48 required:

49 (a) To provide an opportunity for the child and family to
50 agree upon conditions for the child's return home, when
51 immediate placement in the home would result in a substantial
52 likelihood that the child and family would not reach an
53 agreement; or

54 (b) Because a parent, custodian, or guardian is
55 unavailable to take immediate custody of the child.

56 Section 12. Paragraphs (a), (b), (c), (e), and (g) of
57 subsection (5) of section 985.0301, Florida Statutes, are
58 amended to read:

59 985.0301 Jurisdiction.—

60 (5) (a) Notwithstanding ss. 743.07, 985.43, 985.433,
61 985.435, 985.439, and 985.441, and except as provided in
62 ss. 985.465 ~~and 985.47~~ and paragraph (f), when the jurisdiction
63 of any child who is alleged to have committed a delinquent act
64 or violation of law is obtained, the court shall retain
65 jurisdiction, unless relinquished by its order, until the child
66 reaches 19 years of age, with the same power over the child that
67 86 the court had prior to the child becoming an adult.

68 (b) Notwithstanding ss. 743.07 and 985.455(3), ~~and except~~
69 ~~as provided in s. 985.47~~, the term of any order placing a child
70 in a probation program must be until the child's 19th birthday
71 unless he or she is released by the court on the motion of an
72 interested party or on his or her own motion.

73 (c) Notwithstanding ss. 743.07 and 985.455(3), ~~and except~~
74 ~~as provided in s. 985.47~~, the term of the commitment must be

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 4157 (2011)

Amendment No. 1

75 until the child is discharged by the department or until he or
76 she reaches the age of 21 years. Notwithstanding ss. 743.07,
77 985.435, 985.437, 985.439, 985.441, ~~985.445~~, 985.455, and
78 985.513, and except as provided in this section ~~and s. 985.47~~, a
79 child may not be held under a commitment from a court under s.
80 985.439, s. 985.441(1)(a) or (b), ~~s. 985.445~~, or s. 985.455
81 after becoming 21 years of age.

82 (e) The court may retain jurisdiction over a child
83 committed to the department for placement in an intensive
84 residential treatment program for 10-year-old to 13-year-old
85 offenders, in the residential commitment program in a juvenile
86 prison, or in a residential sex offender program, ~~or in a~~
87 ~~program for serious or habitual juvenile offenders as provided~~
88 ~~in s. 985.47 or s. 985.483~~ until the child reaches the age of
89 21. If the court exercises this jurisdiction retention, it shall
90 do so solely for the purpose of the child completing the
91 intensive residential treatment program for 10-year-old to 13-
92 year-old offenders, in the residential commitment program in a
93 juvenile prison, in a residential sex offender program, or the
94 program for serious or habitual juvenile offenders. Such
95 jurisdiction retention does not apply for other programs, other
96 purposes, or new offenses.

97 (g)1. Notwithstanding ss. 743.07 and 985.455(3), a serious
98 or habitual juvenile offender shall not be held under commitment
99 from a court under s. 985.441(1)(c), ~~s. 985.47~~, or s. 985.565
100 after becoming 21 years of age. This subparagraph shall apply
101 only for the purpose of completing the serious or habitual

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 4157 (2011)

Amendment No. 1

102 juvenile offender program under this chapter and shall be used
103 solely for the purpose of treatment.

104 2. The court may retain jurisdiction over a child who has been
105 placed in a program or facility for serious or habitual juvenile
106 offenders until the child reaches the age of 21, specifically
107 for the purpose of the child completing the program.

108 Section 13. Paragraph (b) of subsection (3), paragraph (b)
109 of subsection (4), and subsection (5) of section 985.02, Florida
110 Statutes, are amended, subsections (6) through (8) are
111 redesignated as subsections (5) through (7), respectively, and
112 new subsections (8) and (9) are added to that section, to read:

113 985.02 Legislative intent for the juvenile justice
114 system.—

115 (3) JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—It is the
116 policy of the state with respect to juvenile justice and
117 delinquency prevention to first protect the public from acts of
118 delinquency. In addition, it is the policy of the state to:

119 (b) Develop and implement effective programs to prevent
120 delinquency, to divert children from the traditional juvenile
121 justice system, to intervene at an early stage of delinquency,
122 and to provide critically needed alternatives to
123 institutionalization, ~~and~~ deep-end commitment, and secure
124 detention.

125
126 The Legislature intends that detention care, in addition to
127 providing secure and safe custody, will promote the health and
128 well-being of the children committed thereto and provide an

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129 environment that fosters their social, emotional, intellectual,
130 and physical development.

131 (4) DETENTION.—

132 (b) The Legislature intends that a juvenile found to have
133 committed a delinquent act understands the consequences and the
134 serious nature of such behavior. Therefore, the Legislature
135 finds that secure detention is appropriate to ensure public
136 safety and guarantee court appearance ~~provide punishment that~~
137 ~~discourages further delinquent behavior.~~ The Legislature also
138 finds that certain juveniles have committed a sufficient number
139 of criminal acts, including acts involving violence to persons,
140 to represent sufficient danger to the community to warrant
141 sentencing and placement within the adult system. It is the
142 intent of the Legislature to establish clear criteria in order
143 to identify these juveniles and remove them from the juvenile
144 justice system.

145 ~~(5) SERIOUS OR HABITUAL JUVENILE OFFENDERS.—The~~
146 ~~Legislature finds that fighting crime effectively requires a~~
147 ~~multipronged effort focusing on particular classes of delinquent~~
148 ~~children and the development of particular programs. This~~
149 ~~state's juvenile justice system has an inadequate number of beds~~
150 ~~for serious or habitual juvenile offenders and an inadequate~~
151 ~~number of community and residential programs for a significant~~
152 ~~number of children whose delinquent behavior is due to or~~
153 ~~connected with illicit substance abuse. In addition, a~~
154 ~~significant number of children have been adjudicated in adult~~
155 ~~criminal court and placed in this state's prisons where programs~~
156 ~~are inadequate to meet their rehabilitative needs and where~~

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157 ~~space is needed for adult offenders. Recidivism rates for each~~
158 ~~of these classes of offenders exceed those tolerated by the~~
159 ~~Legislature and by the citizens of this state.~~

160 (8) CHILDREN 9 YEARS OF AGE OR YOUNGER.—The Legislature
161 finds that very young children need age-appropriate services in
162 order to prevent and reduce future acts of delinquency. Children
163 who are 9 years of age or younger may be diverted into prearrest
164 or postarrest programs, civil citation programs, or children-in-
165 need-of-services and families-in-need-of-services programs, or
166 other programs, as appropriate. If, based upon a needs
167 assessment, the child is found to be in need of mental health
168 services or substance abuse treatment services, the department
169 shall cooperate with the parent or legal guardian and the
170 Department of Children and Family Services, as appropriate, to
171 identify the most appropriate services and supports and
172 available funding sources to meet the needs of the child.

173 (9) RESTORATIVE JUSTICE.—

174 (a) It is the intent of the Legislature that the juvenile
175 justice system advance the principles of restorative justice.
176 The department shall focus on repairing the harm to victims of
177 delinquent behavior by ensuring that the child understands the
178 effect of his or her delinquent behavior on the victim and the
179 community and that the child restores the losses of his or her
180 victim.

181 (b) Offender accountability is one of the principles of
182 restorative justice. The premise of this principle is that the
183 juvenile justice system must respond to delinquent behavior in
184 such a way that the offender is made aware of and takes

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185 responsibility for repaying or restoring loss, damage, or injury
186 perpetrated upon the victim and the community. This goal is
187 achieved when the offender understands the consequences of
188 delinquent behaviors in terms of harm to others, and when the
189 offender makes amends for the harm, loss, or damage through
190 restitution, community service, or other appropriate repayment.

191 Section 14. Subsection (1) of section 985.125, Florida
192 Statutes, is amended to read:

193 985.125 Prearrest or postarrest diversion programs.—

194 (1) A law enforcement agency, ~~or~~ school district, county,
195 municipality, or the department, in cooperation with the state
196 attorney, is encouraged to ~~may~~ establish a prearrest or
197 postarrest diversion programs. Youth who are taken into custody
198 for first-time misdemeanor offenses or offenders who are 9 years
199 of age or younger should be given an opportunity to participate
200 in prearrest or postarrest diversion programs ~~program.~~

201 Section 15. Paragraph (a) of subsection (3) of section
202 985.14, Florida Statutes, is amended to read:

203 985.14 Intake and case management system.—

204 (3) The intake and case management system shall facilitate
205 consistency in the recommended placement of each child, and in
206 the assessment, classification, and placement process, with the
207 following purposes:

208 (a) An individualized, multidisciplinary assessment process
209 that identifies the priority needs of each individual child for
210 rehabilitation and treatment and identifies any needs of the
211 child's parents or guardians for services that would enhance
212 their ability to provide adequate support, guidance, and

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213 supervision for the child. This process shall begin with the
214 detention risk assessment instrument and decision, shall include
215 the intake preliminary screening and comprehensive assessment
216 for substance abuse treatment services, mental health services,
217 retardation services, literacy services, and other educational
218 and treatment services as components, additional assessment of
219 the child's treatment needs, and classification regarding the
220 child's risks to the community and, ~~for a serious or habitual~~
221 ~~delinquent child, shall include the assessment for placement in~~
222 ~~a serious or habitual delinquent children program under s.~~
223 985.47. The completed multidisciplinary assessment process shall
224 result in the predisposition report.

225 Section 16. Paragraph (d) of subsection (1) of section
226 985.145, Florida Statutes, is amended to read:

227 985.145 Responsibilities of juvenile probation officer
228 during intake; screenings and assessments.-

229 (1) The juvenile probation officer shall serve as the
230 primary case manager for the purpose of managing, coordinating,
231 and monitoring the services provided to the child. Each program
232 administrator within the Department of Children and Family
233 Services shall cooperate with the primary case manager in
234 carrying out the duties and responsibilities described in this
235 section. In addition to duties specified in other sections and
236 through departmental rules, the assigned juvenile probation
237 officer shall be responsible for the following:

238 (d) *Completing risk assessment instrument.*-The juvenile
239 probation officer shall ensure that a risk assessment instrument
240 establishing the child's eligibility for detention has been

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241 accurately completed and that the appropriate recommendation was
242 made to the court. If, upon completion of the risk assessment
243 instrument, the child is ineligible for secure detention based
244 on the criteria in s. 985.24(2)(e), the juvenile probation
245 officer shall make a referral to the appropriate shelter for a
246 child in need of services or family in need of services.

247 Section 17. Section 985.24, Florida Statutes, is amended
248 to read:

249 985.24 Use of detention; prohibitions.—

250 (1) All determinations and court orders regarding the use
251 of secure, nonsecure, or home detention must ~~shall~~ be based
252 primarily upon findings that the child:

253 (a) Presents a substantial risk of not appearing at a
254 subsequent hearing;

255 (b) Presents a substantial risk of inflicting bodily harm
256 on others as evidenced by recent behavior;

257 (c) Presents a history of committing a property offense
258 prior to adjudication, disposition, or placement;

259 (d) Has committed contempt of court by:

260 1. Intentionally disrupting the administration of the
261 court;

262 2. Intentionally disobeying a court order; or

263 3. Engaging in a punishable act or speech in the court's
264 presence which shows disrespect for the authority and dignity of
265 the court; or

266 (e) Requests protection from imminent bodily harm.

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267 (2) A child alleged to have committed a delinquent act or
268 violation of law may not be placed into secure, nonsecure, or
269 home detention care for any of the following reasons:

270 (a) To allow a parent to avoid his or her legal
271 responsibility.

272 (b) To permit more convenient administrative access to the
273 child.

274 (c) To facilitate further interrogation or investigation.

275 (d) Due to a lack of more appropriate facilities.

276 (e) Due to a misdemeanor charge of domestic violence if
277 the child lives in a family that has a history of family
278 violence, as defined in s. 741.28, or if the child is a victim
279 of abuse or neglect, as defined in s. 39.01, and the decision to
280 place the child in secure detention care is mitigated by the
281 history of trauma faced by the child, unless the child would
282 otherwise be subject to secure detention based on his or her
283 prior history.

284 (3) A child alleged to be dependent under chapter 39 may
285 not, under any circumstances, be placed into secure detention
286 care.

287 (4) A child 9 years of age or younger may not be placed
288 into secure detention care unless the child is charged with a
289 capital felony, a life felony, or a felony of the first degree.

290 ~~(5)~~(4) The department shall continue to identify
291 alternatives to secure detention care and shall develop such
292 alternatives and annually submit them to the Legislature for
293 authorization and appropriation.

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294 Section 18. Subsection (2) of section 985.245, Florida
295 Statutes, is amended to read:

296 985.245 Risk assessment instrument.—

297 (2) (a) The risk assessment instrument for detention care
298 placement determinations and court orders shall be developed by
299 the department in ~~agreement~~consultation with representatives
300 appointed by the following associations: the Conference of
301 Circuit Judges of Florida, the Prosecuting Attorneys
302 Association, the Public Defenders Association, the Florida
303 Sheriffs Association, and the Florida Association of Chiefs of
304 Police. Each association shall appoint two individuals, one
305 representing an urban area and one—representing a rural area.
306 ~~The parties involved shall evaluate and revise the risk~~
307 ~~assessment instrument shall be as is considered necessary using~~
308 ~~the method for revision as agreed by the parties effective at~~
309 predicting risk and avoiding the unnecessary use of secure
310 detention.

311 (b) The risk assessment instrument shall accurately
312 predict a child's risk of rearrest or failure to appear and may
313 take the following factors ~~take~~ into consideration, but need not
314 be limited to them: ~~7~~ prior history of failure to appear, prior
315 offenses, offenses committed pending adjudication, any unlawful
316 possession of a firearm, ~~theft of a motor vehicle or possession~~
317 ~~of a stolen motor vehicle,~~ and probation status at the time the
318 child is taken into custody. The risk assessment instrument
319 shall also take into consideration appropriate aggravating and
320 mitigating circumstances, and shall be designed to target a
321 narrower population of children than s. 985.255. The risk

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322 assessment instrument shall also include any information
323 concerning the child's history of abuse and neglect. The risk
324 assessment shall indicate whether detention care is warranted,
325 and, if detention care is warranted, whether the child should be
326 placed into secure, nonsecure, or home detention care.

327 Section 19. Section 985.255, Florida Statutes, is amended
328 to read:

329 985.255 Detention criteria; detention hearing.—

330 (1) Subject to s. 985.25(1), a child taken into custody
331 and placed into ~~nonsecure or~~ home detention care or detained in
332 secure detention care before ~~prior to~~ a detention hearing may
333 continue to be detained by the court if:

334 (a) The child is alleged to be an escapee from a
335 residential commitment program; or an absconder from a
336 nonresidential commitment program, a probation program, or
337 conditional release supervision; or is alleged to have escaped
338 while being lawfully transported to or from a residential
339 commitment program.

340 (b) The child is wanted in another jurisdiction for an
341 offense which, if committed by an adult, would be a felony.

342 (c) The child is charged with a delinquent act or
343 violation of law and requests in writing through legal counsel
344 to be detained for protection from an imminent physical threat
345 to his or her personal safety.

346 (d) The child is charged with committing a felony ~~an~~
347 offense of domestic violence as defined in s. 741.28 and is
348 detained as provided in subsection (2).

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349 (e) The child is charged with possession or discharging a
350 firearm on school property in violation of s. 790.115.

351 (f) The child is charged with a capital felony, a life
352 felony, a felony of the first degree, a felony of the second
353 degree that does not involve a violation of chapter 893, or a
354 felony of the third degree that is also a crime of violence,
355 including any such offense involving the use or possession of a
356 firearm.

357 (g) The child is charged with any second degree or third
358 degree felony involving a violation of chapter 893 or any third
359 degree felony that is not also a crime of violence, and the
360 child:

- 361 1. Has a record of failure to appear at court hearings
362 after being properly notified in accordance with the Rules of
363 Juvenile Procedure;
- 364 2. Has a record of law violations prior to court hearings;
- 365 3. Has already been detained or has been released and is
366 awaiting final disposition of the case;
- 367 4. Has a record of violent conduct resulting in physical
368 injury to others; or
- 369 5. Is found to have been in possession of a firearm.

370 (h) The child is alleged to have violated the conditions
371 of the child's probation or conditional release supervision.
372 However, a child detained under this paragraph may be held only
373 in a consequence unit as provided in s. 985.439. If a
374 consequence unit is not available, the child shall be placed on
375 home detention with electronic monitoring.

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376 (i) The child is detained on a judicial order for failure
377 to appear and has previously willfully failed to appear, after
378 proper notice, for an adjudicatory hearing on the same case
379 regardless of the results of the risk assessment instrument. A
380 child may be held in secure detention for up to 72 hours in
381 advance of the next scheduled court hearing pursuant to this
382 paragraph. The child's failure to keep the clerk of court and
383 defense counsel informed of a current and valid mailing address
384 where the child will receive notice to appear at court
385 proceedings does not provide an adequate ground for excusal of
386 the child's nonappearance at the hearings.

387 (j) The child is detained on a judicial order for failure
388 to appear and has previously willfully failed to appear, after
389 proper notice, at two or more court hearings of any nature on
390 the same case regardless of the results of the risk assessment
391 instrument. A child may be held in secure detention for up to 72
392 hours in advance of the next scheduled court hearing pursuant to
393 this paragraph. The child's failure to keep the clerk of court
394 and defense counsel informed of a current and valid mailing
395 address where the child will receive notice to appear at court
396 proceedings does not provide an adequate ground for excusal of
397 the child's nonappearance at the hearings.

398 (2) A child who is charged with committing a felony ~~an~~
399 offense of domestic violence as defined in s. 741.28 and who
400 does not meet detention criteria may be held in secure detention
401 if the court makes specific written findings that:

402 (a) Respite care for the child is not available.

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403 (b) It is necessary to place the child in secure detention
404 in order to protect the victim from injury.

405
406 The child may not be held in secure detention under this
407 subsection for more than 48 hours unless ordered by the court.
408 After 48 hours, the court shall hold a hearing if the state
409 attorney or victim requests that secure detention be continued.
410 The child may continue to be held in detention care if the court
411 makes a specific, written finding that detention care is
412 necessary to protect the victim from injury. However, the child
413 may not be held in detention care beyond the time limits set
414 forth in this section or s. 985.26.

415 (3) (a) A child who meets any of the criteria in subsection
416 (1) and who is ordered to be detained under that subsection
417 shall be given a hearing within 24 hours after being taken into
418 custody. The purpose of the detention hearing is to determine
419 the existence of probable cause that the child has committed the
420 delinquent act or violation of law that he or she is charged
421 with and the need for continued detention. Unless a child is
422 detained under paragraph (1) (d) or paragraph (1) (e), the court
423 shall use the results of the risk assessment performed by the
424 juvenile probation officer and, based on the criteria in
425 subsection (1), shall determine the need for continued
426 detention. A child placed into secure, nonsecure, or home
427 detention care may continue to be so detained by the court.

428 (b) If the court orders a placement more restrictive than
429 indicated by the results of the risk assessment instrument, the

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430 court shall state, in writing, clear and convincing reasons for
431 such placement.

432 (c) Except as provided in s. 790.22(8) or in s. 985.27,
433 when a child is placed into secure or nonsecure detention care,
434 or into a respite home or other placement pursuant to a court
435 order following a hearing, the court order must include specific
436 instructions that direct the release of the child from such
437 placement no later than 5 p.m. on the last day of the detention
438 period specified in s. 985.26 or s. 985.27, whichever is
439 applicable, unless the requirements of such applicable provision
440 have been met or an order of continuance has been granted under
441 s. 985.26(4).

442 Section 20. Subsection (1) of section 985.441, Florida
443 Statutes, is amended to read:

444 985.441 Commitment.—

445 (1) The court that has jurisdiction of an adjudicated
446 delinquent child may, by an order stating the facts upon which a
447 determination of a sanction and rehabilitative program was made
448 at the disposition hearing:

449 ~~(c) Commit the child to the department for placement in a~~
450 ~~160 program or facility for serious or habitual juvenile~~
451 ~~offenders 161 in accordance with s. 985.47. 162~~

452 ~~1. Following a delinquency adjudicatory hearing under s.~~
453 ~~163 985.35 and a delinquency disposition hearing under s.~~
454 ~~985.433 164 that results in a commitment determination, the~~
455 ~~court shall, on 165 its own or upon request by the state or the~~
456 ~~department, 166 determine whether the protection of the public~~
457 ~~requires that the child be placed in a program for serious or~~

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458 ~~habitual juvenile offenders and whether the particular needs of~~
459 ~~the child would be best served by a program for serious or~~
460 ~~habitual juvenile offenders as provided in s. 985.47. The~~
461 ~~determination shall be made under ss. 985.47(1) and 985.433(7).~~

462 ~~2. Any commitment of a child to a program or facility for~~
463 ~~serious or habitual juvenile offenders must be for an~~
464 ~~indeterminate period of time, but the time may not exceed the~~
465 ~~maximum term of imprisonment that an adult may serve for the~~
466 ~~same offense.~~

467 ~~(c)-(d)~~ Commit the child to the department for placement in
468 a program or facility for juvenile sexual offenders in
469 accordance with s. 985.48, subject to specific appropriation for
470 180 such a program or facility.

471 1. The child may only be committed for such placement
472 pursuant to determination that the child is a juvenile sexual
473 offender under the criteria specified in s. 985.475.

474 2. Any commitment of a juvenile sexual offender to a
475 program or facility for juvenile sexual offenders must be for an
476 indeterminate period of time, but the time may not exceed the
477 maximum term of imprisonment that an adult may serve for the
478 same offense.

479 (d) Commit the child to the department for placement in a
480 mother-infant program designed to serve the needs of juvenile
481 mothers or expectant juvenile mothers who are committed as
482 delinquents. The department's mother-infant program must be
483 licensed as a child care facility in accordance with s. 402.308,
484 and must provide the services and support necessary to enable
485 the committed juvenile mothers to provide for the needs of their

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486 infants who, upon agreement of the mother, may accompany them in
487 the program.

488 Section 21. Subsection (1) of section 985.45, Florida
489 Statutes, is amended to read:

490 985.45 Liability and remuneration for work.—

491 (1) Whenever a child is required by the court to
492 participate in any work program under this part or whenever a
493 child volunteers to work in a specified state, county,
494 municipal, or community service organization supervised work
495 program or to work for the victim, either as an alternative to
496 monetary restitution or as a part of the rehabilitative or
497 probation program, the child is an employee of the state for the
498 purposes of chapter 440 liability.

499 Section 22. Section 985.494, Florida Statutes, is amended
500 to read:

501 985.494 Commitment programs for juvenile felony offenders.—

502 (1) Notwithstanding any other law and regardless of the
503 child's age, a child who is adjudicated delinquent, or for whom
504 53 adjudication is withheld, for an act that would be a felony
505 if 54 committed by an adult, shall be committed to:

506 ~~(a) A program for serious or habitual juvenile offenders~~
507 ~~under s. 985.47 or an intensive residential treatment program~~
508 ~~for offenders less than 13 years of age under s. 985.483, if the~~
509 ~~child has participated in an early delinquency intervention~~
510 ~~program and has completed a sheriff's training and respect~~
511 ~~program.~~

512 ~~(b) a maximum-risk residential program, if the child has~~
513 completed two different high-risk residential commitment

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514 ~~programs participated in an early delinquency intervention~~
515 ~~program, has completed a sheriff's training and respect program,~~
516 ~~and has completed a program for serious or habitual juvenile~~
517 ~~offenders or an intensive residential treatment program for~~
518 ~~offenders less than 13 years of age. The commitment of a child~~
519 ~~to a maximum-risk residential program must be for an~~
520 ~~indeterminate period, but may not exceed the maximum term of~~
521 ~~imprisonment that an adult may serve for the same offense.~~

522 (2) In committing a child to the appropriate program, the
523 court may consider an equivalent program of similar intensity as
524 being comparable to a program required under subsection (1).

525 Section 23. Paragraph (b) of subsection (4) of section
526 985.565, Florida Statutes, is amended to read:

527 985.565 Sentencing powers; procedures; alternatives for
528 juveniles prosecuted as adults.—

529 (4) SENTENCING ALTERNATIVES.—

530 (b) Juvenile sanctions.—For juveniles transferred to adult
531 195 court but who do not qualify for such transfer under
532 s.985.556(3) or s. 985.557(2)(a) or (b), the court may impose
533 juvenile sanctions under this paragraph. If juvenile sentences
534 are imposed, the court shall, under this paragraph, adjudge the
535 child to have committed a delinquent act. Adjudication of
536 delinquency shall not be deemed a conviction, nor shall it
537 operate to impose any of the civil disabilities ordinarily
538 resulting from a conviction. The court shall impose an adult
539 sanction or a juvenile sanction and may not sentence the child
540 to a combination of adult and juvenile punishments. An adult
541 sanction or a juvenile sanction may include enforcement of an

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542 order of restitution or probation previously ordered in any
543 juvenile proceeding. However, if the court imposes a juvenile
544 sanction and the department determines that the sanction is
545 unsuitable for the child, the department shall return custody of
546 the child to the sentencing court for further proceedings,
547 including the imposition of adult sanctions. Upon adjudicating a
548 child delinquent under subsection (1), the court may:

549 1. Place the child in a probation program under the
550 supervision of the department for an indeterminate period of
551 time until the child reaches the age of 19 years or sooner if
552 discharged by order of the court.

553 2. Commit the child to the department for treatment in an
554 appropriate program for children for an indeterminate period of
555 time until the child is 21 or sooner if discharged by the
556 department. The department shall notify the court of its intent
557 to discharge no later than 14 days prior to discharge. Failure
558 of the court to timely respond to the department's notice shall
559 be considered approval for discharge.

560 3. Order disposition under ss. 985.435, 985.437,
561 985.439, 985.441, ~~985.445~~, 985.45, and 985.455 as an alternative
562 to youthful offender or adult sentencing if the court determines
563 not to impose youthful offender or adult sanctions.

564
565 It is the intent of the Legislature that the criteria and
566 guidelines in this subsection are mandatory and that a
567 determination of disposition under this subsection is subject to
568 the right of the child to appellate review under s. 985.534.

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569 Section 24. Section 985.632, Florida Statutes, is amended
570 to read:

571 985.632 Program review and reporting requirements ~~Quality~~
572 ~~assurance and cost-effectiveness.~~

573 (1) LEGISLATIVE INTENT.—It is the intent of the
574 Legislature that the department:

575 (a) Ensure that information be provided to decisionmakers
576 in a timely manner so that resources are allocated to programs
577 that ~~of the department~~ which achieve desired performance levels.

578 (b) Collect and analyze available statistical data for the
579 purpose of ongoing evaluation of all programs.

580 (c) ~~(b)~~ Provide information about the cost of such programs
581 and their differential effectiveness so that program ~~the~~ quality
582 may ~~of such programs~~ can be compared and improvements made
583 continually.

584 (d) ~~(e)~~ Provide information to aid in developing related
585 policy issues and concerns.

586 (e) ~~(d)~~ Provide information to the public about the
587 effectiveness of such programs in meeting established goals and
588 objectives.

589 (f) ~~(e)~~ Provide a basis for a system of accountability so
590 that each youth ~~client~~ is afforded the best programs to meet his
591 or her needs.

592 (g) ~~(f)~~ Improve service delivery to youth ~~clients~~.

593 (h) ~~(g)~~ Modify or eliminate activities that are not
594 effective.

595 (2) DEFINITIONS.—As used in this section, the term:

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596 (a) "Program" means any facility, service, or program for
597 youth which is operated by the department or by a provider under
598 contract with the department.

599 (b)-(b) "Program component" means an aggregation of
600 generally related objectives which, because of their special
601 character, related workload, and interrelated output, can
602 logically be considered an entity for purposes of organization,
603 management, accounting, reporting, and budgeting.

604 (c) "Program group" means a collection of programs having
605 sufficient similarity of functions, services, and population to
606 allow appropriate comparisons between programs within the group.

607 (d)-(a) "Youth" "Client" means any person who is being
608 provided treatment or services by the department or by a
609 provider under contract with the department.

610 ~~(e) "Program effectiveness" means the ability of the~~
611 ~~program to achieve desired client outcomes, goals, and~~
612 ~~objectives.~~

613 (3) COMPREHENSIVE ACCOUNTABILITY REPORT.—The department
614 shall use a standard methodology for annually measuring,
615 evaluating, and reporting program outputs and youth outcomes for
616 each program and program group. The department shall submit a
617 report to the appropriate committees of the Legislature and the
618 Governor by January 15 of each year. The department shall notify
619 the Office of Program Policy Analysis and Government
620 Accountability and each contract service provider of substantive
621 changes to the methodology. The standard methodology must:

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622 (a) Define common terminology and operational definitions
623 and methods by which the performance of program outputs and
624 outcomes may be measured.

625 (b) Specify program outputs for each program and for each
626 program group within the juvenile justice continuum.

627 (c) Report cost data for each program operated or
628 contracted by the department for the fiscal year corresponding
629 to the program outputs and outcomes being reported. The
630 ~~department shall annually collect and report cost data for every~~
631 ~~program operated or contracted by the department. The cost data~~
632 ~~shall conform to a format approved by the department and the~~
633 ~~Legislature. Uniform cost data shall be reported and collected~~
634 ~~for state-operated and contracted programs so that comparisons~~
635 ~~can be made among programs. The department shall ensure that~~
636 ~~there is accurate cost accounting for state-operated services~~
637 ~~including market-equivalent rent and other shared cost. The cost~~
638 ~~of the educational program provided to a residential facility~~
639 ~~shall be reported and included in the cost of a program. The~~
640 ~~department shall submit an annual cost report to the President~~
641 ~~of the Senate, the Speaker of the House of Representatives, the~~
642 ~~Minority Leader of each house of the Legislature, the~~
643 ~~appropriate substantive and fiscal committees of each house of~~
644 ~~the Legislature, and the Governor, no later than December 1 of~~
645 ~~each year. Cost-benefit analysis for educational programs will~~
646 ~~be developed and implemented in collaboration with and in~~
647 ~~cooperation with the Department of Education, local providers,~~
648 ~~and local school districts. Cost data for the report shall~~
649 ~~include data collected by the Department of Education for the~~

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650 ~~purposes of preparing the annual report required by s.~~
651 ~~1003.52(19).~~

652 (4) PROGRAM ACCOUNTABILITY MEASURES.—

653 (a) ~~The department, in consultation with the Office of~~
654 ~~Economic and Demographic Research and contract service~~
655 ~~providers, shall develop a cost-effectiveness model and apply~~
656 ~~the program accountability measures analysis model to each~~
657 ~~commitment program and include the results in the comprehensive~~
658 ~~accountability report. ~~Program recidivism rates shall be a~~~~
659 ~~component of the model. The program accountability measures~~
660 ~~analysis cost-effectiveness model shall compare program costs to~~
661 ~~expected and actual youth recidivism rates ~~client outcomes and~~~~
662 ~~program outputs. It is the intent of the Legislature that~~
663 ~~continual development efforts take place to improve the validity~~
664 ~~and reliability of the ~~cost-effectiveness model~~program~~
665 ~~accountability measure analysis.~~

666 ~~(b) The department shall rank commitment programs based on~~
667 ~~the ~~cost-effectiveness model~~ and shall submit a report to the~~
668 ~~appropriate substantive and fiscal committees of each house of~~
669 ~~the Legislature by December 31 of each year.~~

670 ~~(b)(c)~~ Based on reports of the department on client
671 ~~outcomes and program outputs and on the department's most recent~~
672 ~~program accountability measures analysis cost-effectiveness~~
673 ~~rankings, the department may terminate its contract with or~~
674 ~~discontinue a commitment program ~~operated by the department or a~~~~
675 ~~provider if the program has failed to achieve a minimum~~
676 ~~threshold of recidivism and cost-effectiveness ~~program~~~~
677 ~~effectiveness. This paragraph does not preclude the department~~

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678 from terminating a contract as provided under this section or as
679 otherwise provided by law or contract, and does not limit the
680 department's authority to enter into or terminate a contract.

681 ~~(c)-(d)~~ The department shall notify the Office of Program
682 Policy Analysis and Government Accountability and each contract
683 service provider of substantive changes to the program
684 accountability measures analysis. In collaboration with the
685 Office of Economic and Demographic Research, and contract
686 service providers, the department shall develop a work plan to
687 refine the cost-effectiveness model so that the model is
688 consistent with the performance-based program budgeting measures
689 approved by the Legislature to the extent the department deems
690 appropriate. The department shall notify the Office of Program
691 Policy Analysis and Government Accountability of any meetings to
692 refine the model.

693 ~~(d)-(e)~~ Contingent upon specific appropriation, the
694 department, in consultation with the Office of Economic and
695 Demographic Research, and contract service providers, shall:

696 1. Construct a profile of each commitment program which
697 ~~that~~ uses the results of the quality assurance report required
698 by this section, the ~~cost-effectiveness model~~program
699 accountability measure analysis required in this subsection, and
700 other reports available to the department.

701 2. Target, for a more comprehensive evaluation, any
702 commitment program that has achieved consistently high, low, or
703 disparate ratings in the reports required under subparagraph 1.

704 3. Identify the essential factors that contribute to the
705 high, low, or disparate program ratings.

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706 4. Use the results of these evaluations in developing or
707 refining juvenile justice programs or program models, youth
708 ~~client~~ outcomes and program outputs, provider contracts, quality
709 assurance standards, and the ~~cost-effectiveness model~~program
710 accountability measure analysis.

711 (5) QUALITY ASSURANCE.—The department shall:

712 (a) Establish a comprehensive quality assurance system for
713 each program operated by the department or operated by a
714 provider under contract with the department. Each contract
715 entered into by the department must provide for quality
716 assurance and include the results in the comprehensive
717 accountability report.

718 (b) Provide operational definitions of and criteria for
719 quality assurance for each specific program component.

720 (c) Establish quality assurance goals and objectives for
721 each specific program component.

722 (d) Establish the information and specific data elements
723 required for the quality assurance program.

724 (e) Develop a quality assurance manual of specific,
725 standardized terminology and procedures to be followed by each
726 program.

727 (f) Evaluate each program operated by the department or a
728 provider under a contract with the department and establish
729 minimum thresholds for each program component. If a provider
730 fails to meet the established minimum thresholds, such failure
731 shall cause the department to cancel the provider's contract
732 unless the provider achieves compliance with minimum thresholds
733 within 6 months or unless there are documented extenuating

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734 circumstances. In addition, the department may not contract with
735 the same provider for the canceled service for a period of 12
736 months. If a department-operated program fails to meet the
737 established minimum thresholds, the department must take
738 necessary and sufficient steps to ensure and document program
739 changes to achieve compliance with the established minimum
740 thresholds. If the department-operated program fails to achieve
741 compliance with the established minimum thresholds within 6
742 months and if there are no documented extenuating circumstances,
743 the department must notify the Executive Office of the Governor
744 and the Legislature of the corrective action taken. Appropriate
745 corrective action may include, but is not limited to:

- 746 1. Contracting out for the services provided in the
747 program;
- 748 2. Initiating appropriate disciplinary action against all
749 employees whose conduct or performance is deemed to have
750 materially contributed to the program's failure to meet
751 established minimum thresholds;
- 752 3. Redesigning the program; or
- 753 4. Realigning the program.

754
755 ~~The department shall submit an annual report to the President of~~
756 ~~the Senate, the Speaker of the House of Representatives, the~~
757 ~~Minority Leader of each house of the Legislature, the~~
758 ~~appropriate substantive and fiscal committees of each house of~~
759 ~~the Legislature, and the Governor, no later than February 1 of~~
760 ~~each year. The annual report must contain, at a minimum, for~~
761 ~~each specific program component: a comprehensive description of~~

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762 ~~the population served by the program; a specific description of~~
763 ~~the services provided by the program; cost; a comparison of~~
764 ~~expenditures to federal and state funding; immediate and long-~~
765 ~~range concerns; and recommendations to maintain, expand,~~
766 ~~improve, modify, or eliminate each program component so that~~
767 ~~changes in services lead to enhancement in program quality. The~~
768 ~~department shall ensure the reliability and validity of the~~
769 ~~information contained in the report.~~

770 ~~(6) The department shall collect and analyze available~~
771 ~~statistical data for the purpose of ongoing evaluation of all~~
772 ~~programs. The department shall provide the Legislature with~~
773 ~~necessary information and reports to enable the Legislature to~~
774 ~~make informed decisions regarding the effectiveness of, and any~~
775 ~~needed changes in, services, programs, policies, and laws.~~

776 Section 25. Section 985.66, Florida Statutes, is amended to
777 read:

778 985.66 Juvenile justice training academies; staff
779 development and training; Juvenile Justice Standards and
780 Training Commission; Juvenile Justice Training Trust Fund.—

781 (1) LEGISLATIVE PURPOSE.—In order to enable the state to
782 provide a systematic approach to staff development and training
783 for judges, state attorneys, public defenders, law enforcement
784 officers, school district personnel, and juvenile justice
785 program staff that will meet the needs of such persons in their
786 discharge of duties while at the same time meeting the
787 requirements for the American Correction Association
788 accreditation by the Commission on Accreditation for
789 Corrections, it is the purpose of the Legislature to require the

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790 department to establish, maintain, and oversee the operation of
791 juvenile justice training academies in the state. The purpose of
792 the Legislature in establishing staff development and training
793 programs is to foster better staff morale and reduce
794 mistreatment and aggressive and abusive behavior in delinquency
795 programs; to positively impact the recidivism of children in the
796 juvenile justice system; and to afford greater protection of the
797 public through an improved level of services delivered by a
798 professionally trained juvenile justice program staff to
799 children who are alleged to be or who have been found to be
800 delinquent.

801 (2) STAFF DEVELOPMENT ~~JUVENILE JUSTICE STANDARDS AND~~
802 ~~TRAINING COMMISSION.~~

803 ~~(a) There is created under the Department of Juvenile~~
804 ~~Justice the Juvenile Justice Standards and Training Commission,~~
805 ~~hereinafter referred to as the commission. The 17-~~
806 ~~membercommission shall consist of the Attorney General or~~
807 ~~designee, the Commissioner of Education or designee, a member of~~
808 ~~the juvenile court judiciary to be appointed by the Chief~~
809 ~~Justice of the Supreme Court, and 14 members to be appointed by~~
810 ~~the Secretary of Juvenile Justice as follows:~~

811 1. ~~Seven members shall be juvenile justice professionals: a~~
812 ~~superintendent or a direct care staff member from an~~
813 ~~institution; a director from a contracted community-based~~
814 ~~program; a superintendent and a direct care staff member from a~~
815 ~~regional detention center or facility; a juvenile probation~~
816 ~~officer supervisor and a juvenile probation officer; and a~~

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817 ~~director of a day treatment or conditional release program. No~~
818 ~~fewer than three of these members shall be contract providers.~~

819 ~~2. Two members shall be representatives of local law~~
820 ~~enforcement agencies.~~

821 ~~3. One member shall be an educator from the state's~~
822 ~~university and community college program of criminology,~~
823 ~~criminal justice administration, social work, psychology,~~
824 ~~sociology, or other field of study pertinent to the training of~~
825 ~~juvenile justice program staff.~~

826 ~~4. One member shall be a member of the public.~~

827 ~~5. One member shall be a state attorney, or assistant state~~
828 ~~attorney, who has juvenile court experience.~~

829 ~~6. One member shall be a public defender, or assistant~~
830 ~~public defender, who has juvenile court experience.~~

831 ~~7. One member shall be a representative of the business~~
832 ~~community.~~

833
834 ~~All appointed members shall be appointed to serve terms of~~
835 ~~2 years.~~

836
837 ~~(b) The composition of the commission shall be broadly~~
838 ~~reflective of the public and shall include minorities and women.~~
839 ~~The term "minorities" as used in this paragraph means a member~~
840 ~~of a socially or economically disadvantaged group that includes~~
841 ~~blacks, Hispanics, and American Indians.~~

842 ~~(c) The Department of Juvenile Justice shall provide the~~
843 ~~commission with staff necessary to assist the commission in the~~
844 ~~performance of its duties.~~

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845 ~~(d) The commission shall annually elect its chairperson and~~
846 ~~other officers. The commission shall hold at least four regular~~
847 ~~meetings each year at the call of the chairperson or upon the~~
848 ~~written request of three members of the commission. A majority~~
849 ~~of the members of the commission constitutes a quorum. Members~~
850 ~~of the commission shall serve without compensation but are~~
851 ~~entitled to be reimbursed for per diem and travel expenses as~~
852 ~~provided by s. 112.061 and these expenses shall be paid from the~~
853 ~~Juvenile Justice Training Trust Fund.~~

854 ~~(e) The department powers, duties, and functions of the 311~~
855 ~~commission shall be to:~~

856 ~~(a)1-~~ Designate the location of the training academies;
857 develop, implement, maintain, and update the curriculum to be
858 used in the training of juvenile justice program staff;
859 establish timeframes for participation in and completion of
860 training by juvenile justice program staff; develop, implement,
861 maintain, and update job-related examinations; develop,
862 implement, and update the types and frequencies of evaluations
863 of the training academies; approve, modify, or disapprove the
864 budget for the training academies, and the contractor to be
865 selected to organize and operate the training academies and to
866 provide the training curriculum.

867 ~~(b)2-~~ Establish uniform minimum job-related training
868 courses and examinations for juvenile justice program staff.

869 ~~(c)3-~~ Consult and cooperate with the state or any political
870 subdivision; any private entity or contractor; and with private
871 and public universities, colleges, community colleges, and other
872 educational institutions concerning the development of juvenile

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873 justice training and programs or courses of instruction,
874 including, but not limited to, education and training in the
875 areas of juvenile justice.

876 ~~(d)4. Enter into~~ With the approval of the department, make
877 ~~and enter into~~ such contracts and agreements with other
878 agencies, organizations, associations, corporations,
879 individuals, or federal agencies as the ~~commission determines~~
880 ~~are~~ necessary in the execution of the its powers of the
881 department or the performance of its duties.

882 ~~5. Make recommendations to the Department of Juvenile~~
883 ~~Justice concerning any matter within the purview of this~~
884 ~~section.~~

885 (3) JUVENILE JUSTICE TRAINING PROGRAM.- The department
886 ~~commission~~ shall establish a certifiable program for juvenile
887 justice training pursuant to this section, and all department
888 program staff and providers who deliver direct care services
889 pursuant to contract with the department shall be required to
890 participate in and successfully complete the department-approved
891 ~~commission-approved~~ program of training pertinent to their areas
892 of responsibility. Judges, state attorneys, and public
893 defenders, law enforcement officers, and school district
894 personnel may participate in such training program. For the
895 juvenile justice program staff, the department ~~commission~~ shall,
896 based on a job-task analysis:

897 (a) Design, implement, maintain, evaluate, and revise a
898 basic training program, including a competency-based
899 examination, for the purpose of providing minimum employment
900 training qualifications for all juvenile justice personnel. All

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901 program staff of the department and providers who deliver
902 direct-care services who are hired after October 1, 1999, must
903 meet the following minimum requirements:

904 1. Be at least 19 years of age.

905 2. Be a high school graduate or its equivalent as
906 determined by the department ~~commission~~.

907 3. Not have been convicted of any felony or a misdemeanor
908 involving perjury or a false statement, or have received a
909 dishonorable discharge from any of the Armed Forces of the
910 United States. Any person who, after September 30, 1999, pleads
911 guilty or nolo contendere to or is found guilty of any felony or
912 a misdemeanor involving perjury or false statement is not
913 eligible for employment, notwithstanding suspension of sentence
914 or withholding of adjudication. Notwithstanding this
915 subparagraph, any person who pled nolo contendere to a
916 misdemeanor involving a false statement before October 1, 1999,
917 and who has had such record of that plea sealed or expunged is
918 not ineligible for employment for that reason.

919 4. Abide by all the provisions of s. 985.644(1) regarding
920 fingerprinting and background investigations and other screening
921 requirements for personnel.

922 5. Execute and submit to the department an affidavit-of-
923 application form, adopted by the department, attesting to his or
924 her compliance with subparagraphs 1.-4. The affidavit must be
925 executed under oath and constitutes an official statement under
926 s. 837.06. The affidavit must include conspicuous language that
927 the intentional false execution of the affidavit constitutes a

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928 | misdemeanor of the second degree. The employing agency shall
929 | retain the affidavit.

930 | (b) Design, implement, maintain, evaluate, and revise an
931 | advanced training program, including a competency-based
932 | examination for each training course, which is intended to
933 | enhance knowledge, skills, and abilities related to job
934 | performance.

935 | (c) Design, implement, maintain, evaluate, and revise a
936 | career development training program, including a competency-
937 | based examination for each training course. Career development
938 | courses are intended to prepare personnel for promotion.

939 | (d) The department ~~commission~~ is encouraged to design,
940 | implement, maintain, evaluate, and revise juvenile justice
941 | training courses, or to enter into contracts for such training
942 | courses, that are intended to provide for the safety and well
943 | being of both citizens and juvenile offenders.

944 | (4) JUVENILE JUSTICE TRAINING TRUST FUND.—

945 | (a) There is created within the State Treasury a Juvenile
946 | Justice Training Trust Fund to be used by the department of
947 | ~~Juvenile Justice~~ for the purpose of funding the development and
948 | updating of a job-task analysis of juvenile justice personnel;
949 | the development, implementation, and updating of job-related
950 | training courses and examinations; and the cost of ~~commission-~~
951 | ~~approved~~ juvenile justice training courses; ~~and reimbursement~~
952 | ~~for expenses as provided in s. 112.061 for members of the~~
953 | ~~commission and staff.~~

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954 (b) One dollar from every noncriminal traffic infraction
955 collected pursuant to ss. 318.14(10)(b) and 318.18 shall be
956 deposited into the Juvenile Justice Training Trust Fund.

957 (c) In addition to the funds generated by paragraph (b),
958 the trust fund may receive funds from any other public or
959 private source.

960 (d) Funds that are not expended by the end of the budget
961 cycle or through a supplemental budget approved by the
962 department shall revert to the trust fund.

963 (5) ESTABLISHMENT OF JUVENILE JUSTICE TRAINING ACADEMIES.-
964 The number, location, and establishment of juvenile justice
965 training academies shall be determined by the department
966 ~~commission~~.

967 (6) SCHOLARSHIPS AND STIPENDS.-

968 (a) By rule, the department ~~commission~~ shall establish
969 criteria to award scholarships or stipends to qualified juvenile
970 justice personnel who are residents of the state who want to
971 pursue a bachelor's or associate in arts degree in juvenile
972 justice or a related field. The department shall handle the
973 administration of the scholarship or stipend. The Department of
974 Education shall handle the notes issued for the payment of the
975 scholarships or stipends. All scholarship and stipend awards
976 shall be paid from the Juvenile Justice Training Trust Fund upon
977 vouchers approved by the Department of Education and properly
978 certified by the Chief Financial Officer. Prior to the award of
979 a scholarship or stipend, the juvenile justice employee must
980 agree in writing to practice her or his profession in juvenile
981 justice or a related field for 1 month for each month of grant

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982 or to repay the full amount of the scholarship or stipend
983 together with interest at the rate of 5 percent per annum over a
984 period not to exceed 10 years. Repayment shall be made payable
985 to the state for deposit into the Juvenile Justice Training
986 Trust Fund.

987 (b) The department ~~commission~~ may establish the scholarship
988 program by rule and ~~implement the program on or after July 1,~~
989 ~~1996.~~

990 (7) ADOPTION OF RULES.—The department ~~commission~~ shall
991 adopt rules as necessary to carry out the provisions of this
992 section.

993 (8) PARTICIPATION OF CERTAIN PROGRAMS IN THE STATE RISK
994 MANAGEMENT TRUST FUND.—Pursuant to s. 284.30, the Division of
995 Risk Management of the Department of Financial Services is
996 authorized to insure a private agency, individual, or
997 corporation operating a state-owned training school under a
998 contract to carry out the purposes and responsibilities of any
999 program of the department. The coverage authorized herein shall
1000 be under the same general terms and conditions as the department
1001 is insured for its responsibilities under chapter 284.

1002 ~~(9) The Juvenile Justice Standards and Training Commission~~
1003 ~~is terminated on June 30, 2001, and such termination shall be~~
1004 ~~reviewed by the Legislature prior to that date.~~

1005 Section 26. For the purpose of incorporating the amendment
1006 made by this act to section 984.14, Florida Statutes, in a
1007 reference thereto, subsection (3) of section 984.13, Florida
1008 Statutes, is reenacted to read:

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1009 984.13 Taking into custody a child alleged to be from a
1010 family in need of services or to be a child in need of
1011 services.—

1012 (3) If the child is taken into custody by, or is delivered
1013 to, the department, the appropriate representative of the
1014 department shall review the facts and make such further inquiry
1015 as necessary to determine whether the child shall remain in
1016 custody or be released. Unless shelter is required as provided
1017 in s. 984.14(1), the department shall:

1018 (a) Release the child to his or her parent, guardian, or
1019 legal custodian, to a responsible adult relative, to a
1020 responsible adult approved by the department, or to a
1021 department-approved family-in-need-of-services and child-in-
1022 need-of-services provider; or

1023 (b) Authorize temporary services and treatment that would
1024 allow the child alleged to be from a family in need of services
1025 to remain at home.

1026 Section 27. This act shall take effect July 1, 2011.

1027

1028 -----

1029 **T I T L E A M E N D M E N T**

1030 Remove the entire title and insert:

1031 An act relating to juvenile justice; repealing ss.
1032 985.03(48), 985.03(56), 985.445, 985.47, 985.48(8),
1033 985.483, 985.486, and 985.636, F.S., relating to,
1034 respectively, definitions of terms for a training school
1035 and the serious or habitual juvenile offender program, the
1036 serious or habitual juvenile offender program in the

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1037 juvenile justice system, cases involving grand theft of a
1038 motor vehicle committed by a child, the serious or
1039 habitual juvenile offender program in the juvenile justice
1040 system, activities of the Juvenile Justice Standards and
1041 Training Commission with respect to training and treatment
1042 services for juvenile sexual offenders, the intensive
1043 residential treatment program for offenders less than 13
1044 years of age, and the designation of persons holding law
1045 enforcement certification within the Office of the
1046 Inspector General to act as law enforcement officers;
1047 amending s. 985.652, F.S.; relating to participation of
1048 certain programs in the State Risk Management Trust Fund;
1049 amending s. 394.492, F.S.; including children 9 years of
1050 age or younger at the time of referral for a delinquent
1051 act within the definition of those children who are
1052 eligible to receive comprehensive mental health services;
1053 amending s. 984.14, F.S.; prohibiting placement of a child
1054 into a shelter before a court hearing unless the child is
1055 taken into custody for a misdemeanor domestic violence
1056 charge and is ineligible to be held in secure detention;
1057 amending ss. 985.0301, 985.14, and 985.565, F.S.;

1058 conforming references to changes made by the act; amending
1059 s. 985.02, F.S.; revising legislative intent concerning
1060 delinquency prevention and detention; deleting provisions
1061 relating to serious and habitual juvenile offenders;
1062 providing legislative intent concerning children 9 years
1063 of age or younger and restorative justice; amending s.
1064 985.125, F.S.; encouraging law enforcement agencies,

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1065 school districts, counties, municipalities, and the
1066 department to establish prearrest or postarrest diversion
1067 programs and to give first-time misdemeanor offenders and
1068 offenders who are 9 years of age or younger an opportunity
1069 to participate in the programs; amending s. 985.145, F.S.;
1070 requiring a juvenile probation officer to make a referral
1071 to the appropriate shelter if the completed risk
1072 assessment instrument shows that the child is ineligible
1073 for secure detention; amending s. 985.24, F.S.;

1074 prohibiting a child alleged to have committed a delinquent
1075 act or violation of law from being placed into secure,
1076 nonsecure, or home detention care because of a misdemeanor
1077 charge of domestic violence if the child lives in a family
1078 that has a history of family violence or if the child is a
1079 victim of abuse or neglect unless the child would
1080 otherwise be subject to secure detention based on prior
1081 history; prohibiting a child 9 years of age or younger
1082 from being placed into secure detention care unless the
1083 child is charged with a capital felony, a life felony, or
1084 a felony of the first degree; amending s. 985.245, F.S.;

1085 revising the development process for the risk assessment
1086 instrument; revising factors to be considered in assessing
1087 a child's risk of rearrest or failure to appear; amending
1088 s. 985.255, F.S.; providing that a child may be placed in
1089 home detention care or detained in secure detention care
1090 under certain circumstances; providing that a child who is
1091 charged with committing a felony offense of domestic
1092 violence and who does not meet detention criteria may

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1093 nevertheless be held in secure detention care if the court
1094 makes certain specific written findings; amending s.
1095 985.441, F.S.; conforming references to changes made by
1096 the act; authorizing a court to commit a female child
1097 adjudicated as delinquent to the department for placement
1098 in a mother-infant program designed to serve the needs of
1099 juvenile mothers or expectant juvenile mothers who are
1100 committed as delinquents; amending s. 985.45, F.S.;
1101 providing that whenever a child is required by the court
1102 to participate in any juvenile justice work program, the
1103 child is considered an employee of the state for the
1104 purpose of workers' compensation; amending s. 985.494,
1105 F.S.; requiring a child who is adjudicated delinquent, or
1106 for whom adjudication is withheld, to be committed to a
1107 maximum-risk residential program for an act that would be
1108 a felony if committed by an adult if the child has
1109 completed two different high-risk residential commitment
1110 programs; amending s. 985.632, F.S.; establishing
1111 legislative intent that the Department of Juvenile Justice
1112 collect and analyze available statistical data for the
1113 purpose of ongoing evaluation of all juvenile justice
1114 programs; redefining terms; requiring the department to
1115 use a standard methodology to annually measure, evaluate,
1116 and report program outputs and youth outcomes for each
1117 program and program group; requiring that the department
1118 submit an annual report to the appropriate committees of
1119 the Legislature and the Governor; requiring that the
1120 department notify specified parties of substantive changes

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1121 to the standard methodology used in its evaluation;
1122 requiring that the department apply a program
1123 accountability measures analysis to each commitment
1124 program; deleting obsolete provisions; amending s. 985.66,
1125 F.S.; removing all references to the Juvenile Justice
1126 Standards and Training Commission; requiring the
1127 Department of Juvenile Justice to be responsible for staff
1128 development and training; specifying the duties and
1129 responsibilities of the department for staff development
1130 and training; removing obsolete provisions to conform to
1131 changes made by the act; amending s. 984.14, F.S.;
1132 prohibiting placement of a child into a shelter before a
1133 court hearing unless the child is taken into custody for a
1134 misdemeanor domestic violence charge and is ineligible to
1135 be held in secure detention; reenacting s. 984.13(3),
1136 F.S., relating to taking a child into custody, to
1137 incorporate the amendment made to s. 984.14, F.S., in a
1138 reference thereto; providing an effective date.
1139

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

HB 7233 : Background Screening

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dennis Baxley	X				
Daphne Campbell	X				
Eric Eisnaugle	X				
Matt Gaetz	X				
Tom Goodson	X				
Bill Hager	X				
Shawn Harrison	X				
John Julien	X				
Charles McBurney	X				
Larry Metz	X				
Kathleen Passidomo	X				
Ray Pilon	X				
Ari Porth	X				
Elaine Schwartz	X				
Darren Soto	X				
Richard Steinberg	X				
W. Gregory Steube	X				
William Snyder (Chair)			X		
Total Yeas: 17		Total Nays: 0			

Appearances:

HB 7233

Granger, Theodore (Lobbyist) - Waive In Support
United Way of Florida
307 E 7th Ave
Tallahassee FL 32303
Phone: (850)488-8276

HB 7233

Beck, Robert (Lobbyist) - Waive In Support
Florida Association of Area Agencies on Aging, Inc
2414 Mahan Dr
Tallahassee FL 32308
Phone: (850)766-1410

HB 7233

Croteau, Jim (General Public) - Waive In Support
President/CEO Eldercare Services
2518 W Tennessee St
Tallahassee FL 32309
Phone: 850-921-5554

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE MEETING REPORT

Judiciary Committee

4/14/2011 9:00:00AM

Location: 404 HOB

HB 7233

Rigsby, Peggy (Lobbyist) - Waive In Support

Florida Health Care Association

307 W Park Ave

Tallahassee FL 32301

Phone: (850)224-3907

HB 7233

Cantwell, Laura (Lobbyist) - Waive In Support

AARP

200 West College Avenue Suite 304

Tallahassee FL 32301

Phone: (850)577-5163

HB 7233

McCarron, Mike (Lobbyist) - Waive In Support

Executive Director, Florida Catholic Conference

201 W Park Ave

Tallahassee FL 32301-7715

Phone: (850)205-6820

Committee meeting was reported out: Thursday, April 14, 2011 2:53:30PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7233 (2011)

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	_____	

favourable
4-14-11

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Holder offered the following:

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

5 Between lines 25 and 26, insert:

6 Section 1. Section 409.1757, Florida Statutes, is amended
7 to read:

8 409.1757 Persons not required to be refingerprinted or
9 rescreened.—Any provision of law to the contrary
10 notwithstanding, human resource personnel who have been
11 fingerprinted or screened pursuant to chapters 393, 394, 397,
12 402, and this chapter, and teachers who have been fingerprinted
13 pursuant to chapter 1012, who have not been unemployed for more
14 than 90 days thereafter, or is a law enforcement officer as
15 defined in s. 943.10 (1) with an active certification under the
16 Criminal Justice Standards and Training Commission pursuant to
17 s. 943.13 (7), and who under the penalty of perjury attest to
18 the completion of such fingerprinting or screening and to
19 compliance with the provisions of this section and the standards

Amendment No. 1

20 for good moral character as contained in such provisions as ss.
21 110.1127(3), 393.0655(1), 394.457(6), 397.451, 402.305(2), and
22 409.175(6), and 943.13(7), shall not be required to be
23 refingerprinted or rescreened in order to comply with any
24 caretaker screening or fingerprinting requirements.

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26
27 -----
28 **T I T L E A M E N D M E N T**

29 Remove line 3 and insert:

30 409.1757, F.S.; adding certain law enforcement officers to the
31 screening exemption for purposes of ch. 409, F.S.; amending s.
32 430.0402, F.S.; revising the definition of the term

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7233 (2011)

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	_____	

*Favorable
4.14.11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Holder offered the following:

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

5 Between lines 25 and 26, insert:

6 Section 1. Paragraph (d) is added to subsection (1) of
7 section 394.4572, Florida Statutes, to read:

8 394.4572 Screening of mental health personnel.—

9 (1) (d) Mental health personnel employed by a facility
10 licensed under chapter 395 who have less than 15 hours per week
11 of direct contact with patients are exempt from the
12 fingerprinting and screening requirements.

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

18 Remove line 3 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7233 (2011)

Amendment No. 2

19 | 394.4572, F.S.; providing an exemption from background screening
20 | for certain personnel; amending s. 430.0402, F.S.; revising the
21 | definition of the term

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7233 (2011)

Amendment No. 3

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	___	

*Favorable
4-14-11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Holder offered the following:

3

4 **Amendment**

5 Remove lines 46-49 and insert:

6 (2) Licensed physicians or, nurses, ~~or~~ other professionals
7 licensed by the Department of Health, or attorneys in good
8 standing with The Florida Bar are not subject to background
9 screening if they are providing a service that is within the
10 scope of their licensed practice.

Amendment No. 4

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	_____	

favourable

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Holder offered the following:

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

5 Between lines 112 and 113, insert:

6 Section 2. Paragraph (e) is added to subsection (1) of
7 section 435.04, Florida Statutes, to read:

8 435.04 Level 2 screening standards.—

9 (1) (e) Vendors submitting fingerprints on behalf of
10 employers must:

11 1. Use technology that is compliant with systems used by
12 the Florida Department of Law Enforcement;

13 2. Have the ability to communicate electronically with the
14 state agency accepting screening results from the Florida
15 Department of Law Enforcement;

16 3. Capture two sets of fingerprint images for each
17 individual. One set of fingerprints is to be sent to the Florida
18 Department of Law Enforcement and the second set is to be
19 retained by the vendor for at least 60 days. In the event the

Amendment No. 4

20 first set of prints are deemed illegible by the Florida
21 Department of Law Enforcement or Federal Bureau of
22 Investigation, the vendor will submit the second set of prints
23 upon notification from the agency.

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

Remove line 19 and insert:

background screening; amending s. 435.04, F.S.; providing
requirements for vendors who submit fingerprints on behalf of
employers; amending s. 464.203, F.S.; requiring

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7233 (2011)

Amendment No. 5

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	—	

*favourable
4-14-11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Holder offered the following:

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Amendment (with title amendment)

Between lines 112 and 113, insert:

Section 2. Subsections (6) and (7) are added to section 435.07, Florida Statutes, to read:

435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this chapter, regardless of whether those disqualifying offenses are listed in this chapter or other laws.

(6) Exemptions granted by agencies remain valid through subsequent Level 1 or Level 2 screenings with the same agency that granted the exemption provided the person has no new or additional offenses identified through subsequent screenings and is otherwise qualified for the exemption. The issuing agency is

Amendment No. 5

19 responsible for communicating the continued eligibility of
20 employment.

21 (7) Personnel of a qualified entity under s. 943.0542 that
22 are required to be screened pursuant to the provisions of s.
23 435.04 may apply for an exemption pursuant to this section and
24 this chapter.

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

31

Remove line 19 and insert:

32

background screening; amending s. 435.07, F.S.; preserving

33

exemptions under certain circumstances; authorizing personnel of

34

qualified entities to apply for an exemption; amending s.

35

464.203, F.S.; requiring

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7233 (2011)

Amendment No. 6

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	_____	

*Favorable
4-14-11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Holder offered the following:

Amendment (with title amendment)

5 Between lines 151 and 152, insert:

6 Section 3. The Agency for Health Care Administration, the
7 Florida Department of Law Enforcement, the Department of
8 Children and Families, the Department of Elder Affairs, and the
9 Agency for Persons with Disabilities shall evaluate state and
10 federal regulations that pose barriers to efficient screening
11 for persons working or volunteering with vulnerable populations
12 and issue recommendations regarding findings and possible
13 statutory amendments necessary to eliminate duplicative
14 screening and improve processing time for screening requests.
15 These agencies shall work in consultation and coordination with
16 each other on this effort.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7233 (2011)

Amendment No. 6

20

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

21

Remove line 22 and insert:

22

requiring certain state agencies to evaluate barriers to

23

efficient screening; providing an effective date.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7233 (2011)

Amendment No. 7

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	_____	

*favourable
4-14-11*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative(s) Snyder offered the following:

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

5 Between lines 25 and 26, insert:

6 Section 1. Subsections (5) through (8) of section 408.809,
7 Florida Statutes are renumbered as subsections (6) through (9),
8 respectively, and subsection (4) of that section is amended to
9 read:

10 408.809 Background screening; prohibited offenses.—

11 (4) In addition to the offenses listed in s. 435.04, all
12 persons required to undergo background screening pursuant to
13 this part or authorizing statutes must not have an arrest
14 awaiting final disposition for, must not have been found guilty
15 of, regardless of adjudication, or entered a plea of nolo
16 contendere or guilty to, and must not have been adjudicated
17 delinquent and the record not have been sealed or expunged for
18 any of the following offenses or any similar offense of another
19 jurisdiction:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7233 (2011)

Amendment No. 7

- 20 (a) Any authorizing statutes, if the offense was a felony.
21 (b) This chapter, if the offense was a felony.
22 (c) Section 409.920, relating to Medicaid provider fraud.
23 (d) Section 409.9201, relating to Medicaid fraud.
24 (e) Section 741.28, relating to domestic violence.
25 (f) Section 817.034, relating to fraudulent acts through
26 mail, wire, radio, electromagnetic, photoelectronic, or
27 photooptical systems.
28 (g) Section 817.234, relating to false and fraudulent
29 insurance claims.
30 (h) Section 817.505, relating to patient brokering.
31 (i) Section 817.568, relating to criminal use of personal
32 identification information.
33 (j) Section 817.60, relating to obtaining a credit card
34 through fraudulent means.
35 (k) Section 817.61, relating to fraudulent use of credit
36 cards, if the offense was a felony.
37 (l) Section 831.01, relating to forgery.
38 (m) Section 831.02, relating to uttering forged
39 instruments.
40 (n) Section 831.07, relating to forging bank bills,
41 checks, drafts, or promissory notes.
42 (o) Section 831.09, relating to uttering forged bank
43 bills, checks, drafts, or promissory notes.
44 (p) Section 831.30, relating to fraud in obtaining
45 medicinal drugs.
46 (q) Section 831.31, relating to the sale, manufacture,
47 delivery, or possession with the intent to sell, manufacture, or

Amendment No. 7

48 deliver any counterfeit controlled substance, if the offense was
49 a felony.

50 (5) A person who serves as a controlling interest of, is
51 employed by, or contracts with a licensee on July 31, 2010, who
52 has been screened and qualified according to standards specified
53 in s. 435.03 or s. 435.04 must be rescreened by July 31, 2015,
54 in accordance with the schedule provided in paragraphs (a)-(c).

55 ~~The agency may adopt rules to establish a schedule to stagger~~
56 ~~the implementation of the required rescreening over the 5-year~~
57 ~~period, beginning July 31, 2010, through July 31, 2015. If, upon~~
58 ~~rescreening, such person has a disqualifying offense that was~~
59 ~~not a disqualifying offense at the time of the last screening,~~
60 ~~but is a current disqualifying offense and was committed before~~
61 ~~the last screening, he or she may apply for an exemption from~~
62 ~~the appropriate licensing agency and, if agreed to by the~~
63 ~~employer, may continue to perform his or her duties until the~~
64 ~~licensing agency renders a decision on the application for~~
65 ~~exemption if the person is eligible to apply for an exemption~~
66 ~~and the exemption request is received by the agency within 30~~
67 ~~days after receipt of the rescreening results by the person. The~~
68 ~~rescreening schedule shall be:~~

69 (a) Individuals whose last screening was conducted before
70 December 31, 2003, must be rescreened by July 31, 2013.

71 (b) Individuals whose last screening was conducted between
72 January 1, 2004, through December 31, 2007, must be rescreened
73 by July 31, 2014.

Amendment No. 7

74 (c) Individuals whose last screening was conducted between
75 January 1, 2008, through July 31, 2010, must be rescreened by
76 July 31, 2015.

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

82

Remove line 3 and insert:

83

408.809, F.S., relating to background screening of specified

84

employees of health care providers; revising provisions for

85

required rescreening; removing provisions authorizing the agency

86

to adopt rules establishing a rescreening schedule; establishing

87

a rescreening schedule; amending s. 430.0402, F.S.; revising the

88

definition of the term