

## **CARE OF CHILDREN**

### **HB 381 — Care of Children**

by Rep. N. Thompson and others (CS/CS/CS/CS/SB 1276 by Health and Human Services Appropriations Committee; Governmental Oversight and Accountability Committee; Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senator Storms; CS/CS/SB 126 by Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senators Dockery, Bennett, Lynn, and Bullard)

This bill creates the *“Zahid Jones, Jr., Give Grandparents and Other Relatives a Voice Act.”*

#### *Notification to Relatives*

The bill ensures that relatives who so request will be provided notice of all proceedings and hearings regarding a child involved in a child protective investigation or in dependency court proceedings.

Specifically, the bill:

- Allows a relative, at any time after the commencement of a protective investigation, to submit a request to the child protective investigator (CPI) or case manager to receive notice of all proceedings and hearings involving the child;
- Provides that the case plan must describe the case manager’s responsibility for forwarding a relative’s request for notification to the attorney for the Florida Department of Children and Families (DCF or the department);
- Requires the attorney for the department to notify any relative who has requested notification, of the date, time, and location of all proceedings and hearings involving the child, and to notify the relative that he or she has the right to attend all subsequent proceedings and hearings, to submit reports to the court, and to speak to the court regarding the child; and
- Requires the court to notify any relative who is providing out-of-home care for the child of his or her right to attend subsequent hearings, submit reports to the court, and speak to the court regarding the child.

The bill strengthens the child protective investigation process, by requiring that, if a protective investigation is commenced on the basis of a report to the central abuse hotline from certain specified reporters (*e.g.*, physicians, teachers, law enforcement officers), that reporter must be given:

- The contact information of the investigator within 24 hours after the investigator has been assigned; and

- The opportunity to provide a written summary of his or her report to the investigator, which must be made part of the master file.

In addition, the bill provides that, if parents refuse voluntary services, the CPI must speak to a collateral contact, which includes a relative, if the CPI has knowledge of and the ability to contact a relative. The bill also requires the department to include as a component of its quality assurance program an analysis of unaccepted reports to the hotline by relatives.

The bill authorizes the department to utilize available funds to develop liaison functions for relatives caring for children and designates the first Sunday after Labor Day as “Grandparents’ and Family Caregivers’ Day.”

### ***Records of Children in Foster Care***

The bill requires that a case record for a child under the supervision, or in the custody of the department be maintained in a complete and accurate manner, and be made available for inspection and copying, upon the request of, and at no cost to, the child and the child’s guardian ad litem or attorney, or to a caregiver who has responsibility for the child in a residential setting. The release of the case record must be in a manner and setting appropriate to the age and maturity of the child and the nature of the information being released. The bill provides for sanctions and penalties if a person or entity fails to provide the child’s case record or does not do so within a reasonable time.

This bill authorizes a court to approve the release of confidential information contained in a case record if the court determines that the information is necessary to ensure access to appropriate services for the child or for the safety of the child. Additionally, the bill authorizes the sharing of confidential and exempt information among all state and local agencies and programs that provide services to children or are responsible for children’s safety, if the information is reasonably necessary to assure access to services or for the safety of the child. The bill provides that records or information made confidential by federal law may not be shared.

The bill also authorizes access to confidential and exempt child abuse records by persons with whom the department is seeking to place a child or with whom placement has been granted (*e.g.*, foster and adoptive parents).

In addition, the bill ensures that the abuse records of a child will be made available to a physician, psychologist, or mental health professional treating or caring for the child, and requires the department to preserve in a permanent form all photographs, reports on examinations, and X-rays it holds.

The bill also requires the department to:

- Maintain the records of any child who has been in its custody until the child reaches the age of 30; and
- Provide notice to any child who has been in its custody, or to the legal custodian of the child, which specifies how the child may obtain his or her records.

The bill authorizes the department to adopt rules regarding the format, storage, retrieval, and release of such records.

### ***Children's Zones***

In 2008, the Legislature enacted s. 409.147, F.S., entitled "Children's Zones," to encourage community partners to commit financial and other resources to severely disadvantaged areas. At the time the legislation was passed, the Legislature was unaware that the name "Children's Zones" was trademarked by the Harlem Children's Zone.

This bill changes "Children's Zones" to "Children's Initiatives" throughout s. 409.147, F.S.

In addition, the bill moves the governance of the program to the Miami/Dade County Commission, and reappropriates funds unexpended as of June 30, 2009, to the department to contract with the Ounce of Prevention Fund of Florida, Inc., to implement the provisions of this bill.

If approved by the Governor, these provisions take effect July 1, 2009.

*Vote: Senate 37-0; House 113-1*

## **CS/CS/CS/SB 904 — Parental Responsibility and Time-Sharing**

by Policy and Steering Committee on Ways and Means; Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senators Deutch, Bullard, and Altman

### ***Parenting Plans and Parental Relocation***

This bill revises statutes relating to dissolution of marriage and parental responsibility for minor children. Specifically, the bill amends the definition of "parenting plan" to provide that if the parents cannot agree on a plan or the court does not approve the agreed-upon plan, then the plan will be established by the court, with or without the use of a court-ordered parenting plan recommendation. The bill amends the definition of "parenting plan recommendation" to allow not only psychologists, but also court-appointed mental health practitioners and other professionals, to make nonbinding parenting plan recommendations. The definition of "time-sharing schedule" is amended to conform to the new definition of "parenting plan."

The bill clarifies that there is no presumption for or against a particular time-sharing schedule in a parenting plan, and provides that modification of a parenting plan or time-sharing schedule requires a showing of a substantial, material, and unanticipated change in circumstances and a determination that the modification is in the child's best interests.

The bill makes significant changes to the statute relating to parental relocation with a child in order to streamline the requirements and criteria for relocation.

### ***Parenting Coordination***

The bill also authorizes the use of parenting coordination as an alternative dispute resolution process in the creation or implementation of a parenting plan. The bill provides that any action involving a parenting plan (except one involving domestic violence) may be referred to parenting coordination, upon agreement of the parties. The bill makes special provisions for the use of parenting coordination in cases where there is a history of domestic violence.

The bill prescribes the qualifications of parenting coordinators, and also identifies factors that disqualify individuals from serving as parenting coordinators. The bill provides that the court shall determine the allocation of fees and costs of parenting coordination between the parties, and specifies the factors the court must consider in determining whether a nonindigent party has the ability to pay.

The bill protects the confidentiality of communications by, between, or among the parties and the parenting coordinator, and precludes the parenting coordinator from testifying or offering evidence, except in specified circumstances. The bill requires a parenting coordinator to inform the court of any emergency situation, and describes what constitutes an emergency situation. The bill limits the civil liability of a parenting coordinator who acts in good faith.

### ***Domestic Violence, Child Abuse, and Parental Responsibility for Minor Children***

Current law requires the court in a dissolution of marriage proceeding to order shared parental responsibility for a minor child, unless shared responsibility is detrimental to the child. Evidence that a parent has been convicted of a felony of the **third degree or higher** involving domestic violence or child abuse creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted, shared parental responsibility, including time-sharing, may not be granted to the convicted parent. In addition, even in the absence of a conviction, the court must consider evidence of domestic violence or child abuse in determining the best interests of a child for purposes of establishing parental responsibility.

This bill lowers the threshold for this rebuttable presumption to a **first-degree misdemeanor**. The bill also provides that if the court accepts evidence of prior or pending actions involving domestic violence, sexual violence, or child abuse, neglect, or abandonment, the court must specifically acknowledge in writing that such evidence was considered.

Additionally, the bill amends the domestic violence injunction statute, permitting a court to create a temporary parenting plan, including a time-sharing schedule, that may award the petitioner with up to 100 percent time-sharing.

The bill makes additional technical amendments to the law, including an amendment that precludes parents from agreeing to not have certain child support payments made to the State Disbursement Unit, to conform to federal law.

If approved by the Governor, these provisions take effect October 1, 2009.

*Vote: Senate 38-0; House 101-13*

## **CS/SB 1018 — Guardians Ad Litem**

by Judiciary Committee and Senator Joyner

The Florida Guardian Ad Litem Program is a partnership of community advocates and professional staff who act on behalf of children who are involved in court proceedings. A guardian ad litem is a volunteer who is appointed by the court to protect the rights and advocate the best interests of a child involved in a court proceeding. The Statewide Guardian Ad Litem Office (the Office) oversees the operations of the guardian ad litem programs in the 20 judicial circuits.

Since FY 2004-2005, the Office has operated under proviso language that prohibits it from using funds to represent children in dissolution of marriage proceedings, unless a child is also subject to dependency proceedings. As a result of this limitation, as well as limited resources, the guardian ad litem programs currently do not certify citizens to act in dissolution of marriage proceedings.

This bill provides that a person certified by a not-for-profit legal-aid organization may serve as a guardian ad litem in dissolution of marriage cases, after the organization has conducted a security background investigation and provided training to the person.

Pursuant to s. 39.821(3), F.S., it is a first-degree misdemeanor for an applicant to willfully, knowingly, or intentionally fail to disclose any material fact relating to his or her qualifications to be a guardian ad litem. This bill clarifies that guardians ad litem who are appointed in dissolution cases are subject to the same provisions.

If approved by the Governor, these provisions take effect July 1, 2009.

*Vote: Senate 38-0; House 118-0*

## **CS/HB 1409 — Interstate Compact on the Placement of Children**

by Health Care Services Policy Committee and Rep. Sands (CS/SB 2240 by Children, Families, and Elder Affairs Committee and Senators Rich, Storms, Detert, Bullard, Lynn, and Joyner)

The Interstate Compact on the Placement of Children (ICPC) provides a uniform set of regulations meant to ensure that children placed across state lines for purposes of adoption (public or private) or foster care, are placed with individuals who are safe, suitable, and able to provide proper care. First drafted in 1960, the ICPC has recently been rewritten in response to criticisms that, in its current form, it is not relevant for the 21st century. The advent of interstate highways and the Internet, and the development of administrative law, have redefined the parameters under which the compact was first drafted, and its language and procedures are outdated, misunderstood, and inadequately enforced.

This bill creates s. 409.408, F.S., authorizing and directing the Governor to execute the redrafted ICPC on behalf of Florida, on July 1, 2009 or upon the enactment of the compact into law by the 35th state, whichever occurs later. The bill delineates the provisions of the compact. Specifically, the bill:

- Describes the purposes of the compact;
- Provides definitions;
- Prescribes the applicability of the compact;
- Prescribes the jurisdiction of the sending and receiving states;
- Describes the process for placement evaluations;
- Delineates the placement authority and responsibilities of child-placing agencies;
- Establishes the Interstate Commission for the Placement of Children;
- Provides information about the effective date of the compact;
- Describes the process for withdrawal from and dissolution of the compact;
- Provides for the severability, liberal construction, and binding effect of the compact; and
- Makes particular provisions for the application of the compact to Indian tribes.

The bill provides that the existing ICPC will remain in effect until repealed by entry into the new compact by the Governor.

The bill also ensures that, following entry into the new compact, any rules adopted by the Interstate Commission will not be binding on Florida unless also adopted by Florida through the rulemaking process. The bill gives the Department of Children and Families rulemaking authority to implement the provisions of the ICPC.

This bill shall take effect upon becoming law. However, the ICPC will not become effective until it is enacted by at least 35 states.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 117-0*

## **ELDER AFFAIRS**

### **CS/CS/CS/HB 935 — Area Agencies on Aging**

by Health Seniors Appropriations Committee; Health and Family Services Policy Council; Elder and Family Services Policy Committee; and Rep. Bogdanoff and others (CS/CS/SB 770 by Governmental Oversight and Accountability Committee; Children, Families, and Elder Affairs Committee; and Senator Fasano)

The bill clarifies that Area Agencies on Aging (AAA) are nongovernmental, independent, not-for-profit corporations under s. 501(c)(3) of the Internal Revenue Code.

The bill extends the period of lead agency designation to once every six years from the current three, and provides that the AAA shall make the designation pursuant to a competitive

procurement request for proposal process (RFP). The guidelines for the RFP are to be developed by the AAA.

The Department of Elder Affairs (DOEA) must, by August 1, 2009, adopt a rule creating standards for a bid protest of the RFP and a procedure for its resolution. This rule must be followed by all AAA. The bill provides standards for DOEA's rulemaking, including the requirement that a qualified, impartial decisionmaker conduct a hearing to determine whether the RFP complies with its own specifications and was conducted appropriately. In addition, the rule must provide for an automatic stay of the contract award until the dispute is resolved.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 118-0*

## **HOMELESSNESS**

### **CS/HB 597 — Homelessness**

by Health and Family Services Policy Council and Rep. Reed and others (CS/SB 1054 by Children, Families, and Elder Affairs Committee and Senator Crist)

This bill revises provisions of the "Affordable Housing Planning and Community Assistance Act." It defines "homeless" as applied to an individual to conform to the federal McKinney-Vento Act. The bill revises the membership of the Council on Homelessness (council) to include the Secretary of Health Care Administration, or his or her designee; the Commissioner of Education, or his or her designee; and one representative from the Florida League of Cities. The bill also removes the representative of the Florida State Rural Development Council from the council and requires instead that the council advise on issues related to rural development.

The bill creates the Housing First program as an alternative approach to ending homelessness for individuals and families. Among other things, Housing First places emphasis on the importance of background checks and the completion of any necessary rehabilitation prior to an individual receiving assistance.

The bill establishes the Legislature's intent that state agencies and community-based care providers develop and implement procedures designed to reduce the number of young adults who become homeless after leaving the child welfare system. Revisions are also made in sections of statute relating to homeless children in the public education system to advance this goal.

If approved by the Governor, these provisions take effect July 1, 2009.

*Vote: Senate 39-0; House 118-0*

## **MENTAL HEALTH AND SUBSTANCE ABUSE**

### **CS/CS/SB 456 — Mental Illness/Deputy Anthony Forgione Act**

by Health Regulation Committee; Children, Families, and Elder Affairs Committee; and Senator Gaetz

This bill creates the “Deputy Anthony Forgione Act” within ch. 394, F.S., relating to the Baker Act. The bill defines the term “Electronic means” as a form of telecommunication that requires all parties to maintain visual as well as audio communication.

The bill requires each law enforcement agency to develop a memorandum of understanding with each receiving facility within the law enforcement agency’s jurisdiction, which must include protocols for the safe and secure transportation of the person and transfer of custody of the person. The memorandum must also address crisis-intervention measures.

The bill specifies that transfer of custody of a person who is transported pursuant to the Baker Act can be relinquished only to a responsible individual at the appropriate receiving or treatment facility.

The bill permits second opinions supporting a recommendation for involuntary placement under the Baker Act to be conducted either in person or by electronic means.

If approved by the Governor, these provisions take effect July 1, 2009.

*Vote: Senate 39-0; House 116-0*

### **HB 767 — Mental Health and Substance Abuse Services**

by Rep. Fitzgerald and others (CS/SB 892 by Children, Families, and Elder Affairs Committee and Senators Bennett and Detert)

This bill creates s. 394.4612, F.S., authorizing the Agency for Health Care Administration, in consultation with the Department of Children and Family Services, to establish integrated mental health crisis stabilization and addictions receiving facilities for adults. The bill specifies the categories of individuals who may receive services in these facilities, and requires the department, in consultation with the agency, to adopt, by rule, standards governing the facilities.

If approved by the Governor, these provisions take effect July 1, 2009.

*Vote: Senate 39-0; House 118-0*

### **CS/CS/SB 2612 — Substance Abuse and Mental Health Services**

by Health Regulation Committee; Children, Families, and Elder Affairs Committee; and Senator Wise

This bill makes numerous technical and conforming changes to statutes relating to substance abuse and mental health services.

The bill deletes a requirement for a contract between the Department of Children and Families (DCF or the department) and residential treatment facilities for children and adolescents and instead requires that they be licensed by the Agency for Health Care Administration.

The bill revises legislative intent for the substance abuse services program by requiring the collaboration of state agencies, service systems, and program offices to address the needs of the public; to establish a comprehensive system of care for substance abuse; and to reduce duplicative requirements across state agencies. The Legislature also intends to establish services for individuals with co-occurring substance abuse and mental disorders. In order to carry out this charge, the bill:

- Sets client eligibility for substance abuse and mental health services by establishing priority populations to receive these services;
- Makes substantial changes to the definitions in ch. 397, F.S., related to substance abuse services;
- Makes substantial changes to the licensure process for substance abuse programs and requires licenses to be issued by service component, rather than issuing a license by facility (physical location);
- Requires the department to coordinate licensure inspections with other state agencies;
- Provides a process for medication assisted treatment services for substance-use disorders other than opiate dependence;
- Adds physician assistants and advanced registered nurse practitioners (ARNPs) who have a specialty in psychiatry to the list of qualified professionals who may provide substance abuse services, and physician assistants to the group of licensed medical professionals who may provide certain substance abuse services; and
- Substitutes the term “client” with “individual” and “service district” with “substate entity” in ch. 397, F.S., related to substance abuse services.

The bill also authorizes DCF to establish a medical review committee to provide peer review, utilization review, and mortality review of substance abuse, mental health, and forensic programs. The members of the committee, and any health care provider furnishing it information, are immune from liability in accordance with ss. 766.101(3) and (4), F.S.

If approved by the Governor, these provisions take effect July 1, 2009.

*Vote: Senate 39-0; House 118-0*

## RECORDS

### **CS/CS/SB 126 — Access to Records of Children in Foster Care**

by Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senators Dockery, Bennett, Lynn, and Bullard

This bill requires that a case record for a child under the supervision, or in the custody of the department be maintained in a complete and accurate manner, and be made available for inspection and copying, upon the request of, and at no cost to, the child and the child's guardian ad litem or attorney, or a caregiver who has responsibility for the child in a residential setting. The release of the case record must be in a manner and setting appropriate to the age and maturity of the child and the nature of the information being released. The bill provides for sanctions and penalties if a person or entity fails to provide the child's case record or does not do so within a reasonable time.

This bill authorizes a court to approve the release of confidential information contained in a case record if the court determines that the information is necessary to ensure access to appropriate services for the child or for the safety of the child. Additionally, the bill authorizes the sharing of confidential and exempt information among all state and local agencies and programs that provide services to children or are responsible for children's safety, if the information is reasonably necessary to assure access to services or for the safety of the child. The bill provides that records or information made confidential by federal law may not be shared.

The bill also authorizes access to confidential and exempt child abuse records by persons with whom the department is seeking to place a child or with whom placement has been granted.

The bill requires the department to:

- Maintain the records of any child who has been in its custody until the child reaches the age of 30; and
- Provide notice to any child who has been in its custody, or to the legal custodian of the child, which specifies how the child may obtain his or her records.

The bill authorizes the department to adopt rules regarding the format, storage, retrieval, and release of such records.

These provisions were approved by the Governor and take effect July 1, 2009.

*Vote: Senate 40-0; House 116-0*

### **HB 7021 — Open Government Sunset Review/Children's Services Councils**

by Governmental Affairs Policy Committee and Rep. Schenck (CS/SB 748 by Governmental Oversight and Accountability Committee and Children, Families, and Elder Affairs Committee)

In 1986, the Legislature empowered Florida counties to create special, countywide districts for the sole purpose of funding children's services. The governing boards of the special districts are

known as children's services council or CSCs. The following eleven counties have active CSCs: Broward, Duval, Highlands County, Hillsborough, Lake, Martin County, Miami-Dade, Okeechobee, Palm Beach, Pinellas, and St. Lucie.

Section 125.901, F.S., provides a public records exemption for personal identifying information held by a CSC or by a service provider or researcher under contract with a CSC, concerning a child or the child's parent or guardian. This exemption was subject to review under s. 119.15, F.S., the Open Government Sunset Review Act, and was scheduled to sunset on October 2, 2009, unless saved from repeal through reenactment by the Legislature. This bill reenacts the exemption.

If approved by the Governor, these provisions take effect October 1, 2009.

*Vote: Senate 40-0; House 113-0*

### **HB 7039 — Open Government Sunset Review/Insurance Claim Data Exchange Information**

by Governmental Affairs Policy Committee and Rep. Stargel (CS/SB 750 by Government Oversight and Accountability Committee and Children, Families, and Elder Affairs Committee)

Current law requires the Department of Revenue (DOR or "the department") to develop and operate a data match system in which an insurer may voluntarily provide DOR with the name, address, and, if known, date of birth and social security number or other taxpayer identification number for each noncustodial parent who has a claim with the insurer and who owes past-due child support. Specified information collected by DOR regarding a noncustodial parent who owes past-due child support is confidential and exempt from public records. This exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

In February 2006, Congress enacted the Deficit Reduction Act of 2005. The act amended federal law to authorize the Federal Department of Health and Human Services (HHS) to compare information concerning individuals owing past-due child support with information maintained by insurers concerning insurance claims, settlements, awards, and payments.

Although the department does not currently match data files with insurance companies, it is concerned that due to the recent implementation of the federal program, the repeal of the voluntary state program established in s. 409.25659, F.S., would eliminate Florida's ability to implement a state program if the federal program fails to gain sufficient insurance company participation. The department reported that it expects to be able to determine the success of the federal program by January 2010.

This bill reenacts the exemption and schedules a new repeal date of October 2, 2010.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 113-0*

## **OTHER**

### **CS/SB 746 — Direct-Support Organizations/Ticket Resale**

by Governmental Oversight and Accountability Committee and Senator Fasano

#### ***Direct-Support Organizations***

The bill provides for the establishment of a direct-support organization for the Department of Elder Affairs. The organization will provide assistance, funding, and support for the department in carrying out its mission.

The bill also authorizes the Florida Historic Capitol Curator to assist the Florida Historic Capitol in the performance of its mission through specified actions.

The bill provides for the establishment of a direct-support organization for the Florida Historic Capitol and the Legislative Research Center and Museum (Center). The organization will provide assistance, funding, and support for the center and curator, including, but not limited to, support for the Center's educational programs and initiatives, and will be governed by a Board of Directors. Initial Board appointments shall be made by the President of the Senate and the Speaker of the House of Representatives.

#### ***Ticket Resale***

The bill limits the resale of tickets to \$1 above the admission price for tickets issued by a charitable organization exempt from taxation under s. 501(c)(3) of the Internal Revenue Code for events where no more than 3,000 tickets are sold. The tickets must have a specific statement conspicuously printed on the face or back of the ticket providing notice of the resale limitation. However, this limitation does not apply to tickets issued or sold by a third party contractor ticketing services provider on behalf of a charitable organization unless the required disclosure is printed on the ticket.

The bill imposes a civil penalty of treble the amount of a ticket or tickets sold in violation of the statute, payable to the state. It also imposes the same penalty on persons who intentionally use or sell software to circumvent a ticket seller's website security. The bill defines "software" for purposes of the section.

If approved by the Governor, these provisions take effect July 1, 2009.

*Vote: Senate 38-0; House 119-0*