

Legislative Link

A legislative update provided by the United Way of Florida, Inc.

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Helping all children succeed for life.
An initiative of the United Way of Florida,
Publix Super Market Charities, Inc. and
Bank of America.



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The 2004 Session: A BANG AND A WHIMPER

The 2004 Florida Legislative Session began with a bang, and ended with a whimper.

The “bang” actually started the day before session began when, in hopes of thwarting intense statewide, session-long criticism that could negatively impact November elections, the House and Senate Appropriations Committees passed their respective KidCare bills. The Senate bill (SB 2000) passed both chambers and was sent to the Governor by week’s end.

The strategy worked . . . the intense criticism that would have materialized if the bill had lingered in committee never materialized.

Leadership cooperation on the KidCare issue gave the impression that the contentious relationship between Senate President Jim King and House Speaker Johnnie Byrd that resulted in a five special-session-marathon in 2003 had been tempered. Not!

Infighting between the House and Senate led to the whimpering end of session when, on the second-to-last day, the House sent two bills to the Governor and the Senate sent eight. In past years, it has been dozens.

In the end, the animosity between the House Speaker and Senate President reached an all time high: For the first time in recent history the traditional sine die handkerchief dropping ceremony was cancelled after Speaker Byrd quietly left the capital – apparently to avoid a rancorous lobbying core that had donned sheep head masks and buttons proclaiming “On May One, Johnnie’s DONE!!!” – and amid allegations by both houses that the other had gone beyond the bounds of legislative propriety.

Five hundred of the 2,691 bills filed for consideration during the session passed. Yet, amidst it all – as always – there was some good and some bad to come out of it all. On the good side, preservation of the Medically Needy Program and Medicaid services for pregnant women and adult dental care, a new agency for the developmentally disabled, foster care transitional services and help for foster parents hoping to adopt their foster children all passed. In contrast, mental health services being transferred to HMOs; KidCare restrictions, Medicaid cuts for nursing homes and hospitals will all cause problems down the road.

Best of all perhaps is that, thanks to the November elections, this session was the first since 2001 that lawmakers have finished the budget without a special session.

We hope you enjoy this Legislative Link Wrap-Up Edition of the 2004 Legislative Session. If you have any questions or comments regarding any of the bills referenced herein, please don't hesitate to contact United Way of Florida offices.

Have a great interim!!!

BILLS THAT PASSED

- HB 25 – Medicaid Funds Memorial** - ...requests that Congress revise the outdated Medicaid funding formula for states so it will be more equitable (page 30)
- SB 512 – Independent Living Transition Services** - ...will provide greater supports to children as they leave foster and become independent (page 17)
- SB 532 – Good Samaritan Act** - ...extends immunity under the Act to those engaged in emergency response (page 31)
- SB 700 – Mental Health** - ...significantly revises the Baker Act relating to involuntary civil commitment (page 19)
- HB 723 – Community-Based Provider/Foster Care** - ... sets the stage for a statewide shared financial risk program intended to protect eligible lead agencies that contract with the department for the provision of foster care and related services (page 20)
- HB 821 – Early Childhood Education** - ...creates Florida’s new universal prekindergarten program (page 20)
- SB 1226 – Long-Term Care Service Delivery** - ...makes significant changes to Florida’s network of elder services (page 22)
- HB 1307 – Migrant Labor** (page 31)
- HB 1629 – Affordable Health Care** - ...authorizes insurers to sell bare-bones insurance policies to low income persons, and allows small employers to participate in health insurance purchasing pools (page 25)
- SB 1748 – Multiservice Senior Centers** - ... redefines the term “multiservice senior center” and provides for placement of automated external defibrillators (AED) in the centers (page 26)
- HB 1823 – Agency for Persons with Disabilities** - ...creates the new Agency for Persons with Disabilities (page 26)
- HB 1845 – Department of Children and Family Services** - ...places DCF’s 13 districts and one region into 6 new zones that will centralize administrative functions (page 27)
- SB 2000 – Kidcare** (page 34)
- SB 2046 – Adoption** - ...prohibits DCF from removing a foster child who has resided for at least 6 months with foster parents when the foster parent or custodian has applied for adoption (page 27)
- SB 2640 – Parenting Coordination Program** - ...provides parameters for Parenting Coordination Programs used to assist parents and families in the child welfare system (page 28)
- SB 2682 – Credit Counseling Services** - ...regulates credit counseling services (page 28)

Questions of the Ages

*Why do "overlook" and "oversee" mean opposite things?
How come abbreviated is such a long word?*

BILLS THAT DIED

SB 198 – Florida Infant Crib Safety Act - ...regulated quality of cribs used in some non-residential settings (page 36)

CS/SB 218 – Crimes Against Minors – ...provided enhanced penalties for kidnapping and assaulting children (page 36)

CS/CS/SB 316 – Substance Abuse/Intervention - ...allowed the court to require caregivers to get substance abuse counseling (page 37)

HB 379 – Elder Abuse and Neglect – ...elevated penalties for abusing an elderly and disabled (page 38)

CS/SB 496 – Family Child Care Homes - ...required family child care homes to be licensed (page 38)

CS/SB 510 – Child Care Facilities - ... clarifies enforcement issues for child care providers (page 39)

CS/HB 897 – Suicide Prevention - ... creates the Suicide Prevention Coordinating Program within the Office of Drug Control (page 42)

CS/HB 887 – Aging Resource Centers – ...required most elder services to be provided through HMOs (page 40)

CS/HB 1115 – Children’s Summer Nutrition Act - ...provided summer food program for children receiving free and reduced meals during the school year (page 42)

CS/CS/SB 1344 – Hospice Facilities – ...subjects hospice facilities to the Florida Building Code (page 44)

CS/CS/CS/SB 1706 – Specialty Behavioral Health Care - ... delivery of behavioral health services to individuals residing in assisted living facilities with limited mental health licenses (page 44)

SB 2420 – Seniors’ Services - ...authorized creation of special taxing districts to support senior services (page 46)

FLORIDA'S NEW UPK PROGRAM . . . QUALITY vs. IMPLEMENTATION?

When legislators returned home following the 2004 Session, they left Governor Bush with a big Universal Prekindergarten (UPK) problem. They had passed CS/CS/HB 821, which included reasonable governance positions but was utterly deficient in addressing program quality.

The governance provisions pretty clearly delineate how the program – which must be up and running at the beginning of the 2005 school year – must be implemented. Without these provisions in place well in advance of the 2005 school year, implementation of UPK would be, at best, messy. Waiting to pass the governance provisions during the 2005 legislative session would be too late for the program to get the program up and running smoothly.

On the other hand, the bill creates what may be the lowest quality UPK program in the country. It bifurcates the UPK and school readiness systems, fails to require basic curriculum, requires inadequate time for instruction, fails to require appropriate teacher/student ratios, and authorizes watered down program accreditation and teacher standards.

Many school readiness coalitions and others reluctantly requested that the Governor sign the bill to avoid chaotic beginnings to next year's UPK program. They held this position in hopes that the

2005 Legislature will address the quality voids in the bill.

The United Way of Florida, while recognizing the significant governance problems that will arise if the Governor vetoes the bill, asked the Governor to veto it. If it is not vetoed, Florida's UPK program could become a money siphon: stealing hundreds of millions of taxpayer dollars each year with no chance of accomplishing the goals embraced by Floridians when they passed the UPK Constitutional Amendment in 2002. History tells us that once a Legislature passes comprehensive legislation it rarely revisits the issue to make substantial substantive changes the following session. Can anyone name such an issue? We can't.

As this *Legislative Link* went to press, the Governor had not yet reviewed the bill from the Legislature. Once he receives it, Governor Bush will have 15 days to sign it, veto it, or do nothing and let it become law.

Governor Bush – together with Lt. Governor Toni Jennings – has been a proponent of high quality UPK. He informed advocates that he will sign 821 only if he gets “ironclad” agreements from 2005 House Speaker Bense and Senate President that they will move the quality provisions. As this *Legislative Link* went to press, those agreements had not been forthcoming.

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- **Arts and Culture Spending Up** – Legislators appropriated \$11.4 million in grants to help pay for operating arts and historical programs, up from about \$8.2 million this year, but still far below the \$19.3 million those groups received prior to this year.
 - **VETOES** – Governor Bush's veto pen has been quite active during his tenure. He vetoed \$900 million worth of “turkeys” and additional legislative appropriations during his first three years in office – more than \$100 million than Florida TaxWatch suggested during its annual turkey watches. Last year, because money was so tight and legislators did not insert as many of their pet projects into the appropriations bill, he only vetoed about \$33 million in budget proposal. Governor Bush sharpened his veto pencil again this year, vetoing about \$350 million of legislative projects.

Why We Love Kids . . .

DRESS-UP - A little girl was watching her parents dress for a party. When she saw her dad donning his tuxedo, she warned, "Daddy, you shouldn't wear that suit." "And why not, darling?" "You know that it always gives you a headache the next morning."

TOBACCO PREVENTION: SHORT-CHANGED AGAIN

For the second year in a row, the Florida Legislature appropriated only \$1 million to the state's tobacco prevention programs, the equivalent of \$0.26 for each of the state's 3.8 million residents younger than 18. This is far below the \$16 million sought by Governor Jeb Bush and a pittance compared to the \$78.4-\$221.3 million recommended by the US Centers for Disease Control to effectively engage in anti-tobacco efforts.

The 1997 tobacco settlement will bring \$13 billion into the state from the tobacco industry over the next 25 years – about \$414 next year. In 1999, the Legislature appropriated \$70 million to the program, yielding phenomenal results: Since then, the Florida Youth Survey reports reduction in use of tobacco by 57 percent for middle school students and 37 percent for high school students. This decline is largely attributable to the state's anti-smoking campaign.

Anti-tobacco efforts work! The extraordinary results cited above are largely attributable to the state's anti-smoking campaign.

The Legislature's abandonment of meaningful tobacco prevention efforts is disheartening.

To add insult to injury, this year's appropriation includes a clause preventing any of the \$1 million from being used on advertising. Of course, "Big Tobacco" is happy, and perhaps that's what's important?

Did You Know That . . .

- Tobacco use is the nation's leading preventable cause of death, killing more than 400 thousand people in the US and costing the nation \$75 billion in smoking-related health care bills every year.
- Nearly 90% of all smokers start at or before age 18.
- Every day in the US, 4,000 kids try their first cigarette, and another 2,000 kids become regular, daily smokers, 1/3 of whom will die prematurely as a result.
- The margin by which tobacco spending on marketing exceeds state tobacco prevention spending ranges from about 3 to 1 in Delaware and Maine to 655 to 1 in Florida.
- Florida ranks 44th among the states in the funding for tobacco intervention programs, according to the Campaign for Tobacco Free Kids.
- In Florida, 28,000 smokers die from tobacco related diseases each year and 3,000 others die from second-hand smoke.
- More than 144,000 high school students in Florida still smoke.

THE WISDOM OF WILL ROGERS

- *Why does a slight tax increase cost you two hundred dollars and a substantial tax cut saves you thirty cents?*
- *In the 60's people took acid to make the world weird. Now the world is weird and people take Prozac to make it normal.*

KidCare

The 1998 Florida Legislature passed the Florida KidCare Act, intended to provide health care coverage for more than 300,000 of Florida's 800,000 uninsured children ages 0-19 with family incomes below 200% of the federal poverty level. KidCare includes four different health programs: 1) MediKids – for children ages 0-5 who are ineligible for Medicaid and the CMS Network; no co-pay required; 2) Healthy Kids – for children 5-19 who are ineligible for Medicaid and the CMS Network up to 200% of poverty; co-pay up to \$20 per household (\$5 increase from 2002); 3) CMS Network – for children 0-19 with special health care needs and whose families are at or below 200% of poverty; up to \$20 per household co-pay (\$5 increase from 2002); and 4) Medicaid – for children 0-20 years of age up to 100% of poverty; no co-pay.

For every government dollar spent on Medicaid, the federal government pays 62 cents, and the state pays 48 cents. For the other three KidCare programs, the Feds pay 71 cents of every government dollar, while the state picks up 29 cents. The 2003-2004 KidCare budget – excluding Medicaid – is \$470 million, with \$117 million coming from the state, a reduction from the \$121 million appropriated in 2002-2003.

Nearly 1.7 million children – more than a quarter of the children in Florida – get their health care from Medicaid. Because it is an entitlement program, the Legislature cannot cap Medicaid enrollment. Citing a tight budget year, the 2003 Legislature capped enrollment in the other three KidCare programs. The enrollment caps took effect in July, 2003. By the end of September, the waiting list had grown to nearly 60,000 children, and was growing at about 3,000 children a week, twice as fast as lawmaker's expected. Healthy Kids is the program most severely affected.

Making things worse is a new policy that bumps enrolled children out of KidCare and back onto waiting lists as they age-out of one program into another, or as their health status changes. Until 2003, children could progress seamlessly through KidCare's three component programs as age and need dictated, without having to reapply each time.

At the beginning of this year, there were 338,340 children enrolled in the various Title XXI components, and an additional 90,280 children who had submitted applications waiting for coverage. Florida received notification of a redistribution of unspent federal funds from other states of approximately \$132 million, which must be spent by September 2005. These federal funds require a 29% state match.

In response to this huge waiting list, the 2004 Legislature took three major actions.

First, while delayed, advocates and families were thrilled that the Legislature appropriated an additional \$130 million next year to KidCare – it's biggest increase ever. This is enough money to eliminate the current waiting list (for which there was an additional appropriation to eliminate it for the remainder of this fiscal year) and to provide coverage for an additional 35,000 children to join during the 2004-2005 fiscal year. Unfortunately, it is projected that about 65,000 will seek coverage. This number may be reduced, however, as the Legislature also eviscerated KidCare outreach funding/efforts.

In order to avoid bad press and political problems associated with the 35,000+ children who will be unable to access KidCare programs next year, the Legislature eliminated the waiting list. Hence, there will be no way of definitively quantifying how many children will not receive the health care they need. Apparently, in the Legislature's eyes, if the waiting list doesn't exist then there are no children waiting.

Lastly, the Legislature passed substantial changes to eligibility and other KidCare provisions that will make it more difficult for families to participate and more expensive for counties to maintain current coverage. When these new rules kick on July 1, KidCare staff have stated that anywhere from 114,000 to 167,000 children may lose their coverage. The changes are contained in SB 2000, which passed during the first week of session with minimal public input. A summary of the specific provisions of **the bill are on page 34.**

FOSTER PARENT ADOPTIONS SUPPORTED

When foster parents apply to adopt a child who has been in their care for months or even years, it is usually wrong to yank the child out of their home with only days – or sometimes hours – notice. Yet this is not an uncommon experience. Horror stories abound. For example, last year a foster mother who had cared for her two year old foster child since birth was told to bring the child to a DCF office. Upon arriving, and with no notice, the child was taken from her, she was told to leave, and she was informed she was too poor to adopt the child.

Child advocates, juvenile court judges, foster parents and family advocates are celebrating the Legislature's passage of SB 2046, which will prohibit the Department of Children and Families (DCF) from removing abused, abandoned or neglected children from foster parents or court approved custodians who have applied to adopt them, unless a judge agrees.

The law is narrowly drawn to provide relief to foster parents or court approved custodians who have applied to adopt a child who has lived with them at least 6 months. In such case, the foster family would have 30 days to ask a judge to reverse a department decision to place the child with a different family, and during the 30 days the child would stay with the foster family. (See SB 2046 summary below)

"Sometimes I think war is God's way of teaching us geography."--Paul Rodriguez

CHEAP HEALTH INSURANCE

In an effort to assist millions of Floridians without health insurance, the Legislature passed HB 1629, which will allow low and moderate income families to buy bare bones health coverage for less than \$50 a month. However, such bare-bones plans won't cover many of the vital health procedures mandated to be included in other health insurance plans, such as doctor visits, immunizations, mammograms, hospitalization, and more.

Claiming it is critical that bare-bone coverage must be made available to the 2.8 million Floridians without health insurance, and that some coverage is better than none, the bill found favor with the Legislature after dying the last couple of years. Consumer advocates are fearful that consumers may purchase these stripped down health insurance benefits without fully understanding the extent to which they do – or, most likely, don't - cover certain health care issues. The proof will be in the pudding.

The bill will also allow businesses with 2-25 employees to join regional insurance purchasing pools to try to get better rates

The bill also allows health insurers to charge consumers higher co-payments for going to the emergency room if the treatment ends up being a non-emergency. Hospitals and health insurers say this measure is fraught with potential trouble. For example, is it appropriate to penalize a mother for taking her baby to the hospital for having a high fever when it is ultimately determined that the fever is caused by a relatively harmless ear infection? (see page 25 for a summary of the bill)

Tax Breaks Passed By the 2004 Legislature

- Sales Tax Holiday - Lawmakers resurrected a nine-day "sales tax holiday" to assist parents with back to school shopping. The holiday will run from July 24 – August 1, and will exempt from taxes clothes and other school items, including books. The tax break is on purchases of up to \$50.
- Gas Taxes – Legislators agreed to an 8-cent per gallon cut in gas taxes during the month of August.
- Corporate Investment Tax - Legislators granted a \$125 million tax break for businesses investing in new equipment.
- Intangibles Tax – There will be no additional change on the tax on stocks and bonds next year. Governor Bush had asked for a reduction of taxes from \$1 for every \$1,000 in assets to 66.7 cents, which would have reduced available funds for the budget by \$91 million, but the Senate refused to go along.

KIDS WILL STILL GO HUNGRY THIS SUMMER

Unbelievable.

More than \$100 million in federal funds are available for free – no match required – to provide summer food programs to Florida’s poorest children – children who are eligible for free and reduced meals during the school year.

Even so, the 2004 Legislature was unwilling to pass a bill that would have required a summer food program in every school district. Even though most districts already provide at least a scaled-back program, HB 1753, filed by Representative Greenstein, and its Senate companion, SB 1115, filed by Senator Wise, failed to pass.

The bills required that by the summer of 2005 at least one federally funded summer school program operate in each school district for at least 40 days during the summer months, sited within 5 miles of an elementary school where 50 percent or more

children are eligible for free or reduced price school meals. School districts were encouraged in the bill to collaborate with local county government and private, non-profit organizations because, although schools have proven to be the optimal sites for the Summer Food Program, any nonprofit organization can serve as a site and/or a sponsor.

The bill also would have allowed school districts to annually decide if they wanted to participate. School boards wishing to be exempt from the requirement would have been required to include the issue on an agenda at a regular or special school board meeting publicly noticed, provide citizens an opportunity to participate on the discussion, and then vote on whether to elect to be exempt from of the law.

The bill was named for Ms. Willie Ann Glenn, who passed away during session and coordinated a nationally recognized model for summer food programs in Perry, Florida.

WORKER’S COMPENSATION: Still Floundering

The 2003 Legislature, recognizing the significant hardships small employers and non-profits were having in accessing affordable worker’s compensation insurance, created a special sub plan “D” in the State’s Worker’s Compensation Joint Underwriting Association. The sub plan provides worker’s compensation insurance to nonprofit employers with experience modification of 1.1 or less at a rate of 10 percent above commercial market rates.

Unfortunately, the Legislature knew that the rate was not actuarially sound and, as a result, sub plan “D” experienced a \$35 million deficit this year. As a result, the Legislature appropriated funds to eliminate the deficit.

While nonprofits – like many other businesses – are struggling to meet increased worker’s comp premiums, the 2004 Legislature did not pass legislation specifically addressing their problems, although legislation was considered in the Senate that would have eliminated sub plan “D”. Instead, the Legislature passed general legislation intended to help businesses of all sizes, CS/SB 1926. **(see page 19)**

FUNNY SIGNS

- In a restaurant window: "Don't stand there and be hungry. Come on in and get fed up."
- In a veterinarian's waiting room: "Be back in 5 minutes. Sit! Stay!"

FLORIDA NURSING HOMES UNDERFUNDED

Quality Care Linked to Proper Medicaid Funding

An ongoing lag between Medicaid reimbursements and growing Medicaid costs has left Florida's nursing homes under funded. That's the conclusion of a Special Research Report by Florida TaxWatch titled "Florida Nursing Homes: The Under-Funding of Medicaid Reimbursements". The report concludes that unless Medicaid reimbursements are increased, nursing homes may experience financial hardship and a decline in quality of service.

Although quality remains high and is improving, the report found that Florida nursing homes are under funded relative to their audited costs. The under funding results from Medicaid reimbursements that have not kept pace with Medicaid costs. As a result, Florida nursing homes are losing money on Medicaid patients and operating costs. As a of January 2004, nursing homes in Florida were losing an average of \$14.72 per Medicaid patient day. That's estimated to exceed \$234.6 million this year alone.

"There need to be increases in Medicaid reimbursements to match nursing homes' actual audited costs," said Dominic M. Calabro, President and CEO of Florida TaxWatch. "Nursing homes may not be able to continue this commitment to care for recipients at the levels they currently are in the

face of continued funding shortfalls," Calabro said. For more on the report, visit the TaxWatch website at www.floridatxwatch.org. (Above two paragraphs excerpted from Florida TaxWatch In Focus, April, 2004)

Unfortunately, even with this timely information in hand, Florida's nursing homes will face a five percent cut in Medicaid reimbursements next year. At least the Legislature did not eliminate funding for hold days. Originally discussed, the hold day elimination was changed to provide that hold days will be paid for beds in any facility that is at at least 95 percent capacity.

However, the Appropriations Implementing Bill (HB 1837) does require "the Agency for Health Care Administration, in conjunction with the Florida Healthcare Association and the Florida Association of Homes for the Aging to evaluate the reimbursement methodology for Medicaid nursing home services to determine the adequacy of current payment rates in meeting the costs of providing care to Florida's Medicaid residents".

Comprehensive legislation dealing with nursing home living and health care clinics was passed by the 2004 Legislature, CS/SB 1062 (see page 27)

JJ – Court System Switch Off

In 1998, Florida voters approved a constitutional amendment transferring the state's court system from the province of county governments to the state government. Next year, when the transfer takes effect, the state will assume additional costs of more than \$116 million, including an additional 1,247 staff positions and other costly technology projects and operating expenses associated with judges, court reporters, interpreters, and other specialists and services.

The bill transferring the court system (CS/SB 2962) will actually raise money for the state – about \$235 million, more than \$100 million more than the transfer will cost. It does so by raising a variety of fees, including: 1) a \$4 hike in recording fees, raising \$104 million; 2) a \$28 increase in the \$55 divorce filing fee and a \$5 reduction in the \$25 marriage license, raising about \$2.5 million for domestic violence programs; 3) a \$50 increase in the \$300 Supreme Court filing fee; 4) a new \$100 fee for all out-of-state lawyers not admitted to the Florida Bar who want to represent a party in any Florida court; and 5) a \$101 assessment in court costs on defendants convicted of serious offenses against minors. One of the problems these fees erases is the funding dilemma faced by clerks of the courts, who anticipated that the transfer would jeopardize their already strained budgets.

Even so, next year's budget shifts responsibility for funding the state's 25 juvenile detention facilities - short-term lockups used to house juvenile offenders before they come to trial - to Florida's counties, at a cost of up about \$100 million.

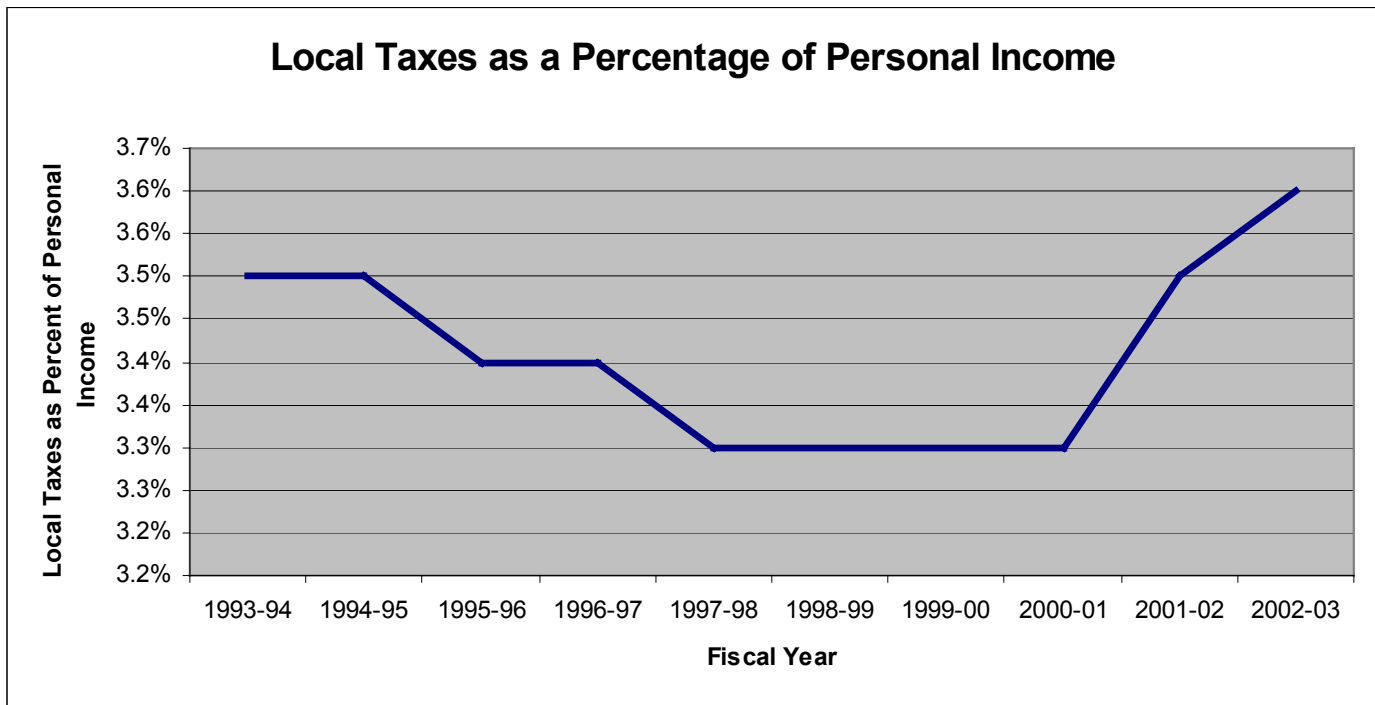
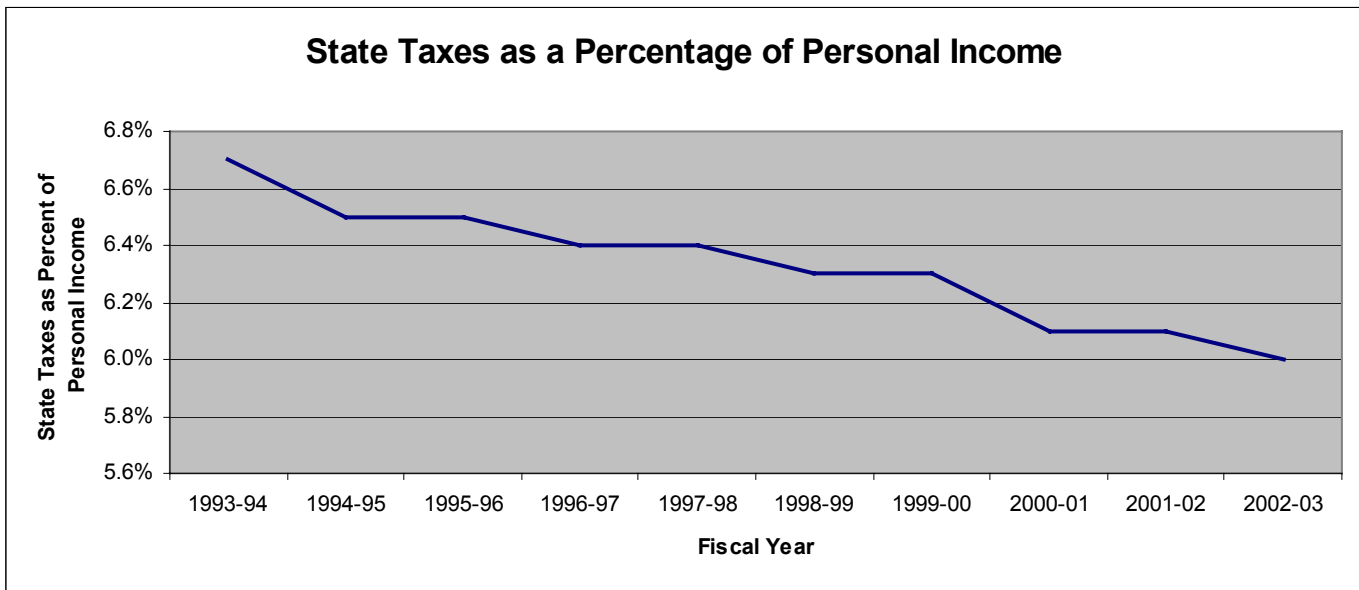
Continued on page 10.

It's an annual cost that has previously been paid by the Florida Legislature through an appropriation to the Florida Department of Juvenile Justice.

As reported previously in your *Legislative Link*, this will exacerbate a problem counties have complained about for years: that the Florida Legislature is abdicating state responsibilities and forcing local governments to pay for them.

The two charts below, included in *The Florida Revenue Primer* produced by the Human Services Coalition of Dade County, dramatically support the allegations. There are many reasons put forth by legislators for this devolution of tax burdens. The bottom line: State lawmakers don't want to take the blame for raising taxes, so they pass laws and refuse to fund basic services that must be provided, thereby forcing local governments to raise taxes to pay for them.

And then they can claim they're reducing taxes. But are they?



Source: *The Florida Revenue Primer: Florida's Needs & How We Pay for Them*, Human Services Coalition of Dade County April 2003

MEDICAID WARS

Last year, momentum was building in Congress to block grant several huge – and hugely important – federal programs, most notably Medicaid and Head Start.

Next year, these issues promise to be back with a vengeance, and it will be incredibly important for all advocates and people interested in these issues to let their legislators know what they think about them.

This year was an election year. Consequently, these issues were soft-shoed. Politicians recognize they are incredibly contentious and didn't want them negatively impacting their campaigns. Of course, one might ask, if block granting these programs was the right thing to do, then the public should support them and politicians should discuss them prior to an election. But that's not the case.

The reality is that the President and Congress want to block grant these programs to save money. There is much rhetoric about program improvement, etc., but it is all window dressing to hide the underlying intent to reduce the costs of these important programs to the federal and state governments.

Governor Bush is strongly supportive of the block granting, and Florida is moving aggressively forward in seeking waivers to achieve cost savings. Of course, reducing costs is an admirable goal that should be strived for daily. The issue is balancing cost cutting with service provision.

In the absence of block granting, the Florida Legislature has embraced a new approach – turning Medicaid services over to managed care organizations (i.e. HMOs). With HMOs acting as the “gatekeepers” to the Medicaid system, costs will be reduced; reduced to the point that they not only accommodate the cost-cutting needs of Legislators, but that they also ensure a healthy profit margin. HMOs are for-profit organizations.

The 2004 Florida Legislature attempted to turn a huge amount of Medicaid services over to HMOs during the session, inching forward in one area, and transforming service provision in another.

Elder Services – In one of the most underhanded moves of the session, budget negotiators slipped into the final appropriations bill – without any discussion or open meetings to workshop the issue – proviso language that would have committed the state to an experiment in which all elderly Medicaid patients in Hillsborough, Polk, Orange, and Seminole counties would be subjected to an “integrated care management model” (i.e. HMOs). The language was broad, including every state Medicaid service for elders, including nursing homes, assisted living homes, adult day care, and home delivered meals, among others.

Of course, because the proviso language was in the “final” appropriations bill provided to the Legislature within the 72 hours prior to the end of session, any change to it would have required an extended or special session. So much for the constitutionally required 72 hours notice in order to prevent such maneuvers.

Even though the move would have required a federal waiver, many legislators - particularly Senators - were outraged and, fortunately, were able to work an agreement with leadership to include language in the appropriations implementing bill.

The Appropriations Implementing Bill (HB 1837) requires the Department of Elder Affairs to develop a plan for transitioning “all Medicaid services for eligible elderly individuals into an integrated care management model designed to serve consumers in their community.” The plan must include specific pilot cite projects, may include strategies for the phase in of statewide coverage, and must be submitted to the Legislative Budget Commission by December 31, 2004. *Continued on page 12*

This battle will be fought again next year.

Mental Health Services - In another, more immediately far reaching move, legislators slipped language into the budget implementing bill that could shift about 300,000 mentally ill Medicaid recipients and millions of tax dollars into HMOs. HMOs currently have about 60 percent of Medicaid recipients, but the move would allow them to control mental health care as well as medical care.

Specifically, the bill requires the Agency for Health Care Administration to contract with a single managed care plan to provide comprehensive behavioral health services to all recipients who are not enrolled in a Medicaid Health Maintenance organization in AHCA areas where eligible individuals number less than 150,000. The bill further provides that AHCA “may” contract with more than one comprehensive behavioral health care provider to provide care to recipients who are not enrolled in a Medicaid Health Maintenance organization in AHCA areas where the eligible population exceeds 150,000. The bill further states that contracts for comprehensive behavioral health providers shall be competitively procured, with both for profit and not for profit corporations eligible to compete.

Local health centers that now provide the care said the move would shift \$90 million to \$140 million out of their pockets to the HMOs. Legislators who supported the move claim it will save money by forcing local mental health centers to compete on price with HMOs, but they currently do.

The real irony is that the 2003 Legislature passed a law allowing community providers and HMOs to compete for the opportunity to provide behavioral health care services. By changing that law, and basically establishing identifying HMOs as preferred providers, the competitiveness the Legislature infused in the system last year will be gone, as will market pressures to keep services at manageable rates.

That 2003 law was passed only after it passed through eight substantive committees and was subjected to intense debate and scrutiny. This year’s action was taken without any study to determine the impact on patients currently being served by community based agencies, how it will affect law enforcement agencies, courts, and local governments that depend on the community mental health system as a safety net, and the extent to which it will actually save money.

At least the Appropriations Implementing Bill (HB 1837) does require AHCA to “include a specific analysis of managed care contracts and the impact of those contracts on the mental health service delivery system in Florida.”

New Agency for Persons With Disabilities Created

Governor Bush has significantly increased funding for developmental disabilities during his term as governor. Because of his sensitivity and concern for issues facing the disabled, and because of the funding crisis that has gripped the developmental services community resulting from a change in the funding formula last fall, about half way through the 2004 session, Governor Bush proposed carving out a new agency from the Department of Children and Family Services to serve people with disabilities. As a result, the Legislature passed HB 1823 creating the \$1.1 billion Agency for

Persons with Disabilities that will oversee services for about 30,000 developmentally disabled people in Florida.

While creation of the new Agency may be as much about appeasing families with loved ones on the 14,000+ DD waiting list and disgruntled DD providers, it is being welcomed as a vehicle through which the historically ignored DD services can maintain a strong voice for its constituents well beyond Governor Bush’s tenure. (see page 32)

Correction – In the 8th Edition of the 2004 *Legislative Link*, it was noted that group homes serving individuals with developmental disabilities housed about 46 people. Thank you to readers who pointed out the typo: group homes serve 4 to 6 individuals, not 46.

Please Support Efforts to Eliminate FETAL ALCOHOL SYNDROME

We Must Eliminate It.

On any given day in the United States. . . .

- 10,657 babies are born. Of these:
 - 1 is HIV positive.
 - 3 are born with Muscular Dystrophy
 - 4 are born with Spina Bifida.
 - 10 are born with Down Syndrome.
 - 20 are born with Fetal Alcohol Syndrome.
 - 100 are born with Alcohol Related Neurodevelopment Disorder.

The comprehensive lifetime cost of just one baby with fetal alcohol syndrome (FAS) can be as much as \$4 million. The cost to American taxpayers for Fetal Alcohol Syndrome is estimated to be \$5 million a day (\$1.9 billion/year) according to the National Institute on Drugs and Alcohol.

WHY WE LOVE KIDS . . .

NUDITY

I was driving with my three young children one warm summer evening when a woman in the convertible ahead of us stood up and waved. She was stark naked! As I was reeling from the shock, I heard my 5-year-old shout from the back seat, "Mom! That lady isn't wearing a seat belt!"

MORE NUDITY

A little boy got lost at the YMCA and found himself in the women's locker room. When he was spotted, the room burst into shrieks, with ladies grabbing towels and running for cover. The little boy watched in amazement and then asked, "What's the matter haven't you ever seen a little boy before?"

UNCOVERED KIDS: BY THE NUMBERS

3-4 times	Likelihood that an uninsured child will be absent from school compared to an insured child
68%	Improvement experienced in key measures of school performance by children enrolled in publicly funded health insurance programs.
\$248	Amount of federal match dollars leveraged by Florida for every \$100 invested in the children's health insurance program.
120,950	Number of jobs in Florida that are generated by the federal Medicaid match.
\$8.7 billion	Dollar amount of business activity in Florida generated by federal Medicaid match.

Source: Bay, Franklin, Gulf, Healthy Start Coalition

AFFORDABLE HOUSING TRUST FUNDS REAUTHORIZED

In 1992, the Florida Legislature adopted landmark legislation for affordable housing known as the William E. Sadowski Affordable Housing Act, providing funds for affordable housing to all 67 counties and an additional 48 cities. Since its inception, the Sadowski Act has assisted more than 150,000 families with affordable home ownership or rental housing through programs such as the State Housing Initiatives Partnership (SHIP) program, the State Apartment Incentive Loan (SAIL) program, and the Florida Affordable Housing Guaranty Fund. In addition, the Sadowski Act has enabled local governments and the state to bring in over \$620 million in federal monies, drawn down by local match.

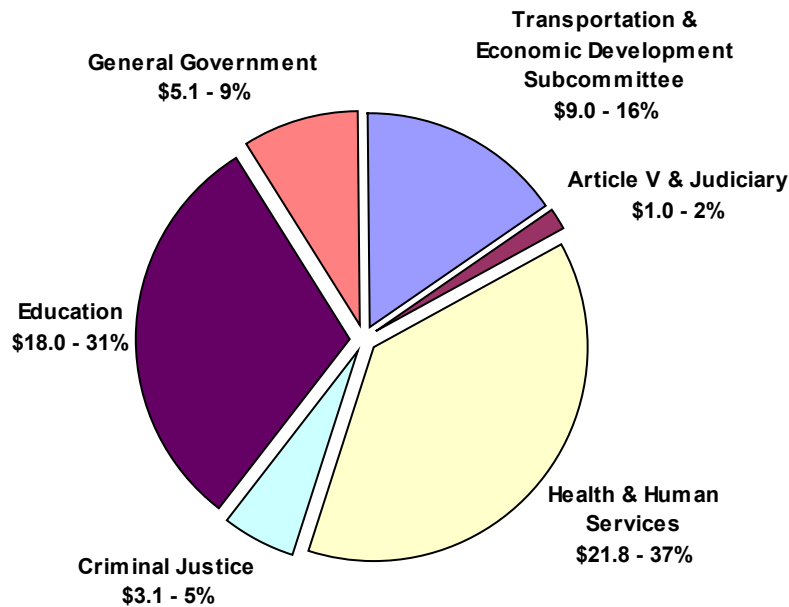
The Sadowski Act uses a portion of the state real estate documentary transfer fee to fund the state and local housing trust funds. For every dollar of Sadowski Funds, the public and private sector invest at least \$6, resulting in an estimated \$9 billion in

additional public and private sector investments since the act was implemented.

Major efforts were undertaken by a broad coalition of human service providers, the Florida Homebuilder's Association, and others to protect housing trust funds for their intended purposes. In the end, housing trust funds were preserved as the dedicated source of revenue for affordable housing, but were capped at \$193 million. As a result, the Legislature continued its trend of the last couple of years of taking more than \$200 million out of the trust fund and using them for other purposes in the budget.

In addition to protecting the Housing Trust Funds, funding for homeless assistance programs was maintained at the current \$7.3 million. Consequently, homeless challenge grants, homeless housing assistance grants, local homeless coalition funding, and grant-in-aid in emergency housing programs will be continued at current funding levels.

2004-2005 General Appropriations Act \$58.0 Billion



BUDGET

For a line-by-line breakdown of key budget provision, see the attached Florida Budget Comparisons.

The \$58 billion budget is an 8.4 percent jump – \$3.2 billion - over the current year and increases funding for health care, education, prisons, and economic development. The budget is primarily funded by population and job growth, increases in tuition and fees, and grants from the federal government.

Article V Implementation & Judiciary

- \$131 million increased funding for the State Courts for implementation of Article V and workload;
- \$100.9 million increased funding for State Attorney, Public Defender, and Justice Administrative Commission implementation of Article V and workload

Criminal Justice

- \$39.1 million to fund operating costs for increased prison population
- \$99.6 million to fund the completion and new construction of approximately 11,000 new prison beds.

Education

- Increased funding from State appropriations and legislatively controlled local revenue sources of \$1.5 billion or 7%.
- Increased funding for the FEFP of \$1.02 billion or 7.3 %:
- Fully funds projected Public School enrollment growth of 58,896 students (2.3%)
- \$510.6 million in incremental funding to phase in the second year of Class Size Reduction (Total Class Size Reduction Operating funds for 04/05 - \$978.8 million)
- Statewide average per-pupil funding through the FEFP is increased by \$268.56 to \$5,764.40, an increase of 4.89%
- \$98.5 million for Governor's reading program.

General Government

- \$300 million cash for Florida Forever
- \$100 million cash for Everglades Restoration
- \$150 million for Petroleum Tanks Cleanup

Health and Human Services

- Medicaid Workload and Price Level - \$1,799.2 million
- Florida KidCare Program - \$149.2 million
- Medical Expenses for Medicaid Nursing Home Residents - \$52.7 million
- HMO Rate Increase - \$56.3 million
- Restoration of Adult Denture Coverage - \$9.5 million
- Reduce Florida Healthy Kids Dental Reimbursement Rates – (\$17.9 million)
- Reduce Hospital Inpatient/Outpatient Reimbursement Rates – (\$83.8 million)
- Serve Developmentally Disabled Citizens - \$45.0 million
- Domestic Violence Programs - \$5 million
- Equity Funding for Community-Based Providers - \$23.6 million
- Tobacco Awareness/Use Reduction Program - \$1.0 million

Transportation and Economic Development

- Over \$672 million for the School Readiness Program
- \$55.9 million for Affordable Housing Programs and \$130.9 million for State Housing Initiatives Partnership (SHIP).

2004 BILL SUMMARIES

(The bills summarized below relate to human service issues and other issues of interest to United Ways, United Way agencies, and United Way supporters. Much of the information below has been excerpted from Legislative staff analyses.)

TO OBTAIN A COPY OF A BILL, STAFF ANALYSIS, LEGISLATIVE CALENDARS
OR OTHER LEGISLATIVE INFORMATION:

House Bills: House Documents, Rm. 325, Capitol, Tallahassee, FL 32399 ♦ 850/488-7475

Senate Bills: Senate Bill Rm. 303, Capitol, Tallahassee, FL 32399 ♦ 850/487-5285

Website Address: <http://www.leg.state.fl.us/>

BILLS SIGNED INTO LAW

CS/HB 25 – Medicaid Funds Memorial (Sponsor: Procedures)

Medicaid is the primary source of government-provided health coverage for low-income individuals in Florida. It is one of the largest single program expenditures in Florida's budget - \$12.5 billion in 2003-04 - approximately half of which is federal matching funds, and serves a population of over 2.1 million Floridians per month.

As a federal/state partnership, the federal share of total Medicaid program costs is determined using a statutory formula that calculates the portion of each state's Medicaid expenditures that the federal government will pay, known as the Federal Medical Assistance Percentage (FMAP), also called the "federal matching rate." FMAP calculates the federal matching rate for each state on the basis of the state's per capita income (PCI) in relation to the national PCI.

The use of PCI in the federal funding formula creates a situation where as the state's PCI increases, relative to the national average, the formula provides for a decreasing federal matching rate. Because of the nature of this formula structure, two states spending the same proportion of their own budgets toward funding Medicaid services are unable, after receiving federal matching funds, to spend the same amounts per person in poverty, adjusted for cost differences related to age and geographic locations.

The U.S. General Accounting Office (GAO) argues that PCI is an inadequate measure of a state's funding ability because it is an incomplete measure of overall state resources, a poor proxy for the size of a state's population in poverty, and PCI does not take into account differences in the cost of providing health care services to people in poverty. Instead, the GAO states that a Medicaid funding formula should be based on total taxable resources (TTR), or some other mechanism that better measures a state's fiscal capacity.

HM 25 urges the federal government to replace the current Medicaid formula with a formula that is based on the TTR of a state. TTR was developed in the mid-1980s by the U.S. Treasury as a new measure of a state's capacity to raise public revenues. TTR is a measure of all income potentially subject to taxation that is either produced within a state or received by state residents from out-of-state sources. TTR is considered a better indicator of a state's resources, or its ability to support its population in poverty.

By using a TTR-based formula, there would be a significant redistribution of federal Medicaid dollars, and certain large states, including Florida, would receive more federal funds. Since this would only be redistribution, changing the formula would be budget-neutral for the federal government. In the GAO's 1991 report, the Office estimated that Florida would receive a 21 percent increase in federal funding using the TTR-based mechanism.

HB 221 – Assisting Self-Murder (Sponsor: Peterman)

During the fall of 2003, it was widely reported in the media that a rock band had publicized plans to have a “terminally ill” person commit suicide during a concert in St. Petersburg, Florida. The St. Petersburg City Commission passed an emergency city ordinance that prohibited conducting for commercial or entertainment purposes any event that includes a suicide as a component of the event. The ordinance also authorized the city attorney to seek an injunction to bar such an event.

Section 782.08 prohibits the offense of “assisting self murder” and provides that a person who deliberately assists another in the commission of self murder commits a second degree felony.

HB 221 defines the term “deliberately assisting” in this context to mean carrying out an act that is intended to:

1. Aid, abet, facilitate, permit, advocate or encourage;
2. Publicize, promote, advertise, operate, stage, schedule or conduct;
3. Provide or secure a venue, transportation, or security; or
4. Result in the collection of an admission or fee.

The bill provides that a person can be charged with assisting self murder regardless of whether death actually occurs.

CS/CS/SB 532 – Good Samaritan Act (Sponsor: Comprehensive Planning)

Section 768.13, F.S., the “Good Samaritan Act,” provides immunity from civil liability to:

- Any persons, including those licensed to practice medicine, who gratuitously and in good faith render emergency care or treatment either in direct response to emergency situations at the scene of an emergency outside of a hospital, doctor’s office, or other place having proper medical equipment. The immunity applies if the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances. The immunity is not available if an injured person objects to treatment or care.
- Any health care provider, including a licensed hospital providing emergency services pursuant to federal or state law. The immunity applies to damages as a result of any act or omission to provide medical care or treatment, including diagnosis, which occurs prior to the time that the patient is stabilized and is capable of receiving medical treatment as a non-emergency patient. The act does not provide immunity from liability for providing or failing to provide medical care or treatment under circumstances demonstrating a reckless disregard for the consequences to the life or health of another.
- Any health practitioner who is attending one of his or her patients in a hospital for reasons unrelated to direct patient care, who voluntarily responds to an emergency condition of a person who is not a patient of the practitioner is immune from liability for damages unless the practitioner engaged in willful and wanton conduct likely to injure the person in an emergency condition.

CS/CS/SB 532 provides immunity from civil liability, under the Good Samaritan Act, to a person who gratuitously provides care, treatment, or service during emergency response activities in connection with local emergency management agencies, the Division of Emergency Management of the Department of Community Affairs, or the Federal Emergency Management Agency. The immunity protects a person from civil liability for damages caused by an act or a failure to act to arrange further care, treatment, or services if such person acts as a reasonably prudent person would have acted under the same or similar circumstances.

CS/HB 1307 – Migrant Labor (Sponsor: State Administration)

CS/HB 1307 reactivates the Legislative Commission on Migrant Labor (commission), changing its name to the Legislative Commission on Migrant and Seasonal Labor, and revises its advisory committee's membership.

Bills Signed into Law continued

The bill directs the Department of Business and Professional Regulation (DBPR) to establish a best practices program for farm labor contractors. A farm labor contractor desiring designation as a "best practice farm labor contractor" must meet certain requirements established by the DBPR.

The bill further amends current statutes relating to farm labor contractors to:

- Authorize the DBPR to inspect farm labor contractors' books;
- Prohibit a farm labor contractor from employing a person acting as a farm labor contractor who does not have a current certificate of registration;
- Require a farm labor contractor to be available to receive service of process;
- Establish definitions for "minor violations" and "major violations;"
- Increase the fee for a certificate of registration from \$75 to \$125;
- Establish civil penalties for "minor violations" up to a cumulative maximum of \$2,500; and
- Establish civil penalties for "major violations" up to \$2,500. Provide for revocation of registration for multiple violations in a 2-year period.

In addition, the bill creates the Florida Agricultural Worker Safety Act (act) to be administered by the Department of Agriculture and Consumer Services. The act's purpose is to ensure farm workers receive protection from exposure to agricultural pesticides.

CS/SB 1572 – Child Care Personnel Training (Sponsor: Children and Families)

Shaken Baby Syndrome is damage to the brain or other neurological alteration that is caused by the violent shaking of an infant or small child or the impacting of the head of an infant or small child. Such shaking often occurs as a result of anger or frustration when the baby will not stop crying or has not responded to the commands or desires of the caregiver. Approximately 20 percent of the shaken baby syndrome cases are fatal within days of the injury, and the remaining children often experience disabilities ranging from mild learning disorders and behavioral changes to more severe disabilities such as profound mental retardation, paralysis, blindness, or remaining in a permanent vegetative state.

Sudden Infant Death Syndrome (SIDS) is "the sudden death of an infant under 1 year of age which remains unexplained after a thorough case investigation, including performance of a complete autopsy, examination of the death scene, and review of the clinical record."⁴ The greatest number of SIDS deaths occur in infants between 2 and 4 months and usually are unexpected and take place during sleep. While not preventable, the risk of a SIDS death can be reduced by placing infants on their backs to sleep and on a firm surface, providing the infant with a smoke-free environment, and preventing the infant from becoming overheated.

Florida's child care facilities are required to ensure that their child care personnel receive training upon employment, as well as annual in-service training, as part of the licensing requirements. Specifically, child care personnel in child care facilities are required to take an approved 40-hour course in child care which must be completed within one year of employment with success demonstrated by the passage of a competency exam (s. 402.302(2)(d), F.S.). This 40-hour course includes a 30-hour introduction to child care, which covers the following topics:

- State and Local Rules and Regulations (2 hours)
- Health, Safety, and Nutrition (4 hours)
- Identifying and Reporting Child Abuse and Neglect (4 hours)
- Child Growth and Development (10 hours)
- Behavioral Observation and Screening (10 hours)

Bills Signed into Law continued

The remaining 10 hours of the initially required 40 hours is met by completing one or more of the following specialized modules:

- Infant and Toddler Appropriate Practices (10 hours)
- Preschool Appropriate Practices (10 hours)
- School-Age Appropriate Practices (10 hours)
- Special Needs Appropriate Practices (10 hours)
- Basic Guidance and Discipline (web based course: 5 hours)
- Computer Technology for Child Care Professionals (web based course: 10 hours)
- Literacy in the Child Care Environment (web based course: 5 hours)

The Committee Substitute for SB1572 requires that child care personnel in child care facilities receive training relative to shaken baby syndrome, sudden infant death syndrome, and early childhood brain development.

CS/SB 1926 – Workers’ Compensation (Sponsor: Banking and Insurance)

In 2000, a survey ranked Florida as having the highest workers’ compensation premiums in the country, and in 2001, the same survey ranked Florida second only to California. For 2002, the Department of Insurance authorized a 2.7 percent increase in rates, and subsequently, in 2003, the Office of Insurance Regulation (OIR) approved a 13.7 percent increase. In 2003, some workers’ compensation carriers had indicated that they were not issuing new policies, renewing policies, or were tightening their underwriting requirements in response to a downturn in the economy and uncertainties in the market place. The number of policies issued by the Florida Workers’ Compensation Joint Underwriting Association (JUA), the insurer of last resort, increased from 522 in 2000 to 1,179 as of February 2003, while the volume of written premium increased from \$5 to \$26 million during this period.

As required by the workers’ compensation legislation enacted in 2003, SB 50-A, the President of the Senate and the Speaker of the House of Representatives appointed members to the Joint Select Committee on Workers’ Compensation Rating Reform to study rating options that would promote greater competition and encourage insurers to write workers’ compensation while protecting employers from rates that are excessive, inadequate, or unfairly discriminatory. CS/SB 1926 incorporates the committee recommendations by making the following changes:

- Revises the criteria the Office of Insurance Regulation (OIR) must use in considering an application by an insurer for a rate deviation from the approved rate for worker’s compensation filed by a licensed rating organization. In determining whether to approve or disapprove the deviation, the OIR would continue to consider standards related to the actuarial soundness of the rate and the financial condition of the insurer, but would no longer consider the impact of the deviation on the composition of the market, the stability of rates, and the level of competition of market.
- Requires each workers’ compensation insurer to notify the OIR of a significant underwriting change that materially limits or restricts the number of policies or premiums written in Florida.
- Allows workers’ compensation insurers to use rates in excess of their filed rates with the written consent of the policyholder for a period of 3 years, for employers the insurer takes or keeps out of the Workers’ Compensation Joint Underwriting Association, without these policies being subject to the current maximum limitation of 10 percent of an insurer’s commercial policies.

Bills Signed into Law continued

- Requires the OIR to submit an annual report to the Legislature which evaluates competition in the workers' compensation market in Florida, including the availability and affordability of coverage and whether the current market structure and performance are conducive to competition, based upon economic analysis. The purpose of the report is to assist the Legislature in determining whether changes to the rating laws are warranted.

CS/SB 2000 – Florida KidCare Program (Sponsor: Appropriations)

The State Children's Health Insurance Program (SCHIP), enacted as part of the Balanced Budget Act of 1997, created Title XXI of the Social Security Act, which provides insurance to uninsured children in low-income families either through a Medicaid expansion, a separate children's health program, or a combination of both. SCHIP was designed as a federal/state partnership, similar to Medicaid, with the goal of expanding health insurance to children whose families earn too much money to be eligible for Medicaid, but not enough money to purchase private insurance. SCHIP is the single largest expansion of health insurance coverage for children since the initiation of Medicaid in the mid-1960s.

The Legislature created Florida's KidCare program during the 1998 Legislative Session, in response to passage of Title XXI of the Social Security Act, to make affordable health insurance available to previously uninsured, low-income children. The program is primarily targeted to uninsured children under age 19 whose family income is at or below 200 percent of the federal poverty level (FPL), \$36,800 for a family of four. The KidCare program is designed to maximize coverage for eligible children and federal funding participation for Florida, while avoiding the creation of an additional entitlement program under Medicaid. The KidCare program is outlined in ss. 409.810 through 409.821, F.S.

Enrollment was initiated on October 1, 1998, and 1,517,537 children are enrolled in the various components of the KidCare Program as of February 2004. Of this total, 314,634 children are Title XXI eligible, 22,925 children are non-Title XXI eligible, and 1,179,978 children are eligible under the Medicaid Title XIX program.

KidCare is an "umbrella" program that currently includes the following four components:

- Medicaid (for children who qualify for Title XIX under the following limitations: birth to age 1, up to 200 percent of the FPL; ages 1 through 5, up to 133 percent of the FPL; and ages 6 through 18, up to 100 percent of the FPL)
- Medikids (for children ages 1 through 4 who qualify for Title XXI with incomes up to 200 percent of the FPL)
- Florida Healthy Kids program (for children ages 5 through 18 who qualify for Title XXI up to 200 percent of the FPL)
- Children's Medical Services (CMS) Network, which includes a behavioral health component (for children ages birth through age 18 who have serious health care problems)

CS/SB 2000 makes the following changes to the Florida KidCare program:

- Eliminates continuous enrollment and replaces it with no more than two 30-day open enrollment periods per fiscal year (September 1 – 30 and January 1 – 30) on a first-come, first-served basis using the date the new open enrollment application is received.
- Provides an exception to the open enrollment period for the Children's Medical Services Network to enroll up to an additional 120 children based on disability criteria.
- Provides disenrollment procedures on a last-in, first-out basis, except for children enrolled in the Children's Medical Services network, based on a determination of insufficient funds.

Bills Signed into Law continued

- Clarifies eligibility requirements, effective July 1, 2004, to limit Title XXI eligibility to children under 19 years of age; requires proof of family income; and requires a statement from the applicant that employer insurance is not available, the potential enrollee is not covered or eligible for coverage under a family member's employer group health insurance plan, and the incremental cost to enroll the child.
- Provides for reserves to be established to assure transfers of children between program components, under conditions of cost neutrality, effective July 1, 2004.
- Provides for the withholding of benefits and for prosecution of an individual or applicant under certain circumstances, effective July 1, 2004.
- Requires coverage of dental services; provides that dental services may include those dental services provided to children under the Medicaid program; and removes the maximum cap of \$750 per enrollee per year, effective July 1, 2004.
- Clarifies that the Agency for Health Care Administration is to contract, either directly or through the services of a third-party, with authorized insurers or providers of health care services for the provision of comprehensive insurance coverage for KidCare enrollees.
- Clarifies that the Florida Healthy Kids Corporation may provide benefits to legal aliens who do not qualify for Title XXI and to other children whose family pays the full costs of the premiums including any administrative costs.
- Requires the Auditor General to perform an analysis of ineligible children enrolled in the program for the purpose of making recommendations to prevent such enrollment.

In addition, the omnibus health care bill (HB 1843) requires that “proof of family income supported by copies of any federal income tax return for the prior year, and a wages and earning statements (W-2) forms, and any other appropriate document” must be used in determining the eligibility of the child for the Florida KidCare Program. The Appropriations Implementing Bill (HB 1837) provides that the first potential Florida KidCare program open enrollment period for fiscal year 2004-2005 is January 1, 2005 through January 30, 2005.

BILLS THAT PASSED

HB 1 – Parental Notification of Abortion on a Minor (Sponsor: Byrd) (THIS BILL PASSED)

Since 1972 when the United States Supreme Court decided *Roe v. Wade*¹, state legislatures have been testing the Constitutional limits on their authority to impose restrictions on abortions. The *Roe v. Wade* decision was premised upon the right of privacy, which the Court held to be a “fundamental right” encompassing a woman's decision to terminate her pregnancy. Whenever a “fundamental right” is involved, regulations limiting that right are subject to strict scrutiny, justified by a “compelling state interest” that must be narrowly drawn to express only that interest.

In 1980, Florida citizens voted in general elections to amend the State Constitution to provide for a right of privacy. (Art. 1, Sec 23 of the Florida Constitution)

This joint resolution creates Article X, section 22 of the State Constitution, which provides that the Legislature may, notwithstanding the state constitutional right to privacy, enact legislation requiring notification of a parent or guardian of a minor prior to the performance of an abortion on the minor. The amendment provides that the Legislature shall not limit or deny the privacy rights guaranteed to minors under the United States Constitution as interpreted by the United States Supreme Court, and provides that the right to notification shall not apply to minors emancipated by general law.

Bills that Passed continued

CS/CS/SB 206 – Council for Deaf & Hard of Hearing (Sponsor: Appropriations Subcommittee on Education)

Over 2 million deaf and hard of hearing individuals live in Florida, making the state one of the largest communities of such persons in the United States. State organizations for the deaf report the following issues encountered by deaf and hard of hearing persons in the state:

- lack of captioning,
- poor quality of sign language interpreters,
- enforcement issues regarding Americans with Disabilities Act accessibility requirements,
- lack of funding to provide services for deaf/hard of hearing persons,
- lack of resources for persons who work with deaf/heard of hearing persons, and
- lack of regulation for persons serving the deaf/hard of hearing community, including sign language interpreters, captionists, and hearing aid dealers.

CS/CS/SB 206 creates the Florida Council on Deafness, which would recommend policies that address the needs of deaf and hard of hearing persons and recommend changes to improve the coordination of services for such persons. It is authorized to provide technical assistance, advocacy, and education. The council is assigned to the Florida Department of Education for administrative and fiscal purposes, but is otherwise to function independently of the control and supervision of the department.

CS/SB 466 – Statewide Guardianship Office/OGSR (Sponsor: Health, Aging, and Long-Term Care)

Florida has a long history of providing public access to the records and meetings of governmental and other public entities. The first law affording access to public records was enacted by the Florida Legislature in 1909. In 1992, Floridians voted to adopt an amendment to the Florida Constitution that raised the statutory right of public access to public records to a constitutional level, although the Legislature may create exemptions by general law if a public need exists and certain procedural requirements are met.

Public guardianship programs provide guardianship services for incapacitated persons when a private guardianship is not available. A guardian is a surrogate decision-maker appointed by the court to make personal and/or financial decisions either: (1) for an adult with mental or physical disabilities who has been adjudicated incapacitated; or (2) for a minor in circumstances where the parents die or become incapacitated or if a child receives an inheritance, proceeds of a lawsuit, or insurance policy exceeding the amount allowed by statute.

CS/SB 466 reenacts and amends s. 744.7081, F.S., which provides an exemption from chapter 119, F.S., the Public Records Law, and section 24(a), Article I of the State Constitution for all records held by the Statewide Public Guardianship Office relating to the medical, financial, or mental health of vulnerable adults as defined in ch. 415, F.S., persons with a developmental disability as defined in ch. 393, F.S., or persons with a mental illness as defined in ch. 394, F.S.

Bills that Passed continued

CS/CS/CS/CS/SB 506 – Genetic Counseling Practice Act (Sponsor: Appropriations Subcommittee on Health and Human Services)

Genetic counselors offer supportive care to patients with potential or actual genetic diseases, and counsel patients concerning the origin, transmission, and development of hereditary characteristics that have a relationship to birth abnormalities. Genetic counselors provide confidential information to clients about sensitive and emotional issues involving genetic conditions or birth defects or their potential for occurring. Genetic counselors work closely with obstetricians and other health care practitioners who provide maternal and family medicine. Since 1993, national certification has been available for genetic counselors. The American Board of Genetic Counseling (ABGC)

Bills that Passed continued

Section 468.906, F.S., creates the Board of Genetic Counselors within the Department of Health and must consist of five members appointed by the Governor and confirmed by the Senate

CS/CS/CS/CS/SB 506 creates the “Genetic Counseling Practice Act,” regulating genetic counselors within the Department of Health by a five-member board. The legislative intent section specifies that the act may not be construed to require payment from insurers for genetic counseling services. In addition, the bill specifies that it does not apply to counselors who do not identify or advertise themselves as genetic counselors, and who do not provide genetic risk assessment, diagnosis and interpretation of family history and genetic test results.

CS/CS/CS/SB 512 – Independent Living Transition Services (Sponsor: Appropriations)

In 1999, Congress enacted the Foster Care Independence Act (P.L. 106-169) to address weaknesses in state programs for teens in foster care, such as those found by the General Accounting Office which include insufficient opportunities for employment, for participation in real-life situations, and for supervised practice living arrangements to improve youths’ ability to live self-sufficiently. This new federal law doubled the appropriations nationally and increased Florida’s allocation substantially, from \$990,074 to \$5.9 million for the first year of the new federal funding and up to \$8.2 million for federal fiscal year 2003.

With passage of the federal law and increased available funding, the 2002 Legislature created s. 409.1451, F.S., which established the framework for Florida’s independent living transition services to be provided to these older youth. Specifically, s. 409.1451, F.S., provides for a continuum of independent living transition services to enable older children in foster care and young adults who were formerly in foster care to develop the skills necessary for successful transition to adulthood and self-sufficiency. Services available to older children in the foster care system are the pre-independent living services, life skills services, and subsidized independent living services. Older children ages 13 to 18 years are also to be provided with life skills activities which emulate the experiences of other children their age not in foster care. Services for young adults formerly in foster care are to be provided based on the availability of funds and include aftercare support services, the Road to Independence Scholarship Program, and transitional support services. The Road to Independence Program provides for a cash award of up to \$892 per student, per month, for living and educational expenses. In addition, young adults who are awarded a Road to Independence Scholarship are exempt from payment of tuition and fees for state universities, community colleges, and certain postsecondary career and technical programs (s. 1009.25, F.S.).

CS/CS/CS/SB 512:

- Redefines the youth to be served in the independent living transition services program from youth “in foster care” to youth “in the legal custody of the Department of Children and Families” (hereinafter “department”);
- Requires the department to conduct an independent living assessment and inform youth of Road to Independence Scholarship services upon turning 17 years of age;

Bills that Passed continued

CS/CS/CS/SB 512

- Redesigns the Road to Independence Scholarship program to provide for two separate scholarships, i.e., the High School Scholarship program and the Postsecondary Education Scholarship program;
- Requires the department to ensure that monthly award payments to Road to Independence Scholarship participants are timely issued;
- eligibility criteria and renewal award periods and requirements for the scholarship programs;
- Provides that Transitional Support Services may not be provided to scholarship recipients;
- Requires judicial and citizen panel consideration of a youth’s preparation for independent living;

Bills that Passed continued

- Provides that independent living transition core services must include fiscal systems to ensure the timely issuance of financial assistance payments;
- Expands the tuition waiver for postsecondary education institutions to include young adults eligible for the Road to Independence Scholarship regardless of whether a scholarship is awarded;
- Renames the Independent Living Services Workgroup as the Independent Living Services Advisory Council, expands council membership, and amends its duties;
- Requires that core expectations be developed and applied statewide for ensuring that the goals of the independent living transition services program are met; and
- Requires districts and community-based care lead agencies to provide an annual accounting of expenditures and to annually report their previous year's achievements and up-coming year's plans for meeting the core expectations.

Unfortunately, the House amended the final version of CS/CS/CS/SB 512 before sending it back to the Senate for passage. Provisions that were eliminated by the House would have:

- Removed language that foster care includes youth temporarily placed in Department of Juvenile Justice and Department of Corrections facilities.
- Removed language requiring that, for youth between 15 and 18 years of age, the department is to identify children with developmental disabilities and special mental health needs and coordinate with the Developmental Disabilities program, Mental Health program, and other organizations to assist them with their special needs and coordinate their independent living plans with their school individual education plan.
- Removed language requiring the department to arrange for another foster home if the foster home the youth was living in at 18 years of age did not want the youth to continue there.

CS/SB 540 – Manatee Protection (Sponsor: Natural Resources)

Manatees are warm-blooded and seek refuge from cold temperatures in natural springs such as Blue Springs on the St. Johns River, and the springs that form the Homosassa and Crystal Rivers on Florida's west coast. Manatee's breath air and surface about every four minutes although they are capable of remaining submerged for up to 20 minutes. Manatees average 10 feet in length, about 1200 pounds in weight, and weigh approximately 66 pounds at birth. Two front flippers help manatees gather as much as 200 pounds of sea grass and other aquatic plants per day. Manatees have a wide, paddle-shaped tail, small eyes that can distinguish colors, shapes, and patterns, and ear openings that allow them to hear at low frequencies.

Aerial surveys conducted by the FWC show that manatee populations have increased in recent years, from 1,462 in 1991 to 3,113 in January 2003.

The Florida Manatee Sanctuary Act (Act) was adopted in 1978 and is designed to protect the manatee from injury or harm due to the operation and speed of motorboats in the areas specified within the Act. The Act declared that the entire State was a refuge and sanctuary for manatees,

Among others, CS/SB 540 provides a presumption that existing state manatee protection rules shall be adequate and additional rules unnecessary in a region where measurable biological goals (i.e. specified numbers of manatees) are being achieved.

CS/SB 606 – Child Advocacy Trust Fund/CFS Dept. (Sponsor: Children and Families)

Children’s Advocacy Centers (CAC), which currently provide services to 32 of the 67 Florida counties, are primarily designed and governed at the local level to provide support to the child protective investigations process. These centers work to coordinate the activities of agencies involved in the child abuse investigation to reduce the number of times the child must be interviewed, thereby reducing trauma to the child, to facilitate joint investigations, and to provide for prompt access to mental health and other appropriate services.

While the services offered by child advocacy centers vary based upon their funding and needs of the community, each center offers some combination of the following services:

- A neutral, child-friendly setting where all the agencies can interview and examine the child;
- Medical evaluations of the child;
- Coordination of multi-discipline team meeting of all of the agencies involved in a case;
- On-site victim advocacy; and
- Mental health services.

The Florida Network of Children’s Advocacy Centers, Inc., is a state chapter of the National Children’s Alliance. All 21 of Florida’s children advocacy centers participate in this network. Membership is voluntary, and the organization provides guidance and technical assistance to the individual CACs. The network is staffed with an executive director and one half-time assistant. There is a board of directors that organizes its activities. Minimum standards for network membership are established in s. 39.3035, F.S.

CS/SB 606 creates the Child Advocacy Trust Fund within the Department of Children and Family Services (DCF) using funds collected by the clerk of the court from offenders committing specific crimes against children (see CS/SB 602, which is linked to this committee substitute for the specified crimes). The creation of this trust fund provides an opportunity for additional funding for CACs. Funds that are collected are to be disbursed to the Florida Network of Children’s Advocacy Centers, Inc., for the purposes of funding children’s advocacy centers.

CS/CS/CS/CS/SB 700 – Mental Health (Sponsor: Appropriations)

Florida’s Baker Act is a civil commitment law which provides a process for the involuntary examination and subsequent involuntary placement (admission) of a person for inpatient treatment of a mental, emotional or behavioral disorder.¹ For purposes of the Baker Act, mental illness is defined as an impairment of the mental or emotional processes that exercise conscious control of one’s actions or of the ability to perceive or understand reality, which impairment substantially interferes with a person’s ability to meet the ordinary demands of living, regardless of etiology. The term does not include retardation or developmental disability as defined in chapter 393, F.S., intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.²

CS/CS/CS/CS/SB 700 substantially amends Florida’s involuntary civil commitment law also known as the Baker Act under ch. 394, Part I, F.S., as follows:

- Establishes a process for long-term involuntary placement for outpatient services for persons 18 years of age or older who meet other statutory criteria but only if services or programs, space therein or funding are available in the person’s local community;
- Provides the option for a person to agree voluntarily to submit to involuntary outpatient services;

Bills that Passed continued

- Adds a process for continued involuntary placement for outpatient services based on maximum 6-month intervals;

Bills that Passed continued

- Revises the criteria for involuntary examination under the Baker Act;
- Makes other conforming changes to the Baker Act to distinguish between the procedures for involuntary placement for inpatient treatment versus involuntary outpatient placement; and
- Provides rulemaking authority to the Department of Children and Family Services.

CS/HB 723 – Community-Based Provider/Foster Care (Sponsor: Appropriations)

In 1998, The Department of Children and Family Services (DCFS) was required to privatize the provision of foster care and related services statewide. A major issue impacting the privatization process are the financial risks to eligible lead community-based care providers not only from unanticipated caseload increases, but also from significant changes in client mixes or services eligible for federal reimbursement.

CS/HB 723, among others:

- Requires that the lead agency have a Board of Directors, 51 percent of whom reside in the state and, of that 51 percent of state residents, at least 51 percent of those individuals reside in the lead agency service area.
- Requires the Florida Coalition for Children, in consultation with DCF to develop a plan regarding the long-term use and structure of a statewide community based care risk pool for protection of eligible lead community based providers, their subcontractors, and providers of other social services who contract directly with the Department. The plan must also outline strategies to maximize federal earnings as they relate to the community based care risk pool. The plan must be submitted to the Governor and the Legislature by January 1, 2005. The pool may be used to address: 1) significant changes in the number or composition of clients eligible to receive services; 2) significant changes in the services eligible for reimbursement; 3) scheduled or unanticipated, but necessary, advances to providers or other cash flow issues; and 4) continuity of care in the event of failure, discontinuance of service, or financial misconduct by the lead agency, among others.
- Exempts lead community-based providers and their subcontractors from state travel policies.
- Requires the department to enter into agreements with the Department of Education and District school boards or other local educational entities regarding education and related services for children designed to provide educational access for those children. The bill identifies many of the provisions that must be included in the agreement, including issues relating to transportation, identification of services needed by the child in order to succeed in school, provision of individualized student interventions, establishment of protocols regarding communications between the school, the department, and others; coordination of services, and more.

CS/HB 821 – Early Childhood Education (Sponsor: Education K-20)

Article IX, section 1 of the State Constitution requires the state to provide a free, voluntary system of high quality pre-kindergarten education for all 4-year-old children beginning in 2005.

CS/HB 821:

- creates the Voluntary Prekindergarten Education Program (VPK Program) within the Department of Education (DOE);
- provides that the VPK Program is voluntary for parents and providers and is not part of the state system of public education and is not subject to collective bargaining;
- authorizes public, private, and faith-based schools to provide VPK services;
- provides that the student-to-teacher ratio may exceed 18 to 1;

Bills that Passed continued

- requires that teachers hold a CDA credential or a CDA equivalent credential and must complete a DOE approved emerging literacy teacher preparation and continuing education course.
- establishes state level Early Learning Advisory Council in the Agency for Workforce Innovation (AWI) to advise DOE and AWI on early childhood education policy;
- provides a scholarship to parents of eligible 4-year old children to attend either a 540-hour school year program or a 310-hour summer intensive program. If the child has participated in the 540 hour program, is a limited English proficient child, and is assessed at the end of the 540 school year program as being in the lowest quartile of students in the state, the parent may opt for the child to attend the 310 hour summer intensive program.
- requires parents seeking VPK “scholarships” (i.e. vouchers) to submit applications to DOE through a single-point of entry. Payment will be made by voucher, coupon or electronic code in the name of the parent.
- requires DOE to implement a statewide kindergarten-screening instrument during the 2004-2005 school year that measures emerging phonemic awareness and phonics skills which are valid and reliable predictors of later reading performance. If fewer than 85% of the students are assessed as ready to learn, the prekindergarten school will be required to submit and implement an improvement plan. If a school has less than an 85% readiness rate for two consecutive years, the school is placed on probation until the readiness rate is at least 85%.
- renames all “school readiness” coalitions as “early learning” councils, reduces the number of councils to no more than 28, and requires, to the maximum extent practicable, that the 28 councils have regions that are coterminous with community college service regions.
- Abolishes the Florida Partnership for School Readiness and transfers its functions, property and employees to AWI.

CS/SB 1062 – Nursing Homes (Sponsor: Health, Aging and Long-Term Care)

Establishment of a new nursing home and the addition of nursing home beds is subject to the CON process.

CS/SB 1062:

- Creates a procedure for the issuance of an inactive license for a nursing home to permit a home to maintain its license under two circumstances: during a period when it is not serving residents but will resume doing so, or when the nursing home will use a contiguous portion of its facility for other services to meet the long-term care needs of elderly residents.
- Permits a registered nurse, other than the director of nursing, to sign a resident care plan in a nursing home.
- Requires AHCA’s publication of data regarding nursing homes to reflect the most current agency actions.
- Requires AHCA to adopt by rule a nursing home bed need methodology that has a goal of maintaining a district average occupancy rate of 94 percent.
- Revises CON requirements for nursing homes to provide expedited review of a proposed replacement nursing home or a project to relocate a portion of the beds of a nursing home.
- Creates exemptions from CON review for replacing a nursing home on the same site, or within three miles of the site, and for combining or consolidating nursing homes or transferring licensed nursing home beds within the same planning subdistrict.
- Provides exceptions to the moratorium on CON approval for nursing homes for a proposed nursing home in a county in which there are no community nursing home beds and all nursing home beds that were licensed on July 1, 2001, have subsequently closed and for the addition of beds in a nursing home in a county of fewer than 50,000 residents.
- Revises licensure requirements for health care clinics to exempt: End-stage renal disease providers; Therapy providers (speech, occupational, and physical) which are Medicare certified; Birth centers; Clinical laboratories; Charitable clinics (501 (c)(3) or (4); Entities owned or operated by the federal or state

Bills that Passed continued

government; Hospitals and entities they own; A sole proprietorship, group practice, partnership, or corporation that provides health care services by physicians covered under s. 627.419, F.S. (includes dentists, optometrists, podiatrists; chiropractors, physicians); Entities that provide only oncology or radiation therapy services by physicians; and Entities that provide neonatal or pediatric hospital-based healthcare services.

- The amendment defines clinics to include mobile clinics. The amendment changes the date for filing a clinic license application with AHCA to July 1, 2004 from March 1, 2004.
- AHCA may charge an applicant for a clinic exemption \$100 or the actual cost, whichever is less.
- AHCA may issue a notice of intent to deny a clinic license application after a temporary license has been issued.
- Any person or entity defined as a clinic is not in violation of the Health Care Clinic Act due to failure to apply for a clinic license by March 1, 2004, and payment to such person or entity by an insurer or other entity liable for payment may not be denied on the ground that the person or entity failed to apply for or obtain a clinic license before March 1, 2004.

CS/CS/SB 1178 – Florida Healthy People 2010 Program (Sponsor: Appropriations)

The Healthy People 2010 initiative is a set of health objectives for the U.S. to achieve over the first decade of the new century. It contains 28 focus areas (ranging from environmental health to maternal, infant, and child health) and was designed to achieve two overarching goals:

- Help individuals of all ages increase life expectancy and improve their quality of life; and
- Eliminate health disparities among different segments of the population.

CS/CS/SB 1178 requires the Florida Department of Health (DOH) to monitor and report, within existing resources on Florida's status on the Florida Healthy People 2010 Program goals and objectives. The department is required to:

- Report to the Legislature by December 31 of each year on the status of the disparities in health among minorities and nonminorities, using health indicators that are identified in the federal program;
- Work with minority physician networks to develop programs to educate health care professionals about the importance of culture in health status;
- Work with and promote the establishment of public and private partnerships with charitable organizations, hospitals, and minority physician networks to increase the proportion of health care professionals from minority backgrounds; and
- Work with and promote research on methods by which to reduce disparities in health care at colleges and universities that have historically large minority enrollments, including centers of excellence in the state identified by the National Center on Minority Health and Health Disparities, by working with colleges, universities, and community representatives to encourage minority college students to pursue professions in health care.

CS/SB 1226 – Long-Term Care Service Delivery (Sponsor: Health, Aging and Long-Term Care)

A major impediment for states in planning an efficient long-term care system has been the difficulty of managing the interrelationship of requirements of the Medicare and Medicaid financing systems, and the effect that care of acute illnesses has on the eventual need for long term care. States often have little control over the admission of a patient into a nursing home since the initial portion of a nursing home stay is usually financed by Medicare or other sources. Once these resources are exhausted (often after community support systems have unraveled) state Medicaid programs become responsible for financing continuing stays.

Bills that Passed continued

There is no single state agency in Florida with responsibility for oversight of the long-term care service delivery system. Operational responsibility for planning and management of the major long-term care programs is split between AHCA, DOEA, and the Department of Children and Families (DCF). The Department of Health and the Department of Veterans' Affairs have smaller roles in long-term care service delivery.

Since the late 1960's there has been an on-going process of "downward substitution" of care from highly institutional settings to less expensive, less institutional and more home-like settings for people with many types of disabilities. Although Florida's nursing home alternative programs serve similar target populations (people at some level of risk for nursing home placement) the system is a "patchwork quilt" which exhibits substantial geographic variation in terms of coverage, provider networks, payment rates, payment methodology, and whether or not the programs are required to pay for nursing home placement if they are unsuccessful in providing an alternative.

Provision of supportive services to elderly persons can help them to remain in their own homes as an alternative to nursing home placement. Traditionally, the majority of the supportive services needed are assistance with the activities of daily living such as assistance with bathing, dressing, light housekeeping, adult day care, home delivered meals, and home repair (construction of wheelchair ramps, installation of grab bars). Generally, home and community based programs require an assessment of an individual's functional deficits and a prescription for the supportive services required to substitute for the individual's ability to provide self-care. The assessment is preformed by a "case manager," who arranges for the services, oversees delivery of the services, and modifies the plan of care as the individual's needs change.

CS/SB 1226 implements the recommendations contained in Senate Interim Project Report 2004-144, "Model Long-Term Care System/Analyzing Long-Term Care Initiatives in Florida."

This bill makes changes to the long-term care service delivery system administered through the Department of Elder Affairs (DOEA) and the Agency for Health Care Administration (AHCA). Specifically, the bill does the following:

- Gives AHCA the authority, in consultation with DOEA, to contract for any function or activity of the Comprehensive Assessment and Review of Long-Term Care Services (CARES) program including any function or activity required by 483 of the Code of Federal Regulation relating to Preadmission Screening and Resident Review (PASARR);
- Requires CARES staff to assess all individuals whose nursing home stay is expected to exceed 20 days regardless of the initial funding source for nursing home placement, and provides that this requirement does not apply to continuing care facilities licensed under chapter 651, and retirement communities that provide a combination of nursing home, independent living, and other long-term care services;
- Requires DOEA to develop a database to track individuals over time, who are assessed under the CARES program and who are diverted from nursing home placement, and requires DOEA to submit to the Legislature and the Office of Long-Term Care Policy each year, a longitudinal study of the individuals who are diverted from nursing home placement;
- Revises the requirements by which DOEA can take action against a AAA to include: the AAA exceeds its authority related to its contract with the department or has exceeded its authority, or otherwise failed to adhere to the provisions specifically provided by statute or rule adopted by DOEA; and if the AAA has failed to properly determine client eligibility as defined by DOEA or efficiently manage program budgets;
- Makes changes to the Office of Long-Term Care Policy including:
 - Locating the Office of Long-Term Care policy in DOEA for administrative purposes only;
 - Providing that the office and its director shall not be subject to control, supervision, or direction by DOEA;

Bills that Passed continued

- Replacing the advisory council with an inter-agency coordinating team and specifying the composition of the inter-agency coordinating team; and
- Revising reporting requirements;
- Redefines the terms “community care service system” and “lead agency,” and requires a single lead agency to provide the array of services to functionally impaired elderly persons. This agency can provide any combination of those services;
- Requires DOEA and AHCA to develop an integrated long-term care service delivery system including:
 - Requiring DOEA and AHCA to phase in implementation of the integrated long-term care system;
 - Specifying timeframes and activities for each implementation phase;
 - Authorizing AHCA to seek federal waivers to implement the changes;
 - Providing rulemaking authority to AHCA and DOEA; and
 - Requiring reports to the Governor and the Legislature.
- Requires CARES staff to review at least 20 percent of Medicaid nursing home resident case files annually to determine whether these residents can be transitioned to a less restrictive setting;
- Provides additional requirements for entities that want to enroll as Nursing Home Diversion waiver program providers;
- Provides additional requirements to be used in the development of capitation rates for the Nursing Home Diversion waiver program¹; and
- Provides additional requirements for the evaluation of the Nursing Home Diversion waiver program.
- Requires the Department to develop a demonstration project in which existing community care for the elderly lead agencies in transferring their business model and the service delivery system within their current community care service areas to enable assumption over a period of time of full risk of a community diversion pilot project contractor providing long-term care services in its areas of operation. CCE lead agencies that have operated for at least 20 years, that provide Medicare certified services to elders, and that have developed a system of service provision by health care volunteers must be giving priority in selection of the pilot project if they meet minimum competitive procurement provisions.
- Requires the Department to develop pilot projects for aging resource centers, with implementation plan being submitted to the Governor by October 31, 2004.
- Requires each AAA to develop, in consultation with the existing CCE lead agencies in their planning and service areas, a proposal that describes the process the AAA intends to undertake to transition to an aging resource center prior to July 1, 2005. The proposal must be submitted to the Department prior to December 31, 2004. The Department will evaluate the proposals and select AAAs to begin transition to becoming Aging Resource Centers. (The bill goes into great details detailing the responsibilities of the AAAs and the Aging Resource Centers.)

CS/CS/SB 1344 – Hospice Facilities (Sponsor: Regulated Industries)

CS/CS/SB 1344 includes hospice residential and inpatient facilities and hospice units in the Florida Building Code.

CS/SB 1590 – Certified Stroke Treatment Centers (Sponsor: Health, Aging and Long-Term Care)

A stroke occurs when the blood supply to a part of the brain is suddenly interrupted (ischemic) or when a blood vessel in the brain bursts, spilling blood into the spaces surrounding the brain cells (hemorrhagic)¹. Symptoms of a stroke include sudden numbness or weakness, especially on one side of the body; sudden confusion or trouble speaking or understanding speech; sudden trouble seeing in one or both eyes; sudden trouble walking; dizziness; or loss of balance or coordination. The symptoms of stroke can also be symptoms of other medical problems. Stroke is diagnosed through several techniques: a short neurological examination, blood tests, CT scans, MRI scans, Doppler ultrasound, and arteriography.

Bills that Passed continued

According to the U.S. Centers for Disease Control and Prevention, stroke is the third leading cause of death after heart disease and cancer, and it is a leading cause of serious, long-term disability. Stroke was the cause of death for 10,243 Florida residents in 2002.

CS/SB 1590 directs the Agency for Health Care Administration (AHCA) to:

- create a list of primary and comprehensive stroke centers;
- adopt rules establishing criteria for these two types of centers;
- distribute the list of primary and comprehensive stroke centers to the medical director of each licensed emergency medical services (EMS) provider in Florida; and
- develop a stroke triage assessment tool that licensed EMS providers must use; and
- develop and use protocols for assessment, treatment, and transportation-destination for stroke patients.

CS/HB 1629 – Affordable Health Care (Sponsor: Insurance)

More than 240 million people in the United States have health insurance today through a variety of private and public sources. As of 2002, 12.2 million out of 16.1 million Florida residents had health insurance. Of those Floridians with insurance, more than eight million were covered by private insurance or self-insurance plans operated by large employers. Another 2.5 million were covered by Medicare, mainly elderly adults, and another 1.7 million low-income citizens were covered by Medicaid.

However, double digit increases in health insurance premiums and skyrocketing health care costs have contributed to the lack of accessibility to employment-based health insurance.

CS/HB 1629 contains the recommendations of the House Select Committee on Affordable Health Care for Floridians (Select Committee) that met through November 2003. It creates the 2004 Affordable Health Care for Floridians Act and includes many of the recommendations of the Select Committee. Significant provisions affecting the health insurance markets include:

- Creation of the Florida Health Insurance Plan as the high risk pool for uninsurable medical risks, replacing the Florida Comprehensive Health Care Association.
- Expansion of the Health Flex Program statewide.
- Modification of the Small Employers Health Access Act to eliminate one-life groups, contingent on the Florida Health Insurance Plan accepting new enrollment.
- Creation of the Small Employers Access Program to provide additional options for small businesses of up to 25 employees, specified entities of rural communities, and nursing homes.
- Requirement that certain plans providing discount medical services be licensed as prepaid health plans.
- Updating the ability of the Office of Insurance Regulation to regularly collect data from insurers describing the health insurance marketplace.
- Requirements that each health issuer make available on its Internet website a link to the performance outcome and financial data that is published by the Agency for Health Care Administration (ACHA).
- Authorizes “rebates” for employers and employees who maintain healthy lifestyles.
- Requires hospitals, insurers and federally qualified health centers to create emergency room diversion programs.
- Establishes the Florida Patient Safety Corporation
- Requires AHCA to post pricing information on procedures performed in Florida hospitals.

The bill also appropriates \$1.7 million from the General Revenue Fund and \$2.4 million in total funds and provides for the establishment of a private, not-for-profit, corporation to provide coordination and direction to patient safety improvement efforts in the state.

CS/CS/CS/SB 1748 – Multiservice Senior Centers (Sponsor: Appropriations)

Multiservice senior centers provide information and programs for seniors across the state. Senior centers are sites for community-based health promotion activities as well as places to make new friends, strengthen social networks, and prevent premature institutionalization. Senior centers facilitate, promote, and provide wellness and aging programs, services and resources through educational, social, recreational, and health activities. They are often funded through city general revenue funds and local block grants. Approximately 155 senior centers currently operate in

CS/CS/CS/SB 1748 redefines the term “multiservice senior center” as a community facility that organizes and provides a broad spectrum of services, including health, mental health, social, nutritional, and educational services and recreational activities and facilities for persons 60 years of age or older.

The bill also appropriates \$240,000 to the Department of Elderly Affairs (Department) to purchase automated external defibrillators (AED) for placement in multiservice senior centers. A multiservice senior center may purchase an AED from the Department for half of the cost of the AED. A multiservice senior center located in a rural community may request a free AED from the Department. Senior centers having an AED are required to ensure that their personnel are trained to use the device. The location of the AED must be registered with the local emergency medical services medical director. The bill extends immunity under the Good Samaritan Act and the Cardiac Arrest Survival Act from civil liability to an employee or volunteer of a senior center who uses an AED to provide medical care.

CS/HB 1823 – Developmental Services and Mental Health (Sponsor: Future of Florida’s Families)

HB 1823 creates the offense of sexual misconduct with three client groups:

- An individual with a developmental disability who is in DCF's custody; or who resides in a residential facility or who receives services from a family care program (Chapter 393);
- A mental health patient who is in DCF's custody; or who resides in a receiving or treatment facility (Chapter 394);
- A client who resides in a civil or forensic facility (Chapter 916).
-

The bill provides that an employee who engages in sexual activity with a client commits a felony of the second degree.

The bill also creates the Agency for Persons with Disabilities by removing responsibility for developmental disabilities (DD) programs from DCF, and transferring resources currently administered by DCF to the new Agency.

The DD program is currently one of 8 program offices in DCFS. The DD director is under the direct supervision of the Deputy Secretary for Community Based Care and Family Self Sufficiency. The Director of the Agency for Persons with Disabilities created in this amendment will be appointed by and report to the Governor. The agency will be administratively housed at DCF, and will be responsible for administering programs and services provided in chapter 393, Florida Statutes, including services provided in the four Developmental Services Institutions and the Mentally Retarded Defendant program. Among others, the bill also:

- Sets the effective date for the creation of the new agency as July 1, 2004, and October 1, 2004, as the date for the transfer of responsibilities from DCF to the new agency;

HB 1845 – Department of Children and Family Services (Sponsor: Appropriations)

HB 1845 reorganizes the Department of Children and Family Services in order to achieve a cost savings from the efficiencies of establishing zones comprised of one or more DCFS districts and the region. The 13 districts and the region are assigned to one of 6 zones. Zone directors are given the responsibility of providing administrative support to the district/region offices. . Zone directors are appointed by the Secretary and are charged with providing administrative support, including technical assistance, budget and financial services, data collection, and information technology services.

The bill also clarifies that program offices fall under the division level and above the bureau level, and provides that the Assistant Secretary for Substance Abuse and Mental Health will now be called the Assistant Secretary for the Division of Substance Abuse and Mental Health and will supervise the substance abuse and mental health programs;

CS/CS/SB 2020 – Specialty License Plates (Sponsor: Appropriations Subcommittee on Transportation and Economic Development)

The Florida Legislature created the first specialty license plates in 1986, one commemorating the seven astronauts who died when the space shuttle Challenger exploded after lift-off, and one for each of the nine universities then in the State university system. Since then, the Legislature has authorized 91 more specialty license plates. Sales of specialty license plates generated more than \$24 million in annual use fee revenues in 2002, and more than \$24.5 million in 2003. Since the program’s inception in 1986, the DHSMV has collected annual use fees totaling more than \$225 million.

CS/CS/SB 2020 directs the Department of Highway Safety and Motor Vehicles to issue the following specialty license plates:

- Save Our Seas and Aquaculture
- Family First
- Sportsmen’s National Land Trust
- Live the Dream
- Florida Food Bank (Imagine)
- Discover Florida’s Oceans
- Family Values
- Parents Make a Difference
- Support Soccer
- Kids Deserve Justice

SB 2046 – Adoption (Sponsor: Campbell)

SB 2046 prohibits the department from removing a foster child who has resided for at least 6 months with foster parents who are licensed or court-ordered custodians when either the foster parent or custodian has applied for adoption and the application for adoption has been denied, unless such removal is by order of the court. Exceptions are provided for when the child is believed to be at imminent risk of abuse or neglect, 30 days have expired since the foster parent received written notice of the denial and no formal challenge has been filed, or the foster parent agrees to the child’s removal.

The bill also amends s. 39.812(5) and s. 63.062(7), F.S., to allow the court to waive the required consent of the department in adoptions of children of parents whose parental rights have been terminated, if the court determines that the consent is being unreasonably withheld.

Bills that Passed continued

This provision appears to authorize the court to select adoptive parents that have not received the department's consent, when such consent is waived by the court under the identified conditions.

CS/SB 2640 – Parenting Coordination Program (Sponsor: Children and Families)

The number of domestic relation court filings in Florida increased by 68.5 percent from 1986 to 2000 and juvenile delinquency and dependency court filings increased by 56.6 percent.

With the continuous growth in family law cases and in the number of parties not represented by attorneys, greater attention is being given to the appropriate utilization of the judicial system for dispute resolution. The effectiveness of a traditionally adversarial judicial process in adequately resolving family legal problems that are often intertwined with highly charged emotional and social family problems has also increasingly come into question. As a result, alternative avenues to assist families to resolve their disputes have emerged.

One evolving form of dispute resolution is parenting coordination. Parenting coordination takes different forms but, in whatever form, it is a process to assist the very high conflict families who do not have the ability to enter into collaborative discussions to resolve disputes about child related issues.

CS/SB 2640 provides the statutory framework for parenting coordination by providing for the circumstances under which parenting coordination may be ordered, defining the duties of the parent coordinator, providing for minimum qualifications of a parent coordinator, prohibiting parenting coordinators from performing certain other functions, and providing the parenting coordinator with limited immunity.

CS/CS/SB 2682 – Credit Counseling Services (Sponsor: Commerce, Economic Opportunities and Consumer Services)

Credit counseling organizations generally attempt to assist people with managing their personal debt. These organizations may attempt to help debtors avoid foreclosure and bankruptcy, reduce loan interest rates, and lower or consolidate monthly loan payments. Credit counseling organizations may also offer individual counseling for developing budgets, managing money, using credit, and building a savings plan.

Debt management plans are often provided by credit counseling organizations as a way of allowing a debtor to pay down debt through monthly deposits to the credit counseling service, which then distributes those funds to creditors. Credit counseling services often advertise that they work with clients to create a debt repayment plan that minimizes monthly payments, interest, and related fees.

Some practices engaged in by credit counseling organizations may exacerbate a consumer's existing financial problems. One example of such a practice is when a credit counseling organization receives a debtor's initial payment and applies most or all of it to an up front "fee" for services. The debtor may not realize that his or her creditors have not received payment, which in some cases may result in a default or other negative consequences for the debtor.

Credit counseling organizations are not directly regulated in Florida.

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GREAT TRUTHS THAT LITTLE CHILDREN HAVE LEARNED:

No matter how hard you try, you can't baptize cats.

When your Mom is mad at your Dad, don't let her brush your hair.

Bills that Passed continued

CS/CS/SB 2682, among other things, establishes a framework for regulating the relationship between a consumer and a credit counseling or debt management service. Among others, it:

- makes it unlawful for a credit counselor or debt manager to impose or accept from a debtor a fee or contribution in excess of \$50 for an initial set up or consultation. After the initial set up or consultation, a credit counselor or debt manager may receive additional fees by either charging not more than \$120 per year for additional consultations, or by deducting 7.5 percent of the monthly amount paid by the debtor for disbursement to a creditor or \$35 per month, whichever is greater. The cap does not prevent additional reasonable charges for insufficient funds transactions.
- requires that any person engaged in debt management or credit counseling services must disburse all funds received from a debtor to the appropriate creditors within 30 days after receiving the funds, less any fees. Fees received from a debtor by a debt manager or credit counselor for disbursement must be deposited in a separate trust account.
- requires that any person engaged in debt management or credit counseling must obtain from a certified public accountant an annual audit of all its accounts in which the funds of debtors are deposited and from which payments are made to creditors.
- requires a person engaged in debt management or credit counseling to obtain insurance coverage for employee dishonesty, depositor's forgery, and computer fraud in an amount not less than \$100,000 or 10 percent of the monthly average of the aggregate amount of all deposits made for distribution to creditors with such person by all debtors for the six months immediately preceding the date of initial application for or renewal of the insurance.
- does not apply to debt management or credit counseling services provided in the practice of law in this state
- provides that a violation is an unfair or deceptive trade practice subject to the penalties provided for in the Florida Deceptive and Unfair Trade Practices Act, and is also a third-degree felony, punishable by not more than 5 years in prison or not more than a fine of \$5,000.
- Allows a consumer injured by a violation to bring an action for recovery of damages, plus reasonable attorney's fees and costs.

CS/SB 2918 – Deaf & Blind School (Sponsor: Governmental Oversight and Productivity)

Founded in 1885, the Florida School for the Deaf and the Blind is a state-supported boarding school for eligible hearing-impaired and visually-impaired students, pre-school through 12th grade. The school serves approximately 700 students from its St. Augustine campus.

The Auditor General issued Audit Report No. 03-095, regarding the Florida School for the Deaf and the Blind, on December 19, 2002. It found numerous instances of inappropriate or questionable expenditures and inefficient use of resources.

CS/SB 2918 requires the Auditor General to conduct annual audits of the accounts and records of the Florida School for the Deaf and Blind. The school is defined as a component of the delivery of public education within Florida's K-20 education system and is identified as being subject to examination by the Inspector General of the Department of Education. The bill expands provisions regarding university master plans and campus development agreements to make those sections applicable to the Florida School for the Deaf and the Blind. The bill also creates a direct-support organization to act on behalf of the School.

The bill proves a statement of legislative intent for the operation of the Division of Blind services and provides for the development of long-range plans for individuals who are blind.

A separate program for blind children under five years of age is created in the Department of Education and provides for background screening standards for all employment applicants

BILLS THAT DIED

SB 198 – Florida Infant Crib Safety Act (Sponsor: Wasserman Schultz)

A report issued by the United States Consumer Product Safety Commission reports that, during the period from 1995 to 1997, 106 deaths were recorded involving cribs. The commission also warned that a strangulation hazard may exist with some cribs that have projections on the corner posts. According to the commission, decorative knobs or corner posts extending above the crib end or side may catch clothing, necklaces, and pacifier cords as the child moves about in the corner areas of the crib. The commission reported these knobs or posts were implicated in two cases of brain damage and 48 deaths due to strangulation.

In a recent study, staff at the Consumer Product Safety Commission reported that between January 1, 1997, and July 15, 2002 156 crib-related deaths were reported.

Senate Bill 198 prohibits the manufacture and sale of infant cribs determined to be unsafe and prohibits transient public lodging establishments and child care facilities from using unsafe cribs. Violations constitute deceptive and unfair trade practices, which are thereby subject to increased civil liability. In addition, transient public lodging establishments and child care facilities are subject to penalties governed by their respective regulatory statutes. Further, a willful-and knowing violation by a commercial user (other than by a transient public lodging establishment or by a child care facility or home) is subject to criminal penalties.

The bill creates a demonstration program in five counties until June 30, 2007, limiting inspection for unsafe cribs in transient public lodging establishments to cribs in establishments located within the affected counties. The demonstration program allows selective inspection techniques (e.g., random sampling), but requires each lodging establishment in the five counties to certify annually that its cribs have been inspected and meet the safety requirements. The bill requires a report to the Governor and the Legislature, evaluating the demonstration program. Upon the expiration of the demonstration program, inspections are required statewide and revert to standard inspection requirements.

CS/SB 218 – Crimes Against Minors (Sponsor: Criminal Justice)

Committee Substitute for SB 218 makes it a life felony to kidnap a child under the age of 16 when one or more statutorily-specified offenses are committed in the course of committing the kidnapping. Current law also punishes this act as a life felony, but the kidnapped child must be under the age of 13.

This CS also makes it a first degree felony punishable by a term of years not exceeding life (PBL) to falsely imprison a child under the age of 16 when one or more statutorily-specified offenses are committed in the course of committing the false imprisonment. Current law also punishes this act as a first degree felony (PBL), but the falsely imprisoned child must be under the age of 13.

This CS also makes it a second degree felony for a person to commit the offense of luring. To commit the offense of luring the person must: 1) be over the age of 18; 2) have previously been convicted of a sexual battery offense under ch. 794, F.S., or a lewd offense under s. 800.04, F.S., or a violation of a similar law of another jurisdiction; and 3) intentionally lure or entice, or attempt to lure or entice, a child under the age of 16 into a structure, dwelling, or conveyance for other than a lawful purpose. Current law punishes this same act as a third degree felony and the lured child must be under the age of 12.

CS/SB 308 – Healthy Achievers Act (Sponsor: Education)

According to the Centers for Disease Prevention and Control (CDC), the United States has seen a decrease in the number of children who are physically active and an increase in the number of children who are overweight. The CDC also notes the following:

- Nearly half of young people aged 12-21 years in the United States are not vigorously active on a regular basis.
- About 14 percent of young people report no recent physical activity.
- Participation in all types of physical activity declines strikingly as age or grade in school increases.
- Well-designed school-based interventions directed at increasing physical activity in physical education classes are effective.
- Daily enrollment in physical education classes dropped from 42 percent to 25 percent among high school students between 1991 and 1995.
- Over the past 30 years, the percent of children aged 6 to 11 years who are overweight has more than doubled.

CS/SB 308 directs the Department of Education to conduct a study to determine the status of physical education instruction in the public schools and to develop recommendations for changes to the state's physical education programs. A report on the study is required to be submitted to the Governor and the Legislature by February 1, 2005. The Department of Education is also required to develop a physical fitness assessment instrument and support materials for fitness assessment programs for use by school districts.

The bill requires district school boards to address physical education in school improvement plans and to adopt written physical education policies, which must be provided to the Department of Education by December 15, 2004. Districts that do not adopt written physical education policies will be required, at a minimum, to provide physical education to students in kindergarten through grade 5 for 30 minutes per day, 3 days per week.

CS/CS/SB 316 – Substance Abuse/Intervention (Sponsor: Appropriations Subcommittee on Article V Implementation)

In April, 1999, the Department of Health and Human Services issued a report to Congress, which highlighted the necessity of prioritizing the identification and treatment of parental substance abuse and its relationship to children in foster care. It stated that children in substance abusing households were more likely than others to be served in foster care, spent longer periods of time in foster care than other children, and were less likely to have left foster care within a year.

This committee substitute amends s. 39.001, F.S., to recognize that substance abuse is a primary cause of child abuse and neglect and that early referral and comprehensive treatment are cost effective and can help combat substance abuse problems in families.

CS/CS/SB 316 allows the court, at a dependency shelter hearing, adjudicatory hearing, or upon judicial review of a case plan for a parent, to order a substance abuse assessment of a child or the child's parent, caregiver, legal custodian, or other person requesting custody of the child. The court may require participation in substance abuse treatment services when appropriate and available, including treatment-based drug court programs.

Bills that Died continued

The bill also provides that with the approval of the state attorney, a defendant (child or adult) assessed with a substance abuse problem who is charged for the first time with a nonviolent third-degree felony and who has not previously been adjudicated of a felony, or is charged with a second or subsequent nonviolent third-degree felony may be referred to a pretrial substance abuse education and treatment intervention program. Upon completion of the program, the defendant is entitled to dismissal of the pending charge involving a nonviolent third-degree felony.

CS/HB 333 – Immunity from Civil Liability (Sponsor: Simmons)

In recent years, and especially in light of successful litigation against manufacturers of tobacco products, lawsuits have begun being filed against the fast-food industry alleging health-related injuries due to weight gain, generally in tandem with allegations of deceptive or misleading trade practices. It has been suggested that, like tobacco and alcohol, fast food is primarily a “hedonic” (pleasure producing) product, which causes ill health effects, and the producers and sellers of which engage in targeted advertising. While conceding that, unlike tobacco or alcohol, fast food is not physically addictive, they do in some cases allege that it is “intrinsically harmful.”

It is unclear whether, under current law, the fast-food industry could be held liable for the weight-related health effects of their products, as several lawsuits filed in other states seek for them to be.

CS/HB 333 provides immunity from civil liability for personal injury or wrongful death to manufacturers, distributors and sellers of foods or nonalcoholic beverages intended for human consumption, to the extent that that liability is premised on weight gain, obesity, or a health condition related to weight gain or obesity, resulting from long-term consumption of those foods or nonalcoholic beverages. “Long-term” is defined in this bill to mean the cumulative effect of multiple instances over a period of time and not a single or isolated instance.

This bill further provides that the immunity it extends does not bar a claim under any other provision of law if the defendant manufacturer, distributor or seller has failed to provide nutritional content information as required by any applicable state or federal law or regulation, or has provided materially false or misleading information to the public in any form.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

HB 379 – Elder Abuse and Neglect (Sponsor: Future of Florida’s Families)

The bill elevates the crime of aggravated abuse of an elderly or disabled person from a second degree felony to a first degree felony, and requires certified law enforcement personnel to receive training in the identification and investigation of elder abuse and neglect.

The bill also designates a new Memory Disorder Clinic as part of the Alzheimer’s Disease Initiative and establishes a workgroup to evaluate the use of the Florida Mental Health Act for persons with dementia. The workgroup must submit its report and recommendations by January 1, 2005, and stands repealed February 1, 2005.

CS/SB 496 – Family Child Care Homes (Sponsor: Children and Families)

The intent of child care regulation in Florida, as in most states, is to protect the health, safety, and well-being of the children, as well as to promote their emotional and intellectual development and care. In Florida, both child care centers and large family child care homes are required to be licensed.

Bills that Died continued

Family day care homes are a third child care arrangement permitted in Florida and are residences where child care is provided for between four and ten children, depending on the age of the children, from at least two unrelated families for a fee (s.402.302(7), F.S.). These family day care homes may choose not to be licensed unless the county licensing ordinance requires licensure or the board of county commissioners passes a resolution requiring licensure of family day care homes (s. 402.313(1), F.S.). The counties which have required licensure of family day care homes either by local ordinance or resolution are Alachua, Broward, Clay, Dade, Duval, Hillsborough, Nassau, Palm Beach, Pinellas, Polk, Sarasota, and St. Johns. Family day care homes either required or choosing to be licensed must meet minimum standards relative to staffing, training, immunization records, health, and enforcement, as well as reduced standards for evening care provided by municipalities and counties (s. 402.313(13), F.S.). Unlike licensing standards for child care centers or large family child care homes, these standards do not include minimum safety requirements. The licensing process includes inspections and enforcement actions to ensure that the required standards are met

CS/SB 496 requires that all family day care homes be licensed which eliminates the option for a family day care home to be registered. A deadline of July 1, 2005, is provided for existing registered family day care homes to become licensed. The term “family day care” is updated and changed to “family child care.” In addition, the minimum standards the Department of Children and Families is authorized to establish for family day care homes under s. 402.313, F.S., is expanded to allow for the development of safety requirements.

CS/SB 510 – Child Care Facilities (Sponsor: Children and Families)

The current statutory framework for enforcement of child care regulation does not provide clear direction for imposing the specified disciplinary actions in response to the range of violations that occur. Also, the only sanctions available to registered family day care homes not complying with the registration and other statutory requirements are administrative fines and an injunction to close the home. Lack of clear statutory authority has been reported to result in a lack of uniformity in applying sanctions and in a limited ability to impose the type of sanctions that would generate the compliance, in particular, the more severe penalties. This lack of adequate direction is consistent with the findings of the Office of Program Policy Analysis and Government Accountability (OPPAGA) in its November 2000 Child Care Program Justification Review which found that the department’s district offices varied in their interpretation of when a violation was to be classified as a Class I, Class II, or Class III. This resulted in enforcement policies for child care licensure that were being applied inconsistently across the state.

CS/SB 510 amends the statutory provisions relative to enforcement of child care regulation to expand and clarify the authority and actions available to ensure compliance. Specifically, the bill provides for the following:

- Requires an applicant for licensure to attest to the accuracy of the information regarding previous violations by signing an affidavit;
- Provides for certain child care facility licensure application and renewal requirements to apply to the licensure of family day care homes and large family child care homes;
- Provides for the application of a provisional license to include registered family day care homes, licensed family day care homes, and licensed large family child care homes;
- Allows for revocation of provisional licenses or registrations;
- Expands the scope of disciplinary actions available to impose a range of disciplinary actions for serious violations, to apply the disciplinary actions to registered family day care homes, and to convert a license or registration to probation status;
- Directs the Department of Children and Families to adopt rules relative to the enforcement provisions stipulated in the bill.

CS/SB 602 – Crimes Against Children (Sponsor: Children and Families)

CS/SB Bill 602 proposes that additional court costs be imposed in cases of certain crimes against children. These crimes include battery of a child, kidnapping or false imprisonment, sexual battery, procuring persons under the age of 18 for prostitution, lewd or lascivious offenses on or in the presence of persons less than sixteen years of age, abuse of children, buying or selling of minors, and sexual misconduct of Juvenile Justice employees. An additional court cost of \$101 would be imposed against each offender pleading guilty or nolo contendere to, or is found guilty of, regardless of adjudication, any of the specified offenses against a minor.

The committee substitute also directs the Clerk of the Court to transfer \$100 from each court cost collected to the State Treasury for deposit into the Child Advocacy Trust Fund for disbursement to the Florida Network of Children’s Advocacy Centers, Inc., for the purpose of funding children’s advocacy centers that are members of the network. One dollar from each court cost collected is to be retained by the Clerk of the Court as a service charge.

At the end of the fiscal year each Children’s Advocacy Center must provide the network’s board of directors a report reflecting expenditures, sources of revenue, and standardized outputs that include the number of clients served, client demographic information, and the number and types of services provided. The report must also provide verification that the center is in compliance with s. 39.3035, F.S. The Florida Network of Children’s Advocacy Centers must compile the reports obtained from the centers and provide a report to the Legislature no later than August of each year, beginning in 2005.

CS/HB 887 – Aging Resource Centers (Sponsor: Murman)

CS/HB 887 authorizes the Department of Elderly Affairs (DOEA) to modify its local system of service delivery to develop a single point of entry for all persons over 60 seeking services through the Community Care for the Elderly program, the Home Care for the Elderly program, the Aging Disabled Medicaid Waiver program, the Long-term Care Community Diversion project, the Assisted Living for the Elderly Waiver, and the Older Americans Act. The new single point of entry is to be called an “aging resource center” (ARC).

Under provisions of the bill, DOEA is to submit an implementation plan to the Legislature by October 31, 2004, describing qualifications for designation and functions to be performed, as well as a process for determining that an area agency is ready to assume the functions of a resource center. All area agencies are to submit a proposal to become aging resource centers to DOEA by December 31 2004. DOEA is to evaluate the proposals prior to March 31, 2005, and has to choose three area agencies to begin the transition. Those area agencies not selected by DOEA to begin the transition process are to resubmit their plans by July 1, 2005. The department may transition additional area agencies as it determines that these area agencies are in compliance with the requirements to become aging resource centers.

As this process is taking place, OPPAGA and the Auditor General are to monitor DOEA’s process and the quality of technical assistance provided to area agencies. A report is to be submitted by February 1, 2005, and periodic reports are to be submitted March and September 1 of each year until full transition has been completed statewide.

The ARC is to integrate the staff of DOEA’s CARES nursing home screening program, as well as a sufficient number of staff of the Department of Children and Families Economic Self-Sufficiency Services Program Office to determine financial eligibility for all persons age 60 and older seeking Medicaid services, Supplemental Security Income, and food stamps. The staff of the local Area Agency on Aging is also to be integrated into the ARC.

Bills that Died continued

The programs and services administered by the ARC are the Community Care for the Elderly program, Local Services Programs, the Home Care for the Elderly program, the Aged and Disabled Adult Medicaid Waiver program, the Assisted Living for the Elderly Medicaid Waiver program, and Older Americans Act Services. The bill requires that the ARC provide an initial screening of each client who requests services to determine whether the person would be most appropriately served through state programs, federal programs, volunteer services, or by privately paying for the services. Services in these programs are not to be reimbursed except through the ARC system.

The bill provides the Agency for Health Care Administration (AHCA) with the authority, with agreement of DOEA, to contract for any function or activity of the CARES program, if the agency and DOEA determine that contracting will result in a savings to the state, as well as increased efficiency and accountability. The bill requires CARES staff (within existing positions), to assess a sample of individuals whose nursing home stay is expected to exceed 20 days, regardless of the initial funding source for nursing home placement, and to develop a database to track individuals over time who are assessed under the CARES program and who are diverted from nursing home placement.

The Office of Long-Term Care Policy is revised to eliminate the advisory council and replace it with an interagency coordinating team.

The Secretary of DOEA is required to annually evaluate the performance of the executive director of an area agency on aging, and the area agency board is to consider the evaluation when it considers the director's reappointment.

The bill eliminates a requirement to develop a model system transitioning all state-funded services for elders in one planning and service area, replacing this with direction to the department and the agency to develop an integrated Medicaid acute and long-term-care delivery system for persons over 65 in one or more of its planning and service areas under the control of managed care organizations.

The bill requires that DOEA and AHCA integrate the Assisted Living for the Elderly Waiver program into the Aged and Disabled Adult Waiver program and the Frail Elder Option into the Long-term Care Community Diversion Pilot Project.

DOEA is to exempt from the competitive process any contract with a provider that meets or exceeds minimum standards and requires that lead agencies be given responsibility to coordinate other services, as well as case management in the CCE program.

Legislative findings that preservation of the historic aging network of service providers is essential to the well-being of Florida's elderly population are provided, and the bill directs that DOEA and AHCA develop a system in which existing CCE lead agencies are assisted in transitioning their business model to a managed long-term care model. Initially CCE lead agencies are to be reimbursed on a prepaid basis under the Aged Disabled Medicaid Waiver Program, and for state-funded programs serving the elderly. By the end of the third year, the demonstration is to include services under the long-term care community diversion project. The bill provides for the state to share the risk of nursing home placement during the 3-year demonstration project. The bill requires AHCA, subject to appropriations in the General Appropriations Act, to advance \$500,000 to fund development costs for the demonstration provider. The loan must be repaid in 6 years from the date of funding.

CS/HB 897 – Suicide Prevention (Sponsor: Future of Florida’s Families)

Florida currently ranks tenth in the nation for suicides per 100,000 in the population, and the state’s suicide rate is higher than the national average. Suicide was the ninth leading cause of death in Florida in 2001, and it is the third leading cause of death for 15-24 year olds.¹

State Efforts to Combat Suicide in Florida

CS/HB 897 creates the Suicide Prevention Coordinating Program within the Office of Drug Control. It creates sections 14.2017 and 14.2018, F.S., and transfers the Office of Drug Control and the Statewide Drug Advisory Council to those two sections, respectively. This bill appropriates \$100,000 and one FTE to the Office of Drug Control.

This bill also creates the Suicide Prevention Coordinating Council, which is required to have at least seven and no more than 20 members. Participation is voluntary. Appointing agencies, other than state departments, must bear the cost of serving on the Council.

CS/HB 1115 – Children’s Summer Nutrition Act (Sponsor: Education K-20)

The Summer Food Service Program (SFSP) for children is a federally funded program operated nationally by the United States Department of Agriculture (USDA). In Florida, the Food and Nutrition Management Office of the Department of Education (DOE) administers the program. The SFSP is intended to “provide food service to children from needy areas during periods when area schools are closed for vacation.” Needy areas, or areas in which poor economic conditions exist, mean areas where at least 50 percent of the children are eligible for free or reduced price lunches.

It is estimated that over 1.1 million children in Florida are eligible for free or reduced price lunches. In the summer of 2003, the average daily attendance in Florida for the Summer Food Service Program was 115,535. This number represents the fourth consecutive decrease in the average number of lunches served. In 1999, 197,140 meals were served per day. Currently, summer food programs reach approximately 1 out of every 10 children in Florida qualified for free and reduced price lunches.

The DOE attributed at least some of the decrease to the reduction in the number of summer school programs being offered at Florida schools. In response the department is attempting to provide information to other non public school potential sponsors, including faith-based providers. Instituting summer food sites at those schools offering summer reading camps is another option that may be explored to increase the number of sponsors.

CS/HB 115 required that by the summer of 2005 at least one federally funded summer school program operate in each school district for at least 40 days during the summer months, sited within 5 miles of an elementary school where 50 percent or more children are eligible for free or reduced price school meals. School districts were encouraged in the bill to collaborate with local county government and private, non-profit organizations because, although schools have proven to be the optimal sites for the Summer Food Program, any nonprofit organization can serve as a site and/or a sponsor.

The bill also would have allowed school districts to annually decide if they wanted to participate. School boards wishing to be exempt from the requirement would have been required to include the issue on an agenda at a regular or special school board meeting publicly noticed, provide citizens an opportunity to participate on the discussion, and then vote on whether to elect to be exempt from of the law.

CS/CS/SB 1232 – Abused & Neglected Children (Sponsor: Education)

A child who has been adjudicated dependent for the purpose of protecting the child from abuse, neglect, or abandonment may be placed either in the home of one or both parents, with a relative or another adult approved by the court, or in the custody of the department, which includes in a foster care placement [ss. 39.501(2) and 39.521(1)(b), F.S.]. A child may also be placed outside the home without an adjudication of dependency in order to protect the child, such as in shelter care if the child is in imminent danger of injury as a result of abuse, neglect, or abandonment; when the parent or legal custodian has materially violated a condition of placement; or when the child does not have a responsible adult immediately available to provide supervision or care [s. 39.402(1), F.S.]. While the state goal is to achieve permanency for the child within 12 months, children are often in out-of-home care arrangements for much longer.

Many of these children are school age, and continuing with the appropriate educational goals becomes an important consideration for the child. However, many children in foster care struggle academically and socially. For foster children, changes in placements often require changes in schools. School personnel often do not know a child is in foster care or the implications of foster care on a child's education. Child welfare professionals often lack the training to provide the advocacy these children require in the educational system. Studies have found that, compared with other children, children in foster care have higher rates of grade retention, lower academic skills, poorer rates of attendance, and higher dropout rates.

In Florida, the Independent Living Services Integration Workgroup, directed by the Legislature to "assess barriers to the effective and efficient integration of services" for the transition of adolescents in foster care to independent living, identified issues for such children including the lack of coordinated education decision making and the lack of transportation resources to attend school. The workgroup recommended that children in foster care whose placements change maintain continuity in their school, that if a change in schools must occur, a plan to coordinate the transition be developed, that the department explore the potential of additional transportation resources, and that the Department of Children and Families and Department of Education enter into an interagency agreement.

The Department of Children and Families estimates that there are currently 31,600 children in DCF out-of-home placements, of whom 61 percent or 19,276 are estimated to be children of school age. According to the 2001 pre-Adoption and Safe Families Act audit, 52 percent or 10,023 of the children monitored statewide were found to have had a school change as a result of out-of-home placement.

CS/CS/SB 1232 requires interagency agreements between the Department of Children and Families (DCF) and the Department of Education at the state level and the Department of Children and Families and the district school boards at the local level relating to education of and related services for children found dependent or in shelter care. The bill sets forth the requirements for the interagency agreements, including efforts to avoid disruption of a child's education, identification of educational and other school services necessary for a child's education, sharing of information, determining the availability of transportation to avoid changes in school assignments, supporting the educational needs of a child with disabilities, participation in case planning activities, and provision of training in areas that would facilitate the desired outcomes of these agreements. The bill also adds DCF and community-based care lead agencies to the organizations to which students' educational records may be released by the schools, consistent with the provisions of the Family Educational Records and Privacy Act.

CS/HB 1251 – Joint Underwriting Plan of Insurers (Sponsor: Berfield)

The Florida Workers' Compensation Joint Underwriting Association (WCJUA) provides workers' compensation insurance for employers who cannot obtain it in the voluntary market.

Bills that Died continued

In order to address the expected increased volume of workers' compensation policies written by the WCJUA, the 2003 Legislature added a fourth subplan to the WCJUA, subplan "D." Subplan "D" was designed to offer affordable coverage to small employers and non-profit organizations by placing a cap on premiums written by the WCJUA for these groups.

When the WCJUA does not have enough money from premiums from policies issued in a subplan to pay out the claims in the subplan or to establish adequate reserves for the future claims in the subplan, the WCJUA has a "deficit." On February 27, 2004, the WCJUA notified OIR that subplan "D" incurred a deficit of \$9,864,901 in 2003. The WCJUA has projected a deficit of more than \$36 million in subplan "D" as of December 31, 2004. According to WCJUA representatives, the only option provided in law to eliminate the deficit in subplan "D" is to assess policyholders in subplan "D."

CS/HB 1251 proposes a three-tier system to replace the WCJUA's current four-subplan system, thereby eliminating subplan "D" for nonprofits.

CS/CS/SB 1344 – Hospice Facilities (Sponsor: Regulated Industries)

Section 553.73, F.S., is the statute that contains the Florida Building Code. The Florida Building Code was authorized by the 1998 Florida Legislature to be the sole document incorporating all building standards adopted by all enforcement agencies and state agencies that license different types of facilities. The Florida Building Code was developed and is updated and maintained by a state commission that works towards consistency of standards throughout the state and full accessibility to information on the standards. The law allows for differences in the standards in different locales based on compelling differences in physical conditions. However, the law establishes procedures for administration of the Florida Building Code at all levels that will constrain unwarranted differences and ensure the availability of information on local differences to all parties throughout the state.

CS/CS/SB 1344 includes hospice residential and inpatient facilities and hospice units in the Florida Building Code and requires hospice residential or inpatient facilities or units to comply with the provisions of ch. 553, F.S. The bill deletes requirements that the Department of Elder Affairs (DOEA) adopt physical plant standards for these facilities. The bill defines the term "hospice" as a corporation not for profit and exempt from federal taxation.

CS/CS/CS/SB 1706 – Specialty Behavioral Health Care (Sponsor: Appropriations Subcommittee on Health and Human Services)

In 1995, the Legislature established limited mental health specialty licensure for ALFs that serve residents with mental illness. Any ALF that serves three or more mental health residents is required under s. 400.4075, F.S., to obtain a limited mental health license. Residents with mental illness receive personal services from the facilities and mental health services from local community mental health centers. Cooperative arrangements are made between ALF staff and local mental health treatment providers to provide mental health residents with emergency and after-hours services when they are needed. DCF staff at the district level are responsible for ensuring mechanisms are in place to provide appropriate services to ALF residents with mental health problems.

By definition, mental health residents are persons with severe and persistent mental illnesses, who may have been recently released from a state mental health treatment facility or an acute care intensive treatment setting. These residents are typically aged 40-60 and have severe and chronic disorders such as schizophrenia, other psychosis, or bipolar disorder that need a supervised living environment. These residents are in need of sufficient services and supports to allow them to live in the community.

Bills that Died continued

CS/CS/CS/SB 1706:

- requires the Department of Children and Family Services (DCF) to establish a demonstration project in District 4 for the purpose of determining the benefits of having a specialty behavioral health care provider deliver behavioral health services to individuals residing in an assisted living facility (ALF) with a limited mental health license.
- directs DCF to establish an advisory committee and specifies the membership of the committee. The committee is directed to make recommendations to DCF and the Agency for Health Care Administration (AHCA) on the development of the demonstration project.
- requires AHCA and DCF to ensure that providers participating in the demonstration project develop and implement a plan to provide specific services, and that any services provided as a part of the demonstration project must be reimbursed on a fee-for-service basis, as well as cost neutral for AHCA and DCF. A “request for information” process is to be used to procure specialty behavioral health providers under the demonstration project.

requires AHCA to authorize the selected behavioral health care provider to negotiate a capitated payment for the demonstration project’s behavioral health care services if a managed care system is implemented in District 4 as part of the statewide expansion.

CS/CS/SB 2262 – Psychotropic Medications/Minors (Sponsor: Education)

A substantial number of children in the U.S. have diagnosed mental disorders. A recent study reported that a review of Medicaid prescription records (from unidentified states) during 1995 indicated that 150,000 preschoolers under the age of six were prescribed psychotropic medications. Additionally, the 1999 MECA Study (Methodology for Epidemiology of Mental Disorders in Children and Adolescents) estimated that almost 21 percent of children in the U.S. between the ages of nine and 17 had a diagnosable mental or addictive disorder that caused impairment, and 11 percent of these children (approximately 4 million) had a significant impairment that limited their ability to function. Primary care physicians identify approximately 19 percent of the children they see as having behavioral and emotional problems. A number of treatment options are available to address mental health problems in children including psychotropic medications.

CS/CS/SB 2262 creates the Center for Juvenile Psychotropic Studies within the Department of Psychiatry in the College of Medicine at the University of Florida. The purpose of this center is to collect, track, and assess information regarding dependent minors in state custody who have been or are currently being prescribed psychotropic medications. The bill provides for the appointment of a director for the center, creates an advisory board, and specifies the membership of the board.

The center is directed to work with the Department of Children and Family Services (DCF), the Department of Juvenile Justice (DJJ), and the Agency for Health Care Administration (AHCA) to collect specific information relating to children in the custody of the state who are receiving or have received psychotropic medications. The bill also directs DCF, DJJ, and AHCA to provide client information to the center, in accordance with state and federal privacy laws.

The center is required to provide a report to the Legislature regarding the treatment of dependent minors with psychotropic medications by January 1, 2005. The provisions of this section of the bill are repealed on July 1, 2005.

The bill also sets forth requirements regarding the provision of medication to children taken into protective custody, in child care settings, and public schools.

Bills that Died continued

SB 2420 – Seniors’ Services (Sponsor: Campbell)

The Florida Constitution specifically provides for four types of local governments: counties; school districts, municipalities, and special districts. There are 67 counties, 67 school districts, 408, and 1,202 special districts in Florida.

Special districts provide a variety of governmental services pertaining to airports; the arts; beach restoration; children’s services; community development; conservation; emergency medical services; environmental protection; expressways and bridges; fire control and rescue; health care; housing; juvenile welfare; libraries; mosquito control; navigation; neighborhood improvement; ports; recreation and parks; soil and water conservation; transportation; water control and supply; and water and sewer services

SB 2420 authorizes counties to create, by ordinance, an independent special district to provide funding for seniors' services throughout the county. Upon approval by the electors in the county, the district may annually levy ad valorem taxes, not to exceed 0.5 mills.

SB 2506 – State Budget Planning & Spending (Sponsor: Lee)

This Joint Resolution puts before the voters at the next general election proposed changes to Section 19 of Article III of the State Constitution. Specifically it proposes to:

- Limit the amount of non-recurring general revenue that may be used to fund the recurring costs of state programs to 3 percent of total general revenue (approximately \$700 million). This limitation may be waived by a 3/5 vote of the Legislature.
- Require the Joint Legislative Budget Commission to issue a long-range fiscal plan, which will establish fiscal goals, including workload and revenue estimates. Agency legislative budget requests will be required to be consistent with the long-range fiscal plan and to be developed according to budget instructions issued by the Commission. (Currently the Appropriations Committees and Executive Office of the Governor develop budget instructions.)
- Establish the Joint Legislative Budget Commission in the Florida Constitution to operate essentially as it does now; however, the membership and quorum requirements are reduced. The Joint Legislative Budget Commission will be required to publicly review agencies' independent assessment of their needs and agency performance measures.
- Create a Government Efficiency Task Force in 2007, and every 4 years thereafter, composed of legislators and private sector appointees, to make recommendations to improve government and reduce costs.
- Require state planning to be long-range (and updated every 2 years as is done now), with statewide strategic goals and objectives, and to be consistent with the long-range fiscal plan. The Joint Legislative Budget Commission will provide planning policies and goals.