

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

HEALTH POLICY
Senator Young, Chair
Senator Passidomo, Vice Chair

MEETING DATE: Tuesday, February 13, 2018
TIME: 10:00 a.m.—12:00 noon
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Young, Chair; Senator Passidomo, Vice Chair; Senators Benacquisto, Book, Hukill, Hutson, Montford, and Powell

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 260 Education / Book (Similar CS/H 63)	Students with Disabilities in Public Schools; Amending provisions relating to the seclusion and restraint of students with disabilities; revising school district policies and procedures relating to restraint; requiring continuing education and inservice training for teaching students with emotional or behavioral disabilities, etc. ED 02/06/2018 Fav/CS HP 02/13/2018 Favorable RC	Favorable Yeas 8 Nays 0
2	SB 744 Grimsley (Similar CS/H 965)	Laser Hair Removal or Reduction; Transferring the regulation of electrolysis from the Department of Health to the Department of Business and Professional Regulation; requiring that a licensee who uses a laser or pulsed-light device in certain procedures be certified by a nationally recognized electrolysis organization, etc. HP 02/13/2018 Fav/CS RI AP	Fav/CS Yeas 8 Nays 0
3	CS/SB 1106 Banking and Insurance / Bean (Similar H 855)	Genetic Information Used for Insurance; Prohibiting life insurers and long-term care insurers, except under certain circumstances, from canceling, limiting, or denying coverage, or establishing differentials in premium rates, based on genetic information; prohibiting such insurers from certain actions relating to genetic information for any insurance purpose, etc. BI 02/06/2018 Fav/CS HP 02/13/2018 Favorable RC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Health Policy

Tuesday, February 13, 2018, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1364 Rader (Similar CS/H 1055)	Public Records/Substance Abuse Service Providers ; Providing an exemption from public records requirements to certain identifying and location information of current or former directors, managers, supervisors, nurses, and clinical employees of substance abuse service providers that are licensed under part II of ch. 397, F.S., and the spouses and children thereof; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.	Fav/CS Yeas 7 Nays 1
		HP 02/13/2018 Fav/CS GO RC	

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 260

INTRODUCER: Education Committee and Senator Book and others

SUBJECT: Students with Disabilities in Public Schools

DATE: February 13, 2018 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Androff</u>	<u>Graf</u>	<u>ED</u>	Fav/CS
2.	<u>Lloyd</u>	<u>Stovall</u>	<u>HP</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 260 revises the use of restraint techniques on public school students with disabilities, requires use of exclusionary and nonexclusionary time, prohibits use of seclusion, and specifies responsibilities for school districts, schools, and the Commissioner of the Florida Department of Education (commissioner).

The bill defines exclusionary and nonexclusionary time and establishes the conditions under which students with disabilities may be placed in exclusionary and nonexclusionary time. The bill defines types of protective equipment and restraint that may be used and imminent risk of serious injury or death as it relates to the use of physical restraint.

Use of restraints and exclusionary and nonexclusionary time must be monitored by the schools and school district and its use must be reported monthly to the department. The bill requires redacted copies of incident reports and data of incident reports on the use of restraints and exclusionary and nonexclusionary time to be posted for the public on a monthly basis beginning no later than October 1, 2018.

School personnel must develop additional policies and procedures on the use of restraints, training procedures, and escalating behavioral strategies that may be used to ensure student safety and reduce the use of restraints. The new policies and procedures must be publicly posted by the school districts at the beginning of each school year.

The bill requires the commissioner to develop recommendations for in-service training for teachers of students with emotional and behavioral disabilities on the early identification of and intervention for emotional and behavioral disabilities. The policy recommendations must also address the appropriate use of restraints, deescalation and redirection, reporting requirements, and response to possible medical emergencies in the use of restraints.

The bill has an indeterminate fiscal impact.

This bill takes effect July 1, 2018.

II. Present Situation:

Federal Law and Regulations

Federal law provides individuals with disabilities several protections against discrimination, including specific provisions for students with disabilities. Those provisions can be found across those sections of federal law dealing with public education, labor, juvenile and criminal justice, and health care. Any federal and state agencies, public entities and organizations, and other programs that may receive federal funds or assistance are subject to those laws and their implementing regulations which can be found in their respective sections of the Code of Federal Regulations (CFR). Some of those federal law and regulations are highlighted below.

Section 504 of the Rehabilitation Act of 1973 (Section 504)

Section 504 of the Rehabilitation Act (Section 504) is a federal law that prohibits entities that receive federal financial assistance, such as public schools and charter schools, from discrimination against individuals with disabilities, regardless of the nature or severity of their disability.¹ The section guarantees students with disabilities the right to a free and appropriate public education (FAPE). Under Section 504, to meet the FAPE threshold, a school district, institution of higher learning, and other state and local education agencies must provide regular or special education and related aids and services that meet the student's individual educational needs as adequately as the needs of nondisabled students are met.^{2,3}

Title II of the American with Disabilities Act

The American with Disabilities Act of 1990 (ADA)⁴ guarantees that individuals with disabilities have the same opportunities as those without disabilities. The ADA protects against discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. Federal funding of public education falls under state and local government activities (Title II).⁵

¹ 29 U.S.C. s. 794; 34 C.F.R., pt. 104.

² U.S. Department of Education, Office for Civil Rights, *Protecting Students with Disabilities*, <https://www2.ed.gov/about/offices/list/ocr/504faq.html> (last viewed Feb. 9, 2018).

³ An individual with a disability is defined in 29 U.S.C. s. 705(20), and a student with a disability is defined in 29 U.S.C. s. 705(37).

⁴ 42 U.S.C. 12101 et. seq.

⁵ U.S. Department of Justice, *A Guide to Disability Rights Laws* (July 2009), <https://www.ada.gov/cguide.htm> (last viewed Feb. 9, 2018).

The ADA prohibits the exclusion of any qualified individual from participation in or the denial of benefits, services, programs, or activities of a public entity or the discrimination by any public entity.⁶ The United States Department of Justice has the responsibility for enforcement of the regulations implementing the ADA, including those specific to access to services, programs and activities provided by state and local government entities.

The regulations to the 2008 Amendments to the ADA's regulations for Title II were finalized in 2016 and published as a final rule on October 11, 2016. The final regulation included a revised definition of disability related to the meaning of physical or mental impairment. While the final regulation lists many specific impairments such as cerebral palsy, epilepsy, muscular dystrophy, and cancer, the comments to the final rule notes that it does not include all the possible conditions. Along with these specific diagnoses, the provision also uses more general descriptions of disorders such as, any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems.⁷

Individuals with Disabilities Education Act (IDEA)

The Individuals with Disabilities Education Act (IDEA) was originally signed into law by President Gerald Ford as the Education for All Handicapped Children Act (Pub. Law 94-142) in 1975. The intent of the law in 1975 and its re-authorization as the IDEA in 2004, as amended through the Every Student Succeeds Act in December 2015, remains the same: to ensure FAPE⁸ to eligible children with disabilities and special education and related services to those children.⁸ The FAPE is accomplished through an individualized education plan or an IEP for each child.

In its opinion, *Endrew F. (a minor) v. Douglas County School District*, the U.S. Supreme Court recently reiterated the right created under the IDEA and established that the essential function of an IEP was to set out a plan for pursuing academic and functional advancement for a student with disabilities with the expertise of school officials and input from a child's parents or guardians.⁹ As the court states, to meet its substantive obligation under the IDEA, the IEP must be reasonably calculated to enable the child to make progress appropriate to the child's circumstances.¹⁰

The development, review, and revision requirements for a child's IEP are also included in the federal regulations.¹¹ The regulations include consideration of special factors such as whether the child's behavior will impede the child's learning or that of others. The IEP team is directed to consider the use of positive behavioral interventions and supports and other strategies to address any such behavior.¹²

Under the CFR relating to a FAPE, a child with a disability is defined differently than under either the Section 504 or the ADA. The definition reads, in part:

⁶ 28 CFR 35.130

⁷ 28 CFR Parts 35 and 36, Amendment of Americans with Disabilities Act Title II and III Regulations to Implement ADA Amendments Act of 2008, https://www.ada.gov/regs2016/final_rule_adaaa.html (last viewed Feb. 9, 2018).

⁸ U.S. Department of Education, *About IDEA*, <https://sites.ed.gov/idea/about-idea> (last viewed Feb. 9, 2018).

⁹ 580 U.S. (2017) p. 11

¹⁰ *Id.*

¹¹ See 34 C.F.R. 300.324 – 520.

¹² 34 C.F.R. 300.324.

Section 300.8 Child with a disability.

(a)General.

(1) Child with a disability means a child evaluated in accordance with ss 300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance,”) an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.¹³

The regulation then defines each impairment within the definition specifically.¹⁴

The IDEA provides formula grants to states and discretionary grants to state educational agencies, institutions of higher learning, and other nonprofit organizations. The federal legislation also requires of any state educational agency, State agency, or local education agency that receives federal funds certain assurances that specific procedural safeguards and other due process procedures are in place to ensure that children with disabilities and their parents receive the FAPE to which the student with disabilities is entitled.¹⁵

Children’s Health Act (Pub. Law 106-310)

In October 2000, the Children’s Health Act of 2000¹⁶ (act) was signed by President Bill Clinton. The act included additional safeguards for children and youth who were residents of certain non-medical community-based facilities that also received funds under Title V of the Public Health Services Act.¹⁷

Physical restraints¹⁸ and seclusion under the act are limited to emergency situations and to ensure the immediate safety of the resident, a staff member, or others and when less restrictive interventions have been determined to be ineffective.¹⁹ The restraints and seclusion may only be used by an individual trained and certified by a State-recognized body in the prevention and use of restraints and seclusion. Specific alternative methods to restraints and seclusion are listed in

¹³ 34 C.F.R. 300.8

¹⁴ See 34 C.F.R. 300.8(1)-(13).

¹⁵ 20 U.S.C. s. 1415.

¹⁶ Children’s Health Act of 2000, Pub. Law 106-310, s. 595, 42 U.S.C. s. 290jj (2000).

¹⁷ Title V of the Public Health Services Act is the Maternal and Child Health Block Grant Program, one of the largest federal block grant programs. It funds programs for mothers and children, health promotion, prenatal and postnatal care, diagnostic and treatment services for low-income children, preventive and child care services, family-centered, coordinated care for children with special health care needs, and application assistance to pregnant women who may be eligible for Medicaid.

¹⁸ Physical restraint is defined in the act as a personal restriction that immobilizes or reduces the ability of an individual to move his or her arms or legs, or head freely. Such term does not include a physical escort. A physical escort in the act means the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a resident who is acting out to walk to a safe location. See 42 U.S.C. s. 290jj(d)(3) and 42 U.S.C. s. 290jj(d)(2)

¹⁹ 42 U.S.C. s. 290jj(b)(1)(A).

the federal law, including requiring a process for approval for continued restraints, documentation, follow-up, processing, and investigation of injuries and complaints.²⁰

The act expressly prohibits the use of a drug or medication as a restraint to control behavior or to restrict a resident's freedom of movement if it is not part of the resident's medical or psychiatric condition.²¹ Mechanical restraints²² are also expressly prohibited in the facilities.²³

Seclusion^{24, 25} is permitted in a non-medical, community-based facility for children and youth under specific conditions: a staff member must be continuously face-to-face monitoring the resident and there must also be strong licensing or accreditation and internal controls in place.²⁶

United States Department of Education – Office for Civil Rights

On December 28, 2016, the Office for Civil Rights (OCR) in the United States Department of Education (DOE) issued a *Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities*²⁷ letter to explain the limits on the use of restraints and seclusion by public elementary and secondary school districts. The letter was precipitated by data collection from the school year 2013-2014, which showed that students with disabilities were subject to restraint and seclusion at rates that far exceeded those of students who were not considered disabled. The OCR raised the issue of whether the school districts were using restraints and seclusion in discriminatory ways.²⁸

The continued use of restraint or seclusion, according to the *Fact Sheet* issued by the DOE, could result in a denial of FAPE as the traumatizing effect could result in new behaviors, impaired concentration or attention in class, or increased absences for the student.²⁹ The DOE guidance directs the school to:

- Determine the extent to which additional or different interventions or supports and services, including positive behavioral interventions and supports and other behavioral strategies, may be needed;
- Determine if current intervention and support are being properly implemented;
- Ensure that any needed changes are made promptly; and

²⁰ 42 U.S.C. s. 290jj(b)(1)(B).

²¹ 42 U.S.C. s. 290jj(b)(3)(A).

²² Mechanical restraint is defined in the act as the use of devices as a means of restricting a resident's freedom of movement. See 42 U.S.C. s. 290jj(d)(1).

²³ 42 U.S.C. s. 290jj(b)(3)(B).

²⁴ Seclusion is defined in the act to mean a behavior control technique involving locked isolation. Such term does not include time out. See 42 U.S.C. s. 290jj(d)(4).

²⁵ The act also include a term for time out. A time out means a behavior management technique that is part of an approved treatment program and may involve the separation of the resident from the group, in a non-locked setting, for the purpose of calming. Time out is not seclusion. See 42 U.S.C. s. 290jj(d)(4).

²⁶ 42 U.S.C. s. 290jj(b)(3)(C).

²⁷ U.S. Department of Education, *Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities* (December 28, 2016), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf> (last viewed Feb. 10, 2018).

²⁸ U.S. Department of Education, Office for Civil Rights, *Fact Sheet: Restraint and Seclusion of Students with Disabilities* (December 2016), <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf>, (last viewed: Feb. 10, 2018).

²⁹ *Id.*

- Remedy any denial of FAPE that resulted from the school's prior use of restraint or seclusion.³⁰

Parents and guardians must be given an opportunity to appeal any actions such as the identification, evaluation, or educational placement of their child with disabilities. They also have the right to be notified by the school of any action, to examine their child's records, to participate and be represented by counsel, and be provided a review procedure.³¹

Florida Law and Guidelines

Florida law authorizes each teacher or other member of the staff of any school to have authority for the control and discipline of students that may be assigned by the principal or the principal's designated representative.³² The teacher is further required to keep control of the classroom and the students that are assigned within the school district's code of conduct.³³ To the extent appropriate, students with disabilities are to be educated with students who are not disabled. Florida law requires that "segregation of exceptional students should only occur if the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."³⁴

Federal OCR guidance requires under Section 504 that school districts make reasonable accommodations in criteria, policies, practices, or procedures to avoid discrimination on the basis of disability.³⁵ The CFR implementing the IDEA and the IEPs notes the consideration of special factors that the IEP team should consider when developing an IEP such as positive behavioral intervention supports, assistive technologies and services, or special reading and writing media if visually impaired.³⁶

Should there be a violation of the school code of conduct by a student with disabilities, Florida law allows school personnel to consider the unique circumstances on a case by case basis to determine whether there should be a change in placement, either permanently or on an interim basis.³⁷ The law also provides conditions for the use of restraint and seclusion on students with disabilities; and requires documentation, reporting, and monitoring of the use of such techniques.³⁸

The Use of Restraint and Seclusion

Florida law does not currently define restraint or seclusion, but guidance by the Florida Department of Education (department) directs that all documenting, reporting, and monitoring

³⁰ *Id* at 2.

³¹ *Id.*

³² Section 1003.32, F.S.

³³ *Id.*

³⁴ Section 1003.57(1)(d), F.S.

³⁵ *Supra* note 27, at 8.

³⁶ 34 C.F.R. s. 300.24(2)

³⁷ Section 1003.57(1)(h), F.S.

³⁸ Section 1003.573, F.S.

requirements for restraint be based on the OCR definitions related to restraint and seclusion for all students.³⁹

Restraint

The federal DOE OCR guidance defines restraint in two parts:

- Physical restraint immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely and does not include a physical escort.⁴⁰ A physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.⁴¹
- Mechanical restraint is the use of any device or equipment to restrict a student's freedom of movement and does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related service professional and are used for the specific and approved purposes for which such devices were designed.⁴²

School personnel are prohibited from using a mechanical restraint or a physical or manual restraint that restricts a student's breathing.⁴³ School personnel may not close, lock, or physically block a student in a room that is unlit and does not meet the rules of the State Fire Marshall for seclusion time-out rooms.⁴⁴

School districts began reporting incidents of restraint and seclusion at the beginning of the school year 2010-2011.⁴⁵ Since the inception of the reporting system through July 31, 2017, there have been 63,652 incidents of restraint reported.⁴⁶

School Year	Number of Students⁴⁷	Restraint Incidents
2010-11	3,580	10,683
2011-12	4,369	9,789
2012-13	4,096	9,551
2013-14	3,479	8,964
2014-15	3,229	8,199
2015-16	3,437	7,696
2016-17	3,239	8,770
Total	22,190	63,652

³⁹ Florida Department of Education, Bureau of Exceptional Education and Student Services, *Guidelines for the Use, Documentation, Reporting, and Monitoring of Restraint and Seclusion with Students with Disabilities*, Technical Assistance Paper FY 2011-165 (Oct. 2011), available at <https://info.fldoe.org/docushare/dsweb/Get/Document-6212/dps-2011-165.pdf> (last viewed Feb. 10, 2018), at 2.

⁴⁰ *Supra* note 27, at 6.

⁴¹ *Id.*

⁴² *Id.*

⁴³ Section 1003.573(4), F.S.

⁴⁴ *Id.* at (5); Rule 69A-58.0084, F.A.C.

⁴⁵ Florida Department of Education, *Senate Bill 260 Analysis* (Sept. 28, 2017), at 4.

⁴⁶ *Id.*

⁴⁷ Email from Florida Department of Education (Dec. 18, 2017).

Seclusion

The OCR defines seclusion as the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.⁴⁸ Seclusion does not include a time out room, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.⁴⁹

School districts began reporting incidents of seclusion at the beginning of the school year 2010-2011.⁵⁰ Since the inception of the reporting system through July 31, 2017, there have been 19,354 incidents of seclusion reported.⁵¹

School Year	Number of Students⁵²	Seclusion Incidents
2010-11	1,321	4,637
2011-12	1,448	4,245
2012-13	1,237	3,024
2013-14	885	2,272
2014-15	732	2,262
2015-16	638	1,563
2016-17	503	1,351
Total	6,621	19,354

School District Responsibilities

Each school district must develop policies and procedures that are consistent with Florida law regarding the use of restraint and seclusion on students with disabilities and that govern specified topics, such as:⁵³

- Data collection and monitoring, including when, where, and why students are restrained or secluded; the frequency of occurrences of such restraint or seclusion; and the prone or mechanical restraint that is most used.
- Training programs relating to manual or physical restraint and seclusion.
- The district's plan for reducing the use of restraint and seclusion particularly in settings where it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint.

⁴⁸ *Supra* note 27, at 7.

⁴⁹ *Id.*

⁵⁰ *Supra* note 45.

⁵¹ *Id.*

⁵² Email from Florida Department of Education (Dec. 18, 2017).

⁵³ Section 1003.573(3)(a), F.S.

School Responsibilities

Florida law requires a school to prepare an incident report within 24 hours after a student is released from restraint or seclusion.⁵⁴ The incident report must contain information specified in law, such as:⁵⁵

- The name, age, grade, ethnicity, and disability of the student restrained or secluded.
- The date and time of the event and the duration of the restraint or seclusion.
- A description of the type of restraint used in terms established by the department
- A detailed description of the incident.

A school must notify the parent or guardian of a student each time that manual or physical restraint or seclusion is used.⁵⁶ Such notification must be in writing and provided before the end of the school day on which the restraint or seclusion occurs.⁵⁷ Reasonable efforts must also be taken to notify the parent or guardian by telephone or computer e-mail, or both, and these efforts must be documented.⁵⁸ The school must obtain and keep in its records the parent's or guardian's signed acknowledgement that he or she was notified of his or her child's restraint or seclusion.⁵⁹ A school must also provide the parent or guardian with the completed incident report in writing by mail within three school days after a student was manually or physically restrained or secluded and the school must obtain, and keep in its records, the parents' or guardian's signed acknowledgement that he or she received a copy of the incident report.⁶⁰

Florida law requires monitoring of the use of manual or physical restraint or seclusion on students to occur at the classroom, building, district, and state levels.⁶¹ Documentation of the incident report and the notification to the parent or guardian must be provided to the school principal, the district director of Exceptional Student Education, and the bureau chief of the Bureau of Exceptional Education and Student Services electronically each month that school is in session.⁶²

Florida Department of Education Responsibilities

The department is required to maintain aggregate data of incidents of manual or physical restraint and seclusion and disaggregate data for analysis by county, school, student exceptionality, and other variables, including the type and method of restraint or seclusion used.⁶³ This information must be updated monthly.⁶⁴ The department is also required to establish

⁵⁴ Section 1003.573(1)(a), F.S. If the student's release occurs on a day before the school closes for the weekend, a holiday or another reason, the incident report must be completed by the end of the school day on the day the school reopens. *Id.*

⁵⁵ Section 1003.573(1)(b), F.S.

⁵⁶ Section 1003.573(1)(c), F.S.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.* at (d).

⁶¹ Section 1003.573(2)(a), F.S.

⁶² Section 1003.573(1)(b), F.S.

⁶³ Section 1003.573(1)(c), F.S.

⁶⁴ *Id.*

standards for documenting, reporting, and monitoring the use of manual or physical restraint or mechanical restraint, and occurrences of seclusion for the school districts.⁶⁵

The commissioner is required to develop recommendations to incorporate instruction regarding autism spectrum disorder, Down syndrome, and other developmental disabilities into continuing education or in-service training requirements for personnel.⁶⁶ These recommendations address:⁶⁷

- Early identification and intervention methods;
- Curriculum planning and curricular and instructional modifications, adaptations, and specialized strategies and techniques;
- The use of available state and local resources;
- The use of positive behavioral supports to deescalate problem behaviors; and
- Appropriate use of manual physical restraint and seclusion techniques.

Alternative Techniques

There are several behavioral interventions that have been adopted as alternative methods to address problem behavior for all students, including students with disabilities, which do not involve restraint or seclusion.

The positive behavioral interventions and supports (PBIS) approach is a multi-tiered behavioral framework that is intended to help improve academic outcomes by improving the overall school climate, preventing problem behavior, increasing learning time, promoting positive learning skills, and delivering effective behavioral interventions and supports.⁶⁸ A set of school-wide positive expectations is set and behaviors are defined and taught with routines that are consistent. The school establishes procedures for encouraging expected behavior and discouraging problem behavior while monitoring and evaluating data. Procedures must also be put in place for the selecting, training, and coaching of new personnel in the system and for encouraging school-family partnerships.⁶⁹

Following the 1997 Amendments to the IDEA, two concepts received greater emphasis in the evaluation of students with disabilities because of their reference in the amendments.⁷⁰ The department issued a Technical Assistance Paper in December 1999 to help school personnel understand how to conduct these two interventions.⁷¹

The first, a functional behavioral assessment plan (FBA) is a process unique to an individual student to identify the function of a student's behavior and how that behavior relates to the student's environment. Procedures typically include a review of the records, interviews with the family and student, observations of the students, and formal and informal measurement

⁶⁵ *Id.* at (d). *See also Supra* note 39, at appendix A.

⁶⁶ Section 6, ch. 2010-224, Laws of Fla.; s. 1012.582(1), F.S.

⁶⁷ Section 1012.582(1)(a)-(e), F.S.

⁶⁸ *Id.* at 5.

⁶⁹ *Id.* at 14.

⁷⁰ 20 U.S.C. s. 1400(c)(2)(5).

⁷¹ Florida Department of Education, *Technical Assistance Paper: Functional Behavioral Assessment and Behavioral Intervention Plans* (December 1999), <http://www.fldoe.org/core/fileparse.php/7590/urlt/0107234-tap99-3.pdf> (last viewed Feb 10, 2018).

procedures.⁷² The information collected during the FBA process is used to create behavior supports and plans.

A behavior intervention plan (BIP) or a positive behavior intervention plan (PBIP) are the resulting detailed plan gathered during the FBA such as function, frequency, severity, or consequence.⁷³ The BIP or PBIP will also include specific information regarding the target behavior, behavior goals, in addition to the steps that are being proposed to reduce the occurrences of the inappropriate behavior and to increase the occurrence of the desired or appropriate behaviors. The plan should include progress and monitoring notes and any reviews of the plan.

III. Effect of Proposed Changes:

CS/SB 260 modifies the title of the section, adds definitions, revises the use of restraint techniques on public school students with disabilities, prohibits placing such students in seclusion, and specifies responsibilities for school districts, schools, and the Commissioner of the Florida Department Education (commissioner).

Section 1 - amends s. 1003.573, F.S., relating to the seclusion and restraint of students with a disability and the conditions under which these students may be placed in special environments. As used in this section, the term “student” means a student with a disability. Specifically this section:

- Establishes exclusionary and nonexclusionary time which is distinguished by whether the student remains in the event or instructional environment. During the nonexclusionary time, the student is given an opportunity to reflect on his or her behavior and given space and time to understand choices and consequences. For exclusionary time, the student is removed from the event or activity to encourage reflection and allowed time to understand his or her choices or consequences. Neither exclusionary or nonexclusionary time may be used as punishment or a negative consequence and the process must not embarrass or humiliate the child. The time must not exceed either one minute for every year of the child’s age or until the student is calm. A student may be placed in exclusionary or nonexclusionary time if all of the following conditions exist:
 - It is part of that student’s positive behavioral intervention plan;
 - Other positive behavioral supports that were not effective preceded its use;
 - It occurs in a classroom or in another environments where class educational activities are taking place;
 - The student is not prevented from leaving the exclusionary or nonexclusionary time area;
 - The student is observed constantly by an adult throughout the time; and
 - The exclusionary or nonexclusionary time area and process are free of action that is likely to embarrass or humiliate the student.

⁷² *Id.*

⁷³ Missouri Department of Elementary and Secondary Education, *Functional Behavioral Assessment & Behavioral Intervention Plans*, <https://dese.mo.gov/special-education/effective-practices/functional-behavioral-assessment-behavioral-intervention-plans> (last viewed Feb. 10, 2018).

- Defines restraint and provides parameters for its use. A restraint is the use of a mechanical or physical restraint which may be used only when all other behavioral strategies and intervention techniques have been exhausted.
 - A *mechanical restraint* is the use of a device that restricts a student's freedom of movement. The term includes, but is not limited to the use of straps, belts, tie-downs, and chairs with straps; however, the term does not include the use of any of the following:
 - Medical protective equipment, defined as health-related protective devices prescribed by a physician or dentist for use as student protection in response to an existing medical condition;
 - Behavioral protective equipment such as helmets, gloves, wraps, calming blankets, and other devices that are used temporarily to prevent severe tissue damage caused by behavioral excesses;
 - Physical equipment or orthopedic appliances, surgical dressings or bandages, or supportive body bands or other restraints necessary for ongoing medical treatment in the educational setting;
 - Devices used to support functional body position or proper balance, or to prevent a person from falling out of a bed or a wheelchair, except when such a device is used for a purpose other than supporting a body position or proper balance, such as coercion, discipline, convenience, or retaliation, to prevent imminent risk of serious injury or death of the student or others, or for any other behavior management reason; and
 - Equipment used for safety during transportation, such as seatbelts or wheelchair tie-downs.
 - A *physical restraint* is the use of manual restraint techniques that involve significant physical force applied by a teacher or other staff member to restrict the movement of all or part of a student's body. Physical restraint may only be used when there is an imminent risk of serious bodily injury or death to the student or others, notwithstanding the authority in s. 1003.32, F.S., which authorizes a teacher or others to maintain control, discipline, and good order. Imminent risk of serious injury or death means the impending risk of significant injury, such as a laceration, bone fracture, substantial hematoma, or injury to an internal organ, or death. Physical restraint may not:
 - Be used for discipline, to correct noncompliance, or for convenience of school district staff;
 - Be used longer than the period of the risk;
 - Exceed the degree of force necessary to protect the student or others from serious injury or death; or
 - Include specified techniques, or techniques or procedures acquired in a setting other than through employment with the school district.
- Prohibits placing students in seclusion. Seclusion means the removal of a student from an educational environment, involuntarily confining the student in a room or area, and preventing the student from leaving the area by blocking or artificially blocking the door. The term does not include exclusionary time.

If a student has been restrained more than twice in a semester, the bill requires the school to conduct a review of:

- The incidences in which restraint was used and an analysis of how restraint can be avoided in future incidents;
- The student's functional behavioral assessment and positive behavioral intervention plan by the school staff and parent within two weeks before the end of a semester; and
- The training provided to staff on the use of restraints.

The bill also establishes several additional requirements for school districts, replacing provisions related to seclusion with exclusionary or nonexclusionary time, adding training components, and revising notification requirements.

Each school district under the bill is required to report its procedures for training in the use of restraint in the district's special policies and procedures manual. The districts must also provide training in the use of restraint in all of the following areas:

- Deescalation of problem behavior before it increases to a level which requires physical intervention;
- Risks associated with restraint and procedures associated with how to assess whether restraint is appropriate and safe;
- Actual use of specific techniques that range from least to most restrictive which allow for trainees to demonstrate their proficiency;
- Techniques for implementing restraint with multiple staff members working as a team;
- Techniques to assist a student with reentering the instructional environment and reengaging in learning;
- Instruction in the district's documentation and reporting requirements;
- Procedures to identify and deal with possible medical emergencies arising during the use of restraint; and
- Training for cardiopulmonary resuscitation.

At the beginning of each school year, the bill requires each school district to publicly post its policies on all emergency procedures, including those on the use of restraints. School districts are also directed to develop policies and procedures that provide for the physical safety and security of staff and students and which treat all students with dignity and respect.

Similar to reporting on the use of restraint, schools must also prepare incident reports on the use of exclusionary or nonexclusionary time within 24 hours after a student is released from that time. The report must include the age, grade, ethnicity, and disability of the student that was restrained, or placed in exclusionary or nonexclusionary time. The report must also include the length of time, location of the incident, if a restraint was used, the name of the person using or assisting with the restraint and the date those persons were last trained, the name or names of any witnesses, and a description of the event as specified in the statute. Schools must make responsible effort to notify the parent or guardian of the student before the end of the school day in which exclusionary or nonexclusionary time is used.

The required monthly monitoring reports to the department must also include the exclusionary and nonexclusionary times created in this bill. A redacted copy of the documentation created as part of the revised restraint, exclusionary and nonexclusionary reporting process in this bill will be updated monthly and made available to the public through the department's website no later

than October 1, 2018 along with aggregate and disaggregate data by county, school, student exceptionality, and other variables listed in the statute.

Section 2 amends subsections (1) and (2) of section 1012.582, F.S., to require the Florida Commissioner of Education to develop recommendations to incorporate instruction regarding emotional or behavioral disabilities into continuing education and inservice training requirements for instructional personnel. The recommendations must also address the appropriate use of physical restraint and classroom behavior management strategies for differential reinforcement, precision commands, minimizing attention or access to other reinforcers, and exclusionary and nonexclusionary time methods.

Section 3 provides an effective date for the act of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

CS/SB 260 applies only to students with disabilities in public schools and not in other locations or to non-disabled students.

The OCR's data from the school year 2013-2014 showed that while students with disabilities represented only 12 percent of the school population, those students were 67 percent of the students who were subjected to restraint or seclusion in school.⁷⁴ The OCR noted that data alone does not show discrimination, however it did raise a question of whether school districts were using restraint and seclusion in a discriminatory manner.⁷⁵

The equal protection clause of the United States Constitution requires that no state shall deny any person within its jurisdiction "equal protection of the laws."⁷⁶ Furthermore, Florida's equal protection clause states:

Basic rights.--All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the

⁷⁴ *Supra* note 27, at 2.

⁷⁵ *Id.*

⁷⁶ U.S. CONT. amend. XIV, s. 1.

right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or physical disability.⁷⁷

A court's response to an equal protection claim depends on the classification of people involved. A court will analyze government action that discriminates against people according to race, ethnicity, religion, and national origin with the strictest scrutiny.⁷⁸ In addition to those protected classes, federal and state courts also recognized quasi-suspect classes.⁷⁹ If a claim does not involve a fundamental right, a suspect class, or a quasi-class, then a court will analyze with rational basis scrutiny, whereby the court will uphold a law if it bears a reasonable relationship to the attainment of a legitimate government objective.⁸⁰

This bill may raise equal protection issues by parents or guardians of students who are disabled and located in schools or facilities not covered by these changes, by public school students who are not identified as disabled, or by students do not meet the definition of disabled that is used by the department or the school district where the student is located since the definition of disabled is not included in the bill or this section of law.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private entities that receive state funds to educate students with disabilities may be impacted by costs to update technology, provide training to staff, and comply with the changes included in this bill. The OCR has stated in its guidance that the nondiscrimination requirements of Section 504 extends to entities that carry out all or some of the schools' functions through contractual or other agreements.⁸¹

⁷⁷ FLA. CONST. art. I, s. 2.

⁷⁸ Under strict scrutiny, the government must show that a law with discriminatory effect advances a compelling state interest, is narrowly tailored, and is the least restrictive means for advancing that interest. *Loving v. Virginia*, 388 U.S. 1, 11 (1967).

⁷⁹ BLACK'S LAW DICTIONARY (10th ed. 2014) defines quasi-suspect classification as "[a] statutory classification based on gender or legitimacy, and therefore subject to intermediate scrutiny under equal-protection analysis." BLACK'S defines intermediate scrutiny as "[a] standard lying between the extremes of rational-basis review and strict scrutiny. Under the standard, if a statute contains a quasi-suspect classification (such as gender or legitimacy), the classification must be substantially related to the achievement of an important governmental objective."

⁸⁰ *Vance v. Bradley*, 440 U.S. 93, 97 (1979).

⁸¹ *Supra* note 27, at 15; 34 C.F.R. .s. 104.4(b).

C. Government Sector Impact:

According to the Florida Department of Education, school districts may incur costs associated with certification and refresher training in district-approved techniques for manual physical restraint.⁸² Such costs are currently indeterminable.⁸³

VI. Technical Deficiencies:

The bill includes a new definitions section for s. 1003.573, F.S.; however, there are several words or terms of art which are not defined, such as the following:

- Positive behavioral intervention plan;
- Functional behavioral assessment plan;
- Differential reinforcement;
- Precision commands;
- Minimizing attention; and
- Access to other reinforcers.

The bill requires school district staff and teachers to be trained or to be held to standards based on these terms of art and therefore, they should be clearly defined to avoid confusion.

Section 1003.573, F.S., does not include a definition of disability and there are many definitions of disability in both state and federal law.

In several places in the bill, the language prohibits the use of either physical restraint or exclusionary or nonexclusionary time for “student discipline, to correct student noncompliance”⁸⁴ or “punishment or negative consequence of a student’s behavior.”⁸⁵ Other than for imminent danger and safety, it is unclear when these techniques would ever be permitted or appropriate for the teacher’s use.

VII. Related Issues:

The definition of “medical protective equipment” limits the protective devices to those prescribed by a physician or dentist. This definition would limit devices to only those health care practitioners who are licensed as medical doctors, osteopathic physicians, or dentists and not include other health care practitioners who might prescribe some of the devices that are not specifically named in the definition of “physical restraint equipment” or “medical protective equipment.”

The bill includes several phrases that include aspirational intentions or subjective measurements that may present difficulties for a school district or school staff to measure or to create guidelines that could be applicable to all students. For example:

⁸² Florida Department of Education, *Senate Bill 260 Analysis* (Sept. 28, 2017), at 7.

⁸³ *Id.*

⁸⁴ See line 90 of CS/SB 260.

⁸⁵ See line 146 of CS/SB 260.

- Lines 138 through 140, require the school personnel to establish an exclusionary and nonexclusionary time area and process free of any action that is likely to embarrass or humiliate the student;
- Lines 141 through 143, establish a time period for exclusionary and nonexclusionary time of one minute for each year of a student's age or until the student is calm enough to return to his or her seat; and
- Lines 284 through 288, require school districts and personnel to establish policies and procedures that provide for the physical safety and security of students and school personnel which treat all students with respect and dignity in an environment that promotes a positive school culture and climate.

The period for the exclusionary and nonexclusionary time does not provide for a maximum amount of time, such as the greater of those two values. If the student never calms down, there is no option available to the teacher.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1003.573 and 1012.582.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Education on February 6, 2018.

The committee substitute retains the substance of the bill with the following modifications:

- Defines student to mean a student with a disability.
- Explicitly prohibits the use of a prone or supine restraint.
- Prohibits the use of a mechanical restraint, defines mechanical restraint, identifies types of mechanical restraints, and clarifies that calming blankets do not constitute a mechanical restraint.
- Provides that documentation, reporting, and monitoring requirements in law also apply to the use of exclusionary or nonexclusionary time.
- Requires a school to make redacted copies of documentation related to the use of restraint or exclusionary or nonexclusionary time available to the public through the Department of Education's website by October 1, 2018.

B. Amendments:

None.

By the Committee on Education; and Senators Book, Flores, and Hukill

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1 A bill to be entitled
 2 An act relating to students with disabilities in
 3 public schools; amending s. 1003.573, F.S., relating
 4 to the seclusion and restraint of students with
 5 disabilities; defining terms; providing requirements
 6 for the use of restraint; prohibiting specified
 7 physical restraint techniques; providing requirements
 8 for the use of exclusionary and nonexclusionary time;
 9 providing requirements for school districts to report
 10 and publish training procedures; providing for
 11 student-centered followup; providing requirements for
 12 documenting, reporting, and monitoring the use of
 13 restraint and exclusionary or nonexclusionary time;
 14 revising school district policies and procedures
 15 relating to restraint; amending s. 1012.582, F.S.;
 16 requiring continuing education and inservice training
 17 for teaching students with emotional or behavioral
 18 disabilities; conforming provisions to changes made by
 19 the act; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 1003.573, Florida Statutes, is amended
 24 to read:

25 1003.573 Seclusion and Use of restraint of and seclusion on
 26 students with disabilities in public schools.—

27 (1) DEFINITIONS.—As used in this section, the term:

28 (a) "Department" means the Department of Education.

29 (b) "Exclusionary time" means the period during which a

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30 student is removed from an event, activity, or instructional
31 environment to encourage reflection on behavior and allow space
32 and time for understanding of choices and consequences.

33 (c) "Imminent risk of serious injury or death" means the
34 impending risk of a significant injury, such as a laceration,
35 bone fracture, substantial hematoma, or injury to an internal
36 organ, or death.

37 (d) "Medical protective equipment" means health-related
38 protective devices prescribed by a physician or dentist for use
39 as student protection in response to an existing medical
40 condition.

41 (e) "Nonexclusionary time" means a period during which a
42 student remains in the event or instructional environment but is
43 redirected from the activities so that he or she has an
44 opportunity to reflect on the behavior and is given space and
45 time for understanding of choices and consequences.

46 (f) "Restraint" means the use of a mechanical or physical
47 restraint which may be used only when all other behavioral
48 strategies and intervention techniques have been exhausted.

49 1. "Mechanical restraint" means the use of a device that
50 restricts a student's freedom of movement. The term includes,
51 but is not limited to, the use of straps, belts, tie-downs, and
52 chairs with straps; however, the term does not include the use
53 of any of the following:

54 a. Medical protective equipment.

55 b. Behavioral protective equipment, including helmets,
56 gloves, wraps, calming blankets, and other devices that are used
57 temporarily to prevent severe tissue damage caused by behavioral
58 excesses.

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59 c. Physical equipment or orthopedic appliances, surgical
60 dressings or bandages, or supportive body bands or other
61 restraints necessary for ongoing medical treatment in the
62 educational setting.

63 d. Devices used to support functional body position or
64 proper balance, or to prevent a person from falling out of a bed
65 or a wheelchair, except when such a device is used for a purpose
66 other than supporting a body position or proper balance, such as
67 coercion, discipline, convenience, or retaliation, to prevent
68 imminent risk of serious injury or death of the student or
69 others, or for any other behavior management reason.

70 e. Equipment used for safety during transportation, such as
71 seatbelts or wheelchair tie-downs.

72 2. "Physical restraint" means the use of manual restraint
73 techniques that involve significant physical force applied by a
74 teacher or other staff member to restrict the movement of all or
75 part of a student's body.

76 (g) "Seclusion" means the removal of a student from an
77 educational environment, involuntarily confining the student in
78 a room or area, and preventing the student from leaving the area
79 by locking or artificially blocking the door. The term does not
80 include exclusionary time.

81 (h) "Student" means a student with a disability.

82 (2) PHYSICAL RESTRAINT.—

83 (a) Physical restraint may be used only when there is an
84 imminent risk of serious injury or death to the student or
85 others and only for the period of time necessary to eliminate
86 such risk.

87 (b) Notwithstanding the authority provided in s. 1003.32,

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88 physical restraint shall be used only to protect the safety of
89 students, school personnel, or others and may not be used for
90 student discipline, to correct student noncompliance, or for the
91 convenience of school district staff. Physical restraint shall
92 be used only for the period needed to provide such protection.

93 (c) The degree of force applied during physical restraint
94 must be only that degree of force necessary to protect the
95 student or others from serious injury or death.

96 (d) School personnel who have received training that is not
97 associated with their employment with the school district, such
98 as a former law enforcement officer who is now a teacher, shall
99 receive training in the specific district-approved techniques
100 and may not apply techniques or procedures acquired elsewhere.

101 (e) School personnel may not use any of the following
102 physical restraint techniques on a student:

103 1. Pain inducement to obtain compliance.

104 2. Bone locks.

105 3. Hyperextension of joints.

106 4. Peer restraint.

107 5. Pressure or weight on the chest, lungs, sternum,
108 diaphragm, back, or abdomen causing chest compression.

109 6. Straddling or sitting on any part of the body or any
110 maneuver that places pressure, weight, or leverage on the neck
111 or throat, on an artery, or on the back of the head or neck or
112 that otherwise obstructs or restricts the circulation of blood
113 or obstructs an airway.

114 7. Any type of choking, including hand chokes, and any type
115 of neck or head hold.

116 8. A technique that involves spraying or pushing anything

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117 on or into the mouth, nose, eyes, or any part of the face or
118 that involves covering the face or body with anything, including
119 soft objects such as pillows or washcloths.

120 9. Any maneuver that involves punching, hitting, poking,
121 pinching, or shoving.

122 10. Prone or supine restraint.

123 (3) EXCLUSIONARY AND NONEXCLUSIONARY TIME.-

124 (a) School personnel may place a student in exclusionary or
125 nonexclusionary time if all of the following conditions are met:

126 1. The exclusionary or nonexclusionary time is part of a
127 positive behavioral intervention plan developed for the student.

128 2. There is documentation that the exclusionary or
129 nonexclusionary time was preceded by the use of other positive
130 behavioral supports that were not effective.

131 3. The exclusionary or nonexclusionary time takes place in
132 a classroom or in another environment where class educational
133 activities are taking place.

134 4. The student is not physically prevented from leaving the
135 exclusionary or nonexclusionary time area.

136 5. The student is observed on a constant basis by an adult
137 for the duration of the exclusionary or nonexclusionary time.

138 6. The exclusionary or nonexclusionary time area and
139 process are free of any action that is likely to embarrass or
140 humiliate the student.

141 (b) Exclusionary or nonexclusionary time may not be used
142 for a period that exceeds 1 minute for each year of a student's
143 age or until the student is calm enough to return to his or her
144 seat.

145 (c) Exclusionary or nonexclusionary time may not be used as

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146 a punishment or negative consequence of a student's behavior.

147 (4) TRAINING.—

148 (a) Each school district shall report its procedures for
149 training in the use of restraint to the department by publishing
150 the procedures in the district's special policies and procedures
151 manual.

152 (b) Training in the use of restraint must include all of
153 the following:

154 1. Procedures for deescalating a problem behavior before
155 the problem behavior increases to a level or intensity
156 necessitating physical intervention.

157 2. Information regarding the risks associated with
158 restraint and procedures for assessing individual situations and
159 students in order to determine whether the use of restraint is
160 appropriate and sufficiently safe.

161 3. The actual use of specific techniques that range from
162 the least to most restrictive, with ample opportunity for
163 trainees to demonstrate proficiency in the use of such
164 techniques.

165 4. Techniques for implementing restraint with multiple
166 staff members working as a team.

167 5. Techniques for assisting a student in reentering the
168 instructional environment and reengaging in learning.

169 6. Instruction in the district's documentation and
170 reporting requirements.

171 7. Procedures to identify and deal with possible medical
172 emergencies arising during the use of restraint.

173 8. Cardiopulmonary resuscitation.

174 (5) STUDENT-CENTERED FOLLOWUP.—If a student is restrained

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175 more than twice during a semester, the school shall conduct a
176 review of:

177 (a) The incidents in which restraint was used and an
178 analysis of how future incidents may be avoided;

179 (b) The student's functional behavioral assessment and
180 positive behavioral intervention plan by the school personnel
181 and parent within two weeks before the end of the semester; and

182 (c) The training provided to school personnel concerning
183 the use of restraint.

184 (6)-(1) DOCUMENTATION AND REPORTING.-

185 (a) At the beginning of each school year, a school district
186 shall publicly post its policies on all emergency procedures,
187 including its policies on the use of restraint.

188 (b)-(a) A school shall prepare an incident report within 24
189 hours after a student is released from restraint or exclusionary
190 or nonexclusionary time seclusion. If the student's release
191 occurs on a day before the school closes for the weekend, a
192 holiday, or another reason, the incident report must be
193 completed by the end of the school day on the day the school
194 reopens.

195 (c)-(b) The following must be included in the incident
196 report:

197 1. The name of the student restrained or placed in
198 exclusionary or nonexclusionary time secluded.

199 2. The age, grade, ethnicity, and disability of the student
200 restrained or placed in exclusionary or nonexclusionary time
201 secluded.

202 3. The date and time of the event and the duration of the
203 restraint or exclusionary or nonexclusionary time seclusion.

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204 4. The location at which the restraint or exclusionary or
205 nonexclusionary time ~~seclusion~~ occurred.

206 5. If a restraint is used, a description of the type of
207 restraint used in terms established by the department ~~of~~
208 ~~Education~~.

209 6. The name of the person using or assisting in the
210 restraint ~~of~~ or imposition of exclusionary or nonexclusionary
211 time on ~~seclusion of~~ the student and the date the person was
212 last trained in the use of restraint on students.

213 7. The name of any nonstudent who was present to witness
214 the restraint or exclusionary or nonexclusionary time ~~seclusion~~.

215 8. A description of the incident, including all of the
216 following:

217 a. The context in which the restraint or exclusionary or
218 nonexclusionary time ~~seclusion~~ occurred.

219 b. The student's behavior leading up to and precipitating
220 the decision to use ~~manual or physical~~ restraint or exclusionary
221 or nonexclusionary time ~~seclusion~~, including an indication as to
222 why there was an imminent risk of serious injury or death to the
223 student or others if a student was subject to restraint.

224 c. The specific positive behavioral strategies used to
225 prevent and deescalate the behavior.

226 d. What occurred with the student immediately after the
227 termination of the restraint or exclusionary or nonexclusionary
228 time ~~seclusion~~.

229 e. Any injuries, visible marks, or possible medical
230 emergencies that may have occurred during the restraint or
231 exclusionary or nonexclusionary time ~~seclusion~~, documented
232 according to district policies.

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233 f. Evidence of steps taken to notify the student's parent
234 or guardian.

235 (d)~~(e)~~ A school shall notify the parent or guardian of a
236 student each time ~~manual or physical~~ restraint or exclusionary
237 or nonexclusionary time seclusion is used. Such notification
238 must be in writing and provided before the end of the school day
239 on which the restraint or exclusionary or nonexclusionary time
240 ~~seclusion~~ occurs. Reasonable efforts must also be taken to
241 notify the parent or guardian by telephone or ~~computer~~ e-mail,
242 or both, and these efforts must be documented. The school shall
243 obtain, and keep in its records, the parent's or guardian's
244 signed acknowledgment that he or she was notified of his or her
245 child's restraint or exclusionary or nonexclusionary time
246 ~~seclusion~~.

247 (e)~~(d)~~ A school shall also provide the parent or guardian
248 with the completed incident report in writing by mail within 3
249 school days after a student was ~~manually or physically~~
250 restrained or placed in exclusionary or nonexclusionary time
251 ~~secluded~~. The school shall obtain, and keep in its records, the
252 parent's or guardian's signed acknowledgment that he or she
253 received a copy of the incident report.

254 (7)~~(2)~~ MONITORING.—

255 (a) ~~Monitoring of~~ The use of ~~manual or physical~~ restraint
256 or exclusionary or nonexclusionary time seclusion on students
257 shall be monitored ~~occur~~ at the classroom, building, district,
258 and state levels.

259 (b) Any documentation prepared by a school pursuant to ~~as~~
260 ~~required in~~ subsection (6) ~~(1)~~ shall be provided to the school
261 principal, the district director of Exceptional Student

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262 Education, and the bureau chief of the Bureau of Exceptional
263 Education and Student Services electronically each month that
264 the school is in session. Redacted copies of such documentation
265 must be updated monthly and made available to the public through
266 the department's website no later than October 1, 2018.

267 (c) The department shall maintain aggregate data of
268 incidents of ~~manual or physical~~ restraint or exclusionary or
269 nonexclusionary time and ~~seclusion~~ and disaggregate the data for
270 analysis by county, school, student exceptionality, and other
271 variables, including the type and method of restraint or
272 exclusionary or nonexclusionary time ~~seclusion~~ used. This
273 information must ~~shall~~ be updated monthly and made available to
274 the public through the department's website beginning no later
275 than October 1, 2018.

276 (d) The department shall establish and provide to school
277 districts standards for documenting, reporting, and monitoring
278 the use of ~~manual or physical~~ restraint ~~or mechanical restraint,~~
279 and occurrences of exclusionary or nonexclusionary time
280 ~~seclusion. These standards shall be provided to school districts~~
281 ~~by October 1, 2011.~~

282 (8)(3) SCHOOL DISTRICT POLICIES AND PROCEDURES REGARDING
283 RESTRAINT.—

284 (a) School districts shall develop policies and procedures
285 that provide for the physical safety and security of all
286 students and school personnel and which treat all students with
287 respect and dignity in an environment that promotes a positive
288 school culture and climate. Such ~~Each school district shall~~
289 ~~develop~~ policies and procedures must be ~~that are~~ consistent with
290 this section and must ~~that~~ govern the following:

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- 291 1. A description of escalating behavioral strategies that
 292 may be used.
- 293 2. Allowable use of restraint on students.
- 294 3. Training procedures.
- 295 ~~4.1. Incident-reporting procedures.~~
- 296 ~~5.2. Data collection and monitoring, including when, where,~~
 297 ~~and why students are restrained and ~~or secluded~~; the frequency~~
 298 ~~of occurrences of such restraint ~~or seclusion~~; and the prone or~~
 299 ~~mechanical restraint that is most used.~~
- 300 ~~6.3. Monitoring and reporting of data collected.~~
- 301 ~~7.4. Training programs and procedures relating to ~~manual or~~~~
 302 ~~physical restraint and seclusion.~~
- 303 ~~8.5. The district's plan for selecting personnel to be~~
 304 ~~trained and the timeframe for completing such training pursuant~~
 305 ~~to subsection (4).~~
- 306 ~~9.6. The district's plan for reducing the use of restraint,~~
 307 ~~and seclusion particularly in settings in which it occurs~~
 308 ~~frequently or with students who are restrained repeatedly, ~~and~~~~
 309 ~~for reducing the use of prone restraint and mechanical~~
 310 ~~restraint. The plan must include a goal for reducing the use of~~
 311 ~~restraint and seclusion and must include activities, skills, and~~
 312 ~~resources needed to achieve that goal. Activities may include,~~
 313 ~~but are not limited to, all of the following:~~
- 314 a. Additional training in positive behavioral support and
 315 crisis management.~~†~~
- 316 b. Parental involvement.~~†~~
- 317 c. Data review.~~†~~
- 318 d. Updates of students' functional behavioral analysis and
 319 positive behavior intervention plans.~~†~~

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- 320 e. Additional student evaluations.†
 321 f. Debriefing with staff.†
 322 g. Use of schoolwide positive behavior support.† ~~and~~
 323 h. Changes to the school environment.
 324 10. Analysis of data to determine trends.
 325 11. Ongoing reduction of the use of restraint.

326 (b) Any revisions a school district makes to its ~~to the~~
 327 ~~district's~~ policies and procedures, which must be prepared as
 328 part of the school district's ~~its~~ special policies and
 329 procedures, must be filed with the bureau chief of the Bureau of
 330 Exceptional Education and Student Services ~~no later than January~~
 331 ~~31, 2012.~~

332 (9) ~~(4)~~ PROHIBITED RESTRAINT.—School personnel may not use a
 333 mechanical restraint or a ~~manual or physical~~ restraint that
 334 restricts a student's breathing.

335 (10) ~~(5)~~ SECLUSION.—School personnel may not place a student
 336 in seclusion ~~close, lock, or physically block a student in a~~
 337 ~~room that is unlit and does not meet the rules of the State Fire~~
 338 ~~Marshal for seclusion time-out rooms.~~

339 Section 2. Subsections (1) and (2) of section 1012.582,
 340 Florida Statutes, are amended to read:

341 1012.582 Continuing education and inservice training for
 342 teaching students with developmental and emotional or behavioral
 343 disabilities.—

344 (1) The Commissioner of Education shall develop
 345 recommendations to incorporate instruction regarding autism
 346 spectrum disorder, Down syndrome, ~~and~~ other developmental
 347 disabilities, and emotional or behavioral disabilities into
 348 continuing education or inservice training requirements for

581-02903-18

2018260c1

349 instructional personnel. These recommendations shall address:

350 (a) Early identification of, and intervention for, students
351 who have autism spectrum disorder, Down syndrome, ~~or~~ other
352 developmental disabilities, or emotional or behavioral
353 disabilities.

354 (b) Curriculum planning and curricular and instructional
355 modifications, adaptations, and specialized strategies and
356 techniques.

357 (c) The use of available state and local resources.

358 (d) The use of positive behavioral supports to deescalate
359 problem behaviors.

360 (e) Appropriate use of ~~manual~~ physical restraint and
361 effective classroom behavior management strategies, including,
362 but not limited to, differential reinforcement, precision
363 commands, minimizing attention or access to other reinforcers,
364 and exclusionary and nonexclusionary time methods ~~seclusion~~
365 ~~techniques~~.

366 (2) In developing the recommendations, the commissioner
367 shall consult with the State Surgeon General, the Director of
368 the Agency for Persons with Disabilities, representatives from
369 the education community in the state, and representatives from
370 entities that promote awareness about autism spectrum disorder,
371 Down syndrome, ~~and~~ other developmental disabilities, and
372 emotional or behavioral disabilities and provide programs and
373 services to persons with ~~developmental~~ disabilities, including,
374 but not limited to, regional autism centers pursuant to s.
375 1004.55.

376 Section 3. This act shall take effect July 1, 2018.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on the
Environment and Natural Resources, *Chair*
Appropriations
Appropriations Subcommittee on Health and
Human Services
Education
Environmental Preservation and
Conservation
Health Policy
Rules

SENATOR LAUREN BOOK

Democratic Leader Pro Tempore
32nd District

February 8, 2018

Chair Dana Young
Committee on Health Policy
530 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Young,

I respectfully request that you place CS/SB 260, relating to Students with Disabilities in Public Schools, on the agenda of the Committee on Health Policy at your earliest convenience.

Should you have any questions or concerns, please feel free to contact my office or me. Thank you in advance for your consideration.

Thank you,

A handwritten signature in cursive script that reads "Lauren Book".

Senator Lauren Book
Senate District 32

cc: Sandra Stovall, Staff Director
Celia Georgiades, Administrative Assistant

REPLY TO:

- 967 Nob Hill Road, Plantation, Florida 33324 (954) 424-6674
- 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/17

Meeting Date

SB 2100

Bill Number (if applicable)

Topic Students w / disabilities

Amendment Barcode (if applicable)

Name Sue Carson

Job Title President SEA

Address 830 Blackland Terrace
Street

Phone 321 262 3108
Act 100

Apopka FL 32703
City State Zip

Email sue.carson@floridaaea.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FEA AFLCTO SEA WFLC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb. 13, 2018

Meeting Date

CS/SB 260

Bill Number (if applicable)

Topic Seclusion and Restraints on school children with developmental disabilities

Amendment Barcode (if applicable)

Name Dixie Sansom

Job Title Lobbyist

Address PO Box 98

Phone 321-543-7195

Street

Cocoa

FL

32923

Email dixiesansom@aol.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The Arc of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb. 13, 2018

Meeting Date

CS/SB 260

Bill Number (if applicable)

Topic Use of Seclusion and Restraints on school children with disabilities

Amendment Barcode (if applicable)

Name Deborah Linton

Job Title CEO

Address 2898 Mahan Drive, Suite 1

Phone 850-921-0460

Street

Tallahassee

FL

32308

Email deborah@arcflorida.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The Arc of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-13-18 Meeting Date

SB260 Bill Number (if applicable)

Topic Students with Disabilities Amendment Barcode (if applicable)

Name Margaret J. Hooper

Job Title Public Policy Coordinator

Address 124 Merritt Drive #203 Phone 850 294 0052

Jallahassee FL 3230 Email MargaretD@FDDC.org

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Florida Developmental Disabilities Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/18

Meeting Date

260

Bill Number (if applicable)

N/A

Amendment Barcode (if applicable)

Topic Students with Disabilities in Schools

Name Danielle Wolf

Job Title Director of Business Development

Address 2244 Beachcomber Trail

Street

Phone 904-654-7008

Atlantic Beach, FL 32233

City

State

Zip

Email dwolf@crisisprevention.com

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing Crisis Prevention Institute

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.13.18

260

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Albert Balido

Job Title

Address 201 W Park Ave #100

Phone 850 251 3420

Tall FL 32301

Email

City State Zip

Speaking: [] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing Southern Poverty Law Center

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-13-2018

Meeting Date

260

Bill Number (if applicable)

Topic Students with Disabilities in Public Schools

Amendment Barcode (if applicable)

Name Erin Choy

Job Title Immediate Past Chair

Address 404 E. Sixth Avenue

Phone 5616354168

Street

Tallahassee

FL

32303

Email erin.choy@gmail.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Junior Leagues of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/18

Meeting Date

260

Bill Number (if applicable)

N/A

Amendment Barcode (if applicable)

Topic Seclusion & Restraint of Students

Name Jim Horne

Job Title Strategos Group Partner

Address 200 W College

Street

Tallahassee FL

City

State

Zip

Phone 904-759-4596

Email jhorne@strategosgroup.com

Speaking: [] For [] Against [] Information

Waive Speaking: [x] In Support [] Against (The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

266

Meeting Date _____

Bill Number (if applicable) _____

Topic _____

Amendment Barcode (if applicable) _____

Name Marla Goodman

Job Title Parent (Macdonald, Luc)

Address _____

Phone _____

Street

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

2620
Bill Number (if applicable)

Topic Violent Gangs

Amendment Barcode (if applicable) _____

Name Violet Gonzalez

Job Title Member

Address Dir. Com - Reparations & Corp Advancement

Phone Advancement

City _____

State _____

Zip _____

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 744

INTRODUCER: Health Policy Committee and Senator Grimsley

SUBJECT: Laser Hair Removal or Reduction

DATE: February 14, 2018 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	Fav/CS
2.	_____	_____	RI	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 744 moves the regulation of electrolysis from the Board of Medicine (board) and the Electrolysis Council (EC) to the department level so that electrolysis will be regulated by the Division of Medical Quality Assurance within the Department of Health (department). All powers and duties previously assigned to the board are assigned to the department and the EC is repealed.

The definition of “electrolysis or electrology” is revised to reflect technological advancements; removing reference to the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system from the definition. The bill defines “electrolysis or electrology” as the permanent removal of hair using equipment and devices that have been cleared by and registered with the United States Food and Drug Administration (FDA).

The bill codifies that a licensed electrologist who uses a laser or pulsed-light device in a laser hair removal or reduction procedure must be certified in the use of these devices. The bill also specifies that such licensees must follow the physician supervision protocols, unless exempt.

The bill repeals the authority to issue a temporary permit prior to issuing an electrologist license, and provides a one-year phase out process for temporary permits issued before October 1, 2018.

The effective date of the bill is October 1, 2018.

II. Present Situation:

State Regulation of Electrology

The EC and the board, currently regulate the licensing and practice of electrology.¹ “Electrolysis or electrology” is defined as the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system, using equipment and devices approved by the board which have been cleared by, and registered with, the United States Food and Drug Administration and that are used pursuant to protocols approved by the board.²

The EC consists of five members appointed by the board. The EC meets quarterly and has the following responsibilities:³

- Approval and denial of applicants by examination and endorsement;
- Approval and denial of continuing education providers and electrolysis training programs;
- Authority to accept non-disciplinary voluntarily relinquishments;
- Authority to notice rules for development and to propose rules to the board; and
- Initial consideration of rulemaking proposals, petitions to adopt, amend, or repeal rules related to electrology and making recommendations to the board as to the appropriate action to be taken.

A person may not practice electrolysis or hold himself or herself out as an electrologist unless that person has an active valid Florida license.⁴ Specifically, an applicant for a license must:

- Be at least 18 years old;
- Be of good moral character;
- Possess a high school diploma or high school equivalency diploma;
- Have not committed in any jurisdiction an act that constitutes grounds for discipline as an electrologist in Florida;
- Have successfully completed the academic and practical training requirements of an electrolysis training program approved of by the board, not to exceed 120 hours; and
- Have passed a written examination developed by the department or a national examination approved by the board.⁵

The department may issue temporary permits to qualified applicants to practice electrology that are valid until the next board meeting at which licensing decisions occur, or the next exam results are issued.⁶

¹ See ch. 478, F.S., and Fla. Admin. Code R. 64B8-50 through 64B8-56.

² Section 478.42(5), F.S.

³ Section 478.44, F.S., and Fla. Admin. Code R. 64B8-50.003.

⁴ Section 478.49(1), F.S.

⁵ Section 478.45(1) and (2), F.S.

⁶ Section 478.46, F.S.

The board, with the assistance of the EC,⁷ establishes minimum standards for the delivery of electrolysis services and adopts rules to implement ch. 478, F.S.⁸

Electrology facilities must be licensed by the department. The board is responsible for rulemaking to govern the licensure, operation, personnel, and safety and sanitary requirements of electrology facilities.⁹

Use of Laser and Light-based Devices for Hair Removal or Reduction

A Florida electrologist may use laser and light-based devices for hair removal or reduction if he or she:

- Has completed a 30-hour continuing education course approved by the EC;¹⁰
- Is certified in the use of laser and light-based devices for the removal or reduction of hair by a national certification organization approved by the EC and the board;
- Is using only the laser and light-based hair removal or reduction devices upon which they have been trained; and
- Is operating under the direct supervision and responsibility of a physician¹¹ properly trained in laser hair removal and licensed pursuant chs. 458 or 459, F.S.¹²

The EC and the board have approved the Society for Clinical & Medical Hair Removal, Inc.,¹³ as the national certification organization to certify Florida electrologists in the use of laser and pulse-light devices for the removal or reduction of hair.¹⁴

If a licensee violates the electrology practice act, he or she can be disciplined¹⁵ and be given penalties set forth in s. 456.072, F.S., which include: suspension, probation, fines, reprimands, refunds, and remedial education.¹⁶

There are currently 1,329 active electrologist licenses, and 310 licensed electrolysis facilities, in Florida. The department does not distinguish in its reporting between those electrologists certified and those not certified in the use of lasers or pulse-light devices.¹⁷

⁷ Section 478.44, F.S., creates the Electrolysis Council, and specifies its membership and meeting requirements.

⁸ Section 478.43, F.S. *See* Rules 64B8-50 through 64B8-56, F.A.C., which regulate the licensure, practice, continuing education, and discipline of electrologists.

⁹ Section 478.51, F.S.

¹⁰ Fla. Admin. Code R. 64B8-52.004.

¹¹ A physician cannot supervise more than four electrologists at any one time. Fla. Admin. Code R. 64B8-56.002(6).

¹² Fla. Admin. Code R. 64B8-56.002(2).

¹³ The Society for Clinical & Medical Hair Removal, Inc., is an international non-profit organization with members in the United States, Canada, and abroad. The Society for Clinical & Medical Hair Removal offers four certifications through International Commission for Hair Removal Certification (ICHRC) competency-based certification examinations. These certifications enhance the professional growth of members and the Society, and all allied health practitioners, including physicians, electrologists, nurses and others authorized to practice in the jurisdiction in which they practice. *See* The Society of Clinical & Medical Hair Removal, Inc., *Certification* <https://www.scmhr.org/certification/> (last visited Feb. 8, 2018).

¹⁴ Department of Health, Licensing and Regulation, Electrolysis, *Laser Information* <http://www.floridahealth.gov/licensing-and-regulation/electrolysis/laser/index.html> (last visited Feb. 8, 2018).

¹⁵ Section 478.52, F.S.

¹⁶ Section 456.072(2), F.S.

¹⁷ The number of active Florida licenses was calculated by adding “In State Active,” “Out of State Active,” and “Military Active” practitioners. *See* Department of Health, Division of Medical Quality Assurance, Annual Report and Long Range

III. Effect of Proposed Changes:

CS/SB 744 moves the regulation of electrolysis from the Board of Medicine (board) and the Electrolysis Council (EC) to the department level so that electrolysis will be regulated by the Division of Medical Quality Assurance within the Department of Health (department). All powers and duties previously assigned to the board are assigned to the department. The bill preserves any current rules adopted by the department, the board, or the EC which relate to the practice of electrology so that they remain in effect unless revised by the department or are superseded by other laws.

The definition of “electrolysis or electrology” is revised to reflect technological advancements; removing reference to the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system from the definition. The bill defines “electrolysis or electrology” as the permanent removal of hair using equipment and devices that have been cleared by and registered with the United States Food and Drug Administration (FDA).

The bill codifies that a licensed electrologist who uses a laser or pulsed-light device in a laser hair removal or reduction procedure must be certified by a nationally recognized electrology organization in the use of these devices. The bill also specifies that such licensees must follow the physician supervision protocols under the Medical Practice Act or the Osteopathic Medical Practice Act, unless the licensee meets an exemption under either of those acts.

The EC is repealed. The bill repeals the department’s authority to issue a temporary permit prior to issuing an electrologist license. Any temporary permits issued before October 1, 2018, remain valid until the earlier of:

- The applicant receives notice that he or she has failed the examination required for licensure, whereupon the temporary permit is automatically revoked;
- The department issues the applicant a license to practice electrology, or
- October 1, 2019; whereupon the temporary permit is automatically revoked.

The bill conforms changes in assigned responsibilities or authorizations from the board or the EC, to the department.

The effective date of the bill is October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 478.42, 478.43, 478.45, 478.47, 478.49, 478.50, 478.51, 478.52, 478.53, and 478.55.

The bill repeals the following sections of Florida Statutes: 478.44 and 478.46.

This bill creates two undesignated sections of law.

IX. Additional Information:

A. **Committee Substitute – Statement of Substantial Changes:**(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Committee Substitute by Health Policy February 13, 2018:

The committee substitute:

- Retains the regulation of electrology in the department through the Division of Medical Quality Assurance, rather than transferring it to the Department of Business and Professional Regulation;
- References the direct physician supervision requirements;
- Provides a one year phase out for valid permits in good standing that exist on the effective date of the bill; and

- Preserves the electrology rules in place unless they are changed by the department or superseded by other laws.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



615502

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2018	.	
	.	
	.	
	.	

The Committee on Health Policy (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 478.42, Florida Statutes, is amended to
read:

478.42 Definitions.—As used in this chapter, the term:

~~(1) "Board" means the Board of Medicine.~~

~~(2) "Council" means the Electrolysis Council.~~

(1)~~(3)~~ "Department" means the Department of Health.



615502

11 ~~(2)~~⁽⁴⁾ "Electrologist" means a person who engages in the
12 practice of electrolysis.

13 ~~(3)~~⁽⁵⁾ "Electrolysis or electrology" means the permanent
14 removal of hair ~~by destroying the hair-producing cells of the~~
15 ~~skin and vascular system,~~ using equipment and devices that
16 ~~approved by the board which~~ have been cleared by and registered
17 with the United States Food and Drug Administration ~~and that are~~
18 ~~used pursuant to protocols approved by the board.~~

19 Section 2. Section 478.43, Florida Statutes, is amended to
20 read:

21 478.43 Department Board of Medicine; powers and duties.—

22 (1) The department board, ~~with the assistance of the~~
23 ~~Electrolysis Council,~~ is authorized to establish minimum
24 standards for the delivery of electrolysis services and to adopt
25 rules pursuant to ss. 120.536(1) and 120.54 to implement the
26 provisions of this chapter.

27 (2) The department board may administer oaths, summon
28 witnesses, and take testimony in all matters relating to its
29 duties under this chapter.

30 ~~(3) The board may delegate such powers and duties to the~~
31 ~~council as it may deem proper.~~

32 ~~(3)~~⁽⁴⁾ The department board, ~~in consultation with the~~
33 ~~council, shall recommend proposed rules, and the board shall~~
34 ~~adopt rules for a code of ethics for electrologists and rules~~
35 related to the curriculum and approval of electrolysis training
36 programs, sanitary guidelines, the delivery of electrolysis
37 services, continuing education requirements, and any other area
38 related to the practice of electrology.

39 Section 3. Section 478.44, Florida Statutes, is repealed.



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40 Section 4. Section 478.46, Florida Statutes, is repealed.

41 Section 5. A valid temporary permit issued pursuant to s.
42 478.46, Florida Statutes, before October 1, 2018, remains valid
43 until October 1, 2019, until the applicant receives notice that
44 he or she has failed the written examination required under s.
45 478.45, Florida Statutes, or until the Department of Health
46 issues the applicant a license to practice electrology,
47 whichever occurs first. If the department has not issued the
48 applicant a license to practice electrology by October 1, 2019,
49 or if the applicant receives notice that he or she has failed
50 the written examination, the applicant's temporary permit is
51 automatically revoked.

52 Section 6. Section 478.49, Florida Statutes, is amended to
53 read:

54 478.49 License and certification required.—

55 (1) A person may not ~~No person may~~ practice electrology or
56 hold herself or himself out as an electrologist in this state
57 unless she or he ~~the person~~ has been issued a license by the
58 department and holds an active license pursuant to ~~the~~
59 ~~requirements of~~ this chapter.

60 (2) A licensee shall display her or his license in a
61 conspicuous location in her or his place of practice and provide
62 it to the department ~~or the board~~ upon request.

63 (3) A licensee who uses a laser or pulsed-light device in a
64 laser hair removal or reduction procedure must be certified by a
65 nationally recognized electrology organization in the use of
66 these devices.

67 (4) A licensee must follow the direct supervision
68 requirements of ss. 458.348(2) and 459.025(2) unless exempt



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69 under s. 458.348(3)(e) or s. 459.025(3)(e).

70 Section 7. Section 478.45, Florida Statutes, is amended to
71 read:

72 478.45 Requirements for licensure.—

73 (1) An applicant applying for licensure as an electrologist
74 shall file a written application, accompanied by the application
75 for licensure fee prescribed in s. 478.55, on a form provided by
76 the department ~~board~~, showing to the satisfaction of the
77 department ~~board~~ that the applicant:

78 (a) Is at least 18 years old.

79 (b) Is of good moral character.

80 (c) Possesses a high school diploma or a high school
81 equivalency diploma.

82 (d) Has not committed an act in any jurisdiction which
83 would constitute grounds for disciplining an electrologist in
84 this state.

85 (e) Has successfully completed the academic requirements of
86 an electrolysis training program, not to exceed 120 hours, and
87 the practical application thereof as approved by the department
88 ~~board~~.

89 (2) Each applicant for licensure must ~~shall~~ successfully
90 pass a written examination developed by the department or a
91 national examination that has been approved by the department
92 ~~board~~. The examinations must ~~shall~~ test the applicant's
93 knowledge relating to the practice of electrology, including the
94 applicant's professional skills and judgment in the use of
95 electrolysis techniques and methods, and any other subjects that
96 ~~which~~ are useful to determine the applicant's fitness to
97 practice.



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98 (3) The department, ~~upon approval of the board,~~ may adopt a
99 national examination in lieu of any part of the examination
100 required by this section. The department board, ~~with the~~
101 ~~assistance of the council,~~ shall establish standards for
102 acceptable performance.

103 (4) The department shall issue a license to practice
104 electrology to any applicant who passes the examination, pays
105 the licensure fee as set forth in s. 478.55, and otherwise meets
106 the requirements of this chapter.

107 (5) The department shall conduct licensure examinations at
108 least two times a year. The department shall give public notice
109 of the time and place of each examination at least 60 days
110 before it is administered and shall mail notice of such
111 examination to each applicant whose application is timely filed,
112 pursuant to department board rule.

113 (6) The department may not issue a license to any applicant
114 who is under investigation in another jurisdiction for an
115 offense that ~~which~~ would be a violation of this chapter, until
116 such investigation is complete. Upon completion of such
117 investigation, if the applicant is found guilty of such offense,
118 the department board shall apply the applicable provisions of s.
119 478.52.

120 Section 8. Section 478.47, Florida Statutes, is amended to
121 read:

122 478.47 Licensure by endorsement.—The department shall issue
123 a license by endorsement to any applicant who submits an
124 application and the required fees as set forth in s. 478.55 and
125 who holds an active license or other authority to practice
126 electrology in a jurisdiction whose licensure requirements are



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127 determined by the department board to be equivalent to the
128 requirements for licensure in this state.

129 Section 9. Subsections (2) and (4) of section 478.50,
130 Florida Statutes, are amended to read:

131 478.50 Renewal of license; delinquent status; address
132 notification; continuing education requirements.—

133 (2) A license that is not renewed at the end of the
134 biennium prescribed by the department automatically reverts to
135 delinquent status. The department board shall adopt rules
136 establishing procedures, criteria, and fees as set forth in s.
137 478.55 for reactivation of an inactive license.

138 (4) (a) An application for license renewal must be
139 accompanied by proof of the successful completion of 20 hours of
140 continuing education courses or proof of successfully passing a
141 reexamination for licensure within the immediately preceding
142 biennium which meets the criteria established by the department
143 ~~board~~. Both the continuing education and reexamination shall
144 contain education on blood-borne diseases.

145 (b) The department board, ~~with the assistance of the~~
146 ~~council~~, shall approve criteria for, and content of,
147 electrolysis training programs and continuing education courses
148 required for licensure and renewal as set forth in this chapter.

149 (c) Continuing education programs shall be approved by the
150 department board. Applications for approval shall be submitted
151 to the department board not less than 60 days or ~~not~~ more than
152 360 days before they are held.

153 Section 10. Subsections (2), (3), and (11) of section
154 478.51, Florida Statutes, are amended to read:

155 478.51 Electrology facilities; requisites; facility



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156 licensure; inspection.-

157 (2) The facility license shall be displayed in a
158 conspicuous place within the facility and shall be made
159 available upon request of the department ~~or board~~.

160 (3) The department ~~board~~ shall adopt rules governing the
161 licensure and operations of such facilities, personnel, safety
162 and sanitary requirements, and the licensure application and
163 granting process.

164 (11) Renewal of license registration for electrology
165 facilities shall be accomplished pursuant to rules adopted by
166 the department ~~board~~.

167 Section 11. Section 478.52, Florida Statutes, is amended to
168 read:

169 478.52 Disciplinary proceedings.-

170 (1) The following acts constitute grounds for denial of a
171 license or disciplinary action, as specified in s. 456.072(2):

172 (a) Obtaining or attempting to obtain a license by bribery,
173 fraud, or knowing misrepresentation.

174 (b) Having a license or other authority to deliver
175 electrolysis services revoked, suspended, or otherwise acted
176 against, including denial of licensure, in another jurisdiction.

177 (c) Being convicted or found guilty of, or entering a plea
178 of nolo contendere to, regardless of adjudication, a crime, in
179 any jurisdiction, which directly relates to the practice of
180 electrology.

181 (d) Willfully making or filing a false report or record,
182 willfully failing to file a report or record required for
183 electrologists, or willfully impeding or obstructing the filing
184 of a report or record required by this act or inducing another



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185 person to do so.

186 (e) Circulating false, misleading, or deceptive
187 advertising.

188 (f) Unprofessional conduct, including any departure from,
189 or failure to conform to, acceptable standards related to the
190 delivery of electrolysis services.

191 (g) Engaging or attempting to engage in the illegal
192 possession, sale, or distribution of any illegal or controlled
193 substance.

194 (h) Willfully failing to report any known violation of this
195 chapter.

196 (i) Willfully or repeatedly violating a rule adopted under
197 this chapter, or an order of the ~~board or~~ department previously
198 entered in a disciplinary hearing.

199 (j) Engaging in the delivery of electrolysis services
200 without an active license.

201 (k) Employing an unlicensed person to practice electrology.

202 (l) Failing to perform any statutory or legal obligation
203 placed upon an electrologist.

204 (m) Accepting and performing professional responsibilities
205 which the licensee knows, or has reason to know, she or he is
206 not competent to perform.

207 (n) Delegating professional responsibilities to a person
208 the licensee knows, or has reason to know, is unqualified by
209 training, experience, or licensure to perform.

210 (o) Gross or repeated malpractice or the inability to
211 practice electrology with reasonable skill and safety.

212 (p) Judicially determined mental incompetency.

213 (q) Practicing or attempting to practice electrology under



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214 a name other than her or his own.

215 (r) Being unable to practice electrology with reasonable
216 skill and safety because of a mental or physical condition or
217 illness, or the use of alcohol, controlled substances, or any
218 other substance that ~~which~~ impairs one's ability to practice.

219 1. The department may, upon probable cause, compel a
220 licensee to submit to a mental or physical examination by
221 physicians designated by the department. The cost of an
222 examination shall be borne by the licensee, and her or his
223 failure to submit to such an examination constitutes an
224 admission of the allegations against her or him, consequent upon
225 which a default and a final order may be entered without the
226 taking of testimony or presentation of evidence, unless the
227 failure was due to circumstances beyond her or his control.

228 2. A licensee who is disciplined under this paragraph
229 shall, at reasonable intervals, be afforded an opportunity to
230 demonstrate that she or he can resume the practice of
231 electrology with reasonable skill and safety.

232 3. In any proceeding under this paragraph, the record of
233 proceedings or the orders entered by the department ~~board~~ may
234 not be used against a licensee in any other proceeding.

235 (s) Disclosing the identity of or information about a
236 patient without written permission, except for information which
237 does not identify a patient and which is used for training
238 purposes in an approved electrolysis training program.

239 (t) Practicing or attempting to practice any permanent hair
240 removal except as described in s. 478.42(3) ~~s. 478.42(5)~~.

241 (u) Operating any electrolysis facility unless it has been
242 duly licensed as provided in this chapter.



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243 (v) Violating any provision of this chapter or chapter 456,
244 or any rules adopted pursuant thereto.

245 (2) The department board may enter an order denying
246 licensure, ~~or~~ imposing any of the penalties in s. 456.072(2), or
247 imposing costs as provided in s. 456.072(4) against any
248 applicant for licensure or licensee who is found guilty of
249 violating any provision of subsection (1) of this section or who
250 is found guilty of violating any provision of s. 456.072(1).

251 (3) The department board may not issue or reinstate a
252 license to a person it has deemed unqualified until it is
253 satisfied that such person has complied with the terms and
254 conditions of the final order and that the licensee can safely
255 practice electrology.

256 (4) The department board, ~~with the assistance of the~~
257 ~~council~~, may, by rule, establish guidelines for the disposition
258 of disciplinary cases involving specific types of violations.
259 The guidelines may include minimum and maximum fines, periods of
260 supervision on probation, or conditions upon probation or
261 reissuance of a license.

262 Section 12. Subsection (6) of section 478.53, Florida
263 Statutes, is amended to read:

264 478.53 Penalty for violations.—It is a misdemeanor of the
265 first degree, punishable as provided in s. 775.082 or s.
266 775.083, to:

267 (6) Practice or attempt to practice any permanent hair
268 removal except as described in s. 478.42(3) ~~s. 478.42(5)~~.

269 Section 13. Subsection (1) of section 478.55, Florida
270 Statutes, is amended to read:

271 478.55 Fees; facility; disposition.—



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- 272 (1) The department board shall establish by rule the
273 collection of fees for the following purposes:
- 274 (a) License application fee: a fee not to exceed \$100.
 - 275 (b) Examination fee: a fee not to exceed \$300.
 - 276 (c) Initial licensure fee: a fee not to exceed \$100.
 - 277 (d) Renewal fee: a fee not to exceed \$100 biennially.
 - 278 (e) Reactivation fee: a fee not to exceed \$100.
 - 279 (f) Inspection fee for facility: a fee not to exceed \$100
280 biennially.

281 Section 14. Any current rules adopted by the Department of
282 Health, the Board of Medicine, or the Electrolysis Council which
283 relate to the practice of electrology remain in full force and
284 effect unless revised by the Department of Health pursuant to
285 this act or superseded by other laws.

286 Section 15. This act shall take effect October 1, 2018.

287
288 ===== T I T L E A M E N D M E N T =====

289 And the title is amended as follows:

290 Delete everything before the enacting clause
291 and insert:

292 A bill to be entitled
293 An act relating to laser hair removal or reduction;
294 amending s. 478.42, F.S.; revising definitions;
295 amending s. 478.43, F.S.; providing rulemaking
296 authority to the Department of Health for regulating
297 electrolysis services; repealing ss. 478.44 and
298 478.46, F.S., relating to the Electrolysis Council and
299 temporary permits, respectively; providing for the
300 validity of temporary permits previously issued by the



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301 Board of Medicine; providing for the expiration of
302 such permits by a specified date, upon the issuance of
303 a license to practice electrology, or upon notice that
304 the applicant failed a written examination; amending
305 s. 478.49, F.S.; providing certification requirements
306 for licensed electrologists who perform laser hair
307 removal or reduction; specifying that licensed
308 electrologists must meet certain direct supervision
309 requirements; providing an exception; amending ss.
310 478.45, 478.47, 478.50, 478.51, 478.52, 478.53, and
311 478.55, F.S.; conforming provisions to changes made by
312 the act; specifying that current rules relating to the
313 practice of electrology remain in full force and
314 effect unless revised by the department or superseded
315 by other laws; providing an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2018	.	
	.	
	.	
	.	

The Committee on Health Policy (Hutson) recommended the following:

1 **Senate Amendment to Amendment (615502) (with title**
2 **amendment)**

3
4 Between lines 69 and 70
5 insert:

6 Section 7. Section 478.54, Florida Statutes, is amended to
7 read:

8 478.54 Exemptions.—This chapter does not apply to the
9 delivery of electrolysis services by:

10 (1) A physician licensed under chapter 458, ~~or~~ an



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11 osteopathic physician licensed under chapter 459, or a
12 chiropractic physician licensed under chapter 460; or

13 (2) A student delivering electrolysis services to another
14 in an approved electrolysis training program.

15

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

17 And the title is amended as follows:

18 Delete line 309

19 and insert:

20 requirements; providing an exception; amending s.

21 478.54, F.S.; exempting chiropractic physicians from

22 ch. 478, F.S.; amending ss.

By Senator Grimsley

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1 A bill to be entitled
2 An act relating to laser hair removal or reduction;
3 amending ss. 20.165 and 20.43, F.S.; transferring the
4 regulation of electrology from the Department of
5 Health to the Department of Business and Professional
6 Regulation; amending s. 478.42, F.S.; revising
7 definitions; amending s. 478.49, F.S.; requiring that
8 a licensee who uses a laser or pulsed-light device in
9 certain procedures be certified by a nationally
10 recognized electrology organization; conforming a
11 provision to changes made by the act; repealing s.
12 478.43, F.S., relating to the Board of Medicine;
13 repealing s. 478.44, F.S., relating to the
14 Electrolysis Council; repealing s. 478.46, F.S.,
15 relating to temporary permits; amending ss. 456.037,
16 478.45, 478.47, 478.50, 478.51, 478.52, 478.53, and
17 478.55, F.S.; conforming provisions to changes made by
18 the act; transferring the statutory powers, duties,
19 functions, records, personnel, property, and
20 unexpended balances of appropriations, allocations, or
21 other funds for the administration of ch. 478, F.S.,
22 relating to electrolysis, from the Department of
23 Health to the Department of Business and Professional
24 Regulation; providing that the transfer does not
25 affect the validity of any judicial or administrative
26 action pending as of a certain date; providing that
27 certain lawful orders remain in effect and
28 enforceable; providing for the continued validity of
29 licenses and temporary permits issued by the

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30 Department of Health; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Paragraph (a) of subsection (4) of section
35 20.165, Florida Statutes, is amended to read:

36 20.165 Department of Business and Professional Regulation.—
37 There is created a Department of Business and Professional
38 Regulation.

39 (4) (a) The following boards and programs are established
40 within the Division of Professions:

41 1. Board of Architecture and Interior Design, created under
42 part I of chapter 481.

43 2. Florida Board of Auctioneers, created under part VI of
44 chapter 468.

45 3. Barbers' Board, created under chapter 476.

46 4. Florida Building Code Administrators and Inspectors
47 Board, created under part XII of chapter 468.

48 5. Construction Industry Licensing Board, created under
49 part I of chapter 489.

50 6. Board of Cosmetology, created under chapter 477.

51 7. Electrical Contractors' Licensing Board, created under
52 part II of chapter 489.

53 8. Electrolysis licensing program, created under chapter
54 478.

55 ~~9.8.~~ Board of Employee Leasing Companies, created under
56 part XI of chapter 468.

57 10. Home inspection services licensing program, created
58 under part XV of chapter 468.

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59 11.9. Board of Landscape Architecture, created under part
60 II of chapter 481.

61 12. Mold-related services licensing program, created under
62 part XVI of chapter 468.

63 13.10. Board of Pilot Commissioners, created under chapter
64 310.

65 14.11. Board of Professional Engineers, created under
66 chapter 471.

67 15.12. Board of Professional Geologists, created under
68 chapter 492.

69 16.13. Board of Veterinary Medicine, created under chapter
70 474.

71 ~~14. Home inspection services licensing program, created~~
72 ~~under part XV of chapter 468.~~

73 ~~15. Mold-related services licensing program, created under~~
74 ~~part XVI of chapter 468.~~

75 Section 2. Paragraph (g) of subsection (3) of section
76 20.43, Florida Statutes, is amended to read:

77 20.43 Department of Health.—There is created a Department
78 of Health.

79 (3) The following divisions of the Department of Health are
80 established:

81 (g) Division of Medical Quality Assurance, which is
82 responsible for the following boards and professions established
83 within the division:

84 1. Emergency medical technicians and paramedics, as
85 provided under part III of chapter 401.

86 2.1. The Board of Acupuncture, created under chapter 457.

87 3.2. The Board of Medicine, created under chapter 458.

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88 ~~4.3.~~ The Board of Osteopathic Medicine, created under
89 chapter 459.

90 ~~5.4.~~ The Board of Chiropractic Medicine, created under
91 chapter 460.

92 ~~6.5.~~ The Board of Podiatric Medicine, created under chapter
93 461.

94 ~~7.6.~~ Naturopathy, as provided under chapter 462.

95 ~~8.7.~~ The Board of Optometry, created under chapter 463.

96 ~~9.8.~~ The Board of Nursing, created under part I of chapter
97 464.

98 ~~10.9.~~ Nursing assistants, as provided under part II of
99 chapter 464.

100 ~~11.10.~~ The Board of Pharmacy, created under chapter 465.

101 ~~12.11.~~ The Board of Dentistry, created under chapter 466.

102 ~~13.12.~~ Midwifery, as provided under chapter 467.

103 ~~14.13.~~ The Board of Speech-Language Pathology and
104 Audiology, created under part I of chapter 468.

105 ~~15.14.~~ The Board of Nursing Home Administrators, created
106 under part II of chapter 468.

107 ~~16.15.~~ The Board of Occupational Therapy, created under
108 part III of chapter 468.

109 ~~17.16.~~ Respiratory therapy, as provided under part V of
110 chapter 468.

111 ~~18.17.~~ Dietetics and nutrition practice, as provided under
112 part X of chapter 468.

113 ~~19.18.~~ The Board of Athletic Training, created under part
114 XIII of chapter 468.

115 ~~20.19.~~ The Board of Orthotists and Prosthetists, created
116 under part XIV of chapter 468.

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- 117 ~~20. Electrolysis, as provided under chapter 478.~~
- 118 21. The Board of Massage Therapy, created under chapter
- 119 480.
- 120 22. The Board of Clinical Laboratory Personnel, created
- 121 under part III of chapter 483.
- 122 23. Medical physicists, as provided under part IV of
- 123 chapter 483.
- 124 24. The Board of Opticianry, created under part I of
- 125 chapter 484.
- 126 25. The Board of Hearing Aid Specialists, created under
- 127 part II of chapter 484.
- 128 26. The Board of Physical Therapy Practice, created under
- 129 chapter 486.
- 130 27. The Board of Psychology, created under chapter 490.
- 131 28. School psychologists, as provided under chapter 490.
- 132 29. The Board of Clinical Social Work, Marriage and Family
- 133 Therapy, and Mental Health Counseling, created under chapter
- 134 491.
- 135 ~~30. Emergency medical technicians and paramedics, as~~
- 136 ~~provided under part III of chapter 401.~~
- 137 Section 3. Section 478.42, Florida Statutes, is amended to
- 138 read:
- 139 478.42 Definitions.—As used in this chapter, the term:
- 140 ~~(1) "Board" means the Board of Medicine.~~
- 141 ~~(2) "Council" means the Electrolysis Council.~~
- 142 (1)(3) "Department" means the Department of Business and
- 143 Professional Regulation Health.
- 144 (2)(4) "Electrologist" means a person who engages in the
- 145 practice of electrolysis.

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146 (3)~~(5)~~ "Electrolysis or electrology" means the permanent
147 removal of hair ~~by destroying the hair-producing cells of the~~
148 ~~skin and vascular system,~~ using equipment and devices that
149 ~~approved by the board which~~ have been cleared by and registered
150 with the United States Food and Drug Administration ~~and that are~~
151 ~~used pursuant to protocols approved by the board.~~

152 Section 4. Section 478.49, Florida Statutes, is amended,
153 and subsection (3) is added to that section, to read:

154 478.49 License and certification required.-

155 (1) A person may not ~~No person may~~ practice electrology or
156 hold herself or himself out as an electrologist in this state
157 unless she or he ~~the person~~ has been issued a license by the
158 department and holds an active license pursuant to ~~the~~
159 ~~requirements of~~ this chapter.

160 (2) A licensee shall display her or his license in a
161 conspicuous location in her or his place of practice and provide
162 it to the department ~~or the board~~ upon request.

163 (3) A licensee who uses a laser or pulsed-light device in a
164 laser hair removal or reduction procedure must be certified by a
165 nationally recognized electrology organization in the use of
166 these devices.

167 Section 5. Section 478.43, Florida Statutes, is repealed.

168 Section 6. Section 478.44, Florida Statutes, is repealed.

169 Section 7. Section 478.46, Florida Statutes, is repealed.

170 Section 8. Subsection (5) of section 456.037, Florida
171 Statutes, is amended to read:

172 456.037 Business establishments; requirements for active
173 status licenses; delinquency; discipline; applicability.-

174 (5) This section applies to any business establishment

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175 registered, permitted, or licensed by the department to do
176 business. Business establishments include, but are not limited
177 to, dental laboratories, ~~electrology facilities~~, massage
178 establishments, pharmacies, and pain-management clinics required
179 to be registered under s. 458.3265 or s. 459.0137.

180 Section 9. Section 478.45, Florida Statutes, is amended to
181 read:

182 478.45 Requirements for licensure.—

183 (1) An applicant applying for licensure as an electrologist
184 shall file a written application, accompanied by the application
185 for licensure fee prescribed in s. 478.55, on a form provided by
186 the department board, showing to the satisfaction of the
187 department board that the applicant:

188 (a) Is at least 18 years old.

189 (b) Is of good moral character.

190 (c) Possesses a high school diploma or a high school
191 equivalency diploma.

192 (d) Has not committed an act in any jurisdiction which
193 would constitute grounds for disciplining an electrologist in
194 this state.

195 (e) Has successfully completed the academic requirements of
196 an electrolysis training program, not to exceed 120 hours, and
197 the practical application thereof as approved by the department
198 board.

199 (2) Each applicant for licensure must ~~shall~~ successfully
200 pass a written examination developed by the department or a
201 national examination that has been approved by the department
202 ~~board~~. The examinations must ~~shall~~ test the applicant's
203 knowledge relating to the practice of electrology, including the

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204 applicant's professional skills and judgment in the use of
205 electrolysis techniques and methods, and any other subjects that
206 ~~which~~ are useful to determine the applicant's fitness to
207 practice.

208 (3) The department, ~~upon approval of the board,~~ may adopt a
209 national examination in lieu of any part of the examination
210 required by this section. The department board, ~~with the~~
211 ~~assistance of the council,~~ shall establish standards for
212 acceptable performance.

213 (4) The department shall issue a license to practice
214 electrology to any applicant who passes the examination, pays
215 the licensure fee as set forth in s. 478.55, and otherwise meets
216 the requirements of this chapter.

217 (5) The department shall conduct licensure examinations at
218 least two times a year. The department shall give public notice
219 of the time and place of each examination at least 60 days
220 before it is administered and shall mail notice of such
221 examination to each applicant whose application is timely filed,
222 pursuant to department board rule.

223 (6) The department may not issue a license to any applicant
224 who is under investigation in another jurisdiction for an
225 offense that ~~which~~ would be a violation of this chapter, until
226 such investigation is complete. Upon completion of such
227 investigation, if the applicant is found guilty of such offense,
228 the department board shall apply the applicable provisions of s.
229 478.52.

230 Section 10. Section 478.47, Florida Statutes, is amended to
231 read:

232 478.47 Licensure by endorsement.—The department shall issue

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233 a license by endorsement to any applicant who submits an
234 application and the required fees as set forth in s. 478.55 and
235 who holds an active license or other authority to practice
236 electrology in a jurisdiction whose licensure requirements are
237 determined by the department board to be equivalent to the
238 requirements for licensure in this state.

239 Section 11. Subsections (2) and (4) of section 478.50,
240 Florida Statutes, are amended to read:

241 478.50 Renewal of license; delinquent status; address
242 notification; continuing education requirements.—

243 (2) A license that is not renewed at the end of the
244 biennium prescribed by the department automatically reverts to
245 delinquent status. The department board shall adopt rules
246 establishing procedures, criteria, and fees as set forth in s.
247 478.55 for reactivation of an inactive license.

248 (4) (a) An application for license renewal must be
249 accompanied by proof of the successful completion of 20 hours of
250 continuing education courses or proof of successfully passing a
251 reexamination for licensure within the immediately preceding
252 biennium which meets the criteria established by the department
253 ~~board~~. Both the continuing education and reexamination shall
254 contain education on blood-borne diseases.

255 (b) The department board, ~~with the assistance of the~~
256 ~~council~~, shall approve criteria for, and content of,
257 electrolysis training programs and continuing education courses
258 required for licensure and renewal as set forth in this chapter.

259 (c) Continuing education programs shall be approved by the
260 department board. Applications for approval shall be submitted
261 to the department board not less than 60 days or ~~not~~ more than

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262 360 days before they are held.

263 Section 12. Subsections (2), (3), and (11) of section
264 478.51, Florida Statutes, are amended to read:

265 478.51 Electrology facilities; requisites; facility
266 licensure; inspection.—

267 (2) The facility license shall be displayed in a
268 conspicuous place within the facility and shall be made
269 available upon request of the department ~~or board~~.

270 (3) The department board shall adopt rules governing the
271 licensure and operations of such facilities, personnel, safety
272 and sanitary requirements, and the licensure application and
273 granting process.

274 (11) Renewal of license registration for electrology
275 facilities shall be accomplished pursuant to rules adopted by
276 the department board.

277 Section 13. Section 478.52, Florida Statutes, is amended to
278 read:

279 478.52 Disciplinary proceedings.—

280 (1) The following acts constitute grounds for denial of a
281 license or disciplinary action, as specified in s. 455.227(2) ~~s.~~
282 ~~456.072(2)~~:

283 (a) Obtaining or attempting to obtain a license by bribery,
284 fraud, or knowing misrepresentation.

285 (b) Having a license or other authority to deliver
286 electrolysis services revoked, suspended, or otherwise acted
287 against, including denial of licensure, in another jurisdiction.

288 (c) Being convicted or found guilty of, or entering a plea
289 of nolo contendere to, regardless of adjudication, a crime, in
290 any jurisdiction, which directly relates to the practice of

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291 electrology.

292 (d) Willfully making or filing a false report or record,
293 willfully failing to file a report or record required for
294 electrologists, or willfully impeding or obstructing the filing
295 of a report or record required by this act or inducing another
296 person to do so.

297 (e) Circulating false, misleading, or deceptive
298 advertising.

299 (f) Unprofessional conduct, including any departure from,
300 or failure to conform to, acceptable standards related to the
301 delivery of electrolysis services.

302 (g) Engaging or attempting to engage in the illegal
303 possession, sale, or distribution of any illegal or controlled
304 substance.

305 (h) Willfully failing to report any known violation of this
306 chapter.

307 (i) Willfully or repeatedly violating a rule adopted under
308 this chapter, or an order of the ~~board or~~ department previously
309 entered in a disciplinary hearing.

310 (j) Engaging in the delivery of electrolysis services
311 without an active license.

312 (k) Employing an unlicensed person to practice electrology.

313 (l) Failing to perform any statutory or legal obligation
314 placed upon an electrologist.

315 (m) Accepting and performing professional responsibilities
316 which the licensee knows, or has reason to know, she or he is
317 not competent to perform.

318 (n) Delegating professional responsibilities to a person
319 the licensee knows, or has reason to know, is unqualified by

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320 training, experience, or licensure to perform.

321 (o) Gross or repeated malpractice or the inability to
322 practice electrology with reasonable skill and safety.

323 (p) Judicially determined mental incompetency.

324 (q) Practicing or attempting to practice electrology under
325 a name other than her or his own.

326 (r) Being unable to practice electrology with reasonable
327 skill and safety because of a mental or physical condition or
328 illness, or the use of alcohol, controlled substances, or any
329 other substance that ~~which~~ impairs one's ability to practice.

330 1. The department may, upon probable cause, compel a
331 licensee to submit to a mental or physical examination by
332 physicians designated by the department. The cost of an
333 examination shall be borne by the licensee, and her or his
334 failure to submit to such an examination constitutes an
335 admission of the allegations against her or him, consequent upon
336 which a default and a final order may be entered without the
337 taking of testimony or presentation of evidence, unless the
338 failure was due to circumstances beyond her or his control.

339 2. A licensee who is disciplined under this paragraph
340 shall, at reasonable intervals, be afforded an opportunity to
341 demonstrate that she or he can resume the practice of
342 electrology with reasonable skill and safety.

343 3. In any proceeding under this paragraph, the record of
344 proceedings or the orders entered by the department ~~board~~ may
345 not be used against a licensee in any other proceeding.

346 (s) Disclosing the identity of or information about a
347 patient without written permission, except for information which
348 does not identify a patient and which is used for training

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349 purposes in an approved electrolysis training program.

350 (t) Practicing or attempting to practice any permanent hair
351 removal except as described in s. 478.42(3) ~~s. 478.42(5)~~.

352 (u) Operating any electrolysis facility unless it has been
353 duly licensed as provided in this chapter.

354 (v) Violating any provision of this chapter or chapter 455
355 ~~456~~, or any rules adopted pursuant thereto.

356 (2) The department board ~~board~~ may enter an order denying
357 licensure, ~~or~~ imposing any of the penalties in s. 455.227(2), or
358 imposing costs as provided in s. 455.227(3) ~~s. 456.072(2)~~
359 against any applicant for licensure or licensee who is found
360 guilty of violating any provision of subsection (1) of this
361 section or who is found guilty of violating any provision of s.
362 455.227(1) ~~s. 456.072(1)~~.

363 (3) The department board ~~board~~ may not issue or reinstate a
364 license to a person it has deemed unqualified until it is
365 satisfied that such person has complied with the terms and
366 conditions of the final order and that the licensee can safely
367 practice electrology.

368 (4) The department board, ~~with the assistance of the~~
369 ~~council~~, may, by rule, establish guidelines for the disposition
370 of disciplinary cases involving specific types of violations.
371 The guidelines may include minimum and maximum fines, periods of
372 supervision on probation, or conditions upon probation or
373 reissuance of a license.

374 Section 14. Subsection (6) of section 478.53, Florida
375 Statutes, is amended to read:

376 478.53 Penalty for violations.—It is a misdemeanor of the
377 first degree, punishable as provided in s. 775.082 or s.

26-00619-18

2018744__

378 775.083, to:

379 (6) Practice or attempt to practice any permanent hair
380 removal except as described in s. 478.42(3) ~~s. 478.42(5)~~.

381 Section 15. Subsection (1) of section 478.55, Florida
382 Statutes, is amended to read:

383 478.55 Fees; facility; disposition.—

384 (1) The department ~~board~~ shall establish by rule the
385 collection of fees for the following purposes:

386 (a) License application fee: a fee not to exceed \$100.

387 (b) Examination fee: a fee not to exceed \$300.

388 (c) Initial licensure fee: a fee not to exceed \$100.

389 (d) Renewal fee: a fee not to exceed \$100 biennially.

390 (e) Reactivation fee: a fee not to exceed \$100.

391 (f) Inspection fee for facility: a fee not to exceed \$100
392 biennially.

393 Section 16. (1) All of the statutory powers, duties,
394 functions, and its records, personnel, property, and unexpended
395 balances of appropriations, allocations, or other funds for the
396 administration of chapter 478, Florida Statutes, are transferred
397 by a type two transfer, as defined in s. 20.06(2), Florida
398 Statutes, from the Department of Health to the Department of
399 Business and Professional Regulation.

400 (2) The transfer of regulatory authority under chapter 478,
401 Florida Statutes, provided by this section may not affect the
402 validity of any judicial or administrative action pending as of
403 11:59 p.m. on the day before the effective date of this section
404 to which the Department of Health is at that time a party, and
405 the Department of Business and Professional Regulation is
406 substituted as a party in interest in any such action.

26-00619-18

2018744__

407 (3) All lawful orders issued by the Department of Health
408 implementing or enforcing or otherwise in regard to any
409 provision of chapter 478, Florida Statutes, issued before the
410 effective date of this section shall remain in effect and
411 enforceable after the effective date of this section unless
412 thereafter modified in accordance with law.

413 (4) Notwithstanding the transfer of regulatory authority
414 under chapter 478, Florida Statutes, provided by this section,
415 persons and entities holding in good standing any license or
416 temporary permit issued under chapter 478, Florida Statutes, as
417 of 11:59 p.m. on June 30, 2018, are deemed to hold in good
418 standing a license or temporary permit in the same capacity as
419 that for which the license or temporary permit was formerly
420 issued.

421 Section 17. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Dana D. Young, Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: January 10, 2018

I respectfully request that **Senate Bill #744**, relating to Laser Hair Removal or Reduction, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "Denise Grimsley".

Senator Denise Grimsley
Florida Senate, District 26

cc: Sandra Stovall, Staff Director
Celia Georgiades, Committee Administrative Assistant

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/18

Meeting Date

744

Bill Number (if applicable)

350986 AA

Amendment Barcode (if applicable)

Topic Electrolology

Name Eilyn Bogdanoff

Job Title

Address 1 E Broward Blvd

Street

Phone

FT LAUD FL 33316

City

State

Zip

Email ebogdanoff@bplegal.com

Speaking: [] For [X] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing SCMHR

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/18

Meeting Date

744

Bill Number (if applicable)

350896

Amendment Barcode (if applicable)

Topic _____

Name PAUL LAMBERT

Job Title _____

Address 263 Rosehill Drive North

Phone 850 597-2696

Tallahassee FL 32312

Email plambert@paulambertlaw.com

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA CHIROPRACTIC ASSO.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/18
Meeting Date

744 ✓

615502 DE
Bill Number (if applicable)
Amendment Barcode (if applicable)

Topic Electrology

Name Ellyn Bogdanoff

Job Title _____

Address 1 E Broward Blvd

FT LAUD FL 33316
Street City State Zip

Phone _____

Email ebogdanoff@bplegal.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SCMHR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/18

Meeting Date

SB 744

Bill Number (if applicable)

Topic Electrolysis regulation

Amendment Barcode (if applicable)

Name Larry Gonzalez

Job Title Lobbyist - Attorney

Address 223 S. Gadsden St.

Phone 80-570-6307

Street

Tallahassee FL 32301

City

State

Zip

Email lawganz@earthlink.net

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Electrolysis Society of Florida & Electrolysis Assn of Fla.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1106

INTRODUCER: Banking and Insurance Committee and Senator Bean

SUBJECT: Genetic Information Used for Insurance

DATE: February 13, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Lloyd</u>	<u>Stovall</u>	<u>HP</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 1106 prohibits life insurers, including life insurers providing disability insurance, and long-term care insurers from canceling, limiting, or denying coverage or establishing differentials in premium rates, based on genetic information, if there is no diagnosis of a condition related to the genetic information. The bill also prohibits such insurers from requiring or soliciting genetic information or considering a person's decisions or actions relating to genetic testing in any manner for any insurance purpose. Florida currently applies these prohibitions to health insurers.

The bill amends the existing prohibition against health insurers using genetic test results in any manner for any insurance purpose. Under the bill the prohibition applies in the absence of a diagnosis of a condition related to genetic information. The bill applies the revised prohibition to life insurers and long-term care insurers.

The provisions of the bill will apply to policies issued or renewed by life insurers and long-term care insurers on or after January 1, 2019.

II. Present Situation:

Use of Genetic Information for Insurance Purposes – Florida Requirements

Insurance policies for life, disability income, and long-term care¹ are exempt from s. 627.4301, F.S., which provides standards for the use of genetic information by health insurers. Health insurers² may not, in the absence of a diagnosis of a condition related to genetic information, use such information to cancel, limit, or deny coverage, or establish differentials in premium rates. Health insurers are also prohibited from requiring or soliciting genetic information, using genetic test results, or considering a person's decisions or actions relating to genetic testing in any manner for any insurance purpose.

Section 627.4031, F.S., defines “genetic information” to mean information derived from genetic testing to determine the presence or absence of variations or mutations, including carrier status, in an individual's genetic material or genes that are:

- Scientifically or medically believed to cause a disease disorder, or syndrome, or are associated with a statistically increased risk of developing a disease; or
- Associated with a statistically increased risk of developing a disease, disorder, or syndrome, which is producing or showing no symptoms at the time of testing.

Genetic testing, for purposes of s. 627.4031, F.S., does not include routine physical examinations or chemical, blood, or urine analysis, unless specifically conducted to obtain genetic information, or questions regarding family history.

Federal Laws on the Use of Genetic Information for Insurance Purposes

Federal law generally prohibits health insurers from soliciting genetic information and using such information for underwriting purposes. Federal law does not apply these prohibitions to life insurance, disability insurance, or long-term care insurance.

Genetic Information Nondiscrimination Act of 2008

The Genetic Information Nondiscrimination Act of 2008 (GINA) amended a number of existing federal laws to prohibit health insurers from using genetic information for underwriting purposes.³ The act does not apply to life insurance, long-term care insurance or disability insurance.

¹ Section 627.4301(2)(c), F.S. Other types of insurance that are wholly exempt from the statute are accident-only policies, hospital indemnity or fixed indemnity policies, dental policies, and vision policies.

² Section 627.4301(1)(b), F.S., defines health insurer to mean, “an authorized insurer offering health insurance as defined in s. 624.603, F.S., a self-insured plan as defined in s. 624.031, F.S., a multiple-employer welfare arrangement as defined in s. 624.437, F.S., a prepaid limited health service organization as defined in s. 636.003, F.S., a health maintenance organization as defined in s. 641.19, F.S., a prepaid health clinic as defined in s. 641.402, F.S., a fraternal benefit society as defined in s. 632.601, F.S., or any health care arrangement whereby risk is assumed.”

³ Pub. Law No. 110-233, s. 122 Stat. 881-921 (2008). <https://www.gpo.gov/fdsys/pkg/PLAW-110publ233/pdf/PLAW-110publ233.pdf> (last accessed February 10, 2018).

Title I of GINA provides protections against discrimination by health insurers on the basis of genetic information.⁴ GINA prohibits health insurers and health plan administrators from using genetic information to make rating or coverage decisions.⁵ These decisions include eligibility for coverage and setting premium or contribution amounts.

The GINA generally prohibits health insurers and health plan administrators from requesting or requiring genetic information of an individual or the individual's family members,⁶ nor may such information be requested, required or purchased for underwriting purposes.⁷ Underwriting purposes include rules for eligibility, determining coverage or benefits, cost-sharing mechanisms, calculating premiums or contribution amounts, rebates, payments in kind, pre-existing condition exclusions, and other activities related to the creation, renewal, or replacement of health insurance or health benefits. Underwriting purposes does not include determining medical appropriateness where an individual seeks a health benefit under a plan, coverage, or policy.⁸ Genetic information may be used by an insurer to make a determination regarding the payment of benefits, for example, as the basis of a diagnosis that then would lead to benefits being provided under the insurance policy.

The protections in GINA apply to the individual and group health markets, including employer sponsored plans under the Employee Retirement Income Security Act of 1974 (ERISA).⁹ GINA generally expanded many of the genetic information protections in the Health Insurance Portability and Accountability Act of 1996¹⁰ (HIPAA) and applied them to the individual, group and Medicare supplemental marketplaces.¹¹ The protections enacted in GINA do not apply to Medicare or Medicaid because both programs bar the use of genetic information as a condition of eligibility.¹² GINA also prohibits employment discrimination on the basis of genetic information.¹³

States may provide stronger protections than GINA, which provides a baseline level of protection against prohibited discrimination on the basis of genetic information.

Health Insurance Portability and Accountability Act of 1996

HIPAA establishes national standards to ensure the privacy and nondisclosure of personal health information. The rule applies to “covered entities” which means a health plan, health care

⁴ 110th Congress, *Summary: H.R.493 Public Law* (May 21, 2008) (last accessed February 1, 2018).

⁵ See 29 USC 1182; 42 USC 300gg-1; and 42 USC 300gg-53.

⁶ Department of Health and Human Services, “GINA” *The Genetic Information Nondiscrimination Act of 2008: Information for Researchers and Health Care Professionals*, (April 6, 2009).

<https://www.genome.gov/pages/policyethics/geneticdiscrimination/ginainfodoc.pdf> (last accessed February 1, 2018).

⁷ See 29 USC 1182(d); 42 USC 300gg-4(d); and 42 USC 300gg-53(e).

⁸ See 45 CFR 164.502(a)(5)(i)(4)(B).

⁹ Perry W. Payne, Jr. et al, *Health Insurance and the Genetic Information Nondiscrimination Act of 2008: Implications for Public Health Policy and Practice*, Public Health Rep., Vol. 124 (March-April 2009), 328, 331.

¹⁰ Codified 42 USC 300gg, 29 USC 1181 et seq., and 42 USC 1320d et seq.

¹¹ See Payne at p. 329.

¹² National Institutes of Health, *The Genetic Information Nondiscrimination Act (GINA)*.

¹³ See 29 CFR 1635.1(a), which prohibits the use of genetic information in employment decision making; restricts employers and other entities from requesting, requiring, or purchasing genetic information; requires that genetic information be maintained as a confidential medical record, and places strict limits on disclosure of genetic information; and provides remedies for individuals whose genetic information is acquired, used, or disclosed in violation of GINA.

clearinghouse, other health care providers, and their business associates.¹⁴ HIPAA provides standards for the use and disclosure of protected health information and generally prohibits covered entities and their business associates from disclosing protected health information, except as otherwise permitted or required.¹⁵ Covered entities generally may not sell protected health information.¹⁶ HIPAA, as modified by GINA, also prohibits health plans from using or disclosing protected health information that is genetic information for underwriting purposes.¹⁷

Patient Protection and Affordable Care Act of 2010

The Patient Protection and Affordable Care Act of 2010 (ACA) requires all individual and group health plans to enroll applicants regardless of their health status, age, gender, or other factors that might predict the use of health services.¹⁸ These guaranteed issue and guaranteed renewability requirements apply to genetic testing.

Use of Genetic Information for Insurance Purposes – Requirements in Other States

Federal law under GINA applies to all states and provides a baseline level of protection that states may exceed. The NIH has identified 105 state statutes addressing health insurance nondiscrimination across 48 states and the District of Columbia.¹⁹ Fewer states address genetic testing regarding other lines of insurance such as life insurance, disability insurance, and long-term care insurance.²⁰

Examples of such statutes include Oregon, which requires informed consent to conduct testing, prohibits the use of genetic information for underwriting or ratemaking for any policy for hospital and medical expense, and prohibits using the genetic information of a blood relative for underwriting purposes regarding any insurance policy.²¹ Informed consent when an insurer requests genetic testing for life or disability insurance is required in California, New Jersey, and New York.²² Massachusetts prohibits unfair discrimination because of the basis of genetic information or a genetic test and prohibits requiring an applicant or existing policyholder to undergo genetic testing.²³ Arizona prohibits the use of genetic information for underwriting or rating disability insurance in the absence of a diagnosis, and life and disability insurance policies may not use genetic information for underwriting or ratemaking unless supported by the applicant's medical condition, medical history, and either claims experience or actuarial projections.²⁴

¹⁴ See 45 CFR 160.103.

¹⁵ See 45 CFR 164.502(a).

¹⁶ See 45 CFR 164.502(a)(5)(ii)(A).

¹⁷ See 45 CFR 164.502(a)(5)(i).

¹⁸ See 42 USC 300gg-1 and 42 USC 300gg-2.

¹⁹ National Institutes of Health, *Genome Statute and Legislation Database Search*.

<https://www.genome.gov/policyethics/legdatabase/pubsearch.cfm> (database search for “state statute,” “health insurance nondiscrimination” performed by Committee on Banking and Insurance professional staff on Feb. 2, 2018).

²⁰ See *Id.* (database search for “state statute,” “other lines of insurance nondiscrimination” performed by Committee on Banking and Insurance professional staff on Feb. 2, 2018).

²¹ Section 746.135, O.R.S.

²² See Cal. Ins. Code s. 10146 et seq.; s. 17B:30-12, N.J.S.; and ISC s. 2615, N.Y.C.L.

²³ Chapter 175 sections 108I and 120E, M.G.L.

²⁴ Section 20-448, A.R.S.

Genetic Testing

Genetic testing includes a number of medical tests that identify and examine chromosomes, genes, or proteins for the purpose of obtaining genetic information.²⁵ Genetic testing is often used for medical or genealogical purposes.

Medical Genetic Testing

Genetic testing can be done to diagnose a genetic disorder, to predict the possibility of future illness, and predict a patient's response to therapy.²⁶ More than 2,000 genetic tests are currently available and more tests are constantly being developed.²⁷ The National Institutes of Health²⁸ (NIH) have identified the following available types of medical genetic testing:²⁹

- *Diagnostic testing* identifies or rules out a specific genetic or chromosomal condition, and is often used to confirm a diagnosis when a particular condition is suspected based on the individual's symptoms. For example, a person experiencing abnormal muscle weakness may undergo diagnostic testing that screens for various muscular dystrophies.
- *Predictive and presymptomatic testing* is used to detect gene mutations associated with disorders that appear after birth, often later in life. This testing is often used by people who are asymptomatic, but have a family member with a genetic disorder. Predictive testing can identify mutations that will result in genetic disorder, or that increase a person's risk of developing disorders with a genetic basis, such as cancer.
- *Carrier testing* identifies people who carry one copy of a gene mutation that, when present in two copies, causes a genetic disorder. This test is often used by parents to determine their risk of having a child with a genetic disorder.
- *Preimplantation testing* is used to detect genetic changes in embryos developed by assisted reproductive techniques such as in-vitro fertilization. Small numbers of cells are taken from the embryos and tested for genetic changes prior to implantation of a fertilized egg.
- *Prenatal testing* detects changes in a baby's genes or chromosomes before birth. Such testing is often offered if there is an increased risk the baby will have a genetic or chromosomal disorder.
- *Newborn screening* is performed shortly after birth to identify genetic disorders that can be treated early in life. Florida screens for 31 disorders recommended by the United States Department of Health and Human Services Recommended Uniform Screening Panel and 22 secondary disorders, unless a parent objects in writing.³⁰

²⁵ National Institutes of Health, *Genetic Testing*, pg. 3 (January 30, 2018), available at <https://ghr.nlm.nih.gov/primer/testing/uses> (last accessed Feb. 10, 2018).

²⁶ Francis S. Collins, *A Brief Primer on Genetic Testing* (January 24, 2003). <https://www.genome.gov/10506784/a-brief-primer-on-genetic-testing/> (last accessed Feb. 10, 2018).

²⁷ See Ohio State University, Wexner Medical Center, *Facts About Testing*, <https://wexnermedical.osu.edu/genetics/facts-about-testing> (last accessed Feb. 10, 2018).

²⁸ The National Institutes of Health is the medical research agency of the United States federal government. The NIH is part of the United States Department of Health and Human Services. The NIH is made of 27 different Institutes and Centers, each having a specific research agenda.

²⁹ See National Institutes of Health, *Genetic Testing*, at pp. 5-6.

³⁰ Florida Department of Health, *Newborn Screening*. <http://www.floridahealth.gov/programs-and-services/childrens-health/newborn-screening/index.html> (last accessed Feb. 10, 2018).

Genetic testing is often used for research purposes. For example, genetic testing may be used to discover genes or increase understanding of genes that are newly discovered or not well understood.³¹ Testing results as part of a research study are usually not available to patients or healthcare providers.³²

The Human Genome Project, which in April 2003 successfully sequenced and mapped all of the genes of humans, and a variety of other genetic testing has led to multiple medical advances. For example, genetic testing identified that the reason the drug Plavix, which is commonly used to prevent blood clots in patients at risk for heart attacks and strokes, does not work for approximately 30 percent of the United States population because variations in the CYP2C19 gene account for the lack of a response.³³ Thus genetic testing can identify persons for whom the drug will not be effective.

The American Medical Association supports broad protections against genetic discrimination because it believes genetic testing and genetic information is essential to advancements in medical knowledge and care.³⁴ Accordingly, the organization supports comprehensive federal protection against genetic discrimination because “patients remain at-risk of discrimination in a broad array of areas such as life, long-term care, and disability insurance as well as housing, education, public accommodations, mortgage lending, and elections.”

Methods of genetic testing used for medical purposes include:

- Molecular genetic tests (Gene tests) that study single genes or short lengths of DNA to identify variations or mutations that lead to a genetic disorder.
- Chromosomal genetic tests that analyze whole chromosomes or long lengths of DNA to see if there are large genetic changes, such as an extra copy of a chromosome, that cause a genetic condition.
- Biochemical genetic tests study the amount or activity level of proteins; abnormalities in either can indicate changes to the DNA that result in a genetic disorder.

Genetic Ancestry Testing

Genetic ancestry testing, also called genetic genealogy, is used to identify relationships between families and identify patterns of genetic variation that are often shared among people of particular backgrounds.³⁵ According to the National Institutes of Health (NIH), genetic ancestry testing results may differ between providers because they compare genetic information to different databases. The tests can yield unexpected results because human populations migrate and mix with other nearby groups. Scientists can use large numbers of genetic ancestry test

³¹ See fn. 27, Ohio State University Wexner Medical Center.

³² National Institutes of Health, *Genetic Testing*, at pg. 24.

³³ Francis S. Collins, Perspectives on the Human Genome Project, pg. 50 (June 7, 2010)

https://www.genome.gov/pages/newsroom/webcasts/2010sciencereportersworkshop/collins_nhgrisciencewriters060710.pdf (last accessed Feb. 10, 2018).

³⁴ American Medical Association, *Genetic Discrimination – Appendix II. AMA Legislative Principles on Genetic Discrimination and Surreptitious Testing*, (March 2013) <https://www.ama-assn.org/sites/default/files/media-browser/public/genetic-discrimination-policy-paper.pdf> (last accessed Feb 10, 2018).

³⁵ National Institutes of Health, *Genetic Testing*, at pg. 25.

results to explore the history of populations. Three common types of genetic ancestry testing include:³⁶

- Single nucleotide polymorphism testing evaluate large numbers of variations across a person's entire genome. The results are compared with those of others who have taken the tests to provide an estimate of a person's ethnic background.
- Mitochondrial DNA testing identifies genetic variations in mitochondrial DNA, which provides information about the direct female ancestral lines.
- Y chromosome testing, performed exclusively on males, is often used to investigate whether two families with the same surname are related.

Direct to Consumer Genetic Testing

Traditionally, genetic testing was available only through healthcare providers.³⁷ Direct-to-consumer genetic testing provides access to genetic testing outside the healthcare context. Generally, the consumer purchases a genetic testing kit from a vendor who mails the kit to the consumer. The consumer collects a DNA sample and mails it back to the vendor. The vendor uses a laboratory to conduct the test. The consumer is then notified of the test results.

Direct-to-consumer genetic testing has primarily been used for genealogical purposes, but increasing numbers of products now provide medical information. For example, the vendor 23andME offers, with FDA approval, genetic testing that examines the consumer's risks for certain diseases including Parkinson's disease, celiac disease, and late-onset Alzheimer's disease.³⁸

Direct to consumer genetic testing is increasing in popularity, with one company reporting having sold approximately 1.5 million genetic testing kits from November 24, 2017, through November 27, 2017.³⁹ The increased proliferation of such testing is accompanied by increased concerns about the privacy of such information. The privacy protections of HIPAA usually do not apply to direct-to-consumer genetic testing because the vendors selling such tests are often not "covered entities" and thus not subject to HIPAA. The Federal Trade Commission recently warned consumers to consider the privacy implications of genetic testing kits.⁴⁰

Life Insurance, Disability Insurance, and Long-Term Care Insurance

Life insurance is the insurance of human lives.⁴¹ Life insurance can be purchased in the following forms:⁴²

³⁶ National Institutes of Health, *Genetic Testing*, at pg. 26.

³⁷ National Institutes of Health, *Genetic Testing*, at pg. 11.

³⁸ 23andMe, *Find Out What Your DNA Says About Your Health, Traits and Ancestry* <https://www.23andme.com/dna-health-ancestry/> (last accessed Feb. 10, 2018).

³⁹ Megan Molteni, *Ancestry's Genetic Testing Kits Are Heading For Your Stocking This Year*, Wired, (Dec. 1, 2017), <https://www.wired.com/story/ancestrys-genetic-testing-kits-are-heading-for-your-stocking-this-year/> (last accessed Feb. 10, 2018).

⁴⁰ Federal Trade Commission, *DNA Test Kits: Consider the Privacy Implications*, (Dec. 12, 2017) <https://www.consumer.ftc.gov/blog/2017/12/dna-test-kits-consider-privacy-implications> (last accessed Feb. 10, 2018).

⁴¹ Section 624.602, F.S.

⁴² National Association of Insurance Commissioners, *Life Insurance – Considerations for All Life Situations*, http://www.insureuonline.org/insureu_type_life.htm (last accessed Feb. 10, 2018).

- Term life insurance provides coverage for a set term of years and pays a death benefit if the insured dies during the term.⁴³
- Permanent life insurance remains in place if the insured pays premiums and pays a death benefit. Such policies have an actual cash value component that increases over time and from which the policyowner may borrow. There are four types of permanent life insurance:
 - Whole life insurance offers a fixed premium, guaranteed annual cash value growth and a guaranteed death benefit. It does not provide investment flexibility and the policy coverage, once established, may not be changed.
 - Universal life insurance allows the policyholder to determine the amount and timing of premium payments within certain limits. The coverage level may be adjusted. It guarantees certain levels of annual cash value growth but not investment flexibility.
 - Variable life insurance allows allocation of investment funds, but does not guarantee minimum cash value because of fluctuations in the value of investments.
 - Variable universal life insurance combines variable and universal life insurance.

Life insurance also encompasses annuities and disability policies.⁴⁴ An annuity is a contract between a customer and an insurer wherein the customer makes a lump-sum payment or a series of payments to an insurer that in return agrees to make periodic payments to the annuitant at a future date, either for the annuitant's life or a specified period. Disability insurance pays a weekly or monthly income for a set period if the insured becomes disabled and cannot continue working or obtain work.

Life insurance underwriters seek to identify and classify the risk represented by a proposed insured and then classify those risks into pools of similar mortality or morbidity risk.⁴⁵ Insureds within the same risk classification pay the same premiums, which must be adequate to ensure solvency, pay claims, and provide the insurer (with investment income) a reasonable rate of return.

Disability insurance compensates the insured for a portion of income lost because of a disabling injury or illness.⁴⁶ There are two types of disability insurance: short-term and long-term. A short-term policy typically replaces a portion of lost income from 3 to 6 months following the disability. Long-term policies generally begin 6 months after the disability and can last a set number of years or until retirement age. Disability insurance is sometimes offered by life insurers.

Insurance policy forms must be filed and approved by the OIR.⁴⁷ The Unfair Insurance Trade Practices Act prohibits "knowingly making or permitting unfair discrimination between individuals of the same actuarially supportable class and expectation of life, in the rates charged

⁴³ National Association of Insurance Commissioners, *Life Insurance FAQs*, http://www.insureuonline.org/consumer_life_faqs.htm (last accessed Feb. 3, 2018).

⁴⁴ Section 624.602, F.S.

⁴⁵ American Council of Life Insurers, *Life Insurer Issues*, (on file with the Senate Committee on Banking and Insurance).

⁴⁶ See National Association of Insurance Commissioners, *A Worker's Most Valuable Asset: Protecting Your Financial Future with Disability Insurance* (November 2011) available at http://www.naic.org/documents/consumer_alert_protecting_financial_future_disability_insurance.htm (last accessed Feb. 10, 2018).

⁴⁷ Section 624.410, F.S.

for a life insurance or annuity contract, in the dividends or other benefits payable thereon, or in any other term or condition of such contract.”⁴⁸ Similarly, the act prohibits knowingly making or permitting unfair discrimination between individuals of the same actuarially supportable class, as determined at the time of initial issuance of the coverage, and essentially the same hazard, in the amount of premium, policy fees, or rates charged for a policy or contract of disability insurance, in benefits payable, in the terms or conditions of the contract, or in any other manner.⁴⁹

Long-term care (LTC) insurance covers the costs of nursing homes, assisted living, home health care, and other long-term care services. A long-term care insurance policy provides coverage for medically necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative, maintenance or personal care services provided in a setting other than an acute care unit of a hospital.⁵⁰ Long-term care insurance usually pays fixed-dollar amounts or the actual costs of care, often subject to a maximum daily benefit amount.⁵¹

The long-term insurance market provides an example of the negative effects of insurers not accurately projecting their underwriting risk. Long-term care insurers made incorrect assumptions when selling the coverage, particularly in the 1980s and 1990s.⁵² The LTC insurers overestimated the number of people that would cancel their coverage or allow it to lapse, underestimated the life span of insureds and the time span of the treatment they would receive, and overestimated earnings on LTC premiums which were negatively affected by dropping interest rates.⁵³ As a result, long-term care insurance premiums have been rising, often substantially, for the past decade.⁵⁴

In response to substantial LTC premium increases, Florida law prohibits LTC rate increases that would result in a premium in excess of that charged on a newly issued policy, except to reflect benefit differences.⁵⁵ If the insurer is not writing new LTC policies, the rate cannot exceed the new business rate of insurers representing 80 percent of the carriers in the marketplace. In January 2017, the OIR issued consent orders allowing two of the state’s largest LTC insurers, Metropolitan Life Insurance Company and Unum Life Insurance Company of America, to substantially raise LTC monthly premiums, phased in over 3 years.⁵⁶ Many insurers that write

⁴⁸ Section 626.9541(1)(g)1., F.S.

⁴⁹ Section 626.9541(1)(g)2., F.S.

⁵⁰ Section 627.9404(1), F.S.

⁵¹ Florida Department of Financial Services, Long-Term Care: A Guide for Consumers, pg. 5.

<https://www.myfloridacfo.com/division/consumers/UnderstandingCoverage/Guides/documents/LTCGuide.pdf> (last accessed Feb. 10, 2018).

⁵² See Leslie Scism, *Millions Bought Insurance to Cover Retirement Health Costs. Now They Face an Awful Choice*, Wall Street Journal, (January 17, 2018), <https://www.wsj.com/articles/millions-bought-insurance-to-cover-retirement-health-costs-now-they-face-an-awful-choice-1516206708> (last accessed February 10, 2018).

⁵³ See Office of Insurance Regulation, *Long-Term Care Public Rate Hearings*. (The Internet page references a rate filing decision made by the OIR on Jan. 12, 2017, related to LTC products for two insurers).

<https://www.floir.com/Sections/LandH/LongTermCareHearing.aspx> (last accessed Feb. 10, 2018); See Scism at fn. 35

⁵⁴ See Scism at fn. 35; See Office of Insurance Regulation at fn. 36.

<https://www.floir.com/Sections/LandH/LongTermCareHearing.aspx> (last accessed February 10, 2018).

⁵⁵ Section 627.9407(7)(c), F.S.

⁵⁶ See Office of Insurance Regulation, *Consent Order In the Matter of: Metropolitan Life Insurance Company*, Case No. 200646-16-CO (Jan. 12, 2017) <https://www.floir.com/siteDocuments/MetLife200646-16-CO.pdf> (last accessed Feb. 10, 2018); Office of Insurance Regulation, *Consent Order In The Matter of Unum Life Insurance Company of America*, Case No. 200879-16-CO (Jan. 12, 2017) <https://www.floir.com/siteDocuments/Unum200879-16-CO.pdf> (last accessed Feb. 10, 2018).

LTC insurance have taken substantial losses. Recently, General Electric announced a \$6.2 billion charge against earnings and a \$15 billion shortfall in insurance reserves related to long-term care insurance obligations.⁵⁷

The American Council of Life Insurers has expressed concerns that the proliferation of genetic testing could increase adverse selection and impact the availability and affordability of products over time.⁵⁸ Studies addressing whether genetic testing leads to adverse selection have reached varying conclusions. Studies of women tested for the BRCA1 gene mutation (linked to breast cancer risk)⁵⁹ and adults tested for Alzheimer's risk⁶⁰ found little evidence of adverse selection in the life insurance market. However, the study regarding Alzheimer's risk found evidence of adverse selection for long-term care insurance, as 17 percent of those who tested positive subsequently changed their LTC policy in the year after testing positive of Alzheimer's risk, in comparison with 2 percent of those who tested negative and 4 percent of those who did not receive test results.⁶¹

III. Effect of Proposed Changes:

Section 1 amends s. 627.4301, F.S., to prohibit life insurers, including life insurers providing disability insurance, and long-term care insurers from canceling, limiting, or denying coverage or establishing differentials in premium rates, based on genetic information, if there is no diagnosis of a condition related to the genetic information. The bill also prohibits life insurers and long-term care insurers from requiring or soliciting genetic information, or considering a person's decisions or actions relating to genetic testing in any manner for any insurance purpose. The bill amends the existing prohibition against health insurers using genetic test results in any manner for any insurance purpose to apply only in the absence of a diagnosis of a condition related to genetic information, and applies the prohibition to life insurers and long-term care insurers.

The bill repeals current law that exempts insurance policies for life, disability, or long-term care from s. 627.4301, F.S.

For purposes of s. 627.4301, F.S., the bill defines the following terms:

- “Life insurer” has the same meaning as in s. 624.602, F.S., and includes an insurer issuing life insurance contracts that grant additional benefits if the insured is disabled. Section 624.602, F.S., defines a life insurer as an insurer engaged in the business of issuing

⁵⁷ Sonali Basak, Katherine Chiglinsky, et al, *GE's Surprise \$15 Billion Shortfall Was 14 Years in the Making*, CHICAGO TRIBUNE, Jan. 25, 2018. <http://www.chicagotribune.com/business/ct-biz-ge-general-electric-accounting-20180125-story.html> (last accessed Feb. 10, 2018); Steve Lohr and Chad Bray, *At G.E., \$6.2 Billion Charge for Finance Unit Hurts C.E.O.'s Turnaround Push*, NEW YORK TIMES, Jan. 16, 2018. <https://www.nytimes.com/2018/01/16/business/dealbook/general-electric-ge-capital.html> (last accessed February 10, 2018).

⁵⁸ Gina Kolata, *New Gene Tests Pose a Threat to Insurers*, NEW YORK TIMES (May 12, 2017) <https://www.nytimes.com/2017/05/12/health/new-gene-tests-pose-a-threat-to-insurers.html> (last accessed Feb. 4, 2018).

⁵⁹ Cathleen D. Zick, et. al., *Genetic Testing, Adverse Selection, and the Demand for Life Insurance*, pgs. 29-39 American Journal of Medical Genetics (July 2000) (Abstract provided by NIH at <https://www.ncbi.nlm.nih.gov/pubmed/10861679> (last accessed Feb. 4, 2018)).

⁶⁰ Cathleen D. Zick, *Genetic Testing For Alzheimer's Disease And Its Impact on Insurance Purchasing Behavior*, pp. 483 - 490, Health Affairs vol. 23, no. 2 (March/April 2005) <https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.24.2.483> (last accessed Feb. 4, 2018).

⁶¹ See Zick fn. 60 at pp. 487-488.

life insurance contracts, including contracts of combined life and health and accident insurance.

- “Long-term care insurer” means an insurer that issues long-term care insurance policies as described in s. 627.9404, F.S.

Section 2 applies the act to policies entered into or renewed after January 1, 2019.

Section 3 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may lead to more individuals undergoing genetic testing, which in the aggregate will lead to advancements in medicine and, regarding the individual, can be useful in identifying and treating disease and disability.

The bill, to the extent it encourages adverse selection of life, disability, or long-term care insurance, could result in the improper classification of risks for such policies, leading to inadequate rates and, eventually, higher premiums. Such insurers use of genetic information in underwriting, risk classification, and ratemaking could result in individuals either not being able to procure such coverages because the insurer is unwilling to offer the coverage, or offers it at a rate that is unaffordable to the consumer.

C. Government Sector Impact:

The bill does not fiscally impact the Office of Insurance Regulation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.4301 of the Florida Statutes.

This bill creates one undesignated section of law.

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

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

CS by Banking and Insurance on February 6, 2016:

The committee substitute amends the existing prohibition against health insurers using genetic test results in any manner for any insurance purpose to apply only in the absence of a diagnosis of a condition related to genetic information, and applies the prohibition to life insurers and long-term care insurers.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Bean

597-02929-18

20181106c1

1 A bill to be entitled
2 An act relating to genetic information used for
3 insurance; amending s. 627.4301, F.S.; defining terms;
4 prohibiting life insurers and long-term care insurers,
5 except under certain circumstances, from canceling,
6 limiting, or denying coverage, or establishing
7 differentials in premium rates, based on genetic
8 information; prohibiting such insurers from certain
9 actions relating to genetic information for any
10 insurance purpose; revising a prohibition on the use
11 of genetic test results by health insurers; revising
12 and providing applicability; providing an effective
13 date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Section 627.4301, Florida Statutes, is amended
18 to read:

19 627.4301 Genetic information for insurance purposes.—

20 (1) DEFINITIONS.—As used in this section, the term:

21 (a) "Genetic information" means information derived from
22 genetic testing to determine the presence or absence of
23 variations or mutations, including carrier status, in an
24 individual's genetic material or genes that are scientifically
25 or medically believed to cause a disease, disorder, or syndrome,
26 or are associated with a statistically increased risk of
27 developing a disease, disorder, or syndrome, which is
28 asymptomatic at the time of testing. Such testing does not
29 include routine physical examinations or chemical, blood, or

597-02929-18

20181106c1

30 urine analysis, unless conducted purposefully to obtain genetic
31 information, or questions regarding family history.

32 (b) "Health insurer" means an authorized insurer offering
33 health insurance as defined in s. 624.603, a self-insured plan
34 as defined in s. 624.031, a multiple-employer welfare
35 arrangement as defined in s. 624.437, a prepaid limited health
36 service organization as defined in s. 636.003, a health
37 maintenance organization as defined in s. 641.19, a prepaid
38 health clinic as defined in s. 641.402, a fraternal benefit
39 society as defined in s. 632.601, or any health care arrangement
40 whereby risk is assumed.

41 (c) "Life insurer" has the same meaning as in s. 624.602
42 and includes an insurer issuing life insurance contracts that
43 grant additional benefits in the event of the insured's
44 disability.

45 (d) "Long-term care insurer" means an insurer that issues
46 long-term care insurance policies as described in s. 627.9404.

47 (2) USE OF GENETIC INFORMATION.—

48 (a) In the absence of a diagnosis of a condition related to
49 genetic information, no health insurer, life insurer, or long-
50 term care insurer authorized to transact insurance in this state
51 may cancel, limit, or deny coverage, or establish differentials
52 in premium rates, based on such information.

53 (b) Health insurers, life insurers, and long-term care
54 insurers may not require or solicit genetic information, use
55 genetic test results in the absence of a diagnosis of a
56 condition related to genetic information, or consider a person's
57 decisions or actions relating to genetic testing in any manner
58 for any insurance purpose.

597-02929-18

20181106c1

59 (c) This section does not apply to the underwriting or
60 issuance of an ~~a life insurance policy, disability income~~
61 ~~policy, long-term care policy,~~ accident-only policy, hospital
62 indemnity or fixed indemnity policy, dental policy, or vision
63 policy or any other actions of an insurer directly related to an
64 ~~a life insurance policy, disability income policy, long-term~~
65 ~~care policy,~~ accident-only policy, hospital indemnity or fixed
66 indemnity policy, dental policy, or vision policy.

67 Section 2. This act applies to policies entered into or
68 renewed on or after January 1, 2019.

69 Section 3. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Dana D. Young, Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: February 8, 2018

I respectfully request that **Senate Bill # 1106**, relating to Genetic Information Used for Insurance, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/2018

Meeting Date

1106

Bill Number (if applicable)

Topic Genetic Information Used for Insurance

Amendment Barcode (if applicable)

Name Jamie Wilson

Job Title Vice President, Government Relations

Address 12902 Magnolia Drive

Phone 8505096025

Street

Tampa

Florida

33612

Email jamie.wilson@moffitt.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Moffitt Cancer Center

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/18

Meeting Date

SB1106

Bill Number (if applicable)

Topic SB1106

Amendment Barcode (if applicable)

Name Dr. Dave Rengachary

Job Title Chief Medical Director

Address 16600 Swingley Ridge Road
Street

Phone 314 249-6193

Chesterfield MO 63017-1706
City State Zip

Email drengachary@rgarc.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ACLI

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-13-18
Meeting Date

SB 1106
Bill Number (if applicable)

Topic SB 1106

Amendment Barcode (if applicable)

Name Deborah Van Dommelen

Job Title Medical Director

Address 720 East Wisconsin Ave
Street

Phone 414-661-4405

Milwaukee WI 53012
City State Zip

Email dbletzing@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ACLI

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/18
Meeting Date

S. 1106
Bill Number (if applicable)

Topic SB 1106

Amendment Barcode (if applicable)

Name PAUL SANFORD

Job Title LOBBYIST

Address 106 S. MONROE ST.
Street

Phone 850 222-7200

TALLAHASSEE FL 32301
City State Zip

Email paulsanf@aol.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing A.C.L.U. & F.I.C.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1364

INTRODUCER: Health Policy Committee and Senator Rader

SUBJECT: Public Records/Substance Abuse Service Providers

DATE: February 14, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1364 amends s. 119.071, F.S., to exempt from public records laws certain personal identifying information of current and former directors, managers, supervisors, nurses, and clinical employees of a substance abuse service provider licensed under part II of ch. 397, F.S., as well as certain personal identifying information of their spouses and children, if their duties include counseling and treatment of persons who have mental health or substance abuse disorders. The bill provides a statement of public necessity and establishes an Open Government Sunset Review Act automatic repeal date of October 2, 2023, unless reviewed and saved from repeal by the Legislature.

This bill requires a two-thirds vote if each chamber for passage because it creates a public records exemption.

The bill establishes and effective date of July 1, 2018.

II. Present Situation:

Substance Abuse Treatment Service Regulation

Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.¹ Substance abuse 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.² Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.³ Substance abuse causes physical changes in areas of the brain that are critical to judgment, decision making, learning and memory, and behavior control.⁴

A diagnosis of substance abuse disorder is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.⁵ The most common substance abuse disorders in the United States are from the use of alcohol, tobacco, cannabis, stimulants, hallucinogens, and opioids.⁶

Substance Abuse Treatment

The Department of Children and Families (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, intervention, and clinical treatment services.⁷

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.⁸ 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.⁹

¹ World Health Organization, *Substance Abuse*, http://www.who.int/topics/substance_abuse/en/ (last visited Feb. 8, 2018).

² Substance Abuse and Mental Health Services Administration, *Substance Use Disorders*, (October 27, 2015) <https://www.samhsa.gov/disorders/substance-use> (last visited Feb. 8, 2018).

³ National Institute on Drug Abuse, *Drugs, Brains, and Behavior: The Science of Addiction*, (July 2014) <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited Feb. 8, 2018).

⁴ Id.

⁵ Supra note 2.

⁶ Id.

⁷ Section 397.311(25), F.S.

⁸ Section 397.311(26)(c), F.S.

⁹ Department of Children and Families, *Substance Abuse: Prevention*, <http://www.myflfamilies.com/service-programs/substance-abuse/prevention>, (last visited Feb. 8, 2018). These prevention programs are focused primarily on youth, and, 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.

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.¹⁰

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.¹¹ “Clinical treatment services” include, but are not limited to, the following licensable service components:

- 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; and
- Residential treatment.¹²

Certain individuals receiving substance abuse treatment may have a criminal or violent history. About 54 percent of state prisoners and 61 percent of sentenced jail inmates incarcerated for violent offenses met the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition, (DSM-IV) criteria for drug dependence or abuse.¹³ Additionally, individuals who use illicit drugs are more likely to commit crimes, and it is common for many offenses, including violent crimes, to be committed by individuals who had used drugs or alcohol prior to committing the crime, or who were using at the time of the offense.¹⁴

Some substance abuse treatment facilities are owned by county governments or county government agencies. Because these facilities are government-owned, the public has a right to access their records, including records of the home addresses, telephone numbers, dates of birth, and photographs of employees of those facilities, as well as information about their families. In at least one instance in Broward County, a client at the Broward Addiction Recovery Center (BARC) spontaneously came to the home of a BARC employee seeking after hours counseling. The client had found the employee’s home address through an internet search.¹⁵

¹⁰ Section 397.311(26)(b), F.S.

¹¹ Section 397.311(25), F.S.

¹² Section 397.311(25)(a), F.S.

¹³ Jennifer Bronson, et al., *Drug Use, Dependence, and Abuse Among State Prisoners and Jail Inmates, 2007-2009*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, (June 2017) available at <https://www.bjs.gov/content/pub/pdf/dudaspi0709.pdf> (last visited Feb. 8, 2018).

¹⁴ Principles of Drug Abuse Treatment for Criminal Justice Populations: A Research-Based Guide, U.S. Department of Health and Human Services, National Institute on Drug Abuse, p. 12, available at https://d14rmgtrwzf5a.cloudfront.net/sites/default/files/txcriminaljustice_0.pdf (last visited Feb. 8, 2018).

¹⁵ Information provided by Broward County (on file with the Senate Committee on Health Policy).

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹⁶ This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.¹⁷

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.¹⁸ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.¹⁹ The Public Records Act states that:

...it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.²⁰

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.²¹ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”²² A violation of the Public Records Act may result in civil or criminal liability.²³

The Legislature may create an exemption to public records requirements.²⁴ An exemption must pass by a two-thirds vote of the House and the Senate.²⁵ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.²⁶ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.²⁷

¹⁶ FLA. CONST., art. I, s. 24(a).

¹⁷ *Id.*

¹⁸ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

¹⁹ Public records laws are found throughout the Florida Statutes.

²⁰ Section 119.01(1), F.S.

²¹ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

²² *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

²³ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). See also *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004).

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”²⁸ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” are not required to be made available for public inspection, but may be released at the discretion of the records custodian under certain circumstances.²⁹

Open Government Sunset Review Act

The Open Government Sunset Review Act (referred to hereafter as the “OGSR”) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.³⁰ The OGSR provides that an exemption automatically repeals on October 2 of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.³¹

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.³² An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;³³
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;³⁴ or
- It protects trade or business secrets.³⁵

The OGSR also requires specified questions to be considered during the review process.³⁶ In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

²⁸ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

²⁹ *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

³⁰ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

³¹ Section 119.15(3), F.S.

³² Section 119.15(6)(b), F.S.

³³ Section 119.15(6)(b)1., F.S.

³⁴ Section 119.15(6)(b)2., F.S.

³⁵ Section 119.15(6)(b)3., F.S.

³⁶ Section 119.15(6)(a), F.S. The specified questions are:

1. What specific records or meetings are affected by the exemption?
2. Whom does the exemption uniquely affect, as opposed to the general public?
3. What is the identifiable public purpose or goal of the exemption?
4. Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?
If so, how?
5. Is the record or meeting protected by another exemption?

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.³⁷ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.³⁸

III. Effect of Proposed Changes:

Section 1 amends s. 119.071, F.S., to exempt the following information from the requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the Florida Constitution:

- The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of a substance abuse service provider that is licensed under part II of ch. 397, F.S., and whose duties include the counseling and treatment of persons who have mental health or substance abuse disorders;
- The home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and
- The names and locations of schools and day care facilities attended by the children of such personnel.

The bill establishes an Open Government Sunset Review Act automatic repeal date of October 2, 2023, unless reviewed and saved from repeal by the Legislature.

Section 2 provides the public necessity statement required by s. 24(c), Art. I of the Florida Constitution. The bill states that it is a public necessity to establish the public records exemption since the release of the information protected by the exemption may place the specified personnel of a licensed substance abuse provider and their family members in danger of physical and emotional harm from hostile persons who may react inappropriately and violently to actions taken by such personnel. The bill states that such personnel provide services that are necessary and appropriate for persons who have mental health or substance abuse disorders and provide valuable and supportive services to the state's most vulnerable residents. Despite the value of such services, some persons may become hostile toward the personnel and may pose a threat to them indefinitely. The harm that may result from the release of such personal identifying and location information outweighs any public benefit that may be derived from the disclosure of the information.

Section 3 of the bill establishes an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

6. Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

³⁷ FLA. CONST. art. I, s. 24(c).

³⁸ Section 119.15(7), F.S.

B. Public Records/Open Meetings Issues:**Voting Requirement**

Article I, Section 24(c) of the Florida Constitution requires a two-thirds vote of each chamber for public records exemptions to pass.

Public Necessity Statement

Article I, Section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public-records exemption. The Florida Constitution provides that an exemption must state with specificity the public necessity of the exemption. The public necessity statement provides that the exemption is needed to protect the safety of the licensed substance abuse treatment provider's directors, managers, supervisors, nurses, or clinical employees and their family members since those individuals treat clients who have mental health and substance abuse disorders and who may become hostile toward the treatment provider.

Breadth of Exemption

Article I, Section 24(c) of the Florida Constitution requires a newly created public records exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill exempts the home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of a substance abuse service provider that is licensed under part II of ch. 397, F.S., and whose duties include the counseling and treatment of persons who have mental health or substance abuse disorders. Additionally, the bill exempts the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel. This bill appears to be no broader than necessary to accomplish the public necessity for this public records exemption.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

This bill creates one undesignated section of Florida Law.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on February 13, 2018:

The CS removes all references to social security numbers as protected by the provisions of the bill. All government employee social security numbers and social security numbers collected by any government agency³⁹ are made confidential and exempt by current law in ss. 119.071(4)(a) and (5)(a), F.S., respectively.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³⁹ Defined in s. 119.011, F.S., to include any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.



418292

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2018	.	
	.	
	.	
	.	

The Committee on Health Policy (Rader) recommended the following:

Senate Amendment

Delete lines 274 - 311

and insert:

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of a substance abuse service provider that is licensed under part II of chapter 397 and whose duties include the counseling and treatment of persons who have mental health or substance abuse disorders; the home



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11 addresses, telephone numbers, photographs, dates of birth, and
12 places of employment of the spouses and children of such
13 personnel; and the names and locations of schools and day care
14 facilities attended by the children of such personnel are exempt
15 from s. 119.07(1) and s. 24(a), Art. I of the State
16 Constitution. This sub-subparagraph is subject to the Open
17 Government Sunset Review Act in accordance with s. 119.15 and
18 shall stand repealed on October 2, 2023, unless reviewed and
19 saved from repeal through reenactment by the Legislature.

20 3. An agency that is the custodian of the information
21 specified in subparagraph 2. and that is not the employer of the
22 officer, employee, justice, judge, or other person specified in
23 subparagraph 2. shall maintain the exempt status of that
24 information only if the officer, employee, justice, judge, other
25 person, or employing agency of the designated employee submits a
26 written request for maintenance of the exemption to the
27 custodial agency.

28 4. The exemptions in this paragraph apply to information
29 held by an agency before, on, or after the effective date of the
30 exemption.

31 Section 2. (1) The Legislature finds that it is a public
32 necessity that all of the following identifying and location
33 information be exempt from s. 119.07(1), Florida Statutes, and
34 s. 24(a), Article I of the State Constitution:

35 (a) The home addresses, telephone numbers, dates of birth,
36 and photographs of current or former directors, managers,
37 supervisors, nurses, and clinical employees of a substance abuse
38 service provider that is licensed under part II of chapter 397,
39 Florida Statutes.



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40 (b) The home addresses, telephone numbers, photographs,
41 dates of birth, and places of employment

By Senator Rader

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; providing an exemption from public
4 records requirements to certain identifying and
5 location information of current or former directors,
6 managers, supervisors, nurses, and clinical employees
7 of substance abuse service providers that are licensed
8 under part II of ch. 397, F.S., and the spouses and
9 children thereof; providing for retroactive
10 applicability; providing for future legislative review
11 and repeal of the exemption; providing a statement of
12 public necessity; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Paragraph (d) of subsection (4) of section
17 119.071, Florida Statutes, is amended to read:

18 119.071 General exemptions from inspection or copying of
19 public records.—

20 (4) AGENCY PERSONNEL INFORMATION.—

21 (d)1. For purposes of this paragraph, the term "telephone
22 numbers" includes home telephone numbers, personal cellular
23 telephone numbers, personal pager telephone numbers, and
24 telephone numbers associated with personal communications
25 devices.

26 2.a. The home addresses, telephone numbers, dates of birth,
27 and photographs of active or former sworn or civilian law
28 enforcement personnel, including correctional and correctional
29 probation officers, personnel of the Department of Children and

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30 Families whose duties include the investigation of abuse,
31 neglect, exploitation, fraud, theft, or other criminal
32 activities, personnel of the Department of Health whose duties
33 are to support the investigation of child abuse or neglect, and
34 personnel of the Department of Revenue or local governments
35 whose responsibilities include revenue collection and
36 enforcement or child support enforcement; the names, home
37 addresses, telephone numbers, photographs, dates of birth, and
38 places of employment of the spouses and children of such
39 personnel; and the names and locations of schools and day care
40 facilities attended by the children of such personnel are exempt
41 from s. 119.07(1) and s. 24(a), Art. I of the State
42 Constitution. This sub-subparagraph is subject to the Open
43 Government Sunset Review Act in accordance with s. 119.15 and
44 shall stand repealed on October 2, 2022, unless reviewed and
45 saved from repeal through reenactment by the Legislature.

46 b. The home addresses, telephone numbers, dates of birth,
47 and photographs of current or former nonsworn investigative
48 personnel of the Department of Financial Services whose duties
49 include the investigation of fraud, theft, workers' compensation
50 coverage requirements and compliance, other related criminal
51 activities, or state regulatory requirement violations; the
52 names, home addresses, telephone numbers, dates of birth, and
53 places of employment of the spouses and children of such
54 personnel; and the names and locations of schools and day care
55 facilities attended by the children of such personnel are exempt
56 from s. 119.07(1) and s. 24(a), Art. I of the State
57 Constitution. This sub-subparagraph is subject to the Open
58 Government Sunset Review Act in accordance with s. 119.15 and

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59 shall stand repealed on October 2, 2021, unless reviewed and
60 saved from repeal through reenactment by the Legislature.

61 c. The home addresses, telephone numbers, dates of birth,
62 and photographs of current or former nonsworn investigative
63 personnel of the Office of Financial Regulation's Bureau of
64 Financial Investigations whose duties include the investigation
65 of fraud, theft, other related criminal activities, or state
66 regulatory requirement violations; the names, home addresses,
67 telephone numbers, dates of birth, and places of employment of
68 the spouses and children of such personnel; and the names and
69 locations of schools and day care facilities attended by the
70 children of such personnel are exempt from s. 119.07(1) and s.
71 24(a), Art. I of the State Constitution. This sub-subparagraph
72 is subject to the Open Government Sunset Review Act in
73 accordance with s. 119.15 and shall stand repealed on October 2,
74 2022, unless reviewed and saved from repeal through reenactment
75 by the Legislature.

76 d. The home addresses, telephone numbers, dates of birth,
77 and photographs of current or former firefighters certified in
78 compliance with s. 633.408; the names, home addresses, telephone
79 numbers, photographs, dates of birth, and places of employment
80 of the spouses and children of such firefighters; and the names
81 and locations of schools and day care facilities attended by the
82 children of such firefighters are exempt from s. 119.07(1) and
83 s. 24(a), Art. I of the State Constitution. This sub-
84 subparagraph is subject to the Open Government Sunset Review Act
85 in accordance with s. 119.15, and shall stand repealed on
86 October 2, 2022, unless reviewed and saved from repeal through
87 reenactment by the Legislature.

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88 e. The home addresses, dates of birth, and telephone
89 numbers of current or former justices of the Supreme Court,
90 district court of appeal judges, circuit court judges, and
91 county court judges; the names, home addresses, telephone
92 numbers, dates of birth, and places of employment of the spouses
93 and children of current or former justices and judges; and the
94 names and locations of schools and day care facilities attended
95 by the children of current or former justices and judges are
96 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
97 Constitution. This sub-subparagraph is subject to the Open
98 Government Sunset Review Act in accordance with s. 119.15 and
99 shall stand repealed on October 2, 2022, unless reviewed and
100 saved from repeal through reenactment by the Legislature.

101 f. The home addresses, telephone numbers, dates of birth,
102 and photographs of current or former state attorneys, assistant
103 state attorneys, statewide prosecutors, or assistant statewide
104 prosecutors; the names, home addresses, telephone numbers,
105 photographs, dates of birth, and places of employment of the
106 spouses and children of current or former state attorneys,
107 assistant state attorneys, statewide prosecutors, or assistant
108 statewide prosecutors; and the names and locations of schools
109 and day care facilities attended by the children of current or
110 former state attorneys, assistant state attorneys, statewide
111 prosecutors, or assistant statewide prosecutors are exempt from
112 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

113 g. The home addresses, dates of birth, and telephone
114 numbers of general magistrates, special magistrates, judges of
115 compensation claims, administrative law judges of the Division
116 of Administrative Hearings, and child support enforcement

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117 hearing officers; the names, home addresses, telephone numbers,
118 dates of birth, and places of employment of the spouses and
119 children of general magistrates, special magistrates, judges of
120 compensation claims, administrative law judges of the Division
121 of Administrative Hearings, and child support enforcement
122 hearing officers; and the names and locations of schools and day
123 care facilities attended by the children of general magistrates,
124 special magistrates, judges of compensation claims,
125 administrative law judges of the Division of Administrative
126 Hearings, and child support enforcement hearing officers are
127 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
128 Constitution. This sub-subparagraph is subject to the Open
129 Government Sunset Review Act in accordance with s. 119.15 and
130 shall stand repealed on October 2, 2022, unless reviewed and
131 saved from repeal through reenactment by the Legislature.

132 h. The home addresses, telephone numbers, dates of birth,
133 and photographs of current or former human resource, labor
134 relations, or employee relations directors, assistant directors,
135 managers, or assistant managers of any local government agency
136 or water management district whose duties include hiring and
137 firing employees, labor contract negotiation, administration, or
138 other personnel-related duties; the names, home addresses,
139 telephone numbers, dates of birth, and places of employment of
140 the spouses and children of such personnel; and the names and
141 locations of schools and day care facilities attended by the
142 children of such personnel are exempt from s. 119.07(1) and s.
143 24(a), Art. I of the State Constitution.

144 i. The home addresses, telephone numbers, dates of birth,
145 and photographs of current or former code enforcement officers;

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146 the names, home addresses, telephone numbers, dates of birth,
147 and places of employment of the spouses and children of such
148 personnel; and the names and locations of schools and day care
149 facilities attended by the children of such personnel are exempt
150 from s. 119.07(1) and s. 24(a), Art. I of the State
151 Constitution.

152 j. The home addresses, telephone numbers, places of
153 employment, dates of birth, and photographs of current or former
154 guardians ad litem, as defined in s. 39.820; the names, home
155 addresses, telephone numbers, dates of birth, and places of
156 employment of the spouses and children of such persons; and the
157 names and locations of schools and day care facilities attended
158 by the children of such persons are exempt from s. 119.07(1) and
159 s. 24(a), Art. I of the State Constitution. This sub-
160 subparagraph is subject to the Open Government Sunset Review Act
161 in accordance with s. 119.15 and shall stand repealed on October
162 2, 2022, unless reviewed and saved from repeal through
163 reenactment by the Legislature.

164 k. The home addresses, telephone numbers, dates of birth,
165 and photographs of current or former juvenile probation
166 officers, juvenile probation supervisors, detention
167 superintendents, assistant detention superintendents, juvenile
168 justice detention officers I and II, juvenile justice detention
169 officer supervisors, juvenile justice residential officers,
170 juvenile justice residential officer supervisors I and II,
171 juvenile justice counselors, juvenile justice counselor
172 supervisors, human services counselor administrators, senior
173 human services counselor administrators, rehabilitation
174 therapists, and social services counselors of the Department of

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175 Juvenile Justice; the names, home addresses, telephone numbers,
176 dates of birth, and places of employment of spouses and children
177 of such personnel; and the names and locations of schools and
178 day care facilities attended by the children of such personnel
179 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
180 Constitution.

181 1. The home addresses, telephone numbers, dates of birth,
182 and photographs of current or former public defenders, assistant
183 public defenders, criminal conflict and civil regional counsel,
184 and assistant criminal conflict and civil regional counsel; the
185 names, home addresses, telephone numbers, dates of birth, and
186 places of employment of the spouses and children of such
187 defenders or counsel; and the names and locations of schools and
188 day care facilities attended by the children of such defenders
189 or counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of
190 the State Constitution.

191 m. The home addresses, telephone numbers, dates of birth,
192 and photographs of current or former investigators or inspectors
193 of the Department of Business and Professional Regulation; the
194 names, home addresses, telephone numbers, dates of birth, and
195 places of employment of the spouses and children of such current
196 or former investigators and inspectors; and the names and
197 locations of schools and day care facilities attended by the
198 children of such current or former investigators and inspectors
199 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
200 Constitution. This sub-subparagraph is subject to the Open
201 Government Sunset Review Act in accordance with s. 119.15 and
202 shall stand repealed on October 2, 2022, unless reviewed and
203 saved from repeal through reenactment by the Legislature.

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204 n. The home addresses, telephone numbers, and dates of
205 birth of county tax collectors; the names, home addresses,
206 telephone numbers, dates of birth, and places of employment of
207 the spouses and children of such tax collectors; and the names
208 and locations of schools and day care facilities attended by the
209 children of such tax collectors are exempt from s. 119.07(1) and
210 s. 24(a), Art. I of the State Constitution. This sub-
211 subparagraph is subject to the Open Government Sunset Review Act
212 in accordance with s. 119.15 and shall stand repealed on October
213 2, 2022, unless reviewed and saved from repeal through
214 reenactment by the Legislature.

215 o. The home addresses, telephone numbers, dates of birth,
216 and photographs of current or former personnel of the Department
217 of Health whose duties include, or result in, the determination
218 or adjudication of eligibility for social security disability
219 benefits, the investigation or prosecution of complaints filed
220 against health care practitioners, or the inspection of health
221 care practitioners or health care facilities licensed by the
222 Department of Health; the names, home addresses, telephone
223 numbers, dates of birth, and places of employment of the spouses
224 and children of such personnel; and the names and locations of
225 schools and day care facilities attended by the children of such
226 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
227 the State Constitution. This sub-subparagraph is subject to the
228 Open Government Sunset Review Act in accordance with s. 119.15
229 and shall stand repealed on October 2, 2019, unless reviewed and
230 saved from repeal through reenactment by the Legislature.

231 p. The home addresses, telephone numbers, dates of birth,
232 and photographs of current or former impaired practitioner

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233 consultants who are retained by an agency or current or former
234 employees of an impaired practitioner consultant whose duties
235 result in a determination of a person's skill and safety to
236 practice a licensed profession; the names, home addresses,
237 telephone numbers, dates of birth, and places of employment of
238 the spouses and children of such consultants or their employees;
239 and the names and locations of schools and day care facilities
240 attended by the children of such consultants or employees are
241 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
242 Constitution. This sub-subparagraph is subject to the Open
243 Government Sunset Review Act in accordance with s. 119.15 and
244 shall stand repealed on October 2, 2020, unless reviewed and
245 saved from repeal through reenactment by the Legislature.

246 q. The home addresses, telephone numbers, dates of birth,
247 and photographs of current or former emergency medical
248 technicians or paramedics certified under chapter 401; the
249 names, home addresses, telephone numbers, dates of birth, and
250 places of employment of the spouses and children of such
251 emergency medical technicians or paramedics; and the names and
252 locations of schools and day care facilities attended by the
253 children of such emergency medical technicians or paramedics are
254 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
255 Constitution. This sub-subparagraph is subject to the Open
256 Government Sunset Review Act in accordance with s. 119.15 and
257 shall stand repealed on October 2, 2021, unless reviewed and
258 saved from repeal through reenactment by the Legislature.

259 r. The home addresses, telephone numbers, dates of birth,
260 and photographs of current or former personnel employed in an
261 agency's office of inspector general or internal audit

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262 department whose duties include auditing or investigating waste,
263 fraud, abuse, theft, exploitation, or other activities that
264 could lead to criminal prosecution or administrative discipline;
265 the names, home addresses, telephone numbers, dates of birth,
266 and places of employment of spouses and children of such
267 personnel; and the names and locations of schools and day care
268 facilities attended by the children of such personnel are exempt
269 from s. 119.07(1) and s. 24(a), Art. I of the State
270 Constitution. This sub-subparagraph is subject to the Open
271 Government Sunset Review Act in accordance with s. 119.15 and
272 shall stand repealed on October 2, 2021, unless reviewed and
273 saved from repeal through reenactment by the Legislature.

274 s. The home addresses, telephone numbers, social security
275 numbers, dates of birth, and photographs of current or former
276 directors, managers, supervisors, nurses, and clinical employees
277 of a substance abuse service provider that is licensed under
278 part II of chapter 397 and whose duties include the counseling
279 and treatment of persons who have mental health or substance
280 abuse disorders; the home addresses, telephone numbers, social
281 security numbers, photographs, dates of birth, and places of
282 employment of the spouses and children of such personnel; and
283 the names and locations of schools and day care facilities
284 attended by the children of such personnel are exempt from s.
285 119.07(1) and s. 24(a), Art. I of the State Constitution. This
286 sub-subparagraph is subject to the Open Government Sunset Review
287 Act in accordance with s. 119.15 and shall stand repealed on
288 October 2, 2023, unless reviewed and saved from repeal through
289 reenactment by the Legislature.

290 3. An agency that is the custodian of the information

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291 specified in subparagraph 2. and that is not the employer of the
292 officer, employee, justice, judge, or other person specified in
293 subparagraph 2. shall maintain the exempt status of that
294 information only if the officer, employee, justice, judge, other
295 person, or employing agency of the designated employee submits a
296 written request for maintenance of the exemption to the
297 custodial agency.

298 4. The exemptions in this paragraph apply to information
299 held by an agency before, on, or after the effective date of the
300 exemption.

301 Section 2. (1) The Legislature finds that it is a public
302 necessity that all of the following identifying and location
303 information be exempt from s. 119.07(1), Florida Statutes, and
304 s. 24(a), Article I of the State Constitution:

305 (a) The home addresses, telephone numbers, social security
306 numbers, dates of birth, and photographs of current or former
307 directors, managers, supervisors, nurses, and clinical employees
308 of a substance abuse service provider that is licensed under
309 part II of chapter 397, Florida Statutes.

310 (b) The home addresses, telephone numbers, social security
311 numbers, photographs, dates of birth, and places of employment
312 of the spouses and children of personnel identified in paragraph
313 (a).

314 (c) The names and locations of schools and day care
315 facilities attended by the children of such personnel.

316 (2) The Legislature finds that the release of such
317 identifying and location information may place current or former
318 directors, managers, supervisors, nurses, and clinical employees
319 of a substance abuse service provider that is licensed under

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320 part II of chapter 397, Florida Statutes, and their family
321 members, in danger of physical and emotional harm from hostile
322 persons who may react inappropriately and violently to actions
323 taken by such directors, managers, supervisors, nurses, or
324 clinical employees of a substance abuse service provider that is
325 licensed under part II of chapter 397, Florida Statutes. These
326 personnel provide services that are necessary and appropriate
327 for persons who have mental health or substance abuse disorders.
328 In addition, these personnel provide valuable and supportive
329 services to the state's most vulnerable residents. Despite the
330 value of such services, some persons may become hostile toward
331 the personnel and may pose a threat to them indefinitely. The
332 harm that may result from the release of such personal
333 identifying and location information outweighs any public
334 benefit that may be derived from the disclosure of the
335 information.

336 Section 3. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Dana D. Young, Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: January 11, 2018

I respectfully request that **Senate Bill #1364**, relating to Public Records/Substance Abuse Service Providers , be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Kevin Rader".

Senator Kevin J. Rader
Florida Senate, District 29

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/18

Meeting Date

1364

Bill Number (if applicable)

Topic PUBLIC RECORDS/SUBSTANCE ABUSE SERVICE PROVIDERS

Amendment Barcode (if applicable)

Name DAPHNEE SAINVIL

Job Title POLICY ADVISOR

Address 115 S. ANDREWS AVE.

Street

Phone 954-253-7320

FT. LAUDERDALE

City

FL

State

33301

Zip

Email dsainvil@broward.org

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing BROWARD COUNTY GOVT

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: KN 412

Case No.:

Type:

Caption: Senate Health Policy Committee

Judge:

Started: 2/13/2018 10:05:05 AM

Ends: 2/13/2018 11:35:46 AM

Length: 01:30:42

10:05:10 AM Call to order
10:05:14 AM Roll Call
10:05:31 AM Pledge of Allegiance
10:06:05 AM Tab 2 SB 744
10:06:08 AM Sen Grimsley
10:07:53 AM AM 615502
10:08:04 AM Sen Hukill Question
10:08:13 AM Sen Grimsley
10:08:28 AM Sen Powell Question
10:08:42 AM Sen Grimsley
10:09:22 AM Sen Powell Question
10:09:50 AM Sen Grimsley
10:10:17 AM Sen Powell Question
10:10:51 AM Sen Grimsley
10:11:29 AM Sen Powell Question
10:11:33 AM Sen Grimsley
10:12:29 AM Ellyn Bogdanoff, SCMHR, Speaks in Support
10:14:07 AM AM 350986 (AM to previous AM)
10:14:09 AM Sen Hutson
10:15:04 AM AM 350986 Withdrawn
10:15:31 AM AM 615502 Adopted
10:15:56 AM Larry Gonzalez, Electrolysis Society of FL, waives in opposition
10:16:18 AM Roll Call
10:16:36 AM CS/SB 744 Recorded Favorably
10:16:50 AM Tab 4 SB 1364
10:16:52 AM Sen Rader
10:18:47 AM LF AM 418292
10:18:52 AM Sen Rader
10:19:18 AM LF AM 418292 Adopted
10:19:31 AM Sen Benacquisto Question
10:20:18 AM Sen Rader
10:21:45 AM Daphnee Sainvil, Broward County Gov., waives in support
10:21:48 AM Sen Hukill
10:22:12 AM Roll Call
10:22:40 AM CS/SB 1364 Recorded Favorably
10:22:54 AM Tab 1 CS/SB 260
10:22:56 AM Sen Book
10:28:51 AM Sen Powell Question
10:29:33 AM Sen Book
10:30:50 AM Jim Horne, Crisis Prevention. WIS
10:31:00 AM Erin Choy, Junior League of FL, WIS
10:31:07 AM Albert Balido, Southern Poverty Law Center, WIS
10:31:25 AM Danielle Wolf, Crisis Prevention Institute, speaks in support
10:32:17 AM Margaret Hooper, FL Developmental Disabilities Council, speak in support
10:34:21 AM Deborah Linton, CEO of the ARC of FL, WIS
10:34:36 AM Dixie Sansom, ARC of FL, speaks in support
10:36:27 AM Sue Carson, President of SEA, speaks in support
10:36:56 AM Marla Goodman, Parent, WIS
10:37:27 AM Violet Gonzalez, Parent, WIS
10:37:47 AM Sen Hukill Debate
10:39:06 AM Sen Powell Debate
10:39:51 AM Sen Book close

10:41:13 AM Roll Call
10:41:32 AM CS/SB 260 Recorded Favorably
10:41:44 AM Tab 3 CS/SB 1106
10:41:49 AM Sen Bean
10:44:27 AM Sen Passidomo Question
10:45:13 AM Sen Bean
10:46:02 AM Sen Passidomo Question
10:46:24 AM Sen Bean
10:47:11 AM Sen Book Question
10:47:44 AM Sen Bean
10:48:21 AM Sen Powell Question
10:48:27 AM Sen Bean
10:48:55 AM Sen Powell Question
10:49:11 AM Sen Bean
10:49:36 AM Sen Benacquisto Question
10:50:18 AM Sen Bean
10:50:59 AM Sen Montford Question
10:51:45 AM Sen Bean
10:52:08 AM Sen Montford Question
10:52:11 AM Sen Bean
10:52:57 AM Sen Hukill Question
10:53:22 AM Sen Bean
10:54:34 AM Paul Sanford, ACLI and FIC, speaks against
10:55:33 AM Dr. Deborah VanDommelen, ACLI/Northwestern Mutual Insurance, speaks against
11:00:17 AM Sen Benacquisto Question
11:00:51 AM Dr. VanDommelen
11:01:04 AM Sen Benacquisto Question
11:01:14 AM Dr. VanDommelen
11:01:29 AM Sen Benacquisto Question
11:02:00 AM Dr. VanDommelen
11:02:31 AM Sen Benacquisto Question
11:03:18 AM Dr. VanDommelen
11:03:36 AM Sen Benacquisto
11:03:44 AM Dr. VanDommelen
11:03:49 AM Sen Benacquisto
11:04:03 AM Dr. VanDommelen
11:04:18 AM Sen Montford Question
11:05:17 AM Dr. VanDommelen
11:07:00 AM Sen Montford Question
11:07:10 AM Dr. VanDommelen
11:08:17 AM Sen Hutson Question
11:08:48 AM Dr. VanDommelen
11:08:56 AM Sen Hutson
11:09:07 AM Dr. VanDommelen
11:09:43 AM Sen Powell Question
11:11:20 AM Dr. VanDommelen
11:13:39 AM Dr. Dane Rengachary, Chief Medical Director ACLI, speaks against
11:18:50 AM Sen Hutson Question
11:19:05 AM Dr. Rengachary
11:19:54 AM Sen Hukill Question
11:20:10 AM Dr. Rengachary
11:21:26 AM Sen Hukill Question
11:21:37 AM Dr. Rengachary
11:22:28 AM Sen Hukill Question
11:22:48 AM Dr. Rengachary
11:23:14 AM Sen Montford Question
11:23:34 AM Dr. Rengachary
11:24:29 AM Jamie Wilson, Moffitt Cancer Center, waive in support
11:24:45 AM Sen Benacquisto Debate
11:27:22 AM Sen Passidomo Debate
11:30:23 AM Sen Powell Debate
11:32:16 AM Chair Young Debate

11:33:25 AM Sen Bean close
11:34:40 AM Roll Call
11:35:04 AM CS/SB 1106 Recorded Favorably
11:35:12 AM Sen Passidomo motion
11:35:24 AM Sen Montford motion
11:35:39 AM Adjourned