Children, Families & Seniors Subcommittee

Tuesday, March 23, 2021
4:00 PM – 6:00 PM
Morris Hall (17 HOB)

Meeting Packet

Chris Sprowls
Speaker

Thad Altman
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Children, Families & Seniors Subcommittee

Start Date and Time: Tuesday, March 23, 2021 04:00 pm

End Date and Time: Tuesday, March 23, 2021 06:00 pm

Location: Morris Hall (17 HOB)

Duration: 2.00 hrs

Consideration of the following bill(s):

CS/HB 689 Domestic Violence Centers by Criminal Justice & Public Safety Subcommittee, Borrero
HB 837 Harm to Children by Byrd
HB 1093 Abuse, Neglect, and Abandonment Education by Valdés
HB 1349 Assistance Programs by Aloupis
HB 1447 Commission on Mental Health and Substance Abuse by Hunschofsky

This meeting will be live-streamed on https://thefloridachannel.org/. Persons who wish to attend must register at www.myfloridahouse.gov, and pick up a pass at the Legislative Welcome Center on the 4th Floor of the Capitol beginning one hour before the start of the meeting. Audience seating will be socially distanced and will be available on a first-come, first-served basis. Registration closes three hours before the meeting starts.

NOTICE FINALIZED on 03/19/2021 4:20PM by Osborne.Erin

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 689 Domestic Violence Centers
SPONSOR(S): Criminal Justice & Public Safety Subcommittee, Borrero
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 70

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice & Public Safety Subcommittee	17 Y, 0 N, As CS	Padgett	Hall
2) Children, Families & Seniors Subcommittee		Woodruff	Brazzell
3) Judiciary Committee			

SUMMARY ANALYSIS

Domestic violence occurs when a person shows a pattern of behavior to control a partner through physical, sexual, or emotional abuse. Florida law defines "domestic violence" as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

A domestic violence center provides services to survivors of domestic violence as its primary mission. Such services include:

- Housing for survivors of domestic violence and their dependents.
- Domestic violence counseling and referral services.
- Law enforcement training.
- Educational services and advocacy programs.

Pursuant to section 39.908, F.S., the location of a domestic violence center and information about the clients of a domestic violence center are confidential and exempt from disclosure under the public records laws in ch. 119, F.S. Section 119.10, F.S., includes a criminal penalty if a record holder violates public records laws. However, there is currently no criminal penalty for any person who maliciously discloses the location of a domestic violence center.

CS/HB 689 creates a first degree misdemeanor to penalize a person who maliciously:

- Publishes, disseminates, or discloses any descriptive information or image that may identify the location of a domestic violence center certified under s. 39.905, F.S.; or
- Discloses the location of a domestic violence center.

A second or subsequent conviction is punishable as a third degree felony.

The bill requires a person to act maliciously, meaning a person must be found to have published, disseminated, or disclosed such information wrongfully, intentionally, and without legal justification or excuse to be subject to the criminal penalty created by the bill.

The bill will likely have a positive, insignificant prison and jail bed impact due to the creation of new felony and misdemeanor offenses.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Domestic Violence

Domestic violence is a pattern of behavior, violence, or threats of violence that one person uses to establish power and control over a current or former intimate partner.[1] The use of threats, intimidation, isolation, and using children as pawns are examples of the tactics domestic violence perpetrators use against victims of domestic violence.

Florida law defines domestic violence as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.[2] A family or household member includes spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.[3]

In 2018, 104,914 domestic violence offenses were reported to law enforcement.[4] That same year, 215 individuals died as a result of domestic violence homicide, representing approximately 19 percent of all homicides in Florida.[5]

Certified Domestic Violence Centers

A domestic violence center provides services to survivors of domestic violence as its primary mission.[6] Section 39.903, F.S., requires the Department of Children and Families (DCF) to perform duties related to domestic violence centers. In part, DCF is required to approve or reject the applications for initial certification of domestic violence centers, and annually review certification renewal.[7] Certified domestic violence centers must comply with and meet minimum statutory requirements, including the ability to house survivors of domestic violence and their dependents, the provision of counseling services, endorsement by a local law enforcement agency, and evidence of a stable financial operating plan.[8] Florida has 41 certified domestic violence centers.[9]

Confidentiality of Domestic Violence Center Locations

Federal law prohibits the disclosure of the address or location of any shelter facility that maintains a confidential location to the public, except by written authorization of the person responsible for the operation of the shelter.[10]

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[1] Florida Coalition Against Domestic Violence, *2019 Annual Report*, p. 3, https://www.myflfamilies.com/service-programs/domestic-violence/docs/2019%20Annual%20%20Report.pdf (last visited Feb 28, 2021).
[2] S. 741.28(1), F.S.
[3] S. 741.28(2), F.S.
[4] *Supra* note 1, pg. 4.
[5] *Id*.
[6] S. 39.902(2), F.S.
[7] S. 39.903(2), F.S.
[8] S. 39.905(1), F.S.
[9] Department of Children and Families, *Domestic Violence Overview*, https://www.myflfamilies.com/service-programs/domestic-violence/overview.shtml (last visited Mar. 5, 2021).
[10] 42 U.S.C. §§10401 and 10406(c)(5)(H).

There are at least 19 states, including Florida, that require the location of a domestic violence center to remain confidential.[11] Eight of those states impose penalties for unlawfully disclosing such location, and four states create criminal offenses for unlawfully disclosing the information relating to the location of a domestic violence center.[12] California[13] and South Carolina[14] have criminal penalties if a person "maliciously" discloses the location of a domestic violence shelter. Georgia makes it a criminal offense to "knowingly" disclose the location of a domestic violence shelter.[15] No state explicitly prohibits maliciously publishing an image that may identify the location of a domestic violence center.

This confidentiality is protected in Florida through a public records exemption for the location of the centers. As discussed below, there are penalties applicable to violations of public records laws generally, including those protecting the location of a domestic violence center. However, there is currently no criminal penalty specifically for a person who maliciously discloses the location of a domestic violence center, whether the knowledge of that location is gained through access to confidential records or through other means.

Florida Public Records Laws

Under ch. 119, F.S., all state, county, and municipal records are open for personal inspection and copying by any person, and providing access to public records is a duty of each agency.[16] Accordingly, the Open Government Sunset Review Act provides that a public record exemption may be created or maintained only if it serves an identified public purpose.[17] In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a government program, which administration would be significantly impaired without the exemption;
- Protect personal identifying information that, if released, would be defamatory or would jeopardize an individual's safety; or
- Protect trade or business secrets.[18]

The Act also requires the automatic repeal of a public record or public meeting exemption on October 2nd of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.[19]

Exemption for Location of Domestic Violence Centers and Clients

Florida law prohibits any person who receives information from DCF or employees and volunteers of a domestic violence center from disclosing the location of a center or any information received by the center about clients, because the information is confidential and exempt from disclosure under the public records laws in ch. 119, F.S.[20]

Section 39.908, F.S., authorizes disclosure of the location of certified domestic violence centers to certain persons in specific situations. Information about domestic violence center clients may not be disclosed without the written consent of the client to whom the information or records pertain. Information about a client or the location of a domestic violence center may be given by center staff or volunteers to law enforcement, firefighting, medical, or other personnel in the following circumstances:

- To medical personnel in a medical emergency.

[11] Michelle Kirby, *Confidentiality of Information on Safe Houses*, OLR Research Report, https://www.cga.ct.gov/2014/rpt/2014-R-0011.htm (last visited Mar. 9, 2021).
[12] *Id.*
[13] S. 273.7, Cal. Penal Code.
[14] S. 16-3-2080, S.C. Code.
[15] S. 19-13-23, O.C.G.A.
[16] S. 119.01(1), F.S.
[17] S. 119.15, F.S.
[18] S. 119.15(6)(b), F.S.
[19] S. 119.15(3), F.S.
[20] S. 39.908(1), F.S.

- Upon a court order based upon an application by a law enforcement officer for a criminal arrest warrant that alleges that the individual sought to be arrested is located at the domestic violence shelter.
- Upon a search warrant that specifies the individual or object of the search and alleges that the individual or object is located at the shelter.
- To firefighting personnel in a fire emergency.
- To any other person necessary to maintain the safety and health standards in the domestic violence shelter.
- Information solely about the location of the domestic violence shelter to those with whom the center has an established business relationship.[21]

The restriction on the disclosure or use of the information about domestic violence center clients does not apply to:

- Communications from domestic violence shelter staff or volunteers to law enforcement officers when the information is directly related to a client's commission of a crime or threat to commit a crime on the premises of a domestic violence shelter; or
- Reporting suspected abuse of a child or a vulnerable adult as required by law. However, when cooperating with protective investigation services staff, the domestic violence shelter staff and volunteers must protect the confidentiality of other clients at the domestic violence center.[22]

Additionally, a domestic violence survivor may request of records custodians that information that reveals personal information, such as a telephone number or home address, be made exempt from disclosure under the public records laws. Such request must contain official verification that a specified crime[23] has occurred.[24]

Any person who willfully and knowingly violates the public records laws in ch. 119, F.S., commits a first degree misdemeanor. [25,26]

Freedom of Speech

The First Amendment of the U.S. Constitution states that, "Congress shall make no law … abridging the freedom of speech…."[27] While this language generally prohibits the government from restricting the speech of citizens, the prohibition on restricting speech is not absolute. Even speech that enjoys the broadest First Amendment protection, such as political speech, may still be subject to "regulations of the time, place, and manner of expression which are content-neutral, are narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication."[28]

Additionally, speech may be restricted on the basis of its content if the restriction passes the strict scrutiny test, which means that the government may regulate the content of speech if there is a "compelling interest" and it is "the least restrictive means to further the articulated interest."[29] The Supreme Court of the United States has held that, "[c]ontent-based prohibitions, enforced by severe criminal penalties, have the constant potential to be a repressive force in the lives and thoughts of a free people. To guard against that threat the Constitution demands that content-based restrictions on speech be presumed invalid, and that the Government bear the burden of showing their constitutionality."[30]

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[21] S. 39.908(2), F.S.
[22] S. 39.908(3), F.S.
[23] A victim of the following crimes is eligible to have identifying information in a public record exempt from disclosure: sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence. S. 119.07(2)(j), F.S.
[24] *Id.*
[25] A first degree misdemeanor is punishable by up to one year in county jail and a $1,000 fine. Ss. 775.082 and 775.083, F.S.
[26] S. 119.10(2), F.S.
[27] U.S. Const., amend. I.
[28] Kathleen Ann Ruane, *Freedom of Speech and Press: Exceptions to the First Amendment*, Congressional Research Service (Sept. 8, 2014), https://fas.org/sgp/crs/misc/95-815.pdf (last visited Mar. 9, 2021).
[29] *Sable Communications of California v. F.C.C.*, 492 U.S. 115 (1989).
[30] *Ashcroft v. American Civil Liberties Union*, 542 U.S. 656, 660 (2004).

Criminal Punishment Code - Offense Severity Ranking Chart

Felony offenses subject to the Criminal Punishment Code[31] are listed in a single offense severity ranking chart (OSRC), which uses 10 offense levels to rank felonies from least severe (level 1) to most severe (level 10). Each felony offense is assigned to a level according to the severity of the offense, commensurate with the harm or potential for harm to the community that is caused by the offense, as determined by statute.[32] A person's primary offense, any other current offenses, and prior offenses are scored using the points designated for the offense severity level of each offense.[33] A person may also accumulate points for factors such as victim injury, violating a community sanction, and certain sentencing multipliers.[34] The final calculation, following the scoresheet formula, determines the lowest permissible sentence that the trial court may impose, absent a valid reason for departure.[35] If an offense is unranked, the Criminal Punishment Code specifies a default level on the OSRC depending on the felony degree of the offense.[36]

Effect of Proposed Changes

CS/HB 689 creates s. 39.9057, F.S., which specifies that any person who maliciously publishes, disseminates, or discloses any descriptive information or image that may identify the location of a domestic violence center certified under s. 39.905, F.S., or who otherwise maliciously discloses the location of a center, commits a first degree misdemeanor. A second or subsequent conviction is punishable as a third degree felony. The crime is not ranked on the OSRC and defaults to a Level 1 offense on the OSRC.

The bill does not require a person who maliciously discloses an image containing a domestic violence center to have actual knowledge that the image contains a domestic violence center or to identify the center as such.

Although the bill requires a person to maliciously publish, disseminate, or disclose information or images that may identify the location of a domestic violence center to be held criminally liable, the bill does not define the term "maliciously." However, case law defines "maliciously" to mean an act that is done "wrongfully, intentionally, and without legal justification or excuse."[37]

The bill provides an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1: Creates s. 39.9057, F.S., relating to unlawful disclosure of certified domestic violence center location; penalties.
Section 2: Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

[31] All felony offenses, other than capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code.
[32] S. 921.0022, F.S.
[33] Ss. 921.0022 and 921.0024, F.S.
[34] S. 921.0024(2), F.S.
[35] *Id.*
[36] S. 922.0023, F.S.
[37] *See Kennedy v. State*, 59 So. 3d 376, 380 (Fla. 4th DCA 2011); *See also Reed v. State*, 837 So. 2d 366 (Fla. 2002).

2. Expenditures:

The bill may have a positive insignificant prison bed impact due to the creation of a new felony offense.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have a positive insignificant jail bed impact due to the creation of a new misdemeanor offense.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

The bill prohibits a person from maliciously disclosing or otherwise communicating any descriptive information or images that may disclose the location of a domestic violence center. Because the bill criminalizes speech on the basis of content, the First Amendment of the U.S. Constitution may be implicated and a court will likely apply the strict scrutiny standard of review to any legal challenge. Thus, the government must demonstrate the state has a compelling interest and the statute is narrowly tailored to achieve the stated interest. The state likely has a compelling interest in protecting a victim of domestic violence by keeping the location of a domestic violence center confidential. As such, any court decision would likely turn on whether the statute is tailored narrowly enough, and is the least restrictive means of preventing the disclosure of the location of a domestic violence center.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 9, 2021, the Criminal Justice & Public Safety Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Provided a person who is convicted a second or subsequent time of maliciously publishing, disseminating, or disclosing any descriptive information or image that may identify the location of a domestic violence center, or who otherwise maliciously discloses the location of a domestic violence center, commits a third degree felony.

This analysis is drafted to the committee substitute as passed by the Criminal Justice & Public Safety Subcommittee.

A bill to be entitled

An act relating to domestic violence centers; creating s. 39.9057, F.S.; prohibiting the unlawful disclosure of certain information about domestic violence centers; providing criminal penalties; providing an effective date.

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

Section 1. Section 39.9057, Florida Statutes, is created to read:

39.9057 Unlawful disclosure of certified domestic violence center location; penalties.—Any person who maliciously publishes, disseminates, or discloses any descriptive information or image that may identify the location of a domestic violence center certified under s. 39.905 or who otherwise maliciously discloses the location of a center commits a:

(1) Misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, upon a second or subsequent conviction.

Section 2. This act shall take effect July 1, 2021.

CODING: Words stricken are deletions; words underlined are additions.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 837 Harm to Children
SPONSOR(S): Byrd
TIED BILLS: **IDEN./SIM. BILLS:** SB 948

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee		Woodruff	Brazzell
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

To protect Florida's children from child abuse, abandonment, or neglect, the Department of Children and Families (DCF) operates the Florida central abuse hotline (hotline), which accepts reports 24 hours a day, 7 days a week. Any person who knows or suspects that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare must report such information or suspicion to the hotline. If reports meet the statutory criteria for abuse, abandonment, or neglect, a child protective investigation is commenced.

A child protection team (CPT) is a medically directed, multidisciplinary team contracted by the Department of Health (DOH) that supplements the child protective investigation efforts of DCF and local sheriffs' offices in cases of child abuse or neglect. Certain cases reported to the hotline must be referred to CPTs.

HB 837 expands the definition of "harm" to include situations where a person responsible for a child's welfare fails to use a child restraint or seat belt required by law or leaves a child younger than 6 years of age unattended or unsupervised in a vehicle. In these situations, a child protective investigation would be required if a physician, licensed under Ch. 458, F.S., substantiates that the failure to use a child restraint or seatbelt or leaving a child younger than 6 in a vehicle unattended or unsupervised resulted in the child's injury or death. The bill also requires a mandatory referral of these cases from DCF to CPTs.

Additionally, the bill requires DCF to refer cases to CPTs if the report is from an emergency room physician.

HB 837 has an indeterminate, but likely insignificant, fiscal impact on DCF, DOH, and the community-based care lead agencies. There is no fiscal impact on local governments. See fiscal comments.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

Florida Central Abuse Hotline

The Department of Children and Families (DCF) operates the Florida central abuse hotline (hotline), which accepts reports 24 hours a day, 7 days a week of known or suspected child abuse, abandonment, or neglect.[1] A child protective investigation begins with a report by any person to the hotline. Statute mandates any person who knows or suspects that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, to report such knowledge or suspicion to the hotline.[2]

Once the hotline obtains information from a reporter, the allegations must meet the statutory definition required to trigger a child protective investigation. For the report to be accepted for an investigation there must be reasonable cause to believe that the child was harmed by abuse, abandonment, or neglect, or the child is at risk of harm.[3]

Under s. 39.01(35), F.S., "harm" to a child's health or welfare can occur when any person:

- Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury, which include, but is not limited to, willful acts that produce specific injuries specified in statute.
- Purposely giving a child poison, alcohol, drugs, or other substance that substantially affects the child's behavior or that results in sickness or internal injury.
- Leaving a child without proper adult supervision.
- Inappropriate or excessively harsh disciplinary action that is likely to result in physical, mental, or emotional injury.
- Commits or allows to be committed sexual battery or lewd or lascivious acts against the child.
- Allows, encourages, or forces the sexual exploitation of a child.
- Exploits a child or allows a child to be exploited as provided in s. 450.151, F.S.
- Abandons or neglects a child.
- Exposes the child to a controlled substance or alcohol.
- Uses mechanical devices, unreasonable restraints, or an extended period of isolation to control the child.
- Engages in violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child.
- Negligently fails to protect a child in his or her care from physical, mental, or sexual injury caused by the acts of another.
- Has allowed a child's sibling to die as a result of abuse, abandonment, or neglect.

[1] S. 39.201(5), F.S.
[2] S. 39.201(1)(a), F.S.
[3] S. 39.201(2), F.S.

- Makes the child unavailable for a protective investigation unless fleeing from domestic violence.

If the allegations meet the statutory requirements for a child protective investigation, an investigation must be commenced either immediately or within 24 hours after the report is received, depending on the nature of the allegation. [4]

Case Management and Child Welfare Services

If a child protective investigation results in verified findings of abuse or neglect, the dependency court will approve a case plan for the parent, and services are provided to the family to address the problems that are endangering the child. DCF contracts for case management, out-of-home care, and related services with community-based care organizations (CBCs). The model of using CBCs to provide child welfare services is designed to increase local community ownership of service delivery and design.[5]

CBCs are responsible for providing foster care and related services including, but not limited to, counseling, domestic violence services, substance abuse services, family preservation, emergency shelter, and adoption. CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.[6]

Child Protection Teams

A child protection team (CPT) is a medically directed, multidisciplinary team that supplements the child protective investigation efforts in cases of child abuse and neglect.[7] CPTs are independent community-based programs contracted by the Department of Health (DOH) Children's Medical Services that provide expertise in evaluating alleged child abuse or neglect, assess risk and protective factors, and provide recommendations for interventions to protect children and enhance a caregiver's capacity to provide a safer environment when possible.[8] The state is divided into 15 circuits and DOH assigns a CPT to each. CPTs serve all 67 counties by utilizing satellite offices and telemedicine services.[9] Each of the 15 circuits served by CPTs are supervised by one or multiple CPT directors, depending on the size and subdivision of the particular circuit.[10]

DCF must refer the following reports of child abuse, abandonment, or neglect to CPTs for assessment and other appropriate available support services:

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

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[4] S. 39.301(1), F.S.
[5] Florida Department of Children and Families, *Community-Based Care*, http://www.dcf.state.fl.us/service-programs/community-based-care/ (last visited Mar. 15, 2021).
[6] Florida Department of Children and Families, *Community Based Care Lead Agency Map*, https://www.myflfamilies.com/service-programs/community-based-care/lead-agency-map.shtml (last visited Mar. 15, 2021).
[7] Children's Medical Services, *Child Protection Teams*, http://www.cms-kids.com/families/child_protection_safety/child_protection_teams.html (last visited Mar. 15, 2021).
[8] *Id*.
[9] *Id*.
[10] *Id*.

- A child who does not live in this state who is currently being evaluated in a medical facility in this state.[11]

Currently, child abuse and neglect reports to the hotline from emergency room physicians are assessed and a case may be accepted for CPT services based on the information provided.

When a CPT accepts a referral from DCF or law enforcement, it may provide one or more of the following services:

- Medical diagnosis and evaluation.
- Telephone consultation services during emergencies and other situations.
- Psychological and psychiatric evaluations.
- Expert court testimony.
- Multidisciplinary staffings.
- Case service coordination and assistance.
- Community awareness campaigns.
- Child forensic interviews, family psychosocial interviews, or specialized clinical interviews.[12]

CPT staff also train child protective investigators, community providers of child welfare services, and emergency room staff and other medical providers in the community to develop and maintain their professional skills and abilities in handling child abuse, abandonment, and neglect cases.[13]

State Laws Protecting Children in Motor Vehicles

Child Restraint and Safety Belts

Florida law requires the use of seat belts and child restraint devices, if applicable, by drivers, all front seat passengers, and all children under the age of 18 riding in a motor vehicle.

Currently, the hotline accepts reports of children who are harmed due to the failure of a parent to use a child restraint required by law. These reports are accepted under the maltreatment of "inadequate supervision".[14] Previously, DCF required two mitigating criteria before accepting the report: either the parent had to be cited for reckless driving or under the influence of drugs or alcohol, in addition to the child not being properly restrained.[15] However, in 2018, DCF updated its rule to allow investigations based solely on the parent's or legal guardian's failure to properly safeguard a child if the omission resulted in serious harm or death of the child.[16]

Under s. 316.613, F.S., the driver of a motor vehicle transporting a child through 5 years of age must properly use a crash-tested, federally-approved child restraint device for the child. For children through age 3, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat.[17]

For children age 4 through age 5, a separate carrier, an integrated child seat, or a child booster seat may be used.[18] However, the requirements to use a child restraint device for children in this age range do not apply when a safety belt is being used and the child is being transported:

[11] S. 39.303(4), F.S.
[12] S. 39.303(3), F.S.
[13] S. 39.303(3)(h), F.S.
[14] DCF's operating procedures define "inadequate supervision" as a parent or caregiver leaving a child without adult supervision or arrangement appropriate for the child's age, maturity, developmental level or mental or physical condition so that the child is unable to care for the child's own needs or another basic need, or is unable to exercise sufficient judgement in responding to a physical or emotional crisis.
[15] Florida Department of Children and Families, *2020 Agency Bill Analysis for HB 413* (Nov. 19, 2019)(on file with the Children, Families, and Seniors Subcommittee).
[16] *Id*.
[17] S. 316.613(1)(a)1., F.S.
[18] S. 316.613(1)(a)2., F.S.

- gratuitously by a driver who is not a member of the child's immediate family;
- in a medical emergency situation involving the child; or
- has a medical condition diagnosed by a health care professional that necessitates an exception.[19]

Florida law gives the option for children six years of age or older to continue to use a booster seat or begin wearing safety belts.

Additionally, under s. 316.614, F.S., it is unlawful for any person to drive a motor vehicle or an autocycle[20] in Florida unless the driver and each passenger under the age of 18 are restrained by a safety belt or a child restraint device pursuant to s. 316.613, F.S.[21] The requirements of s. 316.614, F.S., do not apply to motor vehicles that are not required to be equipped with safety belts under federal law.[22]

Under ss. 316.613 and 316.614, F.S., a motor vehicle does not include a:
- School bus;
- Bus used for the transportation of persons for compensation, unless the bus is regularly used to transport children to or from school or in conjunction with school activities;
- Farm tractor or implement of husbandry;
- Truck having a gross vehicle weight rating or more than 26,000 pounds; or
- Motorcycle, moped, or bicycle.

The child restraint requirements imposed by s. 316.613, F.S., do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the driver and the vehicle were hired and used for transportation.[23] It is the caregiver's responsibility to comply with the child restraint requirements in these situations.[24]

Any person violating ch.316, F.S., commits a moving violation and is charged with a noncriminal infraction and must be cited for such an infraction[25] and cited to appear before a judge authorized by law to preside over a court or hearing adjudicating traffic infractions.[26] If another person dies because of the noncriminal infraction, the person cited is required to appear at a mandatory hearing (instead of having the option to pay a penalty in lieu of a hearing), perform 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, and may be subjected to other civil or criminal penalties, such as if there's a negligence claim or the person is charged with a crime.[27]

[19] *Id*.
[20] An autocycle is a three-wheeled motorcycle that has two wheels in the front and one wheel in the back; is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it; and is manufactured in accordance with the applicable federal motorcycle safety standards by a manufacturer registered with the National Highway Traffic Safety Administration.
[21] S. 316.614(4), F.S.
[22] S. 316.614(6)(d), F.S.
[23] S. 316.613(6), F.S.
[24] *Id*.
[25] Under s. 318.13, F.S., an "infraction" means a noncriminal violation that may require community service hours under s. 316.027(4), F.S., but is not publishable by incarceration and for which there is no right to a trial by jury or a right to court-appointed counsel.
[26] S. 318.14(1), F.S. A person who is not required to appear at a mandatory hearing under s. 318.19, F.S., may elect to pay a civil penalty and delinquent fee, if applicable, either by mail or in person, or enter into a payment plan to pay the civil penalty and delinquent fee, if applicable.
[27] Any person cited for an infraction that results in a crash that causes the death of another will be required to appear at a mandatory hearing.

In 2019, there were 127,285 crashes in Florida involving children under the age of 18, resulting in 1,361 serious injuries and 142 fatalities.[28] The Florida Department of Highway Safety and Motor Vehicles (DHSMV) reports there were 7,461 accidents where a child restraint device was not used.[29] Further, in 2020, there were 8,595 citations given for no or improper child restraint device and leaving a child unattended in a motor vehicle.[30]

DHSMV reports that from 2013-2020, an average of 1,287 minors received an incapacitating injury and an average of 102 child fatalities occurred from motor vehicle accidents each year.[31] It is unknown how many of these children were not properly restrained.[32]

Currently, a CPT may accept referrals related to the lack of proper use of a child restraint or seatbelts. However, the case would not constitute a mandatory referral unless it met one of the criteria outlined in s. 39.303(4), F.S.

Leaving Children Unattended or Unsupervised in a Vehicle

Section 316.6135, F.S., prohibits a caregiver[33] from leaving a child younger than 6 years of age unattended or unsupervised in a motor vehicle longer than 15 minutes, or for any period of time while the motor vehicle is running, the health of the child is in danger, or the child appears to be in distress. Each of these violations has its own penalties.[34]

If the caregiver leaves a child younger than 6 years of age unattended or unsupervised in a vehicle longer than 15 minutes, or for any period of time while the motor vehicle is running, the child's health is in danger, or the child appears to be in distress, and that action causes great bodily harm, permanent disability, or permanent disfigurement to a child, then the person commits a third degree felony punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

Any law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle may use whatever means reasonably necessary to protect the child and remove the child from the motor vehicle.[35] If the law enforcement officer is unable to locate a caregiver, the child is required to be placed in DCF's custody pursuant to Ch. 39, F.S.[36]

Children experience different types of dangers if left unattended or unsupervised in a motor vehicle, such as heatstroke, setting the car in motion, seatbelt strangulation and leaving the car voluntarily.[37] From January 1990 to December 2014, there were 11,759 non-traffic injuries and fatalities in the US to children 0 to 14 years of age, with a median age of the affected children being 3.7 years.[38] The incident types include:

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[28] Florida Highway Safety and Motor Vehicles, Children Involved in a Crash in Florida by Injury Severity and Type of Restraint System Used, https://www.flhsmv.gov/safety-center/child-safety/safety-belts-child-restraints/child-restraint-data-dashboard/ (last visited Mar. 15, 2021).
[29] *Id*.
[30] Florida Highway Safety and Motor Vehicles, *2021 Agency Bill Analysis for HB 837* (Feb. 5, 2021).
[31] Florida Department of Health, *2021 Agency Bill Analysis for HB 837* (Mar. 3, 2021).
[32] *Id*.
[33] The term "caregiver" encompasses a parent, legal guardian, or other person responsible for a child's welfare.
[34] Pursuant to s. 316.6135(2), F.S., a caregiver who leaves a child younger than 6 years of age unattended or unsupervised in a motor vehicle longer than 15 minutes commits a second degree misdemeanor punishable up to 60 days in jail and a $500 maximum fine. Pursuant s. 316.6135(3), F.S., a caregiver who leaves a child younger than 6 years of age unattended or unsupervised in a motor vehicle for any period of time while the vehicle is running, the health of the child is in danger, or the child appears to be in distress is guilty of noncriminal traffic infraction punishable by a fine not less than $50 and not more than $500.
[35] S. 316.6135(5), F.S.
[36] S. 316.6135(7), F.S.
[37] Kids and Cars, *NEVER Leave a Child Alone Inside a Vehicle… Not Even for a Minute!*, http://www.kidsandcars.org/wp-content/uploads/2019/02/Kids-Alone-in-Cars-FACT-SHEET.pdf (last visited Mar. 15, 2021).
[38] Mark R. Zonfrillo, et al., *Unintentional non-traffic injury and fatal events: Threats to children in and around vehicles*, Traffic Injury Prevention, 19:2, 184-188, https://docs.house.gov/meetings/IF/IF17/20190523/109548/HHRG-116-IF17-Wstate-FennellJ-20190523-SD004.pdf#page=5&zoom=100,0,66 (last visited Mar. 15, 2021).

- 3,115 children unattended in hot vehicles resulting in 729 deaths.
- 2,251 backovers[39] resulting in 1,232 deaths.
- 1,439 frontovers[40] resulting in 692 deaths.
- 777 vehicles knocked into motion resulting in 227 deaths.
- 415 underage drivers resulting in 203 deaths.
- 173 power window incidents resulting in 61 deaths.
- 134 falls resulting in 54 deaths.
- 79 fires resulting in 41 deaths.
- 3,377 other incidents resulting in 157 deaths.[41]

Since 1998, 882 children have died nationwide due to vehicular heatstroke.[42] The national average of child heatstroke deaths per year since 1998 is 38. Fifty-five percent of these deaths involve children under the age of one.[43] Forty-six of the 432 child vehicular heatstroke deaths from 2010-2020 in the U.S. occurred in Florida.[44]

Currently, a CPT may accept referrals related to children left unattended or unsupervised in motor vehicles. However, the case would not constitute a mandatory referral unless it met a criterion outlined in s. 39.303(4), F.S.[45]

Effect of Proposed Changes

Expanding the Definition of "Harm"

The bill amends s. 39.01(35), F.S., to also consider as "harm" any violations of:
- child restraint requirements in s. 316.613, F.S.;
- seat belt requirements in s. 316.614, F.S.;
- s. 316.6135, F.S., which relates to leaving a child unattended or unsupervised in a motor vehicle;

if a physician licensed under Ch. 458, F.S., substantiates that the violation caused the child's injury or death.

By expanding the definition of harm, more situations would meet the statutory criteria for a child protective investigation.

The bill is more comprehensive than DCF's current agency rule, because the bill encompasses *all* injuries due to violations of child restraint or seat belt requirements or injuries from leaving a child unattended or unsupervised in a vehicle, and not just those that are deemed serious. This could potentially result in an increased number of reports to the hotline and additional child protective investigations. As a result, CBCs and their subcontractors may be required to provide services to these children and families.

[39] Backovers are defined as a child being backed over by vehicle traveling in reverse.
[40] Frontovers are defined as a slow forward-moving vehicle running over a child.
[41] *Supra* note 35.
[42] U.S. Department of Transportation (USDOT), Traffic Safety Marketing, *Child Safety: Heatstroke Prevention*, *See* Kids and Cars.org, Children Vehicular Heatstroke Deaths by Year, https://www.trafficsafetymarketing.gov/get-materials/child-safety/heatstroke-prevention?_ga=2.56158690.870054613.1615229487-1650636428.1615229487 (last visited Mar. 10, 2021).
[43] Kids and Cars.org, Fact Sheet, https://www.kidsandcars.org/wp-content/uploads/2020/01/Heatstroke-fact-sheet.pdf (last visited Mar. 10, 2021).
[44] Email from Prof. Jan Null, Certified Consulting Meteorologist, Department of Meteorology & Climate Services, San Jose State University, RE: Updated spreadsheet on Child Vehicle Heat Stroke Deaths (Mar. 11, 2021). *See also* Kids and Cars, 2018-2020 Child Hot Car Deaths, https://www.kidsandcars.org/2018-u-s-child-hot-car-fatalities/, https://www.kidsandcars.org/2019-child-hot-car-deaths/, and https://www.kidsandcars.org/2020-child-hot-car-deaths/ (last visited Mar. 11, 2021).
[45] *Supra* note 28.

Child Protection Teams

The bill amends s. 39.303(4), F.S., to require DCF to refer the following hotline reports to CPTs for an assessment when a physician licensed under ch. 458, F.S., substantiates an injury or death to a child is exacerbated by not properly being restrained in a motor vehicle with a child restraint or seatbelt pursuant to ss. 316.613, F.S., or 316.614, F.S., or from being left unattended or unsupervised in a vehicle, if the child is younger than 6 years of age.

The bill also requires mandatory referrals to CPTs on cases reported to DCF from emergency room physicians. From July 27 – December 8, 2019,[46] the hotline received 204 reports from emergency room physicians, 201[47] of which were accepted for a child protective investigation.[48]

Some abuse or neglect cases in the above situation might already meet criteria for a mandatory referral to CPTs.[49] CPTs may also choose to review other cases that do not meet the criteria for a mandatory referral based on information provided in the hotline report. Therefore, the number of additional reports likely to be received that would not currently be referred to CPTs for an assessment is unknown.[50]

CPTs will need to review the cases and provide services deemed necessary and appropriate.

B. SECTION DIRECTORY:

Section 1: Amending s 39.01, F.S., relating to definitions.
Section 2: Amending s. 39.303, F.S., relating to child protection teams and sexual abuse treatment programs; services; eligible cases.
Section 3: Amending 39.302, F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect.
Section 4: Amending s. 39.521, F.S., relating to disposition hearings; powers of disposition.
Section 5: Amending s. 39.6012, F.S., relating to case plan tasks; services.
Section 6: Providing an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Expanding the Definition of Harm

There is an indeterminate fiscal impact to DCF. By expanding the definition of harm, child protective investigators may experience an increased workload because more situations would meet the statutory required criteria to initiate a child protective investigation. It is unknown how many additional investigations would be required by expanding the definition of harm to include an injury or death exacerbated by the failure to use a child restraint, or seatbelt, or leaving a child unattended

[46] The option to track hotline reports from emergency room physicians was added to DCF's system in July 2019, so the data is new and limited.
[47] The three calls that were screened-out was due to an error in identifying the occupation of the caller or due to incorrect coding of the call.
[48] Email from Kimora McConnell, Florida Department of Children and Families, RE: Data request, (Dec. 12, 2019).
[49] For example, if a child was in a car accident, was not properly restrained, and experienced injuries to the head, the report would meet the criteria for a mandatory referral to CPT for assessment.
[50] *Supra* note 28.

or unsupervised in a vehicle that results in injury or death. DCF projects an increase in reports could result in 4,866 child protective investigations per year.[51] DCF does not believe that any additional staff would be needed to process the additional workload due to the insignificant impact projected.[52]

Cases Referred to CPTs

There is an indeterminate fiscal impact to DOH. It is unknown how many additional referrals DOH CPTs may receive from DCF investigations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Expanding the Definition of Harm

There is an indeterminate but likely insignificant impact to CBCs. It is unknown how many investigations due to expanding the definition of "harm" would result in case management services being required. Therefore, it is difficult to project the fiscal impact on the CBCs and their subcontractors' caseloads but the impact is likely insignificant.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The agencies impacted by the bill have sufficient rulemaking authority to implement the bill.

[51] Florida Department of Children and Families, *2021 Agency Bill Analysis for HB 837* (Mar. 1, 2021).
[52] *Id*.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill limits the type of medical provider that is required to substantiate the violation of the child restraint or seatbelt or leaving a child unattended or unsupervised in a car that causes a child's injury or death to only physicians licensed under Ch. 458, F.S. This would exclude Doctors of Osteopathic Medicine licensed under Ch. 459, F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to harm to children; amending s. 39.01, F.S.; expanding the definition of the term "harm" to include violations of certain motor vehicle laws that result in the death of or injury to a child under certain circumstances; amending s. 39.303, F.S.; expanding the types of reports that the Department of Children and Families must refer to Child Protection Teams; amending ss. 39.302, 39.521, and 39.6012, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Subsections (8) through (38) of section 39.01, Florida Statutes, are renumbered as subsections (7) through (37), respectively, present subsection (7) is renumbered as subsection (38), and present subsection (35) is amended to read:

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

(34) ~~(35)~~ "Harm" to a child's health or welfare can occur when a ~~any~~ person:

(a) Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury. In determining whether harm has occurred, the following factors must be considered in

evaluating any physical, mental, or emotional injury to a child: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Such injury includes, but is not limited to:

1. Willful acts that produce the following specific injuries:

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

f. Injury resulting from the use of a deadly weapon.

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

j. Permanent or temporary loss or impairment of a body part or function.

As used in this subparagraph, the term "willful" refers to the intent to perform an action, not to the intent to achieve a result or to cause an injury.

2. Purposely giving a child poison, alcohol, drugs, or other substances that substantially affect the child's behavior,

motor coordination, or judgment or that result in sickness or internal injury. For the purposes of this subparagraph, the term "drugs" means prescription drugs not prescribed for the child or not administered as prescribed, and controlled substances as outlined in Schedule I or Schedule II of s. 893.03.

3. Leaving a child without adult supervision or arrangement appropriate for the child's age or mental or physical condition, so that the child is unable to care for the child's own needs or another's basic needs or is unable to exercise good judgment in responding to any kind of physical or emotional crisis.

4. Inappropriate or excessively harsh disciplinary action that is likely to result in physical injury, mental injury as defined in this section, or emotional injury. The significance of any injury must be evaluated in light of the following factors: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Corporal discipline may be considered excessive or abusive when it results in any of the following or other similar injuries:

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal

organs.

e. Asphyxiation, suffocation, or drowning.

f. Injury resulting from the use of a deadly weapon.

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

j. Permanent or temporary loss or impairment of a body part or function.

k. Significant bruises or welts.

(b) Commits, or allows to be committed, sexual battery, as defined in chapter 794, or lewd or lascivious acts, as defined in chapter 800, against the child.

(c) Allows, encourages, or forces the sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution; or

2. Engage in a sexual performance, as defined by chapter 827.

(d) Exploits a child, or allows a child to be exploited, as provided in s. 450.151.

(e) Abandons the child. Within the context of the definition of "harm," the term "abandoned the child" or "abandonment of the child" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no

significant contribution to the child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. For purposes of this paragraph, "establish or maintain a substantial and positive relationship" includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child. The term "abandoned" does not include a surrendered newborn infant as described in s. 383.50, a child in need of services as defined in chapter 984, or a family in need of services as defined in chapter 984. The incarceration, repeated incarceration, or extended incarceration of a parent, legal custodian, or caregiver responsible for a child's welfare may support a finding of abandonment.

(f) Neglects the child. Within the context of the definition of "harm," the term "neglects the child" means that the parent or other person responsible for the child's welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so. However, a parent or legal custodian who, by reason of the legitimate practice of

religious beliefs, does not provide specified medical treatment for a child may not be considered abusive or neglectful for that reason alone, but such an exception does not:

1. Eliminate the requirement that such a case be reported to the department;

2. Prevent the department from investigating such a case; or

3. Preclude a court from ordering, when the health of the child requires it, the provision of medical services by a physician, as defined in this section, or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

(g) Exposes a child to a controlled substance or alcohol. Exposure to a controlled substance or alcohol is established by:

1. A test, administered at birth, which indicated that the child's blood, urine, or meconium contained any amount of alcohol or a controlled substance or metabolites of such substances, the presence of which was not the result of medical treatment administered to the mother or the newborn infant; or

2. Evidence of extensive, abusive, and chronic use of a controlled substance or alcohol by a parent to the extent that the parent's ability to provide supervision and care for the child has been or is likely to be severely compromised.

As used in this paragraph, the term "controlled substance" means prescription drugs not prescribed for the parent or not administered as prescribed and controlled substances as outlined in Schedule I or Schedule II of s. 893.03.

(h) Uses mechanical devices, unreasonable restraints, or extended periods of isolation to control a child.

(i) Engages in violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child.

(j) Negligently fails to protect a child in his or her care from inflicted physical, mental, or sexual injury caused by the acts of another.

(k) Has allowed a child's sibling to die as a result of abuse, abandonment, or neglect.

(l) Makes the child unavailable for the purpose of impeding or avoiding a protective investigation unless the court determines that the parent, legal custodian, or caregiver was fleeing from a situation involving domestic violence.

(m) Violates s. 316.613 or s. 316.614 and such violation results in the death of the child or injury to the child that requires treatment at a medical facility, if a physician licensed under chapter 458 substantiates that the violation caused the child's death or injury.

(n) Violates s. 316.6135 and such violation results in the death of the child or injury to the child that requires

treatment at a medical facility, if a physician licensed under chapter 458 substantiates that the violation caused the child's death or injury.

Section 2. Paragraphs (j), (k), and (l) are added to subsection (4) of section 39.303, Florida Statutes, to read:

39.303 Child Protection Teams and sexual abuse treatment programs; services; eligible cases.—

(4) The child abuse, abandonment, and neglect reports that must be referred by the department to Child Protection Teams of the Department of Health for an assessment and other appropriate available support services as set forth in subsection (3) must include cases involving:

(j) A child who was not properly restrained in a motor vehicle pursuant to s. 316.613 or s. 316.614 and such action resulted in harm as defined in s. 39.01(34)(m).

(k) A child who was left unattended or unsupervised in a motor vehicle pursuant to s. 316.6135 and such action resulted in harm as defined in s. 39.01(34)(n).

(l) Reports from emergency room physicians.

Section 3. Subsection (1) of section 39.302, Florida Statutes, is amended to read:

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

(1) The department shall conduct a child protective investigation of each report of institutional child abuse,

abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(36) ~~s. 39.01(37)~~ or (54), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.201(5) and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward

a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 4. Paragraph (c) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

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

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

1. Require the parent and, when appropriate, the legal guardian or the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or

evaluation. The order may be made only upon good cause shown and pursuant to notice and procedural requirements provided under the Florida Rules of Juvenile Procedure. The mental health assessment or evaluation must be administered by a qualified professional as defined in s. 39.01, and the substance abuse assessment or evaluation must be administered by a qualified professional as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under chapter 394 or a treatment-based drug court program established under s. 397.334. Adjudication of a child as dependent based upon evidence of harm as defined in s. 39.01(34)(g) ~~s. 39.01(35)(g)~~ demonstrates good cause, and the court shall require the parent whose actions caused the harm to submit to a substance abuse disorder assessment or evaluation and to participate and comply with treatment and services identified in the assessment or evaluation as being necessary. In addition to supervision by the department, the court, including the mental health court program or the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or

make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department must set forth the powers of the custodian of the child and include the powers

ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, further judicial reviews are not required if permanency has been established for the child.

4. Determine whether the child has a strong attachment to the prospective permanent guardian and whether such guardian has a strong commitment to permanently caring for the child.

Section 5. Paragraph (c) of subsection (1) of section 39.6012, Florida Statutes, is amended to read:

39.6012 Case plan tasks; services.—

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

(c) If there is evidence of harm as defined in s. 39.01(34)(g) ~~s. 39.01(35)(g)~~, the case plan must include as a required task for the parent whose actions caused the harm that the parent submit to a substance abuse disorder assessment or evaluation and participate and comply with treatment and services identified in the assessment or evaluation as being necessary.

Section 6. This act shall take effect July 1, 2021.

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	_____

Committee/Subcommittee hearing bill: Children, Families & Seniors Subcommittee

Representative Byrd offered the following:

Amendment

Remove line 172 and insert:

licensed under chapter 458 or 459 substantiates that the violation

Remove line 177 and insert:

chapter 458 or 459 substantiates that the violation caused the child’s

HB 1093

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1093 Abuse, Neglect, and Abandonment Education
SPONSOR(S): Valdés
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee		Woodruff	Brazzell
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) and community-based care lead agencies work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

When the state takes a child into its custody, it accepts responsibility for the child's safety. Courts have found that foster children have a constitutional right to be free from unnecessary pain and a fundamental right to physical safety.

Florida law sets forth goals for the delivery of services to children in shelter or foster care, including that services should be directed by the principle that the health and safety of children should be of paramount concern.

HB 1093 amends current law to require the child welfare system to operate with the understanding that the rights of children in shelter or foster care are critical to their safety, permanence, and well-being. It requires the system to work with all stakeholders to help such children become knowledgeable about their rights and resources. It states that the rights of children placed in shelter or foster care include the right to be free from physical, sexual, emotional, or other abuse, including corporal punishment, neglect and abandonment. It requires case managers or other appropriate staff to provide verbal and written instructions on how to identify and report child abuse, abandonment, or neglect to a child entering shelter or foster care. The case manager or other appropriate staff must review this information with a child every six months and upon every placement change until the child leaves shelter or foster care. The case manager must document in court reports and case notes the date the child received the information.

HB 1093 also authorizes and encourages district school boards to establish educational programs for all instructional staff and students ages 5 through 18 relating to the process for identifying and reporting abuse, neglect, or abandonment. This program may be provided in conjunction with other programs required by law.

The bill has an indeterminate fiscal impact on state government. The bill has no fiscal impact on local government.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

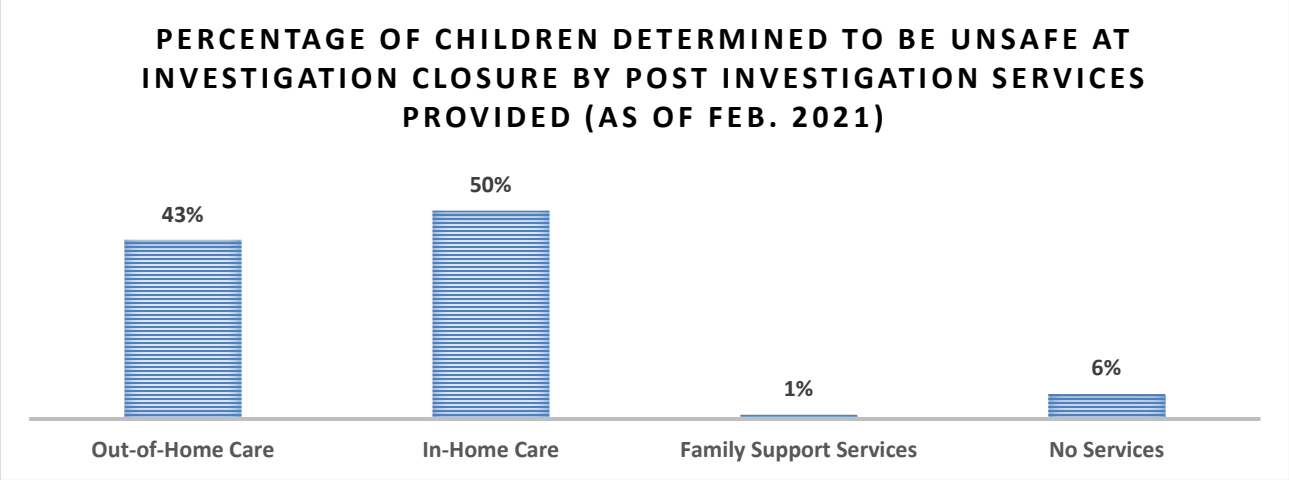
A. EFFECT OF PROPOSED CHANGES:

Background

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) and community-based care lead agencies (CBCs) work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

DCF's practice model is based on the safety of the child within the home by using in-home services, such as parenting coaching and counseling, to maintain and strengthen that child's natural supports in his or her environment. The graph below shows the responses for children determined to be unsafe, depicting the percentage of such children placed in out-of-home placements, receiving services in the home or through family support services, which are offered to families on a voluntary basis, and receiving no services.[1]



DCF contracts for case management, out-of-home services, and related services with CBCs. The outsourced provision of child welfare services is intended to increase local community ownership of service delivery and design. CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.

DCF remains responsible for a number of child welfare functions, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.[2] Ultimately, DCF is responsible for program oversight and the overall performance of the child welfare system.[3]

[1] Florida Department of Children and Families, Child Welfare Key Indicators Monthly Report, (Feb. 2021), http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI_Monthly_Report_Feb%202021.pdf (last visited Mar. 21, 2021).
[2] OPPAGA, report 06-50.
[3] *Id*.

Rights of and Goals for Delivery of Services to Children in Foster Care

The U.S. and Florida Constitutions provide rights to individuals, including children in foster care, as do certain federal and state laws. Examples include basic rights and a right to privacy under Article I, §2 and Article I, §23 of the Florida Constitution, the right to high quality education under Article IX of the Florida Constitution, and due process rights under the U.S. Constitution.

When a state takes a child into custody, it accepts responsibility for the child's safety.[4] Courts have found that foster children have a constitutional right to be free from unnecessary pain and a fundamental right to physical safety.[5] When a state fails to meet that obligation, it deprives the child of a liberty interest under the Fourteenth Amendment.[6]

Section 39.4085, F.S., sets forth goals[7] for the delivery of services to children in shelter or foster care, including that services should be directed by the principle that the health and safety of children should be of paramount concern and children in shelter or foster care should:

- Receive a copy of these goals and have the goals fully explained to them when they are placed in the custody of DCF.
- Enjoy individual dignity, liberty, pursuit of happiness, and the protection of their civil and legal rights as a person while in the custody of the state.
- Have their privacy protected, have their personal belongings secure and transported with them, and unless otherwise ordered by the court, have uncensored communication, including receiving and sending unopened communications and having access to a telephone.
- Have personnel providing services who are sufficiently qualified and experienced to assess risk children face prior to removal from their home and to meet the needs of the children once they are in DCF's custody.
- Remain in the custody of their parents or legal custodians unless and until there has been a determination by a qualified person exercising competent professional judgment that removal is necessary to protect their physical, mental, or emotional health or safety.
- Have a full risk, health, educational, medical, and psychological screening, and, if needed, assessment and testing upon adjudication into foster care; and to have their photograph and fingerprints included in their case management file.
- Be referred to and receive services, including necessary medical, emotional, psychological, psychiatric, and educational evaluations and treatment, as soon as practicable after identification of the need for such services by the screening and assessment process.
- Be placed in a home with no more than one other child, unless part of a sibling group.
- Be placed away from other children known to pose a threat of harm to them, either because of their own risk factors or those of the other child.
- Be placed in a home where the shelter or foster caregiver is aware of and understands the child's history, needs, and risk factors.
- Be the subject of a plan developed by the counselor and the shelter or foster caregiver to deal with identified behaviors that may present a risk to the child or others.
- Be involved and incorporated, where appropriate, in the development of the case plan, to have a case plan that will address their specific needs, and to object to any of the provisions in the case plan.
- Receive meaningful case management and planning that will quickly return the child to the family or move the child on to other forms of permanency.

[4] *Ray v. Foltz*, 370 F.3d 1079, 1082 (11th Cir. 2004)(citing *Taylor v. Ledbetter*, 818 F.2d 791-95 (11th Cir. 1987).
[5] *Id*.
[6] *Id*.
[7] The provisions in S. 39.4085, F.S., establish goals, not rights. The section does not require the delivery of any particular service or level of service in excess of existing appropriations. A person does not have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of these goals by the Legislature. The section does not require the expenditure of funds to meet the goals except funds specifically appropriated for such purpose.

- Receive regular communication with a case manager, at least once a month, which includes meetings with the child alone and conferring with the caregiver.
- Enjoy regular visitation, at least once a week, with their siblings unless the court orders otherwise.
- Enjoy regular visitation with parents, at least once a month, unless the court orders otherwise.
- Receive a free and appropriate education, minimal disruption to their education, and retention in their home school, if appropriate; referral to the child study team; all special educational services, including, where appropriate, the appointment of a parent surrogate; the sharing of all necessary information between the school board and DCF, including information on attendance and educational progress.
- Be able to raise grievances with DCF over the care they are receiving from their caregivers, case managers, or other service providers.
- Be heard by the court, if appropriate, at all review hearings.
- Have a guardian ad litem appointed to represent, within reason, their best interests and, where appropriate, an attorney ad litem appointed to represent their legal interests. Their guardian ad litem and attorney ad litem must have immediate and unlimited access to the children they represent.
- Have all their records available for review by their guardian ad litem and attorney ad litem if they deem such review is necessary.
- Organize as a group for purposes of ensuring they receive the services and living conditions to which they are entitled and to provide support for one another while in DCF's custody.
- Be afforded prompt access to all available state and federal programs.

In accordance with s. 39.4091, F.S., caregivers for children in out-of-home care must use the "reasonable and prudent standard". This means that the caregiver must use sensible parental decision-making that maintains the child's health, safety, and best interests while at the same time encourages the child's emotional and developmental growth when determining whether to allow a child in out-of-home care to participate in extracurricular, enrichment, and social activities.[8]

Public Law 113-183, Preventing Sex Trafficking and Strengthening Families Act, requires that, as part of case planning beginning at age 14, children in foster care must be given a document describing their rights with respect to safety, exploitation, education, health, visitation, and court participation. They must also be informed of their rights to be provided certain specific documents such as copies of consumer credit reports. Children are to sign an acknowledgement that they received these documents.[9]

Educational Programs

Child Abuse, Abandonment, and Neglect

Section 39.001(9), F.S., requires the Office of Adoption and Child Protection, within the Governor's Office, to establish a comprehensive statewide approach for, in part, the prevention of child abuse, abandonment, and neglect.[10] The Office of Adoption and Child Protection works in partnership with DCF, the Department of Education (DOE), and the Department of Health (DOH) to develop ways to inform and instruct appropriate district personnel in all school districts in the detection of child abuse, abandonment, and neglect, and the proper action to be taken if there is a suspicion of child abuse, abandonment, or neglect.

The Office of Adoption and Child Protection, DCF, DOE, and DOH must also work together to develop curriculum materials to assist personnel in providing instruction through a multidisciplinary approach on the identification, intervention, and prevention of child abuse, abandonment, and neglect.[11] The

[8] Florida Department of Children and Families, CFOP 170-11, Ch. 6 (Sept. 2020), https://www.myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170-11%20%20Placement/CFOP%20170-11,%20%20%20%20Placement.pdf
[9] Florida Department of Children and Families, *2021 Agency Bill Analysis for HB 1093* (March 7, 2021).
[10] S. 39.001(9), F.S.
[11] S. 39.001(10)(b)2., F.S.

curriculum materials are geared toward a sequential program of instruction at the four progressional levels (K-3, 4-6, 7-9, and 10-12).[12] All school districts are encouraged to utilize the curriculum.

Mental Health Awareness

Beginning with the 2018-2019 school year, DOE established an evidence-based youth mental health awareness and assistance training program to help school personnel identify and understand the signs of emotional disturbance, mental illness, and substance use disorders, and provide such personnel with the skills to help a person who is developing or experiencing an emotional disturbance, mental health, or substance use problem.[13]

A school safety specialist, who is a certified youth mental health awareness and assistance trainer, ensures that all school personnel within the school district receives youth mental health awareness and assistance training.[14] The training program includes:

- An overview of mental illnesses and substance use disorders and the need to reduce the stigma of mental illness.
- Information on the potential risk factors and warning signs of emotional disturbance, mental illness, or substance use disorders, including, but not limited to, depression, anxiety, psychosis, eating disorders, and self-injury, as well as common treatments for those conditions and how to assess risks.
- Information on how to engage at-risk students with the skills, resources, and knowledge required to assess the situation, and how to identify and encourage the students to use appropriate professional help and other support strategies, including, but not limited to, peer, social, or self-help care.[15]

Educational Instruction

The law requires school districts to provide a variety of programs for children in kindergarten through grade 12, including a health education program.[16] The health education program must address concepts of:

- Community health.
- Consumer health.
- Environmental health.
- Family life, including the awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy.
- Mental and emotional health.
- Injury prevention and safety.
- Internet safety.
- Nutrition.
- Personal health.
- Prevention and control of disease.
- Substance use and abuse.

In addition, the health education curriculum for students ages 7 through 12 must include a teen dating violence and abuse component that includes, but is not limited to, the definition of dating violence and abuse, the warning signs of dating violence and abusive behavior, the characteristics of healthy relationships, measures to prevent and stop dating violence and abuse, and community resources available to victims of dating violence and abuse.[17]

[12] S. 39.001(10)(b)5., F.S.
[13] S. 1012.584(1), F.S.
[14] S. 1012.584 (2), F.S.
[15] S. 1012.584(3), F.S.
[16] S. 1003.42(n), F.S.
[17] *Id.*

There is currently no educational program required by law directly addressing the identification and reporting of child abuse, abandonment, or neglect.

Effect of Proposed Changes

HB 1093 requires the child welfare system to operate with the understanding that the rights of children in shelter or foster care are critical to their safety, permanence, and well-being and the system must work with all stakeholders to help children become knowledgeable about their rights and available resources. It states that the rights of children in shelter or foster care include the right to be free from physical, sexual, emotional, or other abuse, including corporal punishment, neglect, or abandonment.

It requires DCF, CBCs, case managers, or other appropriate agency staff to provide verbal and written instructions to a child entering shelter or foster care in an understandable manner on how to identify and report child abuse, abandonment, or neglect. DCF, CBCs, the case manager or other appropriate agency staff must review this information with a child every six months and upon every placement change until the child leaves shelter or foster care. The case manager must document in court reports and case notes the date the child received the information.

HB 1093 also authorizes and encourages district school boards to establish an educational program for all instructional staff and students ages 5 through 18 relating to the process for identifying and reporting abuse, abandonment, or neglect. This program may be provided in conjunction with the youth mental health awareness and assistance training program required under s. 1012.584, F.S., any other mental health education program offered by the school district, or any of the educational instruction programs required under s. 1003.42(2), F.S.

B. SECTION DIRECTORY:

Section 1: Amending s. 39.4085, F.S., relating to legislative findings and declaration of intent for goals for dependent children.
Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill has an indeterminate, but likely insignificant, fiscal impact on DCF. DCF may incur a workload increase to review the required information with children in shelter or foster care.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate, but likely insignificant, fiscal impact on CBCs. CBCs may incur a workload increase to review the required information with children in shelter or foster care.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None

B. RULE-MAKING AUTHORITY:

DCF has sufficient rulemaking authority to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to abuse, neglect, and abandonment education; amending s. 39.4085, F.S.; specifying the rights of children in shelter or foster care; providing responsibilities of the Department of Children and Families, community-based care lead agencies, and other agency staff; authorizing district school boards to establish a specified educational program for certain persons; authorizing such program to be provided in conjunction with other programs; providing an effective date.

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

Section 1. Section 39.4085, Florida Statutes, is amended to read:

39.4085 ~~Legislative findings and declaration of intent for~~ Goals for dependent children; rights and responsibilities; education.—

(1) The Legislature finds and declares that the design and delivery of child welfare services should be directed by the principle that the health and safety of children should be of paramount concern and, therefore, establishes the following goals for children in shelter or foster care:

(a) ~~(1)~~ To receive a copy of this act and have it fully

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

explained to them when they are placed in the custody of the department.

(b) ~~(2)~~ To enjoy individual dignity, liberty, pursuit of happiness, and the protection of their civil and legal rights as persons in the custody of the state.

(c) ~~(3)~~ To have their privacy protected, have their personal belongings secure and transported with them, and, unless otherwise ordered by the court, have uncensored communication, including receiving and sending unopened communications and having access to a telephone.

(d) ~~(4)~~ To have personnel providing services who are sufficiently qualified and experienced to assess the risk children face before ~~prior to~~ removal from their homes and to meet the needs of the children once they are in the custody of the department.

(e) ~~(5)~~ To remain in the custody of their parents or legal custodians unless and until there has been a determination by a qualified person exercising competent professional judgment that removal is necessary to protect their physical, mental, or emotional health or safety.

(f) ~~(6)~~ To have a full risk, health, educational, medical, and psychological screening and, if needed, assessment and testing upon adjudication into foster care; and to have their photograph and fingerprints included in their case management file.

(g) ~~(7)~~ To be referred to and receive services, including necessary medical, emotional, psychological, psychiatric, and educational evaluations and treatment, as soon as practicable after identification of the need for such services by the screening and assessment process.

(h) ~~(8)~~ To be placed in a home with no more than one other child, unless they are part of a sibling group.

(i) ~~(9)~~ To be placed away from other children known to pose a threat of harm to them, either because of their own risk factors or those of the other child.

(j) ~~(10)~~ To be placed in a home where the shelter or foster caregiver is aware of and understands the child's history, needs, and risk factors.

(k) ~~(11)~~ To be the subject of a plan developed by the counselor and the shelter or foster caregiver to deal with identified behaviors that may present a risk to the child or others.

(l) ~~(12)~~ To be involved and incorporated, if ~~where~~ appropriate, in the development of the case plan, to have a case plan which will address their specific needs, and to object to any of the provisions of the case plan.

(m) ~~(13)~~ To receive meaningful case management and planning that will quickly return the child to his or her family or move the child on to other forms of permanency.

(n) ~~(14)~~ To receive regular communication with a

caseworker, at least once a month, which shall include meeting with the child alone and conferring with the shelter or foster caregiver.

(o) ~~(15)~~ To enjoy regular visitation, at least once a week, with their siblings unless the court orders otherwise.

(p) ~~(16)~~ To enjoy regular visitation with their parents, at least once a month, unless the court orders otherwise.

(q) ~~(17)~~ To receive a free and appropriate education; minimal disruption to their education and retention in their home school, if appropriate; referral to the child study team; all special educational services, including, if ~~where~~ appropriate, the appointment of a parent surrogate; and the sharing of all necessary information between the school board and the department, including information on attendance and educational progress.

(r) ~~(18)~~ To be able to raise grievances with the department over the care they are receiving from their caregivers, caseworkers, or other service providers.

(s) ~~(19)~~ To be heard by the court, if appropriate, at all review hearings.

(t) ~~(20)~~ To have a guardian ad litem appointed to represent, within reason, their best interests and, if ~~where~~ appropriate, an attorney ad litem appointed to represent their legal interests; the guardian ad litem and attorney ad litem shall have immediate and unlimited access to the children they

represent.

(u) ~~(21)~~ To have all their records available for review by their guardian ad litem and attorney ad litem if they deem such review necessary.

(v) ~~(22)~~ To organize as a group for purposes of ensuring that they receive the services and living conditions to which they are entitled and to provide support for one another while in the custody of the department.

(w) ~~(23)~~ To be afforded prompt access to all available state and federal programs, including, but not limited to: Early Periodic Screening, Diagnosis, and Testing (EPSDT) services, developmental services programs, Medicare and supplemental security income, Children's Medical Services, and programs for severely emotionally disturbed children.

~~The provisions of~~ This subsection establishes ~~section establish~~ goals and not rights. ~~Nothing in~~ This subsection does not require ~~section shall be interpreted as requiring~~ the delivery of any particular service or level of service in excess of existing appropriations. A ~~No~~ person does not ~~shall~~ have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of these goals by the Legislature. This subsection does not ~~Nothing herein shall~~ require the expenditure of funds

to meet the goals established in this subsection ~~herein~~ except those funds specifically appropriated for such purpose.

(2)(a) The department's child welfare system shall operate with the understanding that the rights of children in shelter or foster care are critical to their safety, permanence, and well-being and the system shall work with all stakeholders to help such children become knowledgeable about their rights and available resources. The rights of a child placed in shelter or foster care include the right to be free from physical, sexual, emotional, or other abuse, including corporal punishment; neglect; or abandonment.

(b) The department, community-based-care lead agency, caseworker, or other appropriate agency staff shall provide verbal and written instructions to a child entering shelter or foster care to educate the child on the process for identifying and reporting abuse, neglect, or abandonment. The verbal instructions must be explained to the child in a manner he or she can understand. Such verbal explanation must occur in a manner that is the most effective for each child and must use words and terminology that the child can understand. Written instructions are only required to be provided to the child if he or she is age appropriate as defined in s. 39.4091(2). Written instructions must be written using words and terminology that the child can understand and in a manner he or she can understand.

(c) The department, community-based-care lead agency, caseworker, or other appropriate agency staff shall document in court reports and case notes the date he or she provided the information required in paragraph (b) to the child.

(d) The department, community-based-care lead agency, caseworker, or other appropriate agency staff must review the information required in paragraph (b) with the child every 6 months until he or she leaves shelter or foster care and upon every change in placement. Each child must be given the opportunity to ask questions about his or her right to be free from abuse, neglect, or abandonment and the process for identifying and reporting abuse, neglect, or abandonment.

(e) District school boards are authorized and encouraged to establish an educational program for all instructional staff and students ages 5 through 18 relating to the process for identifying and reporting abuse, neglect, or abandonment and the effects of abuse, neglect, or abandonment on a child. The district school boards may provide this program in conjunction with the youth mental health awareness and assistance training program required under s. 1012.584, any other mental health education program offered by the school district, or any of the educational instruction required under s. 1003.42(2).

Section 2. This act shall take effect July 1, 2021.

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	_____

Committee/Subcommittee hearing bill: Children, Families & Seniors Subcommittee
Representative Valdés offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 39.4085, Florida Statutes, is amended to read:

39.4085 ~~Legislative findings and declaration of intent for goals~~ Goals for dependent children; responsibilities; education.—

(1) The Legislature finds ~~and declares~~ that the design and delivery of child welfare services should be directed by the principle that the health and safety of children, including the freedom from abuse, abandonment, and neglect, ~~should be~~ is of

paramount concern, and, therefore, establishes the following goals for children in shelter or foster care:

(a)~~(1)~~ To receive a copy of this act and have it fully explained to them when they are placed in the custody of the department.

(b)~~(2)~~ To enjoy individual dignity, liberty, pursuit of happiness, and the protection of their civil and legal rights as persons in the custody of the state.

(c)~~(3)~~ To have their privacy protected, have their personal belongings secure and transported with them, and, unless otherwise ordered by the court, have uncensored communication, including receiving and sending unopened communications and having access to a telephone.

(d)~~(4)~~ To have personnel providing services who are sufficiently qualified and experienced to assess the risk children face before ~~prior to~~ removal from their homes and to meet the needs of the children once they are in the custody of the department.

(e)~~(5)~~ To remain in the custody of their parents or legal custodians unless and until there has been a determination by a qualified person exercising competent professional judgment that removal is necessary to protect their physical, mental, or emotional health or safety.

(f)~~(6)~~ To have a full risk, health, educational, medical, and psychological screening and, if needed, assessment and

testing upon adjudication into foster care; and to have their photograph and fingerprints included in their case management file.

(g)~~(7)~~ To be referred to and receive services, including necessary medical, emotional, psychological, psychiatric, and educational evaluations and treatment, as soon as practicable after identification of the need for such services by the screening and assessment process.

(h)~~(8)~~ To be placed in a home with no more than one other child, unless they are part of a sibling group.

(i)~~(9)~~ To be placed away from other children known to pose a threat of harm to them, either because of their own risk factors or those of the other child.

(j)~~(10)~~ To be placed in a home where the shelter or foster caregiver is aware of and understands the child's history, needs, and risk factors.

(k)~~(11)~~ To be the subject of a plan developed by the counselor and the shelter or foster caregiver to deal with identified behaviors that may present a risk to the child or others.

(l)~~(12)~~ To be involved and incorporated, if ~~where~~ appropriate, in the development of the case plan, to have a case plan which will address their specific needs, and to object to any of the provisions of the case plan.

(m)~~(13)~~ To receive meaningful case management and planning

that will quickly return the child to his or her family or move the child on to other forms of permanency.

(n)~~(14)~~ To receive regular communication with a case manager ~~caseworker~~, at least once a month, which shall include meeting with the child alone and conferring with the shelter or foster caregiver.

(o)~~(15)~~ To enjoy regular visitation, at least once a week, with their siblings unless the court orders otherwise.

(p)~~(16)~~ To enjoy regular visitation with their parents, at least once a month, unless the court orders otherwise.

(q)~~(17)~~ To receive a free and appropriate education; minimal disruption to their education and retention in their home school, if appropriate; referral to the child study team; all special educational services, including, if ~~where~~ appropriate, the appointment of a parent surrogate; and the sharing of all necessary information between the school board and the department, including information on attendance and educational progress.

(r)~~(18)~~ To be able to raise grievances with the department over the care they are receiving from their caregivers, case managers ~~caseworkers~~, or other service providers.

(s)~~(19)~~ To be heard by the court, if appropriate, at all review hearings.

(t)~~(20)~~ To have a guardian ad litem appointed to represent, within reason, their best interests and, if ~~where~~

appropriate, an attorney ad litem appointed to represent their legal interests; the guardian ad litem and attorney ad litem shall have immediate and unlimited access to the children they represent.

(u)~~(21)~~ To have all their records available for review by their guardian ad litem and attorney ad litem if they deem such review necessary.

(v)~~(22)~~ To organize as a group for purposes of ensuring that they receive the services and living conditions to which they are entitled and to provide support for one another while in the custody of the department.

(w)~~(23)~~ To be afforded prompt access to all available state and federal programs, including, but not limited to: Early Periodic Screening, Diagnosis, and Testing (EPSDT) services, developmental services programs, Medicare and supplemental security income, Children's Medical Services, and programs for severely emotionally disturbed children.

~~The provisions of~~ This subsection establishes ~~section establish~~ goals and not rights. ~~Nothing in~~ This subsection does not require ~~section shall be interpreted as requiring~~ the delivery of any particular service or level of service in excess of existing appropriations. A ~~No~~ person does not ~~shall~~ have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the

adoption of or failure to provide adequate funding for the achievement of these goals by the Legislature. This subsection does not ~~Nothing herein shall~~ require the expenditure of funds to meet the goals established in this subsection ~~herein~~ except those funds specifically appropriated for such purpose.

(2) The department shall operate with the understanding that the rights of children in shelter or foster care are critical to their safety, permanency, and well-being. The department shall work with all stakeholders to help such children become knowledgeable about their rights.

(3)(a) The case manager or other staff shall provide verbal and written instructions to a child entering shelter or foster care to educate the child on identifying and reporting abuse, abandonment, or neglect. The verbal and written instructions must use words and phrasing each child can understand and must occur in a manner that is most effective for each child. The written instructions are only required if the child is of sufficient age and understanding to receive such instructions. The case manager or other staff must give each child the opportunity to ask questions about his or her rights and how to identify and report abuse, abandonment, or neglect. The case manager or other staff shall document in court reports and case notes the date the information was provided to the child. The case manager or other staff must review the information with the child every 6 months and upon every

placement change until the child leaves shelter or foster care.

(b) District school boards are authorized and encouraged to establish educational programs for students ages 5 through 18 relating to the identification and reporting of abuse, abandonment, or neglect and their effects on a child. The district school boards may provide this program in conjunction with the youth mental health awareness and assistance training program required under s. 1012.584, any other mental health education program offered by the school district, or any of the educational instruction required under s. 1003.42(2).

Section 2. This act shall take effect July 1, 2021.

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

Remove everything before the enacting clause and insert:
An act relating to abuse, abandonment, or neglect education; amending s. 39.4085, F.S.; revising legislative intent; specifying goals for children in shelter or foster care; providing responsibilities for case managers or other appropriate staff; authorizing district school boards to establish a specified educational programs for certain persons; authorizing such programs to be provided in conjunction with other programs; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1349 Assistance Programs
SPONSOR(S): Aloupis
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee		Rahming	Brazzell
2) Appropriations Committee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The Auditor General, established by Art. III, s. 2 of the State Constitution, is appointed to office to serve at the pleasure of the Legislature, by a majority vote of the members of the Legislative Auditing Committee, subject to confirmation by both houses of the Legislature. The Auditor General must conduct audits, examinations, or reviews of government programs as well as audit the accounts and records of state agencies, state universities, state colleges, district school boards, and others as directed by the Legislative Auditing Committee. The Auditor General conducts operational and performance audits on public records and information technology systems and also reviews all audit reports of local governmental entities, charter schools, and charter technical career centers.

The bill requires the Auditor General to conduct, at least every three years, performance audits of the following programs:

- Medicaid;
- The temporary cash assistance program;
- The School Readiness program;
- The Supplemental Nutrition Assistance Program; and
- The Housing Choice Voucher Program

The Auditor General must provide the results of the audits in a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Legislative Auditing Committee. The report must be provided within 30 days after its completion but no later than December 31, 2021. Thereafter, the report must be provided every three years.

The bill requires the Office of Early Learning (OEL) to coordinate with the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies (Center) to conduct an analysis of recipients of specified assistance programs and develop participant profiles. The bill requires the Center to provide a report of its analysis to the OEL by June 30 of each year. Within 30 days of receiving the report, the OEL is required to submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The bill requires specified agencies to enter into data sharing agreements with the OEL and the Center.

The bill requires that parents who have an intensive services account or an individual training account be given priority for participation in the School Readiness program equal to parents receiving temporary cash assistance benefits. The bill also eliminates certain definitions applicable to the School Readiness program.

The bill may have an indeterminate negative fiscal impact on state government expenditures. The bill has no impact on local governments.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

Florida's Assistance Programs

Medicaid

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The program is administered by the Agency for Health Care Administration (AHCA) and financed by federal and state funds. AHCA delegates certain functions to other state agencies, including the Department of Children and Families (DCF), which makes eligibility determinations.

The structure of each state's Medicaid program varies, but what states must pay for is largely determined by the federal government, as a condition of receiving federal funds.[1] Federal law sets the amount, scope, and duration of services offered in the program, among other requirements. These federal requirements create an entitlement that comes with constitutional due process protections. The entitlement means that two parts of the Medicaid cost equation – people and utilization – are largely predetermined for the states. The federal government sets the minimum mandatory populations to be included in every state Medicaid program. The federal government also sets the minimum mandatory benefits to be covered in every state Medicaid program. These benefits include physician services, hospital services, home health services, and family planning.[2] States can add benefits, with federal approval. Florida has added many optional benefits, including prescription drugs, ambulatory surgical center services, and dialysis.[3]

The Florida Medicaid program covers approximately 3.6 million low-income individuals.[4] Medicaid is the second largest single program in the state, behind public education, representing approximately one-third of the total FY 2020-2021 state budget.[5]

Federal law requires that a State plan provide safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.[6] Currently, conducting an analysis of recipients of specified assistance programs and developing participant profiles based on specified criteria is not directly connected with the administration of the plan.[7]

Temporary Aid for Needy Families

Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,[8] the Temporary Aid for Needy Families (TANF) program replaced the welfare programs known as Aid to Families with Dependent Children, the Job Opportunities and Basic Skills Training program, and the Emergency Assistance program. The law ended federal entitlement to assistance and instead created TANF as a block grant that provides federal funds to states, territories, and tribes each year. These funds cover benefits, administrative expenses, and services targeted to needy families. TANF became effective July 1, 1997, and was reauthorized by the Deficit Reduction Act of 2005. States receive block grants to

[1] 42 U.S.C. §§ 1396-1396w-5; 42 C.F.R. Part 430-456 (§§ 430.0-456.725) (2016).
[2] S. 409.905, F.S.
[3] S. 409.906, F.S.
[4] Agency for Health Care Administration (AHCA), *Florida Statewide Medicaid Monthly Enrollment Report*, February 2021, https://ahca.myflorida.com/medicaid/finance/data_analytics/enrollment_report/index.shtml (last visited Mar. 18, 2021).
[5] Chapter 2020-111, L.O.F.; *see also Fiscal Analysis in Brief: 2020 Legislative Session*, http://edr.state.fl.us/content/revenues/reports/fiscal-analysis-in-brief/FiscalAnalysisinBrief2020.pdf (last visited Mar.18, 2021).
[6] 42 C.F.R. § 431.300
[7] AHCA, *Medicaid State Plan Under Title XIX of the Social Security Act Medical Assistance Program*, sections of the State Plan are available at https://ahca.myflorida.com/medicaid/stateplan.shtml (last visited Mar. 20, 2021).
[8] P.L. 104-193.

operate their individual programs and to accomplish the goals of the TANF program. As of June 2020, 46,369 Florida families receive TANF, including 66,261 children and 18,615 adults.[9]

Florida's Temporary Cash Assistance Program

Florida's temporary cash assistance (TCA) program is one of several programs funded with TANF block grant funds. The purpose of the TCA program is to help families with children become self-supporting while allowing children to remain in their own homes. It provides cash assistance to families that meet the technical, income, and asset requirements.[10]

Various state agencies and entities work together through a series of contracts or memoranda of understanding to administer the TCA program. The DCF receives the federal TANF block grant and administers the TCA program, monitoring eligibility and dispersing benefits. The Department of Economic Opportunity (DEO) is responsible for financial and performance reporting to ensure compliance with federal and state measures, and for providing training and technical assistance to Local Workforce Development Boards (LWDBs). LWDBs provide information about available jobs, on-the-job training, and education and training services within their respective areas and contract with one-stop career centers.[11] CareerSource Florida has planning and oversight responsibilities for all workforce-related programs.

Federal law limits the use or disclosure of information concerning applicants and recipients to specified purposes, including any audit or similar activity.[12] State universities conducting an analysis of recipients of specified assistance programs and developing participant profiles based on specified criteria is not one of the specified purposes.

School Readiness Program

Established in 1999,[13] the School Readiness program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, abandonment, or homelessness; foster children; and children with disabilities.[14] The School Readiness program offers financial assistance for child care to these families while supporting children in the development of skills for success in school. Additionally, the program provides developmental screening and referrals to health and education specialists where needed. These services are provided in conjunction with other programs for young children such as Head Start, Early Head Start, Migrant Head Start, Child Care Resource and Referral and the Voluntary Prekindergarten Education Program.[15]

The School Readiness program is a state-federal partnership between Florida's Office of Early Learning (OEL)[16] and the Office of Child Care of the United States Department of Health and Human

[9] Congressional Research Service (CRS), CRS Report, The Temporary Assistance for Needy Families (TANF) Block Grant: Responses to Frequently Asked Questions, January 25, 2021, available at https://fas.org/sgp/crs/misc/RL32760.pdf (last visited Mar. 19, 2021).
[10] Children must be under the age of 18, or under age 19 if they are full time secondary school students. Parents, children and minor siblings who live together must apply together. Additionally, pregnant women may also receive TCA, either in the third trimester of pregnancy if unable to work, or in the 9th month of pregnancy.
[11] CareerSource Florida, Inc., *Workforce Investment Act – Workforce Innovation and Opportunity Act Annual Report for 2015-2016 Program Year*, https://careersourceflorida.com/wp-content/uploads/2016/10/161003_AnnualReport.pdf (last visited Mar. 18, 2020).
[12] 45 FCR § 205.50.
[13] Section 1, ch. 99-357, L.O.F.
[14] Ss. 1002.81 and 1002.87, F.S.
[15] Florida Office of Early Learning, *School Readiness Program,* http://www.floridaearlylearning.com/family-resources/financial-assistance (last visited Mar. 18, 2020).
[16] In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education. The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the School Readiness Program and the VPK Program. Section 1, ch. 2013-252, L.O.F., *codified at* s. 1001.213, F.S.

Services.[17] It is administered by early learning coalitions (ELCs) at the county or regional level.[18] Florida's OEL administers the program at the state level, including statewide coordination of ELCs.[19]

Federal regulations require eligibility for the school readiness program to be based in part on family income.[20] Section 1002.82(2)(z), F.S., requires the office to establish eligibility criteria, including limitations based on income and family assets. For purposes of calculating family income for the School Readiness program, Florida law defines "family income" as "the combined gross income, whether earned or unearned, that is derived from any source by all family or household members who are 18 years of age or older who are currently residing together in the same dwelling unit." [21] Under current law, "earned income" means gross remuneration derived from work, professional service, or self-employment,[22] and "unearned income" means income other than earned income.[23]

About 62 percent of Florida's approximately 1.1 million children younger than age 6 are in the School Readiness program.[24] Currently, ELCs are required to use the following eligibility priority criteria for families applying for school readiness services:[25]

1. Children younger than age 13 whose parents receive temporary cash assistance and are subject to federal work requirements.
2. At-risk children younger than age 9.
3. Economically disadvantaged children until eligible to enter kindergarten. Their older siblings up to the age they are eligible to enter 6th grade may also be served.
4. Children from birth to kindergarten whose parents are transitioning from the temporary cash assistance work program to employment.
5. At-risk children who are at least age 9 but younger than 13. Those with siblings in priority groups 1-3 are higher priority than other children ages 9-13 in this priority group.
6. Economically disadvantaged children younger than 13. Priority in this category is given to children who have a younger sibling in the School Readiness Program under priority 3.
7. Children younger than 13 whose parents are transitioning from the temporary cash assistance work program to employment.
8. Children who have special needs and current individual educational plans from age 3 until they are eligible to enter kindergarten.
9. Children concurrently enrolled in the federal Head Start Program and VPK, regardless of priorities 1-4.

The DCF's Office of Child Care Regulation, as the agency responsible for the state's child care provider licensing program, inspects all child care providers that provide the School Readiness program for specified health and safety standards.[26] The law authorizes a county to designate a local licensing agency to license providers if its licensing standards meet or exceed DCF's standards. Five counties have done this – Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota. Thus, in these five counties the local licensing agency, not the DCF, inspects child care providers that provide the School Readiness program[27] for health and safety standards.

Supplemental Nutrition Assistance Program (SNAP)

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[17] *See* U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*, https://www.acf.hhs.gov/sites/default/files/documents/occ/factsheets_occ.pdf (last visited Mar. 18, 2021).
[18] S. 1002.83, F.S.
[19] S. 1001.213(3), F.S.
[20] 45 CFR 98.20(a)(2)(i).
[21] S. 1002.81(8), F.S.
[22] S. 1002.81(6), F.S.
[23] S. 1002.81(15), F.S.
[24] Office of Early Learning, School Readiness, http://www.floridaearlylearning.com/school-readiness#:~:text=There%20are%20approximately%201.1%20million,readiness%20services%20from%207%2C676%20providers. (last visited Mar. 19, 2021).
[25] S. 1002.87, F.S.
[26] *See* ss. 402.301-402.319 and 1002.88, F.S.
[27] S. 402.306(1), F.S.

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).[28] SNAP offers nutrition assistance to millions of eligible, low-income individuals and families, in the form of funds to purchase "eligible food,"[29] and provides economic benefits to communities by reducing poverty and food insecurity.[30]

The federal government funds 100% of the benefit amount. However, FNS and states share the administrative costs of the program. Federal laws, regulations, and waivers provide states with various policy options to better target benefits to those most in need, streamline program administration and field operations, and coordinate SNAP activities with those of other programs.[31]

The amount of benefits, or allotment, for which a households qualifies depends on the number of individuals in the household and the household's net income. To calculate a household's allotment, 30% of its net income is subtracted from the maximum allotment for that household size.[32] This is because SNAP households are expected to spend about 30% of their own resources on food.[33] As of November 2020, 3,510,072 Floridians are participating in SNAP.[34]

The federal government restricts the use or disclosure of information obtained from SNAP applicants or recipient households to specified entities and for specified reasons.[35] State universities are not one of the specified entities, and conducting an analysis of recipients of specified assistance programs and developing participant profiles based on specified criteria is not one of the specified reasons for use or disclosure.

Housing Choice Voucher Program

The Housing Choice Voucher Program (HCVP) "is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market."[36] The U.S. Department of Housing and Urban Development (HUD) oversees the HCVP,[37] but the program "is generally administered by State or local governmental entities called public housing agencies (PHAs)."[38] HUD provides funding to the PHAs, which then contract with a landlord to subsidized rent on behalf of the program participant.[39] Housing units receiving HCVP funding must meet and maintain certain housing quality standards.[40] To be eligible for the HCVP, the applicant must be a low-income family[41] with "the family's income not exceeding 50% of the median income for the county or metropolitan area."[42]

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[28] U.S. Department of Agriculture, Food and Nutrition, *A Short History of SNAP*, https://www.fns.usda.gov/snap/short-history-snap (last visited Mar. 18, 2021).
[29] The Food and Nutrition Act of 2008 defines eligible food as any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods and hot food products prepared for immediate consumption, with some exceptions. 7 USC § 2012(k).
[30] For a detailed overview of SNAP, *see* Randy Alison Aussenberg, *Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits*, CONGRESSIONAL RESEARCH SERVICE, Dec. 29, 2014, *available at* https://fas.org/sgp/crs/misc/R42505.pdf (last visited Mar. 18, 2021).
[31] U.S. Department of Agriculture, Food and Nutrition, *State Options Report: Supplemental Nutrition Assistance Program*, (11th ed.), Sept. 2013, *available at* http://www.fns.usda.gov/sites/default/files/snap/11-State_Options.pdf (last visited Mar. 18, 2021).
[32] U.S. Department of Agriculture Food and Nutrition Service, *SNAP Eligibility*, https://www.fns.usda.gov/snap/recipient/eligibility (last visited Mar. 18, 2021).
[33] *Id.*
[34] FNS, *SNAP Data Tables*, available at https://fns-prod.azureedge.net/sites/default/files/resource-files/29SNAPcurrPP-3.pdf (last visited Mar. 19, 2021).
[35] 7 C.F.R. § 272.1.
[36] *Housing Choice Vouchers Fact Sheet*, U.S. Department of Housing and Urban Development, https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/about/fact_sheet (last visited Mar. 18, 2021).
[37] *See* 42 U.S.C. s. 1437.
[38] 24 C.F.R. § 982.1.
[39] *Id.*
[40] *See* 24 C.F.R. § 982.401.
[41] 24 C.F.R. § 982.201.
[42] U.S. Department of Housing and Urban Development, *Housing Choice Vouchers Fact Sheet,* https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/about/fact_sheet (last visited Mar. 18, 2020).

There are two different types of assistance under the HCVP: tenant-based and project-based.[43] Tenant-based assistance is an arrangement where the unit is selected by the family, wherever they wish to live, and the PHA pays the landlord a subsidy and the family pays the difference between the rent price and subsidy. In project-based assistance, "rental assistance is paid for families living in specific housing developments or units."[44]

As of December 2019, 451,000 people in 214,000 Florida households use federal rental assistance to afford modest housing, 70 percent of which are seniors, children, or people with disabilities.[45]

Auditor General

The position of Auditor General is established by Art. III, s. 2 of the State Constitution. The Auditor General is appointed to office to serve at the pleasure of the Legislature, by a majority vote of the members of the Legislative Auditing Committee, subject to confirmation by both houses of the Legislature.[46] The appointment of the Auditor General may be terminated at any time by a majority vote of both houses of the Legislature.[47] At the time of appointment, the Auditor General must have been certified under the Public Accountancy Law in Florida for a period of at least 10 years and may not have less than 10 years' experience in an accounting or auditing related field.[48]

The Auditor General must conduct audits, examinations, or reviews of government programs[49] as well as audit the accounts and records of state agencies, state universities, state colleges, district school boards, and others as directed by the Legislative Auditing Committee.[50] The Auditor General conducts operational and performance audits on public records and information technology systems and also reviews all audit reports of local governmental entities, charter schools, and charter technical career centers.[51]

Various provisions require the Auditor General to compile and submit reports. For example, the Auditor General must annually compile and transmit to the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee a summary of significant findings and financial trends identified in audit reports.[52] The Auditor General also must compile and transmit to the President of the Senate, Speaker of the House of Representatives, and Legislative Auditing Committee an annual report by December 1. The report must include a two-year work plan identifying the audit and other accountability activities to be undertaken and a list of statutory and fiscal changes recommended by the Auditor General.[53] In addition, the Auditor General must transmit recommendations at other times during the year when the information would be timely and useful to the Legislature.[54]

Pursuant to the federal Single Audit Act, the U.S. Office of Management and Budget requires an audit of major State-administered Federal awards programs, as described in Title 2 Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Accordingly, the Auditor General performs an annual financial and federal awards audit of the State of Florida, which encompasses all State agencies, universities, and colleges, most recently in Report No. 2019-186. This audit includes the State-administered federal programs referenced above and, therefore, each program is currently audited by the Auditor General at least once every 3 years.

Individual Training Accounts

[43] 24 C.F.R. § 982.201.
[44] *Id.*
[45] Center on Budget and Policy Priorities, *Federal Rental Assistance Fact Sheets*, https://www.cbpp.org/research/housing/federal-rental-assistance-fact-sheets#FL (last visited Mar. 19, 2021).
[46] S. 11.42(2), F.S.
[47] S. 11.42(5), F.S.
[48] S. 11.42(2), F.S.
[49] S. 11.45(7), F.S.
[50] S. 11.45(2)(d)-(f), F.S.
[51] S. 11.45(7)(b), F.S.
[52] S. 11.45(7)(f), F.S.
[53] S. 11.45(7)(h), F.S.
[54] *Id.*

The Workforce Innovation and Opportunity Act (WIOA), signed into law on July 22, 2014, requires that employment training services be provided to adults and dislocated workers through the use of Individual Training Accounts (ITA), which allow participants to choose among eligible providers. An ITA is sometimes referred to as Intensive Service Account. These accounts are used by the state's workforce program, CareerSource Florida, Inc., to assist persons with job referral and placement.

Effect of the Proposed Bill

The bill requires the Auditor General to conduct, at least every three years, performance audits of:

- Medicaid;
- The temporary cash assistance program;
- The School Readiness program;
- The Supplemental Nutrition Assistance Program; and
- The Housing Choice Voucher Program.

The audits must include a review of the following aspects of those programs:

- Eligibility, including:
  - Criteria for eligibility;
  - Frequency of eligibility determinations;
  - Clarity in written, electronic, and verbal communication in which eligibility requirements are conveyed to current and potential program subscribers; and
  - The process used to establish and document eligibility.
- The number and size of families receiving multiple program services compared to all eligible families;
- Opportunities for improving service efficiency and efficacy; and
- If possible, the number of families receiving services who claimed the Earned Income Tax Credit.

The Auditor General must provide the results of the audits in a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Legislative Auditing Committee. The report must be provided within 30 days after its completion but no later than December 31, 2021. Thereafter, the report must be provided every three years.

The bill requires that parents who have an intensive services account or an individual training account be given priority for participation in the School Readiness program equal to parents receiving TCA benefits.

The bill also deletes the "earned income" and "unearned income" definitions from s. 1002.81, F.S. This means that the statute will no longer specify how family income is calculated for purposes of eligibility for the School Readiness program, giving OEL more flexibility in establishing eligibility criteria.

The bill requires OEL to coordinate with the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies (Center) to conduct an analysis of recipients of:

- Medicaid;
- The temporary cash assistance program;
- The School Readiness program;
- The Supplemental Nutrition Assistance Program; and
- The Housing Choice Voucher Program.

The analysis must include a review of:

- Eligibility, including:

- Criteria for eligibility;
- Frequency of eligibility determinations;
- The number of families receiving multiple program services out of the total number of eligible families; and
- The process used to establish and document eligibility and disbursement policies.

The bill requires the Center, through its analysis, to develop participant profiles based on specified criteria. The bill also requires each agency responsible for the administration of the specified assistance programs to:

- Enter into a data sharing agreement with the OEL and the Center by September 1, 2021;
- Submit a program services data file containing specified information to the Center by November 1, 2021; and
- By November 1, 2022, submit a supplemental data file to the Center containing specified information.

The bill also requires the Center to provide a report of its analysis to the OEL by June 30 in 2022 and 2023. Within 30 days of receiving the report, the OEL is required to submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The section of law with these requirements expires on June 30, 2023.

Federal laws related to the use or disclosure of information on applicants and beneficiaries of assistance programs may limit or prevent the implementation of the bill's provisions on information sharing by state agencies. Limitations regarding the accessibility of individual federal income tax information may also prove to be problematic for determining the number of families receiving services and using the Earned Income Tax Credit.

B. SECTION DIRECTORY:

Section 1: Amends s. 11.45, F.S., relating to the duties of the Auditor General.
Section 2: Amends s. 1002.81, F.S., relating to definitions.
Section 3: Amends s. 1002.87, F.S., relating to School readiness program; eligibility and enrollment.
Section 4: Creates an unnumbered section of law, relating to analyzing assistance programs data.
Section 5: Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The Auditor General estimates the fiscal impact of the bill to be minimal because many of the issues raised in the bill have been or are currently subject to audit.[55]

   The OEL would need to comply with additional auditing requests; however, current staff and resources could absorb these responsibilities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

[55] Auditor General, 2021 Agency Legislative Bill Analysis for House Bill 1349, p. 4 (Mar. 11, 2021).

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not confer rulemaking authority nor require the promulgation of rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill requires state agencies to submit data files by November 1, 2022, and annually thereafter. However, the section of the bill requiring the submission expires within a year after November 1, 2022.

The bill also requires OEL to submit the report to the Legislature within 30 days after receiving it from the Anita Zucker Center. However, the section of law with that requirement expires on June 30, 2023, which is the deadline for the OEL's receipt of the second report from the Anita Zucker Center, and thus the OEL would no longer be required by law to forward it to the Legislature.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to assistance programs; amending s. 11.45, F.S.; requiring the Auditor General to perform audits of specified programs at specified intervals beginning in a specified calendar year; requiring the audits to review specified elements of such programs; requiring the Auditor General to make a specified determination, if possible; providing reporting requirements for the results of such audits; amending s. 1002.81, F.S.; deleting obsolete language; amending s. 1002.87, F.S.; requiring an early learning coalition to give priority for participation in a school readiness program to certain children; requiring the Office of Early Learning within the Department of Education to coordinate with the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies to conduct an analysis of certain assistance programs; providing requirements for the analysis; requiring certain agencies to enter into a data sharing agreement with certain entities and annually provide certain data; requiring the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies to provide an annual report to the Office of Early Learning; requiring the Office of Early Learning to

provide an annual report to the Governor and Legislature; providing for the scheduled expiration of certain provisions; providing an effective date.

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

Section 1. Paragraph (n) is added to subsection (2) of section 11.45, Florida Statutes, to read:

11.45 Definitions; duties; authorities; reports; rules.—

(2) DUTIES.—The Auditor General shall:

(n) Beginning during the 2021 calendar year, and at least every 3 years thereafter, conduct performance audits of the Supplemental Nutrition Assistance Program established under 7 U.S.C. ss. 2011 et seq., the Temporary Cash Assistance Program as provided under s. 414.095, the Medicaid program designated in s. 409.963, the school readiness program set forth in part VI of chapter 1002, and the Housing Choice Voucher Program established under 42 U.S.C. s. 1437f. Such audits must include a review of eligibility criteria; the manner by which each program establishes and documents eligibility and disbursement policies; the frequency of eligibility determinations; the clarity of both written and verbal communication in which eligibility requirements are conveyed to current and potential program recipients; opportunities for improving service efficiency and efficacy made possible by improved integration of state data

system platforms, processes, and procedures related to data collection, analysis, documentation, and interagency sharing; and the number and size of families receiving multiple program services compared to all eligible families, including whether they are single-parent or two-parent households. If possible, the Auditor General also shall determine the number of families receiving services who are claiming the Earned Income Tax Credit. The Auditor General shall provide the results of the audits in a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Legislative Auditing Committee within 30 days after completion of the audits, but no later than December 31, 2021, and every 3 years thereafter.

The Auditor General shall perform his or her duties independently but under the general policies established by the Legislative Auditing Committee. This subsection does not limit the Auditor General's discretionary authority to conduct other audits or engagements of governmental entities as authorized in subsection (3).

Section 2. Subsections (6) and (15) of section 1002.81, Florida Statutes, are amended to read:

1002.81 Definitions.—Consistent with the requirements of 45 C.F.R. parts 98 and 99 and as used in this part, the term:

~~(6) "Earned income" means gross remuneration derived from~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

~~work, professional service, or self-employment. The term includes commissions, bonuses, back pay awards, and the cash value of all remuneration paid in a medium other than cash.~~

~~(15) "Unearned income" means income other than earned income. The term includes, but is not limited to:~~

~~(a) Documented alimony and child support received.~~

~~(b) Social security benefits.~~

~~(c) Supplemental security income benefits.~~

~~(d) Workers' compensation benefits.~~

~~(e) Reemployment assistance or unemployment compensation benefits.~~

~~(f) Veterans' benefits.~~

~~(g) Retirement benefits.~~

~~(h) Temporary cash assistance under chapter 414.~~

Section 3. Paragraph (a) of subsection (1) of section 1002.87, Florida Statutes, is amended to read:

1002.87 School readiness program; eligibility and enrollment.—

(1) Each early learning coalition shall give priority for participation in the school readiness program as follows:

(a) Priority shall be given first to a child younger than 13 years of age from a family that includes a parent who is receiving temporary cash assistance under chapter 414 and subject to the federal work requirements or a parent who has an Intensive Service Account or an Individual Training Account

under s. 445.009.

Section 4. (1) The Office of Early Learning within the Department of Education shall coordinate with the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies to conduct an analysis of, at a minimum, recipients of the Supplemental Nutrition Assistance Program established under 7 U.S.C. ss. 2011 et seq., the temporary cash assistance program under s. 414.095, Florida Statutes, the Medicaid program under s. 409.963, Florida Statutes, the school readiness program under part VI of chapter 1002, Florida Statutes, and the Housing Choice Voucher Program established under 42 U.S.C. s. 1437f.

(2) The analysis must include a review of eligibility criteria, the manner in which each program establishes and documents eligibility and disbursement policies, the frequency of eligibility determinations, and the number of families receiving multiple program services out of the total number of eligible families.

(3) The University of Florida Anita Zucker Center for Excellence in Early Childhood Studies shall, through its analysis, develop participant profiles based on the number of families receiving multiple program services that include family composition and the most frequent program services or combination of services families are accessing in each county or geographic region.

(4) Each agency responsible for the administration of a

program that is required to be analyzed under subsection (1) shall enter into a data sharing agreement with the Office of Early Learning and the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies by September 1, 2021. Upon execution of the data sharing agreement each agency shall submit a program services data file to the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies by November 1, 2021, containing program service data from the preceding 10 federal fiscal years, if available.
By November 1, 2022, and each year thereafter if applicable, each agency shall submit a supplemental data file to the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies containing program service data from the preceding federal fiscal year.

(5) The University of Florida Anita Zucker Center for Excellence in Early Childhood Studies shall provide a report to the Office of Early Learning based on the results of its analysis by June 30 of each year.

(6) The Office of Early Learning within 30 days after receiving the report shall submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(7) This section expires on June 30, 2023.

Section 5. This act shall take effect July 1, 2021.

CODING: Words stricken are deletions; words underlined are additions.

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	_____

Committee/Subcommittee hearing bill: Children, Families & Seniors Subcommittee

Representative Aloupis offered the following:

Amendment (with title amendment)

Remove lines 32-70

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

Remove lines 1-9 and insert:

An act relating to assistance programs; amending

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1447 Commission on Mental Health and Substance Abuse
SPONSOR(S): Hunschofsky
TIED BILLS: **IDEN./SIM. BILLS:** SB 1888

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee		Morris	Brazzell
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery. It serves children and adults who are otherwise unable to obtain these services (such as individuals who are not covered under Medicaid or private insurance and do not have the financial ability to pay for the services themselves). Individuals may also receive behavioral health services in Florida through other systems, such as Medicaid, schools, and the corrections system.

In 2018, the Legislature enacted the "Marjory Stoneman Douglas High School Public Safety Act" (the Act) to address school safety and security and establish the Marjory Stoneman Douglas High School Public Safety Commission. The Act's provisions addressed school safety and security by creating the Office of Safe Schools within the Florida Department of Education and requiring increased coordination among state and local agencies serving students with or at-risk of mental illness, among other provisions. In 2019, the Florida Supreme Court convened a Grand Jury to study systemic school safety failures. The Grand Jury was tasked with investigating whether specific public entities failed to act or committed fraud that undermined the school safety activities which the Act and subsequent legislation required. To address such problems, the Grand Jury recommended the Legislature appoint a commission to specifically examine the provision of mental health services in the state.

HB 1447 creates a 19-member Commission on Mental Health and Substance Abuse (Commission), adjunct to DCF, to examine the current methods of providing mental health and substance abuse services in the state. The bill requires DCF to provide administrative staff and support services for the commission. Commission members are appointed by the Governor, President of the Senate, and Speaker of the House of Representatives and must convene by September 1, 2021. The bill requires state departments and agencies to provide assistance in a timely manner if requested by the Commission.

The Commission must submit a report by September 1, 2022, and annually thereafter to the Governor, President of the Senate, and Speaker of the House of Representatives on its findings and recommendations on how to best provide and facilitate mental health and substance abuse services in this state. The Commission is repealed on September 1, 2026, unless it is reenacted by the Legislature.

The bill has a significant, negative fiscal impact on DCF. The bill has no fiscal impact to local governments.

The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Mental Illness

Mental health is a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to contribute to his or her community.[1] The primary indicators used to evaluate an individual's mental health are:[2]

- **Emotional well-being**- Perceived life satisfaction, happiness, cheerfulness, peacefulness;
- **Psychological well-being**- Self-acceptance, personal growth including openness to new experiences, optimism, hopefulness, purpose in life, control of one's environment, spirituality, self-direction, and positive relationships; and
- **Social well-being**- Social acceptance, beliefs in the potential of people and society as a whole, personal self-worth and usefulness to society, sense of community.

Mental illness is collectively all diagnosable mental disorders or health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress or impaired functioning.[3] Thus, mental health refers to an individual's mental state of well-being whereas mental illness signifies an alteration of that well-being.

Mental illness affects millions of people in the United States each year. Nearly one in five adults (51.5 million people) live with a mental illness.[4] An estimated 13.1 million adults aged 18 or older have a serious mental illness.[5] Many people are diagnosed with more than one mental illness. For example, people who suffer from a depressive illness (major depression, bipolar disorder, or dysthymia) tend to co-occur with substance abuse and anxiety disorders.[6]

According to a 2019 assessment by the U.S. Department of Housing and Urban Development, 567,715 people were homeless on a given nights in the United States.[7] At a minimum, 116,179, or 20% percent, of these people were severely mentally ill.

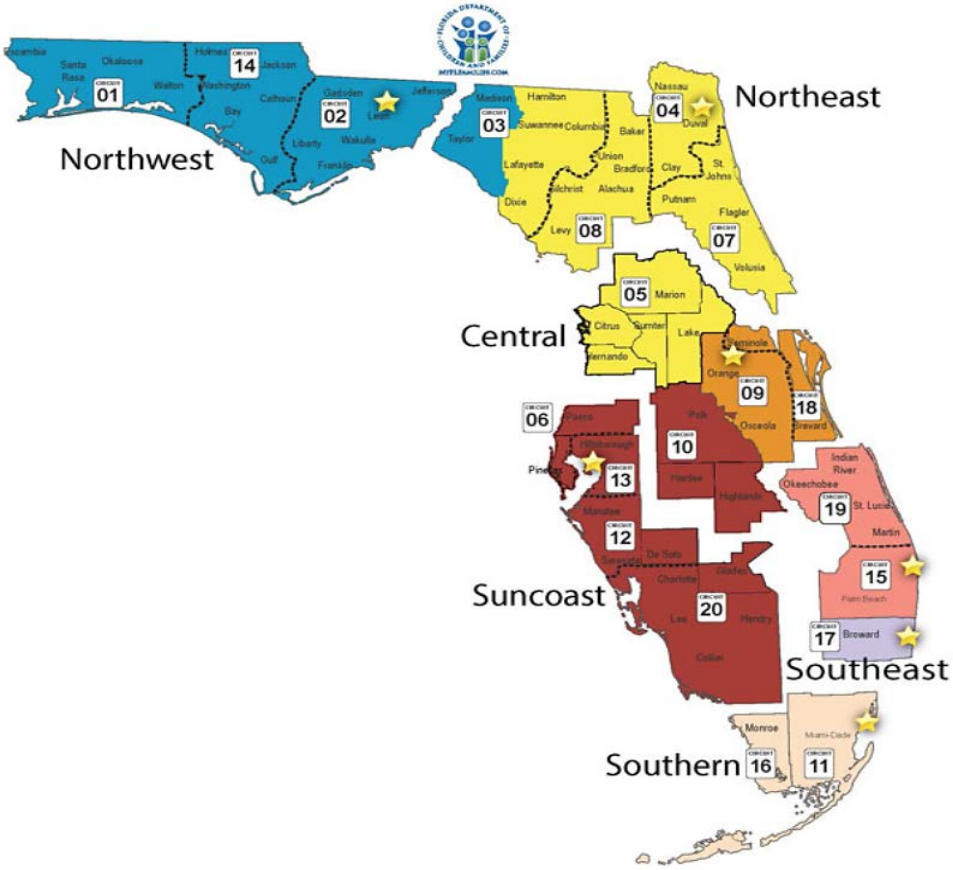
Mental Health Services in Florida

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally-established priority populations.

Behavioral Health Managing Entities

[1] World Health Organization, *Mental Health: Strengthening Our Response,* https://www.who.int/news-room/fact-sheets/detail/mental-health-strengthening-our-response (last visited March 20, 2021).
[2] Centers for Disease Control and Prevention, *Learn About Mental Health*, http://www.cdc.gov/mentalhealth/basics.htm (last visited March 20, 2021).
[3] Id.
[4] National Institute on Mental Health, *Mental Illness,* https://www.nimh.nih.gov/health/statistics/mental-illness.shtml, (last visited March 20, 2021).
[5] *Id.*
[6] John Hopkins Medicine, *Mental Health Disorder Statistics,* https://www.hopkinsmedicine.org/health/wellness-and-prevention/mental-health-disorder-statistics (last visited March 20, 2021).
[7] U.S. Department of Housing and Urban Development, *2019 CoC Homeless Populations and Subpopulations Report – All States, Territories, Puerto Rico, and DC,* https://www.hudexchange.info/programs/coc/coc-homeless-populations-and-subpopulations-reports/ (last visited March 20, 2021).

In 2001, the Legislature authorized DCF to implement behavioral health managing entities (ME) as the management structure for the delivery of local mental health and substance abuse services.[8] The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized DCF to implement MEs statewide.[9] Full implementation of the statewide managing entity system occurred in April 2013; all geographic regions are now served by a managing entity.[10]
DCF contracts with seven MEs – NWF Health Network (blue), Lutheran Services Florida (yellow), Central Florida Cares Health System (orange), Central Florida Behavioral Health Network, Inc. (red), Southeast Florida Behavioral Health (pink), Broward Behavioral Health Network, Inc. (purple), and South Florida Behavioral Health Network, Inc. (beige) that in turn contract with local service providers[11] for the delivery of mental health and substance abuse services:[12]



In FY 2019-2020, the network service providers under contract with the MEs served 274,560 individuals.[13]

Coordinated System of Care

[8] Ch. 2001-191, Laws of Fla.
[9] Ch. 2008-243, Laws of Fla.
[10] *The Department of Children and Families Performance and Accountability System for Behavioral Health Managing Entities*, Office of Program Policy Analysis and Government Accountability, July 18, 2014.
[11] Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.
[12] Department of Children and Families, *Managing Entities*, https://www.myflfamilies.com/service-programs/samh/managing-entities/ (last visited March 20, 2020).
[13] Department of Children and Families, *Substance Abuse and Mental Health Triennial Plan Update for Fiscal Year,* (December 31, 2020) https://www.myflfamilies.com/service-programs/samh/publications/docs/2019-2020%20Triennial%20Plan%20Update.pdf (last visited March 20, 2020).

Managing entities are required to promote the development and implementation of a coordinated system of care.[14] A coordinated system of care means a full array of behavioral and related services in a region or community offered by all service providers, participating either under contract with a managing entity or by another method of community partnership or mutual agreement.[15] A community or region provides a coordinated system of care for those suffering from mental illness or substance abuse disorder through a no-wrong-door model, to the extent allowed by available resources. If funding is provided by the Legislature, DCF may award system improvement grants to managing entities.[16] MEs must submit detailed plans to enhance crisis services based on the no-wrong-door model or to meet specific needs identified in DCF's assessment of behavioral health services in this state.[17] DCF must use performance-based contracts to award grants.[18]

There are several essential elements which make up a coordinated system of care, including: [19]

- Community interventions;
- Case management;
- Care coordination;
- Outpatient services;
- Residential services;
- Hospital inpatient care;
- Aftercare and post-discharge services;
- Medication assisted treatment and medication management; and
- Recovery support.

A coordinated system of care must include, but is not limited to, the following array of services:[20]

- Prevention services;
- Home-based services;
- School-based services;
- Family therapy;
- Family support;
- Respite services;
- Outpatient treatment;
- Crisis stabilization;
- Therapeutic foster care;
- Residential treatment;
- Inpatient hospitalization;
- Case management;
- Services for victims of sex offenses;
- Transitional services; and
- Trauma-informed services for children who have suffered sexual exploitation.

Current law requires DCF to define the priority populations which would benefit from receiving care coordination, including considerations when defining such population. [21] Considerations include the number and duration of involuntary admissions, the degree of involvement with the criminal justice system, the risk to public safety posed by the individual, the utilization of a treatment facility by the individual, the degree of utilization of behavioral health services, and whether the individual is a parent or caregiver who is involved with the child welfare system.

[14] S. 394.9082(5)(d), F.S.
[15] S. 394.4573(1)(c), F.S.
[16] S. 394.4573(3), F.S. The Legislature has not funded system improvement grants.
[17] Id.
[18] Id.
[19] S. 394.4573(2), F.S.
[20] S. 394.495(4), F.S.
[21] S. 394.9082(3)(c), F.S.

MEs are required to conduct a community behavioral health care needs assessment once every three years in the geographic area served by the managing entity, which identifies needs by sub-region.[22] The assessments must be submitted to DCF for inclusion in the state and district substance abuse and mental health plan.[23]

The Baker Act

In 1971, the Legislature adopted the Florida Mental Health Act, also known as the Baker Act.[24] The Baker Act authorizes treatment programs for mental, emotional, and behavioral health which are designed to reduce the occurrence, severity, duration, and disabling aspects of mental, emotional, and behavioral disorders.[25] These treatment programs include, but are not limited to, comprehensive health, social, educational, and rehabilitative services to persons requiring intensive short-term and continued treatment to encourage them to assume responsibility for their treatment and recovery.[26] The Baker Act provides legal procedures, protections, and rights to individuals examined or treated for mental illness and addresses legal procedures for examination and treatment including: voluntary admission;[27] involuntary admission;[28] involuntary inpatient treatment;[29] and involuntary outpatient treatment.[30]

The Baker Act requires each county to designate a single law enforcement agency to transfer a person in need of services.[31] If a person is in custody based on noncriminal or minor criminal behavior, law enforcement transports the person to the nearest receiving facility.[32] If, however, the person is arrested for a felony, the person must first be processed in the same manner as any other criminal suspect. Law enforcement must then transport the person to the nearest facility, unless the facility is unable to provide adequate security, in which case the person must be examined and treated wherever he or she is held.[33]

Receiving Facilities

A person experiencing severe emotional or behavioral problems often requires emergency treatment to stabilize his or her situation before referral for outpatient services or inpatient services can occur. Emergency mental health stabilization services may be provided to a person on a voluntary or involuntary basis. Receiving facilities, often referred to as Baker Act facilities, are public or private facilities designated by DCF for the purpose of receiving and holding or referring, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider.[34] A public receiving facility is a facility that provides mental health services to all persons, regardless of their ability to pay, and receives state funds for such purpose.[35] Facilities may only use appropriated funds to provide services to diagnostically and financially eligible persons, or those who are acutely ill, in need of mental health services, and the least able to pay.[36]

Crisis Stabilization Units (CSUs) are public receiving facilities that receive state funding and provide a less intensive and less costly alternative to inpatient psychiatric hospitalization for individuals presenting as acutely mentally ill. CSUs screen, assess, and admit individuals under the Baker Act, as well as those individuals who voluntarily present themselves, for short-term services.[37] CSUs provide

[22] S. 394.9082(5)(b), F.S.
[23] S. 394.75(3), F.S.
[24] Ch. 71-131, Laws of Fla.; ch. 394, part I, F.S.
[25] S. 394.453(1)(a), F.S.
[26] S. 394.453(1)(b), F.S.
[27] S. 394.4625, F.S.
[28] Ss. 397.6772, 397.679, 397.6798, and 397.6811, F.S.
[29] S. 394.467, F.S.
[30] S. 394.4655, F.S.
[31] S. 394.462(1)(a), F.S.
[32] S. 394.462(1)(g), F.S.
[33] S. 394.462(1)(f) and (g), F.S.
[34] S. 394.455(39), F.S. This term does not include a county jail.
[35] S. 394.455(37), F.S.
[36] Rule 65E-5.400(2), F.A.C.
[37] S. 394.875, F.S.

services 24 hours a day, seven days a week, through a team of mental health professionals. The purpose of the CSU is to examine, stabilize, and redirect people to the most appropriate and least restrictive treatment settings, consistent with their mental health needs.

As of March 2021, there were 131 Baker Act receiving facilities in Florida, including 66 public receiving facilities and 65 private receiving facilities.[38] Of the 53 public receiving facilities, 47 also contract to provide CSU services.[39]

Involuntary Admission

A person receiving services on an involuntary basis must be taken to a designated "receiving facility."[40] He or she cannot be involuntarily held in a receiving facility for examination for longer than 72 hours.[41] Generally, within the 72-hour examination period, one of the following must occur:[42]

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement resumes custody;
- The patient must be released into voluntary outpatient treatment;
- The patient must be asked to give consent to be placed as a voluntary patient if placement is recommended; or
- A petition for involuntary placement must be filed in circuit court for outpatient or inpatient treatment

Under the Baker Act, a court must hold a hearing on involuntary inpatient or outpatient placement within five working days after a petition for involuntary placement is filed.[43] The petitioner must show, by clear and convincing evidence, that all available less restrictive treatment alternatives are inappropriate and the person is:[44]

- Mentally ill and, because of the illness, has refused voluntary placement for treatment or is unable to determine the need for placement; and
- Manifestly incapable of surviving alone or with the help of family and friends, and without treatment is likely to suffer from neglect to such an extent that it poses a real and present threat of substantial harm to his or her well-being, or substantial likelihood exists that in the near future he or she will inflict serious bodily harm on himself or herself or another person.

Courts, law enforcement officers, and certain health care practitioners are authorized to initiate involuntary examinations.[45] A circuit court may enter an *ex parte* order finding that a person meets the criteria for involuntary examination.[46] A law enforcement officer[47] may take a person into custody who appears to meet the criteria for involuntary examination and transport them to a receiving facility for examination.[48] A health care practitioner may initiate an involuntary examination by executing an official form adopted by DCF rule called a *Certificate of Professional Initiating an Involuntary Examination*.[49]

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[38] Department of Children and Families, *Designated Baker Act Receiving Facilities*, (Feb. 2, 2021), http://www.dcf.state.fl.us/service-programs/samh/crisis-services/docs/baker/Baker%20Act%20Receiving%20Faciliites.pdf (last visited March 20, 2021).
[39] *Id*.
[40] S. 394.455(26), F.S.
[41] S. 394.463(2)(f), F.S.
[42] S. 394.463(2)(i)4., F.S.
[43] Ss. 394.4655(6) and 394.467(6), F.S.
[44] S. 394.467(1), F.S.
[45] S. 394.463(2)(a), F.S.
[46] *Id.*
[47] "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. S. 943.10(1), F.S.
[48] 394.463(2)(a)2., F.S.
[49] The *Certificate of Professional Initiating an Involuntary Examination,* created by DCF, must be executed by health care practitioners initiating an involuntary examination under The Baker Act. The form contains information related to the person's diagnosis and the

The health care practitioner must have examined the person within the preceding 48 hours and state that the person meets the criteria for involuntary examination.[50] The Baker Act currently authorizes the following health care practitioners to initiate an involuntary examination by certificate:[51]

- A physician licensed under ch. 458 or 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders, or a physician employed by the United States Department of Veterans Affairs or Department of Defense.[52]
- A clinical psychologist, as defined in s. 490.003(7), F.S., with three years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility.[53]
- A psychiatric nurse who is certified as an advanced registered nurse practitioner under s. 464.012, F.S., who has a master's degree or a doctorate in psychiatric nursing, holds a national advanced practice certification as a psychiatric mental health advance practice nurse, and has two years of post-master's clinical experience under the supervision of a physician.[54]
- A mental health counselor licensed under ch. 491, F.S.
- A marriage and family therapist licensed under ch. 491, F.S.
- A clinical social worker licensed under ch. 491, F.S.

During FY 2018-19, there were 210,992 involuntary examinations in Florida. Law enforcement initiated more than half (51.34 percent), followed closely by those initiated by mental health professionals (46.45 percent), and the remaining 2.22 percent were initiated by a judge's *ex parte* order.[55]

Voluntary Admission

A receiving facility may provide observation, diagnosis, or treatment to any person 18 years or older or any person under 18 if entry is sought by his or her guardian. A person may voluntarily enter a receiving facility only if he or she is willing and competent to consent to admission and treatment. A person under 18 may be admitted only after a hearing to verify the voluntariness of the consent. If a person is incompetent to consent to treatment,[56] he or she cannot be held under the voluntary provisions of the Baker Act.

A person on voluntary status is presumed to be able to exercise all of his or her rights under the law, including consenting or refusing consent to admission or treatment. If a person is competent, he or she may voluntarily enter any facility he or she chooses. Within 24 hours after voluntary admission, the admitting physician must document in the patient's clinical record that he or she is able to give express and informed consent for admission. If a person is not able to give express and informed consent for admission, he or she must be discharged or transferred to involuntary status.[57]

Substance Abuse

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health care practitioner's personal observations of statements and behaviors that support the involuntary examination of such person. *See* rule reference in Rule 65E-5.280, F.A.C. The form is also online. *See*, *Certificate of Professional Initiating an Involuntary Examination*, Department of Children and Families, https://eds.myflfamilies.com/DCFFormsInternet/Search/OpenDCFForm.aspx?FormId=1063 (last visited March 20, 2021).

[50] S. 394.463(2)(a)3., F.S.

[51] *Id.*

[52] S. 394.455(32), F.S.

[53] S. 394.455(5), F.S.

[54] S. 394.455(35), F.S.

[55] Christy, A., et al., *Fiscal Year 2018-2019 Annual Report*, Baker Act Reporting Center, Louis de la Parte Florida Mental Health Institute, Department of Mental Health Law & Policy, University of South Florida, Nov. 2020, https://www.usf.edu/cbcs/baker-act/documents/ba_usf_annual_report_2018_2019.pdf (last visited March 20, 2021).

[56] "Incompetent to consent to treatment" means that a person's judgment is so affected by his or her mental illness that he or she lacks the capacity to make a well-reasoned, willful, and knowing decision concerning his or her medical or mental health treatment. S. 394.455(15), F.S.

[57] S. 394.4625(1)(f), F.S.

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.[58] Substance use disorders occur when the chronic use of alcohol or drugs causes significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.[59] Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance use disorder.[60] Brain imaging studies of persons with substance use disorders show physical changes in areas of the brain that are critical to judgment, decision making, learning and memory, and behavior control.[61]

According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, a diagnosis of substance use disorder is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.[62] The most common substance use disorders in the United States are from the use of alcohol, tobacco, cannabis, stimulants, hallucinogens, and opioids.[63]

Substance Abuse Treatment in Florida

In 1970, the Legislature enacted ch. 397, F.S., governing the treatment and rehabilitation of drug dependents.[64] The following year, the Legislature enacted ch. 396, F.S., titled the "Myers Act" as the state's comprehensive alcoholism prevention, control, and treatment act, modeled after the federal Hughes Act.[65] In 1993, legislation combined ch. 396 and ch. 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act ("the Marchman Act").[66] The Marchman Act supports substance abuse prevention and remediation through a system of prevention, detoxification, and treatment services to assist individuals at risk for or affected by substance abuse.

Additionally, the Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery. SAMH programs include a range of prevention, acute interventions (such as crisis stabilization or detoxification), residential, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally-established priority populations and delivered through community-based providers.[67]

DCF provides treatment for substance abuse through a community-based provider system that offers detoxification, treatment and recovery support for adolescents and adults affected by substance misuse, abuse or dependence.[68]

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.[69]
- **Treatment Services:** Treatment services[70] include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their

[58] World Health Organization, *Substance Abuse*, http://www.who.int/topics/substance_abuse/en/ (last visited March 20, 2021).
[59] Substance Abuse and Mental Health Services Administration, *Substance Use Disorders,* http://www.samhsa.gov/disorders/substance-use (last visited March 20, 2021).
[60] National Institute on Drug Abuse*, Drugs, Brains, and Behavior: The Science of Addiction*, https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction (last visited March 20, 2021).
[61] Id.
[62] *Supra*, note 59.
[63] Id.
[64] Department of Children and Families, *Marchman Act User Reference Guide 2003,* https://www.myflfamilies.com/service-programs/samh/crisis-services/docs/marchman/marchmanacthand03p.pdf, (last visited March 20, 2021).
[65] Id.
[66] Ch. 93-39, s. 2, Laws of Fla., codified in ch. 397, F.S.
[67] These priority populations include, among others, persons diagnosed with co-occurring substance abuse and mental health disorders, persons who are experiencing an acute mental or emotional crisis, children who have or are at risk of having an emotional disturbance, and children at risk for initiating drug use.
[68] Department of Children and Families, *Treatment for Substance Abuse*, available at https://www.myflfamilies.com/service-programs/samh/substance-abuse.shtml, (last visitedMarch 20, 2021).
[69] Id.
[70] Id. Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child-protective system, employment, increased earnings, and better health.

abilities to control their substance use on their own and require formal, structured intervention and support. Some of these services may also be offered to the family members of the individual in treatment.[71]

- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.[72]

DCF regulates substance abuse treatment by licensing individual treatment components under ch. 397, F.S., and rule 65D-30, F.A.C. Licensed service components include a continuum of substance abuse prevention,[73] intervention,[74] and clinical treatment services.[75]

Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.[76] "Clinical treatment services" include, but are not limited to, the following licensable service components: [77]

- Addictions receiving facility.
- Day or night treatment.
- Day or night treatment with community housing.
- Detoxification.
- Intensive inpatient treatment.
- Intensive outpatient treatment.
- Medication-assisted treatment for opiate addiction.
- Outpatient treatment.
- Residential treatment.

Behavioral Health Services Provided through Other Systems

Behavioral health services are provided by systems other than DCF's safety net services. Some examples are the Medicaid system, the criminal justice system, and the education system. Each system serves a different population, is funded in its own way, and has different criteria for qualifying to receive services, different goals for the provision of services, and different means for individuals to receive services.

Medicaid

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The program is administered by the Agency for Health Care Administration (AHCA) and financed by federal and state funds. AHCA delegates certain functions to other state agencies, including the Department of Children and Families (DCF), which makes eligibility determinations.

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[71] *Supra*, note 68.
[72] Id.
[73] Section 397.311(26)(c), F.S. Prevention is a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles. *See also,* Department of Children and Families, *Substance Abuse: Prevention,* https://www.myflfamilies.com/service-programs/samh/prevention/index.shtml, (last visited March 20, 2021). Substance abuse prevention is best accomplished through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, in recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural and community environments.
[74] Section 397.311(26)(b), F.S. Intervention is structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.
[75] Section 397.311(25), F.S.
[76] *Supra,* note 75.
[77] Section 397.311(25)(a), F.S.

The structure of each state's Medicaid program varies, but what states must pay for is largely determined by the federal government, as a condition of receiving federal funds.[78] Federal law sets the amount, scope, and duration of services offered in the program, among other requirements. These federal requirements create an entitlement that comes with constitutional due process protections. The entitlement means that two parts of the Medicaid cost equation – people and utilization – are largely predetermined for the states. The federal government sets the minimum mandatory populations to be included in every state Medicaid program. The federal government also sets the minimum mandatory benefits to be covered in every state Medicaid program. These benefits include community mental health and substance abuse services such as:[79]

- Psychiatric services;
- Individual, family, and group therapy;
- Behavior management; and
- Therapeutic support.

Criminal Justice System

The state forensic system is a network of facilities and community services for criminal defendants needing mental health services.[80] Only an adult, or a juvenile being prosecuted as an adult, who is charged with a felony offense,[81] and adjudicated incompetent to proceed[82] or not guilty by reason of insanity,[83] may be involuntarily committed to a state civil[84] or forensic[85] treatment facility or placed on conditional release[86] by the court.[87] Florida does not provide forensic services for defendants charged with misdemeanor offenses.

Pretrial Intervention/Diversion Programs

The Department of Corrections supervises pretrial intervention programs (PTIs) for defendants with pending criminal charges. Section 948.08, F.S., governs PTIs, also referred to as diversion programs, which are available to any first time offender, or any person not convicted of more than one nonviolent misdemeanor, who is charged with a misdemeanor or third degree felony.[88] The goal of PTI is to offer eligible defendants a sentencing alternative in the form of counseling, education, supervision, or medical and psychological treatment, as appropriate.[89] Individuals may be eligible for pretrial intervention programs addressing their mental illness or substance use.

While a defendant is in a PTI, his or her criminal charges remain pending. If a defendant successfully completes a PTI, his or her charges may be dismissed.[90] If the defendant fails to successfully complete the PTI, the program administrator may recommend further supervision or the state attorney may resume prosecution for the offense. The court may not appoint a public defender to represent an

[78] 42 U.S.C. §§ 1396-1396w-5; 42 C.F.R. Part 430-456 (§§ 430.0-456.725) (2016).
[79] Section 409.906(8), F.S. *See also* Agency for Health Care Administration, *Florida's Medicaid Covered Services and HCBS Waivers,* https://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/behavioral_health_coverage/bhfu/Community_Behavioral_Health.shtml (last vistied March 20, 2021).
[80] *See* ch. 916, F.S.
[81] Section 916.106(6), F.S.
[82] Section 916.106(11), F.S.
[83] Fla. R. Crim. P. 3.217.
[84] A "civil facility" is a mental health facility run by or under contract with DCF to serve individuals committed under ch. 394, F.S., and defendants committed under ch. 916, F.S., who do not require the security of a forensic facility; or an intermediate care facility for the developmentally disabled, a foster care facility, a group home facility, or a supported living setting. Section 916.106(4), F.S.
[85] A "forensic facility" is a separate and secure facility established within DCF or the Agency for Persons with Disabilities to serve forensic clients. A separate and secure facility means a security-grade building for the purpose of separately housing persons who have mental illness from persons who have intellectual disabilities or autism and separately housing persons who have been involuntarily committed under ch. 916, F.S., from nonforensic residents. Section 916.106(10), F.S.
[86] Section 916.304, F.S.
[87] *See* legislative intent in s. 916.105(1)–(4), F.S.
[88] Section 948.08(1), F.S.
[89] Section 948.08(1), F.S.
[90] Section 948.08(5), F.S. If a case is dismissed without prejudice, the case may be refiled at a later time.

indigent defendant who is released to a PTI unless the offender's release is revoked and he or she is subject to imprisonment if convicted.[91]

Mental Health Courts

Mental health courts (MHCs) are problem-solving courts that combine judicial supervision with mental health treatment and other support services with the goal of improving public safety by:[92]

- Reducing criminal recidivism;
- Improving the quality of life of defendants with mental illnesses and increasing their participation in effective treatment; and
- Reducing court-and corrections-related costs, often by providing an alternative to incarceration.

Florida has 31 operating MHCs authorized under s. 394.47892, F.S.[93] Due to the lack of specific statutory framework for MHCs, eligibility criteria, program requirements, and other processes differ amongst circuits.

Student Mental Health

Mental Health Assistance Allocation

The Marjory Stoneman Douglas High School Public Safety Act (Act), discussed below, created the Mental Health Assistance Allocation within the Florida Education Finance Program.[94] The allocation is intended to provide funding to assist school districts in establishing or expanding school-based mental health care, train educators and other school staff in detecting and responding to mental health issues, and connecting children, youth, and families who may experience behavior health issues with appropriate services.[95] For the 2020-2021 school year, $100 million was appropriated for the allocation,[96] with each school district receiving a minimum of $100,000 with the remaining balance of funds allocated based on each district's proportionate share of the state's total unweighted full-time equivalent student enrollment.[97] Eligible charter schools are entitled to a proportionate share of the school district's allocation.[98]

School districts are prohibited from using the funds allocated under this section to supplant funds from other operating funds used for the provision of mental health services. These funds may not be used for salary increases or bonuses.[99]

In order to receive allocation funds, a school district must develop and submit to the district school board for approval a detailed plan outlining its local program and planned expenditures.[100] A school district's plan must include all district schools, including charter schools, unless a charter school elects to submit a plan independently from the school district.[101] Each approved plan must be submitted to the Commissioner of Education by August 1 each year.

The plan must be focused on a multitiered system of supports to deliver evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services. Supports and services under the allocation are provided to students with one or more mental health or co-occurring substance

[91] Section 948.08(3) and (4), F.S.
[92] Florida Courts, *Mental Health Courts*, https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Mental-Health-Courts (last visited Feb. 18, 2021).
[93] Section 394.47892, F.S., authorizes each county to fund a mental health court program and addresses the funding of the programs.
[94] Section 1011.62(16), F.S.
[95] Id.
[96] Specific Appropriation 8 and 92, s. 2, ch. 2020-111, L.O.F.
[97] Section 1011.62(16), F.S.; *See also* Florida Department of Education, Office of Safe Schools, *2020-2021 FEFP – Revised Final Conference Calculations as funded in Chapter 2020-111 (Mental Health Assistance Allocation)*, http://www.fldoe.org/core/fileparse.php/18612/urlt/2021DistrictMHAssisAllocation.pdf (last visited March 20, 2021).
[98] Section 1011.62(16), F.S.
[99] Id.
[100] Section 1011.62(16)(a)1.-2., F.S.
[101] Id.

abuse diagnoses and to students at high risk of such diagnoses. The provision of these services must be coordinated with a student's primary mental health care provider and with other mental health providers involved in the student's care.[102]

Plans must include elements such as:[103]

- direct employment of school-based mental health service providers to expand and enhance school-based student services and reduce the ratio of students to staff to align with nationally recommended ratio models;
- contracts or interagency agreements with one or more local community behavioral health providers or providers of Community Action Team services to provide behavioral health staff presence and services at district schools; and
- policies and procedures which ensure students who are referred to a school-based or community-based mental health service provider for mental health screening are assessed within 15 days of referral, and that school-based mental health services are initiated within 15 days after identification and assessment and community-based mental health services are initiated within 30 days after school or district referral.[104]

School districts are also required to report program outcomes and expenditures annually for the previous fiscal year by September 30. The report must, at a minimum, provide the number of each of the following:[105]

- Students who receive screenings or assessments.
- Students who are referred to either school-based or community-based providers for services.
- Students who receive either school-based or community based interventions.
- School-based or community-based mental health providers that were paid out of the mental health assistance allocation.
- Contract-based collaboration efforts or partnerships with community mental health programs.

The Marjory Stoneman Douglas High School Public Safety Commission

In response to the shooting at Marjory Stoneman Douglas High School on February 14, 2018, the Florida Legislature passed SB 7026, the Marjory Stoneman Douglas High School Public Safety Act (Act).[106] The Act's provisions addressed school safety and security by creating the Office of Safe Schools (OSS) within the Florida Department of Education (DOE) and requiring increased coordination among state and local agencies serving students with or at-risk of mental illness, among other provisions.

The Act created the Marjory Stoneman Douglas High School Public Safety Commission (MSD Commission), composed of 16 members, to investigate system failures in the Marjory Stoneman Douglas High School shooting and prior mass violence incidents and develop recommendations for system-wide improvements. The MSD Commission submitted its initial report on January 2, 2019, which contained numerous school safety and security recommendations[107] that the Legislature addressed in SB 7030 (2019), Implementation of Legislative Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission.[108]The MSD Commission's second report, submitted on November 1, 2019, provided recommendations related to safe-school officers, threat

[102] Section 1011.61(16)(b), F.S.
[103] Id.
[104] Section 1011.62(16)(b)1.-3.,F.S.
[105] Section 1011.62(16)(c)-(d),F.S.
[106] Chapter 2018-3, L.O.F.
[107] Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report* (Jan. 2, 2019), http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf (last visited March 20, 2021).
[108] Chapter 2019-22, L.O.F.

assessments, juvenile diversion programs, and mental health, among other recommendations.[109] The MSD Commission is authorized to issue annual reports and is scheduled to sunset on July 1, 2023.[110]

In February 2019, Governor Ron DeSantis requested, and the Florida Supreme Court convened, a grand jury to study systemic school safety failures. The grand jury was tasked with investigating whether specific public entities failed to act or committed fraud that undermined the school safety activities that the Act and subsequent legislation required.[111] The Grand Jury's third and most recent report, issued in December 2020, included an analysis of the state's mental health infrastructure and found systemic problems are impacting mental health:[112]

- The current mental health system is underfunded leading to an inability to diagnose and properly treat mental health problems;
- The system is too decentralized with national, state, and local entities providing parallel and duplicative resources with little to no coordination;
- Many of the entities involved work for different agencies with different goals; and
- DCF is not currently equipped or empowered to exercise the degree of leadership and control necessary to correct problems in the system.

To address such problems, the Grand Jury recommended the Legislature appoint a commission to specifically examine the provision of mental health services in the state.[113] The Legislature should ensure that relevant stakeholders have an opportunity to participate in and provide knowledge to the commission. The commission should consider how to best provide and facilitate services in dual diagnosis[114] cases. Additionally, the commission should be charged with structuring and staffing a permanent, agency-level entity to manage mental health, behavioral health, and substance abuse and addiction services throughout the state.[115] Lastly, a cabinet-level agency should be created and funded to administer disparate sources of funding and services relating to the state's mental health system.[116]

Previous Commissions on Mental Health and Substance Abuse

2001

In 1999, the Legislature created the Florida Commission on Mental Health and Substance Abuse (Commission) to review and evaluate the state's mental health and substance abuse system and make recommendations for change.[117] The Commission was made up of 23 professionals from throughout the state, including university professors, service providers, law enforcement, health care professionals, legislators, and state employees. The Commission found that the state's mental health and substance abuse service system is complex and diffuse, that diagnosis and treatment of disorders have improved substantially, and no one governmental entity is responsible for leading the overall system. The Commission recommended:[118]

[109] Marjory Stoneman Douglas High School Public Safety Commission, *Second Report* (Nov. 1, 2020), http://www.fdle.state.fl.us/MSDHS/MSD-Report-2-Public-Version.pdf (last visited March 20, 2021).
[110] Section 943.687(9), F.S.
[111] Ron Desantis, Governor of Florida, *Petition for Order to Impanel a Statewide Grand Jury*, (Feb. 13, 2019), https://efactssc-public.flcourts.org/casedocuments/2019/240/2019-240_petition_72393_e83.pdf (last visited March 20, 2021); *In re Statewide Grand Jury #20*, No. SC19-240, 2019 WL 908518 (Fla. Feb. 25, 2019), https://efactssc-public.flcourts.org/casedocuments/2019/240/2019-240_disposition_145442_d04i.pdf (last visited March 12, 2021).
[112] Statewide Grand Jury # 20, *Third Interim Report of the Twentieth Statewide Grand Jury*, (Dec. 10, 2020), https://efactssc-public.flcourts.org/casedocuments/2019/240/2019-240_miscdoc_365089_e20.pdf (last visited March 20, 2021).
[113] Id. at p. 21
[114] The Grand Jury describes "dual diagnosis" cases as cases that lie at the nexus of mental health, substance abuse, and law enforcement interests.
[115] *Supra*, note 112 at p. 23.
[116] Id. at p. 24.
[117] Florida Commission on Mental Health and Substance Abuse, *Final Report* (January 2001), (on file with the Children, Families, and Seniors Subcommittee staff).
[118] Id.

- Establishing a statewide Coordinating Council for Mental Health and Substance Abuse (Council) in the Executive Office of the Governor that will coordinate with the Governor's Office of Drug Control to lead an overall system for mental health and substance abuse services;
- That the Council, in an effort to reduce stigma, should provide and coordinate a range of prevention and education activities to inform the public of the signs and symptoms of mental health and substance abuse disorders and the availability of effective treatment;
- Adequate emergency response capacity should be uniformly available across the state to assure services are available and accessible;
- That DCF should develop criteria for identifying individuals with ongoing need for mental health and substance abuse services and implement a process to enroll such individuals in continuing care services;
- The Council should initiate special studies to better understand the needs of individuals who are inadequately served by the mental health and substance abuse system and develop solutions to meet those needs;
- The Council should place emphasis on individuals served in the law enforcement, corrections, and court systems and divert such individuals from incarceration into treatment whenever possible;
- DCF and the Council should focus on access and choice in mental health and substance abuse services; and
- The Council should promote the development of post-secondary educational programs to provide state-of-the-art knowledge for the state's professional and para-professional service providers that is responsive to the environments in which they will practice.

2006

In 2006, DCF's Assistant Secretary for Substance Abuse and Mental Health appointed a workgroup to address the plans and business models for substance abuse and mental health services in the state. The group included members from DCF service districts, substance abuse and mental health providers, consultants, and professional associations. The workgroup developed several recommendations to improve the substance abuse and mental health system in this state:[119]

- Define DCF's substance abuse and mental health covered populations by establishing program eligibility criteria;
- Support an effective and orderly transition to Medicaid reform;
- Support several approaches to service management and managing entities depending on the characteristics of service districts;
- Align statutes and state policy in the areas of eligibility, enrollment, case rates, and authorizations of the managing entities; and
- Improve the data management and payment systems so they can support flexible, prospective-payment systems such as case rates and provide the more refined utilization data needed by service districts and managed entities.

As a result, in 2008, the Legislature authorized DCF to contract with managing entities to manage the day-to-day operational delivery of behavioral health services through an organized system of care.[120]

Effect of the Bill

Commission on Mental Health and Substance Abuse

The bill creates the Commission on Mental Health and Substance Abuse (Commission) adjunct to DCF. DCF is required to provide administrative staff and support services for the Commission.

The purpose of the Commission is to:

[119] Department of Children and Families, *Managing Substance Abuse and Mental Health Services Workgroup* (October 2006), (on file with the Children, Families, and Seniors Subcommittee staff).
[120] Ch. 2008-243, Laws of Fla.

- Examine the current methods of providing mental health and substance abuse services in the state;
- Improve the effectiveness of current practices, procedures, programs, and initiatives in providing such services;
- Identify and barriers or deficiencies in the delivery of such services; and
- Recommend changes to existing laws, rules, and policies necessary to implement the Commission's recommendations.

The bill requires the Commission to have 19 members:

- Six members appointed by the Governor, including a:
    - Psychologist licensed under ch. 490, F.S., practicing within the mental health delivery system;
    - Mental health professional licensed under ch. 491, F.S.;
    - Emergency room physician;
    - Representative from the field of law enforcement;
    - Representative from the criminal justice system; and
    - Representative of a child welfare agency involved in the delivery of behavioral health services.
- Four members appointed by the President of the Senate, including a:
    - Member of the Senate;
    - Family member of a consumer of publicly funded mental health services;
    - Representative of the Louis de la Parte Mental Health Institute within the University of South Florida; and
    - Representative of a small rural county school district.
- Six members appointed by the Speaker of the House of Representatives, including a:
    - Member of the House of Representatives;
    - Representative of a large county school district;
    - Representative of a treatment facility;
    - Representative of a managing entity;
    - Representative of a community substance abuse provider; and
    - Psychiatrist licensed under chs. 458 or 459, F.S., practicing within the mental health delivery system.
- The Secretary of DCF;
- The Secretary of AHCA; and
- The Surgeon General.

The Governor appoints the commission chair from among its members. Appointments must be made by August 1, 2021, and members serve three-year terms at the pleasure of the officer who appointed the member. A vacancy on the Commission is required to be filled in the same manner as the original appointment.

The Commission is required to convene no later than September 1, 2021, and must meet monthly or upon the call of the chair. Meetings are authorized to be held via teleconference or other electronic means.

The duties of the Commission include:

- Conducting a review and evaluation of the management and functioning of existing publicly supported mental health and substance abuse systems in DCF, AHCA, and all other relevant state departments;
    - At a minimum, such review must include a review of current goals and objectives, current planning, service strategies, coordination management, purchasing, contracting, financing, local government funding responsibility, and accountability mechanisms.
- Addressing the unique needs of people with a history of substance abuse or with comorbid psychiatric disorder;

- Addressing access to, financing of, and scope of responsibility in the delivery of emergency behavioral health care services;
- Addressing the quality and effectiveness of current service delivery systems and professional staffing and clinical structure of services, roles, and responsibilities of public and private providers;
- Addressing priority population groups for publicly funded services, a description of the comprehensive delivery systems, needs assessment and planning activities, and local government responsibilities for funding services;
- Submitting recommendations to the President of the Senate, Speaker of the House of Representatives, and the Governor regarding the mission and objectives of state-supported mental health and substance abuse services and the planning, management, staffing, financing, contracting, coordination, and accountability of mechanisms best suited for the recommended mission and objectives; and
- Recommending a permanent, agency-level entity to manage mental health, behavioral health, substance abuse, and related services statewide.

The bill requires state departments and agencies to provide assistance in a timely manner if requested by the Commission.

The Commission is required to submit a report by September 1 of each year from 2022 through 2026 to the Governor, President of the Senate, and Speaker of the House of Representatives on its findings and recommendations on how to best provide and facilitate mental health and substance abuse services.

The bill requires the repeal of the statute authorizing the Commission on September 1, 2026, unless saved from repeal through reenactment by the Legislature.

The bill takes effect upon becoming a law.

B. SECTION DIRECTORY:

Section 1 Provides legislative intent.
Section 2 Creates s. 394.9086, F.S., relating to Commission on Mental Health and Substance Abuse.
Section 3 Provides the act shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill has a significant, negative fiscal impact on DCF as the bill requires DCF to provide administrative staff and support services for the commission. DCF estimates that implementing the bill requires two staff members. The cost for State Fiscal Year 2021-2022 is $171,296.08 with an annualized cost of $166,918.08 in subsequent years.[121]

   Impact on other state agencies is expected to be insignificant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

[121] Department of Children and Families, Agency Analysis of 2021 House Bill 1447 (March 19, 2021).

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

Rulemaking authority is not needed to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the Commission on Mental Health and Substance Abuse; providing legislative intent; creating s. 394.9086, F.S.; creating the Commission on Mental Health and Substance Abuse adjunct to the Department of Children and Families; requiring the department to provide administrative and staff support services to the commission; providing purposes; providing for membership, term limits, meetings, and duties of the commission; requiring the commission to submit a report of its findings and recommendations to the Legislature and Governor by a specified date, and annually thereafter; providing for future repeal unless saved by the Legislature through reenactment; providing an effective date.

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

Section 1. Based on recommendations in the Third Interim Report of the 20th Statewide Grand Jury, submitted December 10, 2020, regarding the state's mental health system, it is the intent of the Legislature to establish a commission to examine the state's current policies and procedures for providing mental health and substance abuse services and to make recommendations to improve and facilitate the delivery of mental health and

CODING: Words stricken are deletions; words underlined are additions.

substance abuse services throughout the state.

Section 2. Section 394.9086, Florida Statutes, is created to read:

394.9086 Commission on Mental Health and Substance Abuse.—

(1) CREATION.—The Commission on Mental Health and Substance Abuse, a commission as defined in s. 20.03(10), is created adjunct to the Department of Children and Families. The department shall provide administrative and staff support services relating to the functions of the commission.

(2) PURPOSES.—The purposes of the commission are to examine the current methods of providing mental health and substance abuse services in the state and to improve the effectiveness of current practices, procedures, programs, and initiatives in providing such services; identify any barriers or deficiencies in the delivery of such services; and recommend changes to existing laws, rules, and policies necessary to implement the commission's recommendations.

(3) MEMBERSHIP; TERM LIMITS; MEETINGS.—

(a) The commission shall be composed of 19 members as follows:

1. A member of the Senate, appointed by the President of the Senate.

2. A member of the House of Representatives, appointed by the Speaker of the House of Representatives.

3. The Secretary of Children and Families or his or her

designee.

4. The Surgeon General or his or her designee.

5. The Secretary of the Agency for Health Care Administration or his or her designee.

6. A family member of a consumer of publicly funded mental health, appointed by the President of the Senate.

7. A representative of the Louis de la Parte Florida Mental Health Institute within the University of South Florida, appointed by the President of the Senate.

8. A representative of a small rural county school district, appointed by the President of the Senate.

9. A representative of a large county school district, appointed by the Speaker of the House of Representatives.

10. A representative of a treatment facility, as defined in s. 394.455, appointed by the Speaker of the House of Representatives.

11. A representative of a managing entity as defined in s. 394.9082(2), appointed by the Speaker of the House of Representatives.

12. A representative of a community substance abuse provider, appointed by the Speaker of the House of Representatives.

13. A psychiatrist licensed under chapter 458 or chapter 459 practicing within the mental health delivery system, appointed by the Speaker of the House of Representatives.

14. A psychologist licensed under chapter 490 practicing within the mental health delivery system, appointed by the Governor.

15. A mental health professional licensed under chapter 491, appointed by the Governor.

16. An emergency room physician, appointed by the Governor.

17. A representative from the field of law enforcement, appointed by the Governor.

18. A representative from the criminal justice system, appointed by the Governor.

19. A representative of a child welfare agency involved in the delivery of behavioral health services, appointed by the Governor.

(b) The Governor shall appoint the chair from the members of the commission. Appointments to the commission must be made by August 1, 2021. Members shall be appointed to serve 3-year terms at the pleasure of the officer who appointed the member. A vacancy on the commission shall be filled in the same manner as the original appointment.

(c) The commission shall convene no later than September 1, 2021. The commission shall meet monthly or upon the call of the chair. The commission may hold its meetings via teleconference or other electronic means.

(4) DUTIES.—

(a) The duties of the Commission on Mental Health and Substance Abuse include the following:

1. Conducting a review and evaluation of the management and functioning of the existing publicly supported mental health and substance abuse systems and services in the Department of Children and Families, the Agency for Health Care Administration, and all other departments which administer mental health and substance abuse services. Such review shall include, at a minimum, a review of current goals and objectives, current planning, services strategies, coordination management, purchasing, contracting, financing, local government funding responsibility, and accountability mechanisms.

2. Addressing the unique needs of persons with a history of substance abuse or with a comorbid psychiatric disorder.

3. Addressing access to, and financing of, and scope of responsibility in the delivery of emergency behavioral health care services.

4. Addressing the quality and effectiveness of current mental health and substance abuse services delivery systems, and professional staffing and clinical structure of services, roles, and responsibilities of public and private providers, such as community mental health centers, community substance abuse agencies, hospitals, including emergency services departments, law enforcement agencies, and the judicial system.

5. Addressing priority population groups for publicly

funded mental health and substance abuse services, a description of the comprehensive mental health and substance abuse delivery systems, mental health and substance abuse needs assessment and planning activities, and local government responsibilities for funding mental health and substance abuse services.

6. Submitting recommendations to the President of the Senate, the Speaker of the House of Representatives, and the Governor regarding the mission and objectives of state-supported mental health and substance abuse services and the planning, management, staffing, financing, contracting, coordination, and accountability mechanisms which will best foster the recommended mission and objectives.

7. Recommend a permanent, agency-level entity to manage mental health, behavioral health, substance abuse, and related services statewide.

(b) The commission may call upon appropriate departments and agencies of state government for such professional assistance as may be needed in the discharge of its duties, and such departments and agencies shall provide such assistance in a timely manner.

(5) REPORTS.—By September 1, 2022, and each year thereafter, the commission shall submit its report to the President of the Senate, the Speaker of the House of Representatives, and the Governor containing its findings and recommendations on how to best provide and facilitate mental

health and substance abuse services in the state.

(6) This section is repealed September 1, 2026, unless saved from repeal through reenactment by the Legislature.

Section 3. This act shall take effect upon becoming a law.

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	_____

Committee/Subcommittee hearing bill: Children, Families & Seniors Subcommittee
Representative Hunschofsky offered the following:

Amendment (with title amendment)

Remove lines 43-153 and insert:

(3) MEMBERSHIP; TERM LIMITS; MEETINGS.—

(a) The commission shall be composed of 19 members as follows:

1. A member of the Senate, appointed by the President of the Senate.

2. A member of the House of Representatives, appointed by the Speaker of the House of Representatives.

3. The Secretary of Children and Families or his or her designee.

4. The Secretary of the Agency for Health Care Administration or his or her designee.

5. A person living with a mental health disorder appointed by the President of the Senate.

6. A family member of a consumer of publicly funded mental health, appointed by the President of the Senate.

7. A representative of the Louis de la Parte Florida Mental Health Institute within the University of South Florida, appointed by the President of the Senate.

8. A representative of a county school district, appointed by the President of the Senate.

9. A representative of mental health courts, appointed by the Governor.

10. A representative of a treatment facility, as defined in s. 394.455, appointed by the Speaker of the House of Representatives.

11. A representative of a managing entity as defined in s. 394.9082(2), appointed by the Speaker of the House of Representatives.

12. A representative of a community substance abuse provider, appointed by the Speaker of the House of Representatives.

13. A psychiatrist licensed under chapter 458 or chapter 459 practicing within the mental health delivery system, appointed by the Speaker of the House of Representatives.

14. A psychologist licensed under chapter 490 practicing within the mental health delivery system, appointed by the Governor.

15. A mental health professional licensed under chapter 491, appointed by the Governor.

16. An emergency room physician, appointed by the Governor.

17. A representative from the field of law enforcement, appointed by the Governor.

18. A representative from the criminal justice system, appointed by the Governor.

19. A representative of a child welfare agency involved in the delivery of behavioral health services, appointed by the Governor.

(b) The Governor shall appoint the chair from the members of the commission. Appointments to the commission must be made by August 1, 2021. Members shall be appointed to serve at the pleasure of the officer who appointed the member. A vacancy on the commission shall be filled in the same manner as the original appointment.

(c) The commission shall convene no later than September 1, 2021. The commission shall meet quarterly or upon the call of the chair. The commission shall hold its meetings via teleconference or other electronic means.

(4) DUTIES.—

(a) The duties of the Commission on Mental Health and Substance Abuse include the following:

1. Conducting a review and evaluation of the management and functioning of the existing publicly supported mental health and substance abuse systems and services in the Department of Children and Families, the Agency for Health Care Administration, and all other departments which administer mental health and substance abuse services. Such review shall include, at a minimum, a review of current goals and objectives, current planning, services strategies, coordination management, purchasing, contracting, financing, local government funding responsibility, and accountability mechanisms.

2. Considering the unique needs of persons who are dually diagnosed.

3. Addressing access to, and financing of, and scope of responsibility in the delivery of emergency behavioral health care services.

4. Addressing the quality and effectiveness of current mental health and substance abuse services delivery systems, and professional staffing and clinical structure of services, roles, and responsibilities of public and private providers, such as community mental health centers, community substance abuse agencies, hospitals, including emergency services departments, law enforcement agencies, and the judicial system.

5. Addressing priority population groups for publicly funded mental health and substance abuse services, identifying the comprehensive mental health and substance abuse services delivery systems, mental health and substance abuse needs assessment and planning activities, and local government funding responsibilities for mental health and substance abuse services.

6. Reviewing the implementation of chapter 2020-107, Laws of Florida.

7. Identifying any gaps in the provision of mental health and substance use disorder services.

8. Providing recommendations on how behavioral health managing entities may fulfill their purpose of promoting service continuity.

9. Making recommendations regarding the mission and objectives of state-supported mental health and substance abuse services and the planning, management, staffing, financing, contracting, coordination, and accountability mechanisms which will best foster the recommended mission and objectives.

10. Evaluating and making recommendations regarding the establishment of a permanent, agency-level entity to manage mental health, substance abuse, and related services statewide. At a minimum, the evaluation must consider and describe the:

a. Specific duties and organizational structure proposed for the entity;

b. Resource needs of the entity and possible sources of funding;

c. Estimated impact on access to and quality of services;

d. Impact on individuals with behavioral health needs and their families, both those currently served through the affected systems providing behavioral health services and those in need of services; and

e. Relation to, integration with, and impact on providers, managing entities, communities, state agencies, and systems which provide mental health and substance abuse services in this state. Such recommendations must ensure that the ability of such other agencies and systems to carry out their missions and responsibilities is not impaired.

(b) The commission may call upon appropriate departments and agencies of state government for such professional assistance as may be needed in the discharge of its duties, and such departments and agencies shall provide such assistance in a timely manner.

(5) REPORTS.—By September 1, 2022, the commission shall submit an interim report to the President of the Senate, the Speaker of the House of Representatives, and the Governor containing its findings and recommendations on how to best provide and facilitate mental health and substance abuse services in the state. The commission shall submit its final report by September 1, 2023.

(6) This section is repealed September 1, 2023, unless saved from repeal through reenactment by the Legislature.

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

Remove lines 11-13 and insert:
submit reports of its findings and recommendations to the Legislature and Governor by a specified date; providing for future repeal