

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 89 Autism

**SPONSOR(S):** Precourt and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 242

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Health Care Services Policy Committee		Schoolfield	Schoolfield
2)	Insurance, Business & Financial Affairs Policy Committee			
3)	Health & Family Services Policy Council			
4)	Government Operations Appropriations Committee			
5)	Full Appropriations Council on General Government & Health Care			

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**SUMMARY ANALYSIS**

The bill provides that parents or legal guardians who believe their minor child exhibits symptoms of Autism Spectrum Disorder (ASD) and the child meets the definition of eligible individual specified in s. 627.6686(2)(c), F.S., may report their observation to a licensed physician. Based on the reported observation of the parent or guardian, the physician must immediately refer the minor to an appropriate specialist for screening for Autism Spectrum Disorder. The bill also provides a list of medical and other professionals who may be appropriate specialists for screening.

The bill is anticipated to have an indeterminate fiscal impact. (see Fiscal Comments section)

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### *Background on Autism Spectrum Disorder*

Autism Spectrum Disorder<sup>1</sup> (ASD) is the name commonly used for pervasive developmental disorders, Section 627.6686(2)(b), F.S.; defines "Autism spectrum disorder" to mean any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association: 1) Autistic disorder, 2) Asperger's syndrome, 3) Pervasive Developmental Disorder not otherwise specified. The autism spectrum disorders, range from a severe form, called autistic disorder, to a milder form, Asperger syndrome. If a child has symptoms of either of these disorders, but does not meet the specific criteria for either, the diagnosis is called pervasive developmental disorder not otherwise specified (PDD-NOS).<sup>2</sup> ASD can be reliably detected by the age of 3 years and are estimated by the federal Centers for Disease Control to be prevalent in 1 out of every 150 children.<sup>3</sup> Common characteristics shared by children with ASD include varying degrees of deficits in social interaction, verbal and nonverbal communication, and repetitive behaviors or interest. In addition, many children with ASD have some degree of mental impairment.

During the 2008 Legislative session, the House established a Select Committee on Autism and Developmental Disorders. Several parents of children with autism testified at the committee that they were not able to receive a diagnosis from their physician when the child was young and exhibiting signs that something may be wrong.

##### *Eligibility*

The bill affects minors who meet the definition of eligible individual in s. 627.6686(2)(c), F.S.; and whom the parent or legal guardian believe the minor exhibits symptoms of autism spectrum disorder. Eligible individuals is defined as an individual under 18 years of age or an individual 18 years of age or older who is in high school who has been diagnosed as having a developmental disability at 8 years of age or younger. There are inconsistencies with the use of the s. 627.6686, F.S., definition of eligible individual in this bill as follows:

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<sup>1</sup> Autism Spectrum Disorders, Pervasive Developmental Disorders, National Institute of Mental Health, 2008. Located at <http://www.nimh.nih.gov/health/publications/autism/nimhautismspectrum.pdf>.

<sup>2</sup> Autism Spectrum Disorders, Pervasive Developmental Disorders, National Institute of Mental Health, 2008.

<sup>3</sup> <http://www.cdc.gov/ncbddd/autism/documents/AutismCommunityReport.pdf>

- The term minor used in the bill is inconsistent with parts of the eligible individual definition in s. 627.6686, F.S., which include individuals over 18 years old.<sup>4</sup>
- The definition of eligible individual references individuals with a diagnosis of a developmental disability. However, the definition in statute for developmental disability in s. 393.063(9), F.S., does not cover all facets of ASD, only Autistic Disorder. This seems to be more limiting than what is intended by the bill.
- The definition of eligible individual 627.6686, F.S., would limit individuals who could be referred for screening for ASD to individuals already diagnosed with a developmental disability. This is confusing since the purpose of a screening is to lead to an eventual diagnosis and individuals who are already diagnosed would not usually need further screening.

### *Screening and Referrals*

The earlier a child is diagnosed with ASD, the more likely early intervention and treatment can assist the child with developmental gains and improved outcomes. In evaluating a child, clinicians rely on behavioral characteristics to make a diagnosis. Some of the characteristic behaviors of ASD may be apparent in the first few months of a child's life, or they may appear at any time during the early years. The diagnosis usually requires a two-stage process. The first phase is a screening which is used to determine if further evaluation is needed.<sup>5</sup> The second phase is a diagnostic evaluation which may be done by a multidisciplinary team that may include a psychologist, neurologist, psychiatrist, speech therapist, or other professionals who diagnose children with ASD.<sup>6</sup>

The American Academy of Pediatrics has issued guidelines for the identification and evaluation of children with ASD. These guidelines also include resource materials and screening algorithms for pediatricians to use. In summary, the Academy encourages pediatricians to:

- Conduct surveillance at every well-child visit. Be a good listener and recognize the early subtle red flags that indicate the possibility of an ASD. Be especially vigilant for younger siblings of a child who has already been diagnosed with an ASD.
- Screen at 18, and 24 months and any other time when parents raise a concern about a possible ASD. Although no screening tool is perfect, choose and become comfortable with at least 1 tool for each age group and use it consistently. Before 18 months of age, screening tools that target social and communication skills may be helpful in systematically looking for early signs of ASDs.
- If an ASD-specific screening result is negative but either the parents or the pediatrician remain somewhat concerned, then the pediatrician should schedule the child for an early, targeted clinic visit to address these persistent concerns.
- Act on a positive screening result or when a child demonstrates 2 or more risk factors. Do not take a "wait-and-see" approach. Depending on the age of the child, simultaneously refer for all 3: comprehensive ASD evaluation; early intervention/early childhood education services; and an audiologic evaluation. Do not wait for a definitive diagnosis of an ASD to refer for developmental services; early intervention can be beneficial even if it targets the child's unique deficits. The intervention strategy can be modified if needed when the child is determined to have an ASD.<sup>7</sup>

The American Medical Association (AMA) does not have specific policies for physician referrals related to autism.<sup>8</sup> The AMA does provide guidance to physicians on decision making in healthcare decisions. The policy provides that physicians are ultimately responsible to make the decision regarding what

<sup>4</sup> Chapter 1, Florida Statutes defines minor as someone who has not attained the age of 18 years.

<sup>5</sup> There are several screening instruments for ASD which may be used including but not limited to the Checklist of Autism in Toddlers (CHAT), the modified Checklist for Autism in Toddlers (M-CHAT), the Screening Tool for Autism in Two-Year-Olds (STAT), and the Social Communication Questionnaire (SCQ) for children 4 years of age and older.

<sup>6</sup> Autism Spectrum Disorders, Pervasive Developmental Disorders, NIH Publication No. 08-5511 Printed 2004 Reprinted 2008.

<sup>7</sup> Johnson CP, Myers SM; American Academy of Pediatrics, Council on Children With Disabilities. Identification and evaluation of children with autism spectrum disorders. *Pediatrics*. 2007;120(5):1183–1215.

<sup>8</sup> email from Michelle Jacquis, FMA, dated 1-5-09, "AMA Policies re: Treatment/Referrals"

diagnostic tests are appropriate, and when and to whom a physician referral and or consultation is indicated.<sup>9</sup> The Florida Board of Medicine does not have rules that specify how or when patients with certain conditions (e.g. ASD) must be referred to a specialist. The Board states that the decision to refer is made by the physician on an individual basis based upon the presentation history of the patient and the nature of the injury or disease.<sup>10</sup>

The bill requires physicians to immediately refer the minor to an appropriate specialist for screening for ASD, if the parent or legal guardian believes the minor exhibits symptoms of ASD and they report their observations to the physician. This legislation would in effect place the decision to make a referral for screening with the parent or guardian who has reported their observations and the referral does not require the concurrence of the physician. This counters current practice where the physician is responsible for decisions regarding diagnostic tests and referrals. This may lead to an increase in both appropriate and inappropriate referrals for screening for ASD.

### *Screening Specialists*

The American Academy of Pediatricians recommends that initial screening be done by the pediatrician in the child's medical home. The Florida State Center for Autism and Related Disabilities agrees that pediatricians should do initial screening but offers that other qualified professionals such as therapists, nurses and childhood educators may also perform screenings. In fact, some screenings are checklists<sup>11</sup> that may be completed by the parents. As previously stated, the diagnosis of ASD is generally a two step process which includes initial screening followed by a diagnostic evaluation. The National Institute of Mental Health suggests the diagnostic evaluation may be done by a multidisciplinary team that includes a psychologist, a neurologist, a psychiatrist, a speech therapist, or other professionals who diagnose children with ASD.<sup>12</sup>

The bill requires referrals be made to a list of appropriate specialist which include, but are not limited to neuropsychologists who are competent in the area of neurological testing, board certified behavior analysts, psychologists, psychiatrists, neurologists, and developmental or behavioral pediatrician who specializes in child neurology; the list of appropriate specialists is included in the bill.

The bill does not differentiate between screening and diagnosis of ASD. If the legislation intends diagnosis to be included in the definition of screening then, consideration should be given to excluding board certified behavior analysts. The Agency for Persons with Disabilities (APD) provides oversight to the behavior analyst certification program and APD recommends deleting board certified behavior analysts from the list stating that diagnosis of specific disorders is outside the scope of their certification.

## B. SECTION DIRECTORY:

**Section 1.** Creates language in unspecified section of the Florida Statutes relating to referrals for screening of autism spectrum disorder.

**Section 2.** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

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<sup>9</sup> "Health and Ethics Policies of the AMA House of Delegates" American Medical Association, 1-08 edition.

<sup>10</sup> Email from Larry McPherson, Florida Board of Medicine, dated 1-7-09, "Physician Referral Question"

<sup>11</sup> Modified checklist for Autism in Toddlers (M-CHAT)

<sup>12</sup> The Department of Health, Children's Medical Services, provides a general screening for developmental delays under the Early Steps Program for children ages 0 to 3 years old. This program can assist parents to obtain an ASD screening if this is what they are seeking. Similarly, for children over age 3 years, the Department of Education provides screening for developmental delays in the Child Find program and professionals in the local school systems can assist with obtaining an ASD diagnosis.

1. Revenues:  
None
2. Expenditures:  
Indeterminate impact. (see comments in Section D.)

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
None
2. Expenditures:  
Indeterminate impact. (see comments in Section D.)

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Indeterminate impact. (see comments in Section D.)

- D. FISCAL COMMENTS:** This legislation could result in additional requests for screenings for ASD which could increase cost for private insurance and public programs such as Medicaid (AHCA), Early Steps (DOH) and Children's Medical Services (DOH). It is impossible to predict what the increase cost will be since the demand for the service is not known. However, the heightened awareness of people related to Autism in recent years would indicate that an increase in screenings is likely. Further, the bill does not specify a section of statute that applies to the legislation. For example, if the bill is intended to apply only to group health insurance policies or group health benefit plans offered by an insurer which includes the state group insurance program provided under s. [110.123](#), then the cost effects would be limited to these defined entities. However, if the intent is to add the legislation to chapters 458 and/or 459, Florida Statutes, which regulates medical doctors and osteopathic physicians then the legislation would apply more broadly to physician referral activities relating to ASD.

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:  
None
2. Other:  
None

**B. RULE-MAKING AUTHORITY:**

None

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill does not amend or create any section of Florida law.

The definition reference for eligibility s. 627.6686(2)(c), F.S., in this bill creates inconsistencies:

- The use of the term “minor” in section 1 of the bill is inconsistent with the definition referenced.<sup>13</sup> This definition includes certain individuals over age 18.
- The definition references individuals with a developmental disability. However, the definition in statute for developmental disability, s. 393.063(9), F.S., only includes Autism, (or Autistic Disorder).
- The definition would limit individuals who could be referred for screening for ASD to individuals already diagnosed with a developmental disability.

Consideration should be given to drafting a definition of eligible individual for the bill that is specific to Autism Spectrum Disorder rather than cross referencing to the definition in s. 627.6686(2)(c), F.S.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

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<sup>13</sup> Chapter 1, Florida Statutes defines minor as someone who has not attained the age of 18 years.