

Senate Bill 96, Child Welfare by Senator Book and House Children, Family, and Seniors Committee (Includes managing entities)

The bill is the DCF train that includes parts of many bills: SB 92, SB 900, HB 1093, HB 7039, HB 1447 and others. The bill makes a number of changes relating to the child welfare system, including to the intake process and reporting requirements, investigations, penalties, confidentiality of records and reports. Further, the bill makes changes to the Department of Children and Families' (DCF) duties, lead agencies' and **managing entities'** duties, new programs, and establishes a Behavioral Health Commission.

Duties of Lead Agencies and Managing Entities

Lead agencies and **managing entities** must comply with the following requirements:

- Requires board members or officers of a **managing entity** or lead agency, or their relatives, to disclose specified activity that may reasonably be construed as a conflict of interest, and provides procedures to follow to address such conflict;
 - Such conflict of interest activities include:
 - Entering into a contract or other transaction for goods or services with the managing entity.
 - Holds a direct or indirect interest in a corporation, partnership, or other business entity that conducts business with the managing entity or proposes to enter into a contract or other transaction with the managing entity.
 - Knowingly obtains a direct or indirect personal, financial, professional, or other benefit as a result of the relationship of such board member or officer, with the managing entity.
- Modifies the information that lead agencies and **managing entities** must post on their websites;
- Requires a statement on promotional and other literature which states the lead agency and the managing entity is contracted with the DCF;
 - The statement states, "*(Managing entity name) is a managing entity contracted with the Department of Children and Families*"
- Requires through their contracts with the DCF that the lead agencies demonstrate the ability to adhere to best child welfare practices enumerated in chapters 39 and 409, F.S., and provide information on their adherence to such best practices; and
- Requires lead agencies to fund the cost of increased care in certain circumstances.

DCF Duties

The bill modifies the DCF's duties as follows:

- Amends the DCF's duties to collect and post information regarding the **managing entities'** and lead agencies' compensation and other financial information;
 - This information includes:
 - All compensation earned or awarded, whether paid or accrued, regardless of contingency, for any employee, and any other person compensated through a contract for services whose services include those commonly associated with a chief executive, chief administrator, or other chief officer of a business or corporation, who receives compensation from state-appropriated funds in excess of 150 percent for the annual salary paid to the secretary of the department.
 - The most recent 3 years of the Return of Organization Exempt from Income Tax, Internal Revenue Service Form 990 and related documents filed with the Internal

Revenue Service, auditor reports, and annual reports for each managing entity or affiliated entity.

- Requires the DCF to work with all stakeholders to help children in out-of-home care become knowledgeable about their rights, including providing certain information in specified timeframes;
- Requires the DCF to conduct a multi-year review of specified financial information of lead agencies and develop a plan to ensure financial viability of such entities;
- Requires the DCF to make available training for caregivers developed in collaboration with certain agencies on the life skills necessary for children in out-of-home care;
- Increases the capacity of children that can be placed in a licensed foster home without an additional assessment to align with current federal law and provides the DCF with the ability to adopt rules to establish requirements for requesting a Title IV-E waiver for over-capacity; and
- Requires the DCF and animal welfare associations to develop or adopt and use already available training materials to provide a 1-hour training to all child protective investigators and animal control officers on cross-reporting awareness and requirements.

Commission on Mental Health and Substance Abuse

The bill creates a Commission on Mental Health and Substance Abuse adjunct to the DCF to examine the current methods of providing such services in Florida and providing for its composition, duties, and reporting requirements.

Governor Ron DeSantis will appoint a(n):

- Representative of mental health courts
- Psychologist licensed under chapter 490 practicing within the mental health delivery system
- Mental health professional licensed under chapter 491
- Emergency room physician
- Representative from the law enforcement field
- Representative from the criminal justice system
- Representative of a child welfare agency involved in the delivery of behavioral health services

President Wilton Simpson will appoint a:

- State Senator
- Person living with a mental health disorder
- Family member of a consumer of publicly funded mental health services
- Representative of the Louis De la Parte Florida Mental Health Institute
- Representative of a county school district

Speaker Chris Sprowls will appoint a:

- State Representative
- **Representative of a managing entity**
- Representative of a treatment facility
- Representative of a community substance abuse provider
- Psychiatrist licensed under chapter 458 or chapter 459 practicing within the mental health delivery system

Other Members:

- Secretary of DCF or a designee
- Secretary of AHCA or a designee

Appointments to the commission must be made by August 1, 2021. 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.

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.

(Child Welfare) Intake Process and Reporting Requirements for Child Abuse, Abandonment, or Neglect

The bill reorganizes, clarifies, and modifies the intake process and reporting requirements as follows:

- Creates s. 39.101, F.S., to reorganize and clarify provisions relating to the central abuse hotline (hotline) contained in provisions of s. 39.201, F.S., under current law and directs the Division of Law Revision to add s. 39.101, F.S., to part II of ch. 39, F.S.;
- Requires the hotline to maintain and produce statistical reports relating to child abuse and sexual abuse that are reported from or occur in specified educational settings;
- Provides that a person required to report to the hotline is not relieved from their duty to report by notifying his or her supervisor;
- Reorganizes and clarifies reporting requirements, and adds requirements relating to reporting, and data collection and analysis; and
- Creates s. 39.208, F.S., imposing cross-reporting requirements for any person who is required to investigate child abuse, abandonment, or neglect to report known or suspected animal cruelty, and requires animal control officers to report any known or suspected child abuse, abandonment, or neglect.

(Child Welfare) Child Welfare Investigations

The bill modifies or relocates provisions relating to investigations as follows:

- Requires a representative from a child advocacy center (CAC) to be included on the critical incident rapid response team (CIRRT) conducting investigations of child deaths in certain circumstances, effective as of October 1, 2021;
- Provides that CACs offer multidisciplinary services to children who are abused, abandoned, or neglected, and provide coordinated responses to victims and their families;
- Requires the DCF to conduct an investigation similar to a CIRRT of a verified report of sexual abuse of a child in out-of-home care in specified circumstances which meet certain requirements, effective October 1, 2021;
- Provides that a child protective investigator who is assigned to investigate child sexual abuse allegations must continually assess and take protective actions to address the safety of other children in the out-of-home placement or who are accessible to the alleged perpetrator; and
- Relocates provisions regarding attorney representation of alleged perpetrators during an investigation of institutional child abuse, abandonment, or neglect.

(Child Welfare) Penalties Related to Failure to Report Certain Abuse, Abandonment, or Neglect Allegations

The bill provides for criminal penalties relating to cross-reporting requirements and clarifies penalties for school personnel for failing to report child abuse, abandonment, or neglect as follows:

- Provides criminal penalties for child protective investigators to knowingly and willfully failing to report animal abuse; and
- Requires a minimum of a 1 year suspension of the instructional personnel or school administrator's educator certificate in specified circumstances.

(Child Welfare) Confidentiality

The bill modifies and clarifies current law regarding confidential reports or records as follows:

- Provides for employees, authorized agents, or contract providers of the Agency for Health Care Administration to have access to confidential reports or records, except for the name and other identifying reporter information, in cases of child abuse or neglect;
- Adds members of the Legislature to the list of authorized individuals that may have access to specified confidential reports and records in cases of child abuse or neglect within 7 days of such a request, if requested within that time frame; and

- Clarifies provisions regarding a caregiver's requirement to maintain confidentiality of any information provided under s. 39.4087, F.S.

(Child Welfare) Programs and Services for Children and Families in the Child Welfare System

The bill expands existing programs and creates the following new programs to improve outcomes:

- Requires, rather than authorizes, the DCF, contracted sheriffs' offices, and lead agencies to develop a formal family-finding program;
- Requires, rather than authorizes, each lead agency to establish a kinship navigator program;
- Creates the Foster Information Center to serve current and potential foster parents and providing additional resources to foster parent and kinship caregivers;
- Authorizes and encourages district school boards to establish educational programs for students relating to certain information about identifying abuse, abandonment, or neglect; and
- Authorizes each Office of Criminal Conflict and Civil Regional Council (OCCCRC) to establish a multidisciplinary legal representation program for parents in the dependency system with specified duties and reporting requirements.

(Child Welfare) Repealed Provisions

The following statutes have been repealed and the provision deleted:

- Repeals ss. 409.1453 and 409.1753, F.S., relating to design and dissemination of training for foster care caregivers and foster care duties, respectively, as such provisions were relocated to other sections; and
- Eliminates an obsolete provision that requires the Florida Institute for Child Welfare to evaluate the Guardianship Assistance Program.

The Legislature has appropriated funds in the General Appropriations Act to fund the provisions and services for best practices provided for in CS/CS/SB 96 described above.

This bill goes into effect July 1, 2021.

SB 590, School Safety by Senator Harrell, Rep. LaMarca, Rep. Hunschofsky

- Requires schools to contact a health care practitioner capable of initiating a Baker Act in person or via telehealth prior to a Baker Act being initiated. The mental health professional may be available to a school district either by contracts or interagency agreements with a local community behavioral health provider, a **managing entity**, or a local mobile response team. Alternatively, the mental health professionals may be a direct or contracted employee of the school district.
- Requires public and charter schools to make a reasonable attempt to notify the parents of a minor student before the student is removed from school, school transportation, or a school-sponsored activity for an involuntary mental health examination.
- Defines "a reasonable attempt to notify" as "the exercise of reasonable diligence and care by the principal or the principal's designee to make contact with the student's parent, guardian, or other known emergency contact whom the student's parent or guardian has authorized to receive notification of an involuntary examination."
- Requires the principal or their designee to, at a minimum, use available methods of communication to notify a parent, guardian, or other known emergency contact following the decision to Baker Act a student. The methods of communication should include, but are not limited to, telephone calls; text messages; e-mails; and voicemails.
- Requires a principal or their designee to document the method and number of attempts made to contact the student's parent, guardian, or other known emergency contact, and the outcome of each attempt, allowing a delay of notification if it is necessary to avoid jeopardizing the health and safety of the student.
- Mandates the collection of data by school districts and the Department of Children and Families (DCF) relating to the number and frequency of involuntary examinations of minors initiated by schools at specified school locations or events.

- Provides that parents of public and charter school students have the right to timely notification of threats, unlawful acts, and significant emergencies, as well as access to school safety and discipline incidents as reported in the school environmental safety incident report.
- Adds requirements to required student codes of conduct to include criteria for:
 - Recommending to law enforcement that a student who commits a criminal offense be allowed to participate in a civil citation or similar pre arrest diversion program as an alternative to expulsion or arrest; and
 - Assigning a student who commits a petty act of misconduct, to a school-based intervention program. If a student's assignment is based on a noncriminal offense, the student's participation in a school-based intervention program may not be entered into the Department of Juvenile Justice Information System Prevention Web.
- Allows district school board policies to provide accommodations for drills conducted by exceptional education centers, and requires district school boards to establish certain emergency response and emergency preparedness policies and procedures.
- Requires timely notice to parents of specified unlawful acts and significant emergency situations on school grounds, school transportation, or school-sponsored activities.
- Requires each district school board to adopt a policy mandating that the school superintendent annually report to the DCF the number of involuntary examinations initiated at a school, on school transportation, or at a school-sponsored activity.
- Requires all school safety officers to undergo crisis intervention training.
- Requires any ID card issued by a public school for students in grades 6-12 to include the telephone numbers for national or statewide crisis and suicide hotlines and text lines.
- Requires school districts to adopt procedures mandating attempts at de-escalation be made prior to initiating a Baker Act.

This bill goes into effect July 2, 2021.

SB 2006, Emergency Management by Senator Burgess

The bill better equips Florida to address a pandemic or other public health emergency, prohibits requirements of COVID-19-vaccination documentation to access, enter, or receive service from businesses, governmental entities, and educational institutions, and protects Floridians from local orders that unnecessarily infringe rights or liberties in the name of addressing a purported emergency.

The bill requires state agencies to take the following actions to prepare for the next public health emergency:

- The Department of Health must create a state public health emergency management plan, and requires the Division of Emergency Management to incorporate that plan into the state's comprehensive emergency management plan; and the Division of Emergency Management must:
 - **Maintain an inventory of state-owned personal protective equipment;** and
 - Include provisions in its statewide emergency shelter plan to address sheltering during a pandemic that requires distancing.

The bill also provides additional transparency and legislative oversight of the executive branch's emergency powers. The bill:

- Limits emergency orders, proclamations, and rules to 60-day durations that can be renewed as long as the emergency conditions persist;
- Requires the Governor, if he or she closes schools or businesses, to state specific reasons why the schools or businesses need to close and reassess the closure regularly; and
- Authorizes the Legislature to pass a concurrent resolution to terminate orders and directives issued under a state of emergency, instead of just the state of emergency itself.

The bill also targets county and city emergency orders that address purported emergencies but that also infringe the rights or liberties of Floridians. To protect Floridians from these orders the bill:

- Requires the governmental entity imposing an ordinance or other measure that deprives a person of a right or liberty to prove that the measure is “narrowly tailored” to address a “compelling public health or safety purpose”;
- Authorizes the Governor to invalidate an order that “unnecessarily restricts individual rights or liberties”; and
- Limits the duration of emergency orders to 7 days, with the option to renew the orders up to 5 times.

The bill also prohibits requirements of COVID-19-vaccination documentation to access, enter, or receive service from businesses, governmental entities, and educational institution. The bill prohibits such entities from requiring Floridians to provide proof of vaccination or post-infection recovery from COVID-19 but does not restrict the use of screening protocols.

Finally, the bill includes several provisions to better address the financial strain that emergencies place on state and local government. Specifically the bill,

- Provides legislative intent that during an emergency, spending will first come from funds specifically appropriated to state and local agencies for disaster relief.
- Provides that the second recourse for funding is the newly created Emergency Response Fund.
- Provides that if additional funds are needed during an emergency beyond what is already appropriated in the new Emergency Response Trust Fund, the Governor can request additional funds by submitting a budget amendment through the LBC, requesting more funds in the Trust Fund.

This bill goes into effect July 1, 2021.

SB 804, Substance Abuse Services by Senator Harrell, Representative Caruso (Sober Homes)

The bill makes several changes to provisions governing the licensure and regulation of substance abuse treatment programs (service provider), including recovery residences.\

The bill makes it a third degree felony to falsify information, or to withhold material facts, on an application for licensure as a substance abuse service provider. Substance abuse service providers operated directly by, or under contract with, any state agency must be licensed by the Department of Children and Families

(the DCF) and are not currently subject to a penalty for falsification of information or withholding of material facts in an application for licensure.

The bill authorizes the DCF to suspend a service provider's license for failing to pay, within 60 days of a date set by the DCF, administrative fines and accrued interest related to disciplinary action taken against the service provider. The bill also mandates that a service provider pay fines and accrued interest resulting from violations of patient referral prohibitions within 60 days of a date specified by the DCF. If a service provider fails to remit payment within 60 days, the bill requires the DCF to immediately suspend the service provider's license.

The bill also broadens the eligibility for exemption from employment disqualification for certain prior criminal offenses to specified employees of an applicant recovery residence and to applicant recovery residence administrators. This will allow additional qualified individuals with knowledge of, and experience within, recovery residences to be eligible for employment within recovery residences, or as recovery residence administrators.

This bill goes into effect July 1, 2021.

HB 701, Behavioral Health Care Services Coverage and Access by Representative Cyndi Stevenson and Senator Brodeur

The bill requires the Department of Financial Services (DFS) to submit a report, by January 31, 2022, to the Legislature and the Governor regarding complaints received from insureds and subscribers about the adequacy of coverage and access to **mental health** services through their individual or group health insurance policies or health maintenance organization (HMO) contracts.

Further, the bill requires insurers and HMOs to provide insureds and subscribers a direct notice regarding the federal and state coverage requirements for mental health services, as well as contact information for the Division of Consumer Services within the DFS. Insurers and HMOs are also required to make this information available on their website.

This bill goes into effect October 1, 2021.

HB 231, Services for Veterans and Their Families by Representative Ardian Zika and Senator Harrell

The bill creates the Florida Veterans' Care Coordination Program (program), to provide veterans and their families dedicated behavioral health care referral services, primarily for mental health and substance abuse. Through the program, a veteran may call a separate veteran-dedicated support line to receive assistance and support from a trained, fellow veteran.

The Department of Veterans' Affairs and its selected contractor shall work with managing entities as defined in s. 394.9082(2) to educate service providers about the Florida Veterans Support Line and the Florida Veterans' Care Coordination Program.

The bill authorizes the Florida Department of Veterans' Affairs (FDVA) to establish the program. If the FDVA does create the program, the FDVA may contract with a nonprofit entity that has statewide phone capacity and is accredited by both the Council on Accreditation and the National Alliance of Information and Referral Services. The contracting entity must enter into agreements with Florida 211 Network participants to provide services to veterans. In fulfilling an agreement, a 211 network participant may provide services in more than one geographic area under a single contract.

The bill models the program after the pilot program established in 2014 by the Crisis Center of Tampa Bay and the FDVA in Hillsborough, Pasco, Pinellas, Polk, and Manatee Counties.

The bill specifies goals, services, and follow-up requirements. In addition to mental health and substance abuse services, a goal of the program is to prevent suicides by veterans.

The FDVA must compile data collected by the Florida 211 Network into a report for the Governor, President of the Senate, and Speaker of the House of Representatives by December 15, 2022.

This bill goes into effect July 1, 2021.

Other bills of interest:

SB 262, Dispensing Medicinal Drugs by Senator Harrell

SB 262 amends s. 465.019, Florida Statutes, to authorize medicinal drugs to be dispensed by a hospital that operates a Class II or Class III institutional pharmacy to a patient of the hospital's emergency department or a hospital inpatient upon discharge if a prescriber treating the patient in the hospital determines that:

- The medicinal drug is warranted; and
- Community pharmacy services are not readily accessible to the patient, geographically or otherwise.
- If prescribing and dispensing occurs, the bill requires that a supply of the drug must be dispensed that will last for the greater of up to 48 hours or through the end of the next business day, and that during a declared state of emergency, a 72-hour supply may be dispensed by a hospital located in an area affected by the emergency.

Any of these new circumstances that authorize the prescription of a controlled substance must comply with existing regulations and restrictions on the prescribing of a controlled substance.

This bill goes into effect July 1, 2021.

SB 530, Nonopioid Alternatives by Senator Perry and Representative Plakon

SB 530 amends s. 456.44, F.S., to allow a specific educational pamphlet, which must be provided to health care patients or their representatives under certain circumstances, to be provided electronically or in printed form, instead of only in printed form as required under current law. The pamphlet contains information on the use of nonopioid alternatives for the treatment of pain and must be provided when a patient will receive anesthesia or will be prescribed certain opioid medications.

This bill goes into effect July 1, 2021.

HB 183, Office of Minority Health and Health Equity by Senator Rouson, Representatives Kamia Brown and Dotie Joseph

The bill creates s. 381.735, F.S., to assign duties and responsibilities to the Office of Minority Health and Health Equity (Office) within the Department of Health (DOH), which currently administers the Closing the Gap grant program. The bill requires the Office to develop and promote the statewide implementation of policies, programs, and practices that increase health equity in this state, including increased access to and quality of health care services for racial and ethnic minority populations. The bill also requires the Office to coordinate with agencies, organizations, and providers across the state to perform certain tasks, including gathering and analyzing data relating to health disparities.

The bill establishes that a representative from each county health department will serve as a liaison to the Office and that the Office will serve as a liaison to the federal Offices of Minority Health and Regional Health Operations. The bill requires the DOH to maintain specified information and data on its website that must be updated at least annually. The bill authorizes the DOH to adopt rules to implement the provisions of the bill.

The bill requires the Office to use all available resources and pursue opportunities for increased funding to implement its duties and responsibilities. The bill is projected to increase the DOH's workload and operational costs.

This bill goes into effect July 1, 2021.

HB 241, Parents' Bill of Rights by Representatives Cord Byrd and Erin Grall and Senator Rodrigues

The bill establishes the "Parents' Bill of Rights." The bill provides that the state, its political subdivisions, any other governmental entity, or other institution may not infringe upon the fundamental rights of a parent to direct the upbringing, education, health care, and **mental health** of a minor child. If those entities infringe upon a parent's fundamental right, they must demonstrate that the action is reasonable and necessary to achieve a compelling state interest, and the action must be narrowly tailored and not otherwise served by less restrictive means.

The bill enumerates a list of rights that a parent possesses in order to direct the education of his or her child and be informed about the child's educational programs. The bill also requires a school district to promote parental involvement in the public school system by providing access to the child's studies and instructional materials while recognizing a parent's right to withdraw the child from objectionable portions of the school's curriculum.

The bill further requires a parent's permission before a health care practitioner may provide services, prescribe medicine to the child, or perform a medical procedure, unless otherwise provided by law. The bill provides a misdemeanor penalty for a health care practitioner or similar person who violates the health care provisions and subjects these persons to disciplinary actions.

This bill goes into effect July 1, 2021

SB 618, First Responders Mental Health Awareness Day by Senator Keith Perry

Recognizing May 10, 2021, and each May 10 thereafter, as "First Responders Mental Health Awareness Day"

SB 274, Juvenile Diversion Program Expunction by Senator Keith Perry and Representative David Smith

The bill amends s. 943.0582, F.S., to permit a juvenile who completed a diversion program for any offense, including felony offenses, to apply to have the nonjudicial arrest record expunged. This expands the current law, which only permits juvenile diversion expunction for a misdemeanor offense.

Additionally, the bill amends s. 985.126, F.S., to permit a juvenile who completes a diversion program for any offense, including a felony or subsequent offense, to lawfully deny or fail to acknowledge his or her participation in the program and the expunction of the nonjudicial arrest record. This expands the current law, which only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

This bill goes into effect July 1, 2021

Bills that did not pass the legislature:

- SB 130- Mental Health and Substance Use Disorders (Rouson's Peer Support bill)
- SB 1854- Defendants with a Traumatic Brain Injury
- HB 195- Fiscal Accountability for Nongovernmental Entities
- SB 1570- Quasi-public Entities
- HB 1585- Government Accountability
- SB 1568- Department of Health (Train bill)
- SB 1736- Mental Health Treatment and Examinations
- SB 1536- Insurance Coverage Parity for Mental, Nervous, and Substance Use Disorders
- SB 972- Administrative Entity Telecommunications Meetings
- SB 660, 700, 864, 1250- Telehealth (Telephonic services)
- SB 828- Mental Health and Substance Abuse (Baker Act bill)
- SB 818- Mental Health Professionals